



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Phone: (707) 445-7541 Fax: (707) 268-3792

Hearing Date: January 18, 2018

To: Humboldt County Planning Commission

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

Subject: **Seth Berling One Conditional Use Permit**  
Application Number 11851  
Case Number CUP 16-412  
Assessor's Parcel Number (APN) 033-271-004  
705 US Highway 101 #1, Garberville, CA 95542

<b>Table of Contents</b>	<b>Page</b>
Agenda Item Transmittal	2
Recommended Action and Executive Summary	3
Draft Resolution	5
Maps	
Topo Map	6
Zoning Map	7
Aerial Map	8
Site Plans	9
Floor Plans	10
Attachments	
Attachment 1: Recommended Conditions of Approval	11
Attachment 2: Staff Analysis of the Evidence Supporting the Required Findings	16
Attachment 3: Applicant's Evidence in Support of the Required Findings	26
Attachment 4: Referral Agency Comments and Recommendations	30

Please contact Michelle Nielsen, Senior Planner, at (707) 445-7541 or by email at [mnielsen@co.humboldt.ca.us](mailto:mnielsen@co.humboldt.ca.us) if you have any questions about the scheduled public hearing item.

## AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
January 18, 2017	Conditional Use Permit	Michelle Nielsen

**Project Description:** A Conditional Use Permit for the operation of a commercial medical cannabis nursery in an existing 10,000 square foot (SF) commercial building. The floor area of the nursery is proposed to be 4,750 square feet. The nursery will operate year-round and will have one manager and three to four employees. The on-site source of water of the nursery is a 12.5 gallon per minute permitted well. The nursery is estimated to consume approximately 7,500 gallons of water per month. The nursery restrooms and wash stations are located within the commercial building and will be connected to the existing on-site commercial septic system. Power will be provided by PGE.

**Project Location:** The project is in Humboldt County, in the Garberville area, on the east side of US Highway 101, approximately 0.66 miles north of the intersection of State Highway 271 and Highway 101 on the property known as 705 US Highway 101.

**Present Plan Land Use Designations:** Commercial Recreation (CR), Relative Slope Stability 2

**Present Zoning:** Community Commercial, Qualified (C-2-Q)

**Application Number:** 11851

**Case Number:** CUP 16-412

**Assessor's Parcel Number:** 033-271-004

**Applicant**

Seth Berling  
705 US Highway 101  
Garberville, CA 95542

**Owner**

705 101 Properties LLC  
1012 Scott Street  
San Francisco, CA 94519

**Agent**

Peter Huson  
705 US Highway 101  
Garberville, CA 95542

**Environmental Review:** CEQA Exemption Section 15301 – Existing Facilities and 15303 – New Construction or Conversion of Small Structures.

**State Appeal Status:** The project is NOT appealable to the California Coastal Commission.

**Major Issues:** None

**SETH BERLING**  
Case Number CUP 16-412  
Assessor's Parcel Number 033-271-004

**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 and 15303 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 Seth Berling Conditional Use Permit subject to the conditions of approval.*

**Executive Summary:** Seth Berling (applicant) is seeking a Conditional Use Permit for development and operation of a commercial cannabis retail nursery space in compliance with the County Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

"Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale, used specifically for the planting, propagation, and cultivation of medical cannabis. As the parcel's principal zoning is Community Commercial (C-2), the nursery must produce nursery stock for solely retail sale pursuant to Humboldt County Code Section 314-55.4.8.7. Wholesale nursery operations are permissible only in Agricultural General and Agricultural Exclusive zoning districts, and are not permitted in the C-2 zoning district.

The site is currently developed with the One Log House coffee shop, Thunder Mountain Trading Company, existing residences, several outbuildings, and improved parking spaces. Under separate permit applications and operators, multiple facilities related to cannabis activities are proposed. They include cultivation, a dispensary, a processing/manufacturing, and a distribution/transportation facility.

The applicant is proposing a nursery space with a total square footage of 4,750 square feet on the subject parcel. The nursery will occupy a portion of the first floor of an existing 10,000-square-foot commercial building currently used for retail.

The subject parcel is served by water from an existing well and on-site septic system. Access to the Project site is via US Highway 101. The proposed project site receives water from a permitted well. The estimated water usage for the nursery operation is approximately 7,500 gallons per month.

The hours of operation for the proposed project will be daily, year-round, from 7:00 a.m. to 7:00 p.m. The proposed nursery operation will have three to four employees, consisting of one manager and two to three employees. The nursery space consists of seven separate rooms/nursery-related activities:

- Clone room, 2,069 square feet
- Cutting room, 620 square feet
- Tissue culture room, 555 square feet
- Hardening room, 925 square feet
- Fulfillment room, 390 square feet
- Entrance, break room, bathroom, 191 square feet

The existing 10,000-square-foot building will include other cannabis-related activities. This includes Wonderland Nursery dispensary (CUP 16-064) that was approved by the Planning Commission on August 24, 2017.

The property's solid waste is serviced by Recology Humboldt County twice a week. Bins are in a covered area near the coffee shop.

All fertilizers, pesticides, nutrients, and other regulated products used in any cannabis-related areas will be stored in a dedicated hazmat storage area inside the workshop. The storage area will be clearly labeled and contain an up-to-date inventory of all hazardous materials stored and used on-site with a copy of this inventory provided to the Humboldt County Division of Environmental Health.

Security at the proposed project site will include CCTV with 24-hour interior and exterior video monitoring of the property. Nursery access doors have card-access scanners. A complete safety plan has been submitted.

The proposed project would be exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) and Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines.

#### *Staff Recommendation*

Staff recommends that the Planning Commission conduct a public hearing and receive public input on the project. If the Commission can make all required findings based on the evidence presented in the staff report, staff recommends that the Planning Commission approve the application subject to the recommended conditions.

**ALTERNATIVES:** The Planning Commission could elect not to approve the project, or require the applicant to submit further evidence or modify the project. These alternatives could be implemented if the Commission is unable to make all 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.

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

**Resolution Number 18-\_\_\_\_\_  
Case Number CUP 16-412  
Assessor's Parcel Number: 033-271-004**

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

**WHEREAS**, Seth Berling submitted an application and evidence in support of approving a Conditional Use Permit for the development and operation of a retail commercial cannabis nursery space inside an existing commercial building;

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

**WHEREAS**, the project is exempt from environmental review per Sections 15301(a) and 15303(c) of the CEQA Guidelines; and

**WHEREAS**, Attachment 2 in the Planning Division staff report includes evidence in support of making all the required findings for approving the proposed Conditional Use Permit (Case Number CUP 16-412); and

**WHEREAS**, a public hearing was held on the matter before the Humboldt County Planning Commission on January 18, 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) and 15303 (New Construction or Conversion of Small Structures) of the California Environmental Quality Act (CEQA) State Guidelines; and
2. The findings in Attachment 2 of the Planning Division staff report for Case Number CUP 16-412 support approval of the project based on the submitted evidence; and
3. Approves the Conditional Use Permit CUP-16-412 as recommended and conditioned in Attachment 1 for Case Number CUP 16-412.

Adopted after review and consideration of all the evidence on January 18, 2018.

The motion was made by Commissioner \_\_\_\_ and seconded by Commissioner \_\_\_\_.

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

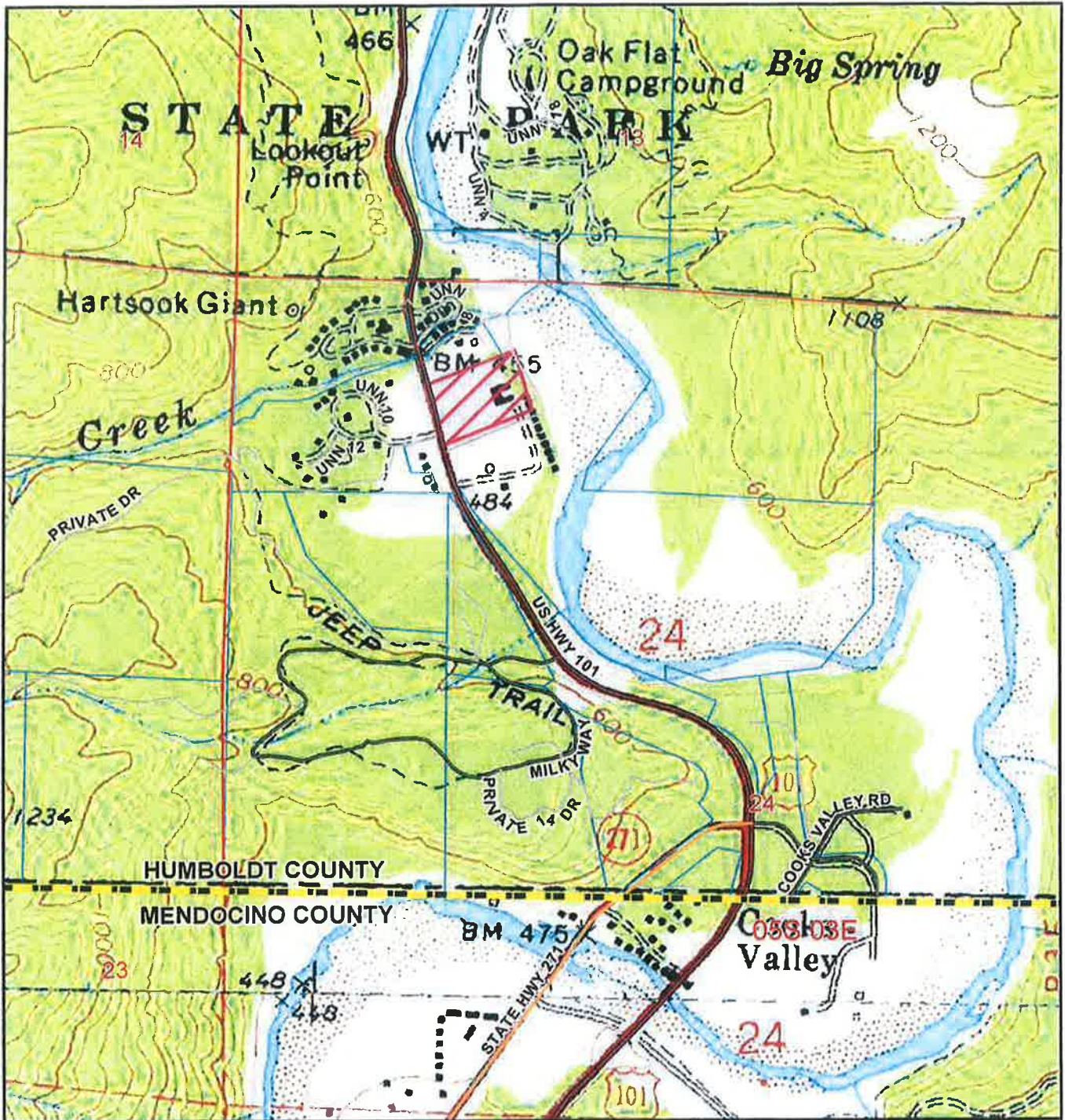
ABSENT: Commissioners:

DECISION: Motion carries

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 WONDERLAND NURSERY  
 CONDITIONAL USE PERMIT  
 GARBERVILLE AREA  
 CUP-16-864

APN: 033-271-004

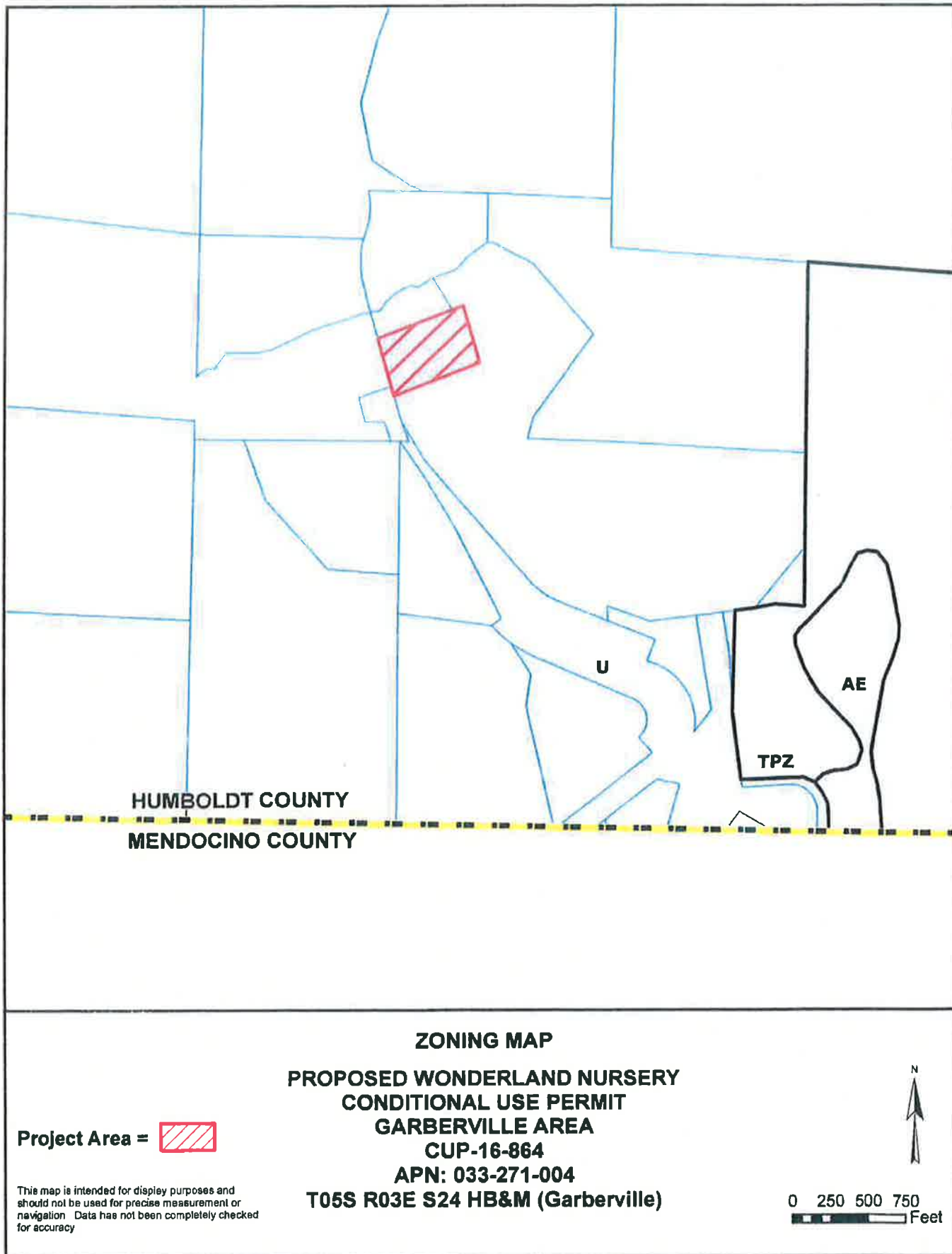
T05S R03E S24 HB&M (Garberville)

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.



0 250 500 750  
 Feet







Project Area =



**AERIAL MAP  
PROPOSED SETH BERLING  
GARBERVILLE AREA  
CUP-16-412  
APN: 033-271-004  
T05S R03E S24 HB&M (GARBERVILLE)**



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.

0 125 250 Feet





- 705 101 Properties LLC  
APN 033-271-04
- Property Boundary
  - Nursery Tenant (Type 4): CUP16-412
  - Mixed Light Cultivation Tenant (Type 2B): CUP16-410
  - Processing & Manufacturing Tenant (Type 6): SP16-330
  - Processing & Manufacturing Tenant (Type 6): SP16-335
  - Distribution & Transportation Tenant (Type 11 & 12): SP16-334
  - Dispensary (Type 10): CUP16-064
  - Well
  - Off-Site Residence



RF = 1:2,257 1 in = 188 ft

Sources: Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AE, X, GeoEye, AeroGRID, IGN, IGP, swisstopo, and the GIS User Community  
Esri, HERE, DeLorme, MapmyIndia, © OpenStreetMap contributors, and the GIS user community

## ArcGIS Web Map - Project



Humboldt County Planning and Building Department

Printed: September 14, 2016 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.



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REVISIONS

NO.	DESCRIPTION	DATE

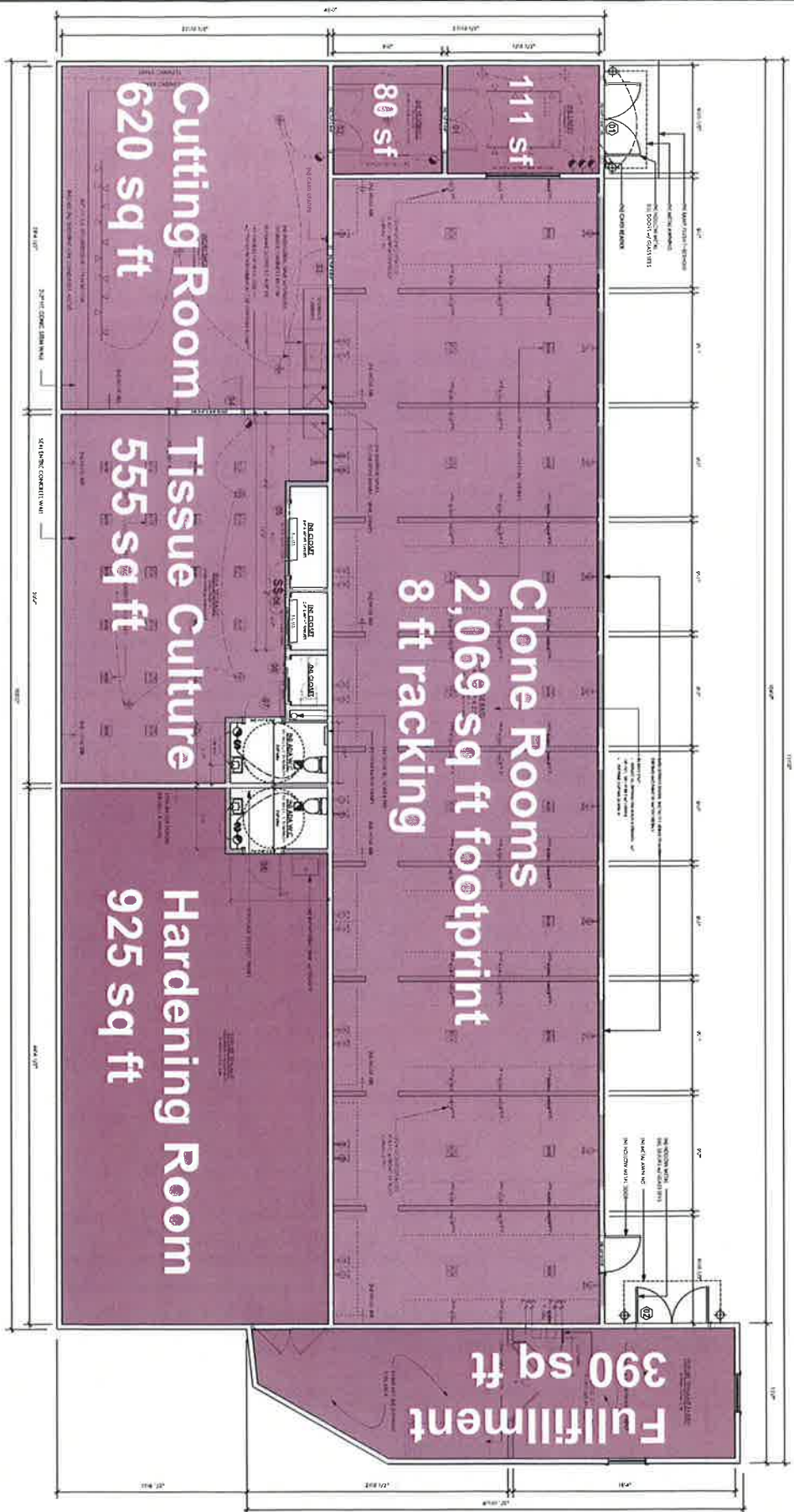
ISSUED FOR CONSTRUCTION

IN: LOWER FLOOR PLAN

SCALE: 1/4" = 1'-0"

DATE: 11/10/2016

A2.0



NURSERY AREA = 4,750 sq ft



**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 release of the Building Permit and initiation of operations.

**Section 1: Development Restrictions**

1. The applicant shall be 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.
2. The project shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project. Sign off on the Occupancy Permit by the Building Division shall satisfy this requirement.
3. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.
4. The applicant shall obtain all necessary Building Permits from the Building Inspection Division (BID) for all structures and grading related to cannabis cultivation and other commercial cannabis activity. The applicant/owner shall submit plans by a California-licensed engineer for the Building Permit. All building and plans submitted for approval shall be consistent with those approved by the Planning Commission.
5. The approved building plans shall address odor management by incorporating a ventilation/air filtration system that limits potential adverse odor emission impacts to employees and/or properties located in the vicinity. The system shall be designed, signed, and stamped by a mechanical engineer for review and approval by the Building Official.
6. The project shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project. Sign off on the Occupancy Permit by the Building Division shall satisfy this requirement.
7. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding any hazardous materials. A written verification of compliance shall be required before release of the Building Permit and initiation of operations. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
8. Provide a copy of the approved CalTrans encroachment permit that identifies the applicant or property title-holder as the owner responsible for the driveway connection encroachment per Letter from Caltrans dated August 16, 2017. Contact Caltrans District 1 for further information.
9. The applicant shall implement all monitoring and maintenance measures, standard conditions and best management practices detailed within the Water Resource Protection Plan 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. A letter or similar communication from the NCRWQCB verifying that all their requirements have been met will satisfy this condition.
10. Prior to initiating operation the applicant shall meet all of the requirements and obtain all necessary permits from the Division of Environmental Health and Regional Water Quality Control Board. The applicant shall submit written verification from that agency verifying this requirement has been met.

11. The applicant shall install traffic bollards or equivalent to protect the existing and reserved septic or remove road and proposal for use of septic area as a parking lot to the satisfaction of the Division of Environmental Health.
12. The applicant shall submit a copy of the Final Lake and Streambed Alteration Agreement (1600-2017-0372-R1) issued by the Department of Fish and Wildlife and comply with any forbearance requirements, as applicable. Adequate water storage shall be installed for water use for nursery operations during any required forbearance period.
13. If hydrologic connectivity is determined per the LSAA (COA #12 above), at least one water meter shall be installed on the water line providing irrigation flow to the nursery. The water meter shall have the capacity to measure at least 100,000 gallons of flow before resetting. The water meter shall be used to measure the amount of water provided to the cultivation area during the forbearance period. The meter shall be installed at a point on the water line that provides an accurate measurement of the water used for irrigation.
14. A revised site plan shall be submitted to the Planning and Building Department showing:
  - a. The location of 8 parking spaces for this use and conforming parking for all other proposed uses, and
  - b. A dedicated loading zone.
15. To demonstrate compliance with the Qualified Combining Zone development restrictions the applicant shall submit a landscape plan for approval by Planning and Building Department that shows that existing vegetation is retained to the maximum extent feasible, especially large trees and that visual buffering from Highway 101 is maintained at the site.
16. All signage shall comply with Section 314-87.2 of the Humboldt County Code, and shall be subject to review and approval by the Planning Director. Signage shall be compatible with surrounding uses and not distract from visitor serving uses in the area.
17. Applicant is to obtain enrollment in PG&E's Solar Choice Plan or other qualified carbon off-set program for any portion of power used for the indoor nursery operation not from renewable sources for the life of the project. Evidence of enrollment and energy use shall be maintained for inspection by County.

## **Section 2: Ongoing Requirements/Development Restrictions Which Must Be Satisfied for the Life of the Project**

1. The project shall be developed, operated, and maintained in accordance with the project description, the Operations Manual for Seth Berling (One Log Nursery), prepared and submitted by Seth Berling (One Log Nursery), and the approved project site plan and floor plan. Changes to the project, except for Minor Deviations to the Plot Plan as provided in Section 312-11.1 of Title III of the Humboldt County Code, shall require modification of this permit.
2. The project shall be operated and maintained as a retail nursery, and only produces clones, immature plants, seeds, and other agricultural products for retail sale used specifically for the planting, propagation, and cultivation of cannabis. Public access to the nursery proper shall be restricted to persons meeting the minimum age requirements for possessing cannabis under State law.
3. All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries.



4. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the Humboldt County Commercial Medical Marijuana Land Use Ordinance (CMMLUO), as may be amended from time to time, as applicable to the permit type.
5. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner.
6. The project operator shall possess 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.
7. The project operator shall possess a current, valid permit or license, issued by the Humboldt County Department of Health and Human Services–Environmental Health Division, as soon as such permits or licenses become available.
8. All persons hiring employees to engage in commercial cannabis nursery activities shall comply with the following employee safety practices:
  - A. Implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - 1) Emergency action response planning as necessary;
    - 2) Employee accident reporting and investigation policies;
    - 3) Fire prevention;
    - 4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - 5) Materials handling policies;
    - 6) Job hazard analyses; and
    - 7) Personal protective equipment policies, including respiratory protection.
  - B. Visibly post and maintain an emergency contact list which includes at a minimum:
    - 1) Operation manager contacts;
    - 2) Emergency responder contacts; and
    - 3) Poison control contacts.
  - C. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and the water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
9. Odors shall be contained on the property on which the cannabis activity is located. To implement this requirement, air filtration and ventilation equipment is to be maintained in good working condition and monitored on an ongoing basis to limit potential adverse odor emission impacts to employees and/or properties located in the vicinity of the operation. If the County receives any odor complaints, the permit holder shall work with the Building Official to correct odor concerns.
10. **Permit Duration.** The permit shall be valid for one year from the effective date of approval, and on the anniversary date of such effective each year thereafter, unless an annual compliance inspection has been completed and the permit has been found to comply with

all conditions of approval. In the event the inspection finds noncompliance, a written notification shall be provided to the permit holder identifying the items not in compliance and the action the permit holder may take to cure the noncompliance. Failure to cure the noncompliance shall result in termination of the permit. The process of notification, reinspection, and appeal of any noncompliance determination shall be as set forth in Sections 55.4.1.2.2 and 55.4.13 of the CMMLUO.

11. **Transfers.** Transfer of any leases or permits approved for 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 conformance with conditions 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.
12. **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.

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 shall be solely for medical purposes and all commercial cannabis products produced by me, my agents, or employees are intended to be consumed solely by qualified patients entitled to the protections of the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5); 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 California Medical Marijuana Regulation and Safety Act 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 California Medical Marijuana Regulation and Safety Act.
  - (4) The above acknowledgements shall also apply to commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use conducted in compliance with the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94) and the Adult Use of Marijuana Act (AUMA) (**Proposition 64**).
13. **Modifications to the Facility.** Prior to making any modifications to a permitted facility, the permittee shall submit to the Planning Director a request for determination of County approvals, together with the appropriate fee. The request shall contain a description

sufficiently detailed to allow the Planning Director to determine what permits and other approvals are needed and whether a modified permit is required.

14. **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 ensure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.
15. The project operator shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

**Informational Notes:**

1. This 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 building permits have been secured and/or the use initiated pursuant to the terms of the permit, the use is subject to the Permit Duration and Renewal provisions set forth in Condition of Approval #10 of the On-Going Requirements /Development Restrictions, above. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
2. 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 Section 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code Section 5097.98. Violators shall be prosecuted in accordance with Public Resources Code Section 5097.99.

**The applicant is ultimately responsible for ensuring compliance with this condition.**

3. 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.
4. 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** the following required findings.

The County Zoning Ordinance, Sections 312-1.1.2 (Legal Lot Requirement) and 312-17.1 of the Humboldt County Code (Required Findings for All Permits), specifies 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 is 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;  
(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.
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.

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



1. **General Plan Consistency.** The following table identifies the evidence which supports finding that the proposed project is in conformance with all applicable policies and development standards in the General Plan (GP).

Plan Section	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use Chapter 4  Land Use Designations Section 4.8	Commercial Recreation (CR): Primary and compatible uses include commercial recreation facilities and accommodations and recreation/tourist-oriented sales and services geared to local and visitor needs, including associated retail sales and service.	The project proposes use of 4,750 square feet of an existing 10,000-square-foot commercial building as a commercial medical cannabis nursery.  While the project area has a land use designation of CR, the zoning is community commercial (C-2). The CMMLOU specifies that retail nursery facilities are allowed with a Conditional Use Permit.
Circulation Chapter 7	Goals and policies 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).  Related policies: C-P3, Consideration of Transportation Impacts in Land Use Decision Making.	Access to the site is directly off a paved State maintained public road (US Highway 101).  A condition has been made to require a current encroachment permit from Caltrans.
Housing Chapter 8	Goals and policies in this chapter seek to identify existing and projected housing needs and establish goals, policies, standards and measures for the preservation, improvement, and development of housing.  Related policies: H-P3, Development of Properties in the Residential Land Inventory.	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 continuing the existing residential uses at the site. The project will not reduce the residential density for any parcel below that is utilized by the Department of Housing and Community Development in determining compliance with housing element law.

<p>Conservation and Open Space Chapter 10</p> <p>Open Space Section 10.2</p>	<p>Goals and policies in this chapter relate to an Open Space and Conservation Program that is complementary 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-P8, Development Review; CO-S1, Identification of Local Open Space Plan; and CO-S2, Identification of the Open Space Action Program.</p>	<p>The proposed project is not located within Open Space Land Plan.</p>
<p>Conservation and Open Space Chapter 10</p> <p>Biological Resources Section 10.3</p>	<p>Goals and policies 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, BR-G2, and BR-G3).</p> <p>Related policies: BR-P1, Compatible Land Uses; and BR-P5, Streamside Management Areas.</p>	<p>The project site is not in a streamside management area, wetland, or sensitive habitat area.</p>
<p>Conservation and Open Space Chapter 10</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and policies 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).</p> <p>Related policies: CU-P1, Identification and Protection; and CU-P2, Native American Tribal Consultation.</p>	<p>Minimal ground disturbance is associated with this project and the project is conditioned to include an inadvertent discovery protocol should the project encounter undocumented cultural resources.</p>

<p>Conservation and Open Space Chapter 10</p> <p>Scenic Resources Section 10.7</p>	<p>Goals and policies 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); and a system of scenic highways and roadways that increase the enjoyment of, and opportunities for, recreational and cultural pursuits and tourism in the county. (SR-G2)</p> <p>Related policies: SR-S4, Light and Glare.</p>	<p>The proposed project will not change the overall character of the site. The nursery will be located in the existing large commercial building along the frontage with Highway 101.</p> <p>The proposed project does require some lighting for security purposes. Lighting will be down-shielded and directed inward to minimize off site effects.</p>
<p>Water Resources Chapter 11</p> <p>Stormwater Drainage</p>	<p>Goals and policies in this chapter relate to coordinated watershed planning and land use decision making to advance management priorities (WR-G3, WR-G4, WR-G5); and 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-G8).</p>	<p>Water is supplied by a 7.5 gallon per minute permitted well. The well serving the project site has been found to be hydrologically connected to the South Fork Eel River. Receiving a Final Streambed Alteration Agreement from CDFW has been made a condition of approval. Use of the well for cultivation including nursery operations will require forbearance as specified in the LSAA or as provided in Section 314-55.4.11(i).</p> <p>No construction leading to additional stormwater runoff or off-site drainage is proposed.</p>
<p>Water Resources Chapter 11</p> <p>On-site Wastewater Systems</p>	<p>Goals and policies in this chapter relate to adequate public water supply as well as on-site 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-G10).</p> <p>Related policies: WR-IM7, Basin Plan Septic Requirements; and IS-P17, On-Site Sewage Disposal Requirements.</p>	<p>No public water supply serves The proposed project.</p> <p>The site is served by two existing septic systems. An engineer's letter has been provided indicating sufficient septic capacity for all existing and currently proposed uses on site.</p>

Noise Chapter 13	<p>Goals and policies 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 Noise from Stationary and Mobile Sources; and N-P4, Protection from Excessive Noise.</p>	<p>The subject parcel is not located in an area that requires special noise attenuation measures.</p> <p>The proposed nursery will not use electrical generators.</p>
Safety Element Chapter 14  Geologic & Seismic	<p>Goals and policies 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 man-made 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).</p> <p>Related policies: S-P11, Site Suitability; and S-P7, Structural Hazards.</p>	<p>The project site is not located in a mapped Alquist-Priolo fault zone nor is subject to liquefaction. The proposed facility occurs on slopes of 5% or less seismically classified moderate instability. Given the relatively flat site where they are located, the proposed new use is not expected to be affected by geologic instability. The project also does not pose a threat to public safety related from exposure to natural or man-made hazards.</p>
Safety Element Chapter 14  Flooding	<p>Goals and policies 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).</p> <p>Related policies: S-P12, Federal Flood Insurance Program; S-P13, Flood Plains; and S-P15, Construction Within Special Flood Hazard Areas.</p>	<p>According to the Flood Insurance Rate Map Panel No. 06045C0075F, the project site is located within an area of minimal flooding.</p>



<p>Safety Element Chapter 14</p> <p>Fire Hazards</p>	<p>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 dangers.</p> <p>Related policies: S-P19, Conformance with State Responsibility Areas (SRA) Fire Safe Regulations.</p>	<p>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. CAL FIRE comments recommended compliance with the requirements of the County's Fire Safe Regulations. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in state responsibility designated areas. This is a condition of approval.</p> <p>The project is conditioned to meet all applicable fire codes.</p>
<p>Air Quality Chapter 15</p>	<p>Goals and policies 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).</p> <p>Related policies: AQ-P4, Construction and Grading Dust Control; AQ-S1, Construction and Grading Dust Control; and AQ-P7, Interagency Coordination.</p>	<p>The nursery will replace an existing commercial use. The project is not expected to contribute in any considerable way to emission or cause emission levels inconsistent with state or federal requirements.</p>

**2. The proposed development is consistent with the purposes of the existing zone in which the site is located; and 3. The proposed development conforms with all 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	Summary of Applicable Requirement	Evidence
§314-2.2 Community Commercial  §314-32.1 Qualified	<p>The C-2 zone allows for commercial facilities that are of a light commercial character, conducted completely within an enclosed building.</p> <p>Ordinance No. 2568 applied a Qualified Combining Zone (Q Zone) to the property. The Q zone requires the following development restrictions: (a) Visual buffering to maintain or enhance views from Highway 101 of a vegetated corridor is to be provided with new development to the extent feasible. (b) Development projects will limit the loss of permeability on-site to the greatest extent feasible and retain as much existing vegetation as possible, especially large trees. (c) Off-site signs (that is, signs not appurtenant to a permitted use) are prohibited.</p> <p>The CMMLOU allows distribution in the C-2 zone with a Special Permit.</p>	<p>The proposed project is a Conditional Use Permit for a commercial medical cannabis nursery. The proposed commercial nursery is specifically allowed with a Conditional Use Permit in this zone district under Section 314-55.4.8.7 of the Humboldt County Code.</p> <p>The project will be compliant with the Q Zone development restrictions. The project will occur within an existing structure and there will be no significant change to the visual quality of the site and no new impervious surfaces will be added. No non-appurtenant signs are proposed.</p>
<b>Development Standards</b>		
Minimum Lot Area:	2,000 square feet	The subject parcel is approximately 239,144 square feet.
Max. Lot Coverage:	(None specified)	1.99% (proposed project). Additional development on the site also contributes to the lot coverage. However, no standard for lot coverage is specified.
Min. Yard Setbacks	Front: None Rear: 15 feet Side: None	Front: 85 feet Rear: Greater than 30 feet Side: Greater than 100 feet
Max. Building Height:	75 feet	Less than 75 feet

Zoning Section	Summary of Applicable Requirement	Evidence
§314-109.1.3.3: Industrial Uses (Off-Street Parking)	<u>Retail Sales or Service</u> : One space for every 300 square feet of gross floor area with a minimum of 4 spaces plus one space for each employee.	The proposed medical cannabis nursery is located in an existing 10,000-square-foot structure, of which 4,750 square feet will be occupied by the proposed project. However only 390 Square feet used for the fulfillment area will be accessible to the public. Based on the limited retail area, the requirement for a minimum of 4 spaces plus one for each employee will be applied. There will be 4 employees at peak shift. Therefore the nursery is required to provide 8 parking spaces. The site plan shows there are 34 parking spaces on site. One 10-foot x 60-foot loading space is provided.
§314-109.1.4: Loading Spaces Required	<u>Loading Spaces</u> : One (1) space for each 20,000 square feet of gross floor area or portion thereof.	

<b>314-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulations (CMMLUO)</b>		
§314-55.4.8.7 Nurseries	Nurseries producing commercial cannabis nursery products for retail sale shall be a permitted use in zoning districts C-2, C-3, MB, ML, U (where developed as industrial use), and MH, subject to a Use Permit.	As shown on the site plan, all of the nursery area is within the C-2 zoned area. The total proposed nursery area is 4,750 square feet.
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person.	According to records maintained by the Department, the applicant holds no other cannabis activity permits, has only applied for this CUP applicant, and is entitled to four.
§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.
§314-55.4.17 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 submitted the Use Permit application on December 14, 2016.

**4. Public Health, Safety, and Welfare:** The following table identifies the evidence which supports finding that the proposed location of the use 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 properties or improvements in the vicinity.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4 Conditional Use 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.	All responding referral agencies have either provided no comment or recommended conditional approval of the proposed use. The proposed commercial use is consistent with the type of development in the area. There is no evidence that the project will be materially injurious to properties or improvements in the vicinity.

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

Code Section	Summary of Applicable Requirements	Evidence that Supports the Required Finding
§312-17.1.5 Housing Element Densities	The proposed development shall not reduce the residential density for any parcel below that is utilized by the Department of Housing and Community Development in determining compliance with housing element law.	The parcel was not included in the 2014 Housing Inventory.

## 6. Environmental Impact

§15301 and §15303 of CEQA Guidelines	Categorically exempt from state environmental review.	The project has been determined to be exempt from CEQA pursuant to Section 15301 – Existing Facilities and Section 15303 –New Construction or Conversion of Small Structures of the Guidelines for the Implementation of CEQA. Section 15301 and 15303 exempts from environmental review the operation, repair maintenance, permitting, licensing, or minor alteration of existing private structures or facilities that involve negligible or no expansion of use. The proposed development will occupy 4,750 square feet of an existing structure. The project site is served by private water
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		and sewer. The proposed use in the existing building will not result in any significant adverse impact on the environment as the lot is approximately 239,144 square feet in size and the proposed use will occupy approximately 4,750 square feet.
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## **ATTACHMENT 3**

### **Applicant's Evidence in Support of the Required Findings**

Attachment 3 includes a listing of all written evidence that 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. If the nursery is within 600 feet of a school, school bus stop, church, other medical cannabis dispensary site, residential treatment facility, playground, public park, library, licensed day care facility, or any place where children congregate, 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. Of the described existing uses, only the bus stop lies within 600 feet of the nursery location. The Southern Humboldt Unified School District has granted a waiver from the 600-foot set back requirement for proximity to a bus stop (see Attachment 4). Based on this waiver the potential for significant impact has been adequately addressed. (Attached with maps)
4. An operations manual that includes each of the items listed in Section 314.55.4.11 of the Humboldt County Code. (Attached)
5. Copy of the statement of water diversion, or other permit, license, or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. (Not applicable)
6. Description of water source, storage, irrigation plan, and projected water usage. (On file)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2, or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (On file)
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 California Department of Fish and Wildlife. (On file)
9. If the source of water is a well, a copy of the County well permit, if available. (On file)

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 on-site inspection of the parcel by County officials at a 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. (Not applicable)
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)



## **Nursery Operations Plan – CUP16-412, #11851**

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

The proposed 4,750 sq ft first floor will be comprised of clone, tissue culture, hardening, fulfillment and cutting rooms within the existing commercial building:

- Propagation Areas within the existing storage unit area for a total of 3,690 ft<sup>2</sup> footprint
  - Each room is outfitted with four 8 ft vertical racks with 3-5 shelves depending on the size of each plant and current demand.
  - Each rack is mounted energy efficient LED lighting.
- Processing & Packaging Areas comprised of 1,010 ft<sup>2</sup>
- Remaining Common Areas for entrance and break rooms

The nursery will be open every day year-round from the hours of 7 AM to 7 PM and staffed by one manager and two to three employees. Cuttings will root in 10-20 days using light 18/6 light intervals.

The on-site source of water of the nursery is a 12.5 gallon per minute permitted well. The nursery is estimated to consume approximately 7,500 gallons of water per month. An NOI and MRP has been filed with NCRWQCB, an initial statement has been filed with SWR and a 1600 Notification has been sent to DFW.

The nursery restrooms and wash stations are located within the commercial building and will be connected to the existing on-site commercial septic system, which has a design loading rate of 600 gpd resulting in three 70 ft lines and an 1800 gallon septic tank. The property has a 30' x 70' 100% reserve area that has had soils profiles analyzed and tested and is available as needed. The parcel has minimal slopes (less than 1%).

The property solid waste is serviced by Humboldt Recology twice a week and the bins are located in a covered area near the coffee shop. All fertilizers, pesticides, nutrients and other regulated products used in any of the cannabis related areas will be stored within a dedicated Hazmat storage area inside the workshop. The storage area will be clearly labeled and contain an up-to-date inventory of all hazardous materials stored and used onsite with a copy of this inventory provided to the Humboldt County Division of Environmental Health.

All employees will be screened with a criminal background check and be required to read the Operations Manual along with the Facility Standard Operating Procedures. They will also be required to sign and date a form acknowledging they have read and understand its contents.

All nursery employees will be trained by the Manager on proper safety procedure. This training will include but not be limited to: fire safety, proper hand washing guidelines and an Emergency Procedures Plan in case of emergency. Contact information for the local fire department, CAL FIRE, Humboldt County Sheriff and Poison Control as well as the Agent in Charge, and the Manager will be posted in a conspicuous place. Applicant will also provide each Employee with a written copy of emergency procedures and contact information.

The applicant uses an Enterprise level point of sales and inventory system. All cuttings are entered as “product intake” whereby the inventory of those items increases in the inventory system. As sales are

recorded product inventory decreases. Inventory is counted twice monthly and adjustments made as needed. The applicant will utilize the County required track and trace system.

The nursery will be served will be served by a 1400A three phase PG&E service. A solar power system is currently under development.

## ATTACHMENT 4

### REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following referral agencies for review and comment. Those agencies that provided written comments are checked.

Referral Agency	Response	Recommendation	Location
Bear River Band of Rohnerville Rancheria	✓	With no ground disturbance, no concerns	On file with Planning
Building Inspection Division	✓	Conditional approval; building permits required for any new construction and/or remodeling	On file with Planning
Public Works Land Use	✓	Recommends that Caltrans review the project. Not a County road, therefore, no County requirements	On file with Planning
Division of Environmental Health	✓	Comments	On file with Planning
CA Dept. of Fish and Wildlife	✓	Conditional Approval – requires a Streambed Alteration Permit	On file with Planning
NWIC	✓	Referred to local tribes	
Caltrans District #1			
RWQCB			
District Attorney			
Ag Commissioner			
CA Division of Water Resources			
Intertribal Sinkyone Wilderness Council			
Cal Fire	✓	Standard comments	On file with Planning
NWIC	✓	Conditional approval	On file with Planning
Southern Humboldt Unified School District	✓	Waiver granted	Attached
Humboldt County Sheriff			