



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: March 1, 2018

To: Humboldt County Planning Commission

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

Subject: **Robert Trell Messenger** Conditional Use Permit and Special Permit
Application Number 11908
Case Numbers CUP 16-442/SP-18-028
Assessor's Parcel Numbers (APN) 221-211-014 & 221-221-032
3405 Ettersburg Honeydew Rd, Ettersburg Area

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Please contact Keenan Hilton, Planner, at 707-445-7541 or by email at khilton@co.humboldt.ca.us if you have any questions about the scheduled item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
March 1, 2018	Conditional Use Permit and Special Permit	Keenan Hilton, Planner

Project Description: Robert Trell Messenger is seeking a Conditional Use Permit (CUP) for an existing 20,500 square foot (sf) outdoor commercial cannabis cultivation, and a Special Permit for development within a Streamside Management Area, consisting of the continued use of an existing water diversion, located on Assessor's Parcel Numbers (APNs) 221-211-014 & 221-221-032 which is approximately 46 acres in size. All water used for cultivation of cannabis is sourced on-site from a permitted diversion (1600-2016-0125-R1). Water is stored in 19 hard tanks (95,000 gallons), with 4 additional tanks proposed (20,000 gallons) for a total of 115,000 gallons of water storage capacity. The Applicant estimates 106,500 gallons of water use annually for cultivation. Irrigation is accomplished by use of drip lines. Occasional hand watering may be employed if needed. Per the Streambed Alteration Agreement, the Applicant has installed a water meter to document compliance with forbearance requirements. All cultivation activities will be performed by resident operators between March and November, with one harvest occurring in October. The Applicant proposes on-site processing, but until all necessary testing and permitting has occurred processing will be performed by an off-site licensed 3rd party. The property is also developed with an existing single-family residence served by the same on-site water diversion (the LSAA allows 300 gallons per day during the forbearance period for domestic use), and an on-site septic sewage disposal systems. Pacific Gas and Electric (PG&E) is the primary source of power for the parcel.

Project Location: The project is located in Humboldt County, in the Ettersburg area, on the east side of Ettersburg-Honeydew Road, approximately 1,940 feet from the intersection of Goodman Ranch Road and Ettersburg-Honeydew Road, on the property known as 3405 Ettersburg Honeydew Road.

Present Plan Land Use Designations: Residential Agriculture (RA40), Humboldt County General Plan (GP), Density: 40 acres per dwelling unit, Slope Stability: Moderate Instability (2)

Present Zoning: Unclassified (U)

Case Number: CUP16-442, SP18-028

Application Number: 11908

Assessor Parcel Number: 221-211-014 & 221-221-032

Applicant

Robert Trell Messenger
P.O Box 815
Redway, CA 95560

Owner

Robert Trell Messenger
P.O Box 815
Redway, CA 95560

Agent

Timberland Resource Consultants
165 S. Fortuna Blvd.
Fortuna, CA 95540

Environmental Review: The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Exemption Section: 15301 (Existing Facilities), and 15333 (Small Habitat Restoration Projects) 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 Issues: None

ROBERT TRELL MESSENGER

Case Number CUP16-442/SP18-028

Assessor's Parcel Number 221-221-032 & 221-211-014

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 15333 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit and Special Permit based on evidence in the staff report and any public testimony, and adopt the Resolution approving the proposed Robert Trell Messenger project subject to the recommended conditions.

Executive Summary: Robert Trell Messenger Commercial Cannabis Cultivation Project (Project) seeks approval of a Conditional Use Permit (CUP) in compliance with the County Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and a Special Permit (SP) for development within a Streamside Management Area. The CUP would allow for the continuation of an existing, full-term sunlight outdoor commercial medical cannabis cultivation operation located on one legal parcel comprised of two Assessor's Parcels 221-211-014 & 221-221-032, which is approximately 46 acres in size. The approximately 46-acre property used for cultivation activity is zoned U. The CMMLUO identifies U-zoned parcels 5 acres or larger as sites where existing cannabis cultivation activities could be allowed. Outdoor cultivation up to 43,560 sf is allowed subject to the issuance of a CUP. The SP would be an after-the-fact permit of the existing surface water diversion initiated in 1999, now authorized as a permitted point of diversion by CDFW, which is used as a source of irrigation water for the subject parcel. The project has been conditioned on providing evidence of a permit for water rights for this diversion from the State Water Quality Control Board.

Historic cannabis cultivation has occurred in a clearing in the southwest corner of the approximately 46-acre parcel as shown on the plot plan. Cultivation approval under this CUP calls for cultivation contained within the historic footprint. The Applicant proposes on-site processing, but until all necessary testing and permitting has occurred, processing will be performed off-site by a licensed 3rd party. The Applicant will participate in the Track and Trace program.

There are six structures on the property: a 4,000 sf residence constructed in 1982, a metal shop constructed in 2004, a carport, a shed, a playhouse, and a chicken coop. Normal day to day operations are carried out by individuals residing on the subject parcel. After all necessary testing and permitting has occurred, processing operations will be conducted such that all surfaces, equipment, and utensils which come into contact with harvested product are maintained in a clean, sanitary condition at all times, consistent with the performance standards of the cannabis ordinance.

Water for irrigation and domestic use is provided by a surface diversion approved by the California Department of Fish and Wildlife on July 11, 2016 (1600-2016-0125-R1) from a Class II watercourse which is an unnamed tributary to Blue Slide Creek, which is a tributary to the Mattole River. There are no stream crossings on the property. Water storage consists of nineteen (19) 5,000 gallons existing hard-walled tanks. The Applicant proposes to add four (4) additional tanks to enable the operation to bring total storage capacity to 115,000 gallons in order to comply with the

forbearance period. The anticipated annual water use is 106,500 gallons. Irrigation demands will peak in August when the Applicant estimates 31,000 gallons will be used for irrigation. The Applicant has enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Cannabis Waste Discharge Regulatory Program as a Tier 2 discharger (WDID# 1B161213CHUM). There is one Class II watercourse with five branches on the subject property. The cultivation area is approximately 300 feet from the nearest branch.

Irrigation is accomplished by use of drip lines. The flow to drip lines is regulated by timers and adjusted for maximum efficiency taking into consideration temperature, plant demand, etc. Water delivery throughout the system is monitored on a regular basis to ensure proper function and water use. Mulch is placed as a top dressing to optimize soil water retention. Occasional hand watering may be employed if needed. Irrigation runoff from cultivation operation is minimized by use of a drip irrigation system which prevents overwatering or residual discharge of nutrient solutions outside of the targeted root zone.

The Applicant has prepared a Water Resource Protection Plan (WRPP) that is required for Tier 2 enrollment in the NCRWQCB Cannabis Waste Discharge Regulatory Program. The WRPP prepared by Timberland Resource Consultants, outlines how the Applicant will come into compliance with existing regulations. Specifically, the WRPP outlines how the Applicant must develop and new plan for spoils management, and increase water storage capacity.

The Applicant does not propose the use of pesticides or herbicides. The Applicant lists all fertilizers and amendments in the Cultivation and Operations Plan. Soil is managed, re-furbished and reused. All compostable materials will be stored in a small area equipped with perimeter and top containment to prevent movement. All materials unsuitable for composting are stored in trash containers with domestic garbage on site. Waste is hauled to Redway Transfer Station as needed.

Electrical power is supplied to the subject parcel by Pacific Gas & Electric. No generators are used for the cannabis cultivation or processing.

The materials submitted with the application include a Security Plan that describes that access to the parcel is restricted by a locked metal gate at the driveway entrance. The gate is kept locked at all times. Also, the property owner/occupants are normally present on the parcel.

There are no schools, school bus stops, places of worship, public parks or Tribal Cultural Resources within 600 feet of the cultivation or processing areas. The project was referred to the Bear River Band Tribal Historic Preservation Officer, who determined that this site does not require preparation of a cultural resources survey.

The Department of Public Works is requiring improvements to the driveway apron as noted in the Conditions of Approval and the Public Works Memo included within Attachment 4.

Environmental review for this Project was conducted and based on the results of that analysis, staff believes the existing cultivation operation can be considered to be "Existing Facilities" as defined by Section 15301 of the California Environmental Quality Act (CEQA) Guidelines because it consists of "the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Additionally, staff believes the development of the point of water diversion and any remedial actions within the Streamside Management Area can be considered "Small Habitat Restoration" as defined by Section 15333 of the CEQA Guidelines because it consists of a project

not exceeding five acres in size to "assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife."

There is no substantial evidence of potentially significant adverse environmental effects resulting from the permitting of a recognized legal agricultural use (commercial cultivation of marijuana) on property zoned U, with slopes less than 15%, along with a permitted source of irrigation water.

Based on the on-site inspection, 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 CUP.

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to 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 two 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 16-442/SP 18-028
Assessor's Parcel Number: 221-211-014 & 221-221-032**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Robert Trell Messenger Conditional Use Permit and Special Permit request.

WHEREAS, Robert Trell Messenger submitted an application and evidence in support of approving a Conditional Use Permit to permit an existing 20,500 square foot existing outdoor commercial cultivation area and a Special Permit for a water diversion for agricultural purposes within a Streamside Management Area; 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 project is exempt from environmental review per Sections 15301 (Existing Facilities) and 15333 (Small Habitat Restoration Projects) of the California Environmental Quality Act (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 and Special Permit (CUP 16-442/SP18-028); and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on March 1, 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 15333 (Small Habitat Restoration Projects) of the CEQA State Guidelines; and
2. The findings in Attachment 2 of the Planning Division staff report support approval of Case Number CUP 16-442/SP18-028 based on the submitted evidence; and
3. Approves the Conditional Use Permit and Special Permit as recommended and conditioned in Attachment 1 for Case Number CUP 16-442/SP18-028.

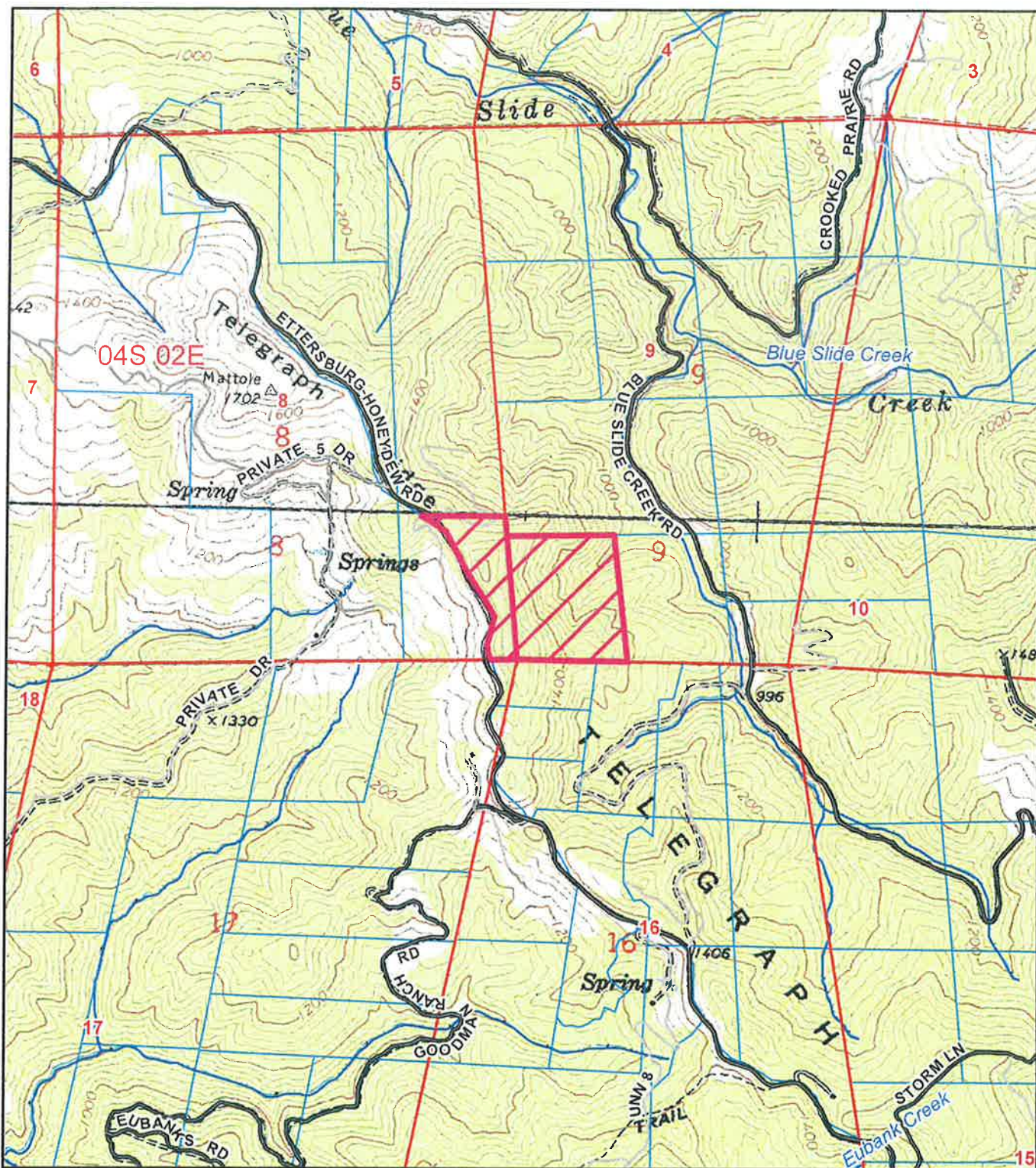
Adopted after review and consideration of all the evidence on March 1, 2018.

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



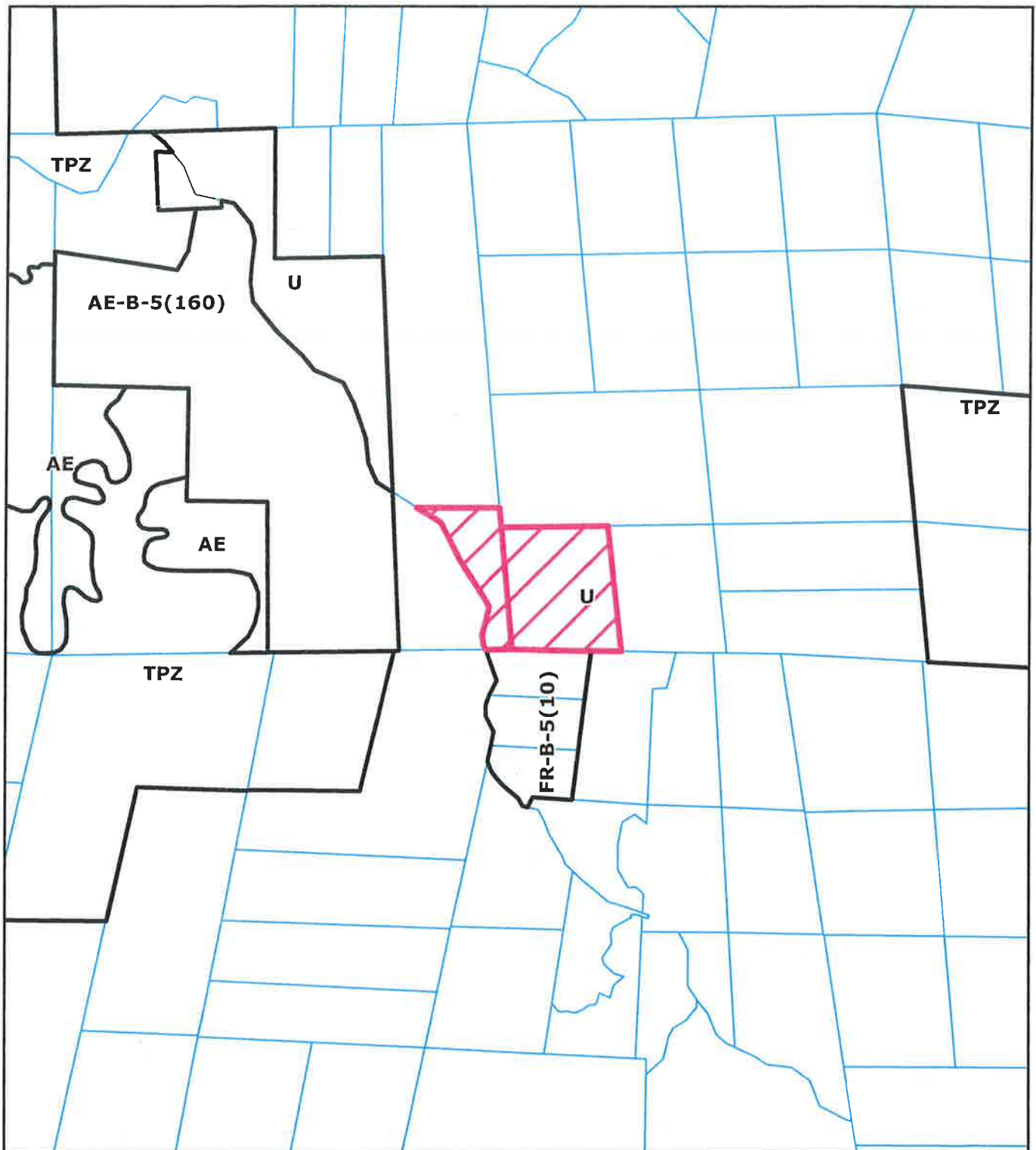
Project Area = 

TOPO MAP
PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-442
APN: 221-221-032; 221-211-014
T04S R02E S9; S8 HB&M (BRICELAND)



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 1,000 2,000 Feet



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.

ZONING MAP
PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-442
APN: 221-221-032; 221-211-014
T04S R02E S9; S8 HB&M (BRICELAND)

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Feet



**AERIAL MAP
PROPOSED ROBERT TRELL MESSENGER
ETTERSBURG AREA
CUP-16-442**

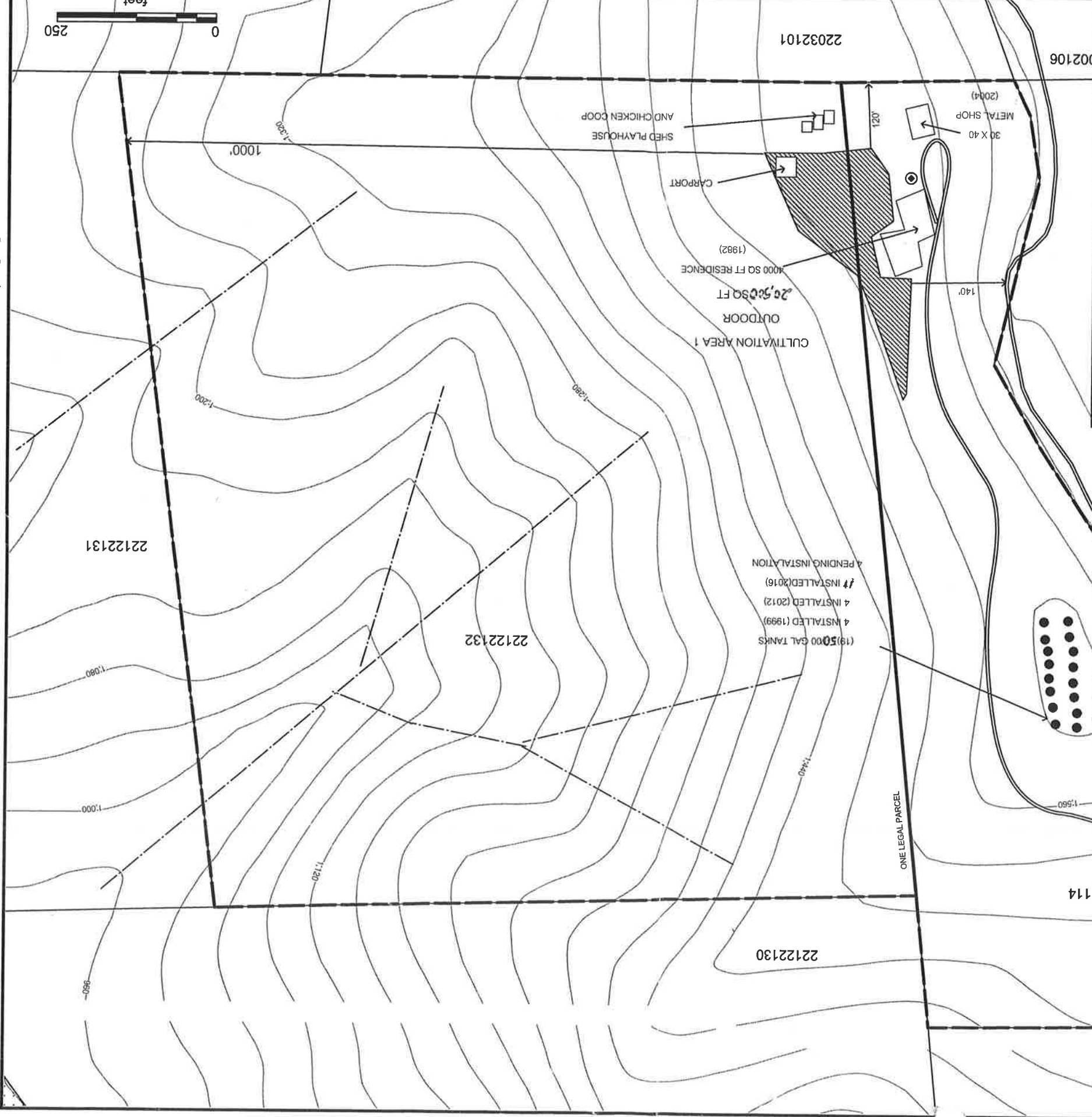
**APN: 221-221-032; 221-211-014
T04S R02E S9; S8 HB&M (BRICELAND)**

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 1,000 2,000 Feet





- CULTIVATION AREA
- PROPERTY BOUNDARY
- EXISTING STRUCTURES
- GATE
- WATER COURSE
- PROANE TANK
- WATER STORAGE TANK



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 permit 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. The plans submitted for building permit approval shall be consistent with the project description and an approved project site plan. 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. Processing must occur at a licensed third party facility until the Applicant has secured all necessary testing and permitting from the County's Division of Environmental Health (DEH) and Building Department for processing to occur on-site. The applicant must identify the location of the licensed off-site processing facility chosen for product processing.
4. The point of water diversion from an existing unnamed Class II watercourse is within the Streamside Management Area. The area is to be restored to reflect the surrounding area and remedial planting shall be undertaken as necessary as determined by CDFW. A letter or similar communication from CDFW will satisfy this condition
5. The applicant shall complete and implement all corrective actions detailed in the Water Resource Protection Plan developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board's (RWQCB) Cannabis Waste Discharge Regulatory Program, including those measures later determined necessary during annual and periodic site inspections in accordance with the monitoring element. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the NCRWQCB. A letter or similar communication from the NCRWQCB or the Third Party Consultant verifying that all the requirements in the MRP have been met will satisfy this condition. [After July 31, 2019, plans and reporting shall conform to the Cannabis Cultivation Policy and Cannabis General Order adopted October 17, 2017 by the State Water Board.].
6. A revised site plan shall be submitted to the Planning and Building Department showing:
 - a) The proposed location of on-site processing
 - b) The point of surface water diversion
7. The Applicant shall provide DEH with copies of receipts showing use of portable toilets sufficient to meet the sanitation needs of the cultivation staff at the site until the Applicant has installed a permitted septic system(s). At least one of the portable toilets shall be handicap accessible.
8. Any conditions of the Division of Environmental Health, once received, shall be completed or secured to the satisfaction of that department. A letter or similar communication from the

Department of Environmental Health verifying that all their requirements have been met will satisfy this condition.

9. The Applicant shall submit an Encroachment Permit Application to the Public Works Department (DPW) and complete the driveway apron improvements as required by DPW.
10. The Applicant shall develop a Fire Safety Operation Procedure and Training for the permit operators. The document shall be submitted to the Telegraph Ridge Fire Protection District for review. A letter from the District indicating compliance with all District standards will satisfy this condition.
11. The applicant shall obtain an appropriative water right for the water diversion from the State Water Resources Control Board for water storage related to irrigation uses. A copy of this water right from the SWRCB will satisfy this condition.
12. The Applicant shall submit an irrigation log based on the record of the water meter for two years.
13. The Applicant shall meet all the required site cleanup, and Best Management Practices (BMPs) stated in the WRPP. The WRPP shall demonstrate consistency with section §314-61.1 (Streamside Management Area Ordinance) of the County Code and section BR-S5 of the Humboldt County General Plan (Streamside Management Areas Defined).
14. If applicable, the Applicant shall secure permits from the North Coast Unified Air Quality Management District. A letter or similar communication from the North Coast Air Quality Management District verifying that all their requirements have been met and/or no additional permitting is required will satisfy this condition.
15. 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.
16. 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.
17. 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.
18. 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.

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.
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, Public Park, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11 (d).
7. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 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 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.
9. 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).
10. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
11. Pay all applicable application, review for conformance with conditions and annual inspection fees.
12. Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation, permittee shall either: 1) forebear from any such diversion during the period from May 15th to October 31st of each year (or whatever is dictated in the final LSAA, whichever is more stringent) and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) comply with the approved water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) adhere to the NCRWQCB approved Water Resources Protection Plan or other clearance issued by the agency. If the method of compliance changes during the term of the Conditional Use Permits, permittee shall notify the Planning and Building Department and furnish appropriate documentation of compliance with this standard.

13. 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.
14. The Master Log Books maintained by the Applicant to track production and sales shall be maintained for inspection by the County.
15. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
16. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner, when available.

Performance Standards for Cultivation and Processing Operations

17. Pursuant to the MRRSA, 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."
18. 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).
19. 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.
20. 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;
 - 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; and

- IV. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

23. All cultivators shall comply with an 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; and
- IX.On-site housing, if any.

24. Permit Duration. Any Commercial Cannabis Cultivation issued pursuant to this section 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, lessees, 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, lessees, or site do not comply with the conditions of approval, the inspector shall serve the CUP or 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 Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to section 55.4.13.

25. 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 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:

- I. Identifying information for the new Owner(s) and management as required in an initial permit application;
- II. A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
- III. The specific date on which the transfer is to occur; and
- IV. Acknowledgement of full responsibility for complying with the existing Permit; and
- V. 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 #24 of the On-Going Requirements/Development Restrictions, above.
3. The project site is not located within an area where known archaeological sites have been identified. However, as there exists the possibility that undiscovered archaeological resources may be encountered during construction activities, the following post-review, inadvertent archaeological discovery measures are required under state and federal laws:

If archaeological resources are encountered, all ground disturbing work at the find location plus a reasonable buffer zone must be immediately suspended, the approving County department contacted, and a qualified professional archaeologist retained to analyze the significance of the find and formulate further mitigation (e.g., project relocation, excavation plan, and protective cover) in consultation with culturally affiliated tribes or other descendent groups, where applicable. Resources may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials.

Pursuant to California Health and Safety Code §7050.5, if known or suspected Native American or other human remains are encountered, all ground-disturbing work must cease in the vicinity of the discovery, and the County Coroner contacted at (707) 445-7542. The respectful treatment and disposition of remains and associated grave offerings shall be in accordance with PRC §5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

The Applicant and successors in interest are ultimately responsible for ensuring compliance with this condition.

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 and Special 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.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Land Use Chapter 4 Land Use Designations 4.8	Residential Agriculture (RA): Large lot residential units that typically rely upon on-site water and wastewater systems. Varying densities are reflective of land capabilities and/or compatibility issues. RA40 designations are applied to more remote, steep and high hazards areas or where appropriate to ensure compatibility with adjacent resource production and open space uses. Density is 40 acres/unit	The project entails the cultivation of 20,500 sf of existing outdoor cannabis on an approximately 46-acre parcel. This project is compatible with the land use objectives for a parcel designated as RA. 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 areas is considered an agricultural use, and the processing facility and supportive infrastructure may be considered accessory to the agricultural use.
Circulation Chapter 7	Goals and policies contained in this Chapter relate to a 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 of Ettersburg Honeydew Road which is a county-maintained road. Conditions of approval require that the Applicant make necessary improvements to the driveway apron to meet County visibility ordinance and encroachment permit ordinance standards, as requested by the Public Works Department. A copy of the DPW referral is included within Attachment 4 of this report.

Housing Chapter 8	<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</p>	<p>The project does not involve residential development, nor is the project site part of the Housing element Residential Land Inventory. In addition, 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-P12, 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 the Open Space Action Program because the project site is designated as Residential Agriculture (RA). Residential Agriculture is not a land use designation intended to implement the open space plan.</p>
<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 Biological Resource maps of the General Plan do not identify any sensitive or critical habitat areas on the subject parcel.</p> <p>The approximately 46-acre parcel has various Class III watercourses that are tributary to the Mattole River. The current cannabis cultivation areas are located beyond the 50-foot setback requirement for Class III watercourses.</p> <p>This project includes a Special Permit for development of the stream diversion within a Streamside Management Area. Staff believes the Special Permit may be approved based on the issuance of a LSAA issued to the applicant by CDFW. The project is conditioned to restore any vegetation disturbed during the development of the diversion and water supply piping.</p>

		<p>Water for outdoor cultivation areas is diverted from an on-site diversion from an on-site, unnamed Class III watercourse. The Applicant's usage from April to October is approximately 106,500 gallons. CDFW has not provided comments on the water usage.</p> <p>The Applicant has an approved 1600 agreement with the CDFW dictating the terms of use of an unnamed Class III watercourse on the subject property. The forbearance period stipulated by the agreement ensures that no diversion for cultivation will take place during the critical period between May 15 and October 15. In addition to meeting the needs of the outdoor cultivation, the diversion also provides water for domestic use. The Applicant is permitted to withdraw no more than 300 gallons per day between May 15 and October 15 for domestic use.</p> <p>The Project site falls within Tier 2 of the NCRWQCB's Order No. 2015-0023 (Order), which requires preparation of a WRPP to protect water quality from cannabis cultivation and related activities. The Applicant retained Timberland Resource Consultants for the preparation of a WRPP. Any identified corrective actions and BMPs in the WRPP are included as conditions of approval.</p>
<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 project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. While the NWIC recommended that a Cultural Resource Study be performed, the Bear River Band requested only that standard inadvertent discovery language be added as a condition of project approval. As the Tribal Historic Preservation Officer (THPO) of the Bear River Band of the Rohnerville Rancheria is the authority on likely presence of cultural resources, inadvertent discovery language has been incorporated as an ongoing condition of approval.</p>

<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); and 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)</p> <p>Related policies: SR-S4. Light and Glare.</p>	<p>The project involves the cultivation of approximately 20,500 sf of existing full term sunlight outdoor cultivation on an approximately 46 acre parcel. As outdoor cultivation does not include the use of artificial light the project will not create new sources of light and/or glare. The project site is not located in an area of scenic value according the General Plan.</p>
<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 de-listing 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)</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 (NCRWQCB) 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. The Applicant retained Timberland Resource Consultants for the preparation of the WRPP. The WRPP has been prepared to describe and address the required elements and compliance with the 12 Standard Conditions established by the Order. Spoils management and water storage were identified as not meeting standard conditions of compliance. The Applicant must address these issues as a condition of project approval.</p>

<p>Water Resources Chapter 11</p> <p>On-site Wastewater Systems</p>	<p>Goals and policies contained 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>The Project site falls within Tier 2 of the North Coast Regional Water Quality Control Board's (NCRWQCB) 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. A Condition of Approval requiring that the Applicant is in compliance with the NCRWQB's requirements of a Tier 2 discharger has been added.</p> <p>The slope of the cultivation area is less than 15 percent. Irrigation runoff from cultivation is minimized by use of a drip irrigation system which prevents overwatering or residual discharge of nutrient solutions outside of the targeted root zone. In the unlikely event that residual discharge did occur, it would be absorbed upon contact with permeable soil surrounding the cultivation area. Cultivation activities are limited to the immediate area surrounding the cultivation area and conducted so materials are kept confined. The ground surface within and around the cultivation area is formed and managed year-round to prevent any movement of entrained constituents such as fine sediment, fertilizer, or other organic particles beyond the cultivation area.</p> <p>The Applicant has a signed Streambed Alteration Agreement with the CDFW for diversion from an on-site Class II stream with a forbearance period from May 15 the October 15.</p> <p>Compliance with future input from the Division of Environmental Health is a condition of project approval.</p>
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Noise Chapter 13	<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 Noise from Stationary and Mobile Sources; N-P4, Protection from Excessive Noise.</p>	<p>The subject parcel is not located in an area that requires special noise attenuation measures to protect adjacent communities.</p> <p>The Applicant proposes that all power used for the project will be provided by PG&E; no generators will be used.</p>
Safety Element Chapter 14 Geologic & Seismic	<p>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)</p> <p>Related policies: S-P11. Site Suitability, 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 existing cultivation area occurs on slopes of 15% or less and is seismically classified moderate instability. The cultivation site is located in an area with a high fire rating. The project does not pose a threat to public safety related from exposure to natural or manmade hazards.</p>
Safety Element Chapter 14 Flooding	<p>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)</p> <p>Related policies include: S-P12, Federal Flood Insurance Program; S-P13, Flood Plains; S-P15, Construction Within Special Flood Hazard Areas.</p>	<p>The subject site is outside any mapped flood hazard areas. The project site is not within a mapped dam or levee inundation area and, at approximately 7 miles distance from the coast, is outside the areas subject to tsunami hazards.</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.</p> <p>Related policies: S-P19, Conformance with State Responsibility Areas (SRA) Fire Safe Regulations.</p>	<p>The parcel is in an area of High Fire Hazard rating and within the State Responsibility Area.</p> <p>The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in state responsibility designated areas.</p> <p>The Telegraph Ridge Fire Protection District requested that the Applicant develop a Fire Safety Operation Procedure and Training for the operators of the permit.</p>
<p>Air Quality Chapter 15</p>	<p>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)</p> <p>Related policies: AQ-P4, Construction and Grading Dust Control, AQ-S1. Construction and Grading Dust Control, AQ-P7. Interagency Coordination.</p>	<p>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.</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
§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.	The parcel of land known as APNs 221-211-014 & 221-221-032 is Parcel 3 of Parcel Map 1947 recorded on Book 17 of parcel Maps, Page 42-43. There is no evidence indicating there have been any subsequent acts to merge or divide this parcel. Therefore, the subject parcel was lawfully created in its current configuration and can be developed as proposed.

Zoning Section	Summary of Applicable Requirement	Evidence
§314-8.1 Unclassified (U)	<p>All of the unincorporated area of Humboldt County not otherwise zoned is designated as Unclassified or U Zone. This area has not been sufficiently studied to justify precise zoning classifications.</p> <p>Principal permitted uses for the unclassified zone includes one-family dwelling, general agriculture, rooming and boarding of not more than two (2) persons, and manufactured home.</p>	<p>The subject parcel is zoned U.</p> <p>The project is for the cultivation of outdoor commercial medical cannabis. Commercial medical cannabis cultivation is recognized under State law as an agricultural product. Based on the referenced principally permitted use, a finding of consistency with the U zoning district can be made for the project.</p>
Minimum Lot Area:	6,000 square feet	The subject parcel is approximately 46 acres according to a county measure performed in the WebGIS application.
Max. Lot Coverage:	40 percent	The subject parcel is covered by substantially less than 40 percent according to a county measure performed in the WebGIS application.
Minimum Lot Width	50 feet	Per a county measure using the Humboldt County WebGIS Application the maximum lot width is approximately 1,270 feet.
Maximum Lot Depth	Three (3) times the width	Per a county measure using the Humboldt County WebGIS Application the maximum lot depth is approximately 2,250 feet.
Min. Yard Setbacks	Front: 20 feet Rear: 10 feet Side: 5 feet	Minimum setbacks for all cultivation areas are equal to or greater than 20 feet as indicated on the Applicant-provided plot plan.
Max. Building Height:	None Specified	N/A
§314-61.1: Streamside Management Area Ordinance:	Provides minimum standards pertaining to the use and development of land located within SMAs	<p>There are five (5) Class II & Class III branches of a watercourse on the property, all of which are unnamed tributaries to Blue Slide Creek, which is a tributary to Mattole River. Per the Site Plan provided by the Applicant the nearest branch is approximately 300 feet from the cultivation area.</p> <p>The on-site diversion began in 1999 and is subject to the Streamside Management Area Ordinance. The diversion complies with the terms of the Streambed Alteration</p>

Zoning Section	Summary of Applicable Requirement	Evidence
		<p>Agreement between the Applicant and the CDFW.</p> <p>As a condition of project approval the Applicant will perform any required remedial actions within the SMA to the satisfaction of CDFW.</p> <p>The applicant will be required to submit a copy of an appropriative water right from the State Water Resources Control Board allowing the use of this water for storage and irrigation use.</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 Existing Outdoor Cultivation and Mixed Light Areas	On...U parcels of 1 acre or larger, outdoor cultivation may be permitted with a Use Permit.	In accordance with the referenced section the Applicant has applied for the necessary CUP due to the cannabis cultivation being 20,500 sf in size on an approximately 46-acre parcel.
§314-55.4.8.2.2 Criteria for approval of existing outdoor and mix-light cultivation areas:	Slopes less than 15 percent	Per Humboldt County Web GIS Application, the slopes of the cannabis cultivation area do not exceed 15 percent.
	With documented current water right or other non-diversionary source of irrigation water.	All water used for cultivation of cannabis is sourced on-site from a permitted diversion (1600-2016-0125-R1). Water is stored in 19 hard tanks (95,000 gallons), with 4 additional tanks proposed (20,000 gallons) for a total of 115,000 gallons of water storage capacity. The Applicant estimates 106,500 gallons of water use annually for cultivation. Irrigation is accomplished by use of drip lines. Occasional hand watering may be employed if needed. Per the Streambed Alteration Agreement, the Applicant has installed a water meter to document compliance with forbearance requirements.

Zoning Section	Summary of Applicable Requirement	Evidence
§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.	A review of imagery available on WebGIS offers no evidence of unpermitted timber clearance.
§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 is currently the listed operator of three permit applications.
§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.	Processing, including drying and trimming, is proposed to occur in the existing shop/barn on-site. However, a condition of approval has been added requiring that all processing occur at an offsite, licensed third party facility until the applicant obtains all necessary testing and permitting for on-site processing.
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 existing cultivation site, APNs 221-211-014 & 221-221-032, was filed with the Planning Division on August 22, 2016. The submittal has been filed along with all other application materials, and is considered as meeting this standard.
§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--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.	<p>Water is sourced from a permitted surface water diversion to serve both the cultivation site and the existing residence. Based on the submitted evidence, the project complies with the referenced section.</p> <p>As a condition of approval, the applicant will be required to present a copy of an appropriate water right for the diversion secured through the State Water Resources Control Board.</p>

Zoning Section	Summary of Applicable Requirement	Evidence
§314-55.4.11.d Performance Standards-Setbacks	The area of cannabis cultivation and on-site processing shall be setback at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, public park, or tribal cultural resources (TCRs).	The applicant's site plan shows that the cultivation is setback at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, public park, or tribal cultural resources (TCRs).
§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. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service	As discussed above the primary power source for the project site is conventional grid power supplied by Pacific Gas and Electric. No generators will be used as part of this project. Therefore, the project conforms 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 15, 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.	The Department finds that the proposed project will not be detrimental to the public health, safety and welfare since all reviewing referral agencies have approved the proposed project design. The project as proposed and conditioned is consistent with the general plan and zoning ordinances; and the proposed project is not expected to cause significant environmental damage.

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.	As discussed above the property was not included in the 2014 Housing Inventory because of the land use designation and zoning. It is developed with a single-family residence which will remain. The project is in conformance with the standards in the Housing Element.

6. Environmental Impact: The following table identifies the evidence which supports finding that the proposed development will not result in any significant adverse impact on the environment as the project will be required to comply with conditions of approval contained in this report, and there will be no significant, new land disturbance.

§§15301 of CEQA	Categorically exempt from State environmental review.	CEQA Exemption Section Class 1, 15301 (Existing Facilities) 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. Based on a site inspection, information in the application, a review of relevant references in the Department, and comments from affected agencies, staff has determined that there is no evidence before the Department that the project could have any adverse effect, either individually or cumulatively, on the environment.
§§15333 of CEQA	Categorically exempt from State environmental review.	CEQA Exemption Section Class 33, 15333 (Existing Facilities) of the State CEQA Guidelines applied. 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. A condition of project approval requires that the Applicant perform any necessary remedial actions, as determined by CDFW, to restore the area surrounding the point of diversion to pre-1999 conditions in order to conform to the County Streamside Management Area Ordinance.

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. (N/A)
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. (Attached)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board (SWRCB), Division of Water Rights, if applicable. (On-File)
6. Description of water source, storage, irrigation plan, and projected water usage. (Attached)
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. (Attached)
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. (On-File)
9. Consent for on-site 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)
10. 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)
11. 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)

12. Cultivation and Water Usage (On-File)

13. Water Resources Protection Plan (On-File)

CMMLUO SITE/OPERATIONS OVERVIEW
(CUP 16-442/APN: 221-221-032 & 221-211-014)

updated
sent via email
8/21/17 EA

Project Description: The applicant is seeking a Conditional Use Permit under the Humboldt County CMMLUO to allow continued outdoor cannabis cultivation up to 20,500 ft², ancillary processing activities and development of appurtenant support infrastructure/facilities on the subject parcel. Date stamped air photos/maps are provided to show cultivation operations occurring prior to January 1, 2016 encompassing an area totaling 20,500 ft².

The applicant acknowledges that the commercial cannabis activity approval being sought under the aforementioned conditional use permit, pursuant to CMMLUO, is subject to compliance with all other applicable Humboldt County zoning and land use regulations, as well as other applicable provisions of the Humboldt County Code and applicable state laws. Determination of compliance will require multi-agency review of proposed activity/development described in the aforementioned permit and, may also require site inspections by personnel from various governmental agencies.

If development and/or activities on the subject parcel are determined, for some reason, to be out of compliance with any applicable State or County code, regulation or policy, a compliance agreement can be formulated between the applicant and relevant agency or agencies, which includes a compliance timeline whereby operations may continue under a "Provisional Clearance or Permit" and corrective action is initiated to achieve compliance under agreed upon terms.

Parcel Information: The subject parcel is a single legal parcel having two assessor parcel numbers (APN: 221-221-032 & 221-211-014). It is approximately 33 acres and zoned Unclassified with AL40 framework designation. It is located approximately 1.5 miles east-southeast of Ettersburg at 3405 Wilder Ridge Road.

Topography/Landscape: Development on the parcel is limited to an approximate 2 acre clearing within a ridgetop area at the SW corner of the parcel in close proximity to the county road. The property slopes away from this area to the NE at 45%

Surface Water Features: There are several Class III watercourses identified within the sloped areas east of the developed clearing, none of which are closer than 300 feet to any cleared area. As these watercourses flow down slope in a northeast direction they merge to form a Class II watercourse which is a tributary to Blue Slide Creek, which is a tributary to the Mattole River.

Roads/Stream Crossings/Easements: Road assessment conducted by Timberland Resource Consultants (Water Resources Protection Plan 11/01/2016) found roads to be maintained with adequate surfacing and drainage features to prevent erosion and unwanted sediment transport; some very minor road modifications were recommended in the report. There are no stream crossings located on the subject parcel.

Utilities: Electrical power is supplied to the subject parcel by PG&E, Amerigas provides propane to a 500 gallon tank which is used exclusively for domestic purposes. Domestic wastewater is disposed of by use of a conventional septic system which serves the residence on the parcel.

Water Supply: Water for domestic use and irrigation is sourced from a permitted diversion, 1600-2016-0125-R1 (supporting documents included). All water diversion and use shall be in accordance with terms and conditions set forth in the aforementioned agreement.

Water Storage: There are nineteen (19) - 5,000 gallon hard plastic tanks located atop a ridge on flat stable ground totaling 75,000 gallons of storage; four (4) additional 5,000 gallon hard plastic storage tanks are slated for installation this year bringing the storage capacity to 95,000 gallons.

1999 - four 5,000 gallon tanks set

2012 - four 5,000 gallon tanks set

2016 - eleven 5,000 gallon tanks set

Residence: The residence on the parcel was built in 1982 and is approximately 4,000 ft.²

Other Structures/Facilities: A metal shop was built in 2004, it is approximately 1200 ft²

Cultivation Area(s): Cultivation is limited to a 20,500 ft² footprint and 2 situated around a centralized location which "semi-surrounds" the residence; the square footage irrigated is significantly less than the footprint.

Peak Water Demand: The projected peak water demand to maintain plant growth during the warm summer months is approximately 31,000 gallons per month. The "Monthly Water Use" Table below shows projected water use throughout the growing season.

January-March: No Water Use

<i>April</i>	<i>1,000 gallons</i>	<i>establish seedlings</i>
<i>May</i>	<i>5,000 gallons</i>	<i>seedlings develop to vegetative</i>
<i>June</i>	<i>15,000 gallons</i>	<i>vegetative</i>
<i>July</i>	<i>22,000 gallons</i>	<i>vegetative</i>
<i>August</i>	<i>31,000 gallons</i>	<i>vegetative</i>
<i>September</i>	<i>22,000 gallons</i>	<i>vegetative w/flower emergence</i>
<i>October</i>	<i>10,500 gallons</i>	<i>flower</i>

Irrigation Method(s): Irrigation is accomplished by use of drip lines. The flow to drip lines is regulated by timers and adjusted for maximum efficiency taking into consideration temperature, plant demand etc. Water delivery throughout the system is carefully monitored on a regular basis to ensure proper function and responsible water use. Mulch is carefully placed as a top dressing to optimize soil water retention. Occasional hand watering may be employed if needed.

Irrigation Runoff/Erosion control: Irrigation runoff from cultivation areas is minimized by the use of carefully regulated drip irrigation to prevent any overwatering or residual discharge of nutrient solutions outside of the "targeted" root zone. In the unlikely event that residual discharge did occur, it would be absorbed upon contact with permeable soil surrounding the cultivation area. Cultivation activities are limited to the immediate area surrounding cultivation areas and conducted so materials are kept confined. The ground surface within and around the cultivation areas is formed and managed year-

round to prevent any movement of entrained constituents such as fine sediment, fertilizer or other organic particles beyond the cultivation area.

Watershed Protection: The Cultivation Area on the subject parcel meets applicable setback requirements to watercourses, riparian zones or wetlands (see site plan). Sheet flow of rainwater or transport of cultivation byproducts over permeable, gently sloped soils in and around the cultivation area is unlikely. Vegetative buffers have been maintained at natural slope around the entire perimeter of cleared/developed area. **Watershed protection** will be ensured by adherence to measures prescribed in the Water Resources Protection Plan (WDID: 1B161213CHUM) developed specifically for this parcel by Timberland Resource Consultants under Regional Water Quality Control Board WDR Order # R1-2015-0023 enrollment requirements. Included with this submittal is a signed copy of Appendix A, "Enrollment Notice of Intent".

Once enrolled under R1-2015-0023, participants are required to engage in ongoing monitoring, reporting and maintenance including periodic site inspections and reviews of operational practices to ensure regulatory requirements related to the following listed items are being met:

<i>Site maintenance, erosion control, and drainage features</i>	<i>Stream crossing maintenance</i>
<i>Riparian and wetland protection and management</i>	<i>Spoils management</i>
<i>Water storage and use</i>	<i>Irrigation runoff</i>
<i>Fertilizers and soil amendments</i>	<i>Pesticides and herbicides</i>
<i>Petroleum products and other chemicals</i>	<i>Cultivation-related wastes</i>
<i>Refuse and human waste</i>	

Additionally, participants must ensure that management measures and controls are effectively protecting water resources, and that any newly developing problems representing a water quality concern are identified and corrected quickly

Fertilizers, Pesticides, other Regulated products: The following Fertilizers/Amendments are used to recondition soil at the beginning of each grow season.

Neem Seed Meal 6-1-2

Bat Guano 9-3-1

VermiBlend Soil Amendment 1-1.5-0.6

Earthworm Castings 1.25-0-0

Once brought to the site, the products are blended into raised beds. The total combined amount of any leftover product is not expected to exceed 400 lbs. at any time, and it would be stored atop pallets inside the shop adjacent to the garden. This is an outdoor cultivation and pesticides/herbicides/fungicides are not used.

The applicant acknowledges that the storage and/or use of certain materials in specified volumes and/or weights will be subject to regulation through Humboldt County Division of Environmental Health CUPA and may require: submittal of inventories for those materials, documentation of emergency and training

procedures, maintenance of hazardous waste disposal records, obtaining an EPA generator ID number and be subject to site inspections.

Cultivation Related Wastes: Cultivation related wastes are sorted such that compostable materials are recycled/composted onsite within a small area equipped with perimeter and top containment to prevent unwanted movement of materials due to weather conditions or animals/pests. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic garbage and hauled to an approved transfer station/disposal facility as needed.

Human Waste: Normal day to day operations shall be carried out by individuals residing on the subject parcel. **Restrooms** within the residence/dwelling on the subject parcel are within close proximity to all cultivation areas and are easily accessed by the individuals on the property as ne

Cultivation Operations/Practices:

January

February

March General site maintenance and preparation.

April Plants are started from seed in small 6-pack containers inside of a small "Starter" greenhouse.

May Outdoor beds are amended with Neem Mill, VermiBlend and Bat Guano; Plants are transplanted into 2 gallon pots

At the end of the month plants are removed from 2 gallon pots and place into outdoor beds

June General garden care and maintenance

July General garden care and maintenance

August General garden care and maintenance

September General garden care and maintenance

October General garden care and maintenance; harvest at peak ripeness

November Clean cultivation area and prepare for winter.

December

Processing: Plants are harvested at peak ripeness and immediately transferred to the shop/barn where they are hung to dry. Natural air flow may be supplemented with household fans and dehumidifiers to aid the drying process. All processing of harvested product will take place on the parcel where it was grown and be shall completed by family members. Processing operations are conducted such that all surfaces, equipment and utensils which come into contact with harvested product are maintained in a clean, sanitary condition at all times.

The use of a CMMLUO Approved Processing Facility is also under consideration at this time. The applicant shall provide additional information pertaining to this processing option as it becomes available.

Security: Access to the parcel is restricted by automatic locking metal gates. Premises is normally occupied by property owner(s).

ATTACHMENT 4

Referral Agency Comments and Recommendations

Referral Agency	Response	Recommendation	On File
County Building Inspection Division	✓	Conditional Approval	✓
County Public Works, Land Use Division	✓	Conditioned Approval	✓
County Division of Environmental Health		None received	
NWIC	✓	Archeology study, condition with inadvertent discovery protocols	✓
Bear River Band of the Rohnerville Rancheria	✓	Inadvertent discovery protocols	✓
Department of Fish and Wildlife	✓	Biological Resources map received	✓
Regional Water Quality Control Board		None received	
Division of Water Resources		None received	
CALFIRE	✓	Standard input letter	✓
Southern Humboldt Unified Elementary School District		None received	
CalTrans		None received	
North Coast Unified Air Quality Management District		None received	
Agriculture Commissioner		None received	
Sheriff		None received	
Humboldt County District Attorney		None received	
Intertribal Sinkyone Wilderness Council		None received	
Telegraph Ridge Fire Protection District	✓	Conditioned Approval	✓