

ATTACHMENT 3

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

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

APN 217-032-013; Blocksburg 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 continued cultivation of 38,800 square feet (SF) of outdoor cannabis and 3,880 SF of ancillary propagation. Water for irrigation is sourced from a permitted groundwater well. Existing available water storage is 38,400 gallons in a series of hard sided tanks, with an additional 40,000 gallons proposed, for a total of 78,400 gallons of onsite water storage for cannabis irrigation. Estimated annual water usage is 540,000 gallons. Drying, curing, and bucking activities occur onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of seven (7) employees may be utilized during peak operations. Power is provided by solar power and two (2) back-up generators, with long-term plans to connect to PG&E.

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and the Bear River Band of the Rohnerville Rancheria in February 2018. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company in March 2020, in which no significant prehistoric or historic cultural resources were found. However, as there is always the possibility of inadvertent discovery of buried archaeological resources during ground disturbing activities with project implementation, inclusion of the inadvertent discovery protocol was recommended. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Officer in September 2021, which noted concurrence with the recommendations of the report and inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note

The project site contains riparian habitat associated with Martin Creek, which traverses the northwestern corner of the parcel, and an unnamed tributary of Larabee Creek to the west that appears to terminate within the western portion of the property. Although the Site Plan does not depict the onsite watercourses or their respective required Streamside Management Area (SMA)

buffers, due to the location of the cultivation within the eastern portion. Additionally, all approved cannabis cultivation activities would occur on slopes less than 8%, as noted in the Site Management Plan. The nearest Northern Spotted Owl (NSO) sighting and activity center are located located approximately 0.30 miles and 0.48 miles from the nearest cultivation area, respectively. Conditions of approval require the applicant use light and noise attenuation to ensure the project has a Less the Significant Impact on NSO.

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 38,800 square feet (SF) of outdoor cannabis cultivation of which 29,200 SF is grown in twenty-eight (28) raised beds using full sun techniques and 9,024 SF is grown in five (5) hoop houses using light deprivation techniques. The project will not significantly impact scenic vistas or public views as the vast majority will be full sun outdoor cultivation. The site is located approximately 3,550 feet northeast of Alderpoint Road and resides at a mean sea level elevation of approximately 506 feet above the roadway surrounded by forested lands which that will block most public views of the cultivation site. 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 agricultural land for agricultural purposes as contemplated in the MND. 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 the 29,200 SF of raised beds, improvements including installation of drainage facilities, water bards, and/or rolling dips to legacy timber roads onsite. 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 use of this gravel road for this cannabis project is therefore not a substantial change or additional significant impact not considered under the MND.

Biological Resources: The project is in the Blocksburg area between Martin Creek and Bosworth Creek. The land surrounding the site consists of private agricultural and timberland. Most of the site is forested and hilly. Martin Creek runs southwesterly through the northwestern portion of the site and there is one other water course that is an unnamed tributary of Larabee Creek that terminates within the western portion of the property. Per review of CDFW's California Natural Diversity Database (CNDDDB) in November 2022, there are no mapped sensitive species onsite. It was determined that the project and operations as conditioned will have a less than significant impact if management recommendations from the Site Management Plan and conditions of approval are adhered to. Less than significant impact. It was determined that the project and operations as conditioned will have less than significant impacts if management recommendations from the Biological Assessment and mitigation measures of the MND are adhered to. The findings and conclusions of the Biological Report are consistent with the findings and conclusions of the MND for the CMMLUO. Less than significant impact.

Cultural Resources: A Cultural Resource Survey was completed for the project area by Archaeological Research and Supply Company in January 2018. No archaeological or historic resources were identified. No Impact.

Energy: The project is for outdoor cannabis cultivation with on-site drying and off-site processing.

Power is provided by solar, with two (2) generators utilized for back-up. The applicant has long-term plans to connect to PG&E; however, PG&E power is unlikely in the foreseeable future. There are a total of one hundred and thirty-one (131) solar panels used on the property, with sixteen (16) utilized by the house and sheds, with the remaining one hundred and fifteen (115) used for the cultivation areas to operate high efficiency water pumps, fans, and dehumidifiers via charge controllers and batteries linked to inverters. Each panel is 260 watts, with the entire system estimated to produce 33 kilowatts (kW) of solar energy. 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 grading will occur, and topsoil is preserved through the use of annual rotation and cover cropping.

Greenhouse Gas Emissions: The site uses a 33-kilowatt solar system. The project includes two (2) generators for emergency purposes 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 for use in farm equipment 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 very high fire risk area, however no significant wood framed structures will be constructed as part of this project. 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 a total of 38,800 square feet of cannabis cultivation. Water for the project is provided by a permitted groundwater well. A Hydrologic Evaluation was performed on the well that concludes that the well is likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetland, and would not have a negative impact or effect on proximal wetlands, wells, or surface waters in the vicinity. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Agriculture. 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 lands managed for timber harvest and agricultural use. The area has been utilized for cultivation prior to December 31, 2015. Noise sources from the operation will include typical farm equipment such as tractors and fans in the five (5) greenhouses. The construction of raised planting beds would create minimal noise. The applicant is proposing to dry

on-site in existing sheds onsite. Drying would involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. There is no reason to believe the noise source will be increased substantially onsite. The project is conditioned to limit all noise sources related to the proposed activities to 50 decibels at 100 feet or edge of clearing whichever is closest. The project will not result in the generation of excessive groundborne vibration or noise levels. No 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 38,800 square feet of cannabis cultivation on a site where agriculture use is a principally permitted 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. No impact.

Transportation: Up to seven (7) workers will be on-site. Access to the site is via a driveway off Gold Ridge Lane (which traverses the subject property) via Alderpoint Road to State Highway 36. State Highway 36 is maintained by the California Department of Transportation (Caltrans). Alderpoint Road has been identified as a County-maintained roadway that meets (or is equivalent to) Category 4 road standards for cannabis projects. A Road Evaluation Report was prepared by a representative of the projects applicant which concluded that the access is adequate for the proposed use. The submitted road evaluation included photographic evidence of the private road to verify the roadway condition as described, including roadway width and line of sight. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: No cultural resources were identified on the site according to a Cultural Resource Investigation completed by Archaeological Research and Supply Company in March 2020. The lead agency consulted with local tribes through the project referral process. The project will adhere to the Inadvertent Discovery Protocol. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to the Recology Eel River Transfer Station in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff. Water for propagation and cultivation is sourced from an onsite groundwater well. 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 continued operation of an existing cannabis cultivation site consisting of 10,000 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:

- Operations Plan and Premises Diagrams
- Site Management Plan
- Notice of Applicability
- Well Completion Report
- Hydrologic Evaluation Report
- Road Evaluation
- Private Road Photos
- Cultural Resources Investigation
- County GIS

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. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation was performed by Archaeological Research and Supply Company. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval. The project site meets or exceeds the setbacks from tribal cultural resources.

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 (SMWAO) as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains two watercourses Martin Creek and an Unnamed tributary to Larabee Creek, and the project site meets or exceeds the setbacks to streamside management areas.

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

- The project is for 38,800 square feet of existing cultivation in both Unclassified and Timberland zones which requires a Conditional Use 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 Unclassified and Timberland zones. No new increased cultivation will occur. No tree removal is proposed by this project.

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 uses a non-diversionary water source for irrigation.

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

- The project uses a generator for emergency backup only. The project is conditioned requiring that noise from the generator will 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 ancillary drying and the operations plan describes drying practices and employee safety standards.

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 14, 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.