

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT**

**Resolution Number 23-036**

**Record Number: PLN-12124-CUP**

**Assessor's Parcel Number: Portion of 216-135-015 and portion of 216-134-013**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Myers and Aquarian LLC, Conditional Use Permit.**

**WHEREAS, Myers and Aquarian LLC** submitted an application and evidence in support of approving the Conditional Use Permit (PLN-12124-CUP) for 24,000 square feet (SF) of existing light deprivation and outdoor cannabis cultivation, including 20,800 SF of light deprivation cultivation that occurs in twenty-four (24) greenhouses and 3,200 SF of outdoor cultivation that occurs in pots. Propagation is proposed to take place in one (1) nursery area (2,400 SF).

**WHEREAS,** the County, prepared an Addendum to the Final Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO), adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented, as described by §15162(c) of CEQA Guidelines; and

**WHEREAS,** the Humboldt County Planning Commission held a duly-noticed public hearing on **April 20, 2023**, and reviewed, considered, and discussed the application for the requested Conditional Use Permit and reviewed and considered all evidence and testimony presented at the hearing.

**THEREFORE BE IT RESOLVED,** that the Planning Commission makes all the following findings:

**1. FINDING:**

**Project Description:** Myers and Aquarian, LLC seeks a Conditional Use Permit to allow the continued operation of 24,000 square feet of outdoor cannabis cultivation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Agricultural Grazing (AG) in the Humboldt County 2017 General Plan Update and zoned Agriculture Exclusive (AE) and Timberland Production Zone (TPZ) with Special Building Site B-5(160). Outdoor cannabis cultivation will occur in light deprivation greenhouses and full sun. Propagation will take place within a proposed 2,400-square-foot greenhouse, or alternatively plants will be propagated on another parcel in the vicinity (APN 216-081-013) through a permitted commercial nursery. Artificial lighting used for ancillary propagation and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. Processing such as drying and curing is proposed onsite. Further processing such as trimming is proposed offsite at a licensed processing facility. The applicant anticipates two (2) full-time employees, and at peak operations four (4) employees will be required for operations annually. Power for the project is provided by a solar power and a generator. The applicant is proposing a transition to PG&E power within the next five years, and to further develop solar power if PG&E is unavailable. The generator will be stored in a shed and kept in secondary containment. Noise levels shall not exceed no more than 60 decibels at the property line.

**EVIDENCE:**

Project File: PLN-12124-CUP

**2. FINDING:**

**CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Addendum to and the MND prepared for the CMMLUO adopted by the Humboldt County Board of Supervisors on January 26, 2016.

**EVIDENCE:**

- a) Addendum to the MND prepared for the proposed project in compliance with CEQA.
- b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
- c) A Biological Scoping Report was prepared by Kelsey McDonald of Hohman & Associates, a California Native Plant Society (CNPS) Certified Consulting Botanist. The Report identifies the habitats and potentially occurring special-status wildlife species within the project area, potential impacts of cultivation activities on biological resources, and measures to reduce any potential impacts. Recommended mitigation measures have been included as recommended conditions of approval. The measures include conducting pre-construction raptor & bird surveys, restoring the cultivation areas, and minimizing noise disturbance. The Report also recommends that a site survey be conducted by a qualified biologist to further evaluate potential habitat value to the protected species within the project area and finalize recommended measures.

The Biological Assessment Area (BAA) includes a 1.3 mile buffer area surrounding the property. A list of special status species that could potentially occur in the project area was generated in 2019 using the CDFW California Natural Diversity Database (CNDDB), which includes the California Native Plant Society (CNPS) and the Northern Spotted Owl (NSO) databases. A complete list of species that could occur within the BAA are listed on pages 3-4 of the Report.

A NSO habitat assessment was conducted by Kelsey McDonald of Hohman & Associates in 2019, and there were no NSO database activity centers recorded within 1.3 miles of the cultivation area. However, there is potential nesting/roosting and foraging habitat within the 1.3 mile buffer. The US Fish and Wildlife Service Protocol (2021) recommends NSO surveys that may impact owls by modifying their habitat or disrupting breeding activities. However, the cultivation area within the parcel consists of open grasslands classified as 'non-habitat', so construction activities are not expected to modify NSO habitat. Cultivation activities propose no supplemental lighting, so the disturbance from light pollution is expected to be minimal. The applicant is conditioned to restrict noise to adhere to Humboldt County Performance Standards. The biologist recommends that additional assessments and/or surveys are conducted for any plans that may modify habitat, remove nest trees, or disturb potential breeding habitat. Therefore, project activities would have less than a

significant impact on NSO activities and habitat.

- d) The project is located in the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center and the Bear River Band. The applicant submitted a Cultural Resource Study prepared by William Rich and Associates dated September 2019. No archaeological, historical, or tribal resources were identified within the proposed cultivation areas or elsewhere on the parcel during the field survey. Standard Inadvertent Discovery Protocol has been included as a recommended condition of approval.

#### **FINDINGS FOR CONDITIONAL USE PERMIT**

### **3. FINDING**

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

#### **EVIDENCE**

- a) General agriculture is a use type permitted in Agricultural Exclusive Minimum Building Site (AE-B-5-160) and Timberland Production Zone (TPZ) zoning district. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes. Therefore, the project is consistent with the Open Space Plan and its Open Space Action Program.

### **4. FINDING**

The proposed development is consistent with the purposes of the existing Agricultural Grazing (AG) land use designation in which the site is located.

#### **EVIDENCE**

- a) General agriculture is an allowable use type in Agricultural Grazing (AG) land use designations. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural uses.
- b) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis on a parcel zoned AE and TPZ over five (5) acres in size, subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 24,000 SF of existing cultivation (20,800 SF light deprivation and 3,200 SF outdoor cultivation) on a parcel over 5 acres in size is consistent with the Humboldt County Code and with the Cultivation Area Verification prepared by the County.

### **5. FINDING**

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

#### **EVIDENCE**

- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned Agricultural Exclusive Minimum Building Site (AE-B-5-160) and Timberland Production Zone (TPZ) (HCC 314-55.4.8.2.2).
- b) The parcel is a legal parcel as demonstrated by Certificate of Subdivision Compliance 2019-008922, recorded May 23, 2019.

- c) Irrigation water is currently sourced from a surface water diversion (Registration #H502326) and a permitted well (No. 20/21-0163). The appropriate water right (Registration # H502326) has been obtained for one (1) surface water diversion on the subject parcel, and two (2) diversions on the adjacent property under the same ownership (APN 216-081-013). The water right allows up to 4 acre-feet per year to be used on both the subject parcel (APN 216-135-015) and as the adjacent parcel (APN 216-081-013). Although the water right does not include the specific allotment of water for this parcel, the irrigation needs of cannabis activities on the adjacent parcel (216-081-013) are supplied by rainwater catchment and a groundwater well. The allotment of 4.011 acre feet exceeds projected irrigation needs by approximately 1.03 million gallons.

Projected annual water use is 270,000 gallons as shown in Table 1 below. The applicant has proposed to utilize a 6 million gallon on stream pond from a neighboring property (APN 216-135-008) under the same ownership to supply irrigation needs. The use of the pond is contingent upon approval from CDFW and the State Water Resources Control Board, and if approved the applicant will be required to bypass all inflow to the pond during the annual surface water diversion forbearance period. If the applicant is unable to obtain approval for use of the pond, the applicant has proposed to install hard water tank storage to meet the projected 270,000 gallon irrigation need. The applicant has proposed to fill the 270,000 gallons of water storage with 50% rainwater catchment and the remainder will be sourced from the existing irrigation water right. The applicant has submitted rainwater catchment calculations demonstrating over 50% of the projected irrigation needs can be collected during drought years.

- d) The cultivation of cannabis will not result in the net conversion of timberland. The proposed cultivation area(s) are located within a historical cultivation area or are being relocated to areas outside the Timberland Production Zone.
- e) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

## 6. FINDING

The cultivation of 24,000 SF of cannabis and the conditions under which it may be operated and maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

## EVIDENCE

- a) The site is accessed by a county-maintained road (Harris Road) that has been assessed by a Road Evaluation Report by NorthPoint Consulting Group and the County Department of Public Works, which determined the main access road to the project area is developed to the equivalent of a road category 4 standard.
- b) The location of the proposed cannabis cultivation is more than 300 feet from the nearest offsite residence.

- c) Water is sourced from an on stream reservoir on an adjacent parcel subject to review and approval from CDFW and the State Water Resources Control Board. If the reservoir cannot be approved, the applicant has proposed to source 50% of the irrigation needs from rainwater catchment, and 50% of the irrigation needs from an existing surface water diversion for which the applicant has demonstrated a valid water right in amounts appropriate for cultivation.
- d) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the North Coast Regional Water Quality Control Board (NCRWQCB). The applicant has submitted a Notice of Applicability and Site Management Plan.
- e) A Lake and Streambed Alteration Agreement (LSAA) was filed with CDFW (LSAA No. 1600-2018-0422-R1).

## **7. FINDING**

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

### **EVIDENCE**

The parcel was not included in the 2019 Adopted Housing Element Inventory. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units on site.

## **8 FINDING**

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

### **EVIDENCE**

This project site is located in the Middle Main Eel planning watershed which is limited to 360 permits and 125 acres of cultivation. If approved, the Middle Main Eel planning watershed would have 102 approved permits for a total of 41 acres.

## DECISION

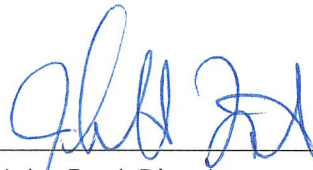
**NOW, THEREFORE**, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approve the Conditional Use Permit (PLN-12124-CUP) for Myers and Aquarian, LLC subject to the conditions of approval attached hereto as Attachment 1A.

The motion was made by COMMISSIONER Brian Mitchell and second by COMMISSIONER Lonyx Landry and the following ROLL CALL vote:

AYES:	COMMISSIONERS:	Noah Levy, Brian Mitchell, Thomas Mulder, Iver Skavdal, Lonyx Landry, Sarah West
NOES:	COMMISSIONERS:	
ABSENT:	COMMISSIONERS:	Peggy O'Neill
ABSTAIN:	COMMISSIONERS:	
DECISION:		Motion carries 6/0

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.



John Ford, Director  
Planning and Building Department

## **CONDITIONS OF APPROVAL**

**APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.**

### **A. General Conditions:**

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the time of annual inspection. A conformance review deposit, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750), shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. Within three days of the effective date of permit approval the Planning and Building Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #18. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity including, but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan.
7. The applicant shall execute and file with the Planning and Building Department the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.

8. The applicant shall install a water-monitoring flow meter on the surface water diversion when utilized, and on storage tanks as applicable, to monitor water used for cannabis irrigation separate from domestic use.
9. The applicant shall complete the replanting, enhancement, monitoring, and invasive plant management activities identified in the Oak Woodland Restoration and Enhancement Plan, prepared by James Regan dated August 2019. Planning Department signoff is subject to review and approval of reports submitted documenting completion of restoration goals during the five (5) year monitoring period. Final signoff from the Planning Department will satisfy this condition.
10. The applicant shall complete the measures (Table 6, pages 15-16) identified in the Biological Scoping Report prepared by Kelsey McDonald dated October 2019, and complete the required pre-construction surveys prior to the start of ground or potentially habitat-disturbing activities. A qualified biologist shall conduct a project site survey, to further evaluate potential habitat value to the protected species within the project area, and finalize project recommendations. Final signoff from the Planning Department will satisfy this condition.
11. The applicant shall contact the Garberville Volunteer Fire Department and furnish written documentation from that agency of the available emergency response and fire suppression services and any project recommendations, which shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning and Building Department. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
12. COUNTY ROADS – FENCES & ENCROACHMENTS: The applicant shall ensure that all fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County Road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way.
13. COUNTY ROADS – DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY: All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).
14. COUNTY ROADS – PRIVATE ROAD INTERSECTION: At Harris Road, if the County Road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
15. The applicant shall transition from mixed generator/solar use for operations to a minimum of 80% renewable energy (e.g., solar, wind, hydropower, grid power purchased from a renewable portfolio) sources by the end of 2026. The applicant shall submit an energy budget outlining power needs for the project, noting the renewable energy source chosen, and demonstrating capability to supply renewable energy for 80% of the project power needs. Final signoff from the Planning Department will satisfy this condition.
16. The applicant shall record a contingent easement regarding the ongoing use and maintenance of the proposed rain catchment pond located on APN 216-135-008 and the irrigation line traversing APN 216-135-010. The contingent easement shall ensure that in the



event that APN 216-135-008 is transferred to a separate ownership from the subject APN an easement for the use of the pond shall be granted to the subject parcel.

17. The applicant shall apply for and obtain an encroachment permit from the Department of Public Works for the installation of the irrigation line under Harris Road.
18. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.

**B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:**

1. The combined noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl species, as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service (USFWS), and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. All artificial lighting shall be fully contained within structures such that no light escapes (i.e., through the use of blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program (refer to <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>). Standards include, but are not limited to: Light shall 1) be shielded and downward facing, 2) consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less, and 3) only placed where needed.
3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment and noise levels have been repaired, inspected, and corrected as necessary.
4. The applicant shall ensure that generators are equipped with non-resettable hour-meters. If a generator does not come equipped with a non-resettable hour-meter, an aftermarket non-resettable hour-meter shall be installed. Usage logs shall be maintained by the operator to be furnished during annual compliance inspections or as requested by the Planning Department.
5. The applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, a qualified professional archaeologist shall be contacted immediately, in order to inspect and clear the site for all further activities. If the applicant proposes new development outside of the area that was

surveyed by a certified archaeologist, a new archaeological survey covering the proposed development area will be required.

6. The applicant shall forbear from diverting surface water during the months of April 15 – October 31, or pursuant to the current State Water Resources Control Board forbearance period. The applicant shall have adequate water storage to forbear completely during these months, as defined by the Humboldt County Commercial Medical Marijuana Land Use Ordinance.
7. Prior to reissuance of annual permits the applicant shall provide an invoice or equivalent documentation to DEH confirming the continual use of portable toilets or provide an approved means of sewage disposal to serve the needs of the cultivation staff.
8. The use of synthetic netting for purposes of erosion control is prohibited. To minimize the risk of wildlife entrapment, the applicant shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
9. All refuse shall be contained in wildlife proof storage containers at all times and disposed at an authorized waste management facility.
10. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
11. The use of anticoagulant rodenticide is prohibited.
12. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
13. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Any changes shall require modification of this permit, except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
14. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
15. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.

16. The permittee shall have possession of a current, valid required license or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
17. The permittee shall be in compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
18. The permittee shall ensure confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
19. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
20. The permittee shall comply with the terms of any applicable Lake and Streambed Alteration Agreement (LSAA), Section 1600 or 1602 Permit, obtained from the California Department of Fish and Wildlife (CDFW).
21. The permittee shall comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL FIRE), if applicable.
22. The permittee shall consent to an annual onsite compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
23. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
24. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
25. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled, and used in accordance with applicable regulations.
26. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
27. The permittee shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

28. Pursuant to the MCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
29. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
30. Cultivators engaged in processing shall comply with the following Processing Practices:
  - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
31. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
  - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - (1) Emergency action response planning as necessary,
    - (2) Employee accident reporting and investigation policies,
    - (3) Fire prevention,
    - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS),
    - (5) Materials handling policies,
    - (6) Job hazard analyses, and
    - (7) Personal protective equipment policies, including respiratory protection.
  - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - (1) Operation manager contacts,
    - (2) Emergency responder contacts, and
    - (3) Poison control contacts.
  - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - d. Onsite housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
32. All cultivators shall comply with the approved processing plan as to the following:
  - a. Processing practices,

- b. Location where processing will occur,
- c. Number of employees, if any,
- d. Employee Safety Practices,
- e. Toilet and handwashing facilities,
- f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage,
- g. Drinking water for employees,
- h. Plan to minimize impact from increased road use resulting from processing, and
- i. Onsite housing, if any.

33. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Activity Permit issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
34. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request re-inspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.
35. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
36. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
37. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
  - a. Identifying information for the new owner(s) and management as required in an initial permit application,
  - b. A written acknowledgment by the new owner in accordance as required for the initial permit application,
  - c. The specific date on which the transfer is to occur,
  - d. Acknowledgement of full responsibility for complying with the existing permit, and
  - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
38. Inspections. The permit holder and subject property owner are to permit the County or

representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

**Informational Notes:**

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity, but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #B.11 has been executed, and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor onsite shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

4. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. Approval of this permit does not authorize transportation of cannabis across Federal lands.