



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: March 15, 2018

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Brian Garlick** Conditional Use Permit
Application Number 11749
Case Numbers CUP 16-375
Assessor's Parcel Numbers (APN) 206-311-020
7424 State Highway 36, Carlotta CA 95528

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Please contact Elanah Adler, Planner, at 707-268-3736 or by email at eadler@co.humboldt.ca.us if you have any questions about the scheduled item.

AGENDA ITEM TRANSMITTAL

Hearing Date March 15, 2018	Subject Conditional Use Permit	Contact Elanah Adler, Planner
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Project Description: A Conditional Use Permit (CUP) is sought for an existing 16,500 square foot (SF) outdoor and an existing 2,880 SF mixed light commercial medical cannabis cultivation. The applicant estimates 207,000 gallons of water were used in 2016 on the 21 acre parcel. Water is derived from a preexisting non-permitted well that may be hydrologically connected to the Van Duzen River. As a result, the applicant plans to install 110,000 gallons of hard tank storage in order to forbear from summertime diversion and to obtain a Streambed Alteration Agreement from CA Department of Fish and Wildlife and secure appropriative water rights with the State Water Board. Processing will occur offsite at a certified facility. There is one residence, one barn, one greenhouse, and two outdoor cultivation areas. There will be a total of three full time and up to ten seasonal employees during peak periods. A 1,200 SF employee breakroom facility is planned along with a permitted septic system. In the interim, portable toilets with hand washing stations will be provided until an onsite septic system is permitted. Electricity to the barn and residence is provided by Pacific Gas and Electric and electricity to the mixed light greenhouse is provided by a generator with a demonstrated audible rating below 60 dB at the nearest tree line. The Applicant has provided a Water Resource Protection Plan (WRPP), a Biological Assessment Survey that mapped sensitive riparian wetland areas, and filed a Notice of Intent to enroll as a Tier 2 discharger.

Project Location: The project is located in Humboldt County, in the Carlotta area, on the south side of State Highway 36, on property known as 7424 Highway 36.

Present Plan Land Use Designations: Agriculture Exclusive (AE), Humboldt County General Plan, 2017, Density: 20 acres per dwelling unit, Slope Stability: Low Instability (1)

Present Zoning: Agriculture Exclusive (AE)

Case Number: CUP 16-375

Application Number: 11749

Assessor Parcel Number: 206-311-020

Applicant

Brian Garlick
7424 State Highway 36
Carlotta, CA 95528

Owner

Brian Garlick
7424 State Highway 36
Carlotta, CA 95528

Agent

none

Environmental Review: The existing cultivation project is exempt from environmental review per Sections 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) of the California Environmental Quality Act (CEQA) Guidelines.

State Appeal Status: Project is located outside the Coastal Zone and is therefore NOT appealable to the California Coastal Commission.

Major issue: Verification of cultivation area and type existing prior to January 1, 2016

BRIAN GARLICK
Case Number CUP 16-375
Assessor's Parcel Number 206-311-020

Recommended Commission Action

1. Describe the application as part of the Consent Agenda;
2. Survey the audience for any person who would like to discuss the application;
3. If no one requests discussion, make the following motion to approve the application as part of the consent agenda:

Find the project Categorically Exempt from environmental review pursuant to Sections 15301, 15303, and 15304 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit based on evidence in the staff report and any public testimony, and adopt the Resolution approving the proposed Brian Garlick Conditional Use Permit subject to the recommended conditions.

Executive Summary: Brian Garlick is seeking a CUP for the combined use of an existing 16,500 SF outdoor and 2,880 SF mixed light commercial medical cannabis cultivation in compliance with the County Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The Project site is comprised of one parcel (APN 206-311-020).

Based on the submitted Site Plan, existing commercial cannabis cultivation currently occurs within four outdoor locations and one greenhouse located in one general area on the 21-acre parcel. There are temporary canvas walled utility sheds west of the greenhouse for appurtenant uses. All cultivation areas occur outside of perennial (i.e. >100 feet from Van Duzen River riparian drip line) and intermittent (i.e. >50 feet from Cummings Creek riparian drip line) streamside management areas (SMAs), as evidenced by the Biological Assessment of Riparian and Wetland Conditions prepared for this project, and all are more than 30 feet from any parcel boundary. The operation includes 2,500 SF of outdoor full-sun cultivation directly adjacent to the greenhouse and a larger consolidated area of approximately 14,000 SF just south of the greenhouse. Three harvest cycles are planned within the 2,880 SF mixed light greenhouse. Fans, lights, and irrigation water within the greenhouse are powered by a 125kw Honda EU3000 generator. Auditory measurements in the field using iPhone Decibel X™ software indicate the generator registered 61 dB at the riparian drip line in its current location and will be well below 60 dB once relocated to the rear of the greenhouse. The Applicant will shield extraneous light during sunset hours to comply with the International Dark Sky Performance Standards. Product processing is to occur at a licensed offsite facility. The Applicant will participate in the Track and Trace program.

Cultivation area existing prior to January 1, 2016

In the review of the submitted information provided by the applicant's agent, and in conjunction with the CDFW, staff has not been able to verify using aerial imagery that the described 2,880 square feet of mixed light greenhouse cultivation existed prior to January 1, 2016. Base year 2015 imagery has been included in this report, illustrating the cultivation areas in existence prior to January 1, 2016, as required by the County Commercial Medical Marijuana Land Use Ordinance (CCMLUO). The mixed light cultivation shown on the applicant's submitted Site Plan and labeled "2880 SQFT Existing Greenhouse" does not appear on either the applicant's submitted Evidence of Cultivation: 09/27/2015, included as Exhibit "A", nor on the County GIS 2015 imagery included as Exhibit "B". The Applicant states that the greenhouse was erected in December, 2015 after the referenced County imagery was taken. The first year the

greenhouse identified on the Site Plan is clearly visible in imagery is 2016, Exhibit "B.1". Corroborating CDFW imagery has been included in this report as Exhibits "C" and "D". As such, staff cannot find justification for approving the requested 2, 880 sq. Ft. of mixed light cultivation based on the submitted evidence.

However, while not shown on the Site Plan, a close review of the County 2015 imagery for the site identifies an area that staff believes was under cultivation (identified as area "c" on the imagery). Staff believes outdoor cannabis cultivation in an amount approximately 2, 880 sq. ft. in size existed in this area labeled area "c" prior to January 1, 2016. This area, when combined with the 16,500 Sq. ft. of existing cultivation areas shown on the Site Plan, would total 19,380 sq. ft. of outdoor cultivation. Staff can recommend the approval of this amount as outdoor cultivation only, with no mixed light operations included. As such, the "existing greenhouse" shown on the Site Plan, along with the accessory generator and support facilities, must be removed and the site remediated to pre-2016 conditions.

The applicant may wish to consider a modification of the site plan to include an ancillary greenhouse for starts and clones. The size of the nursery would need to be representative of this purpose only (no plants grown to flower). If lighted, this greenhouse would need to comply with the Dark Sky standards of the CMMLUO. Alternatively, the Applicant could seek out additional aerial imagery (a Terra Server image dated December 31, 2015 may be available for purchase). Lastly, the possibility exists that new mixed-light operations might be able to be added when new cannabis applications are accepted for processing by the Planning and Building Department under an amended CMMLUO.

The parcel is equipped with a residence and a barn supplied with grid power, potable water, gas, and septic systems. The owner/applicant resides in the house and the barn is used to store fertilizers and soil amendments for cannabis cultivation. A small 1,200 SF employee breakroom facility is planned adjacent to the barn at a future date, however construction and use of this facility is conditioned upon receipt of any required grading, building, plumbing, electrical, and mechanical permits by the Building Inspection Division and approval of the septic system by the Division of Environmental Health. Further, the proposed employee breakroom shall be placed so that it does not encroach within 30 feet of the parcel boundary or within 50 feet of Fielder Creek, a ditched intermittent drainage that passes under Highway 36 and crosses the parcel toward Cummings Creek. During a review of County records, a Notice and Acknowledgement of Land Use Limitations limiting the parcel to one dwelling unit was identified. Coordination with the County assessor indicated a 1972 Fleetwood Mobile home, 720 sq. ft. in size is being assessed on the parcel. A review of building records for the existing residence indicated the mobile home was a temporary use during the construction of the residence and was to have been removed upon occupancy of the residence. A condition of approval has been incorporated indicating that this structure shall not be inhabited by employees until all necessary local and/or state permits are secured. The farm will employ three full time and up to 10 seasonal employees during harvest periods. The applicant shall agree to provide portable toilets with handwashing stations in accordance with the Division of Environmental Health referral comments.

Water for domestic use is provided by an un-permitted well installed by previous owners located between Fielder Creek and Cummings Creek in the north of the property. Correspondence between County Planners and the California Department of Fish and Wildlife (CDFW) on November 15, 2017 suggest the well may be jurisdictional and hydrologically connected to surface waters that lead into the Van Duzen River. The Applicant is required to provide notification to CDFW to obtain a Streambed Alteration Agreement, if needed, and with the State Water Board to establish appropriative water rights for this potential diversion as a condition of approval. In the interim, the Applicant plans to add 110,000 gallons of hard tank

storage containers to facilitate forbearance from well water diversions during the May 15 to October 15 dry season. The amount of water used for the cultivation of cannabis varies throughout the year, with peak periods of water use from July–September. Estimated annual water use during the forbearance period in 2016 was approximately 150,000 gallons of the total 207,000 gallons used annually. As a result, cultivation areas in 2018 shall be limited to the amount of winter time stored water that can be established prior to May 15, 2018 as a condition of approval. To achieve 2016 water use rates, water storage capacity will have to be increased to approximately 150,000 gallons or cultivation areas reduced. All water used for cultivation is conveyed by a timed, metered drip irrigation system which allows for the cannabis to be watered at the most efficient rate possible. The Applicant has agreed to monitor water usage and install additional water storage tanks to avoid relying on surface water diversion during the forbearance period.

The Van Duzen River borders the parcel to the west and there are two intermittent watercourses that run through the parcel, the location of which are inaccurately placed in Google Earth and Humboldt County Web GIS. An ICF biologist visited the site on January 28, 2018 to accurately map the water courses, riparian drip lines, and any wetlands that were nearest to the greenhouse and consolidated cultivation areas. No wetlands were found and the riparian driplines were found to be at the appropriate buffer distances from cultivation areas as mentioned above. A single lane graveled road leading from the residence to the cultivation area crosses Cummings Creek over a spanning bridge with no abutments in the watercourse. The Applicant has filed a Notice of Intent form for enrollment as a Tier 2 Discharger with the North Coast Regional Water Quality Control Board (NCRWQCB) and provided a WRPP prepared by Delanie Farnham. The WRPP has detailed all the efforts necessary to bring the areas where standard conditions are not met into compliance with a Tier 2 site.

The Applicant has also submitted a security plan detailing the use of locked gates at all entrances to the property. A PG&E power transmission access route passes through the parcel along a utility easement. The property is accessible directly off State Highway 36 via a private driveway that is paved for the first 50 feet; modification of which to meet Caltrans guidance is made a condition of approval. Adequate parking is available on site. A turnaround area suitable for firetruck access is available directly in front of the residence.

The 21-acre property used for medical cultivation activity is zoned AE. The CMMLUO identified AE-zoned parcels 5 acres or larger as sites where existing cannabis cultivation activities could be allowed. Outdoor cultivation up to 43,560 SF and mixed light cultivation up to 22,000 SF is allowed subject to the issuance of a combined use CUP. A CUP is a discretionary permit meaning that, to approve the requested cultivation area, the Planning Commission must consider whether the findings required for permit approval can be met for the described project.

CalFire provided standard project review comments regarding Fire Safe Standards, Resource Management policies, and Cannabis. The Bear River Band of Rohnerville Rancheria recommends inclusion of the standard inadvertent discovery language for this project. There are no schools, school bus stops, places of worship, public parks, or Tribal Cultural Resources within 600 feet of the cultivation areas, however there is a Fortuna Union High School bus stop across from the front of the parcel along Highway 36.

Environmental review for this Project was conducted and based on the results of that analysis, staff believe the Project can be considered as "Existing Facilities" as defined by Section 15301 of the California Environmental Quality Act (CEQA) Guidelines for the cultivation activities that are occurring at the time the exemption is granted and a "Minor Alteration to Land" as defined by

Section 15304 of the CEQA Guidelines because it consists of "minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes." Additionally, any repair or replacement of greenhouses, appurtenant facilities or sheds, or installation of septic systems or small appurtenant buildings below 2,500 SF may be considered "New Construction or Conversion of Small Structures" as defined by Section 15303 of the CEQA Guidelines.

There is no substantial evidence of potentially significant adverse environmental effects resulting from the permitting of a recognized legal agricultural use (cultivation of medical marijuana) on property zoned AE, with cultivation areas on slopes less than 5%, and a source of irrigation with documented appropriative water right, or other permitted non-diversionary source.

Based on a review of Planning Division reference sources and comments from all involved referral agencies, planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approving the conditional use permit and the special permit.

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to approve the requested 2,880 sq. ft. of mixed light cultivation based on submitted evidence and/or public testimony, or to continue the project and require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning Division staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of either alternative.

The Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As Lead Agency, the Department has determined that the Project is Categorically Exempt under the three Exemption Classes stated above. However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 18-**

**Case Number: CUP 16-375
Assessor's Parcel Number: 206-311-020**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves Brian Garlick Conditional Use Permit request.

WHEREAS, Brian Garlick submitted an application and evidence in support of approving the Conditional Use Permit to permit an existing 16,500 SF outdoor and 2,880 SF mixed-light cultivation area with no onsite processing; and

WHEREAS, the County Planning Division reviewed the submitted application and supporting substantial evidence and referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, the review of the application determined the 2,880 sq. ft. of mixed light is unable to be documented prior to January 1, 2016 as evidenced by County GIS imagery and corroborating CDFW imagery from the same period; and

WHEREAS, the County Planning and Building Department finds supporting evidence exists for approving 19,380 sq. ft. of outdoor cultivation with no mixed light operations; and

WHEREAS, the project is exempt from environmental review per Sections 15301 (Existing Facilities), 15301 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) of the CEQA Guidelines; and

WHEREAS, Attachment 2 in the Planning Division staff report includes substantial evidence in support of making all of the required findings for approving the proposed Conditional Use Permit (Case Number CUP 16-375), as modified to exclude the mixed light cultivation; and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on March 15, 2018.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that the following findings be and are hereby made:

1. The proposed project is exempt from environmental review pursuant to Sections 15301 (Existing Facilities), 15301 (New Construction or Conversion of Small Structures), and 15304 (Minor Alterations to Land) of the California Environmental Quality Act (CEQA) State Guidelines; and
2. The findings in Attachment 2 of the Planning Division staff report support approval of Case Number CUP 16-375 based on the submitted evidence; and
3. Approves the Conditional Use Permit Case Number CUP 16-375 for 19,380 sq. ft. of outdoor cannabis cultivation with no on-site processing as recommended and conditioned in Attachment 1 for Case Number CUP 16-375.

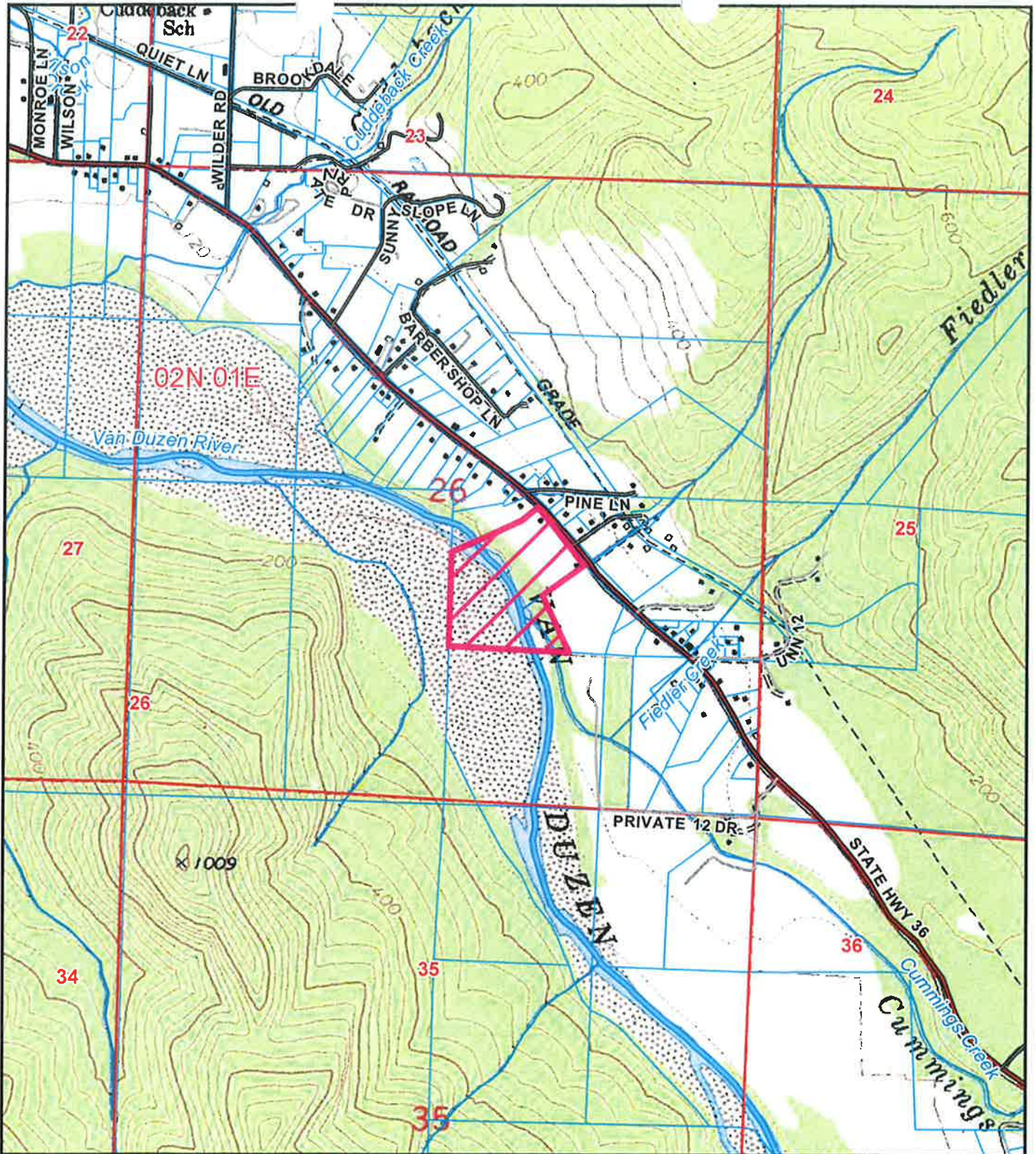
Adopted after review and consideration of all the evidence on March 15, 2018.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____;

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

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

John Ford
Director, Planning and Building Department



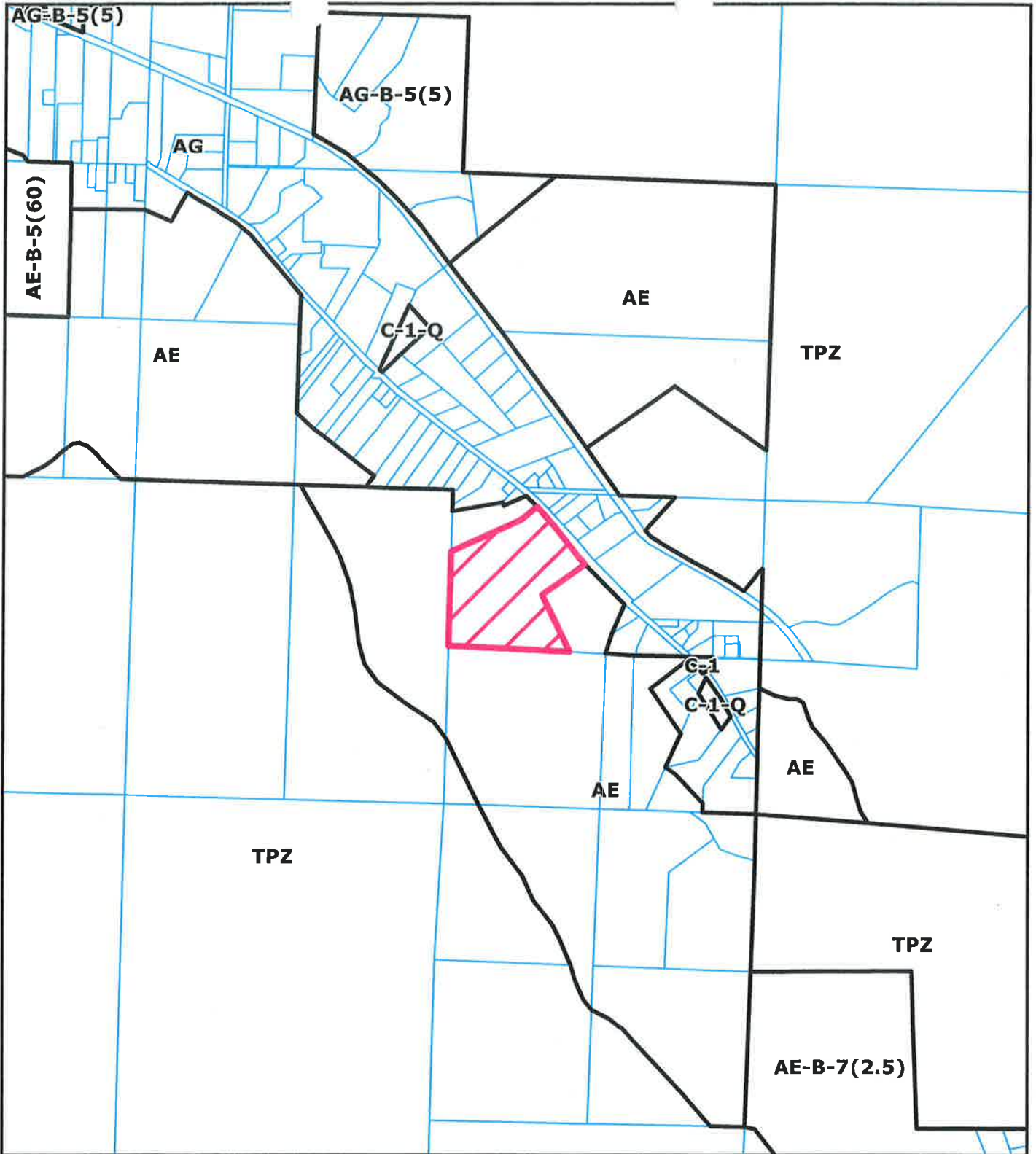
TOPO MAP
PROPOSED BRIAN GARLICK
CARLOTTA AREA
CUP-16-375
APN: 206-311-020
T02N R01E S26 HB&M (HYDESVILLE)

Project Area =



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.
 CUP 16-375 Brian Garlick 11749



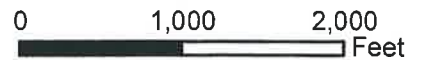


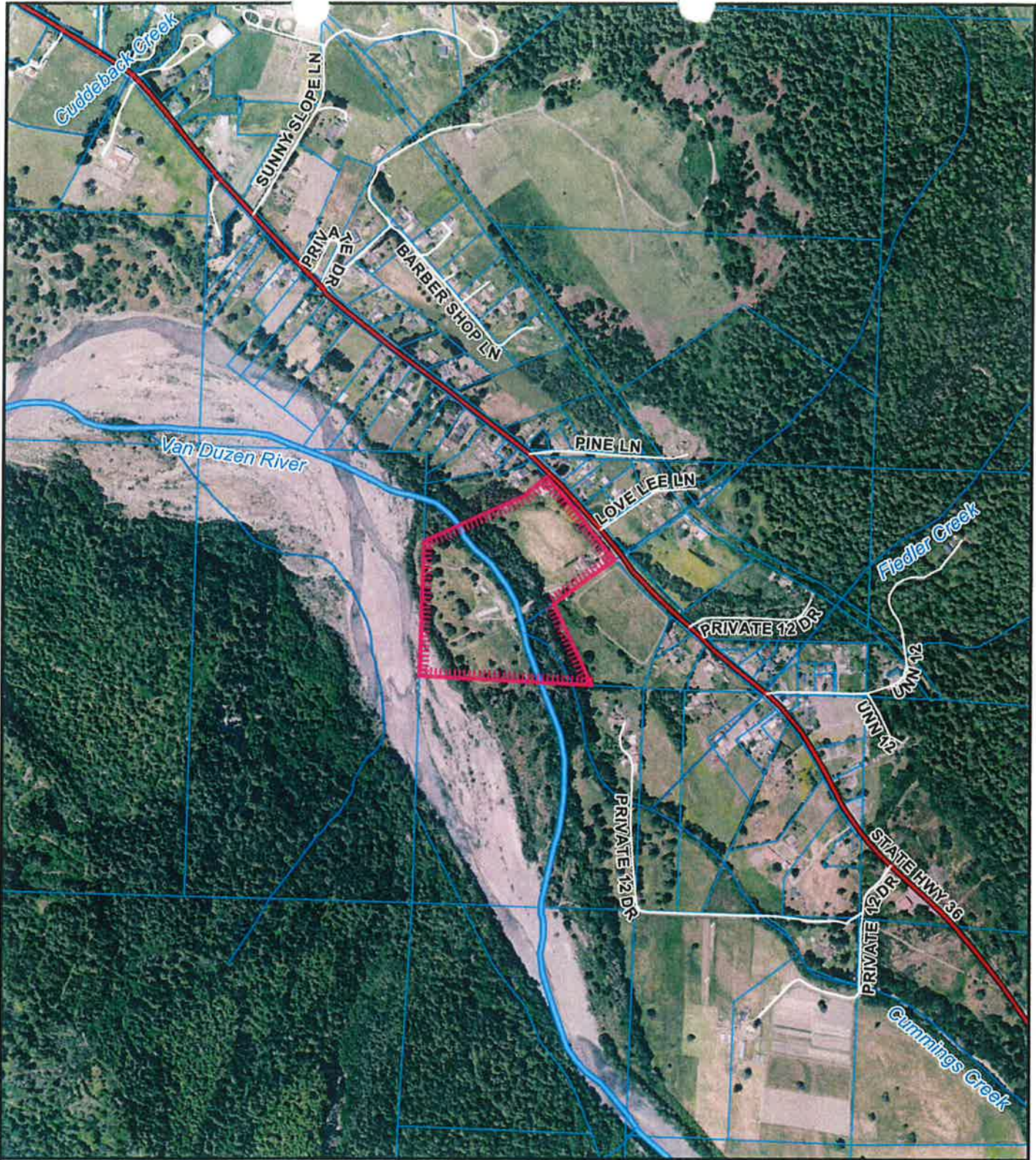
Project Area = 


ZONING MAP
PROPOSED BRIAN GARLICK
CARLOTTA AREA
CUP-16-375
APN: 206-311-020
T02N R01E S26 HB&M (HYDESVILLE)




This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.






Project Area = 

**AERIAL MAP
 PROPOSED BRIAN GARLICK
 CARLOTTA AREA
 CUP-16-375
 APN: 206-311-020
 T02N R01E S26 HB&M (HYDESVILLE)**

N


0 1,000 2,000
 Feet

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

CUP 16-375 Brian Garlick 11749 March 15, 2018 Page 11

PLOT PLAN

APN 206-311-020



PROPOSED DRYING CONTAINER

CULTIVATION AREA

PROPOSED TRAILER/BREAK ROOM

BARN

PROPERTY BOUNDARY

RESIDENCE

10' UTILITY EASEMENT

ACCESS ROAD

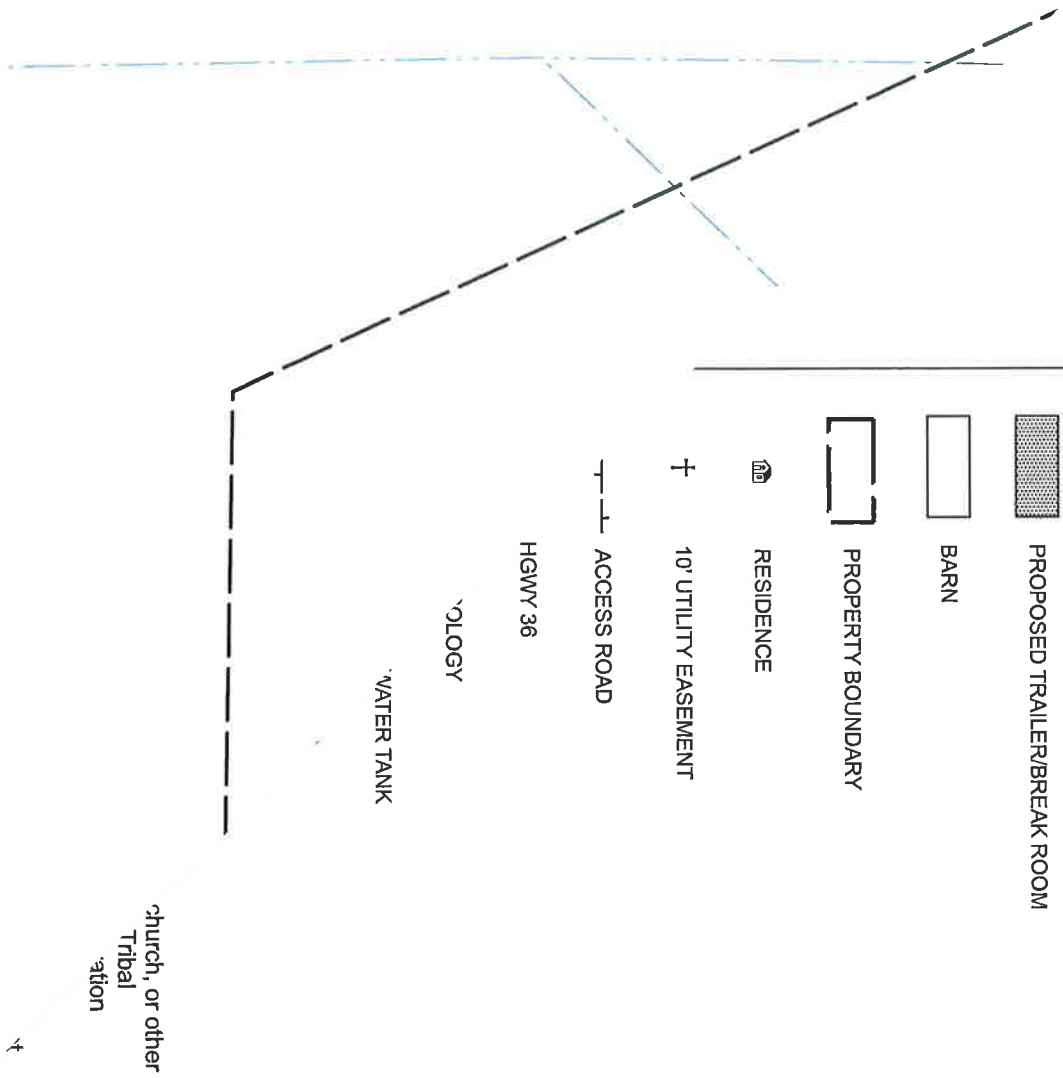
HGWY 36

TOLOGY

WATER TANK

church, or other
Tribal
action

+



DEC 13 2016

Evidence of Cultivation: 09/27/2015



+ ROLL OVER IMAGE TO ZOOM IN ↗ SHARE 🔍 BACK TO SEARCH

IMAGE INFORMATION

Image Date	: 2015-09-27	Product Size	:
Provider	: DigitalGlobe	Image Area	: 10.32 km²

Exhibit 'A' APPLICANT'S INFORMATION



A: 3,133 sf
 B: 6,535 sf
 C: 3,529 sf
 D: 10101 sf
 Approximately:
 23,298 sf

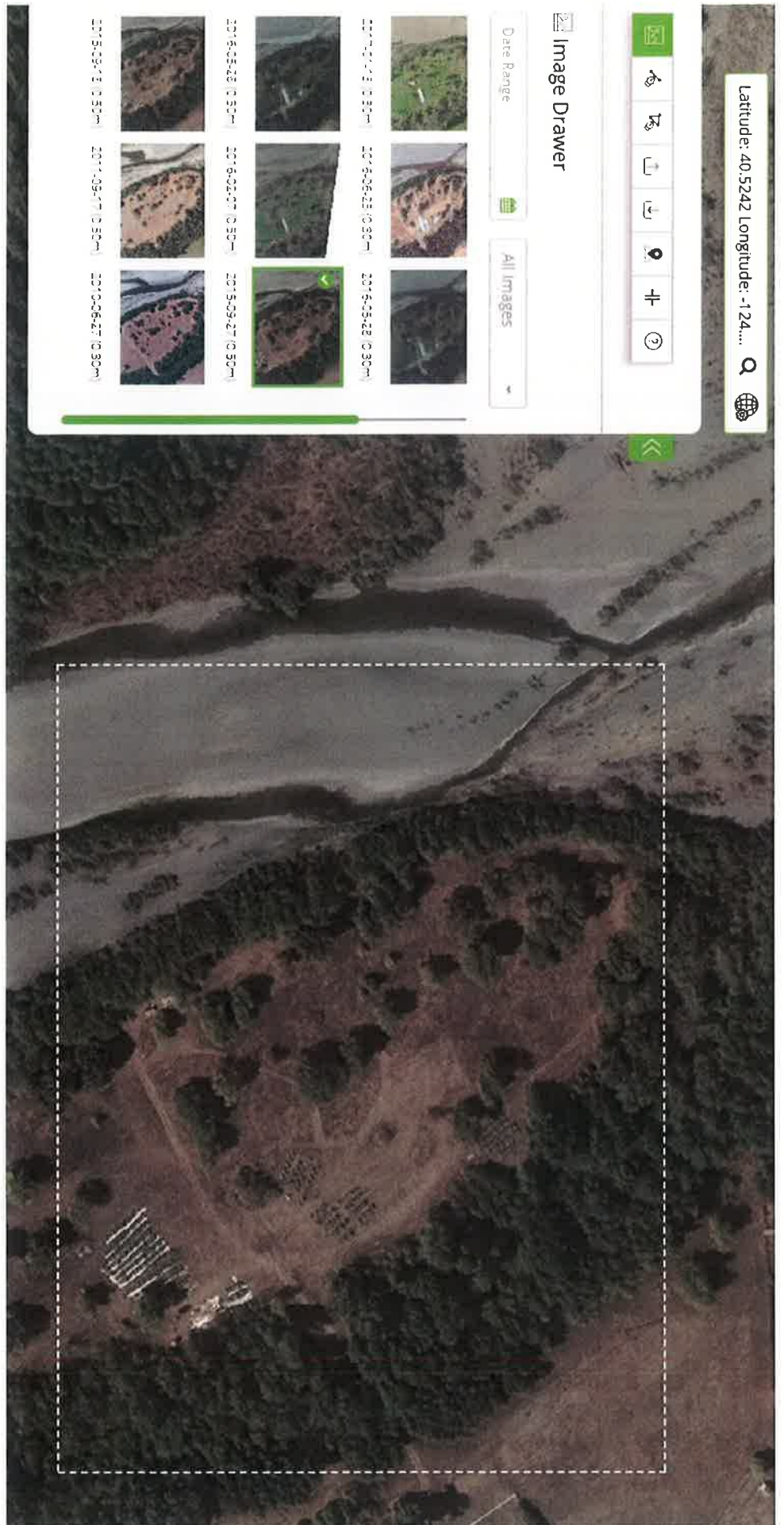
No Purchase Options →

County Exhibit B

CUP 16-375 Brian Garlick 11749
2015 imagery of cultivation area

March 15, 2018

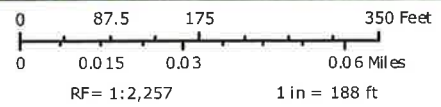
Page 14





Garlick 2016 imagery

Humboldt County Planning and Building Department



Printed: February 27, 2018

Web AppBuilder 2.0 for ArcGIS

Map Disclaimer:

While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force & effect of law, rule, or regulation. Should any difference or error occur, the law will take precedence.

Source: Humboldt County GIS, California Coastal Commission GIS/Mapping Unit, 2014, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, FRAP, FEMA, USGS

City Boundary

Counties

Parcels (Owners)

Parcels (Owners, no labels)
 CUP 16-375 Brian Garlick, 11749

March 15, 2018

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Exhibit B.1



2017 Imagery: Modification of cultivation method to incorporate to Mixed-light cultivation methods.

The large greenhouse appears to have been constructed in early 2016, with additional Mixed-light greenhouses constructed in spring of 2016.

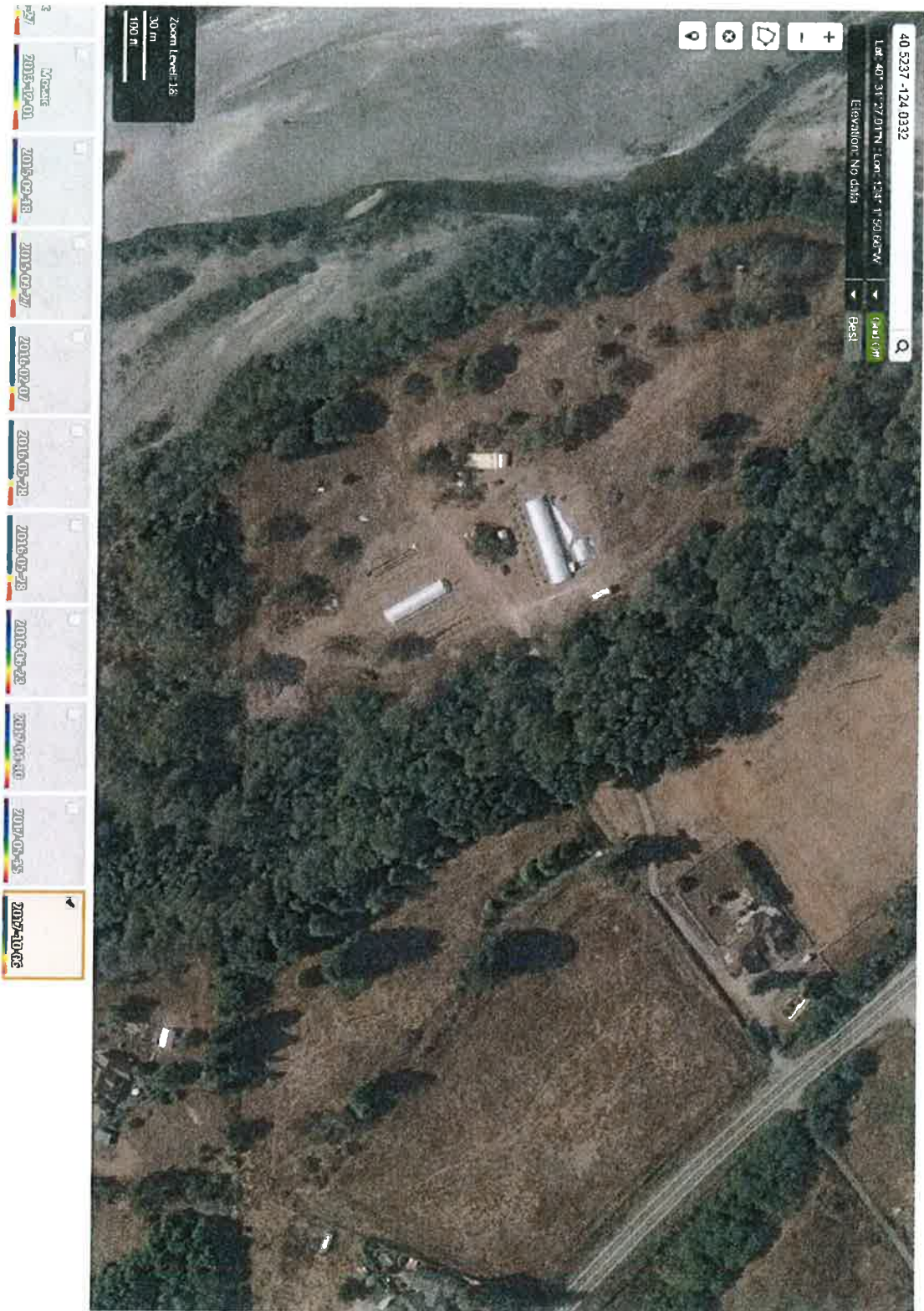
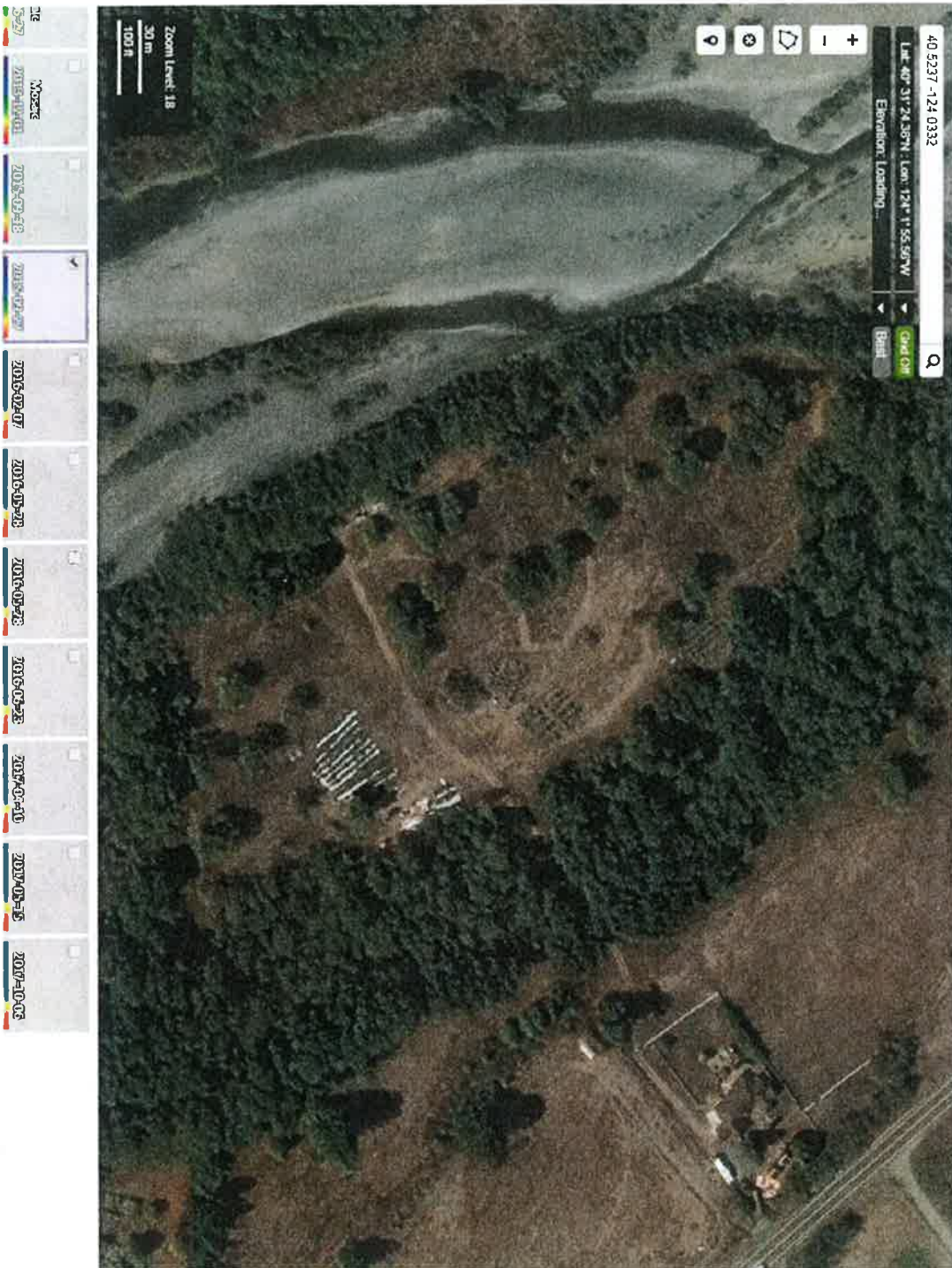


Exhibit C

Brian Garrick: APN: 206-311-020, Humboldt County APPS: 11749, CEQA-2017-0526

2015 Imagery: Image taken near the end of the 2015 cultivation season. Full-sun Outdoor and small hoop houses with removable clear plastic walls that appear to be removed each day, in order to expose plants to full sun (potential light-deprivation for a small portion of the cultivation season).



2017 CDFW imagery of cultivation area

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

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

1. **Within 60 days of the effective date of project approval**, the applicant shall execute a Compliance Agreement with the Humboldt County Planning Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval # 2 – 18. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
2. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity. This includes the proposed trailer to be used as a breakroom which shall contain a restroom that complies with applicable federal and state laws and regulations prior to employing workers for cannabis activities. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
3. The existing Fleetwood mobile home authorized as a temporary use during construction of the residence on the parcel, shall not be inhabited by employees until all necessary local and/or state permits are secured. A letter from the applicant acknowledging this will satisfy this condition.
4. Prior to issuance of any building or construction permits a grading, erosion, dust, and sediment control plan shall be prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been done and any proposed grading. Dust control practices during construction and grading shall achieve compliance with North Coast Air Quality Management District (NCAQMD) fugitive dust emission standards.
5. The applicant shall implement all corrective actions detailed within the WRPP developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board (NCRWQCB) Cannabis Waste Discharge Regulatory Program. In particular, the Applicant agrees to use portable toilets and handwashing stations until a permitted septic system can be installed that is capable of handling the maximum number of staff and employees (13). A letter or similar communication from the NCRWQCB verifying that all their requirements have been met will satisfy this condition.
6. The applicant shall comply with the Caltrans standards for the private driveway encroachment on to State Highway 36. The conditions of Caltrans shall be completed or secured to the satisfaction of that department. These may include that the private driveway accessing the parcel from State Highway 36 needs to meet State standards for two-way commercial driveways and that updating said access will require a Caltrans Right-of-Way Encroachment Permit. A letter or similar communication from Caltrans verifying that their requirements have been met will satisfy this condition.
7. The CDFW email dated November 15, 2017, indicates the Applicant submit a Notification for a Streambed Alteration Agreement (SAA) for the unpermitted well on the parcel. The final CDFW referral dated 2/26/18 contains recommendations that are made conditions of

approval for the project. These shall be completed or secured to the satisfaction of that department. Final documentation or other communication from the CDFW verifying the Applicant has engaged with CDFW to determine if the well requires a SAA will satisfy this condition. If this well is hydrologically connected to surface waters, forbearance consistent with the LSAA or Section 55.4.11(l) shall be implemented with adequate water storage provided.

8. The Applicant shall agree to properly document water rights from the State Water Board and to monitor water diversion and usage to demonstrate that there is sufficient water supply to meet the demands of the project without having to rely on surface water diversion for cultivation activities during the forbearance period of May 15 to October 15. As part of the annual inspection, the applicant shall present water use records for the year broken down by month.
9. The project shall maintain minimum buffers from riparian driplines around all identified intermittent streams identified in the January 28, 2018 Biological Assessment in the field (Exhibit B of Attachment 4), as approved by the CDFW, are to be shown on a revised site plan submitted to the County for approval, and shall be maintained. No improvements or other activities or debris are allowed within such setback areas.
10. The applicant shall submit a revised Cultivation and Operations Plan incorporating the determinations of the Biological Assessment prepared for this project, and a revised Site Plan identifying setbacks from Streamside Management areas and including all existing and proposed structures and setbacks from property lines.
11. If at any time, the Applicant chooses to use new generators other than the 125kw Honda EU3000 generator, the Applicant must notify the County and demonstrate that the generators will not produce noise levels that would result in the harassment of the Northern Spotted Owl species, which are known to occur adjacent to the property. The Applicant would have to identify the type and the location of the generator to demonstrate that the noise can be attenuated below 50 dB sound output at 100 feet from the generator or at the edge of the nearest forest habitat, so that protected species are not harassed. These standards are set forth in Section 55.4.11 (o) of the CMMLUO. Prior to issuance of a building permit or the initiation of cultivation activities, whichever occurs first, the applicant shall provide documentation from a qualified professional demonstrating that the generators conform to the specified standard. Should the applicant proposed to achieve noise attenuation by placing the generators inside a building(s), the applicant shall secure a building permit prior to construction.
12. The project area has been determined to have potential nesting or roosting habitat for the California Threatened Bank Swallow (*Riparia riparia* ssp. *riparia*) which nests in colonial burrows in alluvial soils along rivers and streams. The following avoidance and minimization measure shall be implemented:
 - a. Prior to any tree removal activities, a qualified wildlife biologist with experience in Bank Swallow surveys and approved by the County shall complete a survey of the site to determine if there are nesting colonies in the area that may use roosting habitat on the parcel. No tree that could provide suitable nesting or roosting habitat for this species shall be removed or altered if bank swallow colonies are encountered.
 - b. No construction or tree clearing work will occur in the Bank Swallow nesting season (March 1st – July 31st) unless a wildlife biologist with experience in Bank Swallow surveys completes a biological assessment of the property to determine whether the area has Bank Swallow presence and whether site specific avoidance measures are

necessary to avoid any impact to the species. Any measures developed by the biologist must be adhered to during the nesting season.

13. The applicant shall comply with the terms of the Division of Environmental Health Letter (Attachment 4) requiring the continual use of portable toilets to serve the needs of cultivation staff and to legalize or destroy the well.
14. The applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
15. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
16. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all of the requirements as set forth by other regulatory agencies.
17. The applicant must identify the name and location of the licensed off-site processing facility to be used for the cultivated product produced on this parcel.
18. If the mixed light greenhouse (or ancillary propagation nursery) is approved by the Planning Commission, any supplemental artificial lighting shall comply with the International Dark Sky Association standard 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).

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

1. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. As onsite processing is currently not part of this permit, this permit shall be modified to identify the offsite licensed facility.
2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
3. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
4. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.

5. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
6. Confinement of the area of cannabis cultivation, processing, manufacture or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d). The allowance for a setback reduction of 600 feet from a Public Park is approved as part of this project. The adjacent property owned by Six Rivers National Forest is managed for open space and/or wildlife habitat purposes, and no developed or designated recreational facilities are within 600 feet of the cultivation area.
7. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
8. Comply with the terms of any applicable Streambed Alteration (1600) Permit obtained from the Department of Fish & Wildlife for the winter time diversion to the pond which is used for small domestic use. This includes conducting all restoration work, apart from revegetation and water diversion, during June 1 to October 15; and, confining all diversions of the unnamed stream to the pond during October 16 to June 15 of each year.
9. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE), if applicable.
10. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
11. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
12. Pay all applicable application, review for conformance with conditions and annual inspection fees.
13. The noise produced by all generators, including those used on an emergency-only basis for cannabis drying, curing, and processing shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of wildlife or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. Under these guidelines, generator noise may not exceed 50 dB as measured at 100 feet from the generator or at the edge of the nearest Spotted Owl habitat, whichever is closer.

14. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
15. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
16. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
17. Participate in and bear costs for permittee's participation in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner.

Performance Standards for Cultivation and Processing Operations

18. Pursuant to the MCRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140 of Division 2 of the Labor Code), to the extent not prohibited by law."
19. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
20. Cultivators engaged in processing shall comply with the following Processing Practices:
 - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - iii. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
21. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (a) Emergency action response planning as necessary;
 - (b) Employee accident reporting and investigation policies;
 - (c) Fire prevention;
 - (d) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (e) Materials handling policies;
 - (f) Job hazard analyses; and
 - (g) Personal protective equipment policies, including respiratory protection.

- II. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (a) Operation manager contacts;
 - (b) Emergency responder contacts;
 - (c) Poison control contacts.
- III. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
- IV. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

22. All cultivators shall comply with the approved Processing Plan as to the following:

- I. Processing Practices.
- II. Location where processing will occur.
- III. Number of employees, if any.
- IV. Employee Safety Practices.
- V. Toilet and handwashing facilities.
- VI. Plumbing and/or septic system and whether or not the system is capable of handling increased usage.
- VII. Drinking water for employees.
- VIII. Plan to minimize impact from increased road use resulting from processing.
- IX. On-site housing, if any.

23. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation CUP or SP issued pursuant to the CMMLUO shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.

If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the CUP or SP permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of non-compliance shall terminate the SP, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to section 55.4.13.

24. Acknowledgements to Remain in Full Force and Effect. Permittee Acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.

25. Permittee further acknowledges and declares that:

Permittee further acknowledges and declares that:

- (1) All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt for commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use or medicinal use within the inland area of the County of Humboldt, shall at all times be conducted consistent with the provisions of the approved County permit; and
 - (2) All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the State of California Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), will be distributed within the State of California; and
 - (3) All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the State of California MAUCRSA.
26. **Transfers.** Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements, and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
- a. Identifying information for the new Owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
 - c. The specific date on which the transfer is to occur;
 - d. Acknowledgement of full responsibility for complying with the existing Permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
27. **Inspections.** The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state of county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years of the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the Permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"); except where the Compliance Agreement per COA #1 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been

secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Condition of Approval #23 of the On-Going Requirements /Development Restrictions, above.

3. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50 foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

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

4. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
5. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will send a bill to the Applicant for all staff costs incurred for review of the project for conformance with the conditions of approval. All Planning fees for this service shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

ATTACHMENT 2

Staff Analysis of the Evidence Supporting the Required Findings

Required Findings: To approve this project, the Hearing Officer must determine that the applicant has submitted evidence in support of making **all** of the following required findings.

The County Zoning Ordinance, Sections 312-1.1.2 and 312-17.1 of the Humboldt County Code (Required Findings for All Discretionary Permits) specify the findings that are required to grant a Conditional Use Permit:

1. The proposed development is in conformance with the County General Plan;
2. The proposed development is consistent with the purposes of the existing zone in which the site is located;
3. The proposed development conforms with all applicable standards and requirements of these regulations;
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity;
5. The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized; and
6. In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
 - a. Is categorically or statutorily exempt; or
 - b. Has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c. Has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

1. General Plan Consistency. The following table identifies the evidence which supports finding that the proposed action is in conformance with all applicable policies and standards in the Framework General Plan.

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Land Use Chapter 4</p> <p>Land Use Designations Section 4.8</p>	<p>Agricultural Exclusive (AE): The Agricultural Exclusive designation includes bottomland farms and lands that can be irrigated.</p> <p>Compatible uses include dairy, row crops, orchards, specialty agriculture, and horticulture.</p> <p>Density Range: One (1) dwelling unit per 20 acres to one (1) dwelling unit per 60 acres</p>	<p>The submitted project entails cultivation of 16,500 SF of outdoor and 2,880 SF of mixed light cannabis cultivation at two locations on the parcel with no on-site processing. The staff recommended revised project includes the cultivation of 19,380 sq. ft. of outdoor cultivation with no mixed light cultivation and no on-site processing. The project has been conditioned on removal of the existing 2,880 sq. ft. greenhouse which did not exist prior to January 1, 2016, as required by the CCMMLUO unless modified to hold an ancillary nursery for clones and starts only.</p> <p>There is one residence on the 21 acre parcel, and a 720 sq. ft. 1972 Fleetwood mobile home is currently being assessed on the parcel. A condition of approval has been incorporated restricting the use of this mobile home in cannabis activities.</p> <p>The MMRSA, Health and Safety Code section 11362.777(a) provides that medical cannabis is an agricultural product, subject to extensive state and local regulation. The CMMLUO provides for the cultivation and processing of medical cannabis within the zoning districts where agriculture is a principally permitted use, with limits and in compliance with performance standards that will preserve space for more traditional agricultural activities that supply food and fiber contributing to a diverse economic base. The existing cultivation and proposed relocation of the existing cultivation areas is considered an agricultural use, and the processing facility and supportive infrastructure may be considered accessory to the agricultural use.</p>

<p>Circulation Chapter 7</p>	<p>Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1,C-G2); coordinated planning design, development, operations, and maintenance between the County and other transportation system service providers (C-G3); and access for all transportation mode types with improved opportunities to move goods within, into and out of Humboldt County (C-G4, C-G5)</p> <p>Related policies: C-P3. Consideration of Transportation Impacts in Land Use Decision Making</p>	<p>Access to the site is directly off State Highway 36. Public Works recommended the project be referred to Caltrans for comment. Caltrans has not yet responded. However, it is anticipated that the private driveway accessing the parcel needs to meet State standards for two-way commercial driveways and that updating said access will require a Caltrans Right-of-Way Encroachment Permit. This has been made a condition of approval.</p> <p>Under the mixed-light cultivation harvesting activities (not currently supported by evidence of pre-existing use) would occur three times throughout the year and peak in the fall months. Cultivation activities are said to involve up to three full time and 10 seasonal employees. As the owner/applicant resides on site, it is anticipated that up to 12 trips to and from the site could be generated during peak times.</p> <p>A review of the submitted site plan indicates there is sufficient room for parking and turnaround for trucks and fire access.</p>
<p>Housing Chapter 8</p>	<p>Goals and policies contained in this Element seek to identify existing and projected housing needs and establish goals, policies, standards and measures for the preservation, improvement, and development of housing.</p> <p>Related policies: H-P3, Development of Parcels in the Residential Land Inventory</p>	<p>The project does not involve residential development, nor is the project site part of the Housing Element Residential Land Inventory. However, the project will not preclude any future residential development. The project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.</p>

<p>Conservation and Open Space Chapter 10</p> <p>Open Space Section 10.2</p>	<p>Goals and policies contained in this Chapter relate to an Open Space and Conservation Program that is complimentary to other agencies' plans and that preserves the county's unique open spaces (CO-G1, CO-G3)</p> <p>Related policies: CO-P1, Conservation and Open Space Program; CO-P4, CO-P12, Support for Working Lands; CO-S1, Identification of Local Open Space Plan; and, CO-S2, Identification of the Open Space Action Program</p>	<p>The proposed project is located within Open Space Land Plan because the project site is planned Agricultural and is zoned Agricultural Exclusive. The project can be found consistent with the Open Space Plan because the proposed project is consistent with the allowable uses of the Land Use Designations while not impacting the ability to provide livelihoods, profitable economic returns, and ecological values.</p> <p>The proposed cannabis cultivation - an agricultural product - is within land planned for agricultural purposes, consistent with the use of Open Space land for management production of resources. The project will not remove or clear trees and is consistent with the preservation of natural resources within open space.</p>
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<p>Conservation and Open Space Chapter 10</p> <p>Biological Resources Section 10.3</p>	<p>Goals and policies contained in this Chapter relate to mapped sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species (BR-G1, Threatened and Endangered Species, BR-G2, Sensitive and Critical Habitat, BR-G3, Benefits of Biological Resources)</p> <p>Related policies: BR-P1, Compatible Land Uses; BR-P5, Streamside Management Areas.</p>	<p>The applicant retained a person by the name of Delanie Farnham for the preparation of a Water Resource Protection Plan (WRPP) and filed a Notice of Intent to discharge with the Regional Water Board. A condition of approval to implement the recommendations contained in this WRPP has been incorporated into the project.</p> <p>According to maps provided by CDFW, there are reported Northern Spotted Owl observations near the area but not directly adjacent to the property. The entire area is considered suitable habitat for Bank Swallow, a California Threatened species, however. As a result, wildlife surveys and impact avoidance measures for potential nesting colonies of Bank Swallows are made a condition of approval for any permissible tree clearing activities or construction activities during the bank swallow nesting season.</p> <p>Given the discrepancies of watercourse location and the mapping of wetlands on the parcel in both Humboldt County WebGIS and Google Earth imagery, an ICF biologist was contracted to conduct a site visit to survey and map SMA's or wetlands closest to all cultivation activities. All SMAs and wetlands were mapped in accordance with CDFW and the 2017 Humboldt County General Plan guidance and all cultivation areas were found to occur outside of perennial (i.e. >100 feet from Van Duzen River riparian drip line) and intermittent (i.e. >50 feet from Cummings Creek riparian drip line) watercourses.</p>
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<p>Conservation and Open Space Chapter 10</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and policies contained in this Chapter relate to the protection and enhancement of significant cultural resources, providing heritage, historic, scientific, educational, social and economic values to benefit present and future generations (CU-G1, Protection and Enhancement of Significant Cultural Resources)</p> <p>Related policies: CU-P1. Identification and Protection, CU-P2. Native American Tribal Consultation]</p>	<p>The Tribal Historic Preservation Officer for the Bear River Band of Rohnerville Rancheria recommends inclusion of the standard inadvertent discovery language for this project.</p>
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<p>Conservation and Open Space Chapter 10</p> <p>Scenic Resources Section 10.7</p>	<p>Goals and policies contained in this Chapter relate to the protection of scenic areas that contribute to the enjoyment of Humboldt County's beauty and abundant natural resources (SR-G1); a system of scenic highways roadways that increase the enjoyment of, and opportunities for, recreational and cultural pursuits and tourism in the County (SR-G2, SR-S2, SR-S6).</p> <p>Related policies: SR-S4, Light and Glare</p>	<p>State Route (SR) 36 from SR 101 to SR 3 is considered eligible for a Scenic Highway designation per Section 263.3 of the California Streets and Highways Code. SR-S2 allows permitted uses and encourages retaining vegetation to act as a visual buffer. No clearing of vegetation is part of this proposed project and the cultivation areas are not visible from Highway 36.</p> <p>The project involves outdoor cultivation in two areas adjacent to one mixed light greenhouses on the 21 acre parcel. Under the mixed-light cultivation harvesting activities (not currently supported by evidence of pre-existing use), supplemental lighting (mixed light) is used in the greenhouse in a manner allowing for up to three harvests per year. The CMMLUO requires that mixed-light cultivation and any ancillary propagation nursery using supplemental light 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). This has been made a condition of approval.</p> <p>International Dark Sky Association Standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, and state that new exterior lighting fixtures be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.</p>
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<p>Water Resources Chapter 11</p> <p>Stormwater Drainage</p>	<p>Goals and policies contained in this Chapter relate to coordinated watershed planning and land use decision making to advance management priorities (WR-G3, WR-G4, WR-G5); watershed conservation and restoration efforts aimed at delisting water bodies and watersheds which are restored to meet all beneficial uses, including water use, salmon and steelhead recovery plans, recreational activities, and the economy (WR-G1, WR-G2, WR-G7, WR-G8, WR-G9, WR-G10); and</p> <p>Related policies: WR-P10. Erosion and Sediment Discharge; WR-P42. Erosion and Sediment Control Measures.</p>	<p>The Project site falls within Tier 2 of the North Coast Regional Water Quality Control Board's (NCRWQC B) Order No. 2015-0023 (Order), which requires preparation of a Water Resources Protection Plan (WRPP) to protect water quality from cannabis cultivation and related activities.</p> <p>The applicant's WRPP, prepared in August of 2016, describes and addresses the required elements and compliance with the 12 Standard Conditions established by the Order. The recent mapping of SMA's updated this effort by clarifying distances to riparian vegetation rather than stream courses themselves. Abiding by the required setbacks which will reduce potential sediment transport to streams has been made a condition of approval.</p>
<p>Water Resources Chapter 11</p> <p>Onsite Wastewater Systems</p>	<p>Goals and policies contained in this Chapter relate to adequate public water supply as well as onsite wastewater systems and natural and developed storm drainage systems that minimize interference with surface and groundwater flows and storm water pollution (WR-G6, WR-G9, WR-G11); and</p> <p>Related policies: WR-IM7. Basin Plan Septic Requirements; and IS-P17. On-Site Sewage Disposal Requirements.</p>	<p>The Onsite Waste Water Treatment System (OWTS), a septic system associated with the residence and barn, have not been permitted or shown to comply with County Health Standards. The Discharger plans to permit or replace the existing OWTS. These requirements have been incorporated as conditions of approval.</p> <p>In the interim, the applicant agrees to use portable toilets and handwashing stations capable of supporting the peak number of seasonal employees.</p>
<p>Noise Chapter 13</p>	<p>Goals and policies contained in this Chapter discourage incompatible uses within communities and reduce excessive noise through the application of standards (N-G1, N-G2)</p> <p>Related policies: N-P1, Minimize</p>	<p>The subject parcel is located in an area that requires special noise attenuation measures due to the potential of surrounding Northern Spotted Owls, Bank Swallows, and other wildlife. The existing cultivation areas adjacent to the mixed-light greenhouse (not supported by the submitted evidence) are served by portable generators. The sound from the generators shall comply with the standards set forth in Section 55.4.11(o)</p>

	Noise from Stationary and Mobile Sources; N-P4, Protection from Excessive Noise	of the CMMLUO and Department Policy Statement #DPS-16-005 as a condition of approval.
Safety Element Chapter 14 Geologic & Seismic	Goals and policies contained in this Chapter relate to communities that are designed and built to minimize the potential for loss of life and property resulting from natural and manmade hazards; and to prevent unnecessary exposure to areas of geologic instability, floodplains, tsunami run-up areas, high risk wildland fire areas, and airport areas planned and conditioned to prevent unnecessary exposure of people and property to risks of damage or injury (S-G1, S-G2) Related policies: S-P11, Site Suitability; S-P7, Structural Hazards	The project site is not located in a mapped Alquist-Priolo fault zone but is approximately 1 mile south of it. The flat 21 acre parcel is in an area shown as low slope instability and the proposed action would permit an existing activity that does not propose any substantial new development. The project also does not pose a threat to public safety related from exposure to natural or manmade hazards. The applicant must secure a grading permit for any planned improvements and as part of the permit the applicant will, at a minimum, incorporate the standard erosion control measures enumerated in the 2017 Humboldt County General Plan. These measures are a condition of approval.
Safety Element Chapter 14 Flooding	Goals and policies contained in this Chapter relate to the use of natural drainage channels and watersheds that are managed to minimize peak flows in order to reduce the severity and frequency of flooding. (S-G3) Related policies include: S-P12, Federal Flood Insurance Program; S-P13, Flood Plains; S-P15, Construction Within Special Flood Hazard Areas	The subject site is within a mapped 100-yr flood hazard area. Agricultural lands that are in mapped floodplains shall be retained for use in agriculture. No fill or grading that would increase flood damage, nor modifications of the watercourses that would impede flows, are proposed within the floodplain. This project is consistent with policy S-P13 and S-P15.
Safety Element Chapter 14 Fire Hazards	Goals and policies of this Chapter encourage development designed to reduce the risk of structural and wildland fires supported by fire protection services that minimize the potential Related policies: S-P19, Conformance with State Responsibility Areas (SRA) Fire	The subject property is located within the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. CalFire provided standard comments recommended compliance with the requirements of the County's Fire Safe Regulations, Resource Management, and Cannabis. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards

	Safe Regulations;	for minimizing wildfire danger in state responsibility designated areas. According to the applicant, during the peak season, the operation will employ from up to 10 seasonal employees and three permanent employees. Only the owner/applicant resides onsite.
Air Quality Chapter 15	Goals and policies contained in this Chapter relate to improved air quality to meet current and future state and federal standards, including attainment of particulate matter requirements (AQ-G1, AQ-G2, AQ-G3) and the successful reduction of greenhouse gas emissions to levels consistent with state and federal requirements (AQ-G4) Related policies: AQ-P4, Construction and Grading Dust Control, AQ-S1. Construction and Grading Dust Control, AQ-P7. Interagency Coordination.	As a condition of project approval, applications for grading and or building permits shall be referred to the North Coast Air Quality Management District (NCAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards.

2. Zoning Compliance and 3. Conforms with applicable standards and requirements of these regulations: The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Zoning Regulations.

Zoning Section and Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
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<p>§312-1.1.2 Legal Lot Requirement: development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations.</p>	<p>The parcel of land known as APN 206-311-020 matches the property description in sufficient detail to prove that the original parcel remains in the same size and shape as the current parcel held by Brian Garlick.</p> <p>A review of documents indicated a building permit was issued for the parcel (05-1043B4) for the construction of the existing residence. Issuance of this building permit recognized the legal standing of the parcel. There is no evidence indicating there have been any subsequent acts to divide this parcel. Therefore, the subject parcel was lawfully created in its current configuration and can be developed as proposed.</p>
<p>§314-7.1 Agriculture Exclusive (AE): Intended to provide standards and restrictions for the preservation of fertile areas in which agriculture is and should be the desirable predominant use.</p>	<p>All general agricultural uses and structures are allowed and deemed compatible.</p> <p>The project is for the cultivation of outdoor and mixed-light commercial medical cannabis. Commercial medical cannabis cultivation is recognized under State law as an agricultural product. Although State law specifies it is agricultural use and general agricultural uses are principally permitted in AE, pursuant to Humboldt County Code Section 314-55.4.3.7, the commercial cultivation of cannabis for medical use is a regulated specialty crop and the cultivation of that specialty crop is not a principal permitted use under the General Agriculture use type classification in the Humboldt County Zoning Regulations. The applicant has applied for the requisite permit. Based on the referenced principally permitted use and the above, a finding of consistency with the AE zoning district can be made for the project.</p>

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
Minimum Lot Size	20 acres	The subject parcel is 21 acres in size. As discussed above, the subject parcel is a separate legal parcel.
Maximum Ground Coverage	35%	Ground coverage is less than 35%
Minimum Lot Width	100 feet	Lot is wider than 1000 feet
Maximum Lot Depth	none specified	n/a

<p>Setbacks</p> <p>Front: 30 feet</p> <p>Rear: 20 feet</p> <p>Side: 30 feet</p> <p>Farm Outbuildings: not less than 20 feet from any dwelling</p>		<p>The closest appurtenant facility to any parcel boundary is the barn which is 40 feet from the front of the parcel. The barn is used to store fertilizers and other agricultural amendments. No cultivation area is within 350 feet of a parcel boundary.</p> <p>Outbuildings are greater than 20 feet from the residence.</p>
<p>Max. Building Height</p>	<p>None specified</p>	<p>The applicant will use conventional single story hoop greenhouses for outdoor cultivation. The height of these structures is within a single story.</p>
<p>§314-61.1 Streamside Management Area (SMA)</p>	<p>Purpose: to provide minimum standards pertaining to the use and development of land located within SMAs and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.</p>	<p>The 21-acre parcel has two watercourses on the property that are tributaries to the Van Duzen River. The cannabis cultivation areas are located beyond the 100-foot setback requirement for perennial watercourses and 50-foot setbacks from intermittent watercourses.</p>
<p>§314-109.1 Off-Street Parking</p>	<p>Off Street Parking for Agricultural use*: Parking space per employee at peak shift. A minimum of three parking spaces are required.</p> <p><i>*Use for this activity is not specified. Per Section 314-109.1.2.9, the Director may fix the required number of parking spaces based on standards for most comparable use.</i></p>	<p>There may be 10 seasonal and three permanent employees associated with the requested permit. The most comparable standard for employees in this situation is one space for each employee at peak shift (per Section 314-109.1.3.4.2 - Manufacturing).</p> <p>No designated parking spaces are noted on the plans; however, there is sufficient space on the property for the parking of cars used by the employees.</p>

314-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation (CMMLUO)

§314-55.4.8.2.2	A ... Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in [...] AE parcels (no parcel size limitation)	In accordance with the referenced section the applicant has applied for the necessary CUP for the 21 acre parcel on December 12, 2016. However, based on submitted information and aerial imagery, staff review of the submittal has identified the mixed light greenhouse did not exist on this parcel prior to January 1, 2016. Based on aerial imagery in the file, 19,380 sq. ft. of outdoor cultivation can be supported. This amount is consistent with the existing cultivation size limit is 10,000 to 43,560 allowed in the AE zone district.
§314-55.4.9.3 Combined Use: A combination of permit types combined in a single application shall be considered a single permit	The total cultivation area allowed on a single parcel shall not exceed one acre for outdoor cultivation or 22,000 SF for mixed-light cultivation.	The proposed action will permit 19,380 sq. ft. of outdoor cannabis cultivation on a parcel zoned AE. No expansion of the cultivation area is proposed.
§314-55.4.8.2.2 Criteria for approval of existing outdoor and mix-light cultivation areas:		
§314-55.4.8.2	In all zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area, or non-timberland open area, subject to the conditions and limitations set forth in this Section.	No trees have or are proposed to be removed as part of the project. Compliance with the less than 3-acre conversion are made a condition of approval in this use permit.
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person, as defined in the referenced section.	According to records maintained by the Department, Brian Garlick, and is entitled to four. This application is for one permit.
§314-55.4.9.1 Accessory Processing	Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application.	All commercial medical cannabis cultivated will be processes at a licensed off-site facility.
§314-55.4.9.4 Pre-Application Registration	Existing cultivation sites shall register with the County within 180 days of the effective date of this ordinance.	A Commercial Cannabis Registration Form for the cultivation site, APN 206-311-020, was filed with the Planning Division on December 12, 2016.

§314-55.4.10 Application Requirements	Identifies the Information Required for All Applications	Attachment 3 identifies the information submitted with the application, and shows all the required information was received.
§314-55.4.11 Performance Standards	Identifies the Performance Standards for Cannabis Cultivation Activities	All the applicable performance standards are included as conditions of project approval. They are required to be met throughout the timeframe of the permit.
§314-55.4.11.c Performance Standards-Water	Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.	The applicant has agreed to engage CDFW for an LSAA and the State Water Board for the well diversion for agricultural use. A compliance agreement letter from CDFW and the Water Board indicating that the applicant has filed and been approved for an appropriate use of this diversionary water are here made a Condition of Approval.
§314-55.4.11.o Performance Standards-Generator Noise	The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat.	The mixed light greenhouse was to be powered by a generator. As no pre-existing mixed light activity has been documented, the greenhouse is to be removed or converted to an ancillary propagation nursery, and has been so conditioned. If the Planning Commission approves the mixed light portion of the project, any use of generators will comply with the noise attenuation measures to avoid harassment of protected species, including the Northern Spotted Owl, as a condition of approval. Conformance to this performance standard was confirmed on the 125kw Honda EU3000 generator in the field by an ICF biologist. Therefore, the project is currently conforming to the referenced standard.
§314-55.4.17 Sunset Date	No application for any Use Permit pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016.	The applicant filed the application on December 9, 2016.

4. Public Health, Safety, and Welfare: The following table identifies the evidence which supports finding that the proposed development will not be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4 Permit Findings	The proposed development will not be detrimental to the public health, safety and welfare, and will not be materially injurious to properties or improvements in the vicinity.	<p>The proposed action would permit an existing outdoor and an existing mixed-light cannabis cultivation operation on a 21 acre parcel with immediate neighbors across SR 36. Fortuna High School Superintendent recommended rejecting the project on the grounds that they maintain a bus stop at the corner of SR 36 and Love Lee Lane. However, this location is 766 feet from the nearest cultivation area and is separated by a private fence, a field, and a riparian buffer.</p> <p>Permitting the operation would not result in any change to existing conditions that would be detrimental to the public health, safety, and welfare.</p>
§§15304 (a) and 15311 of CEQA	Categorically exempt from State environmental review.	CEQA Exemption Sections Class 1, 15301 (Existing Facilities), Class 3, 15303 (New Construction or Conversion of Small Structures), and Class 4, 15304 (Minor Alterations to Land), of the State CEQA Guidelines. Per the submitted evidence and agency responses, none of the exceptions to the Categorical Exemption per Section 15300.2 of the State CEQA Guidelines apply to this project.

5. Residential Density Target: The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
312-17.1.5 Housing Element Densities	The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation), except where: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.	The proposed project involves an existing commercial cannabis cultivation and does not propose any new residences on the subject parcel. The site is zoned AE and is designated as agricultural land. Therefore, the parcel was not included in the Housing Inventory.

ATTACHMENT 3

Applicant's Evidence in Support of the Required Findings

Attachment 3 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division:

1. The name, contact address and phone number(s) of the applicant. (Application form on file)
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. (On file)
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within $\frac{1}{4}$ mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Attached)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of cultivation activities (outdoor, indoor, mixed light), the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable, and schedule of activities during each month of the growing and harvesting season. (Attachment 3)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board (WRCB), Division of Water Rights, if applicable. (Conditioned)
6. Description of water source, storage, irrigation plan, and projected water usage. (Attachment 3)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the NCRWQCB demonstrating enrollment in Tier 1, 2 or 3, NCRWQCB Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (Attachment 3)
8. If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the Department of Fish & Wildlife. (Conditioned)

9. If the source of water is a well, a copy of the County well permit, if available. (Not available)
10. If the parcel is zoned FR, U, or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE. (Not applicable)
11. Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (On-file)
12. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in section 55.4.8.2.3, and plan for compliance with applicable Building Codes. (Not applicable)
13. Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed will not support diversions for irrigation. (On-file)
14. Acknowledge that the county reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other Tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through Tribal and local government officials and their designees. During this process, the Tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a Tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (On-file)
15. California Department of Fish and Wildlife CEQA electronic correspondence suggesting the well is jurisdictional. (Attached)
16. Watershed Resource Protection plan prepared by Delanie Farnham on August 9, 2016. (On-File)

17. Bear River Band of the Rohnerville Rancheria electronic correspondence on November 6, 2017 indicating only the standard inadvertent discovery language should be included for this project. (On-File)
18. Department of Public Works referral comments on January 26, 2018. (On-File)
19. Caltrans referral comments have not been received, but a condition of approval to conform with that agency's requirements has been incorporated.
20. Division of Environmental Health referral letter recommending Conditional Approval received November 6, 2017. (On-File)
21. Fortuna Union High School letter recommended project denial dated August 25, 2017. (On-File)
22. Biological assessment of parcel wetlands and riparian areas by ICF biologist, dated January 28, 2018. (On-File)

Final



Cultivation and Operations Plan

APN 206-311-020

Purpose of Cultivation and Operations Plan

The purpose of this plan is to help secure permitting for commercial cannabis cultivation. Subsection (d) of Section 314-55.4.10 of the county code sets forth the required elements of a cultivation and operations plan. Those elements are addressed within this plan and include: Water Use (storage, irrigation, and conservation); Water Quality (drainage, runoff, and erosion control) Watershed and Habitat Protection; Proper use and storage of any regulated products (fertilizers, pesticides, etc.)

In addition to cultivation activities, this plan addresses processing, employee safety practices (including emergency response and hazard prevention), and security measures to protect and deter criminal activity.

Water Use

Water use will vary throughout the year with peak periods occurring in the summer months. All water usage is shown at the *maximum* average use per month. *Actual water use is projected to be less. (See Table 1 below):

Table 1 Water Use (in gallons)

Month	Usage/mo	Month	Usage	Month	Usage
Jan	3800	May	11,500	Sept	51,000
Feb	3800	June	16,500	Oct	3,800
Mar	1900	July	51,000	Nov	3,800
Apr	5200	Aug	51,000	Dec	3,800

Water is sourced from an onsite well, with proposed water storage within this plan. Proposed water storage will total 110,000 gallons, with the ability to increase as recommended by county officials. Watering is conducted in strict

accordance with plant needs and soil moisture content, and is closely monitored to minimize waste.

Drainage/Runoff/Erosion Control

As stated previously, watering is done strictly in accordance with plant needs, making drainage and runoff obsolete. In addition, cultivation sites are on flat land and in greenhouses preventing runoff and erosion.

Watershed and Habitat Protection

The property is located on the north side of the Van Duzen river. There are natural drainage courses through the property, including 2 seasonal creeks. All cultivation is done a minimum of two hundred feet (200') from any river and one hundred feet (100') from seasonal streams.

The applicant has enrolled in the North Coast Regional Water Quality Control Boards Waver of Waste Discharge program as Tier 2, and a water resource protection plan has been filed through an approved third party.

Materials Storage

All materials used for cultivation, including fertilizers and pesticides, are natural and organic materials. These materials are stored in sheds or containers as required when not in use. Although the farm does not use chemical based materials, PPE (personal protective equipment) is provided when applying pesticides.

Cultivation Activities *(Note: All cultivation activities are existing)*

Outdoor cultivation activities (totaling 16,500 sqft) will typically begin in April when immature plants are moved outdoors. Plants are transplanted to full sun greenhouses in raised beds in April with the first light deprivation harvest

occurring in July. Also during the month of July, soils are amended and the next crop is planted. Final harvest occurs through the month of October.

Annual Cycles for Mixed Light

The project also employs the use of one existing 24'x120' (2880sqft) mixed light Greenhouse. This greenhouse will run 3 annual growing cycles: Two that coincide with the outdoor cultivation and one additional cycle over the winter months (appx Nov – Feb) to maintain the stock of various cannabis strains. A 125kw generator is used to power the mixed light greenhouse.

The mixed light greenhouse was put into use December 2015. The most accurate, available overhead imagery providing proof of existence is from Terra Server but can only be found from two dates: Sep 27th 2015, which does not show the greenhouse, and Feb 7th 2016, which clearly shows the greenhouse. I have worked with a professional consultant to try and locate additional overhead imagery with no success, so I am hoping that these two maps will be sufficient.

Processing Practices

After being harvested, cannabis will be moved to a climate controlled drying container. Upon drying, cannabis will be moved to an offsite processing facility. The final product will be stored in a secure location.

First Aid Station/Break Area

A proposed area for first aid and break room (including restroom facilities) are included in this plan. The location is noted on the site map. This area will also be used to post any information regarding safety practices, emergency response numbers, etc. The size will measure appx. 20'x60'. Power, water, gas and septic are already existing at the proposed location on the property.

Security Measures

Physical Security:

There are natural physical barriers around the perimeter of the property. The cultivation area is fenced and the use of security cameras and motion sensors are used to detect and deter criminal activity. Drying containers are locked and monitored, and processing/storage is planned to occur offsite at a secure location with similar security measures.

Employee Safety:

This farm has 3 full time employees, and up to 10 seasonal employees for harvest. All employees are trained in safe practices. Additionally, the site plan proposes a break area for workers, along with a first aid station and bathrooms, where safety practices and emergency contact information will be posted.

Protection of Watershed:

There are 4 existing Class II stream crossings located on the property. One crossing is used to access the cultivation site. The remaining 3 crossings are not in use and do not experience any vehicle or foot traffic. All crossings are monitored and maintained to prevent debris blockages and ensure stream flow during the wet season. Immense care is taken to minimize disturbance to the Class II Stream (Cummings Creek) which is a tributary to the Van Duzen River.

The single active stream crossing is a bridge structure that was pre-existing when the property was purchased. The landowner regularly maintains the road to the crossing. The access road is designed to disperse and shed water on stream crossing approaches, before the road runoff reaches the crossing, and helps maintain slope stability, reduce erosion and minimize sediment delivery. This is achieved through a gradual increase in road gradient as it approaches the crossing. The bridge crossing is at a right angle with the stream and allows for adequate fish passage, as it does not impact the stream channel width or depth. It is advisable to have a bridge that spans the stream to allow for long-term dynamic channel stability (Weaver, Weppner, & Hagans, 2015). This bridge does not have a center support, therefore is not obstructing the channel because the abutments are outside of the channel allowing for fish and organism passage. Bridges are the best crossing structure for maintaining stream integrity and natural channel characteristics, as well as preserving ecological connectivity (Weaver, Weppner, & Hagans, 2015). In addition to monitoring and maintaining the road and stream crossing, the landowner ensures that there are adequate riparian buffers along the creek. The riparian buffer zones are greater than 50 feet on either side and have mature native plant species and will remain undisturbed as to protect the Class II stream habitat.

The landowner will continually assess the road, stream crossing and riparian buffers for maintenance and integrity. Additionally, the landowner will follow best management practices that are outlined by the North Coast Regional Water Quality Control Board and adhere to the Water Resource Protection Plan. By maintaining enrollment with Cannabis Cultivation Waste Discharge Regulatory Program the landowner will actively ensure watershed protection on their property.

Reference:

Weaver, W.E., Weppner, E.M. and Hagans, D.K., 2015, Handbook for Forest, Ranch and Rural Roads: A Guide for Planning, Designing, Constructing.

ATTACHMENT 4

Referral Agency Comments and Recommendations

Referral Agency	Response	Recommendation	On File
County Building Inspection Division		None Received	
CALFIRE	✓	Standard input letter	✓
Department of Fish and Wildlife		None Received	
County Division of Environmental Health	✓	Conditional Approval	✓
Agriculture Commissioner		None received	
Humboldt County District Attorney		None received	
County Public Works, Land Use Division	✓	Conditional Approval	✓
Regional Water Quality Control Board		None received	
Carlotta Community Services District		None received	
Cuddeback Union School District		None received	
Fortuna Union High School	✓	Referral Comments	✓
Sheriff		None received	
Caltrans		None received	
Northwest Information Center	✓	Referral Comments	✓
Bear River Band of the Rohnerville Rancheria	✓	Conditional Approval	✓
Intertribal Sinkyone Wilderness Council		None received	
Wiyot Tribe		None received	



HUMBOLDT COUNTY
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION
3015 H STREET, EUREKA, CA 95501 ~ PHONE (707) 445-7541



DEH received
8-22-17

PROJECT REFERRAL TO: Health and Human Services Environmental Health Division

Project Referred To The Following Agencies:

1718-0396

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Wiyot Tribe, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, Intertribal Sinkyone Wilderness Council, Sheriff, Fortuna Union HS School District, Cuddeback Union School District, Carlotta Community Services District

Applicant Name Brian Garlick **Key Parcel Number** 206-311-020-000

Application (APPS#) 11749 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-375

Please review the above project and provide comments with any recommended conditions of approval. To help us log your response accurately, please include a copy of this form with your correspondence.

Questions concerning this project may be directed to the assigned planner for this project between 8:30am and 5:30pm Monday through Friday.

County Zoning Ordinance allows up to 15 calendar days for a response. If no response or extension request is received by the response date, processing will proceed as proposed.

If this box is checked, please return large format maps with your response.

Return Response No Later Than Planning Commission Clerk
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501
E-mail: PlanningClerk@co.humboldt.ca.us **Fax:** (707) 268-3792

We have reviewed the above application and recommend the following:

Conditional Approval

DISTRIBUTED

11-3-17

Comments:

DEH recommends approval with the following conditions:

1. **An invoice, or equivalent documentation, is provided to DEH** to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.
2. DEH has no record of the well referred to in the project description. **Legalize or destroy the wells:** Provide documentation to verify legal non-conforming status, retroactively permit the well or complete a well destruction permit for well. Alternatively, demonstrate that the water is hydrogeologically linked to surface waters and is not a ground water well but a surface water diversion. Satisfy this requirement prior to reissuance of annual permit.

*Please provide a copy of the written Approved Compliance Agreement to DEH per HCC §313-55.4.11

*This review and recommendation is for the Land Use aspects of the planning project and does not include or imply compliance with all DEH programs. Although DEH recommends the approval of the Planning project, Solid Waste and Hazardous Waste program requirements need to be addressed directly with staff from those programs.

Exhibit C

2746



**California Department of Fish and Wildlife
CEQA Referral Checklist**

Applicant: Brian Garlick		Date: 02/26/2018	
APPS No.: 11749	APN: 206-311-020	CDFW CEQA: 2017-0526	Case No.: CUP16-375
<input type="checkbox"/> New	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> Mixed-light (SF): 2,880	<input type="checkbox"/> Outdoor (SF): 16,500 <input type="checkbox"/> Indoor <input type="checkbox"/> RRR

Thank you for referring this application to the California Department of Fish and Wildlife (CDFW) for review and comment.

CDFW offers the following comments on the Project in our role as a Trustee and Responsible Agency pursuant to the California Environmental Quality Act (CEQA; California Public Resource Code Section 21000 *et seq.*). These comments are intended to assist the Lead Agency in making informed decisions early in the planning process.

Please provide and/or note the following information:

- Recommend Approval. The Department has no comment at this time.
- Recommend Conditional Approval. Suggested conditions below.
- Applicant needs to submit additional information. Please see the list of items below.
- Recommend Denial. See comments below.
- If the applicant has submitted a Notification of Lake or Streambed Alteration (LSA) to CDFW, include the LSA project number (e.g. 1600-2017-XXXX-R1) or a copy of the Notification.
- Provide additional information on the water source(s) for the parcel(s) including both domestic use and irrigation.
 - If the source is surface water (spring, stream, or hydrologically connected pond or well) CDFW recommends that the applicant notify our Department, pursuant to Fish and Game Code Section 1602, of all unpermitted points of diversion located on the parcel or provide a copy of the non-jurisdictional letter issued by CDFW.
- The cultivation currently takes place in the floodplain of the Van Duzen River and Cummings Creek (Class I stream). It has been extensively documented that Cummings Creek is prone to significant flooding during average to high storm events. CDFW does not support the development of permanent infrastructure within the floodplain of any stream system, more specifically an area such as Cummings Creek (fish bearing stream) that is known to flood frequently.
- If new or existing road(s) cross streams, springs, seeps, wetlands, etc. on the parcel, provide detailed descriptions of each (e.g. culvert sizes, condition, etc.) and permits under which they were installed, if any. CDFW requires notification, pursuant to Fish and Game Code Section 1602, for all stream crossings or any other alteration of the bed, bank, or channel of any stream located on the parcel.

- ☒ Identify all energy sources for project.
 - If generator, identify the size and location of the generator and describe measures that will be incorporated to avoid or minimize impacts to fish and wildlife, such as secondary containment. Generators and associated fuels should be located outside of the floodplain and a minimum of 200 feet from Class I and Class II streams (measured horizontally from the outer edge of the riparian or top of bank, whichever is greater).
- ☒ All or part of the Project is located within the CDFW recommended minimum setback area. CDFW requests that the applicant have a qualified biologist assess the property to delineate the appropriate setbacks (a minimum of 150ft from perennial streams/wetlands and 50ft from intermittent streams), measured from the outer edge of the riparian or top of bank, whichever is greater. These areas should be identified as no-disturbance buffers and future development.
- ☒ Aerial imagery suggests that the cultivation area, prior to January 1, 2016, was limited to Outdoor cultivation with no Mixed-light cultivation methods present. Post December 31, 2015, the applicant appears to have significantly modified the footprint of the cultivation area and appears to have modified the cultivation method. CDFW recommends as a condition of permit approval, that the applicant provide proof of the claimed existing cultivation and cultivation method, or that the application as presented be reconsidered for permit approval (specifically Mixed-light cultivation methods). Furthermore, if Mixed-light is considered for approval at this location, CDFW requests, as a condition of Permit approval, all Mixed-light infrastructure (greenhouses, fans, generators and fuel) be relocated to stable surfaces with a minimum 200ft buffer from waters of the State (measured horizontally from the outer edge of the riparian).
- ☒ Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
- ☒ Leave wildlife unharmed. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.
- ☒ This project has the potential to affect sensitive fish and wildlife resources such as Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Pacific Lamprey (*Entosphenus tridentatus*), Foothill Yellow-legged Frog (*Rana boylei*), Western Pond Turtle (*Actinemys marmorata marmorata*), and amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

Thank you for the opportunity to comment on this Project. Please send all inquiries regarding these comments to kalyn.bocast@wildlife.ca.gov.

Please confirm that you have received this email.

Sincerely,

California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501