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Hearing Date: August 6, 2020
Time: 6:00pm
Virtual Link: <https://zoom.us/j/97543247525> Password: 200525
Phone: 1-346-248-7799 Meeting ID 975 4324 7525 Password: 200525

RE: Record Number PLN-15197-SP
Subject : Special Permit Cannabis Cultivation Maple Creek Investments LLC, a Nevada
Limited Liability Company
APN 315-011-009, APN 315-011-008 FR Zoning

SUPPLEMENTAL to Document of Opposition¹

TO: Humboldt County of California Planning Department, Planning Commission, Zoning
Administrator, Supervising Planner, et. al.

PLN-15197-SP is not feasible. The adverse effects of such a proposal are far greater than any need, or any want, to place an Industrial Chemical Commercial Cannabis Grow on the intersection of Butler Valley Road and Maple Creek Road. Poisonous pollution, of which the cumulative impacts have already been noted, cannot be remedied by "Mitigation Measures." To place an unnecessary eyesore, and create a neighborhood nuisance of such magnitude, in direct view of everyone who passes by, all the Community, and on top of, in front of, and in the face of the neighboring land owners is not only a violation of the Ordinance adopted to protect from such atrocities, but it does not comply with the California Environmental Quality Act, Humboldt County De-

¹ See attached Document (Received July 15, 2020 by Humboldt County Building Division, (*revised*)).

partment of Environmental Health, County of Humboldt's Certified Unified Program (CU-PA), and the North Coast Air Quality Management District.² On July 21, 2020, a complaint was filed with the California Environmental Protection Agency (CalEPA # COMP-48402), regarding PLN-15197-SP.

The Staff Report findings for evidence supporting conformance of PLN-15197-SP to the General Plan are disturbing, lack foundation, and are speculative in nature. The findings are hearsay and ambiguous, filled with misrepresentation and misinterpretation of the project's proposal, its impact, and the necessary requirements of conformance. The wrongful application of the Goals, Policies, Standards, Measures, Regulations, and Laws which have been adopted to safeguard small rural communities from being overrun by the Commercial Cannabis Industry is a recipe for disaster. The proposed development is **not** in conformance. Contrary, the findings show overwhelming evidence supporting nonconformance. PLN-15197-SP must be denied. The Foersterlings object to the development of a Cannabis operation on parcel 315-011-009.

"Significant water drawdown from adjacent," neighboring residential properties is in direct violation of Ordinance No. 2599 (§55.4.12.9). The projected POD is North, and Northeast of adjacent residential wells, rivulets, waterfalls, and tributaries of the Mad River. The LSA Notification application specifies the "Season of Diversion" as between June 1st and August 31st, and has not been approved by CDFW. Cannabis Cultivators are prohibited from diverting this water during the dry season for irrigation use. The proposed plan also calls for water trucked into the site from a well one mile away; that well feeds the Maple Creek, a vital tributary of the Mad River. Clearly, there is not enough water available on the proposed site for the proposed plan. Particularly, if mediation measures require that the proposed road on the same site needs to be "watered twice a day" to keep the dust and top soil from eroding and clouds of dust from forming, then more precious water is wasted. *Wasteful* water usage is contrary to rural development.

The rustic cabin the plan proposes to demolish has been in that location since the late 1940's... early 1950's, and has become part of nature. It cannot be treated in the same way as a pre-existing building site, nor should it. There are some beautiful young fir growing near, and around the cabin, in the forested area. Disturbance of the cabin and its potential would be a loss, replacement of it with an industrial sized out-building would be degenerate, and is further proof the applicant does not have the necessary appreciation for the region and all it has to value.

It is the responsibility of conscientious land stewards to protect the habitat for wildlife, and to foster healthy and sustainable living practices for the land and its "land organisms."³ It is more important, than ever before, to *prevent* irresponsible, negligent, and negative environmental impacts from occurring. Commercial cannabis cultivation has become to the Cannabis Industry, as clearcutting is to the Timber Industry, or as fracking is to the Oil Industry; it is not sustainable, and is detrimental to the Earth. "The Green Rush" has scarred the land with so many large grows in the Emerald Triangle,⁴ it is no longer adequate to standby and let permitting spin out of control. Without proper regulation of Cannabis Cultivation the future for Humboldt County is grim. The pervasive pot culture of Humboldt County must be brought into balance. No rest from the pot

² The proposed plan is feet away from the County Road, on both sides.

³ Leopold.

⁴ Shane Anderson's "A River's Last Chance" (2018).

culture. No peace. It is the responsibility of the Planning Department and County Supervisors to safeguard the interdependent ecological system so vital for survival.

The following Table 1.0 outlines the evidence supporting the findings of **nonconformance** with the General Plan:

Plan Section	Summary of Applicable Law, Goal, Policy, Standard, Regulation, Guideline, Requirement, Term, Condition	Evidence which Supports the Findings of Nonconformance with the General Plan
Land Use (Chapter 4) Land Use Designations Section 4.8.1 Purpose	<p>Residential Agriculture (RA40)</p> <p>Other uses may be restricted as detailed in the Zoning District implementing the land use designation.</p> <p>The designation applies to large lot residential uses that rely upon on-site water and waste-water systems. Varying densities are reflective of land capabilities and/or compatibility issues.</p> <p>RA40 is applied to remote, steep, and high hazard areas, or where appropriate to ensure compatibility with adjacent resources and open space uses.</p>	<p>(1). The proposed development of a Commercial Industrial Cannabis Cultivation of approximately 27,025 square feet of Marijuana Plants, and a 2,000 square foot on-site processing facility is not compatible with FR zoning and/or the applicable land use designations; Forested areas, Wetland, Mad River Watershed, subwatershed, steep and unstable slope, drawdown of adjacent well(s), location in Streamside Management area, channel of river and streams, flood and drought conditions, High Hazard Fire Zone, open spaces, scenic enjoyment, etc. “Cultivation and processing of cannabis shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt” (Humboldt County Code §314-43.2.6), The unsightly, and unconscionable storage and use of six water tanks holding 14,000 gallons of water, plus four 50,000 gallon tanks expected to hold 200,000 gallons of rainwater, plus more tanks of an undisclosed amount of water trucked in from a mile away, plus portable toilets transported 16 miles back and forth on Maple Creek Road to Blue Lake, is not appropriate for the intersection of Butler Valley Road and Maple Creek Road. It is incompatible with a rural residential designation for the land, and is incapable of sustaining the proposed activities. Therefore, PLN-15197-SP does not conform with this section.</p>
Circulation (Chapter 7)	<p>Goals and Policies require a balanced, safe, efficient, accessible, and convenient circulation system appropriate for each unincorporated community; coordinated planning design, development, operations, and maintenance between the County and others; access for transportation to safely move within, into and out of Humboldt County.</p> <p>Pavement Management Criteria (68th percentile).</p> <p>Sight Visibility Ordinance.</p> <p>Consideration of Land Uses in</p>	<p>(2). The proposed development for Cannabis Cultivation and processing facility requires inroads with egress and ingress points along the rural Butler Valley Road, and the creation of a parking lot. This type of Commercial Industrial circulation is unsafe, inappropriate, and inefficient. Industrial Operations of such magnitude create an imbalance on the roadways. Conditions of Approval set forth by the Department of Public Works cannot be met. The disturbance to soils, forested lands, wetland areas; the creation of sediment run-off; and the need to prevent flood and mud conditions during the rainy season, the need to water the road and lot twice daily during the dry season to prevent erosion and dust storms, and the need to provide a safe and appropriate developmental design for the “type of unincorporated community” are not provided in PLN-15197-SP. The shoulder is not paved, and is not considered Parking. The County roads servicing the area are in disrepair and have not been</p>

	<p>Transportation Decision Making.</p> <p>Consideration of Transportation Impacts in Land Use Decision Making.</p> <p>Community Design for Public Health.</p>	<p>paved since the '50's. The road conditions are classified as poor-very poor. The steep road and blind corner on one end, and the blind intersection on the other end prohibit the necessary visibility to safely enter and exit the Butler Valley Road, and will create a road hazard with the proposed increase of traffic from employees coming and going, product being transported, etc., etc., It does not comply with the Sight Visibility Ordinance. Therefore, PLN-15197-SP does not conform to this section.</p>
<p>Housing (Chapter 8)</p> <p>Housing Element Densities (Ordinance 2599, §312-17.1.5)</p>	<p>Goals, Policies, and Standards contained in the Housing Element Residential Land Inventory 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>Development of Parcels in the Residential Land Inventory.</p>	<p>(3). The proposed development for Commercial Industrial Cannabis Cultivation, itself, <i>reduces the residential density for the parcel</i>. Furthermore, it will reduce the development of a residential Community plan to service the Maple Creek School District. The placement of Marijuana Plants in plain sight for all to see and smell is an insult to residential growth, prevents residential development, and attracts crime, theft, and transient behavior. The proposed action to demolish the rustic cabin and build a processing facility in its place is not an "improvement," and is contrary to the policies of preservation. The goals, policies, and standards surrounding appropriate housing for the region are thwarted by the proposed project and/or any "future proposed development." A "caretakers living quarters" is referenced, but there are no approved plans presented (E.8). Furthermore, a high security apparatus is proposed, which is of such an invasive and dominant feature of the plan, it is a deterrent for residential development and degrades rather than improves, destroys rather than preserves, and in the process intrudes upon the quietude of the region. Therefore, PLN-15197-SP does not conform to this section.</p>
<p>Conservation and Open Space (Chapter 10)</p> <p>Open Space Plan (Section 10.2)</p>	<p>The Open Space and Conservation Program is complimentary to other agencies' plans and preserves the County's unique open spaces.</p>	<p>(4). The proposed development is located within an Open Space area, and is in a severe high fire hazard zone and forested region; with its surrounding Wetland, located in the Mad River Watershed. The location is unique to Humboldt County and has been an intricate part of the scenic route for avid and professional cyclists, bird watchers, nature enthusiasts, etc., and encompasses critical habitat for local wildlife. The proposed development is against the California Department of Forestry and Fire Protection, is against the California Department of Fish and Wildlife, is against the California Environmental Protection Agency and Regional Water Quality Control Board of the North Coast Region, and against the Humboldt Bay Municipal Water District, is not complimentary to "other agencies' plans, and destroys "unique open spaces." Therefore, PLN-15197-SP does not conform to this section.</p>
<p>Conservation and Open Space (Chapter 10)</p>	<p>Policies are applied to mapped sensitive habitat areas to protect fish and wildlife, to prevent species from becoming endangered,</p>	<p>(5). The proposed development is directly on and near sensitive critical habitat areas within the unique microclimate region of Humboldt. The Biological Assessment Report submitted by TransTerra Consulting</p>

Biological Resources Protection (Section 10.3)	<p>and to facilitate the recovery of endangered species already threatened.</p> <p>Concerns long-range preservation and conservation of Natural Resources.</p>	<p>is not comprehensive, nor is it accurate. Protocol levels and floristic surveys were not conducted. Many sensitive species in the region were not identified in the report, <i>i.e.</i> deer, bat, bear, salmon/steelhead, barn owl, squirrel, mountain lion, bobcat, eagle, osprey, elk, skunk, quail, river otter, “sucker fish,” duck, coyote, fox, raccoon, Tanager, barn swallow, heron, Red-tail hawk, raptors, sandpiper, lizard, snake, crickets, woodpecker, etc.</p> <p>The Jurisdictional Wetland Delineation Report submitted with the proposal fails to accurately assess the related issues to the project, <i>i.e.</i> drainage conditions, Streamside Management, and soil and water pollution. Disturbances to aquatic species, native soils, sensitive receptors, water quality, air quality related to road development and odor related to the “specialty crop,” structure development, and cultivation activities are not able to be mitigated. The staff report findings incorrectly stated “generators are not part of the project’s operations,” when, as a matter of fact, generators will be used. The destruction of the existing rustic cabin will include destruction of the natural habitat, including beautiful young fir trees and digging into wetland. Conservation efforts and plans for long-range preservation of the area have not been addressed. The California Department of Fish and Wildlife have not approved the Staff Report’s findings, and the proposed development is incompatible with the Departments’ goals and objectives. Therefore, PLN -PLN-15197-SP does not conform to this section.</p>
Conservation and Open Space (Chapter 10) Cultural Resources (Section 10.6)	<p>Goals and Policies 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.</p> <p>Substandard lot for Industrial Commercial Development.</p>	<p>(6). The proposed development is east, southeast of a previously halted project on parcel 315-011-007, on which Native Ceremonial Grounds were disturbed by the same Corporation. “Inadvertent Discovery Protocols” were too late to save the land from being excavated, disturbed, and desecrated. American Indian Tribes in the Northwest region of California have banned the cultivation of Marijuana on Tribal lands due to the detrimental cause and effect. Furthermore, the development of a Commercial Industrial Cannabis Cultivation Operation on the proposed site would destroy the historic cabin made of old growth Redwood and completely annihilate significant cultural heritage that would benefit present and future generations. Establishment of an out-of-control Cannabis Industry in Maple Creek contradicts the type of protection implied by, and explicitly expressed in, the Goals and Policies of the General Plan. Therefore, PLN-15197-SP does not conform to this section.</p>
Conservation and Open Space (Chapter 10)	Protection of scenic areas that contribute to the enjoyment of Humboldt County’s beauty and abundant natural resources and surroundings; providing a system of scenic highways and roadways	<p>(7). The proposed development is incompatible with the natural surroundings, and is contrary to the intended use of the land; “creating traffic and traffic safety problems for existing residents.” It intrudes upon the enjoyment of Humboldt County’s beauty and abundant natural resources in a plethora of ways. Any Cannabis Cul-</p>

Scenic Resources (Section 10.6)	that increase the enjoyment of, and opportunities for health, safety, education, culture, nature, physical fitness, and well being. Concerns traffic and traffic safety issues.	tivation would be seen (and smelled), as the projected site is alongside the road. Water storage tanks, and pot plants, and a monstrous processing facility are in stark opposition to this section of the General Plan. Butler Valley Road is not a Highway, but is valued for its scenery. Despite the terrible conditions of the existing connecting roadways, many cyclists, tourists, and residents put up with the decaying road solely <i>because of the nature</i> . The proposed plan takes enjoyment away from everyone, contributes to blight, and stinks up and trashes the neighborhood, causing a nuisance. High security surveillance cameras and Signs, posted at the entrance of the Industrial Facility, with warnings, etc. in rural Humboldt, are contrary to the General Plan. Therefore, PLN-15197-SP does not conform to this section.
Water Resources (Chapter 11) [P1-P46; S1-S13; IM1-IM32]	Goals and Policies are for Watershed Restoration, Management for Critical Watershed Areas, Water Supply, Quality, Beneficial Uses, Water Resource Habitat, Safe Storm Drainage, and Sustainable Management for rural water supplies privately provided or from on-site surface and groundwater sources. Some rural parcels have been created that cannot support residential usage based on on-site water availability, so availability must be determined on a case-by-case basis. Another concern is the cumulative effects of surface and groundwater withdrawals in rural areas where allowed land uses, if fully developed, would require more water than what is locally available during low-flow periods. Other requirements include illicit discharge detection and elimination; water quality monitoring; pollution prevention at County operations; public education and outreach; and program effectiveness evaluation.	(8). The proposed development is contrary to the General Plan. There are already numerous large permitted Cannabis operations in the area. The water supply is tapped out for such uses. Any further draw on the surface and ground water in the vicinity of the proposed site would be devastating. Two hundred thousand gallons of rainwater catchment for cultivation of Cannabis is not sustainable, and negatively impacts existing life, preventing necessary water from reaching its proper destination. Another fourteen thousand gallons of water sucked away from the surrounding Forest and Wetland contributes to the desertification of the region. Also, the drawdown from adjacent well(s) is <i>prohibited</i> by Ordinance No. 2599, under the General Plan. Trucked in water from another well one mile away from the grow site draws water away from the Maple Creek, a vital tributary for the Mad River and its aquatic life, and is also prohibited. Pollution of the earth, air and water, and the resultant harmful effects on humans, created from the use of fertilizers and pesticides cannot be “mitigated.” “Reduction” is not an option, when it comes to health and well being. Therefore, PLN 2018-15197 does not conform to this section.
Noise (Chapter 13)	Noise: When sound is disagreeable or unwanted, it is considered noise. Excessive Noise: Noise levels are considered in the Land Use Element to avoid direct conflicts between neighboring uses and minimize the exposure of community residents to excessive noise. Purpose is to create a quiet and healthful environment with limited disagreeable noise. N-G2. Incompatible Land Uses.	(9). The proposed development increases traffic noise, operational noise, and vibrational noise between 8am and 5:30pm Monday-Saturday every week, specifically during the months between May and October. Every sound reverberates in the river valley. Every car and truck on the road can be heard, every voice echoes, and every motion has its impact. Considering that the Community residents prefer the quietude of nature; the sounds of the river, the hoot of the barn owl, the flap of the eagle’s wing. The invasive quality of a Commercial Industrial Cannabis Operation in the residential neighborhood of Butler Valley Maple Creek is unwanted, and cannot be tolerated. The “character of the sound” is an-

ment (Chapter 5)	<p>overall safety conditions within the County.</p> <ul style="list-style-type: none"> ○ Soils ○ Slope Stability ○ River Flooding ○ Drainage Management ○ Fire Hazard ○ Community Wildfire Protection 	<p>in a rural setting is negligent land use. To have P G&E bring its power to an area “with a very high fire hazard severity” (specifically, right on the intersection of the only two roads for exit or entrance by emergency and service vehicles), is a violation of the Wildfires Protection Act. P G&E is responsible for three of the most devastating fires in California’s recent history, causing death and destruction of such magnitude, the areas and people affected will never recover all of the losses. To approve placing 24/7 High Voltage electrical current in the neighborhood, in close proximity to forested areas prone to extremely dry and hot times of the year is not only negligent, it is criminal. Liability falls to the applicant and/or Planning Division, as California Department of Forestry and Fire Protection and the Kneeland Volunteer Fire Department have not signed off on the project. Therefore, PLN-15197-SP does not conform to this section.</p>
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The following Table 2.0 outlines the evidence supporting the findings of nonconformance and noncompliance with necessary Zoning Regulations, Eligibility Requirements, and Performance Standards related to Ordinance No. 2599:

Section	Summary of Applicable Regulation, Requirement, and/or Performance Standard	Evidence Supporting the Findings of Nonconformance
§312-1.1.2	Development permits shall be issued for a lot that was created in compliance.	<p>(1). The 1971 Record of Survey Map of portions of Sections, including Section 6, commissioned by the Madrone Creek Development Company & Boulder Creek Development Company, referenced in the Staff Report on page 24, indicates the Tract number for the 315-011-009 parcel is 448, not 315, and that “this map is based on record information.” Bearings and lengths for the parcel were derived from Book 11, Page 99, A. B. Bones’⁵ Survey of Maple Creek Headquarters Ranch/Hammond Lumber Co. In 1946, A. B. Bones established the Corner Monument connecting parcels 08, 09, 07, 01. All subsequent surveys, and land transactions: buying, selling, dividing, etc., were done using this Corner Monument established in 1946.⁶</p> <p>The proposed development for a Commercial Cannabis Cultivation Special Permit uses a different survey, monument, boundary, and map to encroach on neighboring parcels, water systems, land, structures, and improvements in the process. The Humboldt County Assessor’s Map Book 315-01, Reversion to Acreage Guynups & Arcata National Corporation, delineates 40 acre parcels, not 42, and clearly shows the 09 parcel has never had river frontage. The boundaries outlined in the proposed PLN-15197-SP do not conform to this section, and create conflict.</p> <p>Building height obstructs the viewshed and sight visibility of the intersection, infringes on the views enjoyed by adjacent land owners, and is an unsuitable use of the land. The pro-</p>

		posed project does not conform to Zoning regulations.
§314-61.1	Standards for Streamside Management Areas (SMAs)	(2). To not recognize the subject parcel(s) as Streamside Management Areas is negligent. To allow for a “50’ buffer,” admit the “presence of jurisdictional wetland,” and imply run-off from the “orientation of Maple Creek Road,” but ignore the negative impact the proposed development will do to the orientation of Butler Valley Road, the orientation of the adjacent parcels, the orientation of the waterfalls and rivulets which feed the Mad River, and the orientation of the Mad River itself, is beyond reason. Culverts, etc. may channel water away from the site, but polluted run-off water still finds its way into neighboring parcels, water systems, soils, etc., and drains into the Mad River. PLN-15197-SP does not conform to the minimum performance standards in this section.
§314-55.4.6.3.1-2	Eligibility Requirements: <ul style="list-style-type: none"> ♦ Energy Source 100% Renewable Energy ♦ Water Source Non-diversionary Water Flow Data Watershed Planning Seasonal Drought Conditions Restrictions of Water Use 	<p>(3). The proposed development plans to utilize high voltage provided by P G&E in a severe high fire hazard area⁷. P G&E has been found responsible for three of the most destructive fires in California’s recent history. The introduction of dangerous power lines to the site plan area is unsafe, and <i>increases</i> the fire danger risk.</p> <p>Fourteen thousand gallons of hard tank waterstorage for an Industrial Cannabis Operation is not considered domestic, and also, the ability to use the water for “fire suppression” is questionable. The water drawdown of adjacent well(s) is prohibited for Cannabis-related activities. The Staff Report claims “no diversionary water will be used for irrigation of cannabis,” but the applicant filled out a Lake or Streambed Alteration Notification application for exactly that, and more (although incomplete, and incorrect). SUIR prevents diversion of water during the dry season. California Department of Fish and Wildlife has not signed-off on the project.</p> <p>Four 50,000 gallon tanks of “rain catchment,” is not sustainable, and prevents necessary water flows during the rainy season to replenish the watershed. The fact that <i>more</i> water is needed for the proposed Cultivation clearly shows the site location is not the place for another large grow operation. In addition, the use of an off-site well for “trucking in water for cultivation and back-up water” is absurd, and a direct violation of Ordinance No. 2599.</p> <p>PLN-15197-SP does not conform and/or comply with the requirements in this section.</p>
§314-55.4.11	Application Requirements	(4.) All required information has not been received. The applicant has not provided all the appropriate forms from all the agencies directly involved with the approval of the development. The Staff Report is deceptive by stating the opposite. Therefore PLN-15197-SP does not conform to this section.

⁵ Licensed Surveyor No. 2020.

⁶ The Dunaways of Maple Creek Ranch, including their father, bought, sold, and acquired the affected parcels using the A.B. Bones’ Original Corner Monument set in 1946.

⁷ Considered Zone 10 by Insurance Companies.

§314-55.4.6.4.4	Setbacks	<p>(5). The site map plan for the proposed project does not reflect true boundaries, does not accurately depict buffers for wetland and forested areas, does not correctly represent road conditions, potential hazards, traffic, proximity to, and impact on, the Mad River Watershed, adjacent parcels, neighbors, wildlife, resources, schools, other large grows, and fails to provide necessary “defensive space” areas. Proposed “setbacks” for the development of this Industrial-sized Commercial Cannabis Cultivation Operation on the roadside of the Butler Valley Maple Creek turn-off do not accurately address, and are not correctly applied, to the project. Therefore PLN-15197-SP does not conform to the requirements in this section.</p>
§314-55.4.12.1, .4-.8, .10- .11, .13,	<p>Performance Standards</p> <ul style="list-style-type: none"> • Road System • Biological Resource Protection • Light Pollution Control • Energy Use • Noise • Cannabis Irrigation • Soils management • Existing Site Configuration 	<p>(6). The County roads servicing the site do not meet Category 4 Standards set forth by the Department of Public Works. In many instances the roads are unpaved, less than the required footage, no centerline marked, and are in poor and/or very poor condition. To increase road traffic, punch in unpaved “access roads” with a 50’ turn around, and develop a parking lot off of the County Road for an Industrialized Cannabis operation, without addressing the categorically poor/very poor conditions of the existing County roads, is negligent. The road system is negatively impacted by any disturbance from both sides of the site, Butler Valley Road and Maple Creek Road. The Roadshed is unable to support new Cannabis activity. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>The Jurisdictional Wetland Delineation Report filed by the applicant for a Special Permit fails to accurately assess the sensitive and critical habitat areas, the Wetland, the Streamside Management areas, Mad River Watershed, etc. The Staff Report reinforces its ambiguity and reveals a reasonable doubt as to its application and recommendations. The proposed Cannabis Cultivation project is not allowed as a principal permitted use under the General Agriculture use type classification. Generators are proposed as part of the project. The proposed building site is not on what can be considered a pre-existing building site, the cabin is antique and has become part of nature. There are sensitive species on-site. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>Protocol levels and Floristic Surveys were not conducted, yet are included in recommendations for prior to any disturbances related to the proposed development on and to the land, native soils, aquatic life, listed species, and species of concern. To declare no SMA, but mark SMA buffers on-site, to declare “no signs of filling or altering of wetlands,” but admit “drainage conditions relating to Maple Creek Road” attribute to the on-site Wetlands, and to omit the analysis of the presence of harmful algae bloom found on the adjacent parcel directly related to the accumulation of fertilizer/pesticide run-off water from the previous two years of illegal unpermitted grow by the applicant, is both contradictory and negligent. Therefore, PLN-15197-SP does not con-</p>

		<p>form to the Performance Standards.</p> <p>The proposed development is in violation of the International Dark Sky Standards. The Milky Way and Seasonal Constellations can be observed in the night sky. Invasive light from Industrial Commercial Cannabis activities cannot be prevented from spilling outside the boundaries of the parcel or premises. The skies are artificially lit up by any light disturbances during the after sunset hours and before the twilight hours. The proposed development is in direct view of neighboring landowners and takes away enjoyment of the Astral Views. The proposed security system and associated lighting and surveillance apparatus is an affront to the Rural Neighborhood Watch Program. The Humboldt County Sheriff's Department must be notified. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>PLN-15197-SP proposes to bring 24/7 High Voltage power to the intersection of Butler Valley Road and Maple Creek Road, putting up poles and electrical wiring, cutting trees and clearing a swath of 20' to accommodate P G&E. The proposal increases the risk of a catastrophic wildfire in the very high fire danger area. Close proximity to electrical power lines for rural residents is a severe health risk. Cap and trade is not 100% renewable. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>Sensitive Receptors located in the area of the proposed Cannabis Cultivation will be adversely affected by the commotion created by the scale of the Industrial Commercial activities. The noise of pot growers coming and going, an increase of automobile activity on the roads, and adjacent lands, are not only experienced as an increase in sound, but also an increase of vibration. The particular "character of the sound" is negative, as the applicant has shown aggressive and disrespectful behavior to members of the Community and the environment. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>The water usage for the proposed Commercial Cannabis Cultivation is unsustainable. Low and reduced stream flows during half of the year's cycle have now reached an all time high for the Mad River Watershed. The Mad River, as the <i>source of water</i> for Humboldt County must be preserved by all means necessary. The multiple water sources and diversionary tactics proposed undermine conservation and restoration activities now in place to protect and enhance the river flows. The use of such water for non-human use and/or Cannabis Cultivation is highly regulated, and the proposal itself is in violation of Performance Standards. No "monitoring" of the project can change the damage done to the ecosystem; water, aquatic life, land, vegetation, wildlife, and human. Therefore, PLN-15197-SP does not conform to the</p>
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		<p>Performance Standards.</p> <p>Disturbance to the native soils living in the proposed site area intrudes upon the root system of forested areas, the water flows of the Wetland, and contributes to erosion, pollution, and degradation of the soil content. The project proposes to displace soils, to dig, to grade, to excavate, and “amend the soil with fertilizers” and apply pesticides to the plants, with the intention of making the soil no longer viable and then to remove and dispose of the native soils. Removal of native soil and replacement with manufactured soil is prohibited; Native soil cannot be impaired or damaged (55.4.6.4.3). “Straw wattles” cannot control run-off during the rainy season. The proposed project is a disaster waiting to happen, and restoration efforts are untenable. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>Any configuration for Commercial Cannabis Cultivation on the intersection of Butler Valley Road and Maple Creek Road does not “result in an improvement in the environmental resources of the site.” The site is not suitable for the proposed project. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p> <p>The proposed development is ineligible for permitting for all the above mentioned reasons. Because of its extreme negative impact and large public outcry, mitigation measures and monitoring plans are inadequate to prevent irreparable damages to people, place, and thing. Therefore, PLN-15197-SP does not conform to the Performance Standards.</p>
§312-17.1.4	Special Permit Requirements	<p>The proposed development is detrimental to the public health, safety, and welfare of the entire Northcoast, and will be materially injurious to all properties and future improvements in the vicinity. No more large grow operations in Butler Valley Maple Creek. Approval, from all agencies involved with the permitting process for Cannabis Cultivation, has not been given to PLN-15197-SP. Therefore, PLN-15197-SP does not conform to the requirements.</p>
Environmental Impact Report [EIR]	<p>Establishes local land use regulations to allow for commercial cannabis operations in the unincorporated area of the County that ensure the health, and safety of the residents, employees, County visitors, neighboring property owners, etc.</p> <p>The EIR assures that no new significant environmental effects or a substantial increase</p>	<p>There is substantial evidence, and enough information provided to know with reasonable assurance that the proposed PLN-15197-SP fails to comply with the Environmental Standards set forth in the EIR. “At the request of the Department of Fish and Wildlife, the County is prohibiting the expansion of existing baseline cannabis cultivation operations or the establishment of new cannabis cultivation operations in subwatersheds identified as impacted by the extent of pre-existing cannabis cultivation within those areas, or strongholds for the restoration of fisheries for threatened or endangered salmonid species (§314-55.4.6.8, Resolution No.18).” If the State Water Resources Control Board or CDFW finds</p>

	in the severity of previously identified effects will be caused.	<p>cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, CDFA <i>shall not issue new licenses</i>, or increase the number of plant identifiers within that watershed or area. The proposed development is in the vicinity of the Mad River Watershed. All Cannabis activities negatively effecting soil stabilization, water run-off, rivulets, and tributaries in the Mad River Watershed are prohibited. Reparations are costly.</p> <p>In every instance of the EIR, the proposed project violates Environmental Law. The location of the proposed site “cannot support cannabis cultivation,” in any form. There are already numerous Cannabis Cultivation operations in the vicinity, there is no more capacity. The evidence clearly shows the project adversely impacts the environment to such a degree as to create an unhealthy, unsafe, and intolerable conditions in the neighborhood. The proposed project is non-compliant with CEQA. Therefore, PLN-15197-SP does not comply with the EIR.</p>
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The Cultivation and Operations Plan prepared by Six Rivers Development LLC, for Maple Creek Investments LLC, a Nevada Limited Liability Company, itself, is rife with proposed non-compliance actions, so it is impossible for the proposed Cultivation to be “conducted in compliance with all laws and regulations as set forth in the CCLUO and MAUCRSA.” The “Recommended Conditions of Approval” are not only inadequate to comply with the necessary environmental safeguards required by Ordinance No. 2599, but cannot be met by the applicant. It is the responsibility of the Planning Commission to do the right thing and deny the proposed project, deny the special permit, and deny the applicant any and all permits sought for Cannabis Cultivation and any and all related activities.

Further issues of concern:

- Criminal trespass.
- Invasion of privacy.
- Elder abuse with intent to do harm.
- Vandalism.
- Terrorism.
- Stalking.
- Harassment.
- Assault.

It is declared, under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Dated: July 30, 2020

Respectfully submitted,

Thomas Foersterling and Elizabeth Foersterling

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Hearing Date: July 16, 2020

RE: Record Number PLN-2018-15197
Subject: Special Permit Cannabis Cultivation Maple Creek Investments, LLC
APN 315-011-009, APN 315-011-008 FR Zoning

To: Humboldt County Planning Department, Zoning Administrator, Supervising Planner, Planner I, et. al.

Thomas and Elizabeth Foersterling, land owners in fee simple of Federal Homestead⁸ Parcel Number 315-011-008, adjacent to the 40-acre parcel 315-011-009 (09 parcel), wholly and completely oppose, dispute, and contest PLN-2018-15197 in its entirety. As residents of 8748 Butler Valley Road for the past 32 years, the Foersterlings have tolerated many changes to the area, but PLN-2018-15197 is beyond the scope of sustainable. It is inconsistent with Zoning Regulations for Forestry/Recreational Zone, and not a designated use for RA40⁹. PLN-2018-15197 is against the General Plan for unincorporated forested and wetland areas of Humboldt County, is against the California Environmental Protection Agency and Regional Water Quality Control Board of the North Coast Region, and is in violation of California Fish and Wildlife regulations, among many other wrongs. California Environmental Quality guidelines have not been met, and findings within the Environmental Impact Report reveal significant adverse effects which cannot be overcome. PLN-2018-15197 is not feasible. The adverse “cumulative conditions” and “significant unavoidable impacts” effecting the well-being of the people, place, and planet override and outweigh the economic benefits to Humboldt County.

There are already numerous large grow operations in the vicinity of Maple Creek, within close proximity to the proposed grow, and an additional large grow operation on the intersection of Butler Valley and Maple Creek Road would be a

⁸ Recorded 1992-33188 Official Records Humboldt County, California

⁹ *i.e.* “The **slope** toward the Mad River is considered Highly (4) unstable.” **Not** considered “prime farm land.”

detriment to not only surrounding neighbors, residents of the Butler Valley Maple Creek area, the Maple Creek School District, the Church Camp participants, the local Community as a whole, visitors, passersby, tourists, etc., but would also be devastating to the ecosystem, the environment, the wildlife, and the Mad River Watershed. The harmful ramifications cannot be ignored. Destruction of an historical landmark of antiquity to build a monstrous Cannabis processing facility is an affront to the greater Community of Butler Valley Maple Creek, and to erect an unsightly building on parcel 09 will obstruct the views in all directions; a road hazard, fire hazard, pollution hazard, electrical hazard, etc.

The proposed location for PLN-2018-15197 was previously a site of an unpermitted grow. For two years in a row, Brian Shields, and the Dunaways of Maple Creek Ranch, illegally grew pot in containers,¹⁰ right alongside the road, for all to see and smell. They made a continuous commotion, and their movements were heard and felt by all, including "sensitive receptors." They trespassed onto neighboring parcels, harassing, bullying, and threatening as they did.¹¹ It is important for Humboldt County to make the right decision, help prevent further terrorizing, and stop creation of blighted areas. Enough is enough. The unpermitted grow created an unsightly neighborhood nuisance, and many complaints were heard. After damage was already done, the Humboldt County Planning Department assured the local residents a permit would never be granted for a grow in that location.

PLN 2018-15197 does not meet the requirements of a pre-existing grow, and cannot benefit in any way from that status (Ordinance No. 2599). If approved, it would fall into the category of an RRR site, "a Cannabis Cultivation operation occurring in an inappropriate, marginal, or environmentally sensitive site" (Ordinance No. 2599, §314-55.4.6.5.9). No new permits to these sites.

Maple Creek Ranch, Inc. extracted gross amounts of water from an already depleted water table. Not only were their actions illegal by the Planning Department's Regulations and the current Ordinance No. 2599, but were in violation of the California Department of Fish and Wildlife (CDFW), against the Regional Water Quality Control Board (RWQCB), an outrage to our local Water District, and extremely harmful to the neighboring property owners, the wildlife population, and the Mad River watershed.

Findings in the Water Resource Protection Plan (WRPP) for PLN-2018-15197 reveal necessary conditions are **not** met.¹² Conditions which have been given a 'Yes' on the WRPP remain in question, and are arguable. For example, 4.5.b with regard to water conservation measures, rainwater catchment tanks are not only inadequate, they deplete the supply of the necessary surface water, water in the water table, water for the forested areas, water for the wetland, and water for the River itself.

The Dunaways activities during those two years of unpermitted grow diminished the Foersterlings' residential water supply causing "significant cumulative effects on the availability of water for municipal or residential water uses or the aquatic environment,"¹³ and was a direct violation of performance standards. The Dunaways are *now* applying for a permit to do even greater damage and destruction to the land, water, air, fisheries, neighboring parcels and community as a whole. The Environmental

¹⁰ WRPP Appendix C, photo #5.

¹¹ SEE attached Letter.

¹² WRPP Standard Conditions (4.1.d, 4.3.a-d, 4.4.a-b, 4.5.a, 4.5.e, 4.7.b-c, 4.9.d, 4.10.a, 4.11.a), to name a few.

¹³ Humboldt County Code §312-50 Required Findings Exhibit A.

Impact Report (EIR) clearly states:

“If the State Water Resources Control Board or Department of Fish and Wildlife finds, based on substantial evidence, that cannabis cultivation is causing significant adverse impacts on the environment in a watershed or other geographic area, the CDFA (California Department of Food and Agriculture) shall not issue new licenses or increase the total number of plant identifiers within that watershed or area.”

Clearly, any large Commercial Cannabis Cultivation on parcel 09 cannot meet the Performance Standards for Commercial Cannabis Cultivation Activities (§55.4.12.2). Nor can it ever comply with General Standards (§55.4.12.2.1-4) of the RWQCB, the State Water Resources Control Board (SWRCB), and the CDFW. The Lake or Streambed Alteration notification signed by Catherine Dunaway on December 14, 2018 is incomplete, incorrect, and untrue. The Lake and Streambed Alterations Agreement is sought for sediment removal and water diversion for the project, but the months between June 1st and August 31st of every year (Season of Diversion, Attachment C), are the most critical times of the year for water in the area. Cannabis cultivators are prohibited from diverting surface water during the dry season (SUIR). In reference to “Spring #1”, on the Site Plan Map, the use of that well for Cannabis Cultivation already violated Section 55.4.12.9 of Humboldt County Ordinance No. 2599 stating, “If the testing demonstrates use of the well results in the drawdown of any adjacent well(s)...Use of the well for Cannabis–related Irrigation is prohibited.”

Despite limited findings in the LSAA, “water does not appear to flow off the property,” every property owner in rural unincorporated areas in Humboldt County knows differently. With the steep slope on the southern side of Butler Valley Road, and the trend for water to flow downhill taking the path of least resistance, contaminants from the grow cannot be contained adequately no matter what kind of precautions are taken. In WRPP 4.1.d, “Cultivation area #1 slopes to the southeast towards Butler Valley Road” in the direction of the Foersterlings’ Water System.

The Dunaways stored diverted water in large storage tanks, and used harmful chemicals and pesticides; run-off seeped everywhere, and was detected in water along the road, in neighboring water supplies, as well as in the natural water rivulets which continue to feed the Mad River; polluting the water, air, and earth. The Jurisdictional Wetland Delineation document is filled with disturbing contradictions, and LSAA findings for POD are ambiguous at best... “well-drained soils,” but “diversion of water will require annual excavation.” TerraConsulting (JWD) trespassed on April 19, 2019 and took photos,¹⁴ poked around the Foersterlings’ Water System; the picture of Pit 3 clearly indicates exposure to contamination, and shows disturbance from above the steep slope, beneath the unpermitted grow. The “jurisdictional boundaries” found in the LSAA encroach on neighboring lands, effect the Mad River Watershed and subsequent subwatershed, and CDFW has the jurisdictional authority over wetland resources (Code §1602). It is federally illegal to grow in Wetland areas.

The EIR finds “All cultivations are required...to be setback and located outside of Streamside Management areas....” The 09 parcel cannot be considered “outside of Streamside Management areas” as it contains wetland, and run-off feeds the Mad River. It is requested by CDFW that the County “prohibit the establishment of new cannabis cultivation operations in subwatersheds....or within those areas, or strongholds for the restoration of fisheries for threatened or endangered salmonid species (§314-55.4.6.8

¹⁴ JWD Appendix A, page 2 Redox features from Pit 1 and 3.

(Resolution No. 18-?).” “Setback” numbers projected on the site map do not accurately reflect the proximity of the grow to the adjacent parcels, and do not meet the current setbacks prescribed in Ordinance No. 2599.¹⁵ The numbers do not take into consideration rain run-off¹⁶ for the element of water. Furthermore, the Planning Ordinance “limits the number of Cultivation permits within each Planning watershed.”

It is obvious Humboldt County Planning Department is inundated with the permit process for the Cultivation of Cannabis, as the cap is presently set at an unsustainable total of 3,500 permits on 1,205 acres (Resolution adopted May 8, 2018); more specifically, an absurd amount of 334 permits on 115 acres in the Mad River Watershed. Needless to say, the Mad River (one of the Six Rivers protected) is Humboldt County’s *source of water*, and must be maintained in such a manner as to “ensure the public health, safety, and welfare of residents of the County of Humboldt, visitors to the County...neighboring property owners...etc.” (§55.4.2). The Mad River is the sustenance for a healthy ecosystem, without it all things will die. The desertification of Humboldt County is already happening, as is evident in all the critical watershed and subwatershed areas. The forested areas are struggling to survive, the wetlands are drying up,¹⁷ and the salmon and steelhead spawning grounds cannot and “will not support new cannabis cultivation activities” (WR-P5). The environmental impacts are irreversible and cannot be “restored.”

The responsibility is great for the Planning Department of Humboldt County to not cave into the greed factor and lose sight of the true value of our region. Too often money gets in the way of what is right and just. Here again, we are at a crossroads with the Cannabis Industry. As prior promises were made, it behooves the Planning Department to assess the comprehensive issues involved with this particular grow proposal, and take to heart the importance of their role in the beautification of the County and preservation of its resources, and to abstain from the creation of conflict within neighborhoods, degradation of the environment, loss of habitat for wildlife, as well as damage to the integrity of the Cannabis Industry in Humboldt County; wreaking havoc everywhere. Choose quality over quantity.

It is paramount the Planning Department do the right thing and deny PLN-2018-15197 in its entirety. If the County approved PLN 2018-15197, with *full knowledge* of the problems, injuries, damages, grievances, liabilities, related to and in opposition of the proposed grow, it would be construed as negligent and the Release of Liability (§55.4.5.2) safeguarding the County of Humboldt would no longer be valid.

In addition, the GIS Web Map, used in the PLN-2018-15197, disclaimer states:

“The Humboldt County Planning and Building Department makes no guarantee of the quality or completeness of this data. It has not been fully reviewed for accuracy and is intended to be used for planning purposes only. The department assumes no liability or responsibility in the use of this data. While every effort has been made to assure the accuracy of this information, it should be understood that it does not have the force and effect of law, rule, or regulation. In the event of any difference or error, the law will take precedence.

Please note the accuracy of GIS map data varies from location to location in the county. This GIS system is useful for planning purposes but should not be relied upon to determine property, zoning or general

¹⁵ 600’ from Sensitive Receptors, and/or 1000’ in a Community Planning Area.

¹⁶ JWD “...upland hydrology.”

¹⁷ JWD “No Wetland Hydrology present.”

plan designation boundaries or be used in any way for project design. All GIS data should be verified before it is materially relied upon for property or project planning. In urban areas the GIS map data maybe inaccurate by as much as 50 feet in any direction. In rural areas the map data may be inaccurate by as much as 400 feet in any direction.”

It is plain for all to see that the boundary outlined on the site plan map, prepared by Six Rivers Development LLC, is not drawn to scale, is distorted, and does not accurately represent the layout of the land, the facts on the ground, or the assessment of property taxes¹⁸ on the Foersterlings’ meadow (labeled “Graded flat”) and Water System (labeled Groundwater well (est. 1985)¹⁹). The boundary with parcel 315-011-012, the “existing Access road,” etc., are all misrepresented by the GIS maps produced for, produced by, and presented to the Planning Department, including Kolstad’s Survey²⁰ which unnecessarily used Proration and Double Proportion along with GIS technology to manipulate original corner monuments and change existing boundaries. The 09 parcel does not have river frontage.²¹ The Foersterlings dispute, contest, and reject the Kolstad Survey²² used in PLN-2018-15197, for the proposed site for Cannabis Cultivation. Parcel 315-011-008, purchased by the Foersterlings in 1988, has continuously been assessed for the Land and Structural Improvements found on the site plan map.²³

The EIR is unable to lessen the significant negative impact of “long term operational emissions of criteria pollutants and precursors (*i.e.* unpaved road dust, fertilizers, continuous noise, etc.), exposure of people to objectionable odors (the relentless invasive smell), and provision of the sufficient water supply (depleted for non-human use) and infrastructure needs.” The “setbacks” on the site map do not take into consideration the element of air and its quality (including wind factor, vibrational disturbances, etc.). It does not address the necessity and the right to breathe fresh air. The EIR finds that “new cultivation allowed...lead to generation of localized odors in such quantities as to be a detriment, nuisance, or annoyance to a substantial number of people.” That finding cannot be beneficial for Humboldt County Office of Education and the Districts it serves, nor can it be beneficial to the Tourist Industry of Humboldt County, if fully disclosed. It does not “ensure the health and safety of the residents” (Humboldt County Board of Supervisors).

The suggested measures to bring PLN-2018-15197 into compliance do not remedy any of the wrongs, and do not address the important issue of an increase of inoise on the roads directly above the Foersterlings’ heads. PLN-2018-15197 is defective. Beginning with a boundary dispute (based on a faulty GIS Survey; the resultant Ruling based on false testimony) combined with non-compliance with the General Plan for the rural, unincorporated, Community Plan area of Humboldt County,²⁴

¹⁸ JWD pg. 2, Property assessed to....

¹⁹ This well was Established in 1989 by the Foersterlings, and is the main source of water for residential use, as-sessed as *Water System* Rural Property Appraisal Record.

²⁰ “Note: River and Creek courses sketched hereon from aerial topography; not surveyed.

²¹ Testimony from Kerry Purkett, Humboldt County Superior Court Case Number DR10009.

²² Superior Court of Humboldt County Case No. DR10009; Court of Appeal State of California Case No. A141015;

²³ Rural Property Appraisal Record on May 4, 1988 Physical inspection was made of the property, “including the meadow.” Assessor’s Residential Property Statement Part III: includes the Water System.

²⁴ CCLUO is designed to protect the public health, safety, and welfare of residents, neighboring property owners, etc.

the applicant has failed to provide evidence to support its actions.

Non-compliance with Forestry/Recreational and/or Residential Agriculture Zoning codes and regulations,²⁵ non-conformance with the Conditions of Approval, and no substantial supporting evidence for conformance to the applicable Goal, Policy, or Standard, combined with the above arguments against PLN-2018-15197 confirms it must not be approved. Commercial Cannabis Cultivation is not the intended use of the land located on the intersection of Butler Valley and Maple Creek Road. It is not only inconsistent with the “purposes of the existing Zone in which the site is located,” “it is materially injurious to property and/or improvements in the vicinity.” PLN-2018-15197, if approved in any form, will bring blight to the region, and will cause damages and hardship of great magnitude. It must be stopped in its tracks.

More regulation is needed in the Cannabis Industry in Humboldt County. The Foersterlings will seek to remedy all encroachments on their existing acreage, including up to the existing fence; and any subsequent negative environmental impact on their water system, septic system, meadow, air quality, and “enjoyment of their Homestead,” in direct result from any Cannabis Cultivation within their surroundings, by all means available and necessary.

For every commercial grow, all residents of the entire County of Humboldt must be able to weigh in with their comments and concerns. The compliance process has been done in secret, behind the backs of the adjacent property owners; and the permitting process is flawed. The process is unacceptable, and is an infringement upon the rights of the surrounding property owners, as well as the residents of the County at large. It must be a transparent, equitable, and fair process.

The longterm impacts, for seven generations, are far reaching. The land is sacred, and the natural environment is more important than ever before. Sustainability means preservation not just a “reduction in negative impact.” It is respectfully requested the Planning Department deny any and all permits for Commercial Cannabis Cultivation on parcel 09.

Respectfully submitted,
Thomas Foersterling and Elizabeth Foersterling,
Joint Tenants of the property bounded and described as follows:

*That portion of the Southeast Quarter of the Northwest Quarter
of Section 6, Township 4 North, Range 3 East, Humboldt Meridian,
lying Northeasterly of the center line of the Mad River.*²⁶

²⁵ Land Use Designation (4.8). “Applied to remote, steep, and high hazard areas to ensure compatibility with adjacent resource production and open space uses.”

²⁶ See attached GRANT DEED.