

ATTACHMENT 3

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

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

**APN's 524-201-030;
Willow Creek Area
County of Humboldt**

**Prepared By
Humboldt County Planning and Building Department
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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 in order 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.

Project Description: The modified project involves a Conditional Use Permit for 4,292 square feet (sf) of pre-existing outdoor cannabis cultivation with 420 sf of ancillary propagation area. Light-deprivation techniques will be utilized without the use of supplemental lights and two harvests are anticipated annually. Water source is from the Willow Creek Community Services District (WCSD). Annual water usage is estimated at 75,392 gallons per year (16 gal/sf/yr). Total water storage on-site will be 9,900 gallons. Power source is PGE. The project also includes the request for a Special Permit to reduce the 600-foot setback to Public Lands, the Six Rivers National Forest.

The site is equipped with a permitted septic system within the residence. The project was referred to the Department of Environmental Health (DEH) on January 5, 2020, and DEH submitted a recommendation of approval for the project on January 27, 2020. The site will be owner-operated with no employees, and processing will occur within the residence.

The parcel contains approximately 4,700 sf of Prime Agricultural Soils according to the Humboldt County Web GIS. The project has existing cultivation, and one (1) existing hoop house covers 440 sf of the Prime Agricultural Soils on-site, which is less than 20 percent (940 sf). The applicant’s Site Plan shows a 400 sf personal cannabis cultivation area, and the applicant shall not have more than six (6) plants within their personal cannabis grow area.

The applicant will have seven (7) light-deprivation hoop houses for the 4,292 sf of outdoor cannabis cultivation. The site is owner operated and the residence will be used for drying, curing, trimming, storage and harvest storage area. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: seven (7) outdoor hoop houses, one (1) nursery hoop houses, and one (1) residence (**Condition A.6**).

Setbacks:

The project area is located within 600 feet of Public Lands, the Six Rivers National Forest (SRNF). According to a Property Survey that was prepared by Points West Surveying Co., dated August 2017, the nearest cultivation area to the SRNF lands is 45 feet to the shared parcel boundary. The applicant is requesting a Special Permit to approve a setback reduction from the SRNF parcel boundary to approximately 45 feet to the nearest cultivation area. The project was referred to the SRNF on January 26, 2023, and no comments were received.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). This property is located within the mapped Essential Habitat Connection corridor per the California Essential Habitat Connectivity Project that has been adopted by the State of California to help guide statewide transportation and land use planning projects. However, the setback reduction would not impact the ability of these public lands to continue to function for habitat connectivity as the property is located in a residential neighborhood, and approval of this project would not change the character of the surrounding area. The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife, as no lights or generators are a part of the proposed project. The parcel is connected to PG&E grid power, and the project will source water from the Willow Creek Community Services District. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

The proposed cultivation area is located closer than 300 feet to two (2) residences on neighboring parcels. The applicant has obtained letters waiving the 300 foot setback requirement for the proposed project from all neighbors located within 300 feet of the proposed cultivation area.

Fire Safety:

There is one hoop houses that is within the 30-foot setback to the eastern property line, and per the Humboldt County Fire Safe Regulations, no structures shall be within the 30-foot setback. The applicant is required to either relocate the existing hoop house outside of the setback and submit an updated Site Plan, or is required to have a maintenance and open space easement recorded with the adjoining lot to the east (APN: 524-201-027) (**Condition A.7**). The project is located within and area designated to have a High Fire Hazard Severity, and is shown to be within the Willow Creek Volunteer Fire District. The applicant shall contact the local fire service provider (Willow Creek Volunteer Fire Protection District) and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division (**Condition A.8**). The applicant is connected to the Willow Creek Community Services District, and no water storage is required for fire suppression.

Timber Conversion:

The parcel is zoned Agriculture General (AG), and no apparent timber conversion has occurred on the subject parcel. The project was referred to CalFire on June 16, 2021, and comments were received on July 7, 2021. Comments from CalFire stated that the Department had no comments at

that time. No timber conversion has occurred in associated to cannabis activities, and none is proposed as part of this project.

Water Resources:

Projected annual water usage is approximately of 75,392 gallons per year, (16 gallons/sf/year). Water for cannabis irrigation will be provided by the Willow Creek Community Services District (WCCSD), and the applicant has a will-serve letter from the WCCSD allowing the continued use of 536,000 gallons of water to be used annually for residential and agricultural purposes. The WCCSD has a Drought Ordinance in its Board Policy, and in the event of a drought the water usage may be restricted per the policy and the applicant shall adhere to any restrictions set forth by the WCCSD (**Ongoing Condition B.1**). The applicant shall also install a meter in order to meter the use of water used for cannabis irrigation separate from residential uses (**Condition A.9**). There is a total of 7,400 gallons of existing water storage on-site, and an additional 2,500 gallons is proposed for a total of 9,900 gallons.

The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B171472CHUM. A Water Resource Protection Plan (WRPP) was prepared for the site by Natural Resources Management (NRM), dated November 11, 2017. The WRPP states that there are no watercourse crossings on the parcel, and the nearest watercourse is located off the property more than 200 feet south of the nearest cultivation area. This corrects the location of the stream that is shown on the Humboldt Web GIS.

The site has enrolled under the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001, as a Tier 1 Low Risk site. The applicant has obtained a Notice of Applicability (NOA) letter from the SWRCB dated September 6, 2019, showing enrollment under WDID: 1_12CC416155. The applicant has obtained a Site Management Plan (SMP) prepared by NRM, dated July 23, 2020. The SMP addresses site conditions and corrective measures required for the site to meet the standard conditions of the General Order. The SMP states that there is an orchard on the property, as well as an ornamental pond. The applicant shall adhere to all of the corrective actions and ongoing monitoring and BPTC measures listed in the SMP (**Condition A.10 & Ongoing Condition B.2**)

There are no streams or stream crossings located on the property and water is sourced from the WCCSD, therefore no Lake or Streambed Alteration Agreement with Fish & Wildlife is required for the project.

Biological Resources:

There are no mapped biological resources shown on the subject parcel in the CNDDDB database in Humboldt County Web GIS, and the nearest known activity center for Northern Spotted Owls is approximately 1.3 miles to the proposed project site. As the project is for pre-existing cultivation, and no vegetation removal is proposed as part of the project, no Biological Assessment was required. As the project will consist of outdoor cultivation, and power is provided by PG&E, no noise pollution is anticipated as a result of the proposed project. The applicant is conditioned to adhere to International Dark Sky Standards for security lighting and the propagation greenhouse (**Ongoing Condition B.5**). The project was referred to the California Department of Fish &

Wildlife (CDFW) on July 17, 2017, and comments were received on January 15, 2020 and no comments have been received.

The project is located within the CDFW's Essential Habitat Connection, and is requesting a Special Permit to reduce the 600 foot setback to SRNF. The project is located in a residential neighborhood where three (3) approved cannabis permits exist, and the site is located approximately 890 feet to State Hwy 299. The project will not be utilizing generators, or employees, and receives water from the WCCSD. No significant impacts to wildlife are anticipated as part of this project.

Tribal Cultural Resource Coordination:

The proposed project is located within the mapped ancestral aboriginal territories for the Hoopa and Tsnungwe tribes. The project was referred to the Hoopa and Tsnungwe tribes, and the Northwest Information Center (NWIC) on January 15, 2020. The NWIC commented on the project on January 28, 2020, recommending that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. A comment was received from the Tsnungwe tribe on June 16, 2021, stating that they had no objection to the project. No Cultural Resource Investigation was required for the project. The project is conditioned to adhere to inadvertent discovery protocols (**Informational Note 3**).

Access:

The project is accessed off of Christian School Road, which is a non-county maintained road located off of State Hwy 299. The project was referred to the Department of Public Works on January 15, 2020. Comments from Public Works included that the project is accessed by a non-county maintained road off of Hwy 299, and recommended that the application be sent to Caltrans for review. The project was referred to Caltrans on January 15, 2020, and no comments were received. The project is the only cannabis project that is accessed by Christian School Road, and no road maintenance association is required for the project. As the project is owner-operated and there are no employees, no increase in traffic is anticipated by the approval of this application.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43:

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 60 cultivation permits and the total approved acres would be 25.9 acres of cultivation.

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 adhering to corrective actions and ongoing measure outlined in the Site Management Plan prepared for the site, and adhering to International Dark Sky Standards.

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;
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

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the project 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 received August 29, 2017.
- Addendum to Cultivation & Operations Plan received April 20, 2022.
- Site Plan received December 23, 2022.
- Notice of Applicability letter from the Water Board, dated September 6, 2019.
- Water Resource Protection Plan prepared by Natural Resource Management, dated November 11, 2017.
- Site Management Plan prepared by Natural Resource Management, dated July 23, 2020.

- Will-Serve letter from the Willow Creek Community Services District, dated September 1, 2017.
- Property Survey prepared by Points West Surveying Co., dated August 2017.
- Neighbors Authorization to waive 300-foot setback to neighboring residences.

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. 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.