



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707) 445-7541 Fax: (707) 268-3792

Hearing Date: September 5, 2019

To: John H. Ford, Humboldt County Zoning Administrator

From: Cliff Johnson, Supervising Planner

Subject: **Allan Luster Special Permit**
Record Number: PLN-12506-SP
Assessor's Parcel Number: 105-162-021
1321 Lighthouse Road, Petrolia area

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Please contact Stephen Luther, Planner, at (707) 445-7541 or sluther@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
September 5, 2019	Special Permit	Stephen Luther

Project Description: A Special Permit (SP) to allow a relaxation of the six hundred foot (600') setback requirement from the King Range National Conservation Area. The associated Zoning Clearance Certificate for one-thousand four-hundred and forty (1,440) square feet of existing mixed-light commercial cannabis cultivation will also be considered. Cultivation occurs in one greenhouse to produce up to three (3) harvest cycles per year. Propagation takes place onsite in an existing garage. Estimated annual water use is 84,000 gallons. Irrigation water is sourced from a permitted well and total water storage is 9,000 gallons in three tanks. Processing, including drying and trimming, occurs onsite in two (2) existing sheds. Applicant will need to convert structures to comply with commercial building codes to continue trimming and packaging onsite within the provisional two-year time period if approved. Alternately, they may process offsite at a licensed facility. No employees are used. Power is provided by PGE and solar, and a backup generator.

Project Location: The project is located in the Petrolia area, on the Southeast side of Lighthouse Road, approximately 600 feet south from the intersection of Lighthouse Road and Evergreen Way, on the property known as 1321 Lighthouse Road, Petrolia.

Present Plan Land Use Designations: Residential Agriculture (RA5-20), Density: 5-20 acres per dwelling unit, Slope Stability: Low/Moderate Instability (1/2)

Present Zoning: Unclassified (U)

Record Number: PLN-12506-SP

Assessor Parcel Number: 105-162-021

Applicant
Allan Luster
PO Box 162
Petrolia, CA 95558

Owner
Allan Luster
PO Box 162
Petrolia, CA 95558

Agent
Tia Dimmick

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of CEQA Guidelines.

State Appeal Status: Project is NOT appealable to the California Coastal Commission.

Major Issues: None.

Allan Luster Special Permit
Record Number PLN-12506-SP
Assessor's Parcel Number (APN): 105-162-021

Recommended Zoning Administrator 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 a part of the consent agenda:

Find that the Zoning Administrator has considered the Addendum to the Mitigated Negative Declaration adopted for the Commercial Medical Marijuana Land Use Ordinance pursuant to Section 15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permit based on evidence in the staff report, and adopt the Resolution approving the proposed Allan Luster Special Permit subject to the recommended conditions.

Executive Summary

Allan Luster seeks approval of a Special Permit (SP) in compliance with Humboldt County Code Section 314-55.4.11(d) to allow a relaxation of the six hundred-foot (600') setback requirement from the portion of the King Range National Conservation Area located on APN 105-162-036. The setback is a performance standard pertaining to the location of cultivation and processing areas associated with commercial cannabis cultivation authorized by the County's Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The greenhouse where cultivation occurs is located approximately 230 feet from the common property line. The Zoning Clearance Certificate (ZCC 16-476) to authorize one-thousand four-hundred and forty (1,440) square feet (SF) of existing mixed-light commercial cannabis cultivation will also be considered.

The approximately 7.45-acre project site contains a residence, a drying building, processing building, and storage building. Cultivation occurs in a single greenhouse. Artificial light is used to achieve up to three (3) flowering cycles per year. Propagation occurs in the existing garage. The irrigation water source is a groundwater well. Estimated annual water use is 84,000 gallons. Total water storage capacity is 9,000 gallons. Water storage totals 9,000 gallons. Processing, including drying and trimming, occurs onsite in two (2) existing sheds. The Division of Environmental Health recommended conditional approval. No processing can occur on-site until the applicant has permitted the Onsite Wastewater Treatment System. In addition, the applicant will need to convert structures to comply with commercial building codes to continue trimming and packaging onsite within the provisional two-year time period if approved. Alternately, they may process offsite at a licensed facility. All electricity needs are met by PG&E and solar, with a generator onsite for emergency backup power.

The adjacent public lands are subject to the 2005 *King Range National Conservation Area Resource Management Plan* (RMP). The lands adjacent to the project site are designated Frontcountry Zone in the RMP, and management activities in that zone include forest stand management, fuel reduction, fire break construction, and watershed restoration. The adjacent BLM-managed land is in the Mill Creek Watershed designated as an Area of Critical Environmental Concern (ACEC). The primary management goals are protecting the water quality of this anadromous fish stream and the old-growth Douglas-fir forest.

The project is consistent with the RMP and ACEC management goals because the cultivation activities will protect fisheries and aquatic habitat on forest lands by eliminating irrigation run-off, maintaining buffers from streams and by placing controls on the storage and use of pesticides,

rodenticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations. Supplemental lighting would be shielded to prevent light pollution and meet International Dark Sky Standards. The irrigation water source is a 130 foot deep groundwater well. The applicant has a waiver of waste discharge requirements and a conditional exemption under the State Water Board Cannabis General Order. All fertilizers and pesticides are safely stored in a garage. RMP's provisions for protection of heritage resources will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. The project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and trails.

There are no sensitive or threatened species mapped on the parcel according to the California Natural Diversity Database (CNDDB). Northern Spotted Owl (NSO) activity center is 0.5 miles away from the project site. An NSO observation occurred in 1986 approximately 150 feet to the northeast of the greenhouse. The cultivation is approximately 1,200 feet away from suitable NSO nesting habitat. The Mattole River is 350 feet to the entrance of the parcel and is designated critical habitat for federally threatened Coho salmon, Chinook salmon, and steelhead. Potential impacts to NSO habitat are minimized by the lack of generator noise. The power source is PG&E and solar. A backup generator will be fully contained. Noise levels from the backup generator and fans will be less than 50 dB as measured 100 feet from the noise source. The project was referred to California Department of Fish and Wildlife (CDFW) and the Bureau of Land Management (BLM). In response to BLM concerns, light will be shielded and there will be no runoff from the cultivation operation. CDFW responded to the referral and had no comments on the project (see Attachment 5). An email from the CDFW Environmental Permit Information Management System (EPIMS) dated April 24, 2019 notes the project will not substantially adversely affect an existing fish or wildlife resource and no Lake and Streambed Alteration Agreement is necessary.

A review of aerial imagery shows trees were removed on the property between 2005 and 2009. A condition of approval requires the applicant submit a timber conversion evaluation report prepared by a Registered Professional Forester (RPF). All remedial actions recommended in the report must be implemented.

Based on a review of Planning Division reference sources and comments from all involved referral agencies, planning staff supports a conditional approval of the provisional Special Permit request. Staff recommends that the Zoning Administrator include the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record, and approve the application subject to the recommended conditions.

Alternatives: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number 19-

Record Number PLN-12506-SP

Assessor's Parcel Number: 105-162-021

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Allan Luster Special Permit request.

WHEREAS, Allan Luster, submitted an application and evidence in support of approving the Special Permit to relax the six hundred-foot (600') setback from the King Range National Conservation Area to permit an existing one-thousand four-hundred and forty (1,440) square foot commercial medical cannabis operation; and

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

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

WHEREAS, Attachment 2 in the Planning Division staff report includes substantial evidence in support of making all of the required findings for approving the proposed Special Permit (Record Number PLN-12506-SP); and

WHEREAS, a public hearing was held on the matter before the Humboldt County Zoning Administrator on September 5, 2019.

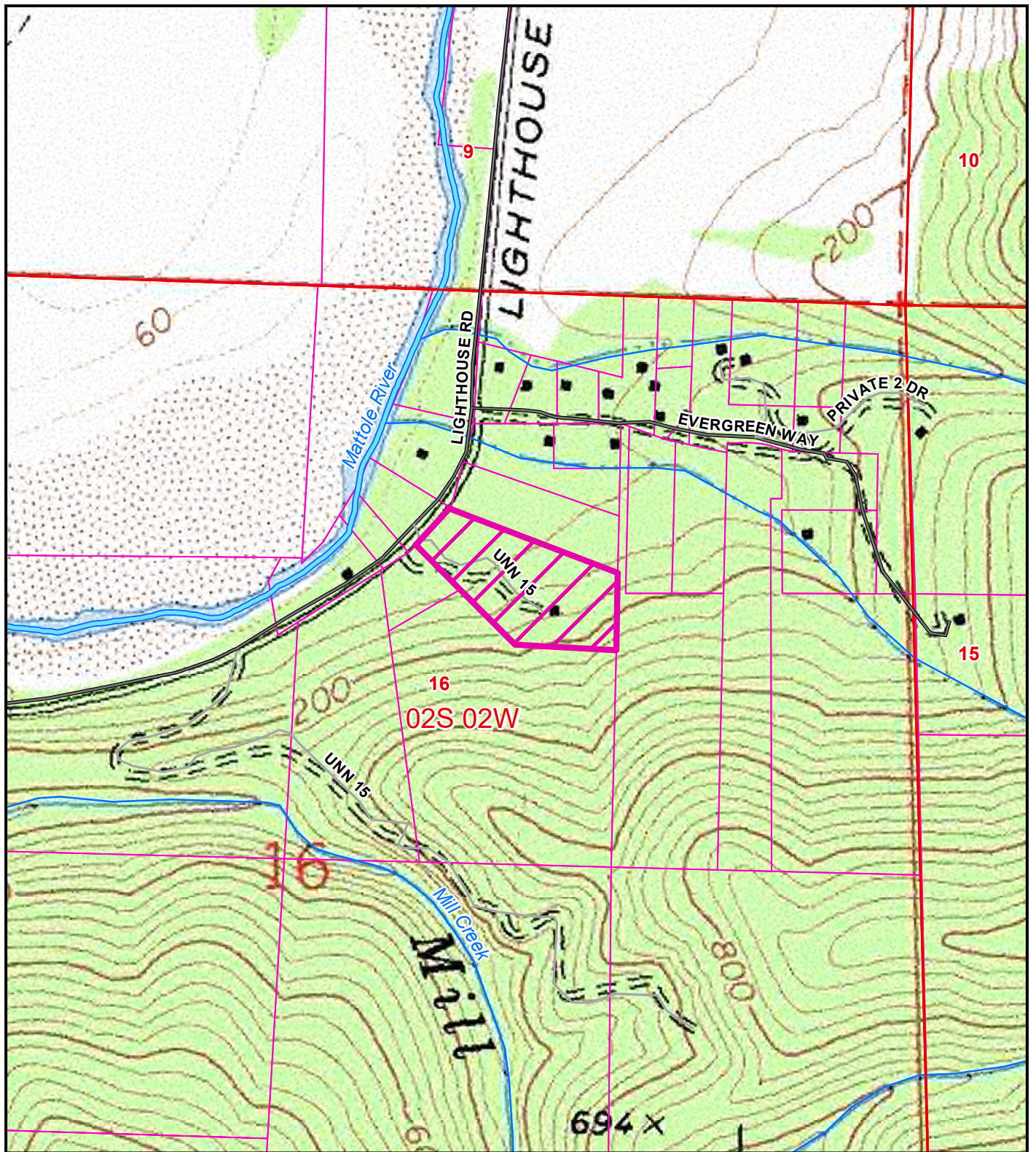
NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Zoning Administrator that:

1. The proposed project is exempt from environmental review; and
2. The Zoning Administrator makes the findings for approval in Attachment 2 of the Planning Division staff report based on the submitted substantial evidence; and
3. Special Permit Record Number PLN-12506-SP is approved as recommended and conditioned in Attachment 1.

Adopted after review and consideration of all the evidence on September 5, 2019.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

John Ford, Zoning Administrator
Planning and Building Department
County of Humboldt



Project Area = 

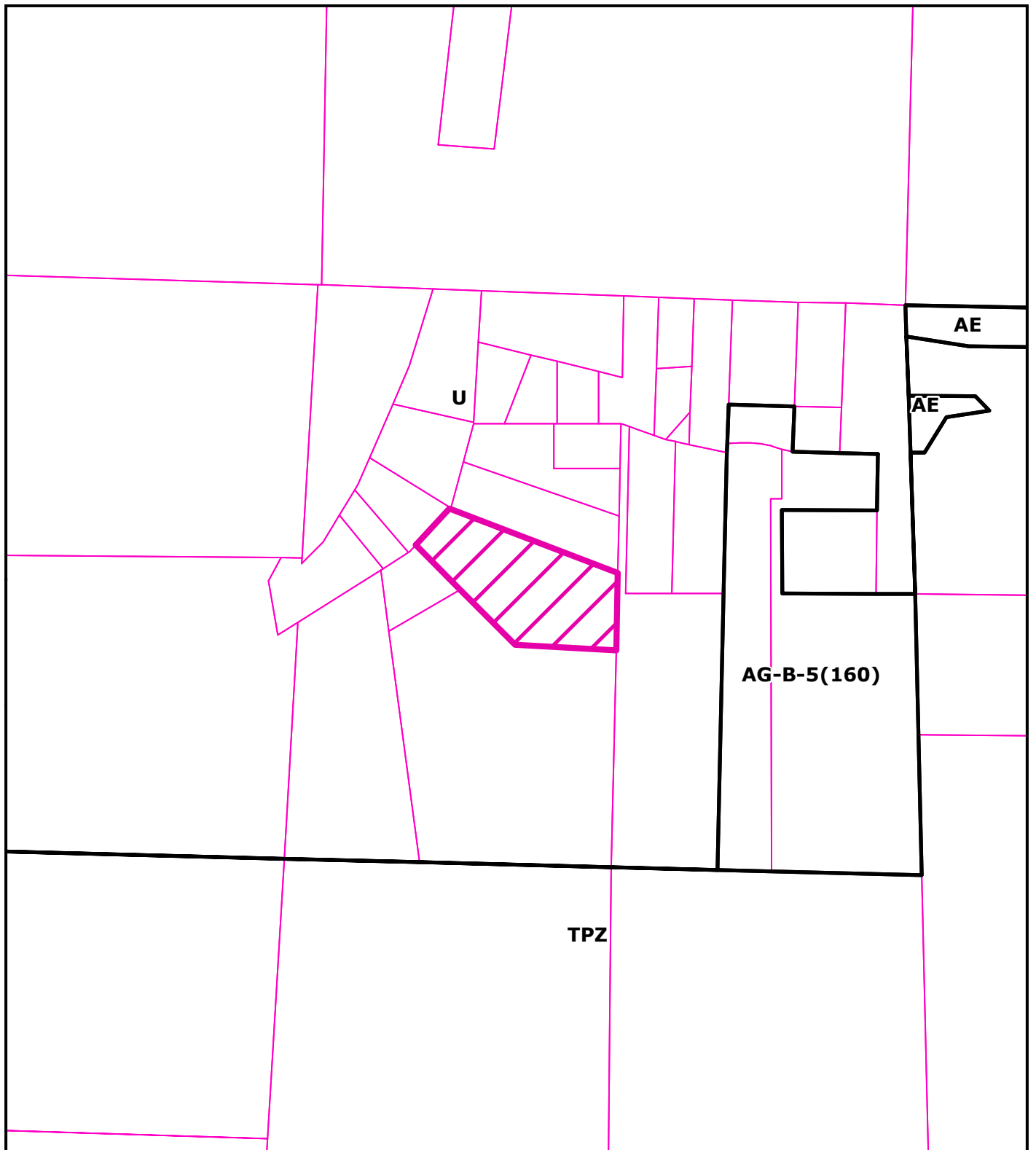
TOPO MAP
PROPOSED ALLAN C LUSTER
PETROLIA AREA
ZCC-16-476; SP-18-086
APN: 105-162-021
T02S R02W S16 HB&M (PETROLIA)

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.

0 750 1,500 Feet



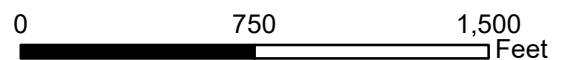
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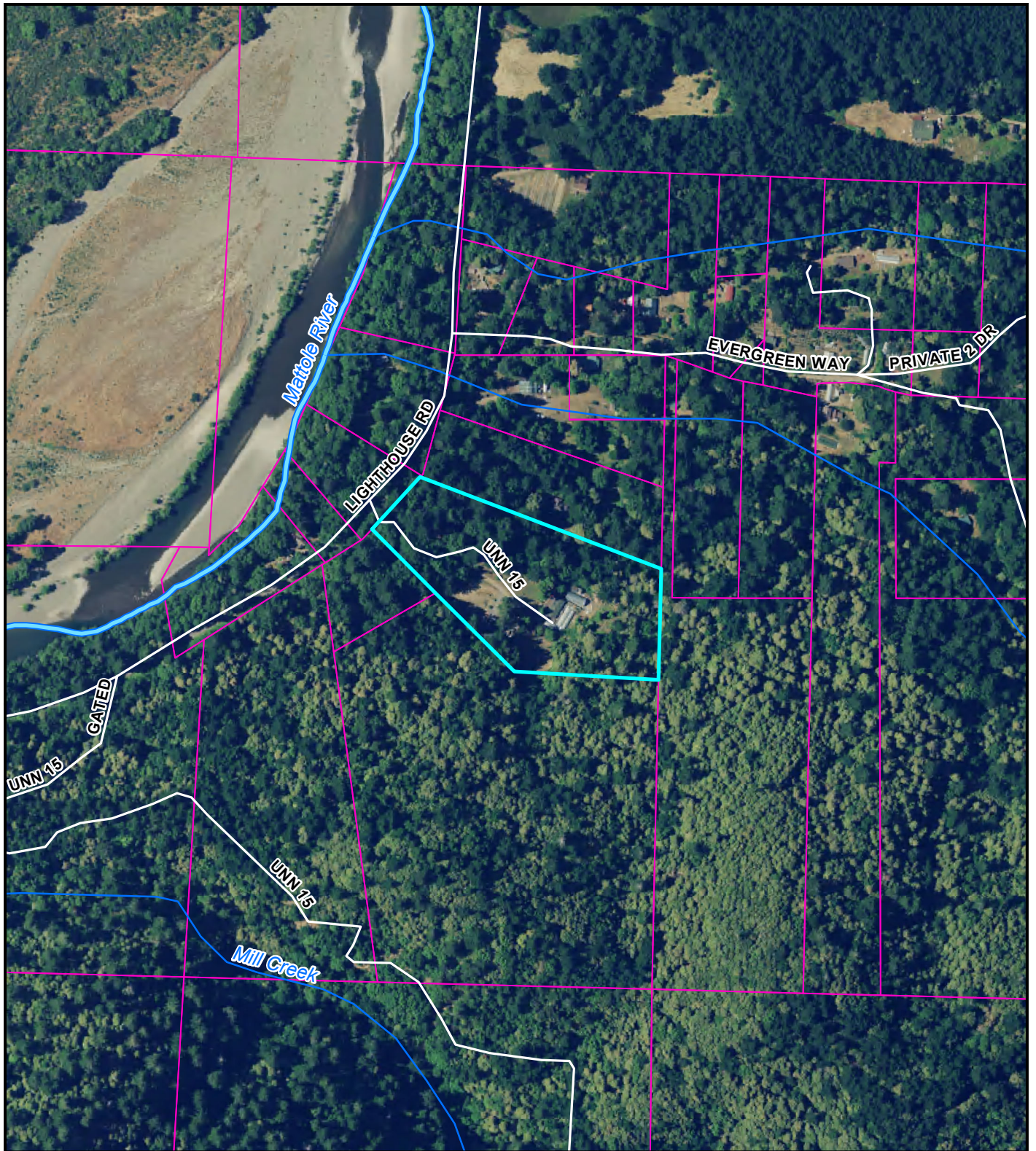


Project Area = 

**ZONING MAP
PROPOSED ALLAN C LUSTER
PETROLIA AREA
ZCC-16-476; SP-18-086
APN: 105-162-021
T02S R02W S16 HB&M (PETROLIA)**

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





Project Area = 

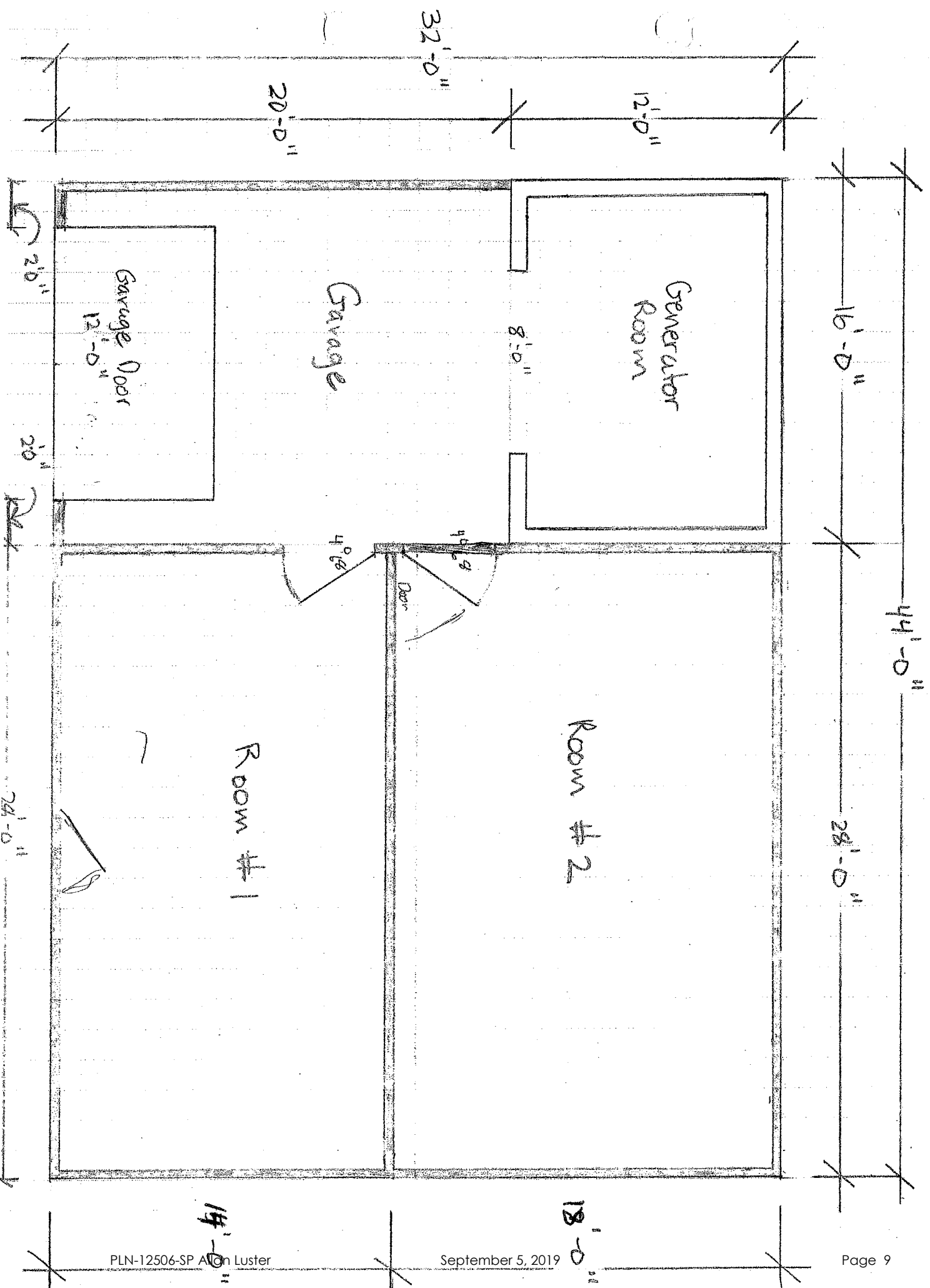
**AERIAL MAP
PROPOSED ALLAN C LUSTER
PETROLIA AREA
ZCC-16-476; SP-18-086
APN: 105-162-021
T02S R02W S16 HB&M (PETROLIA)**

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.

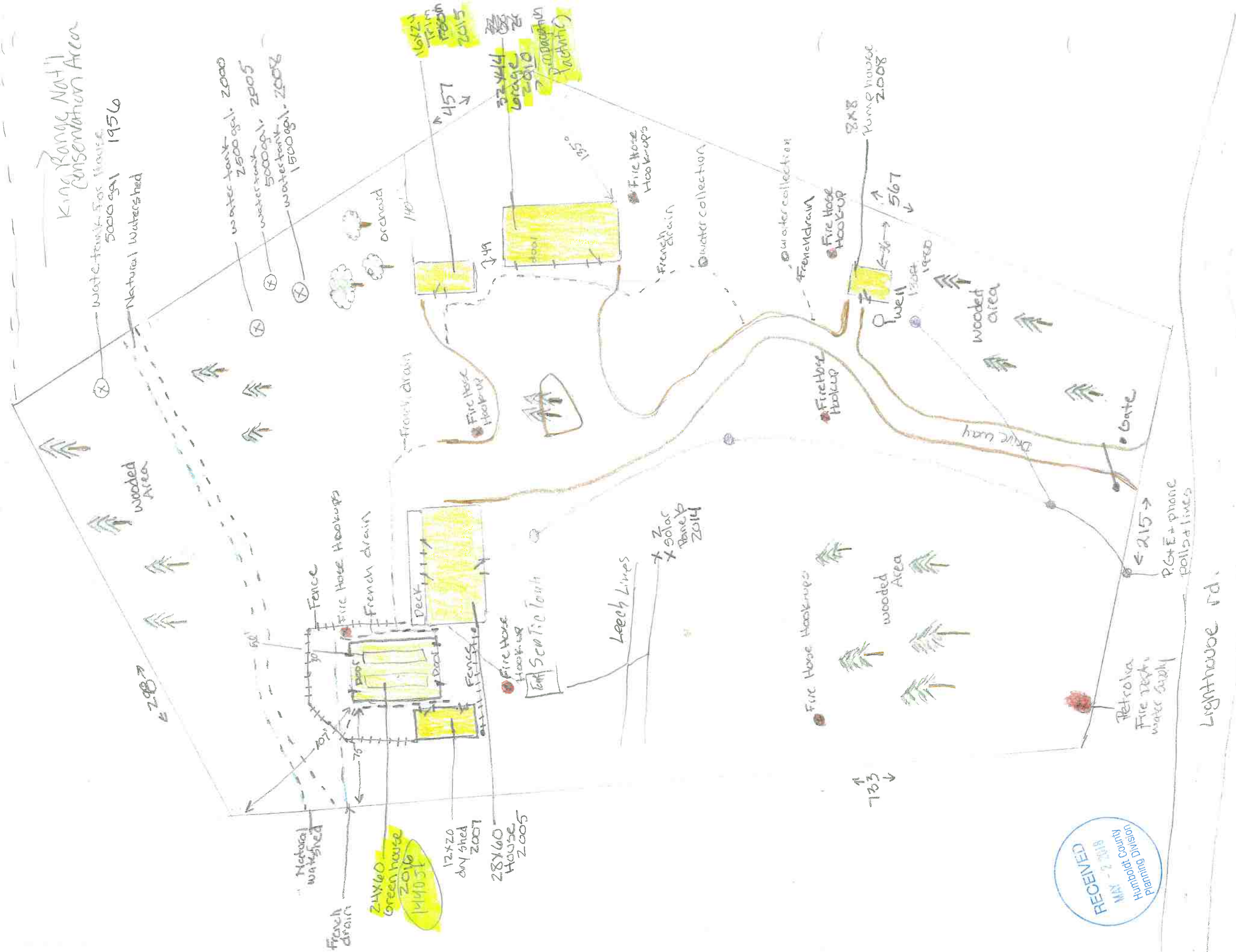
0 550 1,100 Feet



Garage / Outbuilding Floor Plan



Allan C. Luster
1321 Light House
Petrolia, Calif. 93588
APN 105-162-021



PLN-12506-SP Allan Luster

September 5, 2019

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ATTACHMENT 1
Recommended Conditions of Approval

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

1. 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 #5 – 9. 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. All mixed light cultivation used in the cultivation operation and appurtenant nursery shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Should the Humboldt County Planning Division receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected, and corrected as necessary. No mixed-light in the appurtenant nursery is authorized by this permit until the structures and greenhouses can be demonstrated to comply with these standards.
3. No processing can occur onsite until an on-site waste water disposal system (OWTS) has been permitted for a commercial processing facility. A letter from the Division of Environmental Health (DEH) indicating approval has been issued will satisfy this condition.
4. Noise generated from generators shall not exceed 50db at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code.
5. The applicant shall obtain all necessary building permits and grading permits from the Building Inspection Division (BID) for all structures related to the commercial cannabis cultivation operation, including all greenhouses, agricultural buildings, sheds, and barns used in cultivation. The applicant shall submit floor plans including dimensions with electrical, mechanical and plumbing details for all existing Agriculture Exempt Structures and an Agriculture Exempt letter of intent for each. The applicant shall submit two complete sets of construction plans developed by a California-licensed engineer for the building permits. All building plans submitted for approval shall be consistent with those approved by the Zoning Administrator.
6. 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 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.

7. The driveway shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects Lighthouse Road. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.
8. All private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
9. The applicant shall submit a report prepared by a Registered Professional Forester evaluating potential timber conversion on the site. The remedial measures recommended in the final report shall be implemented.
10. 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.
11. 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. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
3. 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.
4. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort 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.
5. 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.

6. 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.
7. Confinement of the area of cannabis cultivation, processing, manufacture or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to County Code Section 55.4.11(d).
8. Maintain enrollment in Tier 1, 2 or 3, certification with the NCRWQCB Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
9. For cultivation area(s) for which no enrollment pursuant to RWQB Order No. R1-2015-0023 is required by that Order, comply with the standard conditions applicable to all Tier 1 dischargers.
10. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
11. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
12. Pay all applicable application, review for conformance with conditions and annual inspection fees.
13. Power is to be supplied by solar. If the back-up generator is used in an emergency situation for cannabis operations the noise from the generator or fans shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. Under these guidelines, generator noise may not exceed 50 decibels as measured at 100 feet from the generator or at the edge of the nearest Marbled Murrelet or Spotted Owl habitat, whichever is closer.
14. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
15. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
16. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana

Cultivation Tax Ordinance (Section 719-1 et seq.).

17. Participate in and bear costs for permittee's participation in the Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner.
6. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.
7. Leave wildlife unharmed. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.
8. The environmental impacts of improper waste disposal are significant and well documented. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.

9. Artificial light used in cultivation and clone/start propagation operations will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO.

Performance Standards for Cultivation and Processing Operations

18. Pursuant to the MCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
19. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
20. Cultivators engaged in processing shall comply with the following Processing Practices:
 - I. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - II. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - III. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - IV. Employees must wash hands sufficiently when handling cannabis or use gloves.
21. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - 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.
 - ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - 8) Operation manager contacts;
 - 9) Emergency responder contacts;
 - 10) Poison control contacts.
 - iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
22. All cultivators shall comply with the approved Processing Plan as to the following:
- i. Processing Practices.
 - ii. Location where processing will occur.
 - iii. Number of employees, if any.
 - iv. Employee Safety Practices.
 - v. Toilet and handwashing facilities.
 - vi. Plumbing and/or septic system and whether or not the system is capable of handling increased usage.
 - vii. Drinking water for employees.
 - viii. Plan to minimize impact from increased road use resulting from processing.
 - ix. On-site housing, if any.
23. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation Special Permit issued pursuant to the CMMLUO shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
- If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the Special Permit 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 Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13 of the CMMLUO.
24. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located will not support diversions for irrigation.

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.

25. 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:

- (1) Identifying information for the new Owner(s) and management as required in an initial permit application;
- (2) A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
- (3) The specific date on which the transfer is to occur; and
- (4) Acknowledgement of full responsibility for complying with the existing permit; and
- (5) Execution of an Affidavit of Non-diversion of Commercial Cannabis.

26. 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 Condition of Approval #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 Conditions of Approval #24 of the On-Going Requirements /Development Restrictions, above.

3. If cultural resources are encountered during construction activities, the contractor on site shall

cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 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.

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.

6. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. Within three days of the effective date of permit approval, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.

7. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions prior to release of building permit or initiation of use and at time of annual inspection. In order to demonstrate that all conditions have been satisfied, applicant is required to pay the conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

ATTACHMENT 2

Required Findings for Approval

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) specifies the findings that are required to grant a Special Permit:

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

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.

1. The proposed development must be consistent with the General Plan, Open Space Plan, and Open Space Action Program. The following table identifies the substantial evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Humboldt County General Plan 2017, Open Space Plan, and Open Space Action Program.

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 4.8	Residential Agriculture (RA): This designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. Density range is 40 -160 acres/unit.	The Special Permit seeks to relax the 600-foot setback from public lands. The project would allow the continued cultivation of 1,440 square feet of an existing mixed light cultivation area. The cannabis cultivation is an agricultural activity and an allowable use type in this designation, consistent with this policy.
Circulation Chapter 7	Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1,CT-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.	The subject parcel is accessed via Lighthouse Road, a County-maintained road. A Road Evaluation Report has been prepared by the applicant self-certifying that the entire road segment is developed to the equivalent of a road category 4 standard. The Department of Public Works commented on the project. The recommended conditions of approval are listed in Exhibit A of their referral comments (see Attachment 5) and incorporated as conditions of approval.
Housing Chapter 8	Goals and policies contained in this Element seek to identify existing and projected housing needs and establish goals, policies, standards and	The project does not involve residential development, nor is the project site part of the Housing element Residential Land Inventory. However, the project will not preclude any future residential development. The project will not reduce

	<p>measures for the preservation, improvement, and development of housing.</p> <p>Related policies: H-P3, Development of Parcels in the Residential Land Inventory.</p>	<p>the 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 included in the Open Space Land Plan because the project site is designated Residential Agriculture (RA). Cannabis cultivation is an agricultural activity and an allowable use type in this designation, consistent with this policy.</p> <p>The project is located adjacent to the King Range National Conservation Area. The adjacent public lands are subject to the <i>2005 King Range National Conservation Area Resource Management Plan (RMP)</i>. The lands adjacent to the project site are designated Frontcountry Zone in the RMP, and management activities in that zone include forest stand management, fuel reduction, fire break construction, and watershed restoration. The parcel is in the Mill Creek watershed which is designated an Area of Critical Environmental Concern (ACEC). The project is consistent with the RMP and ACEC management goals because the cultivation activities will protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams and by placing controls on the storage and use of pesticides, rodenticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulation. The RMP's provisions for protection of heritage resources will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. The project is consistent with recreational use on public lands by maintaining a minimum 600-foot buffer separation from developed campgrounds and trails.</p> <p>See Section 10.3 <i>Biological Resources</i> for additional information.</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>There are no sensitive or threatened species mapped on the parcel according to the California Natural Diversity Database (CNDDB). Northern Spotted Owl (NSO) activity center is 0.5 miles away from the project site. An NSO observation occurred in 1986 approximately 150 feet to the northeast of the greenhouse. The cultivation is approximately 1,200 feet away from suitable NSO nesting habitat. The Mattole River is 350 feet to the entrance of the parcel and is designated critical habitat for federally threatened Coho salmon, Chinook salmon, and steelhead. Potential impacts to NSO habitat are minimized by the lack of generator noise. The power source is PG&E and solar. A backup generator will be fully contained. Noise levels from the backup generator and fans will be less than 50 dB as measured 100 feet from the noise source. The project was referred to California Department of Fish and Wildlife (CDFW) and the Bureau of Land Management (BLM). In response to BLM concerns, light will be shielded and there will be no runoff from the cultivation operation. CDFW responded to the referral and had no comments on the project (see Attachment 5). An email from the CDFW Environmental Permit Information Management System (EPIMS) dated April 24, 2019 notes the project will not substantially adversely affect an existing fish or wildlife resource and no Lake and Streambed Alteration Agreement is necessary. Ongoing operational conditions are incorporated regarding the protection of wildlife.</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>The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria and Intertribal Sinkyone Wilderness Council. NWIC responded that a cultural resource survey may be needed. The Bear River Band responded indicating an archaeological survey is not required at this time. The Bear River Band THPO recommended a condition of project approval be incorporated regarding inadvertent discovery protocol. Ongoing</p>

	Related policies: CU-P1. Identification and Protection, CU-P2. Native American Tribal Consultation.	conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.
Conservation and Open Space Chapter 10 Scenic Resources Section 10.7	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) Related policies: SR-S4. Light and Glare	Mixed light cannabis cultivation will utilize artificial lighting. The CMMLUO requires that mixed-light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1, and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). International Dark Sky Association Standards exceed the requirements of Scenic Resources Standard SR-4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. The project complies with International Dark Skies Association standards by covering greenhouses with lightproof covers during hours when supplemental lighting is applied.
Water Resources Chapter 11 Stormwater Drainage	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) Related policies: WR-P10. Erosion and Sediment Discharge; WR-42 Erosion and Sediment Control Measures.	There are no stream crossings or water bodies on the subject parcel. The irrigation water source is a groundwater well. Cultivation takes place within a single 1,440 SF greenhouse. The applicant has a waiver of waste discharge requirements. The project is less than 2,000 square feet, occurs in a single cultivation area, is on slopes of less than 20 percent and meets all riparian setbacks. The site has been granted a conditional exemption under the State Water Board Cannabis General Order (see Attachment 4).
Water Resources Chapter 11	Goals and policies contained in this Chapter relate to adequate public water supply as well as onsite	Processing activity is proposed on site. The applicant has submitted an application for an Onsite Wastewater Treatment System to the Division of Environmental Health. No

Onsite Wastewater Systems	<p>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-P20. On-Site Sewage Disposal Requirements.</p>	commercial processing may occur until DEH has approved the septic system.
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>	The subject parcel is located in an area that requires special noise attenuation measures due to proximity to wildlife. Power is provided by PG&E, with solar power used for the well pump. A backup generator is on-site for emergencies and is fully contained. All noise from generators and fans will be less than 50 decibels at 100 feet from the source.
<p>Safety Element Chapter 14</p> <p>Geologic & Seismic</p>	<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>	The parcel is mapped as having moderate geologic instability. The project site is not located in a mapped Alquist-Priolo fault zone or subject to liquefaction. The slopes where cultivation occur are variable from 15% to 50%. As a condition of approval, the applicant will obtain all grading and building permits from the Building Inspection Division (BID). The existing uses, which are proposed to continue, are not expected to be affected by geologic instability. The project does not pose a threat to public safety related from exposure to natural or manmade hazards.

<p>Safety Element Chapter 14</p> <p>Flooding</p>	<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 western portion of the subject parcel is mapped in the FEMA 100 Year Flood Zone (A). No cultivation buildings or structures are located within the flood zone. The project site is not within a mapped dam or levee inundation area and, at approximately 3 miles distance from the coast, is 0.8 outside the area subject to tsunami run-up.</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 subject parcel is located within an area with a high fire rating and high fire severity. The subject property is located within the Petrolia Volunteer Fire Department Response Area and the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. With respect to the Fire Safe Ordinance (Section 3111-1 et seq.), all existing and proposed improvements are setback at least 30 feet from all property lines. Applicant has proposed a designated fire turn-around and pullout area for emergency vehicles, management of trees and vegetation to maintain the 100 foot defensible space, and installation of a hydrant near the residence that is connected to a 2,500 gallon water tank designated for fire suppression.</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>Applications for grading and/or building permits shall be referred to the North Coast Unified Air Quality Management District (NCUAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards. Per the 2009 Housing Element H-IM3 to reduce and avoid air quality impacts from naturally occurring asbestos the County shall refer all building permits on parcels which appear to be underlain by ultramafic rock to the NCUAQMD for appropriate standards and recommendations.</p>

	<p>Related policies: AQ-P4, Construction and Grading Dust Control, AQ-S1. Construction and Grading Dust Control, AQ-P7. Interagency Coordination.</p>	
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2. Zoning Compliance and 3. Conforms with applicable standards and requirements of these regulations: The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Zoning Regulations.

Zoning Section	Summary of Applicable Requirements	Evidence That Supports the Zoning Finding
§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 subject parcel qualifies for Certificate of Compliance pursuant to section 66499.35 of the Subdivision Map Act due to approval of building permit 05-0785PH3.
314-8.1 Unclassified §314-55.4.8.2.2 Approvals for existing mixed light and mixed-light cultivation	Unclassified (U): Principally permitted uses include general agriculture, including accessory agricultural uses and structures.	Cannabis cultivation is allowed in the U zone with a Zoning Clearance Certificate, Special Permit, or Conditional Use Permit under Section 314-55.4.8.2.2.
Min. Lot Size	6,000 sq ft	7.45 acres
Min. Lot Width	Fifty feet	350 feet
Max. Ground Coverage	Forty percent (40%)	<40%
Minimum Yard Setbacks	Front: 20 feet Side: 5 feet Rear: 10 feet SRA: 30 feet, all sides	>30 feet all sides
Max. Building Height	None specified	<35 feet
§314-61.1 Streamside Management Area (SMA)	Purpose: To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.	There are no mapped Streamside Management Areas on the parcel per the Humboldt County WebGIS.
Off-Street Parking §314-109.1	Off Street Parking: Multiple Use and Joint Use: whenever more than one use is proposed for a development site, the total off-street parking spaces required shall be the sum of the spaces required for each use.	2 spaces

314-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation (CMMLUO)		
§314-55.4.8.2	Commercial cannabis cultivation is allowed on parcels zoned U, that are one acre or larger and have been designated in the General Plan for agricultural development. 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.	A review of aerial imagery shows a portion of the property surrounding the mixed-light greenhouse was cleared of vegetation in 2014. The project is conditioned on providing a Registered Professional Forester's report evaluating the potential timber conversion and implementing recommended remedial actions.
§ 314-55.4.8.2.2 Existing Outdoor and Mixed-Light Cultivation Areas	A Zoning Clearance Certificate, Special Permit (SP) or Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in zoning district... TPZ (on parcels one acre or larger), but only when possible to bring the cultivation into compliance with all applicable standards set forth in this section and to eliminate existing violations as specified in this ordinance. The total cultivation area allowed on a single parcel shall not exceed one acre for outdoor cultivation or 22,000 square feet for mixed-light cultivation. No expansion of the existing cultivation area shall be permitted.	Special Permit to relax the 600-foot setback from public lands, and to allow the continued use of the existing 1,440 square foot cultivation area on a parcel 7.45 acres in size. Cultivation occurs in a single greenhouse on slopes less than 15%. The cultivation area is consistent with the requirements for the cultivation type, status, and zoning of the parcel. The applicant will comply with all conditions of the CMMLUO, as specified in the recommended conditions of approval.
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person, as	According to records maintained by the Department, Allan Luster does not have other applications for a cannabis permit, and is entitled to four. This application is associated with a single permit for mixed light cultivation.

	defined in the referenced section.	
§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.	Cannabis will be dried on site with all remaining processing to either occur in a building that meets the code for a commercial building, or will be taken off site to a licensed processing facility.
§314-55.4.10 Application Requirements	Identifies the Information Required for All Applications	Attachment 4 identifies the information submitted with the application, and shows all the required information was received. Contents of the application are on file.
§314-55.4.11 Performance Standards	Identifies the Performance Standards for Cannabis Cultivation Activities	The cultivation operation will adhere to all applicable performance standards described in the CMMLUO. They are required to be met throughout the timeframe of the permit.
§314-55.4.11.c Performance Standards-Water	Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.	The irrigation water source is a well. The well is 130 feet deep drilled through clay and shale layers. It is approximately 450 feet from the Mattole River and appears from these characteristics to not be hydrologically connected. Estimated annual water use is 84,000 gallons. Water storage totals 9,000 gallons. The applicant has a waiver of waste discharge requirements and a conditional exemption under the State Water Board Cannabis General Order. CDFW responded to the referral and had no comments on the project (see Attachment 5). An email from the CDFW Environmental Permit Information Management System (EPIMS) dated April 24, 2019 notes the project will not substantially adversely affect an existing fish or wildlife resource and no Lake and Streambed Alteration Agreement is necessary.
§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 cultivation is 200 feet from land owned by the Bureau of Land Management. Section 314-55.4.11(d) allows a relaxation of the 600-foot setback to public lands managed for open space and/or wildlife purposes. A Special Permit is requested to reduce the setback. There are no schools or school bus stops within 600 feet of the cultivation operation. There are no parks as defined HCC Section 314- 55.4.7 within 600 feet of the cultivation site based on a review of aerial imagery. Nor is there a place of religious worship within 600 feet. Per comments provided by the Bear River Band THPO, there are no TCRs present on the site. The site plan

		shows the project complies with property line setbacks.
§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	Power is provided by PG&E and solar. A generator is only used as emergency backup. Any generator noise shall be less than 50 decibels as measured 100 feet from the source.
§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 cultivation application on December 27, 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 Requirements	Evidence that Supports the Required Finding
§312-17.1.4	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 any environmental damage. All commenting agencies have recommended approval or conditional approval of the project.

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

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.5 Housing Element Densities	The proposed development shall 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 parcel was not included in the 2014 Housing Inventory.

6. Environmental Impact: The following table identifies the evidence that supports finding that the proposed development will not adversely impact the environment.

As lead agency, the Department prepared an Addendum to the previously adopted Mitigated Negative Declaration (MND) (State Clearinghouse # 2015102005) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) and adopted by the County Board of Supervisors January 26, 2015. The MND prepared for the CMMLUO established that the environmental effects of existing cultivation operations would be reduced from the baseline impacts through the regulations applied by the CMMLUO. The proposed project is consistent with all regulations within the CMMLUO and all mitigation measures of the MND. The project is for the approval of an existing cultivation operation and reduction of setback to public lands. The environmental document on file include detailed discussions of all the relevant environmental issues.

ATTACHMENT 3
CEQA Addendum

CEQA ADDENDUM TO THE
MITIGATED NEGATIVE DECLARATION FOR THE COMMERCIAL MEDICINAL MARIJUANA LAND USE
ORDINANCE

Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration (MND)
(State Clearinghouse # 2015102005), January 2016

APN 105-162-021, 1321 Lighthouse Road, Petrolia, County of Humboldt

Prepared By
Humboldt County Planning and Building Department
3015 H Street, Eureka, CA 95501

September 2019

Background

Modified Project Description and Project History - The original project reviewed under the Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. The MND states that "Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting."

The modified project involves a Special Permit for a setback reduction to public lands and a 1,440 square foot mixed-light cannabis cultivation operation. Cultivation occurs in one greenhouse to produce up to three (3) harvest cycles per year. Propagation takes place onsite in an existing garage. Estimated annual water use is 84,000 gallons. Irrigation water is sourced from a permitted well and total water storage is 9,000 gallons in three tanks. Processing, including drying and trimming, occurs onsite in two (2) existing sheds. No processing can be approved until a septic system is approved. All work is done by the owner-operator and no employees are needed. The power sources are PG&E, a solar well pump, and a generator for emergency backup. The applicant has a conditional exemption from the State Water Board and a letter stating that no Lake and Streambed Alteration Agreement is needed on the property.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate for impacts of existing cultivation. These include compliance with noise and light standards to limit disturbance to wildlife, increased water storage to allow for complete forbearance from water diversion during the dry season, and proper storage of fertilizers and soil amendments.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or

alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the operation of a 1,440 square foot commercial cannabis farm is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents (see Attachment 4 for a complete listing of information and studies):

- Cultivation and Operations Plan dated July 13, 2018 .
- California Department of Fish and Wildlife EPIMS response (EPIMS-05414-R1) dated April 24, 2019
- Road Evaluation Report signed January 28, 2018
-

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See Purpose statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted. Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation on a site that is fully in compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.

ATTACHMENT 4

Applicant's Evidence in Support of the Required Findings

Attachment 4 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. (Not Applicable)
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 ¼ mile (1,320 ft.) 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, Division of Water Rights, if applicable. (On file)
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 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. (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 Department of Fish & Wildlife. (Not Applicable)
9. If the source of water is a well, a copy of the County well permit, if available. (Attached)
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL-FIRE). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the

landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE. (Not Applicable)

11. Consent for onsite inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. (On file)
12. For indoor cultivation facilities, identify the source of electrical power and how it will meet with the energy requirements in Section 55.4.8.2.3, and plan for compliance with applicable Building Codes. (Not Applicable)
13. Acknowledge that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section in the event that environmental conditions, such as a sustained drought or low flows in the watershed will not support diversions for irrigation. (On file)
14. Acknowledge that the County reserves the right to engage with local Tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the Tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The county shall request that a records search be performed through the California Historical Resources Information System (CHRIS). (On file)
15. Road Evaluation Report signed January 28, 2018. (Attached)
16. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/Permits. (On file)
17. California Department of Fish and Wildlife EPIMS response (EPIMS-05414-R1) dated April 24, 2019. (Attached)



October 11, 2018

App# 12506



Initial Study for the Luster Cannabis Cultivation Project

1. INTRODUCTION

The Luster Farms Cannabis Cultivation Project, or Luster Farms Project (APPS No:12506) is located on a 7.45-acre parcel (APN 105-162-021-000) in Southern Humboldt County, NE ¼ of Section 16, Township 2 South, Range 2 West, HBM. Proposed cultivation activities involve an existing operation; 1,440 sq. ft mixed light cultivation and approximately 850 sq. ft of indoor cannabis cultivation. Zoned unclassified (U), all water for this cannabis cultivation project will be drawn from a “Non-Diversiory Water Source”. An underground well located on the ownership, this water source is also used to supply the nearby household, Mr. Luster’s main residence.

Currently operating under a 2018 Interim permit, Mr. Luster has requested that I assist him in addressing potential significant environmental impacts in accordance to the California Environmental Quality Act (CEQA). Having consulted on northern California forest-wildlife matters since 1990, I specialize in biological field investigations and habitat mapping for protected and sensitive species in compliance with the California Forest Practice Rules (FPRs). In addition to having planed and implemented field surveys for a wide array of natural resources, my [resume](#) also demonstrates extensive knowledge of environmental regulations and policy.

Presented in the format of an Initial Study (IS), this document focuses on potential impacts of existing commercial agricultural activities pursuant to CEQA (California Public Resource Code Section 21000 *et seq.*). Streamlining investigation of potential significant environmental impacts, this IS incorporates and builds upon (tiers) previously approved environmental documentation. Pre-existing cultivation area verification (CAV) and public land adjacency issues have also been addressed.

2. PROJECT DESCRIPTION

This project involves commercial cannabis cultivation activities in a “Non-forested area” of the lower Mattole River watershed. Conducted according to “Cultivation and Operations Plan For Luster Farms”, in addition to a 1,440 sq. ft. mixed light operation in a plastic greenhouse, Mr. Luster also seek conditional use permit for 850 sq. ft. of indoor cultivation in a freestanding structure built specifically for this purpose in 2009.

Associated with a permanent residential dwelling, proposed cannabis cultivation will only use water from a well on the property. With the exception of the sun powered well pump, all operation will be powered from the grid. However, a 25KW diesel ‘WhisperWatt’ generator located in a room in the garage with its own self-contained fuel tank on a concrete floor will be utilized as emergency backup.

Defined as “cultivation using a combination of natural and supplemental artificial lighting”, proposed mixed light cultivation will take place in a manufactured greenhouse with the dimensions of 24’ x 60’. In raised beds lined with plastic to prevent runoff and waste, electrical fans will be employed to circulate air in the greenhouse. Twenty-four LEC Sun System lights will provide supplemental lighting as needed, but the greenhouse will be covered to prevent light pollution.

Mr. Luster also seeks a conditional use permit for approximately 850 sq. ft. of indoor cannabis cultivation. Defined by the most recent Commercial Cannabis Land Use Ordinance (CCLUO) as “*cultivation within a structure primarily or exclusively using artificial lighting*”, proposed indoor operation involve existing cultivation located inside a permitted 32’ x 40’ freestanding garage constructed explicitly for the purposes of producing medical dispensary grade cannabis flowers in 2009.

The garage contains two rooms devoted to cannabis cultivation: A 28’ x 12’ “baby room” used for early propagation, containing eleven 300-watt LEC Sun System lights, and a 28’ x 18’ “mother room”, with 12 1,000-watt Gavita lights. Additionally, a 12’ x 32’ shed will be used for cannabis drying and tool storage.

3. ENVIRONMENTAL SETTING

Proposed commercial medical cannabis cultivation will take place at the interphase between Urban and second growth Montane Hardwood-Conifer habitat (Mayer and Laudenslayer 1988). Approximately 1.3 miles south of the community of Petrolia, it borders the Bureau of Land Management’s (BLM) Kings Range National Conservation Area. However, cleared for development more than twenty-five year ago, all proposed cannabis cultivation is located within 500 feet of a permanently occupied residence.

Although this project is located within the range of the northern spotted owl (NSO) (*Strix occidentalis caurina*), my field inspection on September 15 did not observe suitable nesting habitat within 120 feet of proposed operations. The canopy is too open and proximity to residential development also limits nesting suitability. I have never encountered NSOs nesting closer than 500 feet of a house.

Nevertheless, suitable habitat for this federally listed species does exist on adjacent public land and the CNDDDB indicates a historical NSO detection in this vicinity. However, according to their “Spider Diagram”, this anecdotal detection from 1986 most likely originated from NSO Activity Center (AC) HUM0154. Last located as a nesting pair in 1990, this AC is more than 0.5 miles to the southwest.

There are no watercourses within 300 feet of proposed operations. My field visit also confirmed the absence of wetlands and/or other sensitive habitats in association with this grow. Fully enclosed, I found the noise level of backup generator well below the 90-dB threshold for disturbance established by the U.S. Fish and Wildlife Service (USFWS). Similarly, fans associated with mixed light cultivation could not be heard at 120 feet from the structure.

4. REGULATORY SETTING

Proposition 64 (the California Marijuana Legalization Initiative) gives each municipality the right to make their own rules and on October 9, 2015, the Governor signed into law the Medical Marijuana Regulation and Safety Act (“MMRSA”) (SB 643, AB 266, and AB 243). Consequently, the Humboldt County Planning and Building Department (HCPBD) began accepting applications for projects in the Inland Zone after the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) was adopted by the Board of Supervisors on February 26, 2016. Accordingly:

“It is intended to address the County of Humboldt’s prerogative to license, permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical marijuana as set forth in the MMRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the County of Humboldt, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the County of Humboldt, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law.”

Although 55.4.6.5 provides accommodations for pre-existing cultivation sites that exempts them from performance standards required of new developments, general provisions applicable to all commercial cannabis land use activities intended to alleviate adverse environmental impacts include a 600 feet standard setback for publicly owned lands managed for open space and/or wildlife habitat purposes. However, a setback of less than 600 feet may in accordance to 55.4.6.4.4(f) be allowed with a Special Permit.

The MMLUO requires that electrical power used in indoor cultivation operations (e.g., for illumination, heating, cooling, and ventilation) be provided by one or more of the following: on-grid power with 100% renewable source; on-site zero net energy renewable source; or with purchase of carbon off sets of any portion of power not from renewable sources. According to 55.4.8.1 of the Commercial Cannabis Land Use Ordinance (CCLUO):

“Indoor Cultivation Sites must comply with all applicable performance standards, meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 and comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d), and (g). All Indoor Cultivation activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c).”

As such, not only does proposed mixed light cannabis cultivation qualify as a small cultivation site, the MMRSA considers enclosed artificial light cultivation under 5,000 sq. ft. as “Specialty Indoor”. However, cannabis cultivators applying for an Annual License from the California Department of Food and Agriculture must also address potentially significant adverse environmental effect in accordance to CEQA.

Whereas CEQA does not directly regulate land use, it does require state and local agencies to follow a protocol of analysis and public disclosure. As such, this IS relies extensively on standards and guidelines developed for the protection of sensitive environmental resources under 14 CCR §1104.1a of the 1973 Z'berg-Nejedly Forest Practice Act (Public Resources Code Section 4551 et seq.). Thereto referred to as the California Forest Practice Rules (FPRs), these rules are functionally equivalent to CEQA.

Other relevant environmental laws include the Federal Endangered Species Act (ESA), California's Endangered Species Act (CESA), the Federal Clean Water Act (CWA), the Bald and Golden Eagle Protection Act, as well as the California Fish and Game Code. While the USFWS and the National Marine Fisheries Service (NMFS) have authority over federally listed species, CDFW is responsible for implementation the California Endangered Species Act (CESA). Although CDFW is also authorized to comment and make recommendations on CEQA projects, as the Lead Agency, permitting legal cannabis cultivation in a manner that prevents or minimizes significant environmental impacts is ultimately a Humboldt County responsibility.

5. BIOLOGICAL COMMUNITIES

Preliminary environmental scoping included a literature review of floral and faunal communities likely impacted by the proposed cannabis cultivation using CDFW's List of Special Animals (2018). A query of the CNDDB was also conducted within 1.3 miles of the project. Compatible with the assessment area USFWS recommends for evaluating impacts of forest management on spotted owls, in addition to a historical NSO Territory a half mile to the southwest, the CNDDB indicates the presence of Coastal Douglas-fir Western Hemlock Forest, coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss irideus*, foothills yellow-legged frog, (*Rana boylii*), and Pacific tailed frog (*Ascaphus truei*).

Luster Farms location, almost 1,000 feet from fish bearing streams, precludes impacts to anadromous species and Willow Flycatcher (*Empidonax traillii*). Similarly, impacts to sensitive botanical communities can reasonably be dismissed because proposed cannabis cultivation does not involve additional ground disturbance. However, a more comprehensive impacts assessment of protected and sensitive amphibians, reptile, bird and mammal communities potentially impacted by proposed cannabis cultivation has been conducted in terms of ecological management guilds.

6. DISCUSSION OF ENVIRONMENTAL IMPACTS

Article 5 of the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, Sections 15000-15387) provides rules for "Preliminary Review of Project and Conduct of Initial Study". Concerned with present plant or animal communities threatened by local elimination, in jeopardy of experiencing substantial habitat reduction, or dropping below self-sustaining levels as a result of proposed project [§15065(a)(1)], CEQA requires that a decision-making body provide substantial evidence of significant environmental effects before empowering lead agencies to authorize additional mitigations or alternatives [CCR 14 §15126.4 (a)(3)].

To the best extent possible, such arguments should contain an element of Forecasting (CCR 14 §15144), as well as a degree of Specificity (CCR 14 §15146), and Technical Detail (CCR 14 §15147). Limited to activities which are within the agency's area of expertise [§15096 (d)], comments need to be written in a manner that is meaningful and useful to decision making body and the public [§21003(b)].

"Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence" [14 CCR §21080(e)(2)].

As such, sensitive and protected species potentially impacted by proposed cannabis cultivation have been discussed with emphasis on CEQA significance. Considered in order of importance, starting with those listed under the ESA, followed by species considered under the CESA; impacts to sensitive and special concern species have been addressed as part of ecological management guilds. Potential significant effects to animals with large territories were considered inside 1.3 miles, an area corresponding to the FPRs recommended assessment area for NSOs. Impacts to species with smaller ranges and/or specific habitat requirements were evaluated within the project's disturbance footprint.

Parameters used to appraise potential CEQA significance included (1) occurrence and distribution of the species in relation to the project area, (2) species sensitivity to disturbance, (3) existing baseline conditions, and (4) the species legal status and population size. A species was dropped from further consideration, if the project area was found to occur outside its distribution, or vital habitat requirements for that species were absent.

Lastly, the energy use and associated carbon foot print of proposed small-scale indoor grow has been addressed in terms of adherence to current guidelines, and citing **"Energy Impacts of Cannabis Cultivation – Workshop Report and Staff Recommendations"**, published in 2017 by the California Public Utilities Commission's (CPUC).

Northern Spotted Owl

Northern spotted owls require mature forest patches with permanent water and suitable nesting trees and snags (Zeiner et al. 1990). Although initially believed to be old growth obligate, NSOs commonly occur in younger forest types of northern California (USDA 1994). However, rather than habitat encroachment, it seems competition from the closely related, exotic and invasive barred owl (*Strix varia*) is now regarded as the largest threat to the California NSO population (USFWS 2011). The one NSO detection in the vicinity of Mr. Luster's property dates back to 1986, but there is no indication that NSOs have ever nested within ¼ miles of proposed cannabis cultivation. A query of the California Natural Diversity Data Base (CNDDB) indicates that these detections most likely originated from HUM0154, an Activity Center located a half mile to the southwest.

Proposed activities are located in a non-forested area and do not involve the removal of NSO habitat. Furthermore, cannabis cultivation does not generate the same type of disturbance as logging. However, because it is conceivable that disturbance from cannabis cultivation activities could potentially violate the ESA by disrupting breeding pairs, the environmental significance of proposed operations has been assessed according to USFWS guidelines, and 14 CCR §919.10 of the FPRs.

In accordance to “Estimating the Effects of Auditory and Visual Disturbance to Northern Spotted Owls and Marbled Murrelets in Northwestern California (USFWS 2006)” reach the level of take when at least one of the following conditions is met:

- *Project-generated sound exceeds ambient nesting conditions by 20-25 decibels (dB).*
- *Project-generated sound, when added to existing ambient conditions, exceeds 90 dB.*
- *Human activities occur within a visual line-of-sight distance of 40 m or less from a nest.*

Bald Eagle, Osprey and Forest Raptors

California Species of Special Concern, and BOF Sensitive, bald eagles and ospreys (*Pandion haliaetus*) are fully protected; these large mainly fish-eating birds are known to nest in large trees, in association with nearby streams and rivers. Same niche as great blue herons (*Ardea herodias*). Although regularly observed in the Mattole River corridor, the CNDDDB has no records of bald eagles, heron rookeries, or other birds of prey nesting within 1.3 miles of this project. Given that this project does not involve habitat removal, in combination with its distance from fish bearing streams, it is reasonable to conclude that proposed cannabis cultivation activities will not significantly impact bald eagles or ospreys. Similarly, other forest raptors and herons have been dropped from further analysis.

Foothills Yellow-legged Frog and Aquatic/Wet Site Guild Species

Listed as a candidate species under the CESA, habitat for foothills yellow-legged frogs does not exist in association with this project. Considering that cultivation activities will not take place with 150 feet of a watercourse or large pond, the proposed cannabis operations cannot reasonably be expected to result in significant impacts to Aquatic/Wet Site Guild Species. Consequently, further consideration for these species have been dropped.

Forest Mustelids, Bats and Other Small Mammals

Although the CNDDDB has no records of sensitive mammals within 1.3 miles of proposed operations, suitable habitat for bats and Sonoma Tree Vole (*Arborimus pomo*) may occur on the property. Nevertheless, prohibited from using rodenticides, disturbance from proposed cannabis cultivation is unlikely to significantly impact forest mammal populations and further consideration of these guild species has been dropped.

Indoor Cultivation Energy Use and Carbon Footprint

Indoor cultivation is generally accepted as the most energy intensive cultivation method, but is also potentially the most water-efficient method. Although baseline numbers are not available for California, a CPUC workshop estimated that the actual energy use of indoor cannabis cultivation is between 35 W/sq. ft. and 68 W/sq. ft. Noting that California cannabis cultivators have developed diverging preferences on pursuing indoor, mixed-light

versus outdoor cultivation, and that optimizing between increased crop yield and increased energy costs is a business decision affected by revenue potential and other costs of doing business, other key takeaways from the workshop included:

“States that have legalized recreational cannabis have not necessarily seen an increase in energy consumption attributable to cannabis cultivation;

With respect to indoor cannabis cultivation, state building and/or energy codes sometimes result in cultivation operations that are less energy efficient than they could be, without any concomitant gains in safety;...”

Nevertheless, with 18 W/sq. ft. for lighting, and an equal amount estimated for ventilation and dehumidifiers, at 36 W/sq., this indoor operation is consistent with the CPUC’s average indoor cultivation electricity use. Furthermore, in accordance to the MMLUO:

“The electrical power used in indoor cultivation operations (e.g., for illumination, heating, cooling, and ventilation) be provided by one or more of the following: on-grid power with 100% renewable source; on-site zero net energy renewable source; or with purchase of carbon off sets of any portion of power not from renewable sources.”

7. DISCUSSION OF SIGNIFICANT ENVIRONMENTAL IMPACTS

Spotted owls are known to occupy low-quality sites where reproduction and survival are substantially reduced (Franklin et al. 2000, Dugger et al 2005). However, not only does the ESA limit consideration to sites with a reasonable expectation of occupancy, jeopardy must also be analyzed against existing baseline conditions. [Section 7 USFWS Consultation Handbook](#) clearly indicates the importance of factoring in current habitat conditions when conducting an ESA “take” analysis, but environmental baselines analysis is also an explicit requirement for determining a CEQA significance.

Equivalent to the noise from a full-size pickup truck, at a distance of 40 meters, the noise from generators and fans did not exceeded 20 dB above ambient conditions. As such, proposed cannabis operations are in full compliance with 14 CCR §919.10 and will have no effect on NSOs. In conclusion, this IS could not identify any plant or animal community potentially impacted by proposed activities in manner that would be CEQA significant; given full compliance with State and County guidelines, the carbon footprint of proposed indoor cultivation does exceed the threshold of significance.

Troy Leopardo



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8. SOURCES AND LITERATURE CITED

Association for Environmental Professionals (AEP). 2018. California Environmental Quality Act (CEQA) Statute and Guidelines, califaep.org

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Allan Luster <lusterfarmspetrolia@gmail.com>

EPIMS - Number EPIMS-05414-R1 - No Agreement Needed

epims.support@wildlife.ca.gov <epims.support@wildlife.ca.gov>
To: lusterfarmspetrolia@gmail.com

Wed, Apr 24, 2019 at 9:35 AM

**** Do Not Respond to This Email ****



STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE
Environmental Permit Information Management System

This e-mail was generated by an automated mail handling system.
Please **do not** reply to the address listed in the "From" field.
Please read the CUSTOMER SERVICE section below if you have questions.

Dear Allan Luster,

The California Department of Fish and Wildlife (CDFW) has reviewed your Lake or Streambed Alteration (LSA) Notification submitted to the Environmental Permit Information Management System (EPIMS) identified below:

EPIMS Number: EPIMS-05414-R1
Project Name: Luster Farms Petrolia
Program Area: Region 1

CDFW has determined that your project is subject to the notification requirement in Fish and Game Code section 1602, including payment of the notification fee. CDFW has also determined that your project will not substantially adversely affect an existing fish or wildlife resource. As a result, you will not need a Lake or Streambed Alteration Agreement for your project. You are responsible for complying with all applicable local, state, and federal laws in completing your work. A copy of this email and your submitted notification with all attachments shall be available at all times at the work site.

Please note that if you change your project so that it differs materially from the project you described in your submitted notification, you will need to submit a new notification and corresponding fee to CDFW.

If you have questions, please contact the [CDFW Regional Office](#) where the project is located. Please refer to the EPIMS number referenced above.

You may now log into the EPIMS at: <https://EPIMS.wildlife.ca.gov>

CUSTOMER SERVICE

[Forgot User ID?](#)
[Forgot Password?](#)

For questions regarding the status of your EPIMS account, notification, project information, or any technical question, please contact the CDFW Regional Office where the project is located.

Regional Contact information can be found at [CDFW Regional Contact Information \(PDF\)](#).

HUMBOLDT COUNTY DEPARTMENT OF PUBLIC WORKS
ROAD EVALUATION REPORT

PART A: Part A may be completed by the applicant

Applicant Name: Allan C. Luster APN: 105-162-021
Planning & Building Department Case/File No.: Application No. 12506
Road Name: Light House Road (complete a separate form for each road)
From Road (Cross street): Matt Hole Road
To Road (Cross street): _____
Length of road segment: _____ miles Date Inspected: _____
Road is maintained by: ☒ County ☐ Other _____
(State, Forest Service, National Park, State Park, BLM, Private, Tribal, etc)

Check one of the following:

- Box 1** ☒ The entire road segment is developed to Category 4 road standards (20 feet wide) or better. If checked, then the road is adequate for the proposed use without further review by the applicant.
- Box 2** ☐ The entire road segment is developed to the equivalent of a road category 4 standard. If checked, then the road is adequate for the proposed use without further review by the applicant.

An equivalent road category 4 standard is defined as a roadway that is generally 20 feet in width, but has pinch points which narrow the road. Pinch points include, but are not limited to, one-lane bridges, trees, large rock outcroppings, culverts, etc. Pinch points must provide visibility where a driver can see oncoming vehicles through the pinch point which allows the oncoming vehicle to stop and wait in a 20 foot wide section of the road for the other vehicle to pass.

- Box 3** ☐ The entire road segment is not developed to the equivalent of road category 4 or better. The road may or may not be able to accommodate the proposed use and further evaluation is necessary. Part B is to be completed by a Civil Engineer licensed by the State of California.

The statements in PART A are true and correct and have been made by me after personally inspecting and measuring the road.

Signature

Allan C. Luster

Name Printed

Allan C. Luster



Date

1-28-18

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.



PART B: Only complete Part B if Box 3 is checked in Part A. Part B is to be completed by a Civil Engineer licensed by the State of California. Complete a separate form for each road.

Road Name: _____ Date Inspected: _____ APN: _____
From Road: _____ (Post Mile _____) Planning & Building
To Road: _____ (Post Mile _____) Department Case/File No.: _____

1. What is the Average Daily Traffic (ADT) of the road (including other known cannabis projects)?

Number of other known cannabis projects included in ADT calculations:
(Contact the Planning & Building Department for information on other nearby projects.) _____

ADT: _____ Date(s) measured: _____

Method used to measure ADT: ☐ Counters ☐ Estimated using ITE Trip Generation Book

Is the ADT of the road less than 400? ☐ Yes ☐ No

If YES, then the road is considered very low volume and shall comply with the design standards outlined in the American Association of State Highway and Transportation Officials (AASHTO) *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)*. Complete sections 2 and 3 below.

If NO, then the road shall be reviewed per the applicable policies for the design of local roads and streets presented in AASHTO *A Policy on Geometric Design of Highways and Streets*, commonly known as the "Green Book". Complete section 3 below.

2. Identify site specific safety problems with the road that include, but are not limited to: (Refer to Chapter 3 in AASHTO *Guidelines for Geometric Design of Very Low-Volume Local Roads (ADT ≤ 400)* for guidance.)

A. Pattern of curve related crashes.

Check one: ☐ No. ☐ Yes, see attached sheet for Post Mile (PM) locations.

B. Physical evidence of curve problems such as skid marks, scarred trees, or scarred utility poles

Check one: ☐ No. ☐ Yes, see attached sheet for PM locations.

C. Substantial edge rutting or encroachment.

Check one: ☐ No. ☐ Yes, see attached sheet for PM locations.

D. History of complaints from residents or law enforcement.

Check one: ☐ No. ☐ Yes (☐ check if written documentation is attached)

E. Measured or known speed substantially higher than the design speed of the road (20+ MPH higher)

Check one: ☐ No. ☐ Yes.

F. Need for turn-outs.

Check one: ☐ No. ☐ Yes, see attached sheet for PM locations.

3. Conclusions/Recommendations per AASHTO. Check one:

☐ The roadway can accommodate the cumulative increased traffic from this project and all known cannabis projects identified above.

☐ The roadway can accommodate the cumulative increased traffic from this project and all known cannabis projects identified above, if the recommendations on the attached report are done. (☐ check if a *Neighborhood Traffic Management Plan* is also required and is attached.)

☐ The roadway cannot accommodate increased traffic from the proposed use. It is not possible to address increased traffic.

A map showing the location and limits of the road being evaluated in PART B is attached. The statements in PART B are true and correct and have been made by me after personally evaluating the road.

Signature of Civil Engineer _____

Date _____

Important: Read the instructions before using this form. If you have questions, please call the Dept. of Public Works Land Use Division at 707.445.7205.



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DEC 22 2016

16/17-0617

HUMBOLDT CO. DIVISION
OF ENVIRONMENTAL HEALTH
WATER WELL APPLICATION

CONSTRUCTION – REPAIR – DESTRUCTION

The Well Permit will be returned to the property owner when approved by
Humboldt County Division of Environmental Health (DEH)

Instructions:

1. Complete both sides and submit the Water Well Application with required fee. Include Well Driller's signature and property owner's signature.
2. Work on a well shall not be started prior to approval of the Water Well Application by DEH.
3. Any changes made to the location of a new well shall be approved by DEH prior to commencement of drilling.
4. Well Driller shall notify DEH a minimum of 24 hours prior to sealing the annular space.

Site Address	<u>1321 Lighthouse Rd</u>	APN	<u>105-162-021</u>
City/State/Zip	<u>Petaluma Ca</u>	CA	
Directions to Site			
Applicant	<u>Edward Mitchell Water Well</u>	Contact	<u>Ed Mitchell</u>
Mailing Address	<u>7900 Myrtle Ave.</u>	Work Phone	<u>(707) 502-8636</u>
City/State/Zip	<u>Eureka, CA 95503</u>	Cell Phone	
Property Owner	<u>P.O. Box 162</u>	Home Phone	
Mailing Address	<u>Petaluma Ca 95558</u>	Work Phone	
City/State/Zip	<u>Allan C. Luster</u>	Cell Phone	
I hereby grant 'right-of-entry' for inspection purposes		<u>[Signature]</u>	
Drilling Contractor	<u>Edward Mitchell</u>	C-57 License #	<u>303670</u>
I hereby agree to comply with all laws and regulations of the County of Humboldt and the State of California Department of Water Resources Bulletin 74 pertaining to water well construction. I will contact Humboldt County Division of Environmental Health (DEH) when I commence work. Within 30 days after completion of work, I will furnish DEH a report of the work performed.			
Well Driller Signature:		<u>[Signature]</u>	
Would driller like a copy of approved application?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/> U.S. Mail address:		<u>7900 Myrtle Ave, Eureka, CA 95503</u>	
<input checked="" type="checkbox"/> Email address:		<u>Eddy2112@gmail.com</u>	
Type of Application:	Construction:	Intended Use:	
<input checked="" type="checkbox"/> Construction	Estimated Depth (ft.)	<input checked="" type="checkbox"/> Domestic - private	
<input type="checkbox"/> Destruction	Diameter (in.)	<input type="checkbox"/> Community Supply	
<input type="checkbox"/> Repair/Modification	Depth of Seal (ft.)	<input type="checkbox"/> Irrigation	
	Sealing Material	<input type="checkbox"/> Other	
	<u>140'</u>		
	<u>5"</u>		
	<u>20'</u>		
	<u>Bentonite Chips</u>		

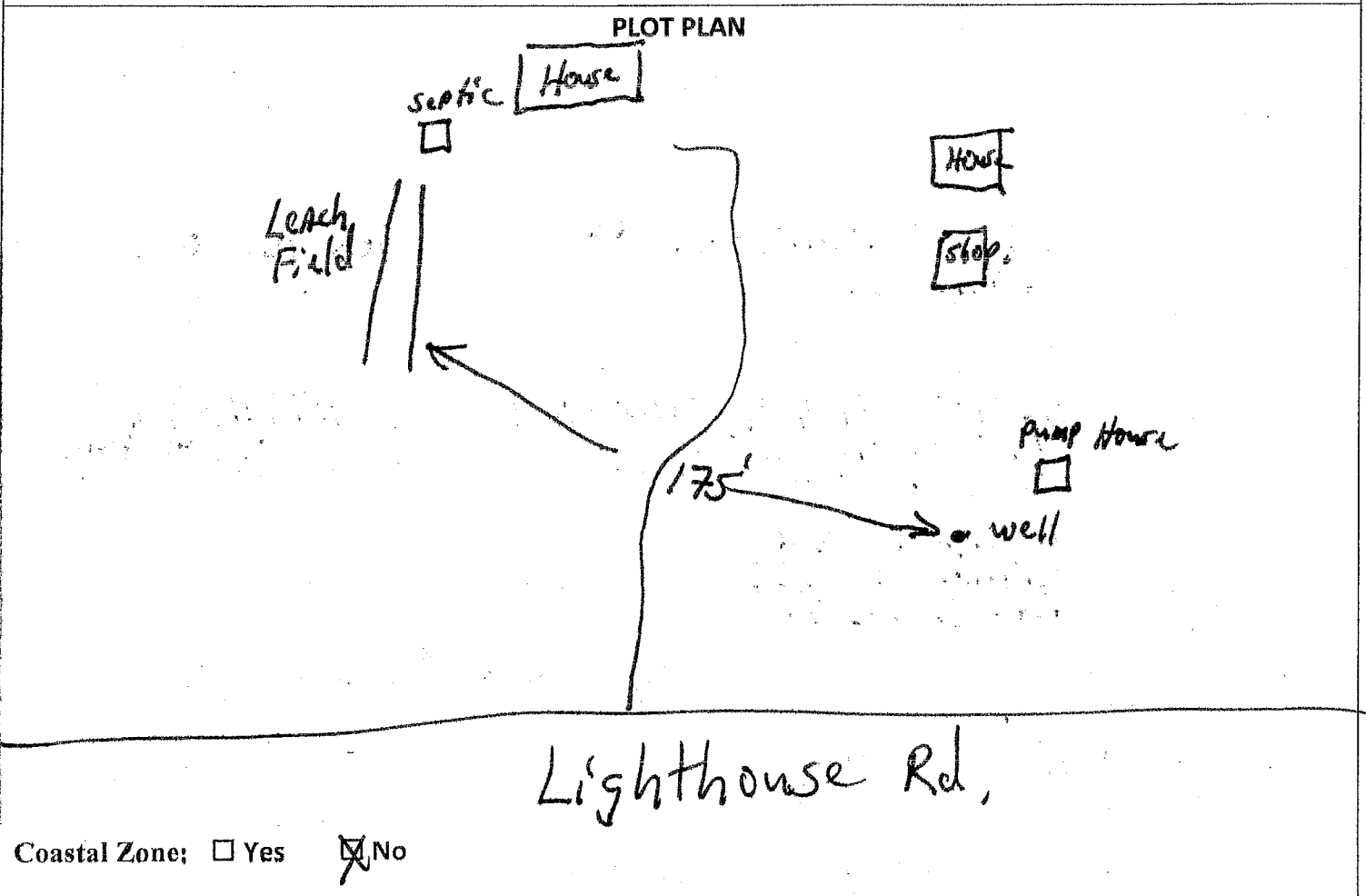
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MAY -2 2018

Humboldt County
Planning Division



<u>Estimated Work Dates:</u>	<u>Casing:</u>	<u>Type of Sewage System:</u>
Start _____	Diameter (in.) <u>5"</u>	<input type="checkbox"/> Community Sewer
Completion _____	Material <u>PVC</u>	<input checked="" type="checkbox"/> OWTS (Septic)
		Distance from well site to OWTS _____

Special Requirements/Comments:



FOR OFFICE USE ONLY			
Fee:	373. Cash	Site Approved by:	[Signature]
Date:	12/22/16	Site Approved Date:	1/10/17
Receipt:	760371	Sealed to Depth of:	30 ft
Project #:	16/17-0617	Seal observed:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Paid by:	Edward Mitchell	Final Approved Date:	3/1/18 [Signature]



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DEC 22 2016

16/17-0617

HUMBOLDT CO. DIVISION
OF ENVIRONMENTAL HEALTH
WATER WELL APPLICATION

CONSTRUCTION – REPAIR – DESTRUCTION

The Well Permit will be returned to the property owner when approved by
Humboldt County Division of Environmental Health (DEH)

Instructions:

1. Complete both sides and submit the Water Well Application with required fee. Include Well Driller's signature and property owner's signature.
2. Work on a well shall not be started prior to approval of the Water Well Application by DEH.
3. Any changes made to the location of a new well shall be approved by DEH prior to commencement of drilling.
4. Well Driller shall notify DEH a minimum of 24 hours prior to sealing the annular space.

Site Address	<u>1321 Lighthouse Rd</u>	APN	<u>105-162-021</u>
City/State/Zip	<u>Pointon, Ca</u>	CA	
Directions to Site			
Applicant	<u>Edward Mitchell Water Well</u>	Contact	<u>Ed Mitchell</u>
Mailing Address	<u>7900 Myrtle Ave.</u>	Work Phone	<u>(707) 502-8406</u>
City/State/Zip	<u>Eureka, CA 95503</u>	Cell Phone	
Property Owner	<u>P.O. Box 162</u>	Home Phone	
Mailing Address	<u>Pointon, Ca 95558</u>	Work Phone	
City/State/Zip	<u>Allan C. Luster</u>	Cell Phone	
I hereby grant 'right-of-entry' for inspection purposes		<u>[Signature]</u>	
Drilling Contractor	<u>Edward Mitchell</u>	C-57 License #	<u>303670</u>
I hereby agree to comply with all laws and regulations of the County of Humboldt and the State of California Department of Water Resources Bulletin 74 pertaining to water well construction. I will contact Humboldt County Division of Environmental Health (DEH) when I commence work. Within 30 days after completion of work, I will furnish DEH a report of the work performed.			
Well Driller Signature:	<u>Edward M. Mitchell</u>		
Would driller like a copy of approved application?		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/> U.S. Mail address:	<u>7900 Myrtle Ave, Eureka, CA 95503</u>		
<input checked="" type="checkbox"/> Email address:	<u>Edmy2112@gmail.com</u>		
Type of Application:	Construction:	Intended Use:	
<input checked="" type="checkbox"/> Construction	Estimated Depth (ft.)	<input checked="" type="checkbox"/> Domestic - private	
<input type="checkbox"/> Destruction	Diameter (in.)	<input type="checkbox"/> Community Supply	
<input type="checkbox"/> Repair/Modification	Depth of Seal (ft.)	<input type="checkbox"/> Irrigation	
	Sealing Material	<input type="checkbox"/> Other	
	<u>140'</u>		
	<u>5"</u>		
	<u>20'</u>		
	<u>Bentonite chips</u>		

Estimated Work Dates:

Casing:

Type of Sewage System:

Start _____

Diameter (in.) 5"

☐ Community Sewer

Completion _____

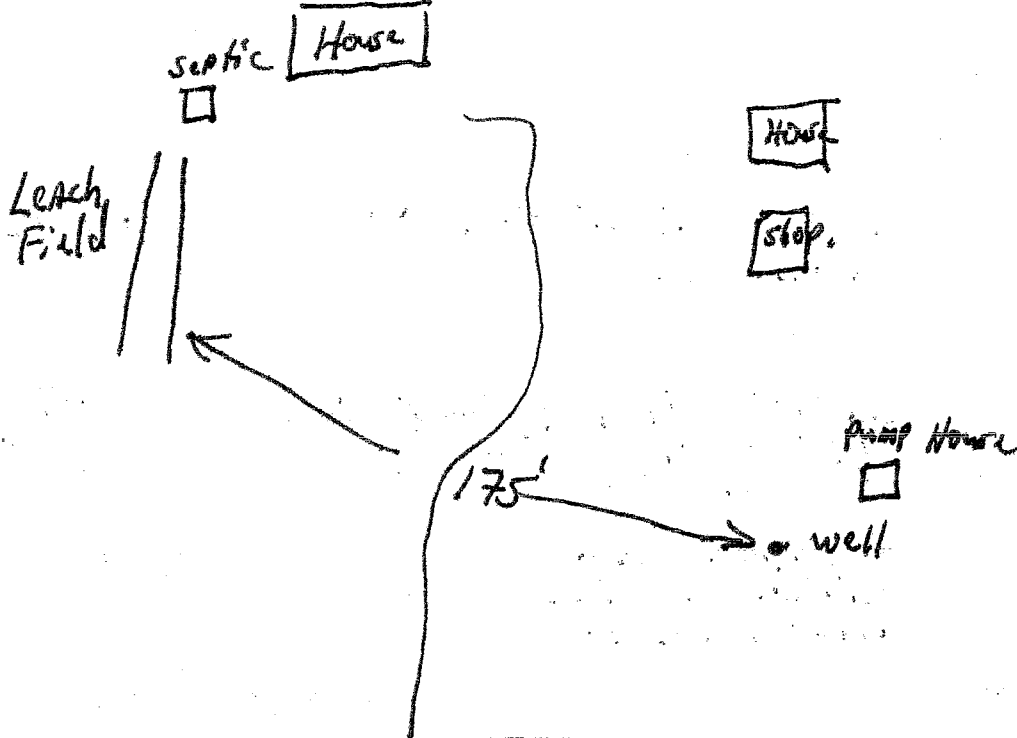
Material PVC

☒ OWTS (Septic)

Distance from well site
to OWTS _____

Special Requirements/Comments:

PLOT PLAN



Lighthouse Rd.

Coastal Zone: ☐ Yes ☒ No

FOR OFFICE USE ONLY

Fee: 373. Cash
Date: 12/22/16
Receipt: 760371
Project #: 16/17-0617
Paid by: Edward Mitchell

Site Approved by: [Signature]
Site Approved Date: 1/10/17
Sealed to Depth of: _____
Seal observed: ☐ Yes ☐ No
Final Approved Date: _____

File Original with DWR

State of California

Well Completion Report

Refer to Instruction Pamphlet

No. xxxxxxxx

Page _____ of _____

Owner's Well Number _____

Date Work Began 01/26/2017

Date Work Ended 2/8/2017

Local Permit Agency Humboldt County Environmental Health Dept.

Permit Number 16/17-0617

Permit Date 1/10/17

DWR Use Only - Do Not Fill In

State Well Number/Site Number

Latitude

Longitude

APN/TRS/Other

Geologic Log

Orientation ☒ Vertical ☐ Horizontal ☐ Angle Specify _____

Drilling Method Direct Rotary

☒ Drilling Fluid Bentonite mud ☐

Depth from Surface

Description

Feet to Feet

Describe material, grain size, color, etc

0	3	Topsoil
3	10	Brown Clay
10	15	Gravel
15	25	Brown Sandy Clay
25	45	Grey Shale
45	60	Grey Sandy Clay
60	70	Grey Shale
70	85	Greyish Sand
85	95	Sand & Gravel
95	110	Grey Sandy Shale
110	120	Greyish Silty Sand
120	140	Sand & Gravel

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HUMBOLDT COUNTY
DEPARTMENT OF ENVIRONMENTAL HEALTH

Total Depth of Boring 140 Feet

Total Depth of Completed Well 130 Feet

Well Owner

Name

Mailin

City

Well Location

Address

City Petrolia

County Humboldt

Latitude

Dec.

Min.

Sec.

N

Longitude

Dec.

Min.

Sec.

W

Datum

Dec. Lat.

Dec. Long.

APN Book 105

Page 162

Parcel 021

Township

Range

Section

Location Sketch

(Sketch must be drawn by hand after form is printed.)

North



South

Illustrate or describe distance of well from roads, buildings, fences, rivers, etc. and attach a map. Use additional paper if necessary. Please be accurate and complete.

Activity

- ☒ New Well
- ☐ Modification/Repair
 - ☐ Deepen
 - ☐ Other
- ☐ Destroy
 - Describe procedures and materials under "GEOLOGIC LOG"

Planned Uses

- ☒ Water Supply
 - ☒ Domestic ☐ Public
 - ☐ Irrigation ☐ Industrial
- ☐ Cathodic Protection
- ☐ Dewatering
- ☐ Heat Exchange
- ☐ Injection
- ☐ Monitoring
- ☐ Remediation
- ☐ Sparging
- ☐ Test Well
- ☐ Vapor Extraction
- ☐ Other

Water Level and Yield of Completed Well

Depth to first water 55 (Feet below surface)

Depth to Static

Water Level 45 (Feet) Date Measured 02/08/2017

Estimated Yield * 5 (GPM) Test Type Air Lift ☒

Test Length 6.0 (Hours) Total Drawdown (Feet)

*May not be representative of a well's long term yield.

Casings

Depth from Surface Feet to Feet	Borehole Diameter (Inches)	Type	Material	Wall Thickness (Inches)	Outside Diameter (Inches)	Screen Type	Slot Size if Any (Inches)
0	40	9"	Blank <input checked="" type="checkbox"/> PVC Sch. 40	<input checked="" type="checkbox"/> SDR-21	5"		
40	60	9"	Screen <input checked="" type="checkbox"/> PVC Sch. 40	<input checked="" type="checkbox"/> SDR-21	5"	Milled Slot <input checked="" type="checkbox"/>	0.050
60	80	9"	Blank <input checked="" type="checkbox"/> PVC Sch. 40	<input checked="" type="checkbox"/> SDR-21	5"		
80	130	9"	Screen <input checked="" type="checkbox"/> PVC Sch. 40	<input checked="" type="checkbox"/> SDR-21	5"	Milled Slot <input checked="" type="checkbox"/>	0.050

Annular Material

Depth from Surface Feet to Feet	Fill	Description
0	30	Bentonite <input checked="" type="checkbox"/> Bentonite Chips
30	130	Filter Pack <input checked="" type="checkbox"/> Pea Gravel

Attachments

- ☐ Geologic Log
- ☐ Well Construction Diagram
- ☐ Geophysical Log(s)
- ☐ Soil/Water Chemical Analyses
- ☐ Other

Attach additional information, if it exists.

Certification Statement

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief

Name Edward Mitchell Water Well Drilling

Person, Firm or Corporation

7900 Myrtle Ave.

Eureka

CA 95503

Signed

Address

City

State

Zip

C-57 Licensed Water Well Contractor

Date Signed 2/14/18

C-57 License Number 303670

California Integrated Water Quality System Project (CIWQS)

Facility At-A-Glance Report

[\[VIEW PRINTER FRIENDLY VERSION\]](#) [\[EXPORT THIS REPORT TO EXCEL\]](#)

SEARCH CRITERIA: [\[REFINE SEARCH\]](#) [\[NEW SEARCH\]](#) [\[GLOSSARY\]](#)

DRILLDOWN HISTORY: [\[BACK TO FACILITY LIST\]](#)

Place ID 850963

General Information

Region	Place ID	Place Name	Place Type	Place Address	Place County
1	850963	Luster Farms	Cannabis Site	Petrolia, CA, 95558	Humboldt

Related Parties

Party	Party Type	Party Name	Role	Classification	Relationship Start Date	Relationship End Date
584159	Person	Allan Luster	Contact		09/12/2018	
584161	Organization	Luster, Allan	Land Owner	Private-Individual	09/12/2018	
584160	Organization	Luster, Allan	Operator	Private-Individual	09/12/2018	

Total Related Parties: 3

Regulatory Measures

Reg Measure ID	Reg Measure Type	Region	Program	Order No.	WDID	Effective Date	Expiration Date	Status	Amended?
425182	Enrollee - Waiver	1	IRRICANNABIS	2019-0001-DWQ	1_12CC404064	10/19/2018	04/15/2024	Active	N

Total Reg Measures: 1

Violations

Violation ID	Occurred Date	Violation Type	(-) Violation Description	Corrective Action	Status	Classification	Source
--------------	---------------	----------------	---------------------------	-------------------	--------	----------------	--------

Report displays most recent five years of violations. Refer to the [Interactive Violation Report](#) for more data.

Total Violations: 0

Priority Violations: 0

*Click the "(+/-) Violation Description" link to expand and contract the violation description.
*As of 5/20/2010, the Water Board's Enforcement Policy requires that all violations be classified as 1, 2 or 3, with class 1 being the highest. Prior to this, violations were simply classified as Yes or No. If a 123 classification has been assigned to a violation that occurred before this date, that classification data will be displayed instead of the Yes/No data.

Violation Types

Enforcement Actions

Enf Id	Enf Type	Enf Order No.	Effective Date	Status
--------	----------	---------------	----------------	--------

Total Enf Actions: 0

Inspections

Inspection ID	Inspection Type	Lead Inspector	Actual End Date	Planned	Violations	Attachment
---------------	-----------------	----------------	-----------------	---------	------------	------------

Total Inspections: 0

Last Inspection: None

The current report was generated with data as of: 07/03/2019
 Regional Boards are in the process of entering backlogged data.
 As a result, data may be incomplete.

ATTACHMENT 5

Referral Agency Comments and Recommendation

The project was referred to the following referral agencies for review and comment. Recommendations received are summarized, and the locations of the recommendations are noted.

Referral Agency	Response	Recommendation	On File
Building Inspection Division	✓	Conditional Approval	Attached
Department of Public Works – Land Use Division	✓	Conditional Approval	Attached
Division of Environmental Health	✓	Conditional Approval	Attached
CA Department of Fish and Wildlife		No comments	Attached
Bureau of Land Management (BLM)	✓	Comments	Attached
NWIC	✓	Requested archaeological study	On file with Planning
Bear River Band Rohnerville Rancheria	✓	Inadvertent Discovery Protocol	On file with Planning
Intertribal Sinkyone Wilderness Council		No response	
Southern Humboldt Unified School District		No response	



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Arcata Field Office
1695 Heindon Road
Arcata, CA 95521-4573
www.blm.gov/california



6/5/2019

Planning Commission Clerk
County of Humboldt County
Planning and Building Department
3015 H Street, Eureka, CA 95501

Dear Sir or Madam:

In response to Application APP(S) # PLN-12506-SP APN: 105-162-021-000

The proposed cannabis cultivation site is located along a segment of Mattole River that is designated critical habitat for federally threatened Coho salmon, Chinook salmon, and steelhead. In addition, the BLM determined this segment of Mattole River and Mill Creek to be suitable for inclusion into the national Wild and Scenic Rivers System due to the quality of its spawning and rearing habitat for salmon and steelhead. For these reasons, BLM lands in the Mattole River watershed are managed to conserve and protect these species and their habitats. Management actions at the proposed cannabis cultivation site have the potential to negatively affect stream habitat quality.

The old growth portion of Mill Creek is suitable nesting habitat for Northern Spotted Owl (NSO) and it is occupied habitat. There appears to be at least 1,200' between the project site and old growth. The area between the old growth and the project site is likely not suitable for nesting/roosting, and is probably used as foraging and dispersal habitat.

The NSO continues to suffer population loss across its range due, in part, to habitat loss and human encroachment. The BLM is concerned about the close proximity of this cannabis operation to NSO critical habitat and a historic NSO activity center.

The Humboldt County Ordinance No. 2559, Performance Standards for all Commercial Medical Marijuana Land Use Ordinance, Cultivation and Processing Operations section 55.4.11 item d, requires a 600 foot setback for publicly owned lands managed for open space and/or wildlife habitat purposes. The BLM is concerned about a reduced setback because of the potential impacts to wildlife habitat.

Any activity or resource damage related to cannabis operations on public land such as the cultivation, production, transportation or distribution of supplies or product will violate the Controlled Substances Act and may be subject to federal criminal and/or civil action.

Sincerely,

A handwritten signature in blue ink that reads "Molly Brown". The signature is fluid and cursive, with the first name "Molly" and the last name "Brown" clearly distinguishable.

Molly Brown
Field Manager



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

PROJECT REFERRAL TO: Health and Human Services Environmental
Health Division

Project Referred To The Following Agencies:

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Intertribal Sinkyone Wilderness Council, Mattole Unified School District, King Range National Conservation Area

Applicant Name Allan C Luster Key Parcel Number 105-162-021-000

Application (APPS#) 12506 Assigned Planner Cannabis Planner (CPOD) (707) 445-7541 Case Number(s) ZCC16-476
SP18-086

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

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

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

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

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

We have reviewed the above application and recommend the following:

Approval

Comments:

Response Date: 11/6/2018 Recommendation By: Adam Molofsky



DEPARTMENT OF PUBLIC WORKS
C O U N T Y O F H U M B O L D T

MAILING ADDRESS: 1106 SECOND STREET, EUREKA, CA 95501-0579
AREA CODE 707

ARCATA-EUREKA AIRPORT TERMINAL
McKINLEYVILLE
FAX 839-3596

PUBLIC WORKS BUILDING
SECOND & L ST., EUREKA
FAX 445-7409

CLARK COMPLEX
HARRIS & H ST., EUREKA
FAX 445-7388

AVIATION 839-5401

ADMINISTRATION 445-7491
BUSINESS 445-7652
ENGINEERING 445-7377
FACILITY MAINTENANCE 445-7493

NATURAL RESOURCES 445-7741
NATURAL RESOURCES PLANNING 267-9540
PARKS 445-7651
ROADS & EQUIPMENT MAINTENANCE 445-7421

LAND USE 445-7205

LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Cliff Johnson, Supervising Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer 

DATE: 10-09-2018

RE:

Applicant Name	Allan C. Luster
APN	105-162-021
APPS#	12506
CASE#	ZCC 16-476, SP 18-086

The Department has reviewed the above project and has the following comments:



The Department's recommended conditions of approval are attached as **Exhibit "A"**.



Additional information identified on **Exhibit "B"** is required before the Department can review the project. **Please re-refer the project to the Department when all of the requested information has been provided.**



Additional review is required by Planning & Building staff for the items on **Exhibit "C"**.
No re-refer is required.



Road Evaluation Reports(s) are required; See **Exhibit "D"**.
No re-refer is required.

*Note: Exhibits are attached as necessary.

Additional comments/notes:

// END //

Exhibit "A"

Public Works Recommended Conditions of Approval

(All checked boxes apply)

APPS # 12506

☒ COUNTY ROADS- FENCES & ENCROACHMENTS:
All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the County right of way.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ COUNTY ROADS- DRIVEWAY (PART 1):
The submitted site plan is unclear and/or shows improvements that are inconsistent with County Code and/or Department of Public Works policies. The applicant is advised that these discrepancies will be addressed at the time that the applicant applies to the Department of Public Works for an Encroachment Permit. If the applicant wishes to resolve these issues prior to approval of the Planning & Building permit for this project, the applicant should contact the Department to discuss how to modify the site plan for conformance with County Code and or Department of Public Works policies. Notes:

☐ COUNTY ROADS- DRIVEWAY (PART 2):
Any existing or proposed driveways that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches.

- If the County road has a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and a length of 50 feet.
- If the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet.
- If the County road is an urban road, frontage improvements (curb, gutter, and sidewalk) shall also be constructed to the satisfaction of the Department. Any existing curb, gutter or sidewalk that is damaged shall be replaced.

The exact location and quantity of driveways shall be approved by the Department at the time the applicant applies to the Department of Public Works for an Encroachment Permit.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ COUNTY ROADS- DRIVEWAY (PART 3):
The existing driveway will require substantial modification in order to comply with County Code. The applicant may wish to consider relocating the driveway apron if a more suitable location is available.

☐ COUNTY ROADS-PARKING LOT- STORM WATER RUNOFF:
Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ COUNTY ROADS- DRIVEWAY & PRIVATE ROAD INTERSECTION VISIBILITY:
All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☒ COUNTY ROADS- PRIVATE ROAD INTERSECTION:
Any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

- If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
- If the County road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

☐ COUNTY ROADS- ROAD EVALUATION REPORT(S):
All recommendations in the Road Evaluation Report(s) for County maintained road(s) shall be constructed/implemented to the satisfaction of the Public Works Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way.

// END //