

**CEQA ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION
FOR THE COMMERCIAL MEDICINAL MARIJUANA LAND USE ORDINANCE**

**Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration
(State Clearinghouse # 2015102005), January 2016**

APN 208-111-029; Bridgeville Area, County of Humboldt

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

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Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Conditional Use Permit for 12,020 square feet of existing outdoor commercial cannabis cultivation supported by a 768 square foot ancillary nursery. Annual Water Usage is estimated at 120,000 gallons. Total existing and proposed Storage equals 98,200 gallons. Processing will occur offsite. Electricity is provided by generators and solar is proposed. The project includes a Special Permit for the remediation of a historic cultivation area within a streamside management area. Harvest drying and processing will occur in permitted structures on site. Trimming and packaging will be conducted at a permitted offsite processing facility. The owner will operate and there will be no employees.

No known significant archaeological resources are in the project area. A Cultural Resources Investigation was conducted by Nick Angeloff. No artifacts, features, or sites which would be considered a historical resource under CEQA were identified during the survey. Although the Cultural Resources Investigation concludes that it is not anticipated to encounter significant buried archaeological materials at this location during implementation of the permit, it is noted that the potential for inadvertent discovery of such resources exists. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.

A review of the California Natural Diversity Database did not indicate any known rare or endangered species on or near the project area. The project proposal is for pre-existing cultivation. Artificial light will only be used in the ancillary nursery which is equipped with blackout tarps to eliminate light from escaping the structures from a half hour prior to sunset and a half hour after sunrise. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact Northern Spotted Owl or other sensitive species.

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO which were intended to mitigate impacts of existing cultivation. These include ensuring onsite lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources because of light and noise.

Purpose - Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

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

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for pre-existing outdoor cannabis cultivation in existing clearings and includes restoration of land within the streamside management area (SMA). The project will not significantly impact scenic vistas or public views as the project site is surrounded by trees and cultivation will not be visible from any public road. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize Forestry Recreation land for agricultural purposes. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with the project. All construction activities are associated with the development of two sheds and a small greenhouse. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project would not result in significant sources of greenhouse gas emissions. The project will use (3) three 6.5 Kw generators for cultivation operations; however, the project approval is conditioned upon the applicant's transition to 100% renewable energy by January 1, 2026. The project does utilize a private gravel road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment. However, the project is owner-operated with no use of employees, and no increase in traffic on the private road is anticipated as part of the project. No impact.

Biological Resources: The nearest Marbled Murrelet habitat is approximately 9 miles to the northwest. The project is located approximately 3,100 feet, or .58 miles to the nearest known Northern Spotted Owl (NSO) activity center. There was a positive observation of a Northern Spotted Owl on an adjacent parcel on July 6, 2000. Although the proposed project is for outdoor cultivation, the applicant is proposing to use artificial lighting in the 768-square-foot propagation greenhouse. Due to the proximity of the cultivation area to NSO habitat, a condition of approval to this project requires the applicant to maintain generator and fan 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. The use of supplemental lighting complying with dark-sky standards can adequately address any lighting impacts on NSO and so does not recommend the prohibition of supplemental lighting during the breeding season but is adding a condition of approval to this permit that prohibits the use of artificial light until the applicant can demonstrate compliance with these noise and light standards. There is one approved outdoor and three pending (outdoor) commercial cannabis applications within 1 mile of the NSO activity center, and, because most of the applications only use artificial lighting for short durations, there is, therefore, no likelihood of cumulative impacts on this activity center from permitted commercial cannabis cultivation sites in the vicinity. Less than significant impact.

Cultural Resources: The project was referred to the Northwest Information Center (NWIC), and the Bear River Band of Rohnerville Rancheria. A Cultural Resource Investigation Report was prepared by Archaeological Research and Supply Company in July 2019. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The Tribal Historic Preservation Officer received the investigation and concurred that the potential for cultural resource impacts would be mitigated by adding the standard inadvertent discovery protocol to the project as a condition of approval. No impact.

Energy: The project would not result in significant sources of greenhouse gas emissions. The project will use (3) three 6.5 Kw generators for cultivation operations; however, the project

approval is conditioned upon the applicant's transition to 100% renewable energy by January 1, 2026 (Condition A-13). Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on flat land that has historically been used for agriculture. No significant new grading will occur, and existing grading performed in relation to Greenhouse #3 will be subject to inspection permitting by the Humboldt County by the Humboldt County Building Department. Less than significant impact

Greenhouse Gas Emissions: The project would not result in significant sources of greenhouse gas emissions. The project will use (3) three 6.5 Kw generators for cultivation operations; however, the project approval is conditioned upon the applicant's transition to 100% renewable energy by January 1, 2026 (Condition A-13). Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers and fuel for use in the proposed 10' x 12' shed. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. 18. Generators must be housed in secondary containment, and generator sheds must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 150-foot buffer and Class II watercourses (Condition A-18). The project does not expose the public to hazards. The project is in a rural area rated as a very high fire risk area, however the wood framed dry shed will meet the SRA property line setback requirements. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The Applicant had a Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants (WDID# 1B1721CHUM). The applicant will update the WRPP with the revised site plan and operations plan. The applicant will also implement the prescribed measures in the WRRP mitigation report (Condition A.23). Water is provided by a surface water diversion subject to the terms of a California Department of Fish and Wildlife (CDFW) Streambed Alteration Agreement #1600-2018-0752-R1 (Condition B.1). and a well. Until the applicant provides a hydrologic analysis report from a licensed geologist that documents the well's disconnection from surface water, the applicant must curtail well withdrawals for cannabis cultivation in the May 15th to October 31st forbearance period. (Condition A.19). The project will not degrade any water sources or contribute to sedimentation. There are no streams or stream crossings located near the project. All cultivation occurs on graded flats with any overflow via a rock-lined spillway less than five feet in width and approximately one foot lower than the adjacent pad. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Forestry Recreation; agricultural uses are principally permitted use in the zone. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability

of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The project will use (3) three 6.5 Kw generators for cultivation operations; however, the project approval is conditioned upon the applicant's transition to 100% renewable energy by January 1, 2026 (Condition A-13). Generators will be sited 100' or more from the property boundary in generator shed to attenuate noise. Noise sources from the operation will include generators, drying activities, which will occur within an enclosed structure. Drying would involve the use of fans and dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project will not result in the generation of excessive groundborne vibration or noise levels. Less than Significant Impact.

Population and Housing: The project is for outdoor cannabis cultivation. No housing is proposed nor is any removal of housing proposed. The project will not induce substantial unplanned population growth in an area nor displace substantial numbers of existing people or housing necessitating the construction of replacement housing. No impact.

Public Services: The project is for 12,020 square feet of outdoor cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. There are no recreational facilities located within 600 feet of the project. No impact.

Transportation: The project will be owner-operated without the use of employees. The applicant submitted a Road Evaluation Report on September 10, 2018. The report states that the entire road segment is developed to the equivalent of road category 4 standard.

Additional conditions include requiring that within one year from the permit effective date, the applicant shall take steps to join or form a Road Maintenance Association for the maintenance of the privately maintained portions of the access roads to the project site located on Assessor's Parcel Number (208-111-029). The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the even the applicant is unable to coordinate formation of a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. The project site will also have adequate emergency access. No impact.

Tribal Cultural Resources: The project was referred to the Northwest Information Center (NWIC), and the Bear River Band of Rohnerville Rancheria. A Cultural Resource Investigation Report was prepared by Archaeological Research and Supply Company in July 2019. No cultural resources were found, and the investigation concluded that the project would not affect cultural

resources. The Tribal Historic Preservation Officer received the investigation and concurred that the potential for cultural resource impacts would be mitigated by adding the standard inadvertent discovery protocol to the project as a condition of approval. No impact.

Utilities and Service Systems: Solid Waste and Recycling are stored in a fenced area to prevent animal intrusion. Solid waste and recycling will be hauled off site to the Eel River Disposal transfer station in Fortuna CA on a weekly basis. The project will utilize portable toilets delivered to the site until a permitted onsite wastewater system can be installed. The water for propagation and cultivation is provided from tank storage. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the operation of an existing cannabis cultivation site consisting of 12,020 square feet of cultivation with ancillary propagation and processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Cultivation & Operations Plan
- Site Plan
- Property Survey
- Notice of Applicability letter from the State Water Resources Quality Control Board
- Site Management Plan
- Road Evaluation
- Department of Environmental Health Worksheet
- County GIS
- Geologic Survey
- Water Resources Protection Plan

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(n) and 55.4.10(c)).

- The project was referred to the Northwest Information Center (NWIC), and the Bear River Band of Rohnerville Rancheria. A Cultural Resource Investigation Report was prepared by Archaeological Research and Supply Company in July 2019. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The Tribal Historic Preservation Officer received the investigation and concurred that the potential for cultural resource impacts would be mitigated by adding the standard inadvertent discovery protocol to the project as a condition of approval.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for pre-existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel is bordered by Little Larabee Creek contain any streams or wetlands and meets the setbacks required from property lines, schools, school bus stops, church or other place of religious worship or tribal cultural resource.

Mitigation Measure 4: Permitting Tiers and related requirements (55.4.8.2 et seq.)

- The project is for 12,020 square feet of pre-existing cultivation in a Forestry Recreation (FR) zone which requires a Special Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for pre-existing cultivation consistent with baseline conditions which is eligible in and Forestry Recreation (FR) zone. No new increased cultivation will occur. There was no tree removal conducted for cannabis cultivation activities.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project will utilize water stored in tanks on the property. Tanks will be filled with a permitted surface diversion and a well between October 31st and May 15th. No trucked water is part of the project.

Mitigation Measure 9: Generator Use (55.4.11(o)).

- Generator noise is to be attenuated to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer, so noise is conditioned to be minimized. Additionally, noise from generator cannot be audible from neighboring residences, or more than 60 dB at the parcel line. Less than significant impact

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- The project will be owner-operated with no employees.

Mitigation Measure 12: Performance Standards for Mixed Light Cultivation (55.4.11).

- The project is for outdoor cultivation and does not use artificial light.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 22, 2016, prior to the sunset of the ordinance.

Based upon this review, the following findings are supported:

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.

3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal. All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.