



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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Hearing Date: February 20, 2020

To: Humboldt County Planning Commission

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

Subject: **Mad River Horticulture, LLC, Conditional Use Permit & Special Permit**
Application Number 12769
Assessor's Parcel Number (APN) 208-231-016
594 River Road, Mad River (Dinsmore), CA 95526

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Please contact Portia Saucedo, Planner, at 707-268-3745 or by email at psaucedo1@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
February 20, 2020	Conditional Use Permit & Special Permit	Portia Saucedo

Project Description: Pursuant to Humboldt County Code Section 314.55.4.8.2.1 et seq., the applicant has applied for a Conditional Use Permit to allow the continued allowing for the continued operation of an existing 17,600 square foot (SF) commercial cannabis cultivation of which 2,750 SF mixed light and 14,850 SF outdoor cannabis cultivation operation utilizing two (2) full sun cultivation areas and five (5) greenhouses. And, pursuant to Humboldt County Code Section 314.55.48.6 et seq., the applicant has applied for a Special Permit allowing for a water diversion from the Mad River used for irrigation water. Irrigation water is sourced from an existing 90,000-gallon (gal) pond and a pending diversion from the Mad River. Water storage consists of 21,000 gallons of HDPE water tanks and a 90,000-gallon pond. Projected annual water use is 386,500 gallons (19.7 gallons per square foot). No employees are proposed. Drying/curing of harvested commercial cannabis will occur with dehumidifiers on-site within a shed. Processing will occur off-site at a licensed third-party facility and/or other processing method that meets all industry, county, state, and federal regulations. Power is provided by generators.

Project Location: The project is located in Humboldt County, in the Dinsmore area, on both sides of Salyer-Mad River Road, approximately 6.6 miles northwest from the intersection of County Line Creek Road and State Highway 36, on the property known as 594 River Road, Mad River (Dinsmore), CA.

Present Plan Land Use Designations: Residential Agriculture (RA20-160), Airport Compatibility Zone (AP), Humboldt County General Plan (GP), Density: 20-160 acres per dwelling unit, Slope Stability: High Instability (3).

Present Zoning: Forestry Recreation (FR) FR-B-5(40)

Application Number: 12769

Case Numbers: CUP 16-831 & SP 18-024

Assessor's Parcel Number: 208-231-016

Applicant

Mad River Horticulture, LLC
Attn: Jesse Almas
P.O. Box 1019
Fortuna, CA 95540

Owner

Jesse Almas
P.O. Box 1019
Fortuna, CA 95540

Agent

Mother Earth Engineering
920 Somoa Blvd.
Arcata, CA 95521

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

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

Major Issues: None

Mad River Horticulture, LLC
Case Numbers CUP 16-831 & SP 18-024
Assessor's Parcel Number 208-231-016

Recommended Commission Action

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

Find that the Commission has considered the addendum to the adopted Mitigated Negative Declaration for the CMMLUO, make all of the required findings for approval of the Conditional Use Permit and Special Permit based on evidence in the staff report, and adopt the Resolution approving the proposed Mad River Horticulture, LLC, project subject to the recommended conditions.

Executive Summary: Mad River Horticulture, LLC, is applying for a Conditional Use Permit to allow the continued allowing for the continued operation of an existing 17,600 square foot (SF) commercial cannabis cultivation of which 2,750 SF mixed light and 14,850 SF outdoor cannabis cultivation operation utilizing two (2) full sun cultivation areas and five (5) greenhouses. And, pursuant to Humboldt County Code Section 314.55.48.6 et seq., the applicant has applied for a Special Permit allowing for a water diversion from the Mad River used for irrigation water. Irrigation water is sourced from an existing 90,000-gallon (gal) pond and a pending diversion from the Mad River. Water storage consists of 21,000 gallons of HDPE water tanks and a 90,000-gallon pond. No employees are proposed. Drying/curing of harvested commercial cannabis will occur with dehumidifiers on-site within a shed. Processing will occur off-site at a licensed third-party facility and/or other processing method that meets all industry, county, state, and federal regulations. Power is provided by generators. The outdoor cannabis cultivation is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

Hours/Days of Operation and Number of Employees

Cultivation activities will occur year-round, with peak activity occurring from March to October. There will be no agriculture water usage for the months of November through February. Hours of operation for the outdoor and mixed light cannabis cultivation will be Monday through Friday, 8:00 a.m. to 7:00 p.m. Hours of operation for the commercial activities such as shipping and receiving will be limited to 8:00 a.m. to 6:00 p.m. No employees are proposed.

Greenhouses/Lighting

Greenhouses have pervious floors and are in compliance with Humboldt County Code Section 314-43.1.3.2. They do not have perimeter foundations nor improved floors/footpaths. Lighting activities will be managed to adhere to the International Dark Sky Association Standards for prevention of light spillage. No artificial light will escape at a level that is visible from neighboring properties.

Generator Use

Electrical power for all agricultural operations/activities is supplied by generator (Honda EU3000). The generator is operated inside an enclosure for noise dampening. Specifications for the generator indicate that the decibel rating at a full load is 57 dB/A at a distance of 23 feet. The generator will be enclosed according to the Engineering Toolbox's reference Machine Noise Level Reduction guidelines to reduce noise levels to approximately 30 decibels and a projected 14.2 decibels at 100 feet.

Security on the Premises

The cultivation area will be fully enclosed with fencing with wildlife providing intrusion protection. In addition, all entrances to the facility are restricted by locked gates. The remote location of property provides an additional component of security. All cultivation related items and products will be stored in

locked locations. The project site is equipped with an alarm service, guard dogs, motion sensor lighting and game cameras are installed around the facilities.

Cultivation and Processing

The cultivation area proposed comprises three greenhouses to accommodate 2,750 square feet of mixed-light cultivation and 14,850 square feet of outdoor cultivation. An ancillary propagation area has also been designated just west of the greenhouses that totals 2,000 square feet. Drying/curing of harvested commercial cannabis will occur with dehumidifiers on-site within a shed. The current goal is to operate an environmentally sound farm and utilize the services of a third-party licensed processor and/or other processing method that meets all industry, county, state, and federal regulations. and/or other processing method that meets all industry, county, state, and federal regulations. All materials, equipment, and surfaces used in the harvesting and drying protocol are frequently washed with a soap and water solution and thoroughly rinsed.

Water Sources and Irrigation Methods

Primary water source is a permitted groundwater well and secondarily a surface water point of diversion with a final 1600 agreement with CDFW. There are an additional 21,000 gallons of water HDPE storage tanks onsite for gravity feed and a 90,000-gallon pond. Mulching, time of day watering, and moisture retentive soils for water conservation will be utilized. Water is applied at no more than agronomic rates. There is a 3,000-gallon HDPE tank onsite dedicated for fire suppression.

Road Evaluation Report

The project parcel access roads were evaluated by a Professional Engineer for an adjacent project parcel and the roads were determined to be less than equivalent to a Category 4 Standard for the segment of River Road that runs east-west from the Trinity County Line. The engineer's Road Evaluation Report (RER) detailed measures that must be undertaken to ensure safe travel along the road. A condition of approval has been incorporated that requires that the RER measures be completed. The project is accessed from a non-county-maintained road that originates in Trinity County. The Trinity County portion of the access road begins at the first crossing of the Mad River off Highway 36 in onto a US Forrest Service Road for approximately 500 feet then branches off to the left to County Line Creek Road. County Line Creek Road is a non-county-maintained private road that is maintained by the residents. A Road Evaluation was completed for this section of road by neighboring property owner, Seth Adams, and supplied the County with maps and photographs to show that the road is equivalent to Category 4 Standards.

Airport

The project parcel where cultivation is proposed is in a Federal Aviation Regulation (FAR) Area, and within the County's Airport Compatibility Zone and Airport Zone Building Regulation areas. The site plan shows the entire developed area to be inside airport restriction areas. An Airspace Certification form was submitted by Mother Earth Engineering with self-certification on the Federal Aviation Administration (FAA) website showing that all existing and proposed structures do not exceed the notice criterion specified that warrant filing with the FAA. If any additional structures are proposed within the FAR area, the applicant will be required to fill out an Obstruction Evaluation/Airport Airspace Analysis (OE/AAA) form with the Federal Aviation Administration. An Airspace Certification Form was submitted to the County for this project October December 9, 2019. Mother Earth Engineering determined that the existing and proposed structures on the project parcel did not penetrate the restricted airspace as specified in County Code Section 333-4.

There are no schools, school bus stops, or places of worship within 600 feet of the cultivation or processing areas. A cultural resources investigation for the project site was conducted by DZC Archaeology & Cultural Resource Management July, 2019. The survey, along with historical records searches and correspondence with the Bear River Band Tribal Historic Preservation Officer (TPHO), was documented in a Cultural Resources report that indicated that no historical or archaeological resources were identified on this property. The report recommended inadvertent discovery protocol for any resources discovered during project activities. The TPHO of the Bear River Band of the Rohnerville Rancheria also recommended inadvertent discovery protocol. The project has been conditioned accordingly.

Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP) and Special Permit (SP).

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with a previously adopted Mitigated Negative Declaration. However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 20-
Assessor's Parcel Number: 208-231-016**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Mad River Horticulture, LLC, Conditional Use Permit and Special Permi.

WHEREAS, Mad River Horticulture, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued allowing for the continued operation of an existing 30,000 square foot (SF) outdoor cannabis cultivation operation utilizing two (2) full sun cultivation areas and five (5) greenhouses and in support of approving a Special Permit for a water diversion from the Mad River used for irrigation water;

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

WHEREAS, the project is exempt from environmental review per Section 15301 (Existing Facilities) of the CEQA Guidelines; and

WHEREAS, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed Conditional Use Permit and Special Permit; and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on February 20, 2020.

NOW, THEREFORE, be it resolved, determined, and ordered by the Planning Commission that:

1. The Planning Commission considered the Addendum to the MND adopted for the Commercial Medical Marijuana Land Use Ordinance; and
2. The Commission makes the findings in Attachment 2 of the Planning Commission staff report for Case Numbers CUP 16-831 & SP 18-024 based on the submitted substantial evidence; and
3. Conditional Use Permit and Special Permit Project Number PLN-12769-CUP is approved as recommended and conditioned in Attachment 1 for Project Number PLN-12769-CUP.

Adopted after review and consideration of all the evidence on February 20, 2020.

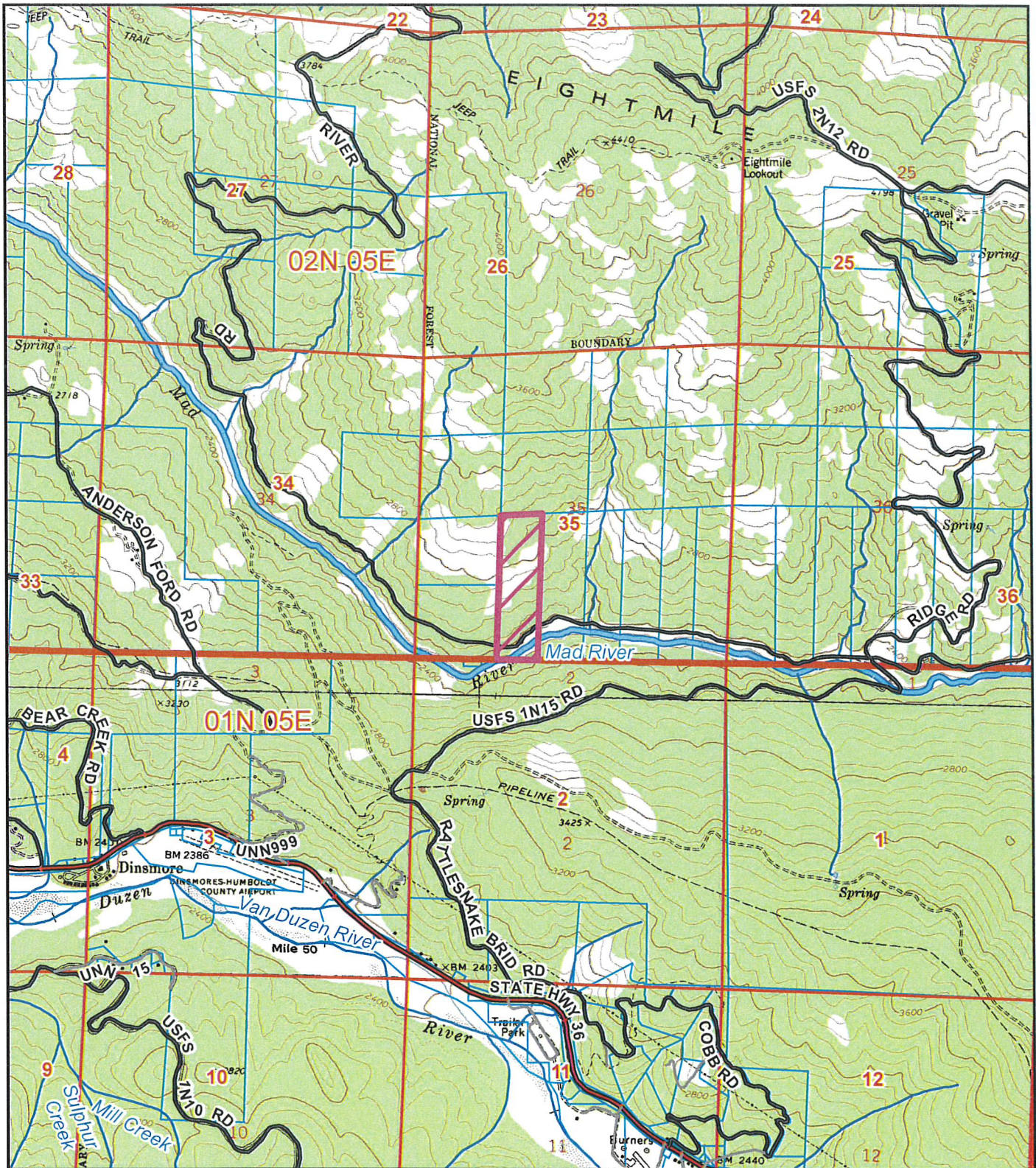
The motion was made by Commissioner ____ and seconded by Commissioner ____.

AYES: Commissioners:
NOES: Commissioners:
ABSTAIN: Commissioners:
ABSENT: Commissioners:
DECISION: Motion carries

Alan Bongio, Chair

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

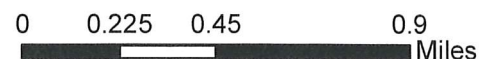
John Ford, Planning and Building Director

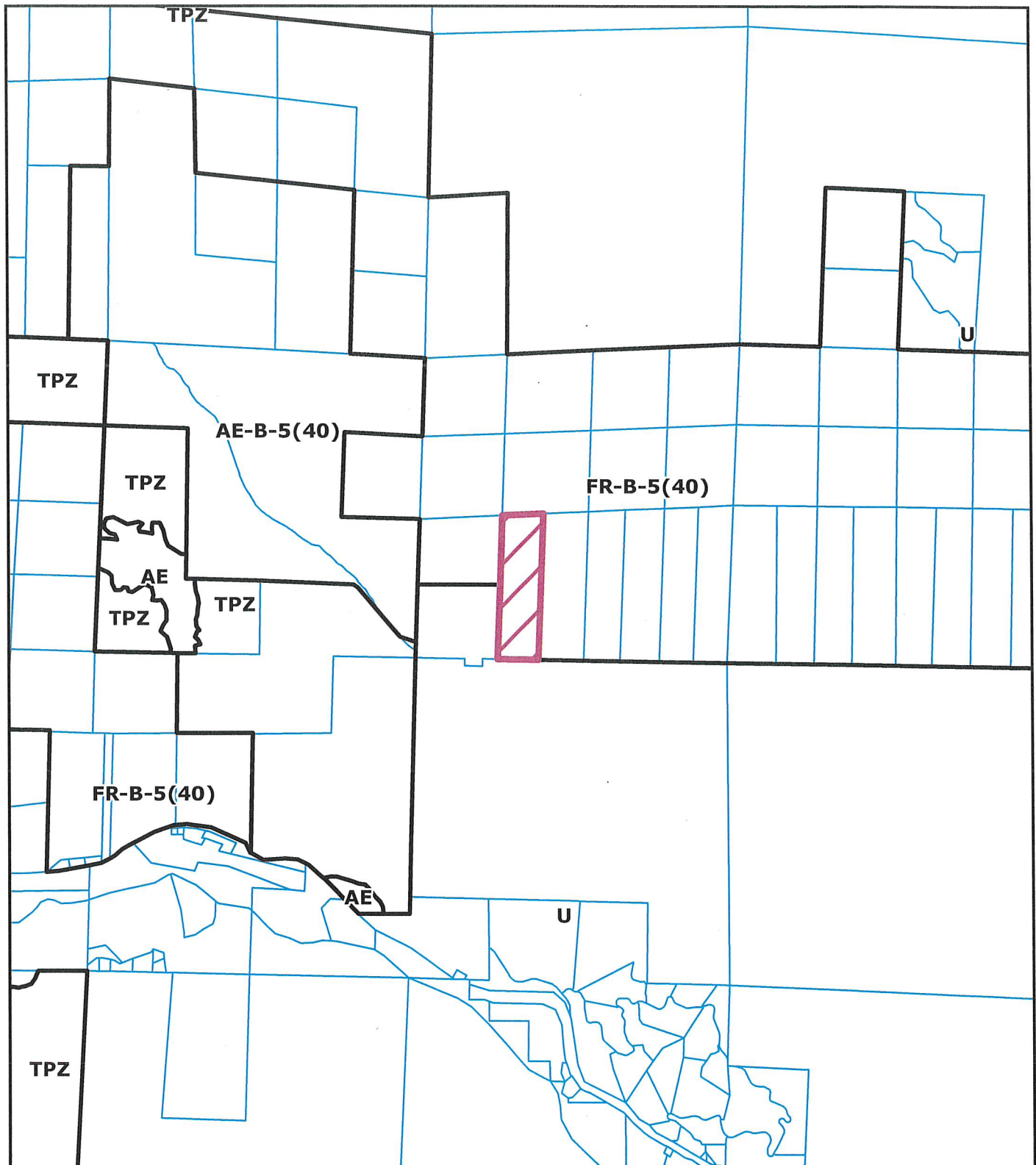


TOPO MAP
PROPOSED MAD RIVER HORTICULTURE LLC
DINSMORE AREA
CUP-16-831
APN: 208-231-016
T02N R05E S35 HB&M (BLAKE MOUNTAIN)

Project Area = 

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



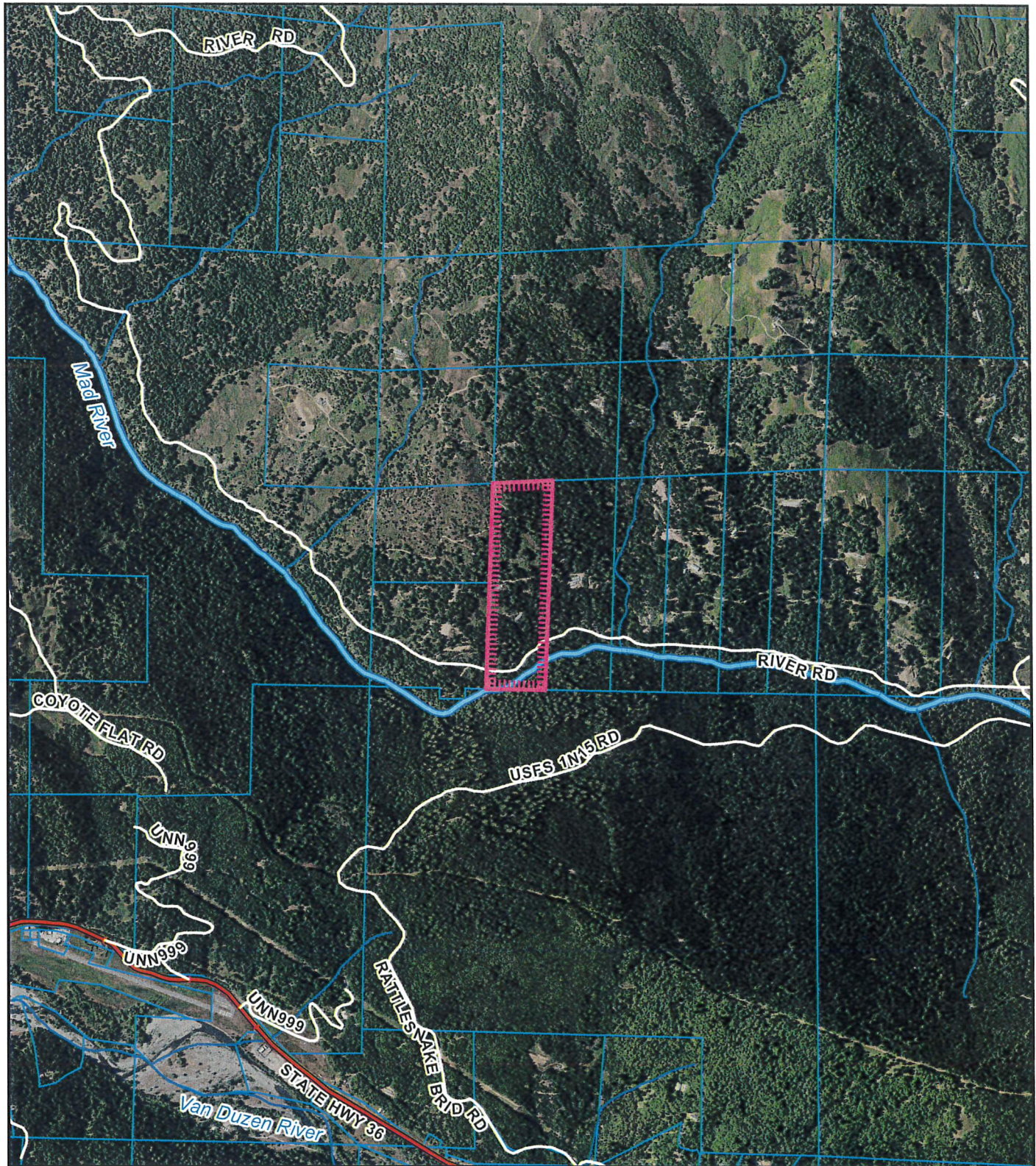


ZONING MAP
PROPOSED MAD RIVER HORTICULTURE LLC
DINSMORE AREA
CUP-16-831
APN: 208-231-016
T02N R05E S35 HB&M (BLAKE MOUNTAIN)

Project Area = 

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





Project Area =



**AERIAL MAP
PROPOSED MAD RIVER HORTICULTURE LLC
DINSMORE AREA
CUP-16-831
APN: 208-231-016
T02N R05E S35 HB&M (BLAKE MOUNTAIN)**



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0 1,000 2,000 4,000 Feet

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

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

1. Within 60 days of the effective date of project approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #2 through #19. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
2. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
3. The applicant shall secure permits for all unpermitted grading and structures related to the cannabis cultivation and other commercial cannabis activity. The plans submitted for building permit approval shall be consistent with the project description and approved project site plan. If applicable, prior to issuance of any building or construction permits a grading, erosion and sediment control plan shall be prepared by a qualified professional. The plan shall identify the cubic yards of all grading that has been done and any proposed grading. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
4. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.
5. Applications for grading and or building permits shall be referred to the North Coast Air Quality Management District (NCAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards.
6. The applicant shall secure the approval of the Division of Environmental Health and the Regional Water Quality Control Board (RWQCB) for the on-site sewage disposal system prior to the issuance of the building permit. A letter from those agencies indicating approval has been issued will satisfy this condition.
1. The applicant shall implement all corrective actions detailed within the Water Resource Protection Plan developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program. A letter or similar communication from the RWQCB verifying that all of their requirements have been met will satisfy this condition. [After July 31, 2019, plans and reporting shall conform to the Cannabis Cultivation Policy and Cannabis General Order adopted October 17, 2017 by the State Water Board.]
7. Prior to issuance of any building or construction permits, a revised site plan shall be prepared by the applicant and reviewed and approved by the Planning Division showing:
 - a. Adequate off-street parking.
 - b. Compliance with emergency vehicle access requirements.
 - c. Setbacks between project activities and wetlands, surface waters, and Streamside Management Areas.

- d. Setbacks of cultivation areas to property lines.
 - e. Revised pond or water storage.
8. Prior to issuance of any building or construction permits, a revised operations plan shall be prepared by the applicant and reviewed and approved by the Planning Division demonstrating that there is sufficient water storage on-site to accommodate the projected water demand.
 9. Prior to issuance of any building or construction permits, a grading, erosion, and sediment control plan shall be prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been done and any proposed grading.
 10. The applicant shall provide a noise containment structure for the on-site generator, to ensure that noise from the generator does not exceed 50 decibels at 100 feet. All construction shall occur outside of the critical nesting period for Northern Spotted Owls (February 1st through July 8th) or if within, preceded by a protocol level survey of Northern Spotted Owls.
 11. Prior to issuance of any permits, the applicant shall demonstrate that there is sufficient on-site water storage to meet the annual demand of the future residence and cannabis cultivation.
 12. Prior to issuance of any building permits, a permit shall be obtained from the Division of Environmental Health for an existing on-site septic system is used for wastewater disposal.
 13. No processing can be approved until an acceptable site suitability report can establish potential for onsite waste treatment system and provided to the Division of Environmental Health.
 14. An invoice, or equivalent documentation, shall be provided to the Division of Environmental Health to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.
 15. The applicant will complete the intersection improvements requested by Public Works within one (1) year of permit issuance.
 16. Prior to initiating commercial medical cannabis cultivation or associated activities, 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 Humboldt County Code and available at the Planning Division.
 17. The applicant shall contact the local fire service provider (Southern Trinity Volunteer Fire Department and USDA Forest Service) and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
 18. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding any hazardous materials including fuel. 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.

19. 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.
20. 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 the 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 (CUP & AA) except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. All cannabis cultivated on-site will be dried on-site, and further processing activities will occur at a licensed off-site location, which is addressed in the site plan.
2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and the Medical Cannabis Regulation and Safety Act (MCRSA), as applicable to the permit type.
3. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
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 toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow 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 MCRSA, 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 Section 55.4.11 (d).

8. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
9. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
10. If further ground disturbance is proposed to occur onsite, a botanical survey by a qualified professional will be required.
11. Oak woodland removal is prohibited within 150 feet of commercial cannabis operations and associated structures.
12. Comply with the terms specified in the final Lake and Streambed Alteration Agreement May 9, 2019 (LSA#: 1600-2016-0238-R1).
13. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
14. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, or herbicide.
15. This permit does not authorize the use of Anticoagulant rodenticides on the subject parcel. Anticoagulant rodenticides are prohibited.
16. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation operations materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
17. The environmental impacts of improper waste disposal are significant and well documented. All refuse be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
18. Any existing on-site lighting or proposed lighting upgrades in the future, shall be fully shielded and designed and installed to minimize off-site lighting and direct light within the property boundaries. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. The light source should comply with the 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). 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.
19. Pay all applicable application and annual inspection fees.
20. The noise produced by a generator used on an emergency-only basis for cannabis drying, curing, and processing shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of marbled murrelet or spotted owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the US 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.

21. Should any wildlife be encountered during to work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
22. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
23. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
24. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
25. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner, when available.

Performance Standards for Cultivation and Processing Operations

26. 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."
27. 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, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
28. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
29. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. 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.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:

- (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
30. All cultivators shall comply with the approved processing plan as to the following:
- a. Processing practices
 - b. Location where processing will occur
 - c. Number of employees, if any
 - d. Employee Safety Practices
 - e. Toilet and handwashing facilities
 - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
 - g. Drinking water for employees
 - h. Plan to minimize impact from increased road use resulting from processing
 - i. On-site housing, if any
31. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP issued pursuant to the CMMLUO shall expire 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.
32. 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 permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, 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 noncompliance. Failure to request reinspection or to cure any items of noncompliance 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.
33. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal per Ongoing Condition of Approval #25 above is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
34. 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.
35. Permittee further acknowledges and declares that:
- a. All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt shall be solely for medical purposes and all commercial cannabis

products produced by me, my agents, or employees are intended to be consumed solely by qualified patients entitled to the protections of the Compassionate Use Act of 1996 (codified at Health and Safety Code section 11362.5); and

- b. All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the California Medical Cannabis Regulation and Safety Act will be distributed within the State of California; and
- c. All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the California Medical Marijuana Regulation and Safety Act.

36. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:

- a. Identifying information for the new owner(s) and management as required in an initial permit application;
- b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
- c. The specific date on which the transfer is to occur;
- d. Acknowledgement of full responsibility for complying with the existing permit; and
- e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

37. 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 or 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 after 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 #26 and 27 of the Ongoing 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 and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

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

4. The applicant is required to pay for permit processing on a time-and-material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

ATTACHMENT 2

REQUIRED FINDINGS

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

The County Zoning Ordinance, in Sections 312-1.1.2 (Legal Lot Requirement) and 312-17.1 of the Humboldt County Code (Required Findings for All Permits), specifies the findings that are required to grant a Conditional Use Permit and 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;
4. The proposed development and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare; or materially injurious to property or improvements in the vicinity;
5. The proposed development does not reduce the residential density for any parcel below that is utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation) unless the following written findings are made supported by substantial evidence: (1) the reduction is consistent with the adopted General Plan including the Housing Element; (2) the remaining sites identified in the Housing Element are adequate to accommodate the County's share of the regional housing need; and (3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized; and
6. In addition, the California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA. The project either:
 - a. Is categorically or statutorily exempt; or
 - b. Has no substantial evidence that the project will have a significant effect on the environment and a negative declaration has been prepared; or
 - c. Has had an environmental impact report (EIR) prepared and all significant environmental effects have been eliminated or substantially lessened, or the required findings in Section 15091 of the CEQA Guidelines have been made.

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

1. The proposed development must be consistent with the General Plan. 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, 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
<p>Land Use Chapter 4</p> <p>Land Use Designations Section 4.8</p>	<p>Residential Agriculture (RA20-160): This designation applies to large lot residential uses that typically rely upon on-site water and wastewater systems. Varying densities are reflective of land capabilities and/or compatibility issues. General and Intensive agriculture are allowed uses.</p> <p>Density is 20-160 acres/unit</p>	<p>The Applicant is proposing to continue an existing commercial cannabis cultivation operation consisting of 2,750 square feet of mixed-light cultivation and 14,850 square feet of outdoor cultivation on lands designated as Residential Agriculture. Intensive agriculture and agriculture product processing are allowable use types for this designation.</p> <p>The MMRSA, Health and Safety Code section 11362.777(a) provides that medical cannabis is an agricultural product, subject to extensive state and local regulation. The existing cultivation is considered an agricultural use, and the processing facility and supportive infrastructure may be considered accessory to the agricultural use.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Circulation Chapter 7	<p>Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1,C-G2); coordinated planning design, development, operations, and maintenance between the County and other transportation system service providers (C-G3); and access for all transportation mode types with improved opportunities to move goods within, into and out of Humboldt County (C-G4, C-G5)</p> <p>Related policies: C-P3. Consideration of Transportation Impacts in Land Use Decision Making</p>	<p>Access to the site from a series of non-County maintained roads that originate in Trinity County. The project parcel access roads within Humboldt County were evaluated by a Professional Engineer for a neighboring project and they determined a less than equivalent Category 4 Standard for the segment of River Road that runs east-west from the Trinity County Line into Humboldt County: Salyer Made River Road. The engineer's Road Evaluation Report (RER) detailed measures that must be undertaken to ensure safe travel along the road. A condition of approval has been incorporated that requires that the RER measures be completed. The Trinity County access roads were evaluated by the applicant and a Road Evaluation Reports were submitted as evidence of a category 4 equivalent access road to the project site. The Trinity County portion of the access road begins at the first crossing of the Mad River off Highway 36 in onto a US Forrest Service Road for approximately 500 feet then branches off to the left to County Line Creek Road. County Line Creek Road is a non-county-maintained private road that is maintained by the residents. A Road Evaluation was completed for this section of road by the property owner, Seth Adams, and supplied the County with maps and photographs to show that the road is equivalent to Category 4 Standards.</p>
Housing Chapter 8	<p>Goals and policies in this element seek to identify existing and projected housing needs and establish goals, policies, standards, and measures for the preservation, improvement, and development of housing.</p> <p>Related policy: H-P3, Development of Parcels in the Residential Land Inventory</p>	<p>The project does not involve residential development, however, the project will not preclude any future residential development if in conformance with the General Plan and Zoning designations. The project site does contain an existing single-family residence which will remain. The project will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Conservation and Open Space</p> <p>Chapter 10 Public Lands Section 4.7</p>	<p>Goals and policies contained in this chapter present a framework of goals and policies for use and protection of all the natural resources and open space assets of the county, including agricultural production.</p> <p>Public lands policy PL-P6 requires that discretionary review of permit applications adjacent to public lands shall consider impacts to public lands and consistency with applicable management plans.</p>	<p>Cannabis cultivation is an agricultural activity and an allowable use type in this designation, consistent with this policy.</p> <p>The project is adjacent to public lands (Six Rivers National Forest) which is managed by the United States Forest Service, but cultivation activities are located more than 600 feet from the National forest.</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 project is located within an Open Space Action Program because the project site is planned Residential Agriculture (RA) and zoned Forest Recreation (FR). The project can be found consistent with the Open Space Plan and Open Space Action Program because the proposed project is consistent with the allowable uses of the Land Use Designations. General agriculture is a use type permitted in the Residential Agriculture land use designation. General agriculture is also a principal permitted use in the FR zoning district. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.</p>

<p>Conservation and Open Space Chapter 10</p> <p>Biological Resources Section 10.3</p>	<p>Goals and policies in this chapter relate to mapped sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species (BR-G1, Threatened and Endangered Species; BR-G2, Sensitive and Critical Habitat; and BR-G3, Benefits of Biological Resources).</p> <p>Related policies: BR-P1, Compatible Land Uses; BR-P5, Streamside Management Areas</p>	<p>The project parcel is characterized as a mosaic of oak woodland mixed with Douglas fir and annual grassland habitat. A Biological Reconnaissance Assessment was completed by Mother Earth Engineering for the project parcel September 2019. Vegetation was observed and determined that due to the established conditions and disturbances of the existing project sites, it is unlikely that there is habitat to host special-status species. However, a full protocol level botanical survey was not conducted and the project has been conditioned accordingly. Wetland and Stream Side Management Areas (SMA) were assessed and it was determined that soils on the project parcel were not hydric, did not contained indicators of hydrology, now presence of hydrophytic vegetation that would support a wetland. All existing cultivation sites and structures with a nexus to cannabis are outside the SMA setbacks. Special Status Species were scoped on the project parcel to determine is protocol-level surveys would required for the project. Scoping results suggested that the commercial cultivation activities either do not take place within area of potential habitat or there was found to be a low potential of impact on the majority of Special Status Species listed in the vicinity. Tracy's sanicle (<i>Sanicula tracyi</i>) potential habitat occurs within the study boundary, however were not observed. Suitable habitat for several mammalian species, amphibian, reptilian, avian are present throughout the project parcel, however none were observed on the day of the assessment. The project has been conditioned to prohibit the removal of oak woodland within 150 feet of the any cannabis activity. The closest Northern Spotted Owl (NSO) activity center is approximately 1.8 miles east of the existing project area. No evidence of NSO were overserved on the project parcel, however, potential suitable habitat exists. The project has been conditioned such that applicant be required to mitigate for light and noise impacts to NSO. Suitable habitat for several plant species exists on the project parcel, however, no Special Status Species were observed and it was determined that the potential for negative impacts on said</p>
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Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
		species is low due to the level of established disturbance on the project sites.
<p>Conservation and Open Space Chapter 10</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and policies in this chapter relate to the protection and enhancement of significant cultural resources, providing heritage, historic, scientific, educational, social, and economic values to benefit present and future generations (CU-G1, Protection and Enhancement of Significant Cultural Resources).</p> <p>Related policies: CU-P1, Identification and Protection; CU-P2, Native American Tribal Consultation</p>	<p>The applicant retained DZC Archaeology & Cultural Resource Management for the preparation of a Cultural Resources Investigation for the Project site. A records search was conducted, consultation with the Native American Heritage Commission and local Native American tribal representatives was conducted; and intensive pedestrian field survey of the entire Project area was conducted. The TPHO of the Bear River Band of the Rohnerville Rancheria was contacted during the investigation. The report finds that no historical or archaeological resources were identified as a result of the investigation. The project was referred to the TPHO of the Bear River band of the Rohnerville Rancheria. The TPHO requested inadvertent archaeological discovery protocol for the project.</p> <p>The standard inadvertent archaeological discovery language was included as an ongoing Condition of Approval for this permit.</p>
<p>Conservation and Open Space Chapter 10</p> <p>Scenic Resources Section 10.7</p>	<p>Goals and policies in this chapter relate to the protection of scenic areas that contribute to the enjoyment of Humboldt County's beauty and abundant natural resources (SR-G1) and to a system of scenic highways and roadways that increase the enjoyment of, and opportunities for, recreational and cultural pursuits and tourism in the county.</p> <p>Related policy: SR-S4, Light and Glare</p>	<p>The project involves mixed-light cultivation in three mixed-light greenhouses totaling 2,750 SF. 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 policy 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. The project will meet and comply with standards for the International Dark Sky Association.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Water Resources Chapter 11</p> <p>Stormwater Drainage</p>	<p>Goals and policies in this chapter relate to coordinated watershed planning and land use decision-making to advance management priorities (WR-G3, WR-G4, WR-G5); watershed conservation and restoration efforts aimed at delisting water bodies and watersheds which are restored to meet all beneficial uses, including water use, salmon and steelhead recovery plans, recreational activities, and the economy (WR-G1, WR-G, WR-G7, WR-G8, WR-G8).</p> <p>Related policy: WR-P8, Erosion and Sediment Discharge</p>	<p>The project site falls within Tier 2 of the North Coast Regional Water Quality Control Board's (RWQCB) Order No. R1-2015-0023, which requires preparation of a Water Resources Protection Plan (WRPP). The applicant has registered and is permitted through the North Coast RWQCB. The applicant retained Timberland Resource Consultants for the preparation of a WRPP. The WRPP has been prepared to describe and address the required elements and compliance with the 12 Standard Conditions established by the Order. The WRPP identified the operation as meeting all of the Standard Conditions #1, #2, #5, and #9. Completion of the mitigation measures identified in the WRPP is a Condition of Approval of this permit. Completing these measures will ensure that this project conforms to the requirements of the General Plan.</p>
<p>Water Resources Chapter 11</p> <p>Onsite Wastewater Systems</p>	<p>Goals and policies in this chapter relate to adequate public water supply as well as on-site wastewater systems and natural and developed storm drainage systems that minimize interference with surface and groundwater flows and storm water pollution (WR-G6, WR-G9, WR-GX).</p> <p>Related policy: WR-IM7, Basin Plan Septic Requirements</p>	<p>The water source for the project comes from a 90,000-gallon pond and from a surface water diversion from the Mad River. Human refuse is currently being collected within a privy located on the property. This pit toilet is approximately 160 feet away from the nearest Class III watercourse. Currently, grey water from seasonal camp is releasing onto the surface of a vegetated hillside. The applicant is to come into compliance with the WRPP and has retained portable toilets onsite. The project has been conditioned to meet the requirement of the Humboldt County Health Code.</p>
<p>Noise Chapter 13</p>	<p>Goals and policies in this chapter discourage incompatible uses in communities and reduce excessive noise through the application of standards (N-G1, N-G2).</p> <p>Related policies: N-P1, Minimize Noise from Stationary and Mobile Sources; N-P4, Protection from Excessive Noise</p>	<p>The subject parcel is not located in an area that requires special noise attenuation measures. The existing and proposed cultivation areas are mixed-light and use electrical generator as a primary power source. Noise generated from the generators will comply with the standards set forth in Section 314-55.4.11(o) of the CMMLUO and Department Policy Statement #DPS-16-005 and the project has been conditioned accordingly.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Safety Element Chapter 14</p> <p>Geologic & Seismic</p>	<p>Goals and policies in this chapter relate to communities that are designed and built to minimize the potential for loss of life and property resulting from natural and man-made hazards, and to prevent unnecessary exposure to areas of geologic instability, floodplains, tsunami run-up areas, high-risk wildland fire areas, and airport areas planned and conditioned to prevent unnecessary exposure of people and property to risks of damage or injury (S-G1, S-G2).</p> <p>Related policies: S-P11, Site Suitability; S-P7, Structural Hazards</p>	<p>The project site is not located in a mapped Alquist-Priolo fault zone, nor is it subject to liquefaction. The project also does not pose a threat to public safety related to exposure to natural or man-made hazards. The applicant must secure a grading permit and as part of the permit the applicant will, at a minimum, incorporate the standard erosion control measures enumerated in the General Plan. Additional erosion control measures that shall be implemented have been identified in the Water Resource Protection Plan. These measures are a condition of approval of this permit.</p>
<p>Safety Element Chapter 14</p> <p>Flooding</p>	<p>Goals and policies in this chapter relate to the use of natural drainage channels and watersheds that are managed to minimize peak flows in order to reduce the severity and frequency of flooding (S-G3).</p> <p>Related policies: FEMA</p>	<p>The subject site is outside any mapped flood hazard areas. The project site is not within a mapped dam or levee inundation area and is outside the areas 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 for loss of life, property, and natural resources.</p> <p>Related policy: S-P19, Conformance with State Responsibility Areas (SRA) Fire Safe Regulations</p>	<p>The subject parcel is located within an area with a very high and high fire hazard severity ratings. The subject property is located in the State Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. Cal Fire recommends compliance with the County's Fire Safe Regulations. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in State Responsibility Areas. The applicant disclosed that water is stored on the property in a 5,000-gallon tank, which will serve fire protection in addition to cultivation needs. According to the applicant, the operation will not have employees.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Safety Element Chapter 14</p> <p>Airport Safety</p>	<p>Land use and development in the vicinity of airports shall minimize exposure to unsafe noise and aircraft hazards.</p>	<p>The project site is located near the Dinsmore airport within the County's Airport Compatibility Zone and Airport Zone Building Regulation area. An Airspace Certification Form was submitted to the County on December 9, 2019. The County determined that the existing and proposed structures on the project parcel did not penetrate the restricted airspace as specified in County Code Section 333-4.</p> <p>The project site is also within the Federal Aviation Regulation Area (FAR 77); however, Mother Earth Engineering completed the Notice Criteria Tool on the Federal Aviation Administration (FAA) website. Given the location of the project and the height of the proposed structures, no waiver is required from the FAA as the project does not exceed the Notice Criteria.</p>
<p>Air Quality Element Chapter 15</p>	<p>Goals and policies in this chapter relate to improved air quality to meet current and future state and federal standards, including attainment of particulate matter requirements (AQ-G1, AQ-G2, and the successful reduction of greenhouse gas emissions to levels consistent with state and federal requirements (AQ-G4).</p> <p>Related policies: AQ-P4, Construction and Grading Dust Control; AQ-S1, Construction and Grading Dust Control; AQ-P7, Interagency Coordination</p>	<p>As a condition of project approval, applications for grading and/or building permits are referred to the North Coast Air Quality Management District (NCAQMD) for review and consultation. Dust control practices during construction and grading shall achieve compliance with NCAQMD fugitive dust emission standards.</p>

Plan Section	Summary of Applicable Goal, Policy, or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Community Infrastructure and Services Element, Chapter 5 Implementation Action Plan	IS-S5 requires new industrial, commercial and residential development located outside of fire district boundaries to obtain written acknowledgment of available emergency response and fire suppression services from the local fire agency, including any recommended mitigation.	To implement this policy, conditions of approval for the project require the applicant to contact the local fire service provider (Southern Trinity Volunteer Fire Department and USDA Forest Service) and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division.

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

Zoning Section and Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
§312-1.1.2 Legal Lot Requirement: Development permits shall be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations.	The parcel of land known as APN 208-231-016 is Parcel 142 on Amended Record of Survey showing a portion of the Timberline Ranch Estates which map is on file in the Recorder's Office of Humboldt County, California, in Book 26 of Parcel Maps pages 135 to 143 May 9, 2016. There is no evidence indicating there have been any subsequent acts to merge or divide this parcel. Therefore, the subject parcel was lawfully created in its current configuration and can be developed as proposed.
§314-7.3 Forestry Recreation (FR-B-5(40)): Intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare. §314-17.1 "B" Combining Zone B - Special Building Site: Intended to be combined with any principal zone in which lot area and yard requirements should be modified. In B-5 zones, minimum parcel size is determined as specified on zoning maps designating in any such zone.	The applicant is seeking a Conditional Use Permit for an existing 2,750 SF mixed light and 14,850 SF outdoor cannabis cultivation operation on a property zoned FR-B-5(40). The proposed use is specifically allowed with Conditional Use Permit in this zoning district and under Section 314-55.4.8.2.2 of the CMMLUO.

Zoning Section	Summary of Applicable Requirement	Evidence That Supports the Zoning Finding
Minimum Lot Size	40 acres	The subject parcel is approximately 40 acres.
Maximum Ground Coverage	None specified	Less than 25,000 square feet, ~1.5%
Minimum Lot Width	200 feet	680 feet
Maximum Lot Depth	None specified	2600 feet
Setbacks Front: 20 feet Rear: 20 feet Side: 10 feet SRA setback from all property lines: 30 feet		Front, east property line: ~25 feet. Rear, west property line: ~47 feet. Side, south property line: ~580 feet. Side, north property line: ~1500 feet.
Max. Building Height	35 feet	Less than 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.	Streamside management areas have been identified in the project parcel and all project operations are outside of the required buffers.
§314-109.1.2.9 Off-Street Parking Parking Spaces for the Uses Not Specified	Off Street Parking for Agricultural use*: One parking space per employee at peak shift. A minimum of two parking spaces are required. *Use for this activity is not specified. Per Section 314-109.1.2.9, the Director may fix the required number of parking spaces based on standards for most comparable use.	The cultivation is operated by the owner and no employees are proposed.

314-55.4 et seq. HCC: Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation (CMMLUO)		
§ 314-55.4.8.2.2 Existing Outdoor and Mixed-Light Cultivation Areas	In FR zoning districts on parcels one acre or larger, outdoor and mixed-light cultivation may be permitted.	The Cultivation Area Verification conducted February 15, 2019 by the Planning Division confirms evidence of 17,600 sq. ft. of cultivation prior to January 1, 2016. In accordance with the referenced section the applicant has applied for the necessary CUP due to the parcel being greater than one acre in size and the cultivation area being greater than 10,000 square feet outdoor.
§314-55.4.8.2	In all zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area, or non-timberland open area, subject to the conditions and limitations set forth in this Section.	No observed conversion has occurred since the adoption of the CMMLUO. No trees are proposed to be removed as part of the project.
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person, as defined in the referenced section.	According to records maintained by the Planning Department, Mad River Horticulture, LLC, the applicant, holds one (1) other commercial cannabis permit (in process) and is entitled to four (4). This application is for one permit.
§314-55.4.9.1 Accessory Processing	Processing for cultivation requiring a Special Permit or Use Permit will be considered in the Use Permit application.	The applicant will use a licensed third-party processor.
§314-55.4.9.4 Pre-Application Registration	Existing cultivation sites shall register with the County within 180 days of the effective date of this ordinance.	A Commercial Cannabis Registration Form for the site was filed with the Planning Division on December 28, 2016.
§314-55.4.10 Application Requirements	Identifies the Information Required for All Applications	Attachment 4 identifies the information submitted with the application and shows that all the required information was received.
§314-55.4.11 Performance Standards	Identifies the Performance Standards for Cannabis Cultivation Activities	All the applicable performance standards are included as Conditions of project approval. They are required to be met throughout the timeframe of the permit.

<p>§314-55.4.11.c Performance Standards-Water</p>	<p>Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board, Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration.</p>	<p>The water source for the project comes from a 90,000-gallon pond and from a surface water diversion from the Mad River. The applicant has the right to divert water from this source State Water Resources Control Board registration H503791 certificate H100472. The applicant has applied for a special for a surface water diversion and the applicant shall implement all corrective actions detailed within the Water Resource Protection Plan developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board Cannabis Waste Discharge Regulatory Program per the conditions of approval. The applicant sources irrigation and water from a surface water diversion that has been registered with the North Coast Regional Water Quality Control Board. Applicant must forbear each year between May 15th and October 31st, per the standard condition #5 of the Water Resource Protection Plan (WRPP) and has been added as a condition with specifications defined within the final Lake and Streambed Alteration Agreement filed February 15, 2018 with the California Department of Fish and Wildlife.</p>
<p>§314-55.4.11.d Performance Standards- Setbacks</p>	<p>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).</p>	<p>The applicant's site plan shows that the cultivation area conforms to the 600-foot setback for schools, school bus stops or places of religious worship. A response from the Tribal Historic Preservation Officer did not identify any nearby Tribal Cultural Resources. Conditions of approval have been included related to inadvertent discovery protocol.</p>

§314-55.4.11.o Performance Standards- Generator Noise	The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service	As discussed above the primary power source for the project is a generator. The large parcel, and interior location of project activities prevents the generator noise from being heard by neighbors. A sound analysis of the generators was reported by the applicant that demonstrates that the generators meet the noise performance standards and specifies additional secondary containment on the loudest model in use. The closest Northern Spotted Owl (NSO) activity center is approximately 1.8 miles east of the existing project area. No evidence of NSO were overserved on the project parcel, however, potential suitable habitat exists. The project has been conditioned such that applicant be required to mitigate for light and noise impacts to NSO.
§314-55.4.17 Sunset Date	No application for any Use Permit pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016.	The applicant filed the application on December 28, 2016.

4. Public Health, Safety and Welfare, and 6. Environmental Impact. The following table identifies the evidence which supports finding that the proposed development will not be detrimental to the public health, safety, and welfare or materially injurious to properties or improvements in the vicinity, and will not adversely impact the environment.

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 County's General Plan and zoning regulations, and the proposed project is not expected to cause significant environmental damage.

5. Residential Density Target. The following table identifies the evidence which supports finding that the proposed project will not reduce the residential density for any parcel below that is 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
17.1.5 Housing Element Densities	The proposed development shall not reduce the residential density for any parcel below that is utilized by the Department of Housing and Community Development in determining compliance with housing element law (the midpoint of the density range specified in the plan designation), except where: (1) the reduction is consistent with the adopted General Plan including the Housing Element; (2) the remaining sites identified in the Housing Element are adequate to accommodate the County's share of the regional housing need; and (3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.	As discussed above, the property was not included in the Housing Element's Residential Land Inventory because of the land use designation and zoning. The site plans shows a future proposed residential unit and will require to meet the necessary zoning, setbacks, and building permits. The project is in conformance with the standards in the Housing Element.

ATTACHMENT 3

**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 208-231-016, 594 River Road, Mad River, *County of Humboldt*

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

January 2020

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 Conditional Use Permit (CUP) for the continued operation of an existing 17,600 square foot (SF) commercial cannabis cultivation of which 2,750 SF mixed light and 14,850 SF outdoor cannabis cultivation operation utilizing two (2) full sun cultivation areas and five (5) greenhouses. And, pursuant to Humboldt County Code Section 314.55.48.6 et seq., the applicant has applied for a Special Permit allowing for a water diversion from the Mad River used for irrigation water. Irrigation water is sourced from an existing 90,000-gallon (gal) pond and a pending diversion from the Mad River. Water storage consists of 21,000 gallons of HDPE water tanks and a 90,000-gallon pond. No employees are proposed. Drying/curing of harvested commercial cannabis will occur with dehumidifiers on-site within a shed. Processing will occur off-site at a licensed third-party facility and/or other processing method that meets all industry, county, state, and federal regulations. Power is provided by generators. There is one (1) watercourse on the project parcel: the Mad River. The Mad River (Class 1) runs through the southeastern portion of the parcel. All cultivation activities proposed and existing are located more than 100 feet from Mad River. All fertilizers and other cultivation-related products will be properly stored to prevent exposure to precipitation events within the agricultural exempt storage shed.

The closest Northern Spotted Owl (NSO) activity center is approximately 1.8 miles east of the existing project area. No evidence of NSO were overserved on the project parcel, however, potential suitable habitat exists. Prohibition of use of synthetic netting, refuse contained in wildlife proof storage containers, noise containment structures for the generators, lighting conditions to meet International Dark Sky Association standards, prohibition on anticoagulant rodenticides, requirements to leave wildlife unharmed have all been added in the ongoing conditions of approval. The operation generators for power and will be enclosed according the Engineering Toolbox's reference Machine Noise Level Reduction guidelines to reduce noise levels to approximately 30 decibels and a projected 14.2 decibels at 100 feet. The site has been analyzed for cultural resources and determined to not have sensitive cultural or archaeological resources that could be impacted from on-going cultivation.

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, light, and other standards to limit disturbance to wildlife, compliance with all state agency requirements, and compliance with setback requirements.

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 an existing 17,600 square feet commercial cannabis cultivation and minor improvements necessary to bring the operation into compliance with the CMMLUO, as well as the special permit for the surface water diversion, 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:

- A Cultural Resource Inventory Report for APN 208-231-004 by DZC Archaeology & Cultural Resource Management June 2019.
- Biological Assessment for APN 208-231-004 prepared by Mother Earth Engineering September 2019.
- Final Lake and Streambed Alteration Agreement (1600-2017-0238-R1) for APN 208-231-016, February 15, 2018.
- Water Resources Protection Plan for APN 208-231-016 submitted by Timberland Resource Consultants February 3, 2017.
- Road Evaluation Report for County Line Creek Road and Route 1 in Trinity County prepared by Seth Adams, November 22, 2019
- Road Evaluation Report for River Road prepared by David Nicoletti for neighboring commercial cannabis project "Eight Mad Farmers," Application Number 11514, APN 208-231-004.
- Onsite Relocation and Remediation Plan for APN 208-231-016 prepared by Mother Earth Engineering July 30, 2019.
- Operations Plan and Site Plan for Mad River Horticulture, LLC, updated December 9, 2019.

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

1. The name, contact address, and phone number(s) of the applicant. (Application form on file)
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. (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 one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Attached)
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; 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 Separately 4.H)
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. (Attached)
6. Description of water source, storage, irrigation plan, and projected water usage. (On file)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, 2 or 3, North Coast Regional Water Quality Control Board Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (On file)
8. If any on-site or off-site component of the cultivation facility, including access roads, water supply, grading or terracing, impacts the bed or bank of any stream or other watercourse, a copy of the Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. (Attached Separately 4.A)
9. If the source of water is a well, a copy of the County well permit, if available. (Not applicable)
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire). Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with Cal Fire. (Not applicable)

11. Consent for on-site inspection of the parcel by County officials at 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 Reports. (Attached Separately 4.C)
16. Water Resource Protections Plan. (Attached Separately 4.B)
17. Humboldt County Airspace Certification Form for Mad River Horticulture, LLC on APN 208-231-016. (Attached Separately 4.G)
18. Federal Aviation Administration Notice Criterion Tool Results confirmation of project not exceeding Notice Criterion. (Attached Separately 4.F)
19. Septic Suitability and System Design Memorandum of Understanding for Mad River Horticulture, LLC on APN 208-231-016 submitted December 9, 2019 by Mother Earth Engineering. (Attached Separately 4.J)
20. Right to Divert and Use Water (Reg. No. H503791; Cert. No. H100472) for APN 208-231-016 issued by the California State Water Resources Control Board, Division of Water Rights October 29, 2019. (Attached Separately 4.I)

ATTACHMENT 5

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

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

Referral Agency		Recommendation	Location
Building Inspection Division	✓	Conditional Approval	Attached
Public Works Land Use Division	✓	Conditional Approval	Attached
Health and Human Services Environmental Health Division	✓	Conditional approval	Attached
Cal Fire	✓	Conditional Approval	Attached
Trinity Fire Department	✓	Conditional Approval	Attached
NWIC	✓	Confidential	On file with Planning
Bear River Band Rohnerville Rancheria	✓	Confidential	On file with Planning
Department of Fish & Wildlife	✓	Conditional approval	Attached
County Counsel		No response.	
Humboldt County Sheriff		No response.	
Water Resources Quality Control Board-Div. of Water Rights		No response.	
NCUR Air Quality Board		No Response.	
Southern Trinity Joint Unified School District		No response.	
Humboldt County District Attorney		No response.	
Humboldt County Agriculture Commissioner		No response.	
SWRCB		No response.	
Division of Water Rights		No response.	
Ruth Lake Fire Protection District		No response.	

From: [Bocast, Kalyn@Wildlife](mailto:Bocast.Kalyn@Wildlife)
To: [Saucedo, Portia](#)
Cc: [Bauer, Scott@Wildlife](mailto:Bauer.Scott@Wildlife)
Subject: RE: Notification of Hearing for 2/20/2020 Planning Commission: Mad River Horticulture, LLC, App. No. 12769, APN 208-231-016
Date: Thursday, February 06, 2020 12:18:24 PM
Attachments: [image001.png](#)

Hello Portia,

Thank you for the information below. CDFW would recommend the modified language highlighted below. This recommendation comes from the numerous observations of synthetic netting, associated with cannabis cultivation, discarded in the environment. As you are aware, synthetic netting has potential to entrap wildlife resulting in harm, injury, and/or death. To avoid or minimize impacts to wildlife, CDFW request that the highlighted language be incorporated as a condition of Project approval.

It also seemed pertinent to bring to your attention that there appears to be expansion (in addition to the relocated cultivation area) at cultivation Site 5. As you are aware, it is our recommendation that the site be permitted consistent with baseline conditions and the Ordinance, as expansion was not analyzed under the CEQA document applicable to the permit. Approval of unpermitted development without adequate analysis, oversight, or consequence, appears to result in the proliferation of this activity at other cannabis cultivation sites within the County Permit process. Further, allowance of expansion by the County Planning Department has occurred on many applications reviewed since 2016 (700+ applications reviewed) and as a result, have likely culminated in cumulatively significant impacts to biological resources. CDFW encourages the County to take a stronger stance on unpermitted development to prevent unintentional adverse consequences.

Lastly, provided that these comments are being sent to you the day of the scheduled hearing, it is our intention that these comments would be more applicable to other cannabis permits currently in process. CDFW does not intend these comments to be a "late hit" and has no expectation of our comments affecting today's scheduled hearing.

Thank you,

Kalyn Bocast
Environmental Scientist
Watershed Enforcement Team
California Department of Fish and Wildlife
619 2nd Street
Eureka, CA 95501

From: Saucedo, Portia <psaucedo1@co.humboldt.ca.us>
Sent: Monday, February 3, 2020 3:56 PM
To: Bocast, Kalyn@Wildlife <Kalyn.Bocast@Wildlife.ca.gov>
Subject: Notification of Hearing for 2/20/2020 Planning Commission: Mad River Horticulture, LLC,

Hi Kalyn,

The above referenced project is being noticed for February 6, 2020 for Planning Commission. I have attached the revised Cultivation and Operations Plan and Site Plan and associated documents that was completed for the project parcel. Below are ongoing conditions currently included in the staff report based upon CDFW comments from similar projects. Please amend with additions/changes where applicable:

1. Oak woodland removal is prohibited within 150 feet of commercial cannabis operations and associated structures.
2. Comply with the terms specified in the final Lake and Streambed Alteration Agreement May 9, 2019 (LSA#: 1600-2016-0238-R1).
3. All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
4. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, or herbicide.
5. This permit does not authorize the use of Anticoagulant rodenticides on the subject parcel. Anticoagulant rodenticides are prohibited.
6. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control **and/or cultivation operations**. materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
7. The environmental impacts of improper waste disposal are significant and well documented. All refuse be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
8. Any existing on-site lighting or proposed lighting upgrades in the future, shall be fully shielded and designed and installed to minimize off-site lighting and direct light within the property boundaries. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. The light source should comply with the 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). 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.

Kind Regards,



Portia Saucedo, M.Sc.
Planner
[Cannabis Services Division](#)
[Planning and Building Department](#)
Direct: 707.268.3745
Main: 707.445.7541
Fax: 707.268.3792
psaucedo1@co.humboldt.ca.us

Redway Office Hours

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

3156 Redwood Dr, Redway (707) 383-4100

Mondays – Building, Current Planning and Code Enforcement

Wednesdays – Building, Cannabis Planning and Long Range Planning



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
BUILDING DIVISION

3015 H STREET EUREKA CA 95501
PHONE: (707) 445-7245 FAX: (707) 445-7446



Building Division's Referral Comments for Cannabis Operations:

Application No.: 44603
Parcel No.: 200-231-016
Case No.: 12769

The following comments apply to the proposed project, (check all that apply).

- ☒ Site/plot plan appears to be accurate.
- ☐ Submit revised site/plot plan showing all of the following items: all grading including ponds and roads, location of any water course including springs, all structure including size and use and all setbacks from the above stated to each other and property lines.
- ☐ Existing operation appears to have expanded, see comments: _____
- ☐ Existing structures used in the cannabis operation shall not to be used/occupied until all required permits have been obtained.
- ☐ Proposed new operation has already started.
- ☒ Recommend approval based on the condition that all required grading, building, plumbing electrical and mechanical permits and or Agricultural Exemption are obtained.

☐ Other Comments: _____

Name: Ian Mion

Date: 10/5/17

Note: Remember to take photographs and then save them to the Planning's case number. File location J, Current Planning, Projects,(CUP, SP, ZCC) Case number.



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

9/6/2017

PROJECT REFERRAL TO: Building Inspection Division

Project Referred To The Following Agencies:

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, NCUR Air Quality Control Board, SWRCB, Division of Water Rights, Humboldt County Sheriff, Ruth Lake Fire Protection District, Southern Trinity Joint Unified School District

Applicant Name Mad River Horticulture, LLC **Key Parcel Number** 208-231-016-000

Application (APPS#) 12769 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-831

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 9/21/2017

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 (please check one):

☒ Recommend Approval. The Department has no comment at this time.

☐ Recommend Conditional Approval. Suggested Conditions Attached.

☐ Applicant needs to submit additional information. List of items attached.

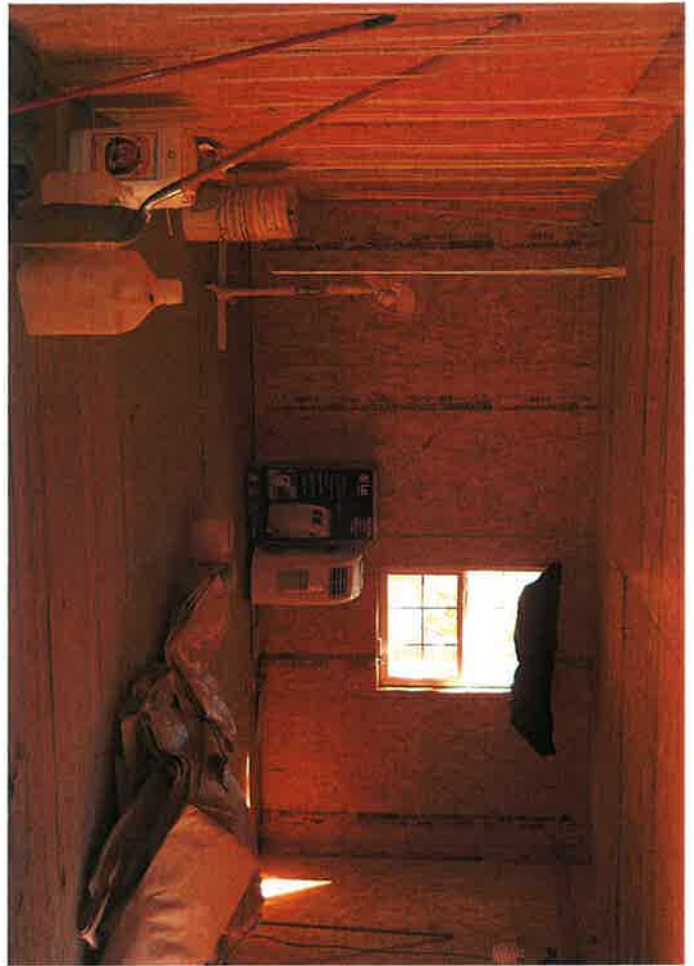
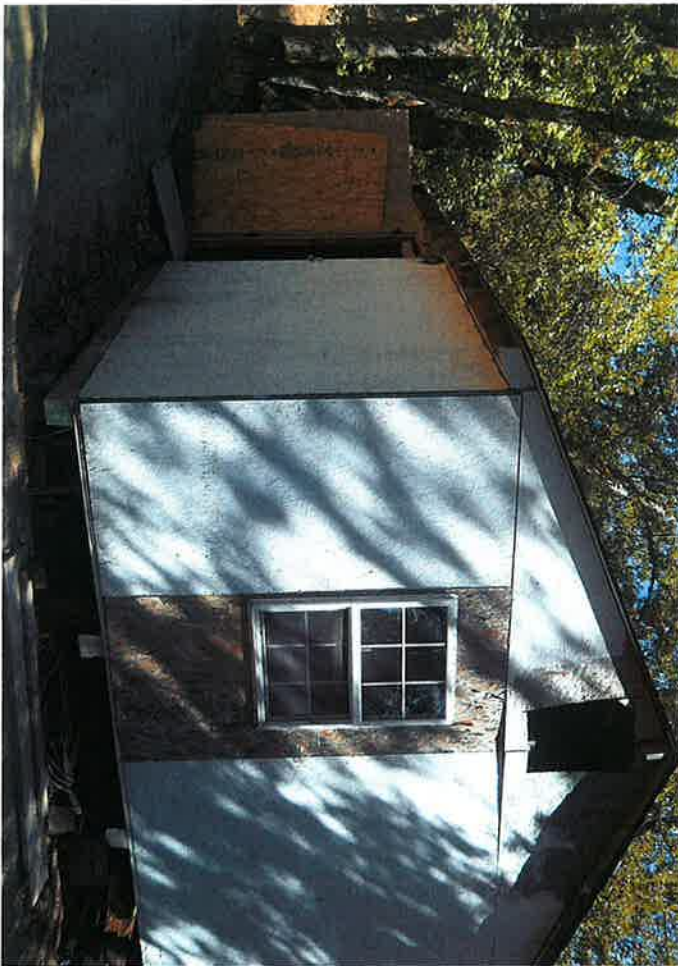
☐ Recommend Denial. Attach reasons for recommended denial.

☐ Other Comments: _____

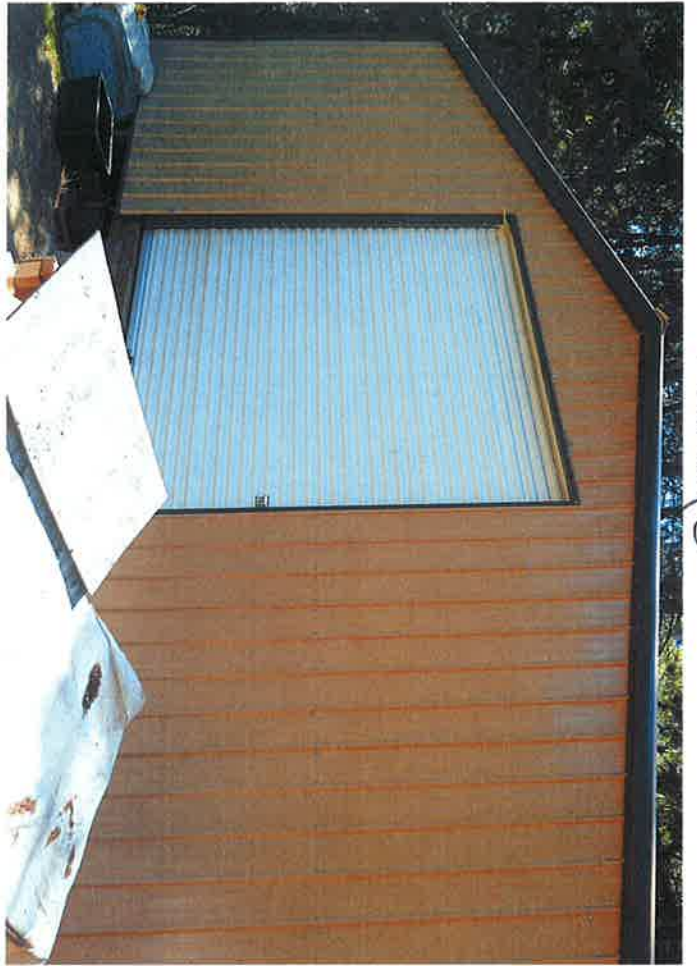
DATE: 10/5/17

PRINT NAME: Ian Mion

208-231-016



storage

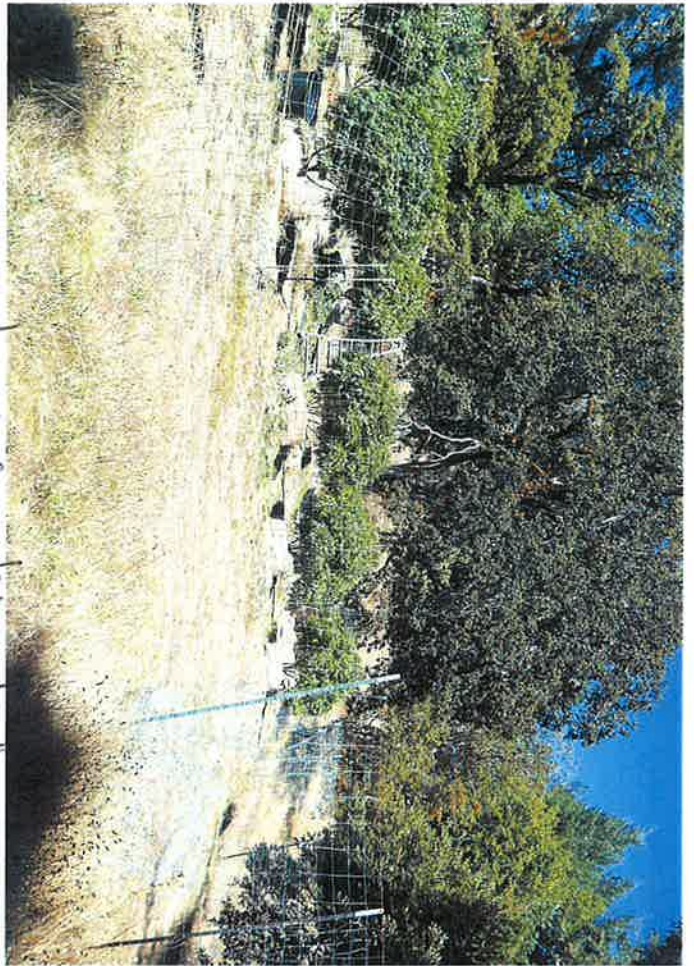


phore by shed



outdoor by shed







outside of top



after a month



Zander, AnaCena

From: HUU CEQA@CALFIRE <HUUCEQA@fire.ca.gov>
Sent: Thursday, September 21, 2017 3:37 PM
To: Planning Clerk
Subject: FW: 208-231-016 Mad River Horticulture



Chris Ramey
Battalion Chief, Fire Planning

CAL FIRE

Humboldt-Del Norte Unit
C: 707-599-6442
Duty Days: Tues-Fri

From: Lee, Bo@CALFIRE
Sent: Wednesday, September 13, 2017 4:02 PM
To: HUU CEQA@CALFIRE <HUUCEQA@fire.ca.gov>
Subject: 208-231-016 Mad River Horticulture

Reviewed by B1213. Recommend:

- Emergency access
 - Turnarounds
- Signing & building numbers
- Emergency water standards
 - Designated water storage for fire
- Fuel modification standards

Bo Lee
Battalion Chief
CAL FIRE
Humboldt-Del Norte Unit
707-499-2244



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

DEH received
9-7-17

PROJECT REFERRAL TO: Health and Human Services Environmental Health Division

Project Referred To The Following Agencies:

17/18-0598

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, NCUR Air Quality Control Board, SWRCB, Division of Water Rights, Humboldt County Sheriff, Ruth Lake Fire Protection District, Southern Trinity Joint Unified School District

Applicant Name Mad River Horticulture, LLC **Key Parcel Number** 208-231-016-000

Application (APPS#) 12769 **Assigned Planner** Cannabis Planner (CPOD) (707) 445-7541 **Case Number(s)** CUP16-831 SP18-024

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

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

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

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

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

We have reviewed the above application and recommend the following:

Conditional Approval

DISTRIBUTED
3-26-18

Comments:

DEH recommends approval with the following conditions:

(1) **No processing can be approved** until an acceptable site suitability report can establish potential for onsite waste treatment system.

(2) **An invoice, or equivalent documentation, is provided to DEH** to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.

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





DEPARTMENT OF PUBLIC WORKS
COUNTY OF HUMBOLDT

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

ARCATA-EUREKA AIRPORT TERMINAL
MCKINLEYVILLE
FAX 839-3595

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 445-7421



LAND USE DIVISION INTEROFFICE MEMORANDUM

TO: Michelle Nielsen, Senior Planner, Planning & Building Department

FROM: Kenneth M. Freed, Assistant Engineer *KMF*

DATE: 03-01-2018

RE:

Applicant Name	MAD RIVER HORTICULTURE, LLC
APN	208-231-016
APPS#	12769 CUP16-831

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:

Review Items 1, 2, 6, and 7

// END //

Exhibit "C"

Additional Review is Required by Planning & Building Staff

APPS # 12769

All of the following questions are to be answered by Planning and Building Department staff. No further involvement with the Department of Public Works is required for these items; however Public Works staff is available to answer any questions that may arise.

1. **ROADS – PART 1.** Does the project takes access from a series of non-county maintained roads that connect directly to a State Highway (36, 96, 101, 255, 299, etc...)?
☐ YES ☐ NO

If **YES**, the project does not need to be referred to the Department. Include the following requirement:

All recommendations in the *Road Evaluation Report(s)* for non-county maintained road(s) shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. A grading permit may be required; check with the Building Division of the Planning and Building Department for any permit requirements.

2. **ROADS – PART 2.** Does the project takes access from a series of non-county maintained roads that connect directly to a Caltrans State Highway, US Forest Service Road, BLM Road, or a City road?
☐ YES ☐ NO

If **YES**, the Department recommends that prior to the project presented to the Planning Commission or Zoning Administrator, that the project should be referred to the affected road agency(ies).

3. **ROADS – PART 3.** Does the project take access or use a county maintained road that does not have a centerline stripe or is not on the "approved list" of known category 4 roads? ☐ YES ☐ NO

If **YES**, a *Road Evaluation Report* must be done for the County road(s) that do not have a centerline stripe or are not on the "approved" list. The project along with the road evaluation report(s) for the County maintained road(s) must be referred to Public Works for review to ensure that the Department supports the findings in the report. If the road is on the "not approved" list, then Part B of the *Road Evaluation Report* form must be completed.

4. **Deferred Subdivision Improvements.** Does the project have deferred subdivision improvements? ☐ YES ☐ NO

How to check: **Method 1:** Planning and Building Department staff review the legal description for the subject property in the deed. If the deed reads similar to "Parcel ___ of Parcel Map No. ___" then there may be deferred subdivision improvements; further research will be needed. **Method 2:** Planning and Building Department staff need to review the title report(s) for the subject property(ies) to see if a "Notice of Construction Requirements" document is listed. If the document is listed, then there are deferred subdivision improvements.

If **YES** then the subject property has deferred subdivision improvements. The project cannot be presented to the Zoning Administrator or the Planning Commission until the deferred subdivision improvements are completed. The applicant should be directed to the Department of Public Works regarding the deferred subdivision improvements.

5. **AIRPORT- PART 1 (ALUCP).** Is the project located within Airport Land Use Compatibility Plan (ALUCP) Zone A, B, B1, B2, or B3 as shown on the ALUCP GIS layer? ☐ YES ☐ NO

If **YES**, include the following requirement:

The applicant shall cause to be dedicated to the County of Humboldt an Avigation Easement. The avigation easement shall be on the form prescribed by the Department of Public Works. 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.

Exhibit "C"

Additional Review is Required by Planning & Building Staff

The applicant shall conduct all operations consistent with the ALUCP and in a manner that does not attract flocks of birds. Open ponds shall not be permitted.

6. **AIRPORT – PART 2 (County Code Section 333).** Is the project located within the County Code Section 333 GIS layer **AND** is the project proposing to construct (or permit) a fence, building or other structure? ☐ YES ☐ NO

If **YES**, the applicant shall submit a completed *Airspace Certification Form* prior to the project being presented to the Zoning Administrator or the Planning Commission for approval.

7. **AIRPORT – PART 3 (Height Restrictions).** Planning & Building Staff shall review the completed *Airspace Certification Form* as follows:

- o If Box 1 is checked **NO**, the applicant shall either modify the project to comply with County Code Section 333-4 or the applicant shall request a variance pursuant to County Code Section 333-8. The project shall not be presented to the Zoning Administrator or the Planning Commission for approval until the variance is approved by the Board of Supervisors, or the project was modified to comply with County Code Section 333-4.
- o If Box 2 is checked **YES**, the applicant shall submit form FAA 7460-1 to the FAA for review and comment. The project shall not be presented to the Zoning Administrator or the Planning Commission for approval until the FAA supports the project.
- o If Box 3 is checked **YES**, then the project cannot be permitted and must be modified to conform to the easement. As an alternative, the applicant may wish to seek approval from both the County and the FAA to quitclaim a portion of the easement to allow the project to be permitted.
- o If Box 1 is checked **YES** and Box 2 is checked **NO** and Box 3 checked **NO** or **NA**, then Planning & Building staff shall signoff on the project in the "county use only" section of the form. In the "pre-construction" right of way (or "post construction" right of way if the building exists), check the approval box; date and initial your work.

Note that if the proposed structure is close to the imaginary surface (within 5 feet), then require a post construction certificate to be filed. By including the following requirement:

Applicant shall file a post construction *Airspace Certification Form* to ensure that the proposed structures are in compliance with County Code 333-3. This shall be completed within 90 days of completion of construction or prior to building final, whichever occurs first.

Submit a copy of all processed *Airspace Certification Forms* to the Land Use Division.

8. **MS4/ASBS Areas.** Is the project located within MS4 Permit Area as shown on the GIS layer? ☐ YES ☐ NO

If **YES**, include the following requirement:

The applicant shall demonstrate to the satisfaction of the Planning & Building Department that the project is in compliance with MS4/ASBS requirements.

// END //



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



9/6/2017

PROJECT REFERRAL TO: ~~Ruth Lake Fire Protection District~~ *S Trinity Vol Fire Dept*

Project Referred To The Following Agencies:

Building Inspection Division, Public Works Land Use Division, Health and Human Services Environmental Health Division, County Counsel, CalFire, California Department of Fish And Wildlife, Northwest Information Center, Bear River Band Rohnerville Rancheria, Regional Water Quality Control Board, Humboldt County District Attorney, Humboldt County Agriculture Commissioner, NCUR Air Quality Control Board, SWRCB, Division of Water Rights, Humboldt County Sheriff, Ruth Lake Fire Protection District, Southern Trinity Joint Unified School District

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Return Response No Later Than 9/21/2017

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 (please check one):

☐ Recommend Approval. The Department has no comment at this time.

☒ Recommend Conditional Approval. Suggested Conditions Attached. *Silver-Mad River Rd be kept open for fire & EMS access*

☐ Applicant needs to submit additional information. List of items attached.

☐ Recommend Denial. Attach reasons for recommended denial.

☐ Other Comments: *Recommend add to mapping list - USDA-Forest Service*

Mad River @ 741 SSR 36 Bridgeville 95526 and Hawk Bay Menic later Dist at PO Box 95, 828 Seventh St, Eureka 95502

DATE: 9/9/17

PRINT NAME: Alm German chief STVFD