

April 17, 2018

Mr. John Ford  
Director  
Planning and Building Department  
3015 H Street  
Eureka, CA 95501

**Re: *Withdrawal of SP-16-015 and ZR 16-001***

Dear Mr. Ford:

On behalf of Mercer-Fraser Company and MCMP Humboldt, LLC, please accept this letter as the formal withdrawal of Application No. 10244 for Special Permit 16-015 and Zone Reclassification 16-001.

By way of background, on October 17, 2017, the Humboldt County Board of Supervisors approved a comprehensive General Plan Update. The General Plan Update was the culmination of an approximately nine-year planning process, involving countless public hearings, community workshops, and other public meetings. The General Plan Update applied land use designations consistent with existing uses throughout the entire inland portion of the County, among other things. These land use designations and policies within the General Plan's Land Use Element are intended to guide the long-range growth, development, and use of land in the unincorporated areas of Humboldt County through 2040. The General Plan Update calls for a comprehensive revision to the County's Zoning Regulations to "re-establish zoning consistency with the policies of the General Plan and amend the Zoning Map to achieve consistency with the General Plan Land Use Map" within two years. (General Plan, p. 4-14.)

As part of the General Plan Update, the County changed the project site's land use designation to Industrial, Resource Related (IR), consistent with the site's current and historical industrial use. These industrial uses, including but not limited to, mining, aggregate processing, ready-mix concrete, and hot-mix asphalt production have been ongoing at this site for approximately 100 years. The site currently consists of an active and fully permitted and vested sand and gravel mine site and processing facility, including portable asphalt and concrete batch plants. The General Plan Update also changed numerous other land use designations located along the Mad River to the IR designation, both upstream and downstream of the Project site.

Mercer-Fraser and its predecessors have historically had a cooperative relationship with its neighbor, the Humboldt Bay Municipal Water District. Prior to the Water District's current appeal, the Water District never once raised concerns to Mercer-Fraser that its industrial operations could have an adverse impact to the Water District's water supply. In fact, the Water District has previously allowed Mercer-Fraser to conduct mining and processing operations on the Water District's own property, near the Raney collectors, without raising any environmental concerns. During the nine-year General Plan Update process, which included multiple public hearings and workshops, the Water District never once raised a single concern that changing the Project site's General Plan land use designation to reflect the

site’s actual use may have a deleterious impact on the Water District’s water supply. The Water District also did not raise issue with any other property’s land use designation change to IR in the area and along the river.

The project proposed to produce medical cannabis products using both nonvolatile and volatile solvents in a closed-look extraction system, as allowed by and in accordance with the State’s Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), the Bureau of Cannabis Control’s Regulations for the manufacture of cannabis products, the County’s Commercial Medical Marijuana Land Use Ordinance (“CMMLUO”), and all best practices for the manufacture of cannabis products.

On January 11, 2018, the Humboldt County Planning Commission voted to recommend a zone reclassification of APN 504-161-010 from Agriculture General (AG) to Heavy Industrial with a Qualified combining zone (MH-Q). The zone reclassification is necessary to implement the property’s new General Plan land use designation of Industrial, Resource Related (IR). The zone reclassification also better reflects the existing and historic industrial use of the property. The Qualified combining zone would have restricted the industrial uses on the project site to only those historical and/or permitted uses. Future industrial uses would still require the operator to obtain a permit from the County.

The Planning Commission also voted to approve a cannabis products manufacturing facility. The Special Permit permits the production of medical cannabis products using both nonvolatile and volatile solvents, as allowed by and in accordance with the State’s MAUCRSA, the Bureau of Cannabis Control’s Regulations for the manufacture of cannabis products, the CMMLUO, and all best practices for the manufacture of cannabis products. The Special Permit for cannabis manufacturing is consistent with the property’s long-time industrial uses and is allowed in MH-Q zones.

With the assistance of Supervisor Ryan Sundberg, MCMP met with the Water District on multiple occasions to discuss the Project. In a show of good faith towards resolving the Water District’s concerns, MCMP voluntarily placed limits on the Project and revised its operations plan to satisfy the Water District.

Unfortunately, the Water District, for unknown reasons, worked behind the scenes to marshal opposition to the project, all while purporting to consider MCMP’s good faith efforts to address the Water District’s concerns. Ultimately, it became apparent that the Water District did not engage, nor ever had any intention of engaging, in a good faith discussion with MCMP and Mercer-Fraser.

Given that the Water District’s activities surrounding the Special Permit and Zone Reclassification have rendered a fair hearing impossible at this time, MCMP and Mercer-Fraser have decided to formally withdraw the project from further consideration by the County at this time.

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Should you have any questions concerning the matters discussed herein, please do not hesitate to contact me by telephone at (916) 228-4221, or by e-mail at [aguernsey@hthjlaw.com](mailto:aguernsey@hthjlaw.com).

Very truly yours,  
HARRISON, TEMBLADOR, HUNGERFORD & JOHNSON



By  
Adam K. Guernsey, Esq.