

## ATTACHMENT 1A

### CONDITIONS OF APPROVAL

#### **APPROVAL OF THE CONDITIONAL USE PERMIT AND COASTAL DEVELOPMENT PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PROJECT MAY BEGIN OPERATING.**

##### **A. General Conditions Required Prior to Operations**

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. The Department will file the NOD and will charge this cost to the project.
5. Prior to the issuance of building permits or initiation of any actives requiring the use of electricity, the applicant shall provide documentation demonstrating adequate electricity is available to the project site, to the satisfaction of the Planning Director.
6. The applicant shall submit an updated Floor Plan, to the Planning Division prior to installation of modular units, in order to show the exact amount, size, and use of modular structures to be within the proposed warehouse.
7. The applicant shall secure permits for all improvements to the existing structures and new structures related to the cannabis cultivation activities, prior to commencing activities within the structure, including but not limited to: one (1) proposed 275' x 185' commercial warehouse structure, modular units within the proposed warehouse, one (1) existing office

building, one (1) existing building for off-site processing, two (2) 12' x 40' modular structures (one for volatile and one for non-volatile manufacturing), and twenty-nine (29) 8' x 20' shipping containers for drying and storage. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan and floor plans. A letter or similar communication from the Building Division verifying that the structure related to the cannabis cultivation are permitted will satisfy this condition.

8. There is an existing fence of over 6-feet that borders the subject property. There are no required setbacks for the site, and per section 313-154 of the HCC, the applicant is required to obtain a building permit for any fence that is over 6 feet in height. A letter or similar communication from the Building Division verifying that the fence structure is permitted will satisfy this condition.
9. The applicant shall demonstrate that the existing onsite wastewater treatment system (OWTS) is sized to accommodate the anticipated wastewater flow rate proposed by the project and complies with current OWTS standards (Humboldt County OWTS Regulations and Technical Manual). If the existing OWTS is determined to be undersized or non-compliant with current standards, the applicant must tie into public sewer once available.
10. Prior to any development occurring at the project site, a Development Plan shall be submitted for review and approval by the Planning Director, and a Notice of Development Plan shall be recorded on all properties where the interim use permit will be located. The Development Plan shall identify the term and all other applicable development restrictions that apply to the interim use, including the plan for restoring the project site to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use.
11. Before commencing any new development related to cannabis activities, a qualified biologist shall conduct surveys for roosting bats. If evidence of bat use is observed, the species and number of bats using the roost shall be determined. Bat detectors may be used to supplement survey efforts. If no evidence of roosts is found, then no further study will be required. If bats are found in the surveys, a mitigation plan addressing mitigation for the specific occurrence shall be submitted to the Planning Director and CDFW by a qualified biologist subject to the review and approval of the Planning Director in consultation with CDFW. At a minimum, the mitigation plan shall establish a 400-foot buffer area around the nest during hibernation or while females in maternity colonies are nursing young.
12. The applicant shall have a qualified biologist conduct a preconstruction survey of new development activities no more than 48 hours prior to such development activities, for northern red-legged frogs. Preconstruction surveys shall be conducted throughout the proposed construction area and a 400-foot buffer around the proposed development area, and shall be conducted within the appropriate season to maximize potential for observation of the species. If no special-status species are detected, then no further mitigation is required.
13. The applicant shall show proof of enrollment in a 100% renewable energy program

provided by PG&E, prior to commencing project activities on-site.

14. The applicant shall obtain the PG&E power upgrade prior to commencing indoor cultivation activities on-site, and shall provide documentation demonstrating adequate electricity is available to the project site, to the satisfaction of the Planning Director.
15. A new retail water meter and fire suppression supply meter shall be installed on the applicant's parcel in a location that is suitable to the applicant that intercepts these two water supply lines currently servicing the parcel. HBMWD would then be granted ingress and egress by the Harbor District to enter through their property to read said meters and bill the applicant accordingly for its water use, and would provide a billing water use offset on the Harbor District's water bill for the corresponding number of those gallons metered to the applicant.
16. The applicant is conditioned to obtain proof of Conditional Exemption from the SWRQCB, and submit to the Planning Division, prior to commencing cultivation activities on-site.
17. The applicant shall obtain a Site Management Plan and submit to the Planning Division, or shall obtain proof that one is not required by the State Water Resources Quality Control Board.
18. 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.
19. The applicant shall submit a Materials Management Program that shall include equipment type and number, standard operating procedures for processes, chemical requirements and reactions, cleaning procedures for all equipment, disposal methods for all materials, type and quantity of items produced, Material Safety Data Sheets for all chemical substances occurring on-site, manifests for each chemical describing quantities purchased, a facility storage plan with site map, and an inventory of all emergency equipment. The Materials Management Plan shall be submitted to the Humboldt County Department of Environmental Health, the Humboldt Bay Municipal Water District, and the Humboldt Bay Transfer Station.
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. Industrial wastewater tailings from indoor cultivation and manufacturing activities cannot be

discharged to the OWTS. The applicant shall contact the North Coast Regional Water Quality Control Board regarding industrial wastewater disposal requirements, and shall dispose all industrial wastewater appropriately.

2. In the event that Peninsula Community Services District extends sewer service area to within 300 feet of the project location (APN 401-112-030), the facility must connect to PCSD public sewer.
3. The project site shall be restored to pre-project condition, or to a condition that would preserve or enhance the project site for future coastal-dependent industrial use, on or before the expiration date of a use permit and coastal development permit for an interim use.
4. The property owner may exercise the lease rescission provision if a coastal-dependent industrial use or other priority use attempting to occupy the site would be prohibited from doing so due to the existence of one or more interim uses.
5. The approval and existence of the subject CUP and CDP for interim use shall not prevent the application for and approval of any required land use permits for non-interim principally permitted use in the MC zone district for the same parcel, even if for the same location on the parcel, subject to the condition that the permits for any non-interim use that would conflict with an interim use shall not become effective until the expiration of the interim use permit set by the Hearing Officer, and the abandonment of the interim use during the permit term of the interim use, or the rescission of the lease for the interim use and the removal or relocation of the interim use in accordance with section 313-104.1.3.10.
6. An interim use permit and coastal development permit shall not confer any land use entitlement or property right to the holder of the permits beyond the permit expiration date set forth in the use permit and coastal development permit. Interim permits shall expire at the end of the term set by the Hearing Officer, at which time they become null and void. Interim uses shall cease operation and all permitted development not authorized to remain by permit shall be removed by the permit expiration date. Issuance of a new use permit and coastal development permit prior to the expiration date of the existing CUP and CDP authorizing the interim uses shall be required in order to continue an interim use uninterrupted beyond the expiration date of the existing permit.
7. An interim use must commence within one (1) year after all applicable appeal periods have lapsed. Extensions of the initial permit vesting period (the period by which the interim use must begin) may be approved in accordance with Section 312-11.3 of the Zoning Ordinance (“Extension of a Permit or Variance”).
8. Noise from the project shall not result in an increase of more than three (3) decibels of continuous noise above ambient noise levels at any property line of the site. The average for the ambient noise levels resulting from the three (3) measurements taken at the property lines is 64 decibels, and the project shall not result in noise levels above 70 decibels anywhere off the site.

9. No perceptible vibrations shall be permitted off the building site, and no visual or audible interference of radio or television reception by operations shall occur.
10. The applicants Tsunami Hazard Assessment incorporates a Tsunami Evacuation Plan, and all employees shall undergo training and be made aware of the Tsunami Evacuation Plan.
11. Any lease for an interim use shall include a provision for rescission of the lease and mandatory relocation or removal of the interim use within six month in the event a coastal-dependent industrial use or other priority use is identified by the property owner for the space occupied by an interim use on terms acceptable to the property owner. A copy of the lease showing compliance with this provision shall be provided to the Planning Division prior to permit issuance.
12. 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.
13. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.8. and B.11., 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.
14. The applicant shall educate employees and remain vigilant for encroachment of invasive species.
15. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
16. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
17. The use of anticoagulant rodenticide is prohibited.
18. 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.

19. 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.
20. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CCCLUO and MAUCRSA, as applicable to the permit type.
21. 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.
22. 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, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.6.4.4 (f).
23. Maintain enrollment with State Water Resource Control Board (SWRCB) Order No. WQ 2019-0001-DWQ, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
24. 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).
25. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
26. Pay all applicable application, review for conformance with conditions and annual inspection fees.
27. 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.
28. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
29. 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

30. Pursuant to Business and Professions Code section 26051.5(a)(8), 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.”
31. 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).
32. 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.
33. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis Cultivation permit issued pursuant to the CCCLUO 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.
34. 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 Conditional Use Permit and Coastal Development 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 55.4.5.8.

35. 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.
36. 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.
37. 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 CCCLUO 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 Commercial Cannabis.
38. 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. The Planning Division is recommending that the Planning Commission approve the site for a five (5) year interim period for the permit, and the applicant will have the option to receive a five (5) year extension at the time of interim permit expiration.
2. 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.