

SUPPLEMENTAL INFORMATION #1

For Zoning Administrator of:
February 18, 2021

<input checked="" type="checkbox"/>	Consent Agenda Item	No. C-6
<input type="checkbox"/>	Continued Hearing Item	
<input type="checkbox"/>	Public Hearing Item	
<input type="checkbox"/>	Department Report	
<input type="checkbox"/>	Old Business	

Re: NCG Management I, LLC, Special Permit

Record Number: PLN-11003-SP
Assessor Parcel Number: 211-374-013
522 Browns Road., Myers Flat area

Attached for the Zoning Administrator's record and review is the following supplementary information items:

1. Revised Staff Report with the following corrections:
 - a) Changed the name of the owner of the parcel;
 - b) Increased the maximum number of employees proposed during peak season from four (4) to eight (8).

Staff Response: The change of ownership and the increased number of proposed employees do not change or recommend any changes to the project.



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

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

Hearing Date: February 18, 2021

To: Humboldt County Zoning Administrator

From: Cliff Johnson, Supervising Planner

Subject: **NCG Management I, LLC, Special Permit**
Record Number PLN-11003-SP
Assessor's Parcel Number (APN) 211-374-013
522 Browns Road, Myers Flat area

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Please contact Christopher Alberts, Planner, at (707)-268-3771 or by email at calberts@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date	Subject	Contact
February 18, 2021	Special Permit	Christopher Alberts

Project Description: A Special Permit for 10,000 square feet of existing mixed light medical cannabis cultivation. The applicant is also proposing to be receiving site for 40,000 square feet of mixed light cannabis cultivation in accordance with the RRR program. Cannabis will be relocated from APNs 315-106-010 & 509-061-025 and the remediation sites will be processed under two separate applications (PLN-2018-15239 & PLN-2018-15248). Water for irrigation is sourced from an existing on-site rainwater catchment pond and a proposed well. The applicant anticipates a maximum of 650,000 gallons of water will be required for irrigation annually. There is 490,000 gallons of available water storage onsite within forty-three (43) existing 5,000-gallon tanks, forty (40) proposed 5,000-gallon tanks and one (1) 75,000-gallon pond. Processing such as drying, and curing will occur in the 1,269 square foot barn. Further processing such as trimming, and packaging will occur offsite by a licensed third-party processor. There be a maximum of ~~four~~ **eight (4-8)** employees. Power for the project will be provided by P. G. & E. with a backup generator.

Project Location: The project is located in the Myers Flat area, on the south side of Browns Road, approximately 0.61 miles south of the intersection of Dyerville Loop Road and Browns Road, at the property known as 522 Browns Road.

Present Plan Land Use Designations: Residential Agriculture (RA5-20) Density: twenty acres per dwelling unit, Slope Stability: Moderate instability (2)

Present Zoning: Unclassified (U)

Record Number: PLN-11003-SP

Assessor's Parcel Number: 211-374-013

Applicant

NCG Management I, LLC
8889 E Bell Road, Suite 205
Scottsdale, AZ 85620

Owner

~~Cochran-Luke~~ **NCG Management I, LLC**
~~Po Bx 574~~ **8889 E Bell Road, Suite 205**
~~Calimesa, CA 92320~~ **Scottsdale, AZ 85620**

Agents

Shawn Richter
8889 E Bell Road, Suite 205
Scottsdale, AZ 85260

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

NCG Management I, LLC
Record Number: PLN-11003-SP
Assessor's Parcel Number: 211-374-013

Recommended Zoning Administrator Action

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

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permit and adopt the Resolution approving the NCG Management I, LLC Special Permit as recommended by staff subject to the recommended conditions

Executive Summary: NCG Management I, LLC seeks a Special Permit to allow the continued operation of an existing 10,000 square feet of existing mixed light commercial cannabis operation 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). The applicant is also proposing to be a receiving site to host 40,000 square feet of mixed light cultivation in accordance with Humboldt County Code Section 314-55.4.14 of Chapter 4 of Division I of Title III, CMMLUO. The site is designated as Residential Agriculture (RA5-20) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U). Cultivation will occur on the north side of the parcel. The cultivation will occur in the following greenhouses listed below:

Structures in Nexus to Cannabis	Size (sq ft)
Cultivation & Propagation Structures	
Greenhouses 1-4 (pre-existing cultivation)	96' x 26' (2,496 square feet)
Greenhouses 5-10, 16, 18, 28-30 (RRR cultivation)	50' x 10' (500 square feet)
Greenhouse 11 (RRR cultivation)	90' x 20' (1,800 square feet)
Greenhouses 12-15, 33-35 (RRR cultivation)	100 x 24' (2,400 square feet)
Greenhouses 17, 25 (RRR cultivation)	40' x 10' (400 square feet)
Greenhouse 19 (RRR cultivation)	96' x 10' (960 square feet)
Greenhouse 20 (RRR cultivation)	60' x 12' (720 square feet)
Greenhouse 21 (RRR cultivation)	70' x 12' (840 square feet)
Greenhouses 22-23 (RRR cultivation)	50' x 8' (400 square feet)
Greenhouse 24 (RRR cultivation)	56' x 10' (560 square feet)
Greenhouses 26-27 (RRR cultivation)	96' x 26' (2,469 square feet)
Greenhouses 31-32, 37-38 (RRR cultivation)	50' x 24' (1,200 square feet)
Propagation Building	10' x 13' (130 square feet)
Dry Buildings (2)	86' x 30' (2,580 square feet)
Barn	47' x 27' (1,269 square feet)

Artificial lighting used for mixed light cultivation, ancillary propagation nursery, and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. Processing such as drying and curing will take place in the 1,269 square foot barn. Further processing such as trimming, and packaging will take place off-site at a licensed third-party processing facility. The applicant anticipates hiring a maximum of ~~four~~ **eight** (4-8) employees during the peak season. According to the Operation Plan, there will be five (5) mixed light cultivation cycles annually. Power for the project will be provided by P. G. & E. with a backup generator.

Water Resources

Water for irrigation will be provided by a 75,000-gallon rainwater catchment pond and a proposed well. According to the applicant, the water tanks being utilized as water storage have rainwater catchment abilities. The applicant anticipates a maximum of 650,000 gallons of water will be required for irrigation annually. Existing available storage is 490,000 gallons in forty-three (43) existing 5,000-gallon tanks, forty (40) proposed 5,000-gallon tanks and one (1) 75,000-gallon pond. According to the Humboldt County Webgis, the 75,000-gallon pond is located within a mapped wetland. The applicant submitted a *Botanical and Aquatic Resources Survey* prepared by Kyle S. Wear who is a Botanical Consultant. According to the survey the existing 75,000-gallon pond is located outside of the delineated wetlands on the parcel. There is currently one existing well located onsite that will be used for domestic use only. The project is conditioned for the applicant to submit a Well-Completion Log upon completion of the proposed well. The applicant shall also demonstrate that the well is not hydrologically connected to any surface water prior to the use of the well.

Biological Resources

The project is located within 0.6 miles east of a known Northern Spotted Owl activity center and an NSO sighting was mapped approximately 0.17 miles south from the cultivation site in 1999. Marbled murrelet habitat is mapped approximately 1.44 miles west from the project site.

The applicant submitted a *Botanical and Aquatic Resources Survey* prepared by Kyle S. Wear who is a Botanical Consultant dated March 2020. According to the survey, there were no special status plants or natural communities observed. The survey did identify one invasive species known as Pampas grass. The survey recommends the applicant prepare an invasive species plan in order to control the spread of Pampas grass and other invasive species that have the potential to occur on the parcel.

The survey identifies four wetland features with a total area of 0.83 acres delineated on the northern portion of the subject parcel. The parcel also includes ephemeral and intermittent streams and an existing 75,000-gallon rainwater catchment pond. The applicant is proposing to relocate cultivation out of the 100-foot buffer from the adjacent intermittent stream. According to the survey moving the site out of the buffer will be environmentally beneficial because it is too close to the stream and potentially damaging to aquatic resources. The survey also states six sample points were evaluated for hydrophytic vegetation, hydric soil, and wetland hydrology. Two of the sample points were on recently graded areas. There was approximately 3,914 square feet of unpermitted grading located along the northern property line. According to the Botanical and Aquatic Resources Survey, approximately 572 square feet is within an emergent wetland. The survey recommends the applicant to restore all the graded areas within the wetland to its original condition. The survey also recommends the applicant to: Remove the layer of gravel; recontour the flats to their original topography using the original topsoil's if it is still available; mulch and reseed the exposed soil; and apply erosion control measures such as straw swaddles. The project is conditioned for the applicant to adhere to all recommendations found within the *Botanical and Aquatic Survey* prepared by the Agent.

The applicant submitted an *Engineering-Geologic Prime Agricultural Soils Exploration and Letter-Report* prepared by Lindberg Geologic Consulting, dated December 10, 2018. According to the report there is approximately 13.9-acres of area of Prime Agricultural Soil on the subject parcel. The applicant is proposing to utilize approximately 1.09 acres of the prime agricultural soil, which is less than 20% of the existing prime agricultural soils located on the parcel.

The applicant submitted a *Water Resource Protection Plan (WRPP)* prepared by Timberland Resource Consultants, dated March 29, 2017. According to the WRPP there are two watercourses located on the property, both which are tributaries to the South Fork Eel River and the Eel River. The applicant is a Tier 2 Discharger and will include a monitoring element and will submit an annual report each year by

March 31 that documents implementation and effectiveness of the management measures during the previous year. The report states the following areas where the project is out of compliance: Site maintenance, erosion control, and drainage features; stream crossing maintenance; spoils management; petroleum products and other chemicals; and cultivation waste. The applicant shall implement and adhere to all recommendations and corrective actions found within the WRPP. The applicant shall submit evidence of enrollment into the State Cannabis Cultivation Discharge program by submitting copies of all documents with the State Water Resources Control Board, including, but not limited to a Notice of Applicability and Site Management Plan.

Relocation (RRR)

The applicant is proposing to be a receiving site to host an additional 40,000 square feet of mixed light cannabis cultivation under the Retirement, Remediation, and Relocation (RRR) program. The two RRR retirement sites (APN's 315-106-010 & 509-061-025) will be processed as a separate permit in accordance with the RRR program (PLN-2018-15239 & PLN-2018-15248).

Tribal Consultation

The project is located in the Bear River and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center, Bear River Band, and Sinkyone. The Bear River Band Rancheria recommended a Cultural Resource Investigation to be conducted on the parcel. The applicant submitted a *Cultural Resource Investigation Report* prepared by Cultural Resources Consultants dated August 2019. The report concluded there were no cultural resources identified within the proposed cannabis cultivation area. The project has an ongoing condition to include inadvertent archaeological discovery language.

Access

The property is accessed via Browns Road from Dyerville Loop Road. The applicant prepared a Road Evaluation Report certifying that the road is equivalent to a road Category 4 standard. The Department of Public Works commented on this project and stated the applicant shall modify the existing driveway in order to comply with County Code. The applicant shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County code section 341-1 (Sight Visibility Ordinance). In addition, the applicant shall pave the surface at the location of Dyerville Loop Road where it intersects Browns Road for a minimum width of 20 feet and a length of 50 feet where it intersects the county road. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Zoning Administrator (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

Alternatives: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning

Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.

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

**Resolution Number 21-
Record Number PLN-11003-SP
Assessor's Parcel Number: 211-374-013**

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the NCG Management I, LLC, Special Permit.

WHEREAS, NCG Management I, LLC, submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 10,000 square foot (SF) mixed light cannabis cultivation operation with appurtenant propagation and drying activities. The applicant is also proposing to be a receiving site to host 40,000 square feet of mixed light cultivation in accordance with the Humboldt County Retirement, Remediation, and Relocation (RRR) program;

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

WHEREAS, the Humboldt County Zoning Administrator held a duly-noticed public hearing on February 18, 2021, and reviewed, considered, and discussed the application for a Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

- 1. FINDING:** **Project Description:** The application is a Special Permit to allow 10,000 square foot (SF) mixed light cannabis cultivation operation. with appurtenant propagation and drying activities. The project is also proposing to be a receiving site for two RRR retirement sites located on APN's 315-106-010 & 509-061-025. Power is provided by PG&E. Water for irrigation is provided by a 75,000-gallon rainwater catchment pond.

EVIDENCE: Project File: PLN-11003-SP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Zoning Administrator has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

EVIDENCE: a) Addendum Prepared for the proposed project.

- b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
- c) A Water Resources Protection Plan dated March 29, 2020 was prepared by Timberland Resource Consultants to show compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023.
- d) A Botanical and Aquatic Resources Survey was carried out by a Botanical Consultant in March of 2020. The Assessment methods included a wetland delineation a search from the *California Natural Diversity Database* (CDFW 2020). A habitat assessment was conducted in the project area. The Howell's montia, was the only plant determined to have moderate potential of occurring in the disturbed grassland habitat proposed for the new cultivation area. Northern Spotted Owl habitat exists in the vicinity but the nearest activity center is approximately 0.57 miles from the site. Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species. Marbled murrelet habitat is located approximately 1.46 miles west from the project site.
- e) A Soils Report dated December 10, 2018 was prepared by Lindberg Geologic Consulting which demonstrates there is approximately 13.9-acres of area of Prime Agricultural Soil on the subject parcel The applicant is proposing to utilize approximately 1.09 acres of the prime agricultural soil, which is less than 20% of the existing prime agricultural soils located on the parcel.
- f) A Cultural Resources Investigation Report was carried out by Roscoe & Associates in August 2019. concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol.

FINDINGS FOR SPECIAL PERMIT

3. FINDING

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

EVIDENCE

- a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. 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. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

4. FINDING

The proposed development is consistent with the purposes of the existing U zone in which the site is located.

EVIDENCE

- a) The Unclassified or U Zone is intended to be applied to areas of the County

in which general agriculture residential uses are the desirable predominant uses.

- b) All general agricultural uses are principally permitted in the U zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acres subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 10,000 square feet of mixed-light cultivation on a 20-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

5. FINDING

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

EVIDENCE

- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration per creation deed 1910-8261 recorded March 31, 1971.
- c) The project will obtain water from a non-diversionary water source.
- d) A Road Evaluation Report was submitted by the applicant in August 2018 certifying that the road is equivalent to a road Category 4 standard. The Evaluation addressed Dyerville Loop Road to Brown Road, which is a county-maintained road. All road segments evaluated were found to be functionally appropriate for the expected traffic.
- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) The cultivation of cannabis will not result in the net conversion of timberland.
- g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 10,000 square feet of mixed light cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is located on road that is developed to the equivalent of a road category 4 standard and will safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 20 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established

neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.

- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from a 75,000-gallon rainwater catchment pond. Water will be stored in forty-three (43) existing 5,000-gallon tanks, forty (40) proposed 5,000-gallon tanks and one (1) 75,000-gallon pond.
- e) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

7. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

8. FINDING

The proposed project will not have an impact to sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species. (BR-G1, Threatened and Endangered Species, BR-G2, Sensitive and Critical Habitat, BR-G3, Benefits of Biological Resources).

EVIDENCE

The project is located within 0.6 miles east of a known Northern Spotted Owl activity center and an NSO sighting was mapped approximately 0.17 miles south from the cultivation site in 1999. Marbled murrelet habitat is mapped approximately 1.44 miles west from the project site.

The applicant submitted a Botanical and Aquatic Resources Survey prepared by Kyle S. Wear who is a Botanical Consultant. According to the survey, there were no special status plants or natural communities observed. The survey did identify one invasive species known as Pampas grass. The survey recommends the applicant prepares an invasive species plan in order to control the spread of Pampas grass and other invasive species that have the potential to occur on the parcel. The project is conditioned for the applicant to submit and adhere to an invasive species plan in order to control the spread of Pampas grass and other invasive species that have the potential to occur on the parcel.

The applicant submitted a Water Resource Protection Plan (WRPP) prepared by Timberland Resource Consultants, dated March 29, 2017. According to the WRPP there are two watercourses located on the property, both which are tributaries to the South Fork Eel River and the Eel River. The applicant is a Tier 2 Discharger and will include a monitoring element and will submit an annual report each year by March 31 that

documents implementation and effectiveness of the management measures during the previous year. The applicant shall implement and adhere to all recommendations and corrective actions found within the WRPP. The applicant shall submit evidence of enrollment into the State Cannabis Cultivation Discharge program by submitting copies of all documents with the State Water Resources Control Board, including, but not limited to a Notice of Applicability and Site Management Plan.

9. FINDING

The proposed project will not exceed 20 percent of the area of Prime Agricultural Soil on the Parcel.

EVIDENCE

The applicant submitted an Engineering-Geologic Prime Agricultural Soils Exploration and Letter-Report prepared by Lindberg Geologic Consulting, dated December 10, 2018. According to the report there is approximately 13.9-acres of area of Prime Agricultural Soil on the subject parcel. The applicant is proposing to utilize approximately 1.09 acres of the prime agricultural soil, which is less than 20% of the existing prime agricultural soils located on the parcel.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for NCG Management I, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on February 18, 2021

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

John H. Ford
Zoning Administrator, Planning and Building Department

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

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

A. General Conditions

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. 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 Planning and Building 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.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.
5. The applicant shall submit evidence of enrollment into the State Cannabis Cultivation Discharge program by submitting copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Notice of Applicability and a Site Management Plan. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order and the Notice of Applicability. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the SWRCB. Should the site qualify for an exemption, the applicant shall provide proof of a SWRCB exemption status.
6. Within 60 days of the effective date of permit 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 #7 through #20. 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.

7. The project is also conditioned to forebear from using the well from April 1 to October 31 annually until the well can be determined that it is not hydrologically connected to any waterbodies. If the well is determined to be hydrologically connected, then the applicant shall obtain the appropriate water rights for the use of the well.
8. The applicant shall submit a Well Completion Log to the Planning Department upon completion for the proposed well. Confirmation from the Planning Department will satisfy this condition.
9. The applicant shall provide the Planning Department of copy of the Site Management Plan developed for the parcel prepared pursuant to Tier 2 enrollment under the State Water Resources Control Board (SWRCB) Cannabis Cultivation Policy, General Order. The applicant shall provide substantial evidence that all corrective actions detailed within the Site Management Plan have been completed.
10. The applicant shall ensure the existing driveway will require modification in order to comply with County Code. Confirmation from the Department of Public Works that the work has been done will satisfy this condition.
11. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. 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.
12. The applicant shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).
13. The applicant shall pave the surface at the location of Dyerville Loop Road where it meets Browns Road for a minimum width of 20 feet and a length of 50 feet where it intersects the County road. Confirmation from the Department of Public Works that the work has been done will satisfy this requirement.
14. The applicant shall submit and adhere to an Invasive Species Plan in order to control the spread of Pampas grass and other invasive species that have the potential to occur on the parcel. Final sign-off from the Planning Department will satisfy this condition.
15. The applicant shall adhere and implement all recommendations found within the Botanical and Aquatic Survey prepared by the Agent dated March 2020. Final sign-off from the Planning Department will satisfy this condition.
16. The applicant shall install water monitoring device on each source - well and surface diversion if/when utilized and storage tanks applicable - to monitor water used for cannabis irrigation sperate from domestic use.
17. The applicant shall install a compatible hydrant on water supply. Confirmation from the Fruitland Ridge Fire Protection District that the work has been done will satisfy this condition.
18. The applicant shall contact the local fire service provider [Fruitland Ridge Fire Protection District] 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.

19. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
20. The applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.

B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. All artificial light utilized in mixed-light greenhouses shall be limited to 6 watts per square foot with no wattage limit in the ancillary propagation greenhouse. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., 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, and noise levels have been repaired, inspected, and corrected as necessary.
4. Ensure all generators be located on stable surfaces with a minimum 200 feet buffer from all waterways measured horizontally from the outer edge of the riparian drip zone, per CDFW referral comments received January 4, 2018.
5. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation 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.

6. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
7. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
8. The use of anticoagulant rodenticide is prohibited.
9. 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.
10. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
11. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
12. 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.
13. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
14. 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.
15. 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).
16. Maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (RWQCB) 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.

17. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
18. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
19. 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).
20. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
21. Pay all applicable application, review for conformance with conditions and annual inspection fees.
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.).

Performance Standards for Cultivation and Processing Operations

25. 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."
26. 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).
27. 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.
28. 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.
29. 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
30. 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.
31. 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.

32. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal 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.
33. 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.
34. 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.
35. 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 #6 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 shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.

ATTACHMENT 2

**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 211-374-013; 522 Browns Road, Myers Flat, County of Humboldt

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

February 2021

Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance in order to implement the mitigation measures of the MND. The MND 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. Commercial cannabis cultivation in existence as of December 31, 2015 was included in the environmental baseline for the MND and 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 current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Special Permit (PLN-11003-SP) for an existing 10,000 square foot mixed light cannabis operation. The applicant is also proposing an additional 40,000 square feet if mixed light cultivation through the RRR program. The retirement sites will be processed under two separate permits (PLN-2018-15239 & PLN-2018-15248). The site is designated as Residential Agriculture (RA5-20) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U). Cultivation will occur on the north side of the parcel. The cultivation will occur in the following greenhouses listed below:

Structures in Nexus to Cannabis	Size (sq ft)
<i>Cultivation & Propagation Structures</i>	
Greenhouses 1-4 (pre-existing cultivation)	96' x 26' (2,496 square feet)
Greenhouses 5-10, 16, 18, 28-30 (RRR cultivation)	50' x 10' (500 square feet)
Greenhouse 11 (RRR cultivation)	90' x 20' (1,800 square feet)
Greenhouses 12-15, 33-35 (RRR cultivation)	100 x 24' (2,400 square feet)
Greenhouses 17, 25 (RRR cultivation)	40' x 10' (400 square feet)
Greenhouse 19 (RRR cultivation)	96' x 10' (960 square feet)
Greenhouse 20 (RRR cultivation)	60' x 12' (720 square feet)
Greenhouse 21 (RRR cultivation)	70' x 12' (840 square feet)
Greenhouses 22-23 (RRR cultivation)	50' x 8' (400 square feet)
Greenhouse 24 (RRR cultivation)	56' x 10' (560 square feet)
Greenhouses 26-27 (RRR cultivation)	96' x 26' (2,469 square feet)
Greenhouses 31-32, 37-38 (RRR cultivation)	50' x 24' (1,200 square feet)
Propagation Building	10' x 13' (130 square feet)
Dry Buildings (2)	86' x 30' (2,580 square feet)
Barn	47' x 27' (1,269 square feet)

Artificial lighting used for mixed light cultivation, ancillary propagation nursery, and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. The applicant anticipates on hiring a maximum of ~~four~~ **eight (4-8)** employees during the peak season. According to the Operation Plan, there will be five (5) mixed light cultivation cycles annually. Power for the project will be provided by P. G. & E. with a backup generator.

Water for irrigation will be provided by a 75,000-gallon rainwater catchment pond and a proposed well. According to the applicant, the water tanks being utilized as water storage have rainwater

catchment abilities. The applicant anticipates a maximum of 650,000 gallons of water will be required for irrigation annually. Existing available storage is 490,000 gallons in forty-three (43) existing 5,000-gallon tanks, forty (40) proposed 5,000-gallon tanks and one (1) 75,000-gallon pond. According to the Humboldt County Webgis, the 75,000-gallon pond is located within a mapped wetland. The applicant submitted a *Botanical and Aquatic Resources Survey* prepared by Kyle S. Wear who is a Botanical Consultant. According to the survey the existing 75,000-gallon pond is located outside of the delineated wetlands on the parcel.

The project is located within 0.6 miles east of a known Northern Spotted Owl activity center and an NSO sighting was mapped approximately 0.17 miles south from the cultivation site in 1999. Marbled murrelet habitat is mapped approximately 1.44 miles west from the project site. The applicant submitted a *Botanical and Aquatic Resources Survey* prepared by Kyle S. Wear who is a Botanical Consultant. According to the survey, there were no special status plants or natural communities observed. The survey did identify one invasive species known as Pampas grass. The survey recommends the applicant prepares an invasive species plan in order to control the spread of Pampas grass and other invasive species that have the potential to occur on the parcel. The survey identifies four wetland features with a total area of 0.83 acres delineated on the northern portion of the subject parcel. The parcel also includes ephemeral and intermittent streams and an existing 75,000-gallon rainwater catchment pond. The applicant is proposing to relocate cultivation out of the 100-foot buffer from the adjacent intermittent stream. According to the survey moving the site out of the buffer will be environmentally beneficial because it is too close to the stream and potentially damaging to aquatic resources. The survey also states six sample points were evaluated for hydrophytic vegetation, hydric soil, and wetland hydrology. Two of the sample points were on recently graded areas. There was approximately 3,914 square feet of unpermitted grading located along the northern property line. According to the Botanical and Aquatic Resources Survey, approximately 572 square feet is within an emergent wetland. The applicant will restore the 572 square feet of graded area within the emergent wetland.

The project was referred to the Northwest Information Center, Bear River Band, and Sinkyone. The Bear River Band Rancheria recommended a Cultural Resource Investigation to be conducted on the parcel. The applicant submitted a *Cultural Resource Investigation Report* prepared by Cultural Resources Consultants dated August 2019. The report concluded there were no cultural resources identified within the proposed cannabis cultivation area.

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 impacts of existing cultivation. These include restocking 0.30 acres with timber that was converted after the CEQA baseline was established to remediate for loss of wildlife habitat, ensuring supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result of light and noise.

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;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 10,000 square feet of cultivation and to be a receiving site for 40,000 square feet of mixed light cannabis cultivation with ancillary drying activities 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:

- Cultivation and Operations Plan prepared by the Applicant dated December 8, 2020.
- Site Plan prepared by the agent dated December 16, 2020.
- Water Resource Protection Plan (WRPP) prepared by Timberland Resource Consultants, dated March 29, 2017.
- Engineering-Geologic Prime Agricultural Soils Exploration and Letter-Report prepared by Lindberg Geologic Consulting dated December 10, 2018.
- Cultural Resource Investigation Report prepared by Roscoe and Associates dated August 2019.
- Botanical and Aquatic Resources Survey prepared by Kyle S. Wear dated March 2020.

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 3

Applicant's Evidence in Support of the Required Findings

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

1. The name, contact address, and phone number(s) of the applicant. (Application form on file)
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. (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. (Plot Plans prepared by the agent dated 12/16/2020 – Attached with project Maps)
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. (Cultivation and Operations Plan prepared by the agent dated 12/8/2020- Attached)
5. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above))
6. 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. (NOI and reporting, Water Resources Protection Plan (WRPP) prepared by the applicant – Attached separately as Attachment 3b. Notice of Applicability: Waste Discharge Requirements Water Quality WD 1_12CC419879 – on file)
7. 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. (Not applicable)
8. If the source of water is a well, a copy of the County well permit, if available. (Conditioned)
9. 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)

10. 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)
11. 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)
12. 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)
13. 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)
14. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). (On-file)
15. Botanical and Aquatic Resources Survey prepared by Kyle S. Wear dated March 2020. (On file)
16. Engineering-Geologic Prime Agricultural Soils Exploration and Letter-Report prepared by Lindberg Geologic Consulting dated December 10, 2018. (On file)
17. Cultural Resource Investigation Report prepared by Roscoe and Associates dated August 2019. (On file)
18. Email to CDFW requesting comments prepared by Staff dated December 18, 2020. (Attached)

ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

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

Referral Agency	Response	Recommendation	Location
Building Inspection Division	✓	Conditional Approval	On file with Planning
Division Environmental Health	✓	Approved	On file with planning
Public Works, Land Use Division	✓	Conditional Approval	Attached
CalFIRE	✓	Approved	On file with planning
Fruitland Ridge Fire Protection Department	✓	Conditional Approval	Attached
California Department of Fish & Wildlife		No response	
Northwest Information Center	✓	Conditional Approval	On file with planning
Bear River Band Rancheria	✓	Conditional Approval	On file with planning
Humboldt Bay Municipal Water District		No response	
North Coast Unified Air Quality Management District		No response	
North Coast Regional Water Quality Control Board		No response	
State Water Resources Control Board – Division of Water Rights		No response	