



APPLICATION FORM
Humboldt County Planning and Building Department
 Current Planning Division 3015 H Street Eureka, CA 95501-4484
 Phone (707) 445-7541 Fax (707) 268-3792

INSTRUCTIONS:

1. Applicant/Agent complete Sections I, II and III below.
2. It is recommended that the Applicant/Agent schedule an Application Assistance meeting with the Assigned Planner. Meeting with the Assigned Planner will answer questions regarding application submittal requirements and help avoid processing delays. A small fee is required for this meeting.
3. Applicant/Agent needs to submit all items marked on the reverse side of this form.

SECTION I

APPLICANT (Project will be processed under Business name, if applicable.)

Business Name: HAUK VALLEY FARMS
 Contact Person: CORY NUNES
 Mailing Address: 1492 RIVER BAR RD
 City, St, Zip: FORTUNA CA 95540
 Telephone: (707) 599-0924 Fax: _____
 Email: corynunes@att.net

AGENT (Communications from Department will be directed to agent)

Business Name: CYNDY DAY-WILSON, ESQ
 Contact Person: _____
 Mailing Address: 628 H STREET
 City, St, Zip: EUREKA, CA 95501
 Telephone: (707) 798-5048 Fax: _____
 Email: cdaywilson@daywilsonlaw.com

OWNER(S) OF RECORD (If different from applicant)

Owner's Name: _____
 Mailing Address: _____
 City, St, Zip: _____
 Telephone: _____ Fax: _____

Owner's Name: _____
 Mailing Address: _____
 City, St, Zip: _____
 Telephone: _____ Fax: _____

LOCATION OF PROJECT

Site Address: 1492 RIVER BAR RD
 Community Area: HDSVILLE

Assessor's Parcel No(s): SEE ATTACHMENT
 Parcel Size (acres or sq. ft.): " "

Is the proposed building or structure designed to be used for designing, producing, launching, maintaining, or storing nuclear weapons or the components of nuclear weapons? YES NO

SECTION II

PROJECT DESCRIPTION

Describe the proposed project (attach additional sheets as necessary): SEE ATTACHMENT

SECTION III

OWNER'S AUTHORIZATION & ACKNOWLEDGEMENT

I hereby authorize the County of Humboldt to process this application for a development permit and further authorize the County of Humboldt and employees of the California Department of Fish and Wildlife to enter upon the property described above as reasonably necessary to evaluate the project. I also acknowledge that processing of applications that are **not** complete or do not contain truthful and accurate information will be delayed, and may result in denial or revocation of approvals.

[Signature]
 Applicant's Signature

6/14/19
 Date

If the applicant is not the owner of record: I authorize the applicant/agent to file this application for a development permit and to represent me in all matters concerning the application.

 Owner of Record Signature

 Date

 Owner of Record Signature

 Date



CYNDY DAY-WILSON, ESQ. • LL.M. ENVIRONMENTAL LAW
628 H STREET, EUREKA, CA 95501 • (707) 798-5048
CDAYWILSON@DAYWILSONLAW.COM

VIA EMAIL and PERSONAL SERVICE

November 5, 2019

John Ford, Director
Planning and Building Department
County of Humboldt
3015 H Street
Eureka, CA 95501

RE: Appeal of Denial of Hawk Valley Farms, LLC
Conditional Use Permit
Application Number 11141
Record No. PLN-11141-CUP
APN 204-0912-012

Dear Mr. Ford:

I was informed by Mr. Keenan Hilton, a planner in the County's Cannabis Service Division, that staff will be recommending to the Board of Supervisors that the Planning Commission's denial of the issuance of a CUP to the above-referenced applicant be upheld. Please allow this to serve as a supplement to the original appeal filed on June 14, 2019.

I have to admit that I was very surprised and taken aback by Mr. Hilton's phone call given the path of resolution that we were on. When you, Cliff Johnson, Keenan Hilton, Nate Whittington, and I first met on June 27, we all discussed the basis for the appeal that was filed on June 17, 2019. During that meeting, Mr. Hilton stated that the basis for the staff's recommendation was the alleged cultivation in excess of 28,000 square feet, and the subsequent alleged failure of the applicant to provide any evidence of his removal of three (3) skins is a violation of the Compliance Agreement and thus requires permit cancellation and disqualification of the property from future permitting. While I had previously provided you with a legal analysis regarding reconciliation of the Compliance Agreement and Director Discretion under the Humboldt County Code, it has become apparent to me that County Planning does not understand why vacation by the Board of Supervisors of the Planning Commissions' determination is appropriate given that jurisdiction over the alleged violations with regard to the Compliance Agreement now lies with the Board.

Despite the language of the Compliance Agreement in section 5 that places the authority in the hands of the Director of the Planning and Building Department to determine that a violation has occurred, you voluntarily relinquished your ability to make this determination when the matter was taken to the Planning Commission on June 6, 2019. In other words, County Planning acted outside of the Compliance Agreement and took a different path which relinquished Director authority to make any determination regarding whether or not a violation had occurred under the terms of the Compliance Agreement. This is confirmed by the very language of the Planning Commission Agenda which reads in part:

“.....make the finding that the applicant has neglected to demonstrate compliance with lighting standards and has repeatedly violated the term of the Compliance Agreement for a Zoning Clearance Certificate for Interim Permit by Humboldt County Code 314-55.4.11.w and 314-55.4.8.11 and that therefore the required findings for approval cannot be made, and adopt the Resolution denying the proposed Hawk Valley Farms, LLC project.”

Further, the matter was put before the Planning Commission because the County’s own ordinance, HCC 314-55.4.8.11 provides, in part, that:

“Permit cancellation and disqualification of the property from future permitting shall be decided by the Zoning Administrator or the Planning Commission at a noticed public hearing.”

This section of the ordinance is noted in **bold** on page 64 of the Staff Report prepared for the June 6th Planning Commission meeting. Again, planning staff chose to have the Planning Commission make the determinations with regard to permit cancellation and disqualification of the property.

Accordingly, at the hearing on June 6, the Planning Commission made the following determinations, which have been challenged by the Applicant’s appeal:

2. The project is not consistent with Section 314-55.4.8.2.2 of the Humboldt County Code because expansion over the amount of cultivation existing prior to January 1, 2016 has occurred multiple times; and
3. The project is not consistent with Section 314-55.11.v of the Humboldt County Code because light from greenhouses has continued to escape at a level that is visible from neighboring properties between sunset and sunrise; and
4. The Project is not consistent with Section 314-55.11.w of the Humboldt County Code because the applicant did not submit written verification that the lights’ shielding and alignment has been repaired, inspected and corrected within ten (10) working days of receiving written notification that a complaint has been filed; and
5. Hawk Valley Farms has violated the terms of the executed Compliance Agreement and is subject to permit cancellation per Section 314-55.48.11 of the Humboldt County Code; and”

The Applicant's appeal was timely filed on June 14, 2019 and a true and correct copy is attached hereto as Exhibit 1. The appeal challenged each of these determinations, including the alleged violation of the Compliance Agreement that was part of the Planning Commission's Resolution denying the Applicant's conditional use permit for his project. Specifically, the appeal packet provided county planning staff with evidence and legal authority as to why findings and determinations made by the Planning Commission were wrong and should be vacated by the Board of Supervisors. Of note, is Exhibit 3 of the appeal which has a "received" stamp by the Humboldt County Cannabis Services for the 3 photographs which show that the Applicant in fact did remove the 3 skins from 3 of the greenhouses as agreed in March of 2019. This fact directly contradicts correspondence from county planning on April 19 that no evidence was ever received of such removal.

When we initially met in July, we discussed all of these items in addition to the concept of the Director's discretion in Humboldt County Code Section 314-55.4.5.3.3 to resolve any violation and proceed with the processing of the application. I, along with Nate Whittington, attended several meetings with you, Cliff Johnson, and Keenan Hilton, and it was our understanding from our discussions, as well as subsequent communications, that you as the Director were choosing to proceed pursuant to this section, again because you had relinquished your authority under the Compliance Agreement and assigned that authority to the Planning Commission. We discussed resolution of the violations (determined by the Planning Commission) under the following conditions, as outlined in my July 24 email to you, Cliff Johnson, and Keenan Hilton:

Good morning!

Thank you for meeting with us further on July 18 with regard to the appeal of the denial of the CUP on Hawk Valley Farms. Nate and I have spoken with our client and he is agreeable to the following terms that we discussed at our meeting on July 18. Per our understanding from the meeting, the county is agreeable to resolving the appeal as follows:

Recommend approval of 28,000 sq ft outdoor cultivation with 3,060 sq ft nursery for propagation. Contained within 10 total greenhouses at 3,060 sq ft each.

Fine based on the expansion determination by county staff (Santos).

8,720 sq ft outdoor over interim permit allowances
Fine at \$2 per sq ft = \$17,440

10,000 sq ft mixed-light for nursery over the 25% described in 9/17/18 meeting with Keenan
As lights were used fine is based on mixed-light penalties.
\$4 per sq ft = \$40,000

Details to be resolved in preparation of staff report: (Nate will work with Keenan on these.)

Water well issues regarding hydrological connectivity requiring forbearance between April and Oct.

Appellant will:

1. Agree to forbear and install water storage.
2. Agree to install raincatchment to meet water needs.
3. Tanks will be anchored due to floodplain.

An addendum to the operation plan will be drafted to incorporate #1 and #2 and implement within 2 years.

Floodplain issue regarding structures:

Appellant will design greenhouses to be removable in event of flood.

Category 4 road concerns:

Issue: Road does not meet category 4 road conditions.

Resolution: limit time of day ingress/egress by employees to reduce traffic during heavy trucking hours of operation eg. logging and gravel extraction.

Hearing scheduled for Sept 3 or 17 (17th would be preferable)

Issue regarding Compliance Agreement: Cyndy will research and provide to staff for staff report.

Based upon the appellant's agreement to comply with all of these terms, staff will recommend to the BOS that the denial of the CUP be vacated and the permit will be approved according to the above-terms.

Please let me know if I've missed anything or have misunderstood our conversation.

Thank you!

Cyndy

Mr. Hilton replied on July 31 as follows:

Cyndy,

Thank you for the message summarizing the meeting. Below you will find confirmation and clarification of the key points:

1. We discussed 28,000 sf outdoor cultivation with a 3,060 sf nursery for propagation as a reasonable alternative to present in the board report. It is worth reiterating though that this was not considered by the Planning Commission, and that these are not figures that CDFW is in agreement with. There will be opposition to this alternative.
2. The summary of the penalty (total \$57,440) is what was agreed to in the meeting.
3. If the applicant is switching to rainwater catchment, then no forbearance is required. The applicant will need to propose adequate capacity for the full annual water demand.
4. Please see the attached information sheets for structures in the floodplain. Building division staff will be able to answer questions about particulars much more readily than I.
5. On 6/8/2018, Public Works recommended that the engineer's analysis of the road was incomplete as it neither provides Average Daily Traffic measures, nor does it acknowledge the history of complaints on the road. The recommendation from public works was that the neighborhood be contacted to determine the exact nature of the existing complaints as well as concerns about the proposed project. The engineer could then develop a plan for addressing those concerns. Teisha did provide a traffic impact assessment prepared by her office on April 14, 2019, however it did not satisfy any of the recommendations provided by Public Works.
6. The Site Plan must be revised to accurately reflect the proposal. Changes I would expect to see include:
 - a. Reduced cultivation area
 - b. Reduced nursery area
 - c. Perhaps a smaller processing structure

- d. Proposed relocation of the mother room/nursery to a structure meeting the 30 ft setback from the property line / 50 foot setback from the wetland
 - e. Fewer parking spaces required for fewer employees
 - f. Adequate water storage
 - g. Emergency response vehicle turnaround
 - h. 2,500 gallon tank dedicated to fire response
7. The Cultivation and Operations Plan must be revised to accurately describe the project. If you choose to provide an addendum to the existing cultivation and operations plan, I recommend reading through the current document to make sure the details are correct. The latest complete plan is dated 7-2017.
8. The referral response from the Hydesville School District states that there are various bus stops along River Bar Rd within 600 feet of the operation. At the 9-17-18 meeting between Nate Whittington, Cory Nunes and me, Cory stated that he could provide written verification from the school district that there are, in fact, no bus stops within 600 feet of this site. This is critical for all sites under the CMMLUO.

Usually, the Planning Commission's action is considered the staff recommendation unless information is presented that was not available at the time of decision. The Planning Commission was strongly swayed by the language of the Compliance Agreement and Interim Permit stating that if an applicant violates the provisions, the permit will be revoked and the property disqualified from future permitting. This is a significant hurdle to overcome. Staff intends to present three alternative actions for consideration:

- a. Uphold the denial of the planning commission
- b. Vacate the denial of the planning commission, approve project under the CMMLUO as proposed
- c. Allow the applicant to apply under the CCLUO

In response to your request regarding the language of the Compliance Agreement and the Director's discretion provision in the Humboldt County Code, I provided you with a response on how to reconcile the two provisions given the fact that the determination was made by the Planning Commission, not you as the Director:

Since this is an appeal, the BOS can vacate the Planning Commission's denial of the project and recommend approval. Once the denial is vacated there is no issue with the above as the finding that the applicant has violated the terms of the Compliance Agreement no longer exists – it has been vacated and the BOS can proceed with approval of the project.

I provided you with a more detailed response on September 20 (which I have attached as Exhibit 2) when I was notified on September 11 by Mr. Hilton that you, along with Cliff Johnson and Keenan Hilton still did not find it "convincing." I received no response to my September 20 email until the phone call from Mr. Hilton almost six weeks later on October 30.

Additionally, I received a copy of invoice No. PLI19-2108 in the mail on October 30 for staff costs for the appeal. In reviewing the invoice and notations regarding staff performed tasks, I note that on October 10, Mr. Hilton notes that he "reached out to PW and CDFW..." I'm wondering why Mr. Hilton contacted CDFW and what was the substance of the conversation? The

question remains from the applicant and others regarding CDFW involvement on this project and other projects in which CDFW admittedly does not have jurisdiction. The Applicant submitted a Notification of Lake or Streambed Alteration on December 28, 2018. Per CDFW regulations, they have 90 days to respond. They did not and thus CDFW has no jurisdiction over this project – and you should not be contacting them to get their “input.”

Further, I am informed that according to Mr. Johnson the issue of the pre-existing cultivation area will be revisited by staff at the appeal hearing. Again, this is a procedural error under the law. The issue of the pre-existing cultivation area was not before the Planning Commission and cannot now be made part of the appeal. This issue was already determined by planning staff when an Interim Permit for 28,000 square feet was issued. My client agreed to this number at the time despite the fact that planning staff had already made a cultivation area verification (CAV) on November 17, 2017 of 75,215 square feet. (Exhibit 5).

There also appears to be a constitutional question with regard to the Compliance Agreement itself: the County of Humboldt requires an applicant to waive his or her rights of procedural due process as a condition to obtaining a permit. The basic rule of procedural due process is very simply stated: Before government deprives a person of a protected interest in liberty or property, that person must be given reasonable notice of the action and a reasonable opportunity to be heard.¹ In very limited circumstances, this notice and opportunity can be given after the interest is affected; in most cases, however, notice and an opportunity for hearing must be given before government action is taken. Section 5 of the Compliance Agreement violates due process. That section states in pertinent part:

“...The Director’s decision to revoke the Zoning Clearance Certificate for an Interim Permit is **not subject to appeal**.....”

“In addition to the revocation of this Zoning Clearance Certificate for an Interim Permit, the revocation action will include the denial or withdrawal of the Zoning Clearance Certificate, Special Permit or Conditional Use Permit application for the existing cultivation **without a noticed public hearing**.”

This is clearly a violation of procedural due process. The applicant is deprived of his or her right to a noticed public hearing despite the fact that the County is taking away his or her rights to various permits that have already been issued including the right to use the property pursuant to that permit.

This revocation is also likely a taking. Article 1, section 14, of the California Constitution, provides, in part: "Private **property** shall **not** be taken or damaged for public use **without just compensation** having first been made to, or paid into court for, the owner. ... " Further, in Kavanau v. Santa Monica Rent Control Board (1997) 16 Cal.4th 761, the California

¹ Mathews v. Eldredge, 427 U.S. 319 (1976)

Supreme Court recognized that a property owner alleging that a government agency has taken his or her property without just compensation need not be deprived of **all** economically viable use of the property in order to demonstrate that a taking has occurred. The automatic revocation of certificates and permits and resulting loss of the ability to continue the cultivation of cannabis severely impacts the value and use of the property and thus equates to an impermissible taking and requires compensation to the landowner. Just compensation is undeniably not occurring in Humboldt County with every revocation of a Zoning Clearance Certificate, Special Permit, or Conditional Use Permit with regard to cannabis projects under the procedures currently followed by the County Planning Department.

My client is prepared to take these issues to court if necessary.

I look forward to hearing from you and hope we can have a discussion prior to the issuance of the staff report for the appeal of this matter to the Board of Supervisors.

Sincerely,



Cyndy Day-Wilson, Esq.

cc: Client
Noetic Consulting

Enclosures

Exhibit 1



DAY-WILSON & KAY

A Professional Association
628 H St. Eureka, Ca 95501



Cyndy Day-Wilson, Esq.
LL.M. Environmental Law
(707) 798-5048
cdaywilson@daywilsonlaw.com

William T. Kay, Jr., Esq.
(707) 445-2301
wk007@willkaylaw.com

VIA PERSONAL SERVICE

June 14, 2019

Ms. Kathy Hayes
Clerk of the Board
Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

**RE: APPEAL OF DENIAL OF HAWK VALLEY FARMS, LLC
CONDITIONAL USE PERMIT
APPLICATION NUMBER 11141
RECORD NO. PLN-11141-CUP
APN 204-091-012**

Dear Board of Supervisors:

I have been retained by Cory Nunes of Hawk Valley Farms LLC in the above-referenced matter. This correspondence serves as an **appeal** of the Humboldt County Planning Commission's June 6, 2019 denial of the Conditional Use Permit (CUP) Application by Hawk Valley Farms LLC. The application was initially submitted on September 12, 2016 and the completed application package¹ was also submitted that same day under the County's Commercial Medical Marijuana Land Use Ordinance (CMMLUO) for a CUP for a project consisting of approximately 43,560 square feet of existing outdoor cannabis cultivation. The project is located in the Hydesville area on seven (7) acres of zoned Agricultural Exclusive (AE) land on the south side of State Highway 36, approximately 1.54 miles south from the intersection of State Highway 36 and River Bar Road, known as 1492 River Bar Road, Hydesville, California.

The application sat for **over a year** with the Planning Department after the submittal of the complete application package without any action. It was not until the Applicant's Agent

¹ The Applicant also submitted the signed Affidavit Commercial Cannabis Activity on that date (Dated September 12, 2016).

AgDynamix, contacted the County that a meeting was set up to look at the application on September 20, 2017.²

On June 6, 2019 the matter came before the Planning Commission with a recommendation by County Planning Staff for denial based on three contentions:

1. The applicant has repeatedly violated Humboldt County Code (HCC) § 314-8.2.2 which states that expansion of the existing cultivation area shall not be permitted; and
2. The applicant has repeatedly violated Humboldt County Code (HCC) §314-55.4.11.w which requires that the artificial light source used in association with cultivation activities comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG); and
3. The applicant has repeatedly violated HCC §314-55.4.8.11 which provides for the granting of Zoning Clearance Certificates for Interim Permit and grants discretion to the Planning Director to revoke the Zoning Clearance Certificate and deny the Conditional Use Permit Application.

It is the Applicant's position that these contentions were unsupported by the evidence presented by County Planning Staff and evidence provided by the Applicant of his efforts to comply at the Planning Commission hearing was ignored. Through this process, Applicant has been represented by numerous consultants who were retained to timely address the requirements of the CMMLUO.³ Applicant will address each contention below:

Alleged Repeated Violations of HCC §314-8.2.2 – Unpermitted expansion of cultivation area.

On September 12, 2016 Hawk Valley Farms submitted its completed application packet for a Conditional Use Permit (CUP) for one-acre of pre-existing outdoor cultivation activity. The project site consists of approximately seven (7) acres and has historically had approximately three (3) acres of various outdoor flowers including heather and dahlias. This was supported by aerial photographs pre-2016 of the site. Cannabis plants were routinely planted in and among these flowers in order to obscure them from view. As noted by the June 6 Planning Staff report to the Planning Commission, found the Applicant's claim of at least one-acre of cannabis to have been

² The Permit Streamlining Act, California Government Code § 65920 et seq, was enacted in 1977 in order to expedite the processing of permits for development projects by imposing time limits within which state and local government agencies must either approve or disapprove permits. Once a completed permit application is on file the agency has 30 days to inform the applicant whether the application is complete. Government Code § 65943; 14 California Code of Regulations §§ 15060(a), 15101. These timelines clearly were not followed throughout the process by the County with regard to the Hawk Valley Farm's application.

³ Exhibit 1 depicts the timeline of actions taken and exhaustive efforts made by Applicant throughout the process.

frequently planted at the site to be “somewhat plausible” and agreed to process the application and present it to the Planning Commission. (Attachment 9 to Staff Report of June 6)

Six and nine months later (February 9, 2018 and May 24, 2018), Planning staff met with the Applicant with regard to the Applicant’s placement of hoop structures (Hoop Houses) at the site.⁴ The Hoop Houses were installed to reconfigure the site to minimize environmental impacts and maximize production according to the CMMLUO, which allows for outdoor to be cultivated in Ag Exempt Hoop Houses so long as supplemental lights are not used. In this case, the Applicant any supplemental lighting is used in the separate nursery Hoop Houses on site.

The reduction in square footage is a direct result of input by CDFW questioning the pre-existing cultivation area on all projects. However, the affidavit issued to the Applicant on September 12, 2016 included an initial evaluation of pre-existing cultivation and **was approved for the full acre.**

As a result of those meetings, the County issued an Interim Permit for 28,000 square feet of cultivation area.⁵ The Applicant has and continues to maintain that this reduction by the County from the request of one-acre is unsupported. This was an issue that the Planning Commissioners failed to address at the June 6 hearing.

The June 6 Staff Report to the Planning Commission states that the Applicant subsequently expanded to 36,720 square feet of dedicated flowering space and 17,000 square feet of dedicated nursery space in March of 2019. The Staff Report does note that the “dedicated flowering space was not all in operation at the time of this visit,....”

At a March 14, 2019 meeting between the Applicant and one of his consultants, Noetic Consulting, the Applicant explained that in order to meet the project needs that 41% of the total 28,000 square feet total approved cultivation area was necessary for nursery propagation. Nursery production uses on-grid power to run low wattage lights to prevent flowering in nursery plants.

In the cultivation area, Applicant utilized internal Hoop Houses totaling less than 28,000 square feet. The external hoops containing the cultivation area totaled 36,720 square feet. Applicant calculated the cultivation area based on California Department of Food and Agriculture⁶ definitions, which state that:

⁴ All of the Hoop Houses were installed according to building plans drafted by A.M. Baird Engineering.

⁵ Note that at the time of the issuance of the Interim Permit, the County was not only aware of existence of the Hoop Houses, but allowed them to remain. In fact, the Applicant had inquired in 2017 about the initial placement of the Hoop Houses at the site in view of his application for a one-acre growing area and was told by a County planner that he could proceed under the theory of “business as usual.” In other words, greenhouses are a typical agricultural structure on Agricultural Exclusive zoned land.

⁶ See Reference Guide for the Cultivation Plan issued by the California Department of Food and Agriculture (Exhibit 2)

Canopy: the designated area(s) at a licensed premises (except for nurseries) that will contain mature (flowering) plants at any point in time, as follows:

- The canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas that will contain mature plants at any point in time, including all the space(s) within the boundaries.
- The canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop-house walls, garden benches, hedgerows, fencing, garden beds, or garden plots.
- If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- A specialty cottage outdoor canopy is determined by plant count, whereas a specialty outdoor canopy is determined by either square feet or plant count.

In order to meet this definition, the Applicant had utilized the initial temporary Hoop Houses by incorporating an interior Hoop House design within the existing Hoop House. This was done in order to:

1. Protect cultivation and structures from wind damage; and
2. Insulate the Hoop Houses structures to bolster yield productivity.

According to the project plan, no more than nine (9) Hoop Houses would be planted at any one point in time and would total less than 28,000 square feet.

At that meeting, it was determined by County Staff that the 25% of total cultivation area had to be met by the Applicant. This was to be accomplished by reducing the Hoop Houses used for Nursery propagation to three (3) total Hoop Houses. Additionally, it was determined that the County defines cultivation area by the external hoop dimensions and therefore it was necessary to remove the skins of two of the Hoop Houses by March 25.

The Applicant, in order to show good faith, removed the skins from **three (3)** Hoop Houses and took pictures on March 28 to send to the County. He sent the photographs from an analog cell phone to the County Cannabis Planning email address on March 28. According to County Staff, however, the photographs were never received and the Applicant's Interim Permit was revoked just over a week later on April 9. County staff had spoken with the Applicant on March 27 about the status of the photographs, but there was no further follow-up by the County prior to the very drastic response of the revocation of the Interim Permit. Copies of the photographs of the Hoop Houses with the skins removed dated March 28 that were sent to the County by the Applicant are attached as Exhibit 3.

Thus, with the receipt of the photographs, pursuant to the agreement, the County should not have taken action to revoke the Interim Permit and it must be reinstated.

Alleged Repeatedly Violations of HCC §314-55.4.11.w - International Dark Sky Association Standards

On March 14, 2019 the Applicant and Noetic Consulting met with County Planning Staff to discuss a complaint from a neighbor received by the County in early March regarding lighting.

Prior to the meeting and the complaint by the Neighbor, the Applicant had already begun implementing an automatic light shielding system and had contracted with an electrician to install an automated tarping system. Understandably, the electrician was waiting for dry weather before proceeding with the installation of the electrical support for the automated system. However, the Applicant agreed at this meeting to implement temporary light shielding measures until the rain stopped and the electrician could perform the work. The Applicant thus, ordered temporary tarps (black-out plastic) to address the light shielding issue. (See Exhibit 4). This temporary solution was implemented as the temporary solution was being developed. It was not a matter that was ignored by the Applicant.

Up to March 14, there had been no complaints regarding lighting from the site. Unfortunately, this was all impacted by the weather and timing - due to the long rainy season the timing of the installation of the light shielding system was delayed. Now that the rain seems to have stopped, the Applicant is ready, willing and able to proceed with the necessary electrical work and the installation of the light shielding system.

Additionally, there have been no complaints by the airport nor any agency which uses the airport located in Rohnerville above the project site.

Alleged Repeated Violations of HCC §314-55.4.8.11 – Compliance Agreement

As discussed above, there is no evidence that the Applicant engaged in a course of action throughout the permit process in violation of the Humboldt County Code. In fact, there were only two violations alleged against the Applicant throughout this four (4) year process: (1) Lighting; and, (2) Expansion of cultivation area. Both of which were addressed by the Applicant. The somewhat immediate revocation of the Interim Permit within a few days of the non-receipt of the photographs regarding the removal of the skins from three (3) Hoop Houses is without precedent.

Indeed, this is the first such revocation and denial of an Applicant who has gone this far in the process.

In sum, this project is located in an agricultural area with prime soils and adequate water for agricultural activities and has a 15-year history of ongoing agricultural activity. It is exactly the type of property where commercial cannabis is most appropriately located in Humboldt County.

The Applicant has worked hard to comply with the County's and other agencies numerous requests and ever-evolving (and sometimes changing) requests for information over the past 4 years since the initial submission of his application. He has worked with not only his consultants

but, also with close to a dozen different County planners to address the County requirements. The June 6 Staff Report acknowledges that the Applicant was not represented by a “single agent” at all meetings or included in all correspondence. When issues have arisen either he, his Agent, or consultants have met with the County to discuss the issues and receive clarification about the rules and thereafter act in compliance. The most aggravating piece of this process is the issuance of the revocation of his Interim Permit without any notice to his designated agent, AgDynamix, and the resulting lack of response from the County to subsequent inquiries by his designated agent regarding the revocation.

Denial of this permit is not only a substantial financial blow for the Applicant, it also sends a message to the commercial cannabis community that prime agriculture land such as the site proposed by the Applicant isn’t good enough: Land that has a historical agricultural use, prime soils, adequate water, and virtually no slope instability. Upholding such a determination will certainly have a chilling effect on future applications.

It is also important to note that the Staff Report for the June 6 Planning Commission meeting erroneously stated that State License for Hawk Valley Farms does not have an active state license. As of the date of this appeal, the State License is Active. (Exhibit 5.)

In addition, the Applicant, pursuant to the County’s April 9 letter revoking his Interim Permit, has removed all tarps from the Hoop Houses and ceased all cultivation activities. (Photographs - Exhibit 6.)

Throughout the process, the Applicant has endeavored to comply with the regulations as interpreted by County staff; changes in staff overseeing his permit application; and, communicate timely with the County not only with regard to the project but also his needs to make it a viable financial project. To be almost four years into the permit process and have the permit denied and his Interim Permit revoked is devastating. He is ready, willing and able to continue the process and respond to the outstanding issues as required by County staff.

In view of the foregoing, the Applicant proposes that the Board of Supervisors grant his appeal in one of the following ways:

1. Grant the appeal and direct Planning Department Staff to work with the Applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et. seq. for the one-acre area of cultivation at the site. In addition, his Interim Permit is reinstated.
2. Grant the appeal and allow the Applicant to continue with his application under the CMMLUO with 28,000 square feet of cultivation area. Direct staff to work with the Applicant with regard to the two outstanding issues of: (1) lighting, and (2) size of cultivation area and reinstatement of the Interim Permit.

Please notify me with the date and time for the Appeal Hearing. I look forward to hearing from you.

Sincerely,

/s/

Cyndy Day-Wilson, Esq.

cc: Cory Nunes
Humboldt County Planning Commission
John Ford, Planning Department Director

Exhibit 1

Hawk Valley Farm (Cory Nunes)
CUP Application No. PLN-11141-CUP

Timeline of Events

DATE

ACTION TAKEN

September 12, 2016

Completed Application Submitted

Executed Affidavit also submitted.

Fee paid \$2,581.45 with application.

December 2, 2016

County Planner Steve Lazaar responded to inquiry regarding status of project referral. The assigned planner was Joshua Allen and was subsequently assigned to Planner Rodney Yandell and Planner Michelle Nielsen.

May 8, 2017

Project was transmitted for referral. (5 months after December 2016 inquiry and 9 months after initial application submittal)

July 19, 2017

Revised Application materials submitted to newly assigned County Planner Elizabeth Moreno

July 25, 2017

Applicant paid an additional \$6,025.77 for unknown additional administrative review fees.

July 31, 2017

Proof of legal parcel status emailed to Planner Michelle Nielsen.

September 20, 2017

Applicant and AgDynamix attended a

County Application Review Meeting at the
request of the County.

Meeting set up after requests from
Applicant and AgDynamix as application
had not moved forward for over a year.

- November 2, 2017 County requested additional information for
road evaluation. Helix Consulting was
hired.
- November 17, 2017 AgDynamix contacted Helix again in
response to an inquiry from the County
regarding potential wetland concern setback
issue.
- December 6, 2017 James Reagan, Botanist and Wetland
Delineation Specialist, contacted the County
and Helix with regard to the wetland survey
he conducted.
- December 13, 2017 Helix advised the Applicant and Consultant
- report they were preparing would be ready
by the end of the week.
- December 18, 2017 AgDynamix contacted CPOD Caitlin
Castellano regarding status of project.
- December 19, 2017 CPOD Ms. Castellano responded and for
the FIRST TIME informed the Applicant
and AgDynamix that there was an issue
regarding the baseline of the cultivation
area.
- December 21, 2017 Helix advised AgDynamix again that the
report would be finalized upon receipt of an

December 22, 2017

Helix advised AgDynamix that the report was complete and the report was sent to the County.

December 22, 2017

CPOD Catellano contacted AgDynamix that Planner Yandell was handling the baseline issue she raised for the first time on December 19, 2017.

December 2017 – May 2018

AgDynamix continued to work with the County to resolve the baseline and Interim Permit issue.

February 9, 2018

County Planning set Applicant's baseline to 28,000 square feet for the Interim permit. Applicant contested the 28,000 square foot baseline due to the historical use of one-acre.

February 26, 2018

AgDynamix reviewed the County file with regard to the status of the referral process. AgDynamix found that no visible progress had been taken on the project since October 2017.

March 23, 2018

Planner Megan Ryan contacted AgDynamix via email updating her on status of project with County.

April 9, 2019

AgDynamix sent further correspondence to Planner Megan Ryan requesting further information on the project's status.

April 27, 2018

AgDynamix received a further update from Planner Megan Ryan that the project was still in review.

May 3, 2018

Planner Steven Santos contacted AgDynamix with update on status of project.

May 7, 2018

AgDynamix followed up with Planner Santos regarding the update. AgDynamix also submitted to Planner Santos additional evidence of the one-acre previous cultivation at the site.

May 8, 2018

Planner Santos replied to AgDynamix inquiry and the additional evidence supplied by Applicant regarding the one-acre previous cultivation area.

May 24, 2018

Applicant meets with County Planning regarding permit.

At this meeting it was agreed that:

1. The project would be Noticed for one-acre of Outdoor Cannabis Cultivation; and
2. County Planning Staff would recommend 28,000 square feet of Outdoor Cannabis Cultivation. This was apparently based on CDFW arbitrary means of analysis used in defining pre-existing activity.

May 25, 2018

Interim Permit Issued.

With significantly reduced cultivation area of 28,000 square feet. Applicant continued

June 6, 2018	County advised AgDynamix of an additional \$1,950.00 in fees for the project.
June 8, 2018	AgDynamix received correspondence from County Planner Keenan Hilton that he needed additional items to process the staff report to completion. Additional requests included requests for an Airspace Variance and Traffic Management Plans. One of the County requests was that the Applicant obtain an airspace variance, however, this was ultimately removed from the project requirements after its inclusion was contested.
July 20, 2018	AgDynamix responded to request from Planner Hilton questing request for Airspace Variance and Traffic Management Plans.
July 21, 2018	Planner Hilton responded to AgDynamix
August 17, 2018	Applicant and Consultant (Noetic Consulting) met with Planner Keenan Hilton to discuss the June 8 correspondence from the County.
November 28, 2018	Temporary License applications submitted to the County
December 28, 2018	Temporary licenses issued from CDFA for Medium and Small Business (M&S) (1/1/18) 1

December 31, 2018

Both Final Applications submitted for
Provisional License eligibility

March 7, 2019

County inspects property due to complaint from neighbor. County alleges that violation of International Dark Sky Standards exists at the site. Applicant agrees to correct by:

1. Implementing an automatic light shield system; and
2. contract with electrician to install an automated tarping system

The electrician informed Applicant that he would need to wait for dry weather to install the electrical system. Applicant agreed to implement temporary light shielding measures and ordered tarps as a temporary measure.

Additionally, Applicant cited by County for alleged expansion for Hoop Houses. County alleged that the Hoop Houses were “excessive” designated nursery area – 41%.

March 14, 2019

Applicant and Noetic Consulting meeting with Director Ford and Planner Hilton. Discussion centered on the Planning Department’s definitions of “Greenhouse” versus “Protective hoops: and the application of square footage therein. Additionally, the scope of the nursery activity and the necessary space that was appropriate for the project was discussed.

The discussion had the following outcomes:

1. Two hoop houses were to have skins removed. (Mr. Nunes actually removed the skins from three hoop houses.)
2. Interim permit to remain in effect while project was in preparation stages for hearing.
3. Nursery footprint to be reduced to 25% of total cultivation area.
4. Determination that project is not eligible for RRR.

March 27, 2019

Planner Hilton contacts Applicant regarding proof that tarps have been removed from two hoop houses. Planner Hilton tells Applicant to get him the photographs showing the tarps have been removed as soon as possible.

March 28, 2019

Applicant takes photographs (on his flip phone) and sends to Cannabis Service Division email via 7075990524@vzwpix.com

April 9, 2019

County Planning send notice to Applicant and former attorney that Interim Permit has been revoked. AgDynamix, Applicant's Agent, was not notified.

April 9, 2019

AgDynamix contacted Planner Hilton regarding the permit revocation and failure to process the photos sent by Applicant on March 28, 2019 showing removal of tarps from three Hoop Houses. Request also

May 16, 2019

Final application packed package submitted
by AgDynamix to County Planning
requesting that the project be placed on PC
agenda.

June 3, 2019

Both Mixed Light Tier 1 Licenses are active
with the State of California.

June 6, 2019

PC Hearing on Applicant's CUP Permit.
PC Denies project approval.

June 14, 2019

Applicant files appeal to Board of
Supervisors.

Exhibit 2

ANNUAL CANNABIS CULTIVATION LICENSES

A Reference Guide for the Cultivation Plan

CalCannabis Cultivation Licensing, a division of the California Department of Food and Agriculture, created this document to provide guidance with the cultivation plan required for each annual cannabis cultivation licensing application. This document is for informational purposes and is not the official state application, nor does it include all the application requirements. For the official state application for an annual cannabis cultivation license, please visit the CalCannabis website: calcannabis.cdfa.ca.gov.

CULTIVATION PLAN REQUIREMENTS

Cultivation plan requirements differ based on license type, and the plan requirements for the licenses are outlined below. Each cultivation plan requirement listed has a corresponding section in this document that introduces the requirement, provides examples and, where applicable, offers optional templates, which may be used by applicants.

SPECIALTY COTTAGE, SPECIALTY, SMALL, AND MEDIUM LICENSE TYPES

- Property diagram
- Premises diagram
- Pest management plan
- Waste management plan
- Lighting diagram (mixed-light and indoor licenses only)

NURSERY LICENSE

- Property diagram
- Premises diagram
- Pest management plan
- Waste management plan

PROCESSOR LICENSE

- Property diagram
- Premises diagram
- Waste management plan

KEY WORDS

The following brief definitions of key words used on the annual cannabis cultivation licensing application are provided as a quick reference guide for applicants. For more in-depth definitions, please review the California Department of Food and Agriculture's cannabis cultivation regulations and Business and Professions Code Division 10.

Canopy: the designated area(s) at a licensed premises (except for nurseries) that will contain mature (flowering) plants at any point in time, as follows:

- The canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas that will contain mature plants at any point in time, including all the space(s) within the boundaries.
- The canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop-house walls, garden benches, hedgerows, fencing, garden beds, or garden plots.
- If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- A specialty cottage outdoor canopy is determined by plant count, whereas a specialty outdoor canopy is determined by either square feet or plant count.

Composting Area: the area designated for composting on the licensed premises.

Cultivation Plan: a component of the application with different requirements based on license type.

Flowering: a cannabis plant that has formed a mass of pistils measuring greater than one-half-inch wide at its widest point.

Harvest Storage Area: the area designated in the cultivation plan for storing all harvested cannabis on the licensed premises.

Indoor Cultivation: cultivation of cannabis within a permanent structure that exclusively uses artificial light, or within any type of structure that uses artificial light, at a rate above 25 watts per square foot.

Lighting Diagram: a plan that identifies the wattage per square foot (for mixed-light and indoor license types only).

Mature Plant: a cannabis plant that is flowering.

Mixed-Light Cultivation: cultivation of mature cannabis in a greenhouse, hoop-house, glasshouse, conservatory, hothouse, or a similar structure that uses light deprivation and/or artificial lighting. Mixed-light cultivation is divided into two tiers:

- **Mixed-Light Tier 1:** the use of artificial light at a rate of 6 watts per square foot or less.
- **Mixed-Light Tier 2:** the use of artificial light at a rate above 6 and below or equal to, 25 watts per square foot.

Outdoor Cultivation: cultivation of mature cannabis without the use of artificial lighting in the canopy area at any point in time; artificial lighting is permissible only to maintain immature plants.

Packaging Area: the area designated for packaging cannabis on the licensed premises.

Pest Management Plan: a plan that identifies the biological, cultural, and chemical removal of pests.

Pesticide and Agricultural Chemical Storage Area: the area designated to store all chemicals to be used on the licensed premises.

Processing Area: the area designated to process cannabis on the licensed premises; processing includes drying, curing, grading, trimming, storing, packaging, and labeling of nonmanufactured cannabis products.

Premises: the designated structure (or structures) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and only occupied by **one licensee**.

Research and Development Area: the area identified in the cultivation plan for the nursery license type that is designated for research and development of the cultivation of mature plants; all products derived from these plants are **prohibited** from entering the commercial distribution chain.

Seed Production Area: the area designated for cannabis seed production for the nursery license type only. This area may contain mature plants; seeds are the only product allowed to enter the commercial distribution chain from this designated area.

Waste Management Plan: a plan that identifies how cannabis waste generated on the licensed premises is managed.

Watts per Square Foot: the sum of the maximum wattage of all lights identified in the designated canopy area(s) in the cultivation plan, divided by the sum of the dimensions in square feet of the designated canopy area.

PROPERTY DIAGRAM

A **property diagram** is a diagram of the **whole property associated with the proposed premises**. This is the **“zoomed out”** diagram of the proposed premises. If the proposed premises spans multiple parcels, all parcel numbers must be identified on the diagram.

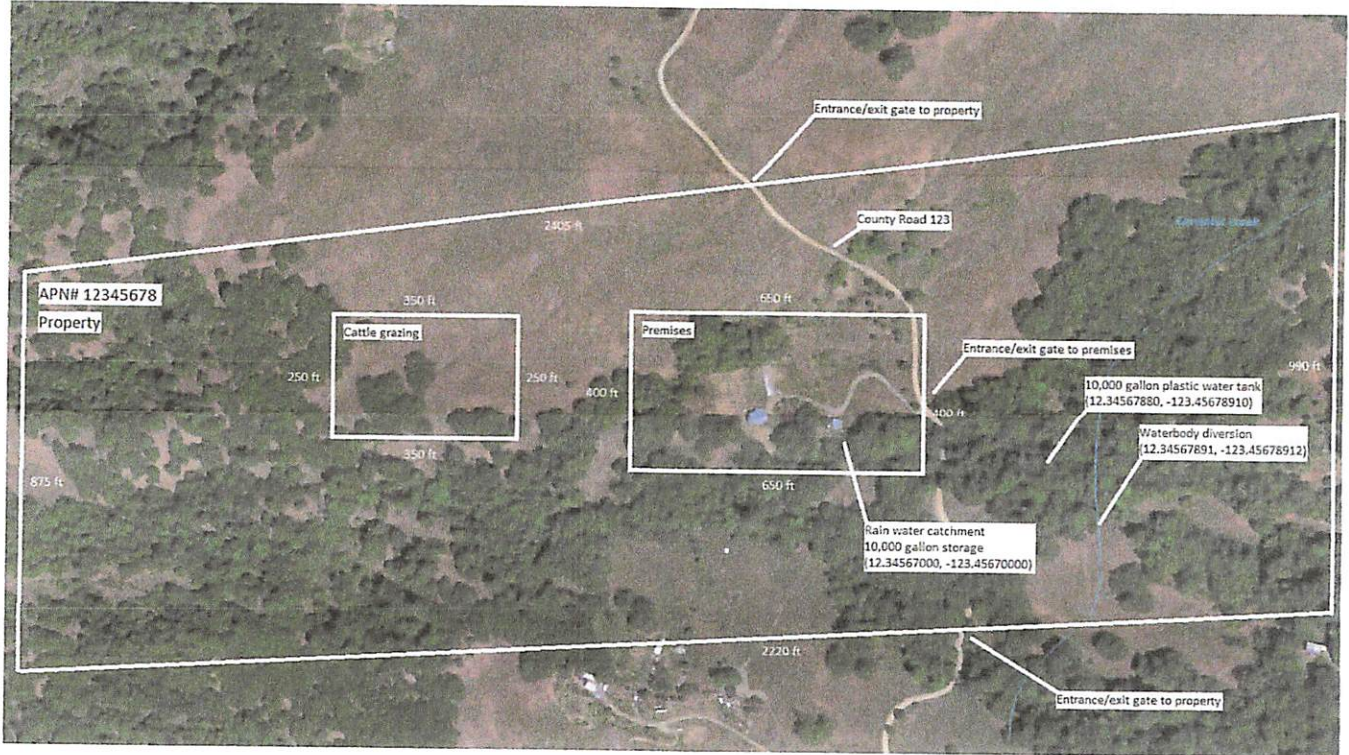
The property diagram requirements are the same for all license types and a complete diagram must feature the following:

- Parcel boundaries
- Premises boundaries
- Perimeter dimensions of the parcel(s) and premises
- Entrances to the parcel(s) and premises
- Exits to the parcel(s) and premises
- All roads
- All water crossings (including seasonal streams)
- If diverting from a waterbody, groundwater well, or rainwater-capture system, include locations of and coordinates (in latitude and longitude or in the California Coordinate System) for:
 - Water storage facilities (label the type and storage capacity of each facility);
 - Water sources; and
 - Water delivery systems (include pump and distribution systems)
- Assessor’s Parcel Number(s) (APN)
- Non-cannabis activities occurring on-site

In addition to the items listed above, a **property diagram must be to scale, all measurements must be in feet, and there may not be any highlighting.**

Please see the sample property diagram on the following page.

EXAMPLE



This example of a property diagram used aerial imagery and a basic image-editing software program to accurately label each property diagram requirement.

PREMISES DIAGRAM

A **premises diagram** is a diagram of the **proposed licensed premises**. This is the “**zoomed in**” diagram of the proposed premises. Premises diagram requirements differ based on license type and they must **identify the boundaries and dimensions** (in feet) of the required areas specified below:

SPECIALTY COTTAGE, SPECIALTY, SMALL, AND MEDIUM LICENSE TYPE REQUIREMENTS

- Canopy areas
 - Include aggregate square footage if canopy areas are noncontiguous
- Areas containing only immature plants (as applicable)
- Pesticide and agricultural chemical storage area
- Processing area (as applicable)
- Packaging area (as applicable)
- Composting area (as applicable)
- Secure cannabis waste storage area (as applicable)
- Harvest storage area

NURSERY LICENSE REQUIREMENTS

- Areas containing only immature plants
- Pesticide and agricultural storage area
- Research and development area (as applicable)
- Seed production area (as applicable)
- Composting area (as applicable)
- Secure cannabis waste storage area (as applicable)

PROCESSOR LICENSE REQUIREMENTS

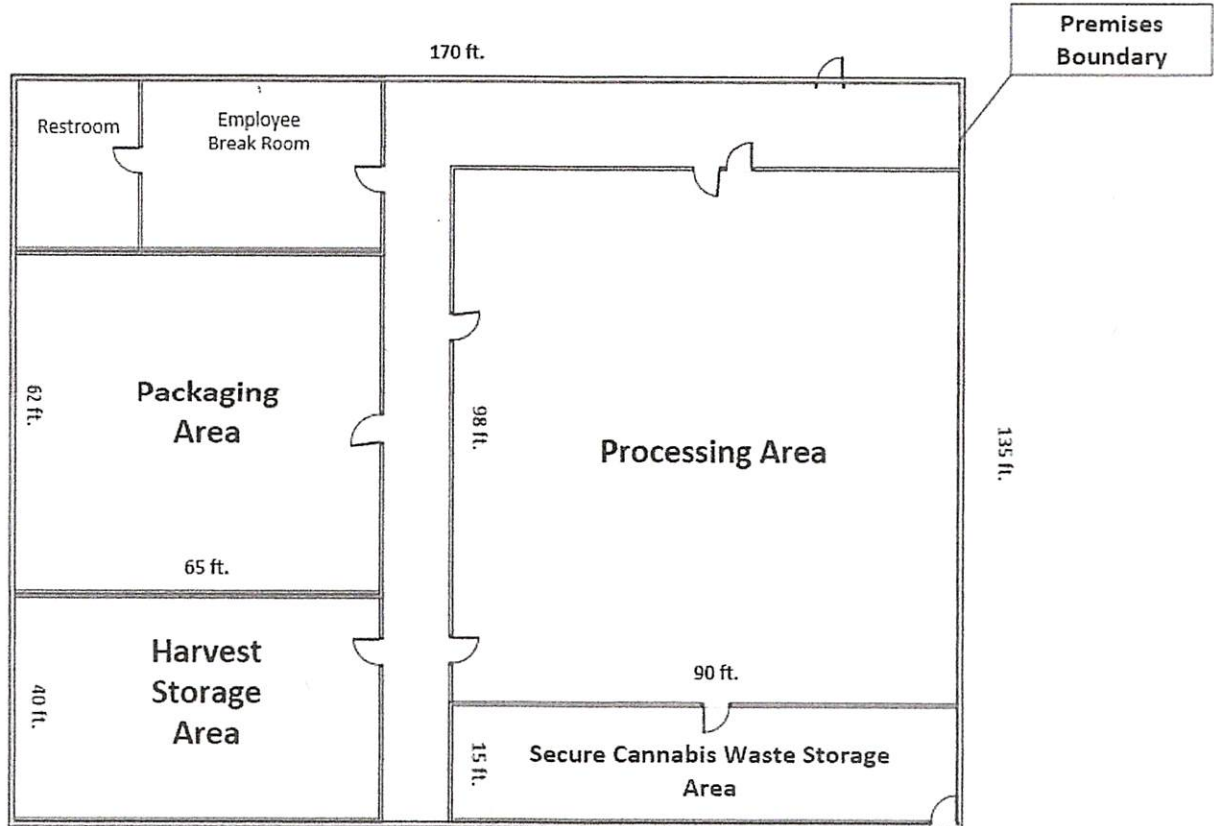
- Processing area
- Packaging area
- Composting area (as applicable)
- Secure cannabis waste-storage area (as applicable)
- Harvest storage area

In addition to the items listed above, a **premises diagram must be to scale, all measurements must be in feet, and there may not be any highlighting**. Please see the sample premises diagrams on the following pages.

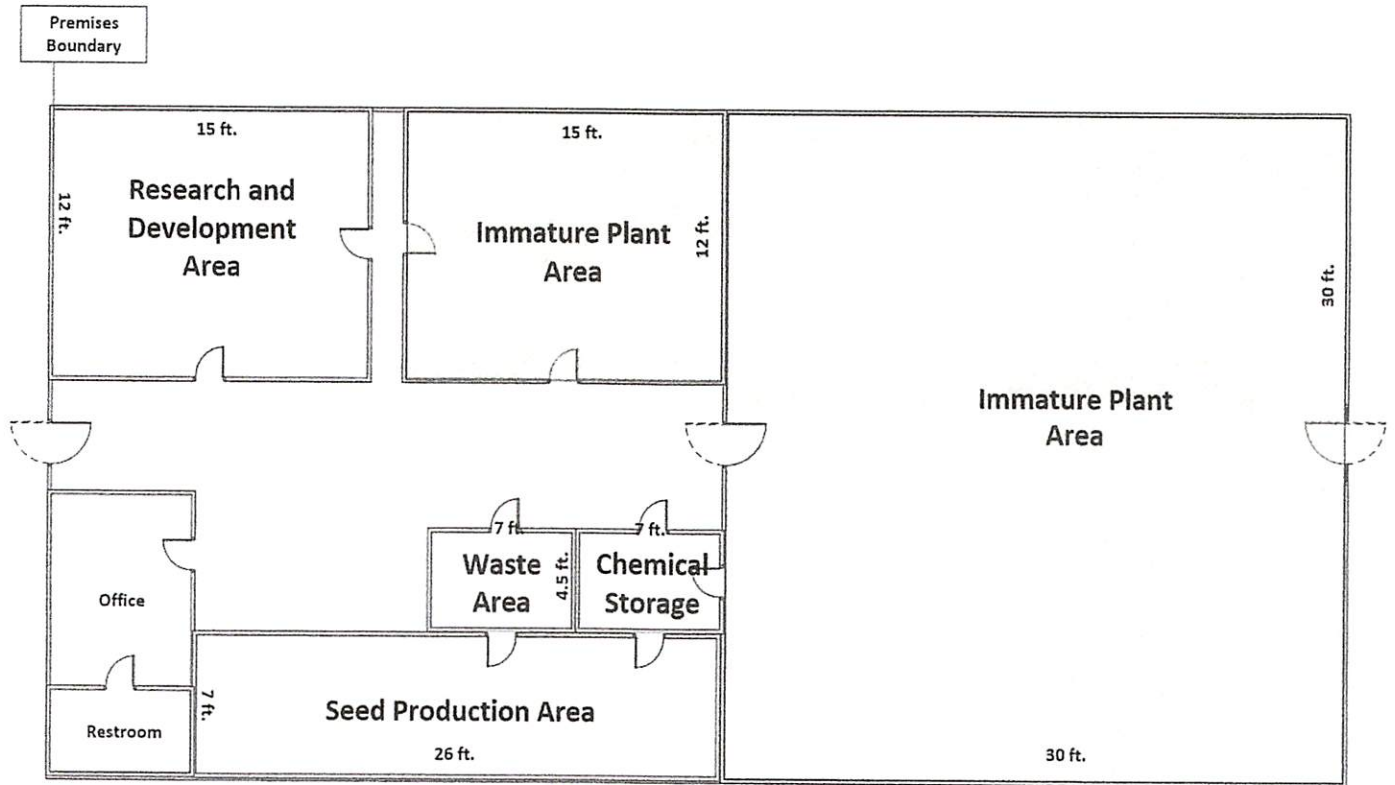
EXAMPLE: CULTIVATION LICENSE



EXAMPLE: PROCESSOR LICENSE



EXAMPLE: NURSERY LICENSE



PEST MANAGEMENT PLAN

Pest management plans traditionally are implemented with a focus on long-term management and/or suppression of unwanted pests using cultural, biological, and chemical control measures. For annual license applications, a pest management plan must include, but is not limited to, the requirements listed below.

REQUIREMENTS

- Product name and active ingredients of all pesticides to be applied to cannabis during any stage of plant growth (for example, rooting hormones, pesticides, rodenticides, fungicides, etc.)
- Integrated pest management protocols, including the following control methods:
 - Cultural
 - Biological
 - Chemical

CalCannabis has created an *optional* template applicants may use to complete their pest management plan, which is available on the following page.

WASTE MANAGEMENT PLAN

Waste management plans must identify the method(s) for managing cannabis waste generated on the premises. For this section, cannabis waste is organic waste, meaning food waste, green waste, landscape and pruning waste, nonhazardous-wood waste, and food-soiled paper waste that is mixed in with food waste. To meet the requirements of a waste management plan, simply refer to the list below and identify the method(s) for managing cannabis waste.

WASTE MANAGEMENT METHODS

- On-premises composting
- Collection and processing by a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency
- Self-haul to one or more of the following:
 - a manned fully permitted solid-waste landfill or transformation facility
 - a manned fully permitted composting facility or manned composting operation
 - a manned fully permitted in-vessel digestion facility or manned in-vessel digestion operation
 - a manned fully permitted transfer/processing facility or manned transfer/processing operation
 - a manned fully permitted chip-and-grind operation or facility

CalCannabis has created an *optional* template applicants may use to complete their waste management plan, which is available on the following page.

CALCANNABIS CULTIVATION LICENSING WASTE MANAGEMENT PLAN

Methods for managing cannabis waste generated on the premises shall be:

- On-premises composting
- Collection and processing by a local agency, a waste hauler franchised or contracted by a local agency, or a private waste hauler permitted by a local agency
- Self-haul to one or more of the following:
 - a manned fully permitted solid-waste landfill or transformation facility
 - a manned fully permitted composting facility or manned composting operation
 - a manned fully permitted in-vessel digestion facility or manned in-vessel digestion operation
 - a manned fully permitted transfer/processing facility or manned transfer/processing operation
 - a manned fully permitted chip-and-grind operation or facility

LIGHTING DIAGRAM

Indoor and mixed-light license type applications must include a lighting diagram, and the requirements are outlined below.

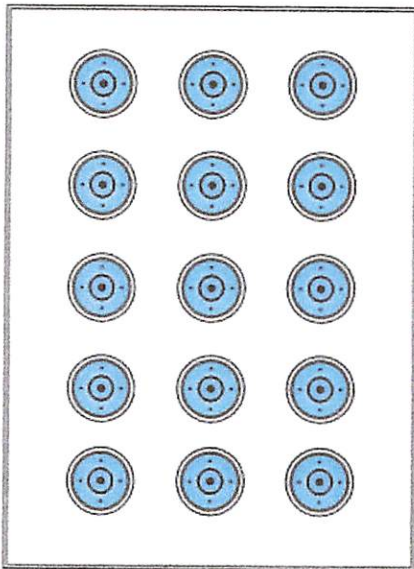
REQUIREMENTS

- Location of all lights in the canopy area(s)
- Maximum wattage of each light
- Aggregate wattage per square foot of each canopy area

EXAMPLE

Lighting Diagram

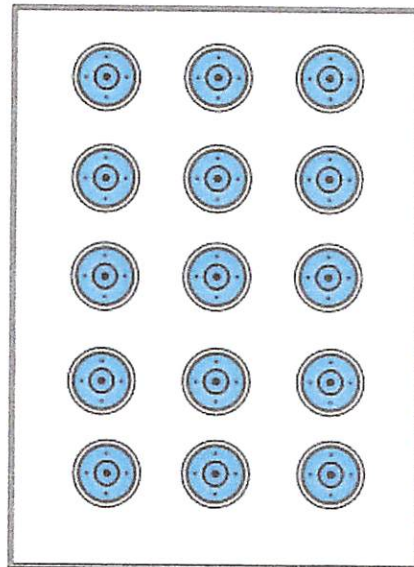
Canopy Area 1 (identified in the premises diagram as greenhouse 1)



Aggregate Wattage per Canopy Area

15 lights X 1200 watts per light = 18,000 watts
 Each canopy area (greenhouse) is 1,500 square feet
 18,000 watts / 1,500 square feet = **12 watts/square foot**

Canopy Area 2 (identified in the premises diagram as greenhouse 2)



Maximum Wattage of Each Light


 = 1200 maximum watt light

Exhibit 3

File info



File name

0328191328a

Date taken

Tuesday, April 9, 2019 1:23 PM

Size

91.6 KB

Dimensions

800 x 600

Shot

--

ISO

--

Device

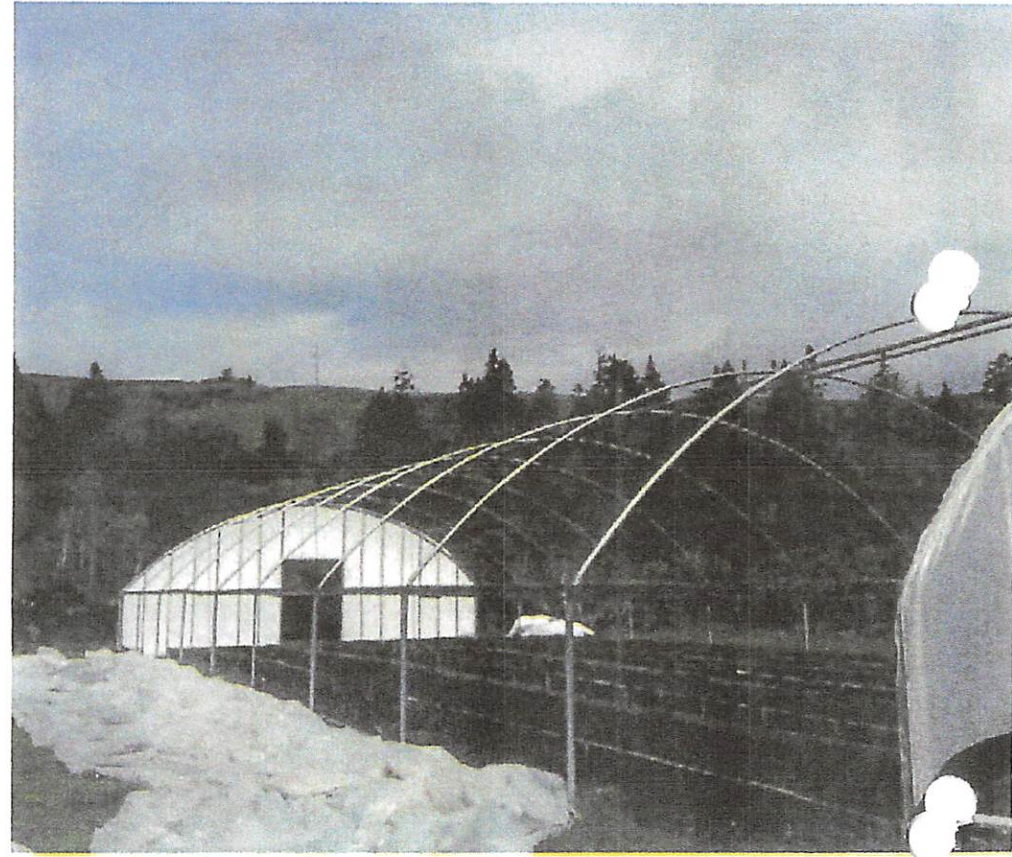
--

Folder path

S:\Projects\Hawk Valley Farms\Hawk Valley
Farms-Digital Binder

Source

Network



File info

File name
0226194329 (1)

Date taken
Thursday, March 28, 2019 1:29 PM

Size
1.1 MB

Dimensions
2532 x 1926

Color
1/3200 sec, f/2.2 9.3mm

ISO
100

Device
SM-B650V

Folder path
S:\Projects\Hawk Valley Farms\Hawk Valley Farms-Digital Binder

Source
Network



File info

File name
0226191322b

Date taken
Thursday, March 28, 2019 1:28 PM

Size
942.3 KB

Resolution
2592 x 1936

Shutter
1/4000 sec. f/2.2 3mm

ISO
100

Camera
SM-B690V

Folder path
S:\Projects\Hawk Valley Farms\Hawk Valley
Farms Digital Binder

Source
Network



EXHIBIT 4



(503) 678-2700

OREGON VALLEY GREENHOUSES, INC.

IVAN F. SCHUENING & SONS
Greenhouse Manufacturing
P.O. Box 220 / 20357 Hwy. 99E
Aurora, Oregon 97002
FAX (503) 678-2789 / www.ovg.com

INVOICE #

No 66283

DATE: 4/10/14

SOLD TO: Cory Nunes
P.O. Box 1343
Ferndale LA 95536

SHIP TO: 1492 River Bar Rd
Ferndale LA 95540

PHONE: 707-599 0524

PHONE: Corynunes@gtp.net

CUST. P.O. NO.	SHIP VIA	F.O.B.	TERMS	PAYMENT TO BE	
	<u>Reddaway</u>		<u>net</u>	<input type="checkbox"/> CASH	<input type="checkbox"/> CHARGE
				<input type="checkbox"/> C.O.D.	

ORDERED	SHIPPED	BACKORDERED	DESCRIPTION	UNIT PRICE	TOTAL
<u>2</u>	<u>2</u>		<u>50X100 B/W Smil 1yr</u>	<u>292.50</u>	<u>585</u>
<u>3</u>	<u>3</u>		<u>40X100 B/W Smil 1yr</u>	<u>234.00</u>	<u>702</u>
<u>1</u>	<u>1</u>		<u>shipping to 95540</u>		<u>270</u>
				<u>total</u>	<u>1557</u>

OREGON VALLEY GREENHOUSE
20357 HWY 99E
AURORA, OR 97002
(503) 678-2700

SALE

OID: 00075307504
TD: 001 REF#: 00001404
Batch #: 100001 RRN: 610100003
04/10/14 03:00:00
AVS: Z CVC: M
ORDER#: 00001403
APPR CODE: 017876

Reddaway

PO BOX 1800 TUALATIN, OREGON 97062
 PHONE (503) 420 8860
 FAX (503) 420 8860
 888-420-8860



DATE: _____

PAGE _____ of _____

STRAIGHT BILL OF LADING
 SHORT FORM

ORIGINAL NOT NEG

PURCHASE ORDER NO. _____ **PHONE NO.** 707 549 0524

CONSIGNEE NAME
 Cory Nunes

ADDRESS
 1492 Riverbar Rd

DESTINATION CITY STATE ZIP
 Fortuna CA 95540

SHIPPER NO. 0077140 **PHONE NO.** 50367827

SHIPPER NAME
 OREGON VALLEY GREENHOUSES INC CO

ADDRESS
 6837 HIGHWAY 90 E

CITY STATE ZIP
 ALBORA OR _____

THIRD PARTY BILLING

TEL NO. _____

ADDRESS _____

CITY STATE ZIP _____

CHARGES ARE PREPAID **COLLECT (NOTE UNLESS MARKED COLLECT)**

ROUTE _____ **HAZARD** _____

SPECIAL INSTRUCTIONS _____

HAZARDOUS MATERIALS SECTION **MSDS PROVIDED** YES NO **HM EMERGENCY CONTACT**

PHONE: _____ **NAME:** _____ **CONTRACT #:** _____

MARK 'X' IN THIS COLUMN FOR HAZARDOUS MATERIALS

ALL SHIPMENTS REQUIRE THE AGENCY RESPONSE PHONING CONTACT TELEPHONE NUMBER

HAZARDOUS UNIT NO. TYPE	PACKAGE NO. QUANTITY	DESCRIPTION OF ARTICLES, SPECIAL MARKS AND EXCEPTIONS (DESCRIPTION HEREIN SUBJECT TO REDDAWAY 100 FULLY EFFECTIVE ITEM 401 UNLESS OTHERWISE NOTED)	TOTAL QUANTITY (Weight, Volume, Pieces, etc.)	WEIGHT (LBS) (Specify in comments)	CLASS	NO.
		Steel Pipe			85	34
		Pipe Fittings			60	95
	1/2 (12)	Pipe or Orthing		581 LBS	55	15
		Pan			110	61
		Washer/Purchase				26
		48" x 100" L 25"				

COD \$ **C.O.D. FEE TO BE PAID BY** SHIPPER CONSIGNEE 3RD PARTY

COMPANY CHECK OK **CASH OR CERTIFIED FUNDS**

SHIP TO **NAME** _____ **ADDRESS** _____ **CITY STATE ZIP** _____

NOTE (1) Liability limitation for loss or damage of this shipment may be applicable. See 49 U.S.C. 517202(1)(A) and (B).
 (2) Commodities require special or additional care or attention in handling or storage and so be marked and packaged to be returned safe to the shipper with ordinary care. See Reg. 2181 of 49 C.F.R. Part 391.
 (3) Where the shipper is dependent on other shippers and requires to state specifically in writing the nature and location of special care required, the nature of special care required.
 The nature of special care required for the property is specifically stated by the shipper to be not exceeding _____.

NOTE (4) If this shipment is to be delivered by the consignee, please review the contents and sign the following statement:
 The carrier may decline to make delivery of this shipment without payment of freight and all charges.

Received, subject to individually determined rules or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise in the rules, classifications and rules that have been by the carrier and are available to the shipper on request. The property classified above, in whatever good order, except as noted (inwards and condition of contents of packages unless), marked, to destination as shown below, which will carrier agree to carry to destination, if on its route, or otherwise to deliver to another carrier on the route to destination. Every service to be performed hereunder is subject to the terms and conditions of the Uniform Bill of Lading set forth in the National Motor Freight Classification in effect on date of shipment, as well as the conditions on the face hereof, which are agreed to by the shipper and accepted for himself and his assigns.

HANDLING UNITS: _____

Exhibit 5

State License-Active Status

Record Number	Record Type	Description	Project Name	Date	Expiration Date	Status	Short Notes
LCA18-0003543	Medicinal Cannabis Cultivation Application	Hawk Valley	Medium Mixed-Light Tier 1	12/31/2018		Under Scientific Review	Humboldt County
LCA18-0003543-001O	Owner Application		Cory Nunes (cnunes@calcanlicense.com)	12/31/2018		Review Complete	Cory Nunes (cnunes@calcanlicense.com)
LCA18-0003543-DEC	Declarations and Final Affidavit		Cory Nunes (cnunes@calcanlicense.com)	12/31/2018			Cory Nunes (cnunes@calcanlicense.com)
LCA18-0003544	Medicinal Cannabis Cultivation Application	Hawk Valley	Small Mixed-Light Tier 1	12/31/2018		Under Scientific Review	Humboldt County
LCA18-0003544-001O	Owner Application		Cory Nunes (cnunes@calcanlicense.com)	12/31/2018		Review Complete	Cory Nunes (cnunes@calcanlicense.com)
LCA18-0003544-DEC	Declarations and Final Affidavit		Cory Nunes (cnunes@calcanlicense.com)	12/31/2018			Cory Nunes (cnunes@calcanlicense.com)
TAL18-0010005	Temporary Cannabis Cultivation License	Hawk Valley	Medium Mixed-Light Tier 1	12/28/2018	7/27/2019	Active	Fortuna - Humboldt County
TCA18-0010005	Temporary Cannabis Cultivation Application	Hawk Valley	Medium Mixed-Light Tier 1	11/28/2018		Temporary License Issued	Humboldt County
TCA18-0009804	Temporary Cannabis Cultivation Application	Hawk Valley	Small Mixed-Light Tier 1	11/28/2018		Temporary License Issued	Humboldt County

Exhibit 6





Exhibit 2

From: **Cyndy Day-Wilson** cdaywilson@daywilsonlaw.com
Subject: Re: Hawk Valley Farms App#11141 APN#204-091-012 (appeal record no. 15648)
Date: September 20, 2019 at 5:20 PM
To: Johnson, Cliff CJohnson@co.humboldt.ca.us
Cc: Hilton, Keenan KHilton@co.humboldt.ca.us, Nathan Whittington noetic.consulting@gmail.com, cory nunes corynunes@att.net, Ford, John JFord@co.humboldt.ca.us



Keenan, et. al. - this is how I would address any concern about the alleged violations and section 4 of the Compliance Agreement.

First, the Board of Supervisors can vacate the decision of the Planning Commission. The Resolution passed by the Planning Commission that denied the Conditional Use Permit application of Hawks Valley Farms was based on staff's allegations that the applicant failed to provide evidence to address alleged violations. All of these allegations were addressed in the applicant's Appeal dated June 14, 2019.

Alleged Repeated Violations of HCC §314-8.2.2 – Unpermitted expansion of cultivation area.

On September 12, 2016 Hawk Valley Farms submitted its completed application packet for a Conditional Use Permit (CUP) for one-acre of pre-existing outdoor cultivation activity. The project site consists of approximately seven (7) acres and has historically had approximately three (3) acres of various outdoor flowers including heather and dahlias. This was supported by aerial photographs pre-2016 of the site. Cannabis plants were routinely planted in and among these flowers in order to obscure them from view. As noted by the June 6 Planning Staff report to the Planning Commission, found the Applicant's claim of at least one-acre of cannabis to have been frequently planted at the site to be "somewhat plausible" and agreed to process the application and present it to the Planning Commission. (Attachment 9 to Staff Report of June 6)

Six and nine months later (February 9, 2018 and May 24, 2018), Planning staff met with the Applicant with regard to the Applicant's placement of hoop structures (Hoop Houses) at the site. The Hoop Houses were installed to reconfigure the site to minimize environmental impacts and maximize production according to the CMMLUO, which allows for outdoor to be cultivated in Ag Exempt Hoop Houses so long as supplemental lights are not used. In this case, the Applicant any supplemental lighting is used in the separate nursery Hoop Houses on site.

The reduction in square footage is a direct result of input by CDFW questioning the pre-existing cultivation area on all projects. However, the affidavit issued to the Applicant on September 12, 2016 included an initial evaluation of pre-existing cultivation and was approved for the full acre.

As a result of those meetings, the County issued an Interim Permit for 28,000 square feet of cultivation area. The Applicant has and continues to maintain that this reduction by the County from the request of one-acre is unsupported. This was an issue that the Planning Commissioners failed to address at the June 6 hearing.

The June 6 Staff Report to the Planning Commission states that the Applicant subsequently expanded to 36,720 square feet of dedicated flowering space and 17,000 square feet of dedicated nursery space in March of 2019. The Staff Report does note that the "dedicated flowering space was not all in operation at the time of this visit,...."

At a March 14, 2019 meeting between the Applicant and one of his consultants, Noetic Consulting, the Applicant explained that in order to meet the project needs that 41% of the total 28,000 square feet total approved cultivation area was necessary for nursery propagation. Nursery production uses on-grid power to run low wattage lights to prevent flowering in nursery plants.

In the cultivation area, Applicant utilized internal Hoop Houses totaling less than 28,000 square feet. The external hoops containing the cultivation area totaled 36,720 square feet. Applicant calculated the cultivation area based on California Department of Food and Agriculture definitions, which state that:

Canopy: the designated area(s) at a licensed premises (except for nurseries) that will contain mature (flowering) plants at any point in time, as follows:

- The canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all areas that will contain mature plants at any point in time, including all the space(s) within the boundaries.
- The canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary that includes, but is not limited to, interior walls, shelves, greenhouse walls, hoop-house walls, garden benches, hedgerows, fencing, garden beds, or garden plots.
- If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.
- A specialty cottage outdoor canopy is determined by plant count, whereas a specialty outdoor canopy is determined by either square feet or plant count.

In order to meet this definition, the Applicant had utilized the initial temporary Hoop Houses by incorporating an interior Hoop House design within the existing Hoop House. This was done in order to:

1. Protect cultivation and structures from wind damage; and
2. Insulate the Hoop Houses structures to bolster yield productivity.

According to the project plan, no more than nine (9) Hoop Houses would be planted at any one point in time and would total less than 28,000 square feet.

At that meeting, it was determined by County Staff that the 25% of total cultivation area had to be met by the Applicant. This was to be accomplished by reducing the Hoop Houses used for Nursery propagation to three (3) total Hoop Houses. Additionally, it was determined that the County defines cultivation area by the external hoop dimensions and therefore it was necessary to remove the skins of two of the Hoop Houses by March 25.

The Applicant, in order to show good faith, removed the skins from three (3) Hoop Houses and took pictures on March 28 to send to the County. He sent the photographs from an analog cell phone to the County Cannabis Planning email address on March 28. According to County Staff, however, the photographs were never received and the Applicant's Interim Permit was revoked just over a week later on April 9. County staff had spoken with the Applicant on March 27 about the status of the photographs, but there was no further follow-up by the County prior to the very drastic response of the revocation of the Interim Permit. Copies of the photographs of the Hoop Houses with the skins removed dated March 28 that were sent to the County by the Applicant are attached as Exhibit 3.

Thus, with the receipt of the photographs, pursuant to the agreement, the County should not have taken action to revoke the Interim Permit and it must be reinstated.

Alleged Repeatedly Violations of HCC §314-55.4.11.w - International Dark Sky Association Standards

On March 14, 2019 the Applicant and Noetic Consulting met with County Planning Staff to discuss a complaint from a neighbor received by the County in early March regarding lighting.

Prior to the meeting and the complaint by the Neighbor, the Applicant had already begun implementing an automatic light shielding system and had contracted with an electrician to install an automated tarping system. Understandably, the electrician was waiting for dry weather before proceeding with the installation of the electrical support for the automated system. However, the Applicant agreed at this meeting to implement temporary light shielding measures until the rain stopped and the electrician could perform the work. The Applicant thus, ordered temporary tarps (black-out plastic) to address the light shielding issue. (See Exhibit 4). This temporary solution was implemented as the temporary solution was being developed. It was not a matter that was ignored by the Applicant.

Up to March 14, there had been no complaints regarding lighting from the site. Unfortunately, this was all impacted by the weather and timing - due to the long rainy season the timing of the installation of the light shielding system was delayed. Now that the rain seems to have stopped, the Applicant is ready, willing and able to proceed with the necessary electrical work and the installation of the light shielding system.

Additionally, there have been no complaints by the airport nor any agency which uses the airport located in Rohnerville above the project site.

Alleged Repeated Violations of HCC §314-55.4.8.11 – Compliance Agreement

As discussed above, there is no evidence that the Applicant engaged in a course of action throughout the permit process in violation of the Humboldt County Code. In fact, there were only two violations alleged against the Applicant throughout this four (4) year process: (1) Lighting; and, (2) Expansion of cultivation area. Both of which were addressed by the Applicant. The somewhat immediate revocation of the Interim Permit within a few days of the non-receipt of the photographs regarding the removal of the skins from three (3) Hoop Houses is without precedent.

Indeed, this is the first such revocation and denial of an Applicant who has gone this far in the process.

In sum, this project is located in an agricultural area with prime soils and adequate water for agricultural activities and has a 15-year history of ongoing agricultural activity. It is exactly the type of property where commercial cannabis is most appropriately located in Humboldt County.

The Applicant has worked hard to comply with the County's and other agencies numerous requests and ever-evolving (and sometimes changing) requests for information over the past 4 years since the initial submission of his application. He has worked with not only his consultants but, also with close to a dozen different County planners to address the County requirements. The June 6 Staff Report acknowledges that the Applicant was not represented by a "single agent" at all meetings or included in all correspondence. When issues have arisen either he, his Agent, or consultants have met with the County to discuss the issues and receive clarification about the rules and thereafter act in compliance. The most aggravating piece of this process is the issuance of the revocation of his Interim Permit without any notice to his designated agent, AgDynamix, and the resulting lack of response from the County to subsequent inquiries by his designated agent regarding the revocation.

Denial of this permit is not only a substantial financial blow for the Applicant, it also sends a message to the commercial cannabis community that prime agriculture land such as the site proposed by the Applicant isn't good enough: Land that has a historical agricultural use, prime soils, adequate water, and virtually no slope instability. Upholding such a determination will certainly have a chilling effect on future applications.

It is also important to note that the Staff Report for the June 6 Planning Commission meeting erroneously stated that State License for Hawk Valley Farms does not have an active state license. As of the date of this appeal, the State License is Active. (Exhibit 5.)

In addition, the Applicant, pursuant to the County's April 9 letter revoking his Interim Permit, has removed all tarps from the Hoop Houses and ceased all cultivation activities. (Photographs - Exhibit 6.)

Throughout the process, the Applicant has endeavored to comply with the regulations as interpreted by County staff, changes in staff overseeing his permit application; and, communicate timely with the County not only with regard to the project but also his needs to make it a viable financial project. To be almost four years into the permit process and have the permit denied and his Interim Permit revoked is devastating. He is ready, willing and able to continue the process and respond to the outstanding issues as required by County staff.

In view of the foregoing, the Applicant proposes that the Board of Supervisors vacate the findings of the Planning Commission that the applicant engaged in "repeated violations of county code" (See PC Resolution - last sentence) and grant his appeal in one of the following ways:

1. Grant the appeal and direct Planning Department Staff to work with the Applicant to resolve the outstanding issues and continue processing the application in accordance with HCC Section 312-4.1 et. seq. for the one-acre area of cultivation at the site. In addition, his Interim Permit is reinstated.
2. Grant the appeal and allow the Applicant to continue with his application under the CMMLUO with 28,000 square feet of cultivation area. Direct staff to work with the Applicant with regard to the two outstanding issues of: (1) lighting, and (2) size of cultivation area and reinstatement of the Interim Permit.

Alternatively, the Applicant has agreed (although he remains in disagreement with the findings that he violated any county ordinance as outline above) to pay a substantial fine to the County for the alleged violations of \$57, 440.00. Pursuant to Section 315-55.4.5.3.3 the Director of Planning

has the discretion to "Resolve the violations and proceed with processing of the application." This means that the Director has the ability to work with the applicant and direct the applicant to address any alleged violations and upon resolution the application can proceed. The applicant, during the time in which this appeal has been pending, has been diligent in resolving all of the alleged violations raised by county planning. Applicant has removed all of the hoop houses at the site and is no longer cultivating. He has addressed additional issues raised by county planning as follows:

1. The reasonable alternative to the original proposed 1-acre is easily defensible to the BOS and CDFW given the fact CDFW has never been on the project site.
2. Penalty of \$57,440 shall be paid in full once permit is approved.
3. A combination of rain catchment and pre-1974 well is proposed in the COP and ensures forbearance from the well between March and October. Water use is estimated at 63,000 gallons annually with the proposal of 3-22k rain catchment tanks. Tanks to be installed according to floodplain rules.
4. Floodplain sheets reflected in the plans and will be incorporated into building plans.
5. AM Baird is providing an updated road evaluation plan.
6. Site plan has been updated to accurately reflect the proposal.
7. COP Addendum addresses the project scope and needs based on our discussions.
8. Hydesville School District has confirmed that the bus stops from the referral were historic in nature and there are no current stops along River Bar Road. Additionally the plot plan reflects the 600 ft buffer and demonstrates that the buffer only hits River Bar Road at the entrance to the project site. A letter confirming this from the Hydesville School District has been provided to county planning.

Under either scenario, county planning can support the revocation of the Planning Commission denial of the CUP and proceed with the permit.

Cyndy



Cyndy Day-Wilson, Esq.
LL.M. Environmental Law
Law Office of Cyndy Day-Wilson
628 H Street
Eureka, CA 95501
(707) 798-5048
cdaywilson@daywilsonlaw.com
www.daywilsonlaw.com

NOTICE: This communication and any attached document(s) are privileged and confidential. In addition, any disclosure of this transmission does not compromise or waive the attorney-client privilege or the work product doctrine. If you have received this communication in error, please delete it and contact me at cdaywilson@daywilsonlaw.com.

On Sep 11, 2019, at 5:32 PM, Johnson, Cliff <CJohnson@co.humboldt.ca.us> wrote:

Hi Cyndy, The compliance agreement is separate from the permit. While the PC decision on the permit was based on the violations and the BOS has the authority to vacate the PC decision, the violations still occurred. But as Keenan stated, it isn't us that needs to be convinced in order for your proposal to be successful. We will absolutely present the project and your argument in a fair manner to the BOS.

Cliff

From: Cyndy Day-Wilson <cdaywilson@daywilsonlaw.com>
Sent: Wednesday, September 11, 2019 2:07 PM
To: Hilton, Keenan <KHilton@co.humboldt.ca.us>
Cc: Nathan Whittington <noetic.consulting@gmail.com>; cory nunes <corynunes@att.net>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: Re: Hawk Valley Farms App#11141 APN#204-091-012 (appeal record no. 15648)

Why don't you find it compelling?

If a decision is vacated it is null and void and has no legal application. Thus, if the PC decision is vacated then the issue of the "violation" of the terms and conditions of the Compliance no longer exists and a new decision can be made. Did you run this by Interim County Counsel? If not, I will reach out to her and discuss the issue.

Just let me know.

Thank you,

Cyndy

<image001.png>

Cyndy Day-Wilson, Esq.
LL.M. Environmental Law
Law Office of Cyndy Day-Wilson
628 H Street
Eureka, CA 95501
(707) 798-5048
cdaywilson@daywilsonlaw.com
www.daywilsonlaw.com

NOTICE: This communication and any attached document(s) are privileged and confidential. In addition, any disclosure of this transmission does not compromise or waive the attorney-client privilege or the work product doctrine. If you have received this communication in error, please delete it and contact me at cdaywilson@daywilsonlaw.com.

On Sep 11, 2019, at 1:15 PM, Hilton, Keenan <KHilton@co.humboldt.ca.us> wrote:

Cyndy,

John, Cliff and I had the opportunity to discuss your proposal. In the staff report, I will include discussion of the justification that you've provided. However, we do not find the justification compelling.

Let me know if you have any further questions,

<image002.png>

Keenan Hilton
Planner, Cannabis Services Division
Planning and Building Department

Planning and Building Department
707.268.3722

Redway Office Hours

Monday and Wednesday, 9:30 am to 3:30 pm
3156 Redwood Dr, Redway (707) 383-4100
Mondays – Building, Current Planning and Code Enforcement
Wednesdays – Building, Cannabis Planning and Long Range Planning

From: Hilton, Keenan
Sent: Thursday, September 05, 2019 1:58 PM
To: Cyndy Day-Wilson <cdaywilson@daywilsonlaw.com>
Cc: Nathan Whittington <noetic.consulting@gmail.com>; cory nunes <corynunes@att.net>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: RE: Hawk Valley Farms App#11141 APN#204-091-012 (appeal record no. 15648)

Cyndy,

Thank you for the update.

1. I look forward to receiving the revised report.
2. In their response, Hydesville school district indicated that there are bus stops along this stretch of road. Please see the image below in which I approximated the proposed location of the processing structure.
3. I plan to touch base with the director on the provided justification next week. I will be in touch.
4. Thank you for the clarification.

Best regards,

<[image002.png](#)>

Keenan Hilton
Planner, Cannabis Services Division
Planning and Building Department
707.268.3722

Redway Office Hours

Monday and Wednesday, 9:30 am to 3:30 pm
3156 Redwood Dr, Redway (707) 383-4100
Mondays – Building, Current Planning and Code Enforcement
Wednesdays – Building, Cannabis Planning and Long Range Planning

<[image003.jpg](#)>

From: Cyndy Day-Wilson <cdaywilson@daywilsonlaw.com>
Sent: Thursday, September 05, 2019 1:16 PM
To: Hilton Keenan <KHilton@co.humboldt.ca.us>

Cc: Nathan Whittington <noetic.consulting@gmail.com>; cory nunes <corynunes@att.net>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>
Subject: Re: Hawk Valley Farms App#11141 APN#204-091-012 (appeal record no. 15648)

Keenan - just following up on the below. I hope that my explanation with regard to #3 that I sent back on August 27 suffices.

1. We need more information from the engineer on River Bar Road. Please see the attached response from Public Works. **A.M.Baird is working on the road evaluation with the language we agreed on at our last meeting. We hope to have this over to you by this Friday.**
2. Please provide either a revised site plan showing a configuration of the cultivation and processing facilities that meet the 600 foot setback requirement from all addresses listed by the Hydesville School District OR provide written documentation from the Hydesville School District that there are no bus stops within 600 feet of the cultivation and processing facilities as proposed. **We have requested a letter from the School District by this Friday. I do want to point out though that on the plot plan it shows that the 600 foot buffer does not cross the road so this shouldn't be an issue but, we did request a letter from the School District at your request.**
3. Please provide the justification for allowing cultivation on the subject parcel with regard to item 4 of the Interim Permit signed by the applicant and the director. **CDW responded via email on August 27, 2019.** 4. Violation of the Compliance Agreement shall be grounds for permit cancellation and disqualification for the property from future permitting.

Since this is an appeal, the BOS can vacate the Planning Commission's denial of the project and recommend approval. Once the denial is vacated there is no issue with the above as the finding that the applicant has violated the terms of the Compliance Agreement no longer exists - it has been vacated and the BOS can proceed with approval of the project.

4. Please provide clarification on the number of employees needed for cultivation versus processing. **See the Operation Plan - 4 full-time employees, 2 part time, and processing done by machine, which means it will be same group of employees.**

Please let me know if you have any further.
Thank you,
Cyndy

<image004.png>

Cyndy Day-Wilson, Esq.
LL.M. Environmental Law
Law Office of Cyndy Day-Wilson
628 H Street
Eureka, CA 95501
(707) 798-5048
cdaywilson@daywilsonlaw.com
www.daywilsonlaw.com

NOTICE: This communication and any attached document(s) are privileged and confidential. In addition, any disclosure of this transmission does not compromise or waive the attorney-client privilege or the work product doctrine. If you have received this communication in error, please delete it and contact me at cdaywilson@daywilsonlaw.com.

On Aug 27, 2019, at 4:05 PM, Hilton, Keenan
<KHilton@co.humboldt.ca.us> wrote:

Hello all,

Thank you for the revised materials. There are several points that must be addressed to be able to include approval as a viable alternative in the staff report.

1. We need more information from the engineer on River Bar Road. Please see the attached response from Public Works.
2. Please provide either a revised site plan showing a configuration of the cultivation and processing facilities that meet the 600 foot setback requirement from all addresses listed by the Hydesville School District OR provide written documentation from the Hydesville School District that there are no bus stops within 600 feet of the cultivation and processing facilities as proposed.
3. Please provide the justification for allowing cultivation on the subject parcel with regard to item 4 of the Interim Permit signed by the applicant and the director.
4. Please provide clarification on the number of employees needed for cultivation versus processing.

Thank you,

<image001.png>

Keenan Hilton
Planner, Cannabis Services Division
[Planning and Building Department](#)
707 268 3722

Redway Office Hours

Monday and Wednesday, 9:30 am to 3:30 pm

3156 Redwood Dr, Redway (707) 383-4100

Mondays – Building, Current Planning and Code Enforcement

Wednesdays – Building, Cannabis Planning and Long Range Planning

From: Noetic Consulting <noetic.consulting@gmail.com>

Sent: Monday, August 19, 2019 11:05 AM

To: Hilton, Keenan <KHilton@co.humboldt.ca.us>; Johnson, Cliff <CJohnson@co.humboldt.ca.us>; Ford, John <JFord@co.humboldt.ca.us>; Cyndy Day-Wilson <cdaywilson@daywilsonlaw.com>; cory nunes <corynunes@att.net>

Subject: Hawk Valley Farms App#11141 APN#204-091-012

Keenan,

Attached are the Cultivation Plan Addendum along with plot plans and AM Baird road evaluation. Please look this over and let me know if you need any additional information.

Key Point Responses:

1. The reasonable alternative to the original proposed 1-acre is easily defensible to the BOS and CDFW given the fact CDFW has never been on the project site.
2. Penalty of \$57,440 shall be paid in full once permit is approved.
3. A combination of rain catchment and pre-1974 well is proposed in the COP and ensures forbearance from the well between March and October. Water use is estimated at 63,000 gallons annually with the proposal of 3-22k rain catchment tanks. Tanks to be installed according to floodplain rules.
4. Floodplain sheets reflected in the plans and will be incorporated into building plans.
5. On August 5 Nathan spoke with Ken Freed regarding the road evaluation. We discussed the concerns and the Traffic Management Plan proposal. Ken offered information regarding traffic counts and the peak hours of road use. The reduced labor force and the proposal to ensure travel is done during off-peak hours and AM Baird statement in the Road Evaluation describing good line of sight was considered adequate. In the event there is a complaint Applicant would reach out to the community and make necessary adjustments up to and including adding narrow road signs.
6. Site plan has been updated to accurately reflect the proposal.

7. COP Addendum addresses the project scope and needs based on our discussions.
8. Hydesville School District has confirmed that the bus stops from the referral were historic in nature and there are no current stops along River Bar Road. Additionally the plot plan reflects the 600 ft buffer and demonstrates that the buffer only hits River Bar Road at the entrance to the project site.

Staff should be presenting 2 alternatives.

1. Uphold Denial of Planning Commission.
2. Vacate the denial and approve the project under CMMLUO as proposed. (Staff should support this alternative.)

Nathan Whittington

--

CONFIDENTIALITY NOTICE: This electronic message is intended to be viewed only by the individual or entity to whom it is addressed. It may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this communication is strictly prohibited without our prior permission. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, or if you have received this communication in error, please notify us immediately by return e-mail and delete the original message and any copies of it from your computer system.

<Mail Attachment.eml>

Exhibit 3



COUNTY OF HUMBOLDT
Planning and Building Department
3015 H Street, Eureka, CA 95501
Phone (707)445-7541

Invoice No.: **PLI19-2108**

Invoice Date: **10/29/2019**

**Payment is due in our office within
30 Days of Invoice Date. Please
include Invoice No. on Check.**

INVOICE

RECORD INFORMATION

Applicant: Hawk Valley Farms, LLC Hawk Valley Farms, LLC

Record ID: PLN-2019-15648

Property Address: River Bar Rd , Hydesville, CA 95547

Parcel Number: 204-091-012-000

Description of Work: Appeal - PLN-11141-CUP - Hawk Valley Farms, LLC

FEE DETAIL

Fee Description	Fee Notes	Fee Amount
Cannabis Additional Project Staff Time	Staff costs.	\$3,492.50
		\$3,492.50



Humboldt County
Planning and Building Department
 3015 H Street, Eureka, CA 95501 ~ Phone (707) 445-7245
Planning Project
Staff Cost Report

Applicant Information

Name Hawk Valley Farms, LLC Hawk Valley Farms, LLC
Address 1
Address 2
City, State Zip
Phone

Project Information

Cost Report Date October 29, 2019
Project Number PLN-2019-15648
Primary Parcel Number 204-091-012-000
Short Project Description Appeal - PLN-11141-CUP - Hawk Valley Farms, LLC

Staff Costs

Date	Staff	Title	Task Description	Task Note	Hours	Burden Rate	Cost
06/17/2019	Blake Batten	Planner	Application Acceptance	CPOD: Take in application	.25	\$110.00	\$27.50
06/18/2019	Keenan Hilton	Planner	Application Acceptance	touch base with Steve Werner re. application, email to set up meeting with supervisor, director and agent to applicant	.25	\$110.00	\$27.50
06/24/2019	Keenan Hilton	Planner	Application Acceptance	review, begin work on board report	.50	\$110.00	\$55.00
06/27/2019	Keenan Hilton	Planner	Project Evaluation	review materials, meeting with project agents, email regarding well as water source	2.00	\$110.00	\$220.00
07/09/2019	Keenan Hilton	Planner	Project Evaluation	consult cliff, email agent	.50	\$110.00	\$55.00
07/10/2019	Keenan Hilton	Planner	Project Evaluation	plan meeting, update records	.50	\$110.00	\$55.00
07/15/2019	Keenan Hilton	Planner	Project Evaluation	review materials, begin work on draft staff report	2.25	\$110.00	\$247.50
07/16/2019	Keenan Hilton	Planner	Project Evaluation	review 11141 decision, file, continue work on draft staff report for 15648	4.50	\$110.00	\$495.00
07/17/2019	Keenan Hilton	Planner	Project Evaluation		1.00	\$110.00	\$110.00
07/18/2019	Keenan Hilton	Planner	Project Evaluation	prep for meeting, meet with agents, director and supervising planner, debrief on meeting	1.50	\$110.00	\$165.00
07/24/2019	Keenan Hilton	Planner	Project Evaluation	review summary email prepared by agent, draft response & send to supervising planner and director for	1.50	\$110.00	\$165.00

Date	Staff	Title	Task Description	Task Note	Hours	Burden Rate	Cost
07/31/2019	Keenan Hilton	Planner	Project Evaluation	review send email response to agents highlighting project needs and the alternatives to be included in staff report.	.50	\$110.00	\$55.00
08/23/2019	Keenan Hilton	Planner	Project Evaluation	review materials, consult Public Works, touch base with Cliff Johnson	1.25	\$110.00	\$137.50
08/27/2019	Keenan Hilton	Planner	Project Evaluation	review aerial imagery, receive input from P.W., email agent	1.25	\$110.00	\$137.50
09/05/2019	Keenan Hilton	Planner	Project Evaluation	respond to email	.25	\$110.00	\$27.50
09/09/2019	Keenan Hilton	Planner	Project Evaluation	review bus stops	.25	\$110.00	\$27.50
09/11/2019	Keenan Hilton	Planner	Project Evaluation	meet with supervisor & director on path forward, discuss section of code speaking to compliance agreement of IP, send email to agent	1.25	\$110.00	\$137.50
09/11/2019	Keenan Hilton	Planner	Project Evaluation	review email	.25	\$110.00	\$27.50
10/10/2019	Keenan Hilton	Planner	Project Evaluation	reach out to PW and CDFW, update records	1.25	\$110.00	\$137.50
10/11/2019	Keenan Hilton	Planner	Staff Report	update staff report	3.75	\$110.00	\$412.50
10/15/2019	Keenan Hilton	Planner	Staff Report	work on staff report & draft resolution	2.25	\$110.00	\$247.50
10/16/2019	Keenan Hilton	Planner	Staff Report	continue work on staff report	2.75	\$110.00	\$302.50
10/18/2019	Keenan Hilton	Planner	Staff Report	work on draft resolutions	1.25	\$110.00	\$137.50
10/23/2019	Keenan Hilton	Planner	Staff Report	prep notice & notice order, meet with director and supervisor to confirm staff recommendation	.75	\$110.00	\$82.50
							\$3,492.50

EXHIBIT 4



RECEIVED

DEC 28 2018

JH

CDFW-NR

FOR DEPARTMENT USE ONLY				
Date Received	Amount Received	Amount Due	Date Complete	Notification No.
	\$	\$		
Assigned to:				

NOTIFICATION OF LAKE OR STREAMBED ALTERATION

Complete EACH field, unless otherwise indicated, following the enclosed instructions and submit ALL required enclosures. Attach additional pages, if necessary.

1. APPLICANT PROPOSING PROJECT

Name	Cory Nunes			
Business/Agency	Hawk Valley LLC			
Mailing Address	P.O. Box 1343			
City, State, Zip	Ferndale, CA 95530			
Telephone	707-599-0524	Fax		
Email	cnunes@calcanlicense.com			

2. CONTACT PERSON *(Complete only if different from applicant)*

Name	CalCan Licensing			
Street Address	2306 Albee St			
City, State, Zip	Eureka, CA 95501			
Telephone	(844) 420-2018	Fax	(707) 798-2236	
Email	info@calcanlicense.com			

3. PROPERTY OWNER *(Complete only if different from applicant)*

Name	Cory Nunes			
Street Address	1492 River Bar Rd.			
City, State, Zip	Fortuna, CA, 95540			
Telephone	707-599-0524	Fax		
Email	corynunes@att.net			

4. PROJECT NAME AND AGREEMENT TERM

A. Project Name		Hawk Valley LSA Agreement		
B. Agreement Term Requested		<input checked="" type="checkbox"/> Regular (5 years or less) <input type="checkbox"/> Long-term (greater than 5 years)		
C. Project Term		D. Seasonal Work Period		E. Number of Work Days
Beginning (year)	Ending (year)	Start Date (month/day)	End Date (month/day)	
2019	2024	01/01/2019	01/05/2018	
				1-3 Days

Exhibit 5

Cultivation Area Verification (CAV)

1) Enter amount of verified cultivation area.

Existing Outdoor Square Footage: 75215

Existing Mixed Light Square Footage:

2) Enter base year date and source (e.g. 2014 – GIS or 10/27/15 – TerraServer or May 28, 2014 – Google Earth etc)

Base Year Date and Source: 2010

3) Enter person performing verification:

Verified By: RY

4) Enter date of verification (e.g. current date)

Date Verified: 11/12/17

5) Attach Evidence of Verification (e.g. TerraServer photos w/ polygons etc.)

6) Write "CAV" on the outside of the project file to indicate that cultivation area verification is completed for project.