

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

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

**APN 212-311-002; 5841 State Highway 254, Miranda area
County of Humboldt**

**Prepared By
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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.

The modified project involves a Special Permit for the continued operation of an existing 9,975 square foot (SF) outdoor cultivation utilizing light deprivation techniques and 980 SF of ancillary propagation. Irrigation water is sourced from a permitted groundwater well, and the applicant has proposed to add rainwater catchment infrastructure as a supplemental water source. A hydrogeological report concludes the well is not hydrologically connected to surface waters or other significant groundwater sources. Existing available water storage is 6,300 gallons in six (6) hard-sided tanks, and the applicant has proposed an additional 20,000 gallons of hard tank storage. Estimated annual water usage is 132,000 gallons. Drying and processing will occur onsite in an existing residential accessory structure. No employees are required for project operations. Power is provided by Pacific Gas and Electric Company (PG&E).

No known significant archaeological resources are in the project area. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in February 2020, in which no cultural resources were identified. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources, consistent with the Report and comments received from the Bear River Band of the Rohnerville Rancheria in March 2022.

The project site contains riparian habitat associated with a Class III watercourse, which traverses the southern and eastern portions of the subject parcel. All approved cannabis cultivation activities would occur outside of the required stream setbacks and on slopes between 1-5%, as indicated by the Water Resource Protection Plan prepared for the site by Timberland Resource Consultants in April 2018 and revised in October 2018. Per review of CDFW’s California Natural Diversity Database (CNDDDB) in March 2022, the site is mapped within potential habitat area for two (2) special status species, including the American peregrine falcon (*Falco peregrinus anatum*) and the western bumble bee (*Bombus occidentalis*). The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 0.22 miles from the cultivation area, with the nearest NSO activity center located approximately 1.03 miles away.

A Biological Reconnaissance Report (Biological Report) was prepared by Jessica R. Stauffer and Sean McAllister, wildlife biologists, in March 2019 to assess the suitability of the site to support special-status plant and animal species and evaluate potential impacts on sensitive biological resources associated with commercial cannabis cultivation. As noted in the Report, the project area lacks habitat for most special

status plants on the scoping list and does not include special-status riparian habitat, waterways, or wetlands. The property may include Oregon white oak woodland (*Quercus garryana* Woodland Alliance); however, as the oaks lacked leaves at the time of the field visit and was difficult to assess. It is further noted that eighteen (18) wildlife species have a moderate or high potential for occurrence. Two (2) NSO activity centers are known to occur within 1.3 miles of the project area. Since the project proposes no new grading, disturbance to natural vegetation, or activities outside of the existing footprint, it is concluded the project would have no effect on special status plants and natural communities, as well as no effect on riparian habitat or Waters of the United States, since there are no such features onsite. Additionally, significant impacts on special-status wildlife species are not anticipated, since the project is outside of their known ranges, suitable habitat is lacking, and the project does not involve habitat modification, significant noise disturbance, or unnatural lighting. If the project is modified or expanded in the future, it is recommended that seasonally appropriate surveys be conducted prior to any new construction, ground-disturbance, or vegetation removal, which has been included as an ongoing condition of approval. The applicant has also enrolled with the State Water Resources Control Board Cannabis Cultivation Policy.

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 supplemental lighting and security lighting adheres to Dark Sky Association standards and ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result of light and noise. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

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

A review of Appendix G impacts:

Aesthetics: The project is for 9,975 SF of existing outdoor utilizing light deprivation techniques with ancillary propagation and processing activities. The project will not significantly impact scenic vistas or public views as the project will occur within an area that is surrounded by forested land. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project involves an agricultural activity on a portion of the subject parcel zoned as Agriculture Exclusive (AE), in which all general agricultural uses are principally permitted. 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, and is required to restock for any timber conversion found to have occurred after the CMMLUO environmental baseline date of January 1, 2016, at a ratio of 3:1, and no additional timber conversion is proposed or authorized under the permit. Less than significant impact.

Air Quality: Minimal construction activities are associated with the project. Construction activities included development of the cultivation and nursery spaces, storage areas, and water storage tanks, which required minimal grading for placement. Although additional structures are proposed under the project, significant air quality impacts are not anticipated. 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 does utilize a gravel road, and traffic on gravel roads contribute to PM₁₀, for which the North Coast Air Basin is already in non-attainment. However, no employees are proposed for project operations, and as such a significant increase in traffic is not expected under the project, as this is an existing operation. Given this, the continued use of the gravel road for the project is not a substantial change or additional significant impact not considered under the MND for the CMMLUO. Less than significant impact.

Biological Resources: The project is in the Miranda area north of the South Fork Eel River. A Class III watercourse traverses the southern and eastern portions of the subject parcel, and all cultivation activities and respective infrastructure are located outside of all required Streamside Management Area (SMA) buffers.

Surrounding lands include private timberland and agriculture areas. The slope of the land where cannabis is cultivated is between 1-5%, as indicated by the Water Resource Protection Plan (WRPP; WDID 1B171720CHUM) prepared by Timberland Resource Consultants in April 2018 and revised in October 2018.

As described above, per review of CDFW's California Natural Diversity Database (CNDDDB) in March 2022, the site is mapped within potential habitat area for two (2) special status species, including the American peregrine falcon (*Falco peregrinus anatum*) and the western bumble bee (*Bombus occidentalis*). The nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.22 miles and 1.03 miles from the cultivation area, respectively. A Biological Reconnaissance Report (Biological Report) was prepared by Jessica R. Stauffer and Sean McAllister,

wildlife biologists, in March 2019. The Report concluded the project would have no effect on special status plants, natural communities, riparian habitat, Waters of the United States, and special-status wildlife species, as the project proposes no new grading, disturbance to natural vegetation, no activities outside of the existing footprint, and the project is outside of their known ranges, suitable habitat is lacking, and the project does not involve habitat modification, significant noise disturbance, or unnatural lighting. Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. In addition, should the project be modified or expanded in the future, seasonally appropriate surveys shall be conducted prior to any new construction, ground-disturbance, or vegetation removal, as recommended in the Biological Report, which has been included as an ongoing condition of approval. As such, it was determined that the project and operations will have less than significant impacts with adherence to the recommended conditions of approval. Less than significant impact.

Cultural Resources: A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in February 2020 (on file and confidential) and no known archaeological or historic resources occur within the project area. However, the project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended by the Report and requested by the Bear River Band of the Rohnerville Rancheria in March 2022. Less than significant impact.

Energy: The project is for existing outdoor (light deprivation) cannabis cultivation with on-site ancillary propagation and processing activities. Power is currently provided by PG&E with generators utilized for emergency backup only, which is not uncommon for agricultural operations in rural areas. Less than significant impact.

Geology and Soils: Although new structures are proposed under the project, they would not expose people to risk of life from earthquakes. The project parcel is mapped in the County GIS as “moderate instability” (2). The slope of the land where cannabis is cultivated is between 1-5%, as indicated by the Water Resource Protection Plan (WRPP; WDID 1B171720CHUM) prepared by Timberland Resource Consultants in April 2018 and revised in October 2018. The applicant will be required to secure permits for all structures and grading related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying, processing, and storage, or any activity with a nexus to cannabis, and any noise containment structures as necessary. Additionally, cultivation activities are limited to the immediate area surrounding the greenhouses, and irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: The project currently utilizes PG&E for power; however, generators are utilized for emergency backup purposes only, which is not uncommon for agricultural operations in rural areas. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides, and fuel in existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area. Although additional structures are proposed under the project, they will be constructed in accordance with the California Building and Fire Codes, and will comply with CALFIRE Fire Safe standards. Additionally, conditions require fire-resistant materials be utilized for construction of the generator containment structures. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The project is for 9,975 square feet of outdoor (light deprivation) cannabis cultivation with ancillary propagation and processing activities. The project will not degrade any water sources or contribute to sedimentation, as irrigation runoff, erosion control, and watershed protection measures are implemented by the project, as described in the Cultivation and Operations Plan. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on the portion of the parcel zoned as Agriculture Exclusive (AE), in which all general agricultural uses are principally permitted. 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 is located in a rural portion of the County, surrounded by forested land. The project will not result in the generation of excessive groundborne vibration or noise levels. Power for the project is provided by PG&E. Noise sources from the operation will include those of typical agricultural operations, and the use of an emergency backup generator; however, noise attenuation measures will be implemented as conditions of approval. 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. A maximum of three people may be onsite during peak operations. 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 9,975 square feet of cannabis cultivation with ancillary propagation and processing activities on a parcel where agricultural activities are principally permitted. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school or park. Less than significant impact.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. No impact.

Transportation: No employees are required for project operations, therefore an increase in traffic is not anticipated. Access to the site is via a driveway off State Highway 254, which is maintained by the California Department of Transportation (Caltrans). A Road Evaluation Report for the private driveway, from State Highway 254 to the subject property, was prepared by the applicant's representative in October 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The project was referred to Caltrans District #1 in November 2019; however, no comments have been received to date. A condition of approval requires the applicant to ensure the driveway meets Caltrans' commercial driveway standards and sight distance. Any work to improve the driveway or sight distance within the State right-of-way will require an encroachment permit from Caltrans. Less than significant impact.

Tribal Cultural Resources: A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in February 2020 (on file and confidential), and no known cultural

resources are located within the project area. The lead agency consulted with local tribes through the project referral process. The project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended by the Report and requested by the Bear River Band of the Rohnerville Rancheria in March 2022. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter and top containment. Other materials, unsuitable for composting, are stored in conventional lid trash containers along with domestic waste and hauled to an approved transfer station/disposal facility, as needed, as described in the Cultivation and Operations Plan. Soil is composted onsite, and any spent soils containing inorganic materials such as perlite are disposed of offsite at a licensed waste management facility. Water for propagation and cultivation is sourced from a permitted groundwater well and associated storage tanks, with rainwater catchment proposed as a supplemental water source. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. Although additional structures are proposed under the project, they will be constructed in accordance with the California Building and Fire Codes, will comply with CALFIRE Fire Safe standards, and will therefore not increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 9,975 square feet of cultivation, ancillary propagation, drying, 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 (see Attachment 3 for a complete listing of document):

1. Site Plan, received 11/1/19.
2. Cultivation and Operations Plan, received 10/31/19.
3. Cultivation Operations Plan Addendum, received 11/2/2023.
4. Well Completion Report (WCR2019-010978; Permit No. 18/19/1053), received 10/31/19.
5. Water Resource Protection Plan (WDID 1B171720CHUM) prepared by Timberland Resource Consultants, dated 4/2/18 and revised 10/2/18, for the North Coast Regional Water Quality Control Order No. R1-2015-0023.
6. Notification of Lake or Streambed Alteration Agreement submitted to the California Department of Fish and Wildlife, received 10/31/19.
7. Road Evaluation Report for Private Driveway, from State Highway 254 to the subject site, prepared by an applicant representative, dated 10/31/19.
8. Notice of Applicability (WDID _12CC417449) issued by the North Coast Regional Water Quality Control Board, dated 9/6/19.
9. Timber Conversion Evaluation, prepared by Timberland Resource Consultants, dated 11/12/18.
10. Timber Restocking Report, prepared by Timberland Resource Consultants, dated 4/22/19.
11. Hydrogeologic Evaluation, prepared by Pacific Watershed Associates, dated 5/20/20.

12. Biological Reconnaissance Report – Special Status Species and Sensitive Habitats, prepared by Jessica R. Stauffer and Sean McAllister, dated 3/19/19.
13. A Cultural Resources Investigation of the Miranda Stoyanov Property, Final Report, Miranda, Humboldt County, California, Miranda 7.5' USGS Quadrangle, Assessor's Parcel Number: 212-311-002, 14 acres, prepared by Nick Angeloff, MA, and Saige Heuer, BA, Archaeological Research and Supply Company, Rio Dell, CA, dated February 2020.

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(o) and 55.4.10(c)).

- The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center at Sonoma State, the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council in November 2019. The lead agency consulted with local tribes through the project referral process. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in February 2020 (on file and confidential), in which no cultural resources were identified. The project will adhere to the Inadvertent Discovery Protocol in the event of inadvertent discovery of resources, as recommended in the Report and requested by the Bear River Band of the Rohnerville Rancheria in March 2022.

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

- The project is for 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. A Class III watercourse traverses the southern and eastern portions of the subject parcel and all cultivation areas occur outside of all required SMA buffers.

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

- The project is for 9,975 square feet of existing outdoor cultivation in an Agriculture Exclusive (AE) 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 existing cultivation consistent with baseline conditions which is eligible in the Agriculture Exclusive (AE) zoning district. No new increased cultivation will occur. Review of aerial imagery dating back to 2004 indicates the site contained existing open areas along the northern and southeastern portions of the property; however, it appears that timber was removed from the site between 2014 and 2016 to accommodate two (2) greenhouses within the northern portion of the site. A third greenhouse appears to have been added to the northeastern corner of the site between 2016 and 2018. A Timber Conversion Evaluation was prepared by Timberland Resource Consultants (TRC) in November 2018, which found that 0.35 acres of unauthorized timberland conversion occurred onsite and recommends replanting at a 3:1 ratio. No additional tree removal is proposed or authorized by this permit.

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 utilizes a non-diversionary water source for irrigation. Water for irrigation is sourced from a permitted groundwater well, in which a hydrological report prepared by Pacific Watershed Associates (PWA) in May 2020, which concluded the well is not hydrologically connected to surface waters or other significant groundwater sources. Rainwater catchment has been proposed as a supplemental water source.

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

- Power is currently provided by Pacific Gas and Electric Company (PG&E). Conditions require that noise from any backup generators not exceed 50 decibels at 100 feet or edge of clearing whichever is closer.

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)).

- Applicant has provided a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).

- The project includes onsite processing activities, and the operations plan describes operational practices and employee safety standards.

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

- The project is for outdoor cultivation which does not use artificial light. However, artificial lighting is utilizing within the ancillary propagation area. Conditions of approval require the applicant to implement light attenuation measures, including compliance with International Dark Sky Association standards.

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 16, 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.