

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 522-021-010-000; Willow Creek Area, County of Humboldt

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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 is a Conditional Use Permit for 42,000 square feet of existing outdoor commercial cannabis cultivation. Ancillary propagation will occur in existing greenhouses used for cultivation. Estimated annual irrigation water usage is 520,000 gallons and is sourced from an existing groundwater well, rainwater catchment is proposed. There are 20,000 gallons of existing water tank storage and a 1,000,000-gallon storage pond is proposed. Power is provided by a single 33KW generator and solar is proposed as part of the post-harvest processing structure. The 85'x56' building is proposed to handle post-harvest processing needs that had been conducted in temporary structures at various locations on the parcel. This structure will have a 35'x85' residence on the second story. The first story will consist of a 12'x75' harvest storage room, a 12'x65' processing room with 10'x12' ADA restroom and a 32'x85' drying room. A 10'x12' detached bedroom will be permitted as part of the residence for employee housing. The project includes onsite relocation of three dispersed cultivation areas that total approximately 12,000 square feet. Restoration areas will be treated for erosion control and be revegetated with native plants. Trimming will occur on site once the ADA facilities have been permitted and built. The proposed configuration allows the cultivator to use one generator rather than four generators spread out across the entire parcel and will ease the transition to renewable energy. The operation is staffed by 3 full-time employees with up to 10 part-time employees for harvest processing and trimming. Two annual harvests are expected. The project is in the County of Humboldt, in the Willow Creek area, near the terminus of Cloud Crossing Road, approximately 3.75 miles north of the intersection of Old Three Creeks Road and Cloud Crossing Road.

A Supply Creek Surface Water Supply Study was conducted to evaluate the cumulative impacts applications in this watershed would have on surface water resources within the Hoopa Tribal Reservation. The study concluded that the project's cultivation within the Supply Creek watershed would not have a significant impact on surface water runoff within the Supply Creek watershed.

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 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 MND if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent Environmental Impact Report (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 42,000 SF of existing outdoor cannabis cultivation including ancillary post-harvest processing facilities. 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 as the project is conditioned to adhere to International Dark Sky Association standards. Less than significant impact.

Agriculture and Forestry Resources: The project involves agricultural activity on a parcel zoned as Timberland Production Zone (TPZ), 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. No timber conversion occurred after the CMMLUO environmental baseline date of January 1, 2016, and no additional timber conversion is proposed or authorized under the permit. Less than significant impact.

Air Quality: Limited construction activities are proposed as part of the project. Existing construction activities included development of the cultivation spaces, storage areas, post-harvest processing facility and water storage tanks, which required minimal grading for placement. A pond is proposed as part of the project, the permit application for the pond will be reviewed by the Humboldt County Building Department and referred to the California Department of Fish and Wildlife. 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 new employees are proposed and an increase in traffic is not expected under the project, as this is an existing operation. As such, 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: A Biological Assessment Report was prepared for the project by O'Brien Biological Consultants in October 2019 (On File). The pond will be permitted by CDFW. If there are any potential impacts to wildlife from this project, CDFW will require mitigation in their Agreement. The nearest spotted owl activity center is approximately 1.1 miles west of the project site and additional owl activity centers are further from the project site in all directions; the nearest critical NSO habitat is located .73 to the northeast of the cultivation site. The nearest Identified Marbled Murrelet habitat is located .75 Miles to the

northeast. The Biological Assessment concluded that the existing cultivation operation poses a less than significant potential impact on threatened and endangered plant and animal species. Generators are used to supply power to the cultivation area/nursery and processing facility. Generators will be shielded to not exceed 50 decibels at tree lines or potential habitat areas. Based on the manufacturer's noise ratings for the proposed generators, noise levels are not expected to exceed the thresholds listed above. The project is conditioned to ensure that generator or other operational equipment created noise meets the noise level threshold (Condition of Approval B.1). Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. It is possible that the Pacific Tailed Frog, Northern Red-Legged Frog, and the Del Norte Salamander may be present on the parcel, however the project does not occur in their habitat, intermittent flow streams. Less than significant impact.

Cultural Resource: The project is in the Aboriginal Ancestral Territory of the Hoopa Valley Tribe. The project was referred to the Hoopa Valley Tribe, and the Northwest Information Center (NWIC) on July 21, 2017. A Cultural Resources Investigation was conducted for the Area of Potential Effect (APE) on the subject parcel by Arsenault and Associates in September 2019. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The cultural resource investigation suggested that the inadvertent discovery protocols for cultural resources should be included in the project; these protocols have been included in the conditions of approval.

A Supply Creek Surface Water Supply Study was conducted to evaluate the cumulative impacts applications in this watershed would have on surface water resources within the Hoopa Tribal Reservation. The study concluded that the project's cultivation within the Supply Creek watershed would not have a significant impact on surface water runoff within the Supply Creek watershed. Less than significant impact.

Energy: The project is for existing outdoor cannabis cultivation with on-site ancillary propagation, and processing activities. Power is currently provided by a generator and a Photovoltaic Generator and battery system.. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026, with a generator to be used for emergencies only. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project parcel is mapped in the County GIS as "moderate instability" (2). Cultivation areas are located on existing flats. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% to 30%, as per the

County GIS portal. 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 greenhouses, water tanks over 5,000 gallons, existing structures associated with drying, processing, and storage, or any activity with a nexus to cannabis, ponds, and any noise containment structures as necessary. Additionally, cultivation activities are limited to the immediate area surrounding the cultivation areas, and irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: Power is currently provided by solar and one generator. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026, with a generator to be used for emergencies only. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides, and fuel in compliance with the California Water Resource Control Board pursuant to Cannabis General Order No. WQ 2019-0001-DWQ. 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 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 42,000 square feet of existing outdoor cannabis cultivation, with the addition of ancillary support structures for storage and processing. 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 a parcel zoned as Timberland Production Zone (TPZ), 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.

Population and Housing: No new housing is proposed nor is any removal of housing proposed. Employees are proposed to be housed in an existing structure that will be permitted with the Humboldt County Building Department as part of the project. 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. Less than significant impact.

Public Services: The project is for existing outdoor 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: Up to six employees are proposed as part of the project. A 2.8-mile portion of Old 3 Creeks Road is Category 4 County-maintained roadway. Road evaluation reports were prepared for Old 3 Creeks Road which indicate that both roads sections are maintained by a road association and that both roads are developed to the functional equivalent of a road Category 4 standard and were found to be functionally appropriate for the expected traffic. Less than significant impact.

Tribal Cultural Resources: No known archaeological or historic resources occur within the project area. The project is in the Hoopa Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center and Hoopa Valley Tribe in January 2018. A Cultural Resources Investigation was prepared for the project which found no evidence of cultural resources. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter containment. Trash and recycling are stored in contractor bags in an outbuilding prior to removal, then hauled to an approved transfer station/disposal facility. Toilet, handwashing is available through portable facilities. Wastewater is proposed to treated onsite with a septic system. Water for propagation and cultivation will be sourced from a groundwater well and associated existing and proposed storage tanks. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. The project will not develop any significant new structures that will increase the risk of wildfire. The project will include a pond that will have water available for fire suppression needs. 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 42,000 square feet of outdoor cultivation with ancillary structures for processing activities and water storage. 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
- Site Plan
- Timber Conversion Report
- Well Report
- Water Resources Protection Plan
- Soils Report
- LSAA notification
- Regeneration Plan
- Road Evaluation
- Biological Assessment
- Supply Creek Ambient Water Grab Sampling Results
- Supply Creek Cumulative Impact Assessment
- Supply Creek Surface Water Supply Study
- 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(n) and 55.4.10(c)).

- A Cultural Resources Investigation was conducted for the Area of Potential Effect (APE) on the subject parcel by Arsenault and Associates in September 2019. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The project was referred to the Northwest Information Center (NWIC) and the Hoopa Valley Tribe in 2018. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s), and a study is recommended prior to commencement of project activities. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

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. Two watercourses traverse the site. However, 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 42,000 square feet of pre-existing outdoor cultivation with ancillary propagation and processing activities in a Timberland Production Zone (TPZ) zone, which requires 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 pre-existing cultivation consistent with baseline conditions which is eligible in an TPZ zone. 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 well between October 31st and May 15th. The well is identified in the Well Completion Report of having an estimated yield of 10 gallons per minute, which indicates that the well is relatively productive. The applicant provided a well report which identified a low likelihood of hydrological connection to surface water resources. The project includes a pond for cultivation water storage that exceeds the annual estimated water budget. 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. The use of generators shall be curtailed for day-to-day operations by January 1, 2026. 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 include onsite processing activities once suitable facilities are in place, and the operations plan describes operational practices and employee safety standards. The project is conditioned that the applicant adheres to the Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).
- The project is conditioned that the applicant provide 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).

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

- The project includes outdoor cultivation with ancillary propagation, the propagation greenhouse will utilize artificial lighting. Conditions of approval require the applicant to implement light attenuation measures. Such measures include required compliance with International Dark Sky Association standards Lighting Zone 0 and Lighting Zone 1, and requiring the project be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). No use of

artificial lighting is authorized by this permit until the applicant can demonstrate compliance with these 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 November 21, 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.