

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
August 5, 2021

<input checked="" type="checkbox"/>	Consent Agenda Item	No. E-3
<input type="checkbox"/>	Continued Hearing Item	
<input type="checkbox"/>	Public Hearing Item	
<input type="checkbox"/>	Department Report	
<input type="checkbox"/>	Old Business	

Re: Old Briceland Holding Company, LLC, Conditional Use Permit and Special Permits

Record Number: PLN-11890-CUP
Assessor Parcel Number: 107-135-005
3915 Fox Spring Road, Honeydew area

Attached for the Planning Commission's record and review is a revised resolution and recommended conditions of approval that were not included in the staff report for the hearing:

1. Revised Resolution and Recommended Conditions of Approval for the proposed project removing references to onsite propagation and correcting a misspelling.

Staff response: The resolution and recommended conditions of approval were revised to remove references to onsite propagation; no onsite propagation will occur under the project. As described in the Cultivation and Operations Plan, all propagation is conducted off-site at another farm owned and operated by Old Briceland Holding Company, LLC (APN 220-241-017), under PLN-10697-ZCC. The revisions to the resolution and recommended conditions of approval do not change the findings or recommendations by staff.

***REVISED RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

**Resolution Number 21-
Record Number: PLN-11890-CUP
Assessor's Parcel Number: 107-135-005**

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Old Briceland Holding Company, LLC, Conditional Use Permit and Special Permits request.

WHEREAS, Old Briceland Holding Company, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 18,084 square foot (SF) mixed-light cannabis cultivation that is cultivated within five (5) greenhouses with appurtenant ~~propagation and~~ drying activities. **No ancillary propagation will occur onsite; ancillary propagation will occur off-site at another farm owned and operated by the applicant (APN 220-241-017), under PLN-10697-ZCC.** Annual water use is 819,600 gallons and there will be a total of 425,000 gallons of water storage on-site. Special Permits are also being requested for work within the Streamside Management Area related to the removal of stockpiled tree stumps from the head of a Class III stream and re-planting the Class III buffer zone with Douglas-fir seedlings, and for a setback reduction to reduce the 600-foot setback requirement from public lands; and

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 Planning Commission held a duly-noticed public hearing on August 5, 2021, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special Permits, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

1. FINDING:

Project Description: The application is a Conditional Use Permit to allow an existing 18,048 square foot (SF) mixed-light cannabis cultivation that is cultivated in 5 greenhouses with appurtenant ~~propagation and~~ drying activities. **No ancillary propagation will occur onsite; ancillary propagation will occur off-site at another farm owned and operated by the applicant (APN 220-241-017), under PLN-10697-ZCC.** Irrigation water is sourced from a permitted groundwater well on the subject parcel and an approximately 400,000-gallon rainwater catchment pond. Existing available water storage is 425,000 gallons in a series of hard-sided tanks and the rainwater catchment pond. Estimated annual water usage is 819,600 gallons. Drying occurs onsite, with all other processing occurring off-site at the applicant's licensed facility (approved under PLN-10697-ZCC). A maximum of five (5) employees may be utilized during peak operations. Power is provided by two (2) generators and there are long-term plans to switch to solar or grid

power through Pacific Gas and Electric Company (PG&E). The applicant also seeks Special Permits for work within the Streamside Management Area related to the removal of stockpiled tree stumps from the head of a Class III stream and re-planting the Class III buffer zone with Douglas-fir seedlings, and for a setback reduction to reduce the 600-foot setback requirement from public lands.

EVIDENCE: a) Project File: PLN-11890-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission 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 Site Management Plan and Notice of Applicability have been prepared to show compliance with the State Water Board Cannabis General Order for Waste Discharge.
- d) Review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB) in May 2021 indicates there are no mapped sensitive species onsite and shows that Northern Spotted Owl (NSO) habitat exists in the vicinity. While NSO Final Critical Habitat is mapped in close proximity to the site and approximately 617 feet from the cultivation area, the nearest NSO sighting and activity center are located approximately 1.2 miles and 2.6 miles from the cultivation area, respectively. 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.
- e) A Timber Conversion Report and restocking plan was prepared by Timberland Resource Consultants in June 2020, which concluded that the cultivation area was developed between 2014 and 2016 and approximately 2.46 acres of timberland was converted which is below the three-acre conversion exemption maximum. Per the Report, the prior conversion activities do not comply with the California Forest Practice Act and the California Forest Practice Rules. The Report recommends all log decks as mapped and pictured in the Report be treated. In addition, the Report recommends replanting the Timber Harvesting Area per the Report's Restocking Plan and re-planting the Class III buffer zone with Douglas-fir seedlings per the Report's Restocking Plan. The project is conditioned to implement all recommendations contained in the Report, including implementation of the Restocking Plan, which will result in no net loss of timberland after the environmental baseline of December 31, 2015.

- f) The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which has been included in the Conditions of Approval.
- g) Access to the site is via a driveway off Fox Spring Road via Wilder Ridge Road. Wilder Ridge Road is a Category 4 County-maintained roadway. A Road Evaluation Report for Fox Spring Road was prepared by a Registered Civil Engineer from OurEvolution Energy & Engineering in November 2018, which identified that the roadway does not meet a Category 4 road equivalent standard and identified the need for turn-outs. Due to the existing steep terrain and forestation, roadway widening and creating new and/or expanded turnouts/pass points were found to be infeasible. However, the Report concludes the roadway can accommodate the cumulative increase in traffic associated with the project and all known cannabis projects, if the recommendations included in the report are completed. The project is conditioned to require the applicant implement all recommendations included in the Report, including the Neighborhood Traffic Management Plan. As conditioned, the road is suitable for safe access to and from the project site.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMITS

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 Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for timber purposes, in which agricultural uses are permitted, consistent with the use of Open Space land for managed production of resources. The use of the subject 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 TPZ zone in which the site is located.

EVIDENCE

- a) The Timber Production Zone or TPZ Zone is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.
- b) All general agricultural uses are principally permitted in the TPZ zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 18,048 square feet of cultivation on a 60-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

- 5. FINDING** To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.
- EVIDENCE** a) Conditions of approval require the applicant to obtain and adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects ~~included~~^{includes} in the Final SAA are completed to the satisfaction of CDFW. By implementing permit conditions from the CDFW, impacts to the SMA are minimized.
- 6. 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 TPZ (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as described in and certified by the Certificate of Subdivision Compliance (Record No. 2019-002898), recorded February 13, 2019.
- c) Water for irrigation is provided by a permitted onsite well (17/18-0374) and an approximately 400,000-gallon rainwater catchment pond. According to the Well Completion Report, the well is 200 feet deep and drilled through top soil, sandstone, clay, fractured sandstone with quartz, and solid blue sandstone. A PVC blank is installed for the first 160 feet of the well, with screening from a depth of 160 feet to the total well depth (200 feet). Based on the distance from the nearest watercourse and the use of a blank for casing of the first 160 feet of the well, Planning staff determined the well is likely to be hydrologically disconnected from surface waters and does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements. There is sufficient water storage in the pond to meet irrigation needs, therefore, Planning staff is not recommending additional water storage from the well be developed on-site. Conditions of approval also require the applicant to monitor water use from the well and rainwater catchment pond annually to demonstrate there is sufficient water available to meet operational needs.
- d) Access to the site is via a driveway off Fox Spring Road via Wilder Ridge Road. Wilder Ridge Road is a Category 4 County-maintained roadway. A Road Evaluation Report for Fox Spring Road was prepared by a Registered Civil Engineer from OurEvolution Energy & Engineering in November 2018, which identified that the roadway does not meet a Category 4 road equivalent standard and identified the need for turn-outs. Due to the existing steep terrain and forestation, roadway widening and creating new and/or expanded turnouts/pass points were found to be infeasible. However, the Report concludes the roadway can accommodate the cumulative increase in traffic associated with the project and all known cannabis projects, if the recommendations included in the report are completed. The project is conditioned to require the applicant implement all recommendations included in the Report, including the Neighborhood

Traffic Management Plan. As conditioned, the road is functionally appropriate for the expected traffic.

- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) A Timber Conversion Report and restocking plan was prepared by Timberland Resource Consultants in June 2020, which concluded that the cultivation area was developed between 2014 and 2016 and approximately 2.46 acres of timberland was converted which is below the three-acre conversion exemption maximum. Per the Report, the prior conversion activities do not comply with the California Forest Practice Act and the California Forest Practice Rules. The Report recommends all log decks as mapped and pictured in the Report be treated. In addition, the Report recommends replanting the Timber Harvesting Area per the Report's Restocking Plan and re-planting the Class III buffer zone with Douglas-fir seedlings per the Report's Restocking Plan. The project is conditioned to implement all recommendations contained in the Report, including implementation of the Restocking Plan, which will result in no net loss of timberland after the environmental baseline of December 31, 2015.
- 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, or Tribal Cultural Resource.
- h) The project is located adjacent to Federal lands managed by the Bureau of Land Management (BLM). While the existing greenhouses located approximately 185 feet from the public land at the nearest point, there are no developed or designated recreational facilities within 600 feet of the cultivation, ~~propagation~~, or drying areas. The project is not anticipated to impact the adjacent lands or their use because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The project will not require substantial road improvements or the removal of trees. The project will minimize impacts on nearby watercourses by maintaining buffers from streams and by placing controls on the storage and use of pesticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. Additionally, the Site Management Plan was developed for the project to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600 foot buffer separation from developed campgrounds and/or trails. As a result, there will not be any new erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty or reduction of quality habitat for plants and animals.

7. FINDING

The cultivation of 18,048 square feet of 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 has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation, with

implementation of the recommended conditions of approval identified in the Road Evaluation Report.

- b) The site is in a rural part of the County where the typical parcel size is over 40 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 groundwater well and onsite rainwater catchment pond. According to the Well Completion Report, the well is 200 feet deep and drilled through top soil, sandstone, clay, fractured sandstone with quartz, and solid blue sandstone. A PVC blank is installed for the first 160 feet of the well, with screening from a depth of 160 feet to the total well depth (200 feet). Based on the distance from the nearest watercourse and the use of a blank for casing of the first 160 feet of the well, Planning staff determined the well is likely to be hydrologically disconnected from surface waters and does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements. There is sufficient water storage in the pond to meet irrigation needs, therefore, Planning staff is not recommending additional water storage from the well be developed on-site. Conditions of approval also require the applicant to monitor water use from the well and rainwater catchment pond annually to demonstrate there is sufficient water available to meet operational needs.
- 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.

8. 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

- a) 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.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and

- Conditionally approves the Conditional Use Permit for Old Briceland Holding Company, 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 August 5, 2021.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

DECISION:

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

John Ford, Director
Planning and Building Department

***REVISED 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. Within 60 days of the effective date of permit approval, the applicant shall submit a revised plot plan and a revised Cultivation and Operations Plan detailing and describing the following, in addition to what is currently shown and described:
 - ~~a. Revise the square footage of the ancillary propagation areas to be a maximum of 1,805 square feet total, which equates to 10% of the cultivation area.~~~~
- ~~5.6.~~ 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 #~~67~~ through #~~2021~~. 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.
- ~~6.7.~~ The applicant shall secure building permits for all structures and grading 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, graded flats 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.

7.8. The applicant shall obtain a permit to operate the EPA Tier 4 diesel generator from the North Coast Unified Air Quality Management District (NCUAQMD) and obtain an electric permit from the County's Building Department, if applicable. Alternatively, the applicant may submit a letter or similar communication from the NCUAQMD that a permit from their agency is not required. A sign-off from the Planning Department will satisfy this condition.

8.9. The applicant shall implement all recommendations contained in the Timber Conversion Report with restocking plan, prepared by Timberland Resource Consultants (TRC) in June 2020, including:

- b. Treating all log decks (6 total), as mapped and pictured in the Report in accordance with 14 CCR 1104.1(a)(2)(D), located south, southwest, and east of the cultivation site, and located on both sides of the seasonal road accessing the off-stream pond.
- c. Replanting the Timber Harvesting Area and the Class III buffer zone with Douglas-fir seedlings per the Restocking Plan, prepared by TRC and dated Jun 3 9, 2020:
 - i. Types of Seedlings: The landowner shall plant Douglas-fir and/or redwood seedlings (best suited for Seed Zone 390 at 1,300-foot elevation) at a uniform spacing no less than 10-feet by 10-feet, or 435 trees per acre. The total area to be restocked is 2.28 acres, for a total of 992 trees at a 10-foot by 10-foot spacing.
 - ii. Seedling Care: For long-term storage (more than 3 days), store seedlings at 33 to 36 degrees Fahrenheit. For short-term storage (several hours to less than 3 days), store below 42 degrees Fahrenheit. At the planting site, take care not to let the roots dry out and avoid exposure to the sun or warmer temperatures.
 - iii. Planting Instructions: When planting seedlings, the landowner or tree planter shall abide by the following:
 1. Tree planting shall only occur in winter or early spring. Tree planting shall not occur if the ground is frozen or during unusually warm periods.
 2. Dig a hole at least one inch deeper and wider than the seedling roots. If planting from a container, dig the hole an inch deeper and wider than the container.
 3. Place the seedling into the hole taking care not to end the taproot, or main vertical root, and cover with soil.
 4. Pack the soil down firmly around the seedling to remove any air pockets.
 - iv. Stock Purchase: The seedlings shall be procured from sources growing local, site-specific stock. Appropriate stock is determined by stand type, seed zone, elevation, as well as other factors like soil type, site quality, and weather. The RPF recommends acquiring conifer seedlings from Green Diamond Resource Company's nursery in Korb, California. For inquiries, contact Nursery Superintendent Glen Lehar at (707) 668-4439. He will recommend the appropriate stock based on geographic area and site conditions.
 - v. Monitoring Seedling Survival: Monitor growth and success of planted trees one year after planting. Conduct a point count stocking sampling survey (protocol described in CFPRs 14 CCR 1072). If less than 55% of the planted area meets the 300-point count minimum stocking level, repeat the planting process.

A monitoring report prepared by a licensed professional forester shall be submitted annually to the Planning and Building Department until the restocking is complete as indicated by the monitoring report. A sign-off from the Planning Department will satisfy this condition.

9.10. The applicant shall implement all corrective actions recommended in the Site Management Plan (SMP), prepared by Timberland Resource Consultants (TRC) in September 2018, which includes:

- d. At the location of the existing leadout ditch on access road with 14% grade (Site 1, NAD 83 -124.069122, 40.187421), road is to be graded to redefine outsloping and leadout ditch shall be maintained to ensure drained water has adequate velocity to clear road surface to the specifications in the Steep Road Drainage BMPs (attached to SMP).
- e. At Site 2 (NAD 83 -124.069827, 40.187837), all cultivation-related waste at this location is to be removed from the riparian setback. Removed potting soils shall either be relocated and consolidated to a single potting soil storage site, disposed of properly at a local transfer station, or spread and seeded with native seed mix on gently-sloped ground outside of riparian setbacks. Other cultivation related waste, such as stems and plant material, shall be either disposed of properly at a local transfer station, composted, or burned outside of the riparian setbacks. Large woody debris left from the 3-acre conversion is to be removed and relocated outside of the riparian setbacks. The removal of this material shall be done with a little disturbance as feasible to sideslopes of the channel and without any modification of the channel. Excavated fill material shall be tractor contoured and tractor compacted to effectively incorporate and stabilize loose material into existing features. Any exposed soil surfaces created by equipment or the removal of the stumps shall be seeded and straw mulched to stabilize the soil. See the Erosion Control BMPs (attached to SMP).
- f. At Site 3 (NAD 83 -124.069548, 40.188012), where concentrated runoff from the cultivation area drains to this location and sediment settles out in vegetation, the surrounding area is to be seeded and mulched, to ensure previously eroded sediment, and any sediment which is to be eroded in the future, are captured and contained before coming into contact with the Class III watercourse below. See the Erosion Control BMPs (attached to SMP).
- g. At Site 5 (NAD 83 -124.069242, 40.188163), where the existing, hand-excavated waterbar drains a short section of road as well as a portion of the cultivation area, the waterbar is to be replaced with a newly installed rolling dip. This segment of road shall become seasonal use only and not used during the winter period or when soils are soft or saturated. See the Rolling Dip Design and Placement BMPs (attached to SMP).
- h. At Site 6 (NAD 83 -124.068962, 40.188865), the improperly disposed refuse surrounding the defunct travel trailers shall be removed and properly disposed of at a landfill location.
- i. At Site 7 (NAD 83 -124.06917, 40.189012), at the generator and fuel tank storage location, water shall be inspected for contamination from fuel storage tank and generator. If the water is untainted, drain the water and reinstall the drain plug, as needed, to prevent containment from holding water. Side-wall/wind protection shall be installed to ensure secondary catchment basins cannot collect wind-blow precipitation.
- j. At Site 12 (NAD 83 -124.069877, 40.189268), at the location of two 5,000-gallon tanks, with the western-most tank having a fallen tree leaning against the top portion of the tank, the fallen tree shall be removed and stored or disposed of properly, outside of the required riparian setback, in order to deter wildlife and maintain the structural integrity of the tank.

- k. At the 500,000-gallon off-stream pond (NAD 83 -124.072887, 40.190278), which currently lacks a spillway and a fence to deter wildlife, a spillway for flows of excess water out of the pond shall be installed, as well as a fence around the pond in order to deter wildlife from having access, and possibly being trapped within the pond.
- l. At the two wells, in-line meters shall be installed in order to record the amount of water diverted from each source, as well as for each intended use (irrigation or domestic use).
- m. A ~~the~~ permanent access road to the residence, observed to be experiencing drainage issues and is used in the winter months when the soils are soft and saturated, the road shall be rocked from the entrance to the property to the residence structure, in order to mitigate road surface erosion from vehicle use during the winter months.
- n. On-site waste shall be collected and properly stored in a location where it cannot enter Waters of the State, or disposed of at an appropriate waste management facility.

A sign-off from the Planning Department will satisfy this condition.

- ~~10.11.~~ The applicant shall secure a Final Streambed Alteration Agreement (Final SAA) from the California Department of Fish and Wildlife (CDFW) and implement all terms and conditions of the Final SAA for all work required within the SMA and off-stream pond improvements, as necessary, including the prescribed administrative, avoidance and minimization, and reporting measures. The applicant shall submit a copy of the Final Streambed Alteration Agreement to the Planning Department. The applicant shall provide evidence of compliance by submitting the Final Streambed Alteration Agreement and annual reports or a letter or similar communication from CDFW stating a Lake or Streambed Alteration Agreement is not required. A sign-off from the Planning Department will satisfy this condition.
- ~~11.12.~~ The applicant shall coordinate with CDFW to determine if a bullfrog management plan is required for management of bullfrogs for the off-stream pond. If required, the applicant shall submit a bullfrog management plan to CDFW for review and approval. The applicant shall submit a copy of the bullfrog management plan to the Planning Department. A letter or similar communication CDFW indicating this requirement has been met shall satisfy this condition,
- ~~12.13.~~ The applicant shall install exit ramps to the off-stream pond to prevent wildlife entrapment. Exit ramps shall be installed no grater that 2:1 slope, secured at the upslope end, and made of solid material (e.g., wood).
- ~~13.14.~~ The applicant shall ensure the off-stream pond holds no more than the necessary volume of water needed for the project, with consideration to evaporative loss. The volume of water contained within the pond should be based on the square footage and method of cultivation in use prior to January 1, 2016.
- ~~14.15.~~ The applicant shall install an overflow spillway to the off-stream pond that will withstand a 100-year flood event, designed with a dispersal mechanism, or low-impact design, that discourages channelization and promotes dispersal and infiltration of flows to prevent surface overflow from reaching waters of the State.
- ~~15.16.~~ The applicant shall implement all recommendations included in the Road Evaluation Report prepared by OurEvolution Energy & Engineering in November 2018, including the Neighborhood Traffic Management Plan. A sign-off from the Planning Department will satisfy this condition.

- ~~16.17.~~ Per comments received from the Department of Public Works, Land Use Division in February 2021, the applicant shall make the following improvements:
- o. Where portions of the access road have grades that exceed 16%, those portions shall be paved and must have an exception request approved.
 - p. All driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).
 - q. The access road (Fox Spring Road) shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Wilder Ridge Road).
 - r. An encroachment permit shall be obtained from the Department of Public Works prior to commencement of any work in the County-maintained right of way.

A sign-off from the Public Works Department will satisfy this condition.

- ~~17.18.~~ Seasonal cultivation without processing may use portable toilets to serve the operation. The applicant shall provide portable toilet(s) to the cultivation areas, meeting appropriate setbacks per Humboldt County Code, or install a permitted onsite wastewater treatment system associated with a permitted structure. The applicant shall furnish receipts or other documentation to the DEH for the continual use of portable toilets for employees until a permanent septic system is installed to their satisfaction. A letter or similar communication from DEH verifying that all their requirements have been met will satisfy this condition.

- ~~18.19.~~ The applicant to submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Notice of Availability and 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, the Site Management Plan, 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.

- ~~19.20.~~ The applicant shall construct noise containment structures for all generators used on the parcel. The applicant shall obtain all required building permits for such structures. The applicant shall maintain generator, fan, and dehumidifier noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled murrelet. All generators must be located on stable surfaces with a minimum 200-foot buffer from Class I and Class II streams, per the requirements of CDFW. No generator use is authorized by this permit until the applicant can demonstrate to compliance with this standard.

- ~~20.21.~~ All artificial lighting used for mixed light cultivation ~~and propagation~~ shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize offsite lighting and direct light within the property boundaries. Within 30 days of the effective date of this permit, the applicant shall schedule a site inspection with the Humboldt County Planning Department to demonstrate the structures and greenhouses can be comply with this standard.

- ~~21.22.~~ The applicant shall not use any erosion control measures that contain synthetic (e.g. plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting, on a

regular and on-going basis. 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 weaves.

- ~~22.23.~~ All refuse shall be contained in wildlife proof containers, at all times, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.
- ~~23.24.~~ The applicant shall install and utilize a water meter to demonstrate that there is sufficient water supply to meet the demands of the project. The water use for cultivation is limited to the use of the well, rainwater catchment pond, and amount of water available in storage tanks and shall be provided annually prior to or during the annual inspection.
- ~~24.25.~~ 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.
- ~~25.26.~~ 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.
- ~~26.27.~~ 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:

- ~~27.28.~~ 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 CMLLUO 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.
- ~~28.29.~~ 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.

- ~~29.30.~~ The applicant shall abide by recommendations of the Timber Conversion Report prepared by Timberland Resource Consultants (TRC) July 4, 2019, and received November 8, 2019 which include but are not limited to, floristic surveys to ensure no potentially special status plant species or communities are present should additional ground disturbance or habitat conversion be proposed in the future; ensuing supplemental lighting associated with mixed-light cultivation is fully contained with black out tarps and have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat; and, avoid heavy equipment operations during NSO critical period (February 1 – July 31) or perform protocol level surveys prior to initiating that work.
- ~~30.31.~~ 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.
- ~~31.32.~~ 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.
- ~~32.33.~~ All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
- ~~33.34.~~ Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
- ~~34.35.~~ The use of anticoagulant rodenticide is prohibited.
- ~~35.36.~~ 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.
- ~~36.37.~~ 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.
- ~~37.38.~~ 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.
- ~~38.39.~~ 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.

- ~~39.40.~~ 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.
- ~~40.41.~~ 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.
- ~~41.42.~~ 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).
- ~~42.43.~~ 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.
- ~~43.44.~~ Comply with the terms of the Final Lake and Streambed Alteration Agreement (EPIMS-HUM-09230-R1), as well as any subsequent amendments, obtained from the California Department of Fish and Wildlife (CDFW).
- ~~44.45.~~ 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.
- ~~45.46.~~ 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).
- ~~46.47.~~ Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
- ~~47.48.~~ Pay all applicable application, review for conformance with conditions and annual inspection fees.
- ~~48.49.~~ 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.
- ~~49.50.~~ The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
- ~~50.51.~~ 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

- 51.52.** 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."
- 52.53.** 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).
- 53.54.** Cultivators engaged in processing shall comply with the following Processing Practices:
- Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - Employees must wash hands sufficiently when handling cannabis or use gloves.
- 54.55.** All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- 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:
 - Emergency action response planning as necessary;
 - Employee accident reporting and investigation policies;
 - Fire prevention;
 - Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - Materials handling policies;
 - Job hazard analyses; and
 - Personal protective equipment policies, including respiratory protection.
 - Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - Operation manager contacts;
 - Emergency responder contacts; and
 - Poison control contacts.
 - 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.
 - On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- 55.56.** All cultivators shall comply with the approved processing plan as to the following:
- Processing practices
 - Location where processing will occur
 - 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

56.57. Term of Commercial Cannabis Activity Conditional Use Permit and Special Permit. Any Commercial Cannabis Cultivation CUP and 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.

57.58. 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.

58.59. 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.

59.60. 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.

60.61. 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.

61.62. 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.