



HUMBOLDT BAY MUNICIPAL WATER DISTRICT
828 7th Street, Eureka



Agenda for Special Meeting of Board of Directors

February 26, 3:00 p.m.

Time Set Items: 3:00 pm Item E1
 4:00 pm Item E2
 5:00 pm Item F

District Mission

Reliably deliver high quality drinking water to the communities and customers we serve in the greater Humboldt Bay Area at a reasonable cost; reliably deliver untreated water to our wholesale industrial customer(s) at a reasonable cost; and protect the environment of the Mad River watershed to preserve water rights, water supply and water quality interests of the District.

A. ROLL CALL

B. FLAG SALUTE

C. ACCEPT AGENDA

D. PUBLIC COMMENT

Members of the public are invited to address the Board on items *not* listed on the agenda that are within the scope and jurisdiction of the District. At the discretion of the President, comments may be limited to three minutes per person. The public will be given the opportunity to address items that are on the agenda at the time the Board takes up that item.

E. DIVISION 3 DIRECTOR VACANCY

Discuss and possibly appoint new Director*

- 1) Mark Feldman interview-(Time Set for 3:00 pm)
- 2) David Lindberg interview-(Time Set for 4:00 pm)

F. NEW BUSINESS

Warren Creek resident’s concerns re: cannabis grow on West End Rd-discuss* (Time Set for 5 pm)

ADJOURNMENT

ADA compliance statement: In compliance with the Americans with Disability Act, if you need special assistance to participate in this meeting, please contact the District office at (707) 443-5018. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting. Posted and mailed February 24, 2020

* Supporting material included in Director books

From: Mark Feldman

Humboldt Bay Municipal Water District
Candidate Questions

1. Do you reside within Division 3 and do you expect to live there through 2020?

yes

2. Is it your intention to run for election in 2020?

yes

3. Do you have any possible conflicts of office or interest (this could include contractual relationships, District customers, or Ruth Lake CSD)?

No

4. Describe any prior experience serving on a Board?

I have not served on a board before. However, I have sat in on one HBMWD board meeting and several County commissioner and Board of Supervisors meetings.

4a. May we contact former/current Board members?

N/A

4b. If yes, please provide contact information.

N/A

5. What is your understanding of the District's Mission? *My understanding is clear:*

The District's Mission is to reliably deliver high quality drinking water to the communities and customers it serves in the greater Humboldt Bay Area at a reasonable cost; reliably deliver water to its wholesale industrial customers at a reasonable cost, and protect the environment of the Mad River watershed to preserve

6. Our Board meets the second Thursday of the month. The meetings are potentially full day meetings, beginning at 9am. If chosen, how soon can you begin serving?

Immediately

water rights, water supply and water quality interests of the District.

FROM THE DESK OF

MARK FELDMAN

H.B.M.W.D. JAN - 7 2019

January 7, 2020

Humboldt Bay Municipal Water District
828 7th Street
Eureka, CA 95501

Dear HBMWD Board of Directors,

My name is Mark Feldman and I'm interested in serving on the Board of Directors for the Humboldt Bay Municipal Water District representing Division 3.

Originally from the East Coast my wife, Alexis, and I have lived in Humboldt County since 1993. Water, in particular water from the HBMWD, has played an integral role in our story and success in Humboldt County as several of the endeavors I've been a part of have been "water-centric".

From 1999 - 2007 I was the Winemaker for Robert Goodman Wines in Arcata. From 2008-2014 I owned and operated my own micro-winery in Arcata. In 2015 I founded Proxima Investments, LLC which as of March 6, 2019 became Humboldt County's first State licensed indoor hydroponic cannabis cultivation facility and only the fifth in the entire State.

I feel that in my decades of experience as a Humboldt County business owner and employer have given me the foundation to understand complex operational systems, successful employee and financial management, and a deep care for the wellbeing of my community.

If appointed to represent Division 3, I would be honored to serve with the existing board members and do my best to help ensure that the HBMWD operates in an efficient manner, tackles it's obstacles, and achieves it's goals of securing and reliably delivering high quality and affordable water for its Humboldt County residents and customers as well as protecting water rights and the environment of the Mad River watershed.

Sincerely yours,



Mark Feldman

Mark Feldman

- Profile** Attention to detail, listening, and communication, are the attributes that I'd most credit as the foundation for my business successes in life so far. For over 26 years in Humboldt County I've enjoyed working for others as well as being an entrepreneur owning my own businesses within both the Wine and Cannabis Industries.
- Experience**
- Winemaker, Robert Goodman Wines - Arcata, CA 1999 - 2007**
- Lead Winemaker
 - Responsible for production of wines from grape to bottle
 - Oversight and scheduling of employees
 - Presenting at numerous benefits, conferences, and exhibitions
- Owner/Winemaker, California Custom Cellars - Arcata, CA 2008 - 2014**
- Specializing in custom labeled wines for restaurants and hotels, as well as private and corporate clients.
 - Procurement and distribution of bulk wines
- Founder/Head of Cultivation, Proxima Investments - Arcata, CA 2015-Present**
- Head of operations and sales
 - First State licensed indoor cannabis cultivation permit in Humboldt County
 - Fifth State licensed indoor cannabis cultivation permit in California
 - Multiple award winning products grown with 100% rain catchment water and 100% buy-in with PG&E's Solar Choice Program.
- Founder/Owner of AmeriCann Hydrotech - Arcata, CA 2018-Present**
- Sustainable Indoor Hydroponic Cannabis Cultivation Consulting
- Education**
- University of Delaware, Newark DE 1989 - 1990
Flagler College, St. Augustine, FL 1990-1991
University of Delaware, Newark DE 1991-1992
UC Davis - Winemaking Laboratory Analysis Program - 2001

Skills

- Understanding of complex operations and science in wine production and cannabis cultivation industries
- Employee management
- Marketing, sales, and financials
- Data analysis
- Extreme attention to detail
- Good communication and leadership

**Humboldt Bay Municipal Water District
Candidate Questions**

1. Yes, I do reside in Division 3 and I do plan to live here through 2020. I checked with the County Elections office before I applied.
2. Yes, if I am selected, I do plan to seek election to the position in 2020.
3. To the best of my knowledge, I do not have any possible conflicts of office or interest. I have no contractual relationships with any district customers, or other CSD's.
4. I have served multiple terms as a Director at the Humboldt Builder's Exchange perhaps 20 years (or more) ago. Dale Maples and Brian Pritchard are two fellow board members I recall serving with, as well as the late Ken Omsberg.

I served two terms as a Director on the Greater Eureka Chamber of Commerce, about 1997/2000, and 2013/2016. J. Warren Hockaday and Don Smullens were the Chamber Executive Directors during those periods.

I have served as a director of the Kiwanis Club of Henderson Center for many years. I am also a past President of the Kiwanis Club of Henderson Center. John Friedenbach is our Club Secretary. Neal Latt is a fellow Board member of the Kiwanis Club of Henderson Center

- 4a. Yes you may contact current/former board members.
 - 4b. I can collect contact information and names of current/former board members if necessary.
5. As I understand, the Districts Mission is to:
Provide high quality drinking water to their municipal customers, and provide a reliable supply of untreated water to their industrial customers.
Ensure the system operates reliably.
Provide water to their customers at a reasonable cost.
Protect the environment of the Mad River watershed, and the water rights of the District.
6. I am available to begin serving immediately. I am able to attend your February 13, 2020, board meeting.

January 8, 2020

H.B.M.W.D. JAN - 8 2019

Humboldt Bay Municipal Water District
Post Office Box 95
Eureka, California, 95502

Subject: Director Vacancy, Division 3

To whom it may concern,

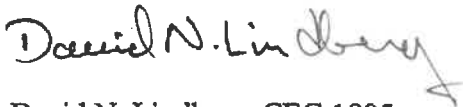
My name is David Lindberg and I am interested in applying for the vacant director position for Division 3. I am a licensed professional Geologist, and a Certified Engineering Geologist (in California and Oregon). Apart from my time in graduate school, I have been employed professionally as a geologist since graduating from Humboldt State University in 1981. I am very interested in water rights and water resources in general, and in the Mad River basin in particular. A copy of my resume is attached.

In the past, I have consulted for the District regarding slope stability issues near the Matthews Dam. I have also worked on other projects within the Mad River basin for other private and public clients. Several years ago, while a Chamber Director, I served as a representative of the Greater Eureka Chamber of Commerce and business community on the Citizens Advisory Panel working to find new ways to take advantage of the Districts water rights on the Mad River and Ruth Lake. In my view, our District is in a unique position with regard to water rights and has the potential to contribute, in a positive way, to the quality of life here on the north coast.

If I am selected, I will work to ensure that our community's access to safe, clean water is protected and preserved. I support protection of our District's water rights and expansion of the customer base within the existing service area. I also support the idea of expanding services into other underserved areas Humboldt County.

Thank you very much for considering me as a potential Director. I look forward to serving and making a contribution to the future of my fellow north coast residents.

Sincerely,



David N. Lindberg, CEG 1895
Lindberg Geologic Consulting

DNL:sll

Attachment

Resume of DAVID N. LINDBERG, P.G., C.E.G.

EXPERIENCE

Mr. Lindberg operates a geologic consulting firm in Eureka, California, providing engineering geologic soils investigations and reports, landslide investigations, geologic hazards investigations, and other geologic services in northwestern California and southern Oregon. At LACO he served as the Department Head for Geology and Geotechnical Engineering, the Vice President of Operations, and the company Safety Officer. He retired from LACO ASSOCIATES (LACO) as a Firm Principal in 2010 to found Lindberg Geologic Consulting. Since 2010, Lindberg Geologic Consulting has served our clients with over 350 different projects.

Mr. Lindberg has over 35 years of experience conducting geologic/geotechnical investigations in western North America including: materials testing, construction observation, nuclear density testing, radiation safety officer, engineering-geologic and geotechnical investigations for public, commercial and residential developments; geologic hazard assessment for the design of foundations, roadways, and retaining structures; slope stabilization measures; engineered grading cut and fill; coastal developments; geologic investigations of Timber Harvest Plans in steep unstable terrain; landslide mapping; quantitative and qualitative slope stability analysis; hydrogeologic characterization of groundwater aquifers; pump, slug, and bail-down tests; seismic hazards investigations and fault trench mapping for facilities located within active fault zones for public and private development; surficial and bedrock mapping; tectonic and geomorphic mapping; aerial photographic and satellite imagery interpretation and mapping; drilling, sampling, and logging of geotechnical test borings; and drilling, sampling and logging of environmental test borings for contaminant delineation and assessment.

Recent projects include soils characterization, and geologic/geotechnical investigations, (with reports) for commercial and industrial developments, single family residential developments and roads. Typically, these projects include assessment of regional and local geologic and seismic setting, slope stability, soil stability and bearing capacity, and recommendations for foundation design and grading. He has conducted landslide investigations that include assessment of influential factors leading to failure, evaluation of contributory geologic and hydrologic factors, and consulting with civil and geotechnical engineers to design repairs to landslide-damaged sites.

PROFESSIONAL REGISTRATIONS

California Professional Geologist
Oregon Professional Geologist
California Engineering Geologist
Oregon Engineering Geologist

CERTIFICATIONS

QSP/QSD for Stormwater Pollution Prevention
Radiation Safety Officer (RSO) - CPN Corporation
Nuclear Gauge Safety and Operation - CPN Corporation
OSHA Competent Person (Excavation and Trench Shoring Safety)
Hazardous Waste Operations and Emergency Response - OSHA 29 CFR 1910.120
Association of Engineering Geologists - Member

EDUCATION

Humboldt State University - B.A. Geology, 1981
Graduate Studies in Applied Geology; 1990 Phi Kappa Phi

CONTINUING EDUCATION

Design for Slope Stability and Landslides - University of Wisconsin
Engineering Geology for Timber Harvesting,

Wildland Management and Watershed Restoration - AEG/CGS Workshop
Ground Modification Technology - Hayward Baker Corporation
Managing Petroleum Impacted Sites-Risk Based Corrective Action - U.S. Riverside

EXAMPLES OF PROJECTS

College of the Redwoods: Student Services/Administration & Theater Buildings - Eureka, CA.
Conducted a fault hazard assessment for the new Student Services/Administration and Forum Theater Buildings, a \$17.6 million project on College of the Redwoods Eureka campus. Duties and responsibilities included management and review of extensive trench investigation, Little Salmon Fault Zone, and detailed analysis of site-specific stratigraphy and regional seismic risk. The project report delineated likely "rupture-free" areas for development of the new Student Services/Administration and Forum Theater Buildings as well as the learning Resource Center and Child Development Center which were built over the past several years. I have provided mitigation and design recommendations to the project architects and structural engineers.

City of Eureka: High Water Tank Project - Eureka, CA

Conducted a geotechnical investigation with foundation design recommendations and geotechnical inspection during construction of the new high water tank (water tower) for the City of Eureka. Provided management of construction inspection and materials testing during the project construction.

City of Eureka: Fairway Drive Culvert Project - Eureka, CA

Conducted a geotechnical investigation with foundation design recommendations and geotechnical inspection during removal construction of the old CMP culvert with a new reinforced concrete box culvert for the City of Eureka. Provided management of construction inspection and materials testing during the project construction.

YIHA (Yurok Indian Housing Authority) Student Apartments, Eureka, CA

Provided engineering geologic consulting services, including field investigation and reporting with foundation design, grading and paving recommendations for a new, three-story apartment building. Client: David Pierce, Architect.

Bear River Band of Rancheria Indians, Loleta and Fortuna, CA

Performed and managed soils and foundation investigations for the development of the Bear River Casino, and soils and foundation investigations for Bear River Pump and Play, and the Bear River Rancheria housing development in Loleta, as well, and the Bear River tribal housing apartments in Fortuna, CA. Client: Bear River Band of Rancheria Indians (work performed while at LACO Associates).

Smith River Rancheria, Smith River, CA

Managed drilling investigations of sites for wastewater disposal. Client was an out of the area consultant.

Resighini Rancheria, Klamath, CA

Performed and managed soils investigations for roadway and bridge crossing improvements. Client: Resighini Rancheria (work performed while at LACO Associates).

Humboldt Bay Power Plant, Eureka, CA

Consulted for project engineer at Whitchurch Engineering Inc. regarding slope stability calculations and stabilization of non-hazardous drilling spoils at Pacific Gas and Electric's power generating station on Humboldt Bay.

Redwood Charter School, Fortuna, CA

Conducted engineering-geologic soils investigation and observation of foundation excavations for new elementary charter school in Fortuna.

Grocery Outlet, Fortuna, CA

Conducted engineering-geologic soils investigation and observation of foundation excavations for new Grocery Outlet store.

Grocery Outlet, Cloverdale, CA

Conducted engineering-geologic soils investigation with report, and provided soils stabilization recommendations for new Grocery Outlet store.

Grocery Outlet, McKinleyville, CA

Conducted engineering-geologic soils investigation with report, provided soils stabilization recommendations, and observation of foundation excavations for new Grocery Outlet store.

Humboldt Bay Municipal Water District, Eureka, CA

Conducted engineering-geologic field investigation and report on the geologic stability and safety of Matthews Dam at Ruth Lake on the Mad River, for permit renewal by the District.

Subject: FW: Warren Creek Road Cannabis permit: Form submission received: Contact Us
Attachments: PLN-12176-CUP hbmwd letter.pdf; Rocci Costa Project PLN-12176-CUP Staff Report PC 2.06.2020.pdf

From: noreply@getstreamline.com <noreply@getstreamline.com>
Sent: Sunday, February 09, 2020 1:37 PM
To: office@hbmwd.com
Subject: Form submission received: Contact Us

Form submission received: Contact Us

Name:	Michael Z
Email Address:	
Phone:	707.
Comments:	I represent a large group of residents that live on Warren Creek Road. We are united in our opposition to the cannabis grow permits being considered by the Planning Dept for 845 and 1734 Warren Creek Rd. The grow at the end of Warren Creek Rd was scheduled for the hearing that was scheduled last Thursday, and has now been moved to March 5. The Planning Dept told us that your agency was now involved which we were delighted to hear. We have done a lot of research on this site and have a long history with the Costa family that has applied for the permit. We would like to set up meeting with you to share some knowledge that we think would be of interest to you as you set conditions for this application. Sincerely, Michael Z

[Log in to view your submissions](#)



SECTION F PAGE NO. 2
HUMBOLDT BAY MUNICIPAL WATER DISTRICT

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BOARD OF DIRECTORS

SHERI WOO, PRESIDENT

NEAL LATT, VICE-PRESIDENT

J. BRUCE RUPP, SECRETARY-TREASURER

MICHELLE FULLER, DIRECTOR

GENERAL MANAGER

JOHN FRIEDENBACH

February 6, 2020

Humboldt County Planning Commission

3015 H Street

Eureka, CA 95501

RE: PLN-12176-CUP

Gentlemen:

Humboldt Bay Municipal Water District (District) submits this letter to express concerns regarding Conditional Use Permit PLN-12176-CUP submitted by Rocci Costa (Applicant). There are a number of impacts from these projects that need to be considered including water quality and impacts on protected species. Many of our concerns have been addressed by conditions set on the applicant by the Humboldt County Planning Department staff. We appreciate the efforts by County staff in these regards.

Our District supports those project conditions. The questions we have are: 1) who will be monitoring compliance with those conditions; and 2) if breaches occur what enforcement actions will be taken?

One area that does not seem to be addressed in the conditions regarding the traffic and proposed new turnouts along Warren Creek Road is the fact that our District has a major water transmission line under that road and we strongly recommend that the Applicant be required to contact our District prior to any proposed road improvements along Warren Creek or West End Roads in connection with their project implementation.

Regrettably, due to a scheduling conflict, the District will not be able to attend the hearing tonight. We respectfully request that our comments be entered into the public record for this agenda item 5. We appreciate the Commission's consideration of our public comments.

Respectfully,

A handwritten signature in cursive script, appearing to read "John Friedenbach".

John Friedenbach
General Manager



**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 6, 2020
To: Humboldt County Planning Commission
From: John H. Ford, Director of Planning and Building Department
Subject: **Rocci Costa, Conditional Use Permit**
Application Number: 12176
Record Number: PLN-12176-CUP
Assessor's Parcel Number (APN): 516-211-025
1734 Warren Creek Rd, Blue Lake Area

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Attachment 2: Required Findings for Approval	21
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A Road Evaluation Report 12.09.2019	Separate
B Road Evaluation Report 01.10.2020	Separate
C Updated Operations Plan 1.24.20	Separate
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Please contact Elizabeth Moreno Planner II, at 707-445-7245 or by email at emoreno@co.humboldt.ca.us if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date February 6, 2020	Subject Conditional Use Permit	Contact Elizabeth Moreno
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Project Description: Rocci Costa seeks approval of a Conditional Use Permit for 10,000 square feet of new outdoor cannabis cultivation, and a 1,000 square foot ancillary nursery on a parcel approximately 5 acres in size. The proposed project is for open air cultivation located within the Blue Lake Community Planning Area. The irrigation method is dry farming. The water source for the proposed 1,000 square feet nursery will be rainwater catchment. The applicant will store water in five 5,000-gallon tanks. Processing will occur offsite. The applicant will acquire no employees. The site is served by PG&E.

Project Location: The project is located in the Blue Lake area, at the terminus of Warren Creek Road approximately .45 miles east from the intersection of Blackberry Lane and Warren Creek Road, on the property known as 1734 Warren Creek Road.

Present Plan Land Use Designations: Residential Agriculture (RA5-20), Density: 20 to 5 acres per dwelling unit, Slope Stability: High Instability (3)

Present Zoning: Agriculture General (AG)

Application Number: 12176

Record Number: PLN-12176-CUP

Assessor Parcel Number: 516-211-025

Applicant

Rocci Costa
638 W Sonoma St
Eureka, CA 95501

Owner

Rodney Costa
Box 206
Alderpoint, CA 95511

Agent

N/A

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

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

Major Issues: None

ROCCI COSTA
Records Number: PLN-12176-CUP
Assessor's Parcel Number (APN): 516-211-025

Recommended Commission Action

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

Find that the Commission has considered the Addendum to the Mitigated Negative Declaration adopted for the Commercial Medical Marijuana Land Use Ordinance pursuant to Section 15164 of the State CEQA Guidelines, make all the required findings for approval of the Conditional Use Permit based on evidence in the staff report and adopt the Resolution approving the proposed Conditional Use Permit subject to the recommended conditions.

Executive Summary: Rocci Costa seeks approval of a Conditional Use Permit for 10,000 square feet of new outdoor cannabis cultivation, and a 1,000 square foot ancillary nursery on a parcel 5 acres in size. The parcel is lightly developed with an agriculture shed, RV vehicle, a house slab, and a well. The well will be used only for domestic purposes. The applicant will have a no employees. The irrigation method is a combination of dry farming and rainwater catchment. The estimated annual water usage is about 25,000 gallons. The applicant will store water in five 5,000-gallon tanks. The applicant, states The site is served by PG&E.

The proposed project is for open air cultivation located within the Blue Lake Community Planning Area. The parcel is located about 200 feet out of the Mad River's 100-year flood zone. The Mad River meanders east, adjacent of the parcel and Leggit Creek runs parallel west to the Mad River and is about 390 feet away the parcel. According to the County's Web GIS, the project is mapped in an area of potential liquefaction. The applicant will conduct a R-2 soils Report and complete the Engineering Geology Report Checklist prior to any ground disturbance.

The site contains an existing 50-foot right-of-way along the northern property line. The existing 30-foot driveway to the neighboring property is not contained within the right-of-way. The applicant proposes to relocate the driveway to be contained within the 50-foot right-of-way. The easement is used by the adjacent neighbor on Parcel APN 516-211-023. The Site Plan illustrates the proposal to move the road and locate the proposed cultivation where the existing road is located. As a condition of approval, before initiating in cannabis cultivation onsite, the applicant shall submit grading plans prepared by a qualified engineer for the relocation of the road and record an easement to ensure that access will continue to be available for APN: 516-211-023.

The project is located within two Northern Spotted Owl activity centers. To the north westside of the project, about 1.18 and 1.32 miles away. As a condition of approval, no lights or fans are permitted by this permit until a scoping report for Northern Spotted Owl and Marbled Murrelet habitat is prepared by a biologist or forester with experience in the life history of the species and approved by the Planning Director. If habitat is present within the project vicinity, a light and noise attenuation plan shall be developed in consultation with the Planning Department and California Department of Fish and Wildlife prior to the use of any lights, generators or fans. Conformance will be evaluated using auditory disturbance guidance prepared by the United States Fish and Wildlife Service and any other relevant published literature. The operations plan states that the project utilized PG&E and will develop solar for backup power. No generators are proposed.

The project was referred to the Department of Environmental Health (DEH) who recommended that an invoice, or equivalent documentation, is to be provided to DEH to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit. The project is conditioned as such.

The applicant shall provide the Planning Department of copy of the Site Management Plan developed for

the parcel prepared pursuant to Tier 1 enrollment under the State Water Resources Control Board (SWRCB) Cannabis Cultivation Policy, General Order. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Notice of Applicability and the Site Management Plan. The applicant shall provide substantial evidence that all corrective actions detailed within the Site Management Plan have been completed. 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.

The California Department of Fish and Wildlife (CDFW) provided comments and asked for additional information regarding the access road, a copy of the Road Evaluation was sent to CDFW on January 21, 2020. CDFW further recommended that applicant submit a Notification of Lake or Streambed Alteration with the California Department of Fish and Wildlife. The project has been conditioned as such.

Pacific Union School recommended denial of the project. However, no bus stop is located within 600 feet.

The project site is accessed from Warren Creek Road, which .95 mile is a County maintained road. However, The Department of Public Works (PW) has indicated that Warren Creek does not meet category 4 standards due to being quite narrow over most portions of the road and to multiple pinch points that have limited sight distance. The applicant has submitted a Road Evaluation completed by Green Road Consulting dated December 9, 2019. PW provided additional comments on January 6, 2020 regarding the Road Evaluation and recommended, that in order for the road to meet functional capacity, applicant shall install seven turns-outs on Warren Creek Road prior to any commencement of operations, as detailed in the map provided in the referral response. In addition, the applicant shall restrict from the use of wider than a regular pickup to off peak hours, being 9:00 AM to 4:00 PM. As a condition of approval, the applicant is to adhere to the recommendations made by PW. On January 11, 2020 the applicant submitted a revised Road Evaluation to include PW's comments and added two additional turn-outs for a total of nine turn-outs and additional "warning signage" to be installed on Warren Creek Road.

Pursuant to section 55.4.6.7- Zoning Clearance Certificates for Open Air Cultivation submitted under prior ordinance –Provisions for Neighborhood Compatibility Where located in or within one thousand feet (1000') of any incorporated city, Sphere of Influence (SOI) of any incorporated city, Tribal Lands, or within any of the following mapped Community Planning Areas: Blue Lake, Fieldbrook-Glendale, Fortuna, Hydenville-Carlotta, McKinleyville, Rio Dell-Scotia, Shelter Cove, Trinidad-Westhaven, and Willow Creek, Zoning Clearance Certificate applications submitted prior to January 1, 2016 shall be subject to compliance with the following provisions, which are designed to ensure compatibility with surrounding land uses and control of potential nuisance, and are hereby retroactively applicable. In situations where there is public controversy, applicants and operators must choose to comply with one of the following options. a) Demonstrate all areas of open-air cultivation activities maintain setbacks of 600 feet or greater from any residence(s) located on a separately owned parcel and are located 600 feet or greater from any residentially zoned area or applicable Community Planning Area boundary. b) Confine all open-air cultivation activities to Enclosed structures. c) Secure a Conditional Use Permit. In considering the Use Permit request, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist. The applicant would like to keep the cultivate open air and thus, the applicant has requested a Conditional Use Permit.

On September 5, 2019 the project went before the Planning Commission with a recommendation of denial from Planning Staff. Planning Staff was unable to make the findings that Warren Creek Road was suitable for commercial use. Mr. Costa would not submit a Road Evaluation Report prepared by a qualified professional unless he knew that his Conditional Use Permit would be approved. Specifically, Mr. Costa has stated that he will not enclose his cultivation and would only cause an engineered road evaluation to be prepared if he knew that he would be allowed to operate his cultivation unenclosed. The Planning Commission determined that it would hear the project after the applicant submits a Road Evaluation. Comments from commissioners indicated that odor from the proposed unenclosed cultivation was unlikely to be a cause for denial of the project given that only one residence is located within 600 feet of the site and that no significant concerns regarding odor had been raised at that time. Given the discussion from

the September 5, 2019 meeting and the road evaluation and conditions suggested by the Public Works Department, staff is now recommending approval of the project. Additional concerns that were not presented to the Planning Commission at the September 5, 2019 meeting have been raised by the Warren Creek Road community which must be considered by the Planning Commission. This includes an objection to the project from the family that owns the residence within 600 feet of the proposed cultivation.

The Planning Department has received numerous opposing letters from the community (Attachment 6). The community's concerns include, odor pollution, increase traffic, public safety, and the loss of sense of place and community. One of the main concerns is that the odor from the proposed unenclosed cannabis cultivation will affect the well-established traditions organized by long time community members. Community members have expressed that the community on Warren Creek Road traditionally gather together to celebrate holidays like the Fourth of July, and parade down along Warren Creek Road. The community has raised the concern that odor from the cannabis operation will degrade their quality of life and their ability to enjoy these long-standing community traditions.

The Road Evaluation made its analysis with intention that an employee will live onsite to reduce traffic, however, no proper employee housing has been proposed. The applicant states that there will be no employees, only family members will work on site, however, if additional help is needed, they will contract employees through an agency. Another concern is the Average Daily Traffic car count, may not have been accurate as it was completed during the off season, during Thanksgiving break. The report indicates that the intersection of West End and Warren Creek is 11 feet wide, a very narrow stretch, but that it should be eased by a installing a warning sign. Section 3, of the report states that the road shall be widened and that the cost shall be carried out and shared by the road association. However, if a road association or if a road association is not formed and agrees to the recommendations to share the cost, ultimately it will be the applicant's responsibility bear the cost of the turnouts and the signage. Finally, the Road Evaluation, states there are safety concerns if the recommendations to the Traffic Management Plan are not adhered to. The Road Evaluation has been reviewed by the County Public Works Department, who has recommended approval with specific conditions for installation of turnouts to improve traffic safety.

Environmental review for the proposed project was reviewed under the Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of new cannabis operations to prevent and reduce environmental impacts. An addendum to the MND has been prepared for this staff recommendation of permitting the new cultivation operation. The addendum is included as Attachment 3.

This application was initially submitted as a Zoning Clearance Certificate, and would remain a ministerial action without the requirement for public notice if the odor control mitigation from the Commercial Cannabis Land Use Ordinance was implemented. Because this mitigation is not proposed to be implemented, the project is a discretionary action subject to a Conditional Use Permit. Through the public notice required for the Conditional Use Permit, significant concerns regarding public safety, health and welfare have been raised which must be considered by the Planning Commission.

Based on a review of Planning Division reference sources and comments from all involved referral agencies, planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approving the Conditional Use Permit. However, the significant concerns raised by the neighborhood must be considered by the Planning Commission in determining whether the project can be found not to be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

ALTERNATIVES: The Planning Commission may find that the impacts of unenclosed cannabis cultivation to the Warren Creek neighborhood will be detrimental to the public health, safety, and welfare. Should the Commission decide that the findings to approve the project can not be made, staff recommends adopting a finding that the project is exempt from CEQA pursuant to Section 15270 of the CEQA Guidelines (projects which are disapproved). An alternative motion for consideration is provided below:

Find that the proposed project would be detrimental to the public health, safety, and welfare and that the findings for approval of the proposed project can not be made, find the project exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines, and deny the proposed Conditional Use Permit.

The Planning Commission could also elect to require the applicant to submit further evidence, or modify the project. Modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings.

The Commission could also decide that the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potentially significant impacts. As Lead Agency, the Department has determined that the Project is consistent with the Mitigated Negative Declaration adopted for the Commercial Medical Marijuana Land Use ordinance (CMMLUO). However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number**

**Record Number: PLN-12176-CUP
Assessor Parcel Numbers (APN): 516-211-025**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approve the Rocci Costa, Conditional Use Permit.

WHEREAS, Rocci Costa submitted an application and evidence in support of approving a Conditional Use Permit to cultivate 10,000 square feet of new outdoor cannabis cultivation, and a 1,000 square foot ancillary nursery cannabis cultivation unenclosed within the Blue Lake Community Planning Area; and

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

WHEREAS, The County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration 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, Attachment 2 in the Planning Division staff report includes evidence in support of making all of the required findings for approving the proposed Conditional Use Permit (Case Number PLN-12176-CUP); and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on February 6, 2020.

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

1. The Planning Commission considered the Addendum to the MND adopted for the Commercial Medical Marijuana Land Use Ordinance; and
2. The Planning Commission makes the findings for approval in Attachment 2 of the staff report for Record Number: PLN-12176-CUP based on the submitted substantial evidence; and
3. Conditional Use Permit PLN-12176-CUP is approved as recommended and conditioned in Attachment 1 for Record Number: PLN-12176-CUP.

Adopted after review and consideration of all the evidence on February 6, 2020.

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

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

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