

**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**

**APNs 522-024-002, 522-025-003 and 522-024-005; Old Three Creeks Road, 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 21,688 square feet (SF) of existing cannabis cultivation, consisting of 10,288 SF of mixed-light and 11,400 SF of outdoor cannabis cultivation on Assessor Parcel Number (APN) 522-024-002 (PLN-11978-CUP) and a Special Permit for 10,000 SF of existing outdoor cultivation on APN 522-025-003 (PLN-11980-SP). Cultivation occurs within 4 cultivation areas (CAs). CA #1 includes 10,288 SF of mixed light cultivation and a 1,000 SF nursery and 2,000 SF nursery. CA #2 includes 5,400 SF of outdoor cultivation in 2 hoopouses. CA #3 includes 6,000 SF of outdoor cultivation in 3 hoopouses. CA #4 includes 10,000 SF of full-sun outdoor cultivation in 300-gallon smart pots on APN 522-025-003. Irrigation water is sourced from a permitted groundwater well on APN 522-024-002. Total water storage for both parcels is 49,500 gallons and consists of 3 2,500-gallon tanks for fire suppression, 4 5,000-gallon tanks for irrigation, 6 2,500-gallon tanks for irrigation, 3 1,500-gallon tanks for irrigation, and 1 2,500-gallon tank for domestic use. An additional 150,000 gallons of tank storage is proposed to support irrigation needs. Total annual water use for both parcels is 312,000-gallons. The applicant proposes to consolidate all mixed-light greenhouses and nurseries to CA #1 located near Cabin #1. The proposed configuration allows the cultivator to use 1 generator rather than 4 generators spread out across the entire parcel (522-024-002). Product will be dried onsite in an existing shed and further processing will occur offsite at a licensed processing facility until Cabin #3 is upgraded to commercial/Americans with Disabilities Act (ADA) standards. Electricity for cultivation operations is supplied by solar arrays and diesel generators. Solar panels provide power for greenhouse exhaust fans. A diesel generator (Honda 7000) is used to supply power to mixed-light greenhouses and nurseries located at CA # 1. Domestic power is supplied by diesel generators. Domestic wastewater treatment is managed via three septic systems for the existing cabins. The operation is staffed by up to 3 full-time employees and 4 part-time seasonal employees shared between APNs 522-024-002 (PLN-

11978-CUP) and APN 522-025-003 (PLN-11980-SP). Special Permits are also requested for work within the Streamside Management Area (SMA) associated with the decommissioning of an onstream pond on APN 522-024-002 and the removal of a tank from the SMA on APN 522-025-003, and to allow for associated remediation activities within the SMA.

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 31,688 square feet of existing cannabis cultivation, consisting of 10,288 SF of mixed-light and 21,400 SF of outdoor cannabis cultivation with on-site ancillary propagation, drying, 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 parcels 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: 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. 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 contributes to PM₁₀, for which the North Coast Air Basin is already in non-attainment. However, a maximum of eight people will be onsite during peak operations and a significant 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: No Biological Assessment Report was prepared for the project. The pond decommissioning will be permitted by CDFW. If there are any potential impacts to wildlife from this project, CDFW will require mitigation in their Agreement. The grading required to decommission the pond is implicitly exempt from the Humboldt County grading ordinance and therefore a Special Permit is not required. There is a water tank within the SMA of the Class II Stream on APN 522-025-003. The WRPP is requiring that this tank be removed, and that the area be restored to its natural state. A Special Permit for work within the SMA is required for this activity. The nearest spotted owl activity center is approximately 1.1 miles east of the project site and additional owl activity centers are further from the project site in all directions. Generators are used to supply power to the cabins and mixed-light cultivation areas/nurseries. 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. Conformance will be

evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. Conditions of approval also 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 generators are 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 January 1, 2026, with a generator to be used for emergencies only. Less than significant impact.

Cultural Resources: A Cultural Resources Inventory Report (CRIR) was prepared by Dimitra Zalarvis-Chase M.A., R.P.A. in August of 2022. Two cultural resources were observed and recorded as a result of survey efforts. Both resources were recorded on Department of Parks and Recreation (DPR) 523 forms. As a result, conditions were recommended for the project. It was concluded that there will be No Effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions. It was also recommended that the inadvertent discovery protocol be followed. Less than significant impact.

Energy: The project is for existing mixed light and outdoor cannabis cultivation with on-site ancillary propagation, drying, and processing activities. Power is currently provided by generators and solar. 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 January 1, 2026. The project would continue to utilize the generators for emergency back-up purposes, which is not uncommon for agricultural operations in rural areas. 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”. Project activities take place on existing graded flats. 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 generators and solar. However, 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 January 1, 2026. The project would continue to utilize the generators for emergency back-up 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 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 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 31,688 square feet of existing cannabis cultivation, consisting of 10,288 SF of mixed-light and 21,400 SF of outdoor cannabis cultivation with on-site ancillary propagation, drying, 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 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.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resource 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. Noise sources from the operation will include those of typical agricultural operations, and the use of the generators; however, the applicant is required to transition to 100% renewable energy by January 1, 2026, and noise attenuation measures will be implemented as conditions of approval. Less than significant impact.

Population and Housing: The project is for outdoor and mixed-light cannabis cultivation. No housing is proposed nor is any removal of housing proposed. A maximum of eight 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 31,688 square feet of existing cannabis cultivation, consisting of 10,288 SF of mixed-light and 21,400 SF of outdoor cannabis cultivation with on-site ancillary propagation, drying, 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 eight people may be onsite during peak operations. Access to the site is via a public and private drive (Old Three Creeks Road). A Road Evaluation Report was prepared by the applicant certifying the access road as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use. Less than significant impact.

Tribal Cultural Resources: A Cultural Resources Inventory Report (CRIR) was prepared by Dimitra Zalarvis-Chase M.A., R.P.A. in August of 2022. Two cultural resources were observed and recorded as a result of survey efforts. Both resources were recorded on Department of Parks and Recreation (DPR) 523 forms. As a result, conditions were recommended for the project. It was concluded that there will be No Effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions. It was also recommended that the inadvertent discovery protocol be followed. Less than significant impact.

Utilities and Service Systems: Green waste material is composted in a designated area away from surface waters as noted on the site plan. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. The project will provide portable toilets and handwashing stations for cultivation staff until permanent ADA accessible facilities are developed. Water for propagation and cultivation will be sourced from a permitted 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. Less than significant impact.

No changes are proposed for the original MND recommended mitigation measures. The proposal to authorize the project is fully consistent with the impacts identified and adequately mitigated in the original MND. The project is 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:

- Site Plans prepared by PR Professional Services.
- Cultivation and Operations Manuals and Addendums prepared by PR Professional Services.
- Water Resource Protection Plan.
- Streambed Alteration Agreement.
- Road Evaluation Report.

- Division of Environmental Health Attachment for Commercial Medical Marijuana Clearances/ Permits.
- Supply Creek Surface Water Supply Study prepared by HMC Engineering, Inc.
- Well Completion Report.
- 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 Hoopa Valley Tribe. A Cultural Resources Inventory Report (CRIR) was prepared by Dimitra Zalarvis-Chase M.A., R.P.A. in August of 2022. Two cultural resources were observed and recorded as a result of survey efforts. Both resources were recorded on Department of Parks and Recreation (DPR) 523 forms. As a result, conditions were recommended for the project. It was concluded that there will be No Effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions. It was also recommended that the inadvertent discovery protocol be followed.

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. Three watercourses traverse the site. However, all cultivation areas occur outside of all required

SMA buffers. The project includes the decommissioning of an onstream pond on APN 522-024-002 and the removal of a tank from the SMA on APN 522-025-003, and associated remediation activities within the SMA.

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

- The project is for 10,288 SF of mixed-light and 21,400 SF of outdoor cannabis cultivation with ancillary propagation and processing activities in a Timberland Production Zone (TPZ) zone, which requires, in this case (two projects), a Conditional Use Permit and 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 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)).

- Water for propagation and cultivation is sourced from a permitted groundwater well and associated existing and proposed storage tanks. The well is identified in the Well Completion Report as having an estimated yield of 20 gallons per minute, which indicates that the well is relatively productive and likely could be relied on as a year-round water source for the irrigation needs.

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

- Power is currently provided by generators and solar. The project is conditioned to 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 January 1, 2026, with generators for emergency back-up only. Additional conditions require that noise from 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)).

- 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)).

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

- The project includes mixed light cultivation with ancillary propagation, both of which 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 applications were 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.