

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 216-317-006 and 216-317-004; Alderpoint 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 involves a Conditional Use Permit for 19,500 square feet (SF) of existing cultivation utilizing light deprivation techniques within 21 green house structures, with 2,000 SF of ancillary propagation proposed. Irrigation water is sourced from a point of diversion located on APN 216-317-004. Existing available water storage is 206,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 228,096 gallons. Drying will occur in a proposed 2,160 square-foot drying building and processing will occur within a proposed 1,140 square-foot structure. A maximum of ten (10) employees may be onsite during peak operations. Power is provided by a 4,000-watt solar array which controls the fans in the greenhouses and supplies the residence with power. The applicant is proposing additional power through PG&E to offset the needs of the new structures and facilities as proposed. A Lot Line Adjustment for an equal exchange of 2.40 acres is proposed as well.

No known significant archaeological resources are in the project area. A Cultural Resources Investigation was conducted by Archaeological Research and Supply Company in August 2019. No artifacts, features, or sites which would be considered a historical resource under CEQA were identified during the survey. Although the Cultural Resources Investigation concludes that it is not anticipated to encounter significant buried archaeological materials at this location during implementation of the permit, it is noted that the potential for inadvertent discovery of such resources exists. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.

The project site contains riparian habitat associated with Class II and Class III watercourses, which traverse the subject parcel. All approved cannabis cultivation activities would occur outside of the required stream setbacks. California Department of Fish and Wildlife Resource Maps indicate there is the potential for one mapped sensitive species onsite *Howellia auatilis* however this species was removed from the List of Endangered and Threatened Plants effective July 16, 2021. The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 1.06 miles north

of the nearest cultivation area, with the nearest NSO activity center mapped to a positive observation is located approximately 1.77 miles away, respectively. Power is supplied by a 4kw solar panel array that powers fans in the greenhouses and supplies the onsite residence. The applicant plans to transition to include Pacific Gas and Electric (PG&E) by (2027). As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact Northern Spotted Owl or other sensitive species.

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

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

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

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for full sun outdoor cannabis cultivation in an existing agricultural field, along with approximately 19,500 square feet to be cultivated in 21 green house structures. The project will not significantly impact scenic vistas or public views as the greenhouse structures are more than 250 feet from the nearest public road (Alderpoint Road) and there is a row of vegetation along the road frontage 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 2,000-square-foot propagation greenhouse 2,160-square-foot processing building, 2,160-square-foot drying building, and 4,425 square feet of greenhouse structures some of which will require minimal grading for placement. 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 gains access off a paved and center line striped road however internal roads are maintained rock and gravel surfaces. The use of these internal roads for this cannabis project does not represent a substantial change or additional significant impact as they have been utilized for this purpose prior to the environmental baseline established under the MND. Less than significant impact.

Biological Resources: The project is in the Middle Main Eel watershed with North Dobbyn Creek a tributary to Dobbyn Creek flowing east to west approximately 280 feet to the south of the cultivation site. The surrounding lands are agricultural lands with interspersed open areas and stands of timber. Most of the site is forested and hilly. The proposed project will occur in open areas that have been in active agricultural operation. review of CDFW's California Natural Diversity Database (CNDDDB) in September 2022, there is the potential for one mapped sensitive species onsite *Howellia auatilis* however this species was removed from the List of Endangered and Threatened Plants effective July 16, 2021. The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 1.06 miles north of the nearest cultivation area, with the nearest NSO activity center mapped to a positive observation is located approximately 1.77 miles away, respectively. The Applicant is required to adhere to all conditions as approved in the SAA including adherence to the approved Remediation Plan. 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. Less than significant impact.

Cultural Resources: A Cultural Resource Survey was completed for the project area by Archaeological Research and Supply Company in August 2019. No archaeological or historic

resources were identified. No Impact.

Energy: Electricity will be sourced from eight (8) solar panels connected to four (4) deep cycle batteries with a generator onsite for emergencies and minor supplemental use. No more than 20% of the sites power needs will be obtained from generator or non-renewable energy sources. The applicant plans to add additional solar panels and upgrade the inverter system to further ensure operations can be supported fully through renewable energy sources. The applicant is proposing additional power through PG&E to offset the needs of the new structures and facilities as proposed. 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. Minor grading is proposed in adherence to the remediation plan approved by CDFW, and topsoil is preserved through the use of annual rotation. Less than significant impact.

Greenhouse Gas Emissions: The site uses eight (8) solar panels connected to four (4) deep cycle batteries with a generator onsite for emergencies and minor supplemental use. No more than 20% of the sites power needs will be obtained from generator or non-renewable energy sources. The applicant plans to add additional solar panels and upgrade the inverter system to further ensure operations can be supported fully through renewable energy sources. 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. The project is accessible via a Category Four road (Alderpoint Road) at all times of the year providing adequate access to any emergency response vehicles. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 19,500 square feet of cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation. Cannabis will be grown within greenhouse structures utilizing light deprivation techniques allowing for retention of evapotranspiration marginally decreasing irrigation needs. 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 actively managed agricultural land. The area has been in agricultural production for more than 10 years. Noise sources from the operation will include typical farm equipment such as tractors. The greenhouses utilized for cultivation will utilize fans. The applicant is proposing to dry on-site in a proposed 2,160 square foot drying building. Drying would involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project is conditioned to include a maximum of 50 decibels at 100 feet or nearest clearing (whichever is closest) from all noise generating sources. The project will not result in the generation of excessive groundborne vibration or noise levels. Less than significant impact.

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

Public Services: The project is for 19,500 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

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

Transportation: A maximum of 14 workers may be onsite at one time. The parcel is accessed from Alderpoint Road, which is a category 4 road. A Road Evaluation Report was prepared by NorthPoint Consulting Group which concluded that the access was sufficient for the commercial traffic. 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 August 2019. 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 nearest adequate Transfer Station in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff while permanent ADA accessible facilities are developed. Water for propagation and cultivation is sourced from an onsite point of diversion. 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 other than the development of the 2,000-square-foot propagation greenhouse 2,160-square-foot processing building, 2,160-square-foot drying building, and 4,425 square feet of greenhouse structures which will comply with all building and fire codes. 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 19,500 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 Plot Plan
- Final Streambed Alteration Agreement
- CDFW Notice of Violation
- CDFW Remediation Plan
- Notice of Intent
- Site Management Plan
- Right to Divert and Use Water
- Road Evaluation
- 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 in August 2019. 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 as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains several intermittent streams, and the project site meets or exceeds the setbacks to streamside management areas. Remediation work to improve the existing conditions of stream channel section onsite are required as a part of the project.

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

- The project is for 19,500 square feet of existing cultivation in an Agriculture Exclusive (AE) zone 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 a Agriculture Exclusive (AE) zone. 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 diversionary water source for irrigation and is therefore condition to forebear from May 15th to October 31st of each year. The project is further conditioned disallowing the use of trucked water except in an emergency.

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 at 100 feet or nearest edge of habitat whichever is closest.

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 processing, and the operations plan describes processing 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 15, 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.