

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

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

**APN 223-061-041 and 223-074-008; Benbow Area, County of Humboldt**

**Prepared By  
Humboldt County Planning and Building Department  
3015 H Street, Eureka, CA 95501**

**February 2023**

## **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.

Panther Canyon Investments LLC seeks a Conditional Use Permit for 29,200 square feet of outdoor commercial cannabis cultivation. Estimated annual irrigation water usage is 290,000 gallons. Rainwater Catchment will provide 292,000 gallons of water to be stored in rigid tanks. Cannabis will be bucked and dried on site and sent to a licensed processing facility for trimming and packaging. Power is provided by a generator and applicant proposes transition to renewable energy. The proposal includes onsite relocation and restoration. The Humboldt County Planning Commission will consider the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance, and a project specific Addendum to the previously adopted MND that has been prepared for consideration per section 15164 of the State CEQA Guidelines. The project is in Humboldt County, in the Benbow area, on the East side of US Highway 101, approximately 270 feet West from the intersection of Greycliff Road and East Branch Road, and approximately 600 feet North from the intersection of East Branch Road and a Private Drive on the property known to be in Section 30 of Township 04 South, Range 04 East, Humboldt Base & Meridian.

**Setbacks:** The project’s parcel is not adjacent to public land, nor is cultivation activity within a 600 feet buffer distance to any public lands. The site plan shows the 30 feet to parcel boundary buffer and all cultivation related structures are on the inboard side of that setback area. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities. The project site is more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.

The project was referred to the Southern Humboldt JUSD on October 22, 2020, and no comments were received. It was verified that there are no school bus stops located within 600 feet of the proposed project.

**Energy:** Electricity will be provided by a generator and the Project is required to transition to 100% renewable energy by December 31, 2025.

**Water Resources:** The total annual water usage for irrigation is estimated at 290,000 gallons (9.9 gal/sf/yr). The irrigation water source for the project is rainwater catchment. The project proposes using rain catchment off the existing 35' x 45' barn, a 120' x 30' Greenhouse, a 110' x 30' Greenhouse and fifty-five (55) rain collecting tanks.

Humboldt County's WebGIS and the Site Plan (Attachment 1C) show no mapped streams, watercourses, or associated Streamside Management Area (SMA) buffers on the project parcel.

**Fire Hazards:** The project is in an area designated to have Very High Fire Hazard Severity. The project is located within the state Responsibility Area and was referred to CalFire on July 21, 2017, and received standard project review comments. The site has ample room for a firetruck turnaround, and the development of a 2,500-gallon water tank for fire suppression only is included in the conditions of approval for the project. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements.

**Timber Conversion:** A review of National Agriculture Imagery Program (NAIP) aerial imagery from 2010 to 2022 does not indicate significant conversion of timberland. "Panther Canyon Investments, LLC Restoration Plan for APNs: 223-061-041 & 223-074-008" Northpoint Consulting, April 2020 details the locations and the methods by which historic grow sites to be restored. After evaluation and management for invasive plant species, tanoak (*Notholithocarpus densiflorus*), Pacific madrone (*Arbutus menziesii*), bay laurel (*Umbellularia californica*), Douglas fir (*Pseudotsuga menziesii*), California buckeye (*Aesculus californica*), Oregon ash (*Fraxinus latifolia*), and/or Blueblossom (*Ceanothus thyrsiflorus*) will be planted as appropriate.

**Biological Resources:** Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB) on December 16, 2023, there are no mapped special status species onsite. The project is located approximately 5.7 miles away from the nearest known Northern Spotted Owl (NSO) activity center. This activity center is on the other side of the Eel River and Highway 101. Given the distance from reported activity centers, and the geographic and man-made features between the project and the activity centers the project is unlikely to have any detrimental NSO impacts. The ongoing conditions of approval for the project include the following requirements: compliance with International Dark Sky Standards for lighting within the propagation greenhouse and ensuring that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

The project was referred to CDFW on October 22, 2020, and CDFW responded with their final comments on February 14<sup>th</sup>, 2024. These comments have been addressed with the conditions of approval.

**Tribal Cultural Resource Coordination:** The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria on October 22, 2020. There

was Cultural Resources Investigation performed in the project's area of potential effect at the request of the Bear River Band of the Rohnerville Rancheria. An investigation was conducted by William Rich and Associates in January of 2022. The investigation concluded that no archaeological or historic-period cultural resources exist in the limits of the project area. 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. The Bear River Band of the Rohnerville Rancheria reviewed the Cultural Resources Investigation and concurred with its findings, requesting the Inadvertent Discoveries Protocol be an ongoing condition of approval to protect cultural resources and tribal cultural resources.

**Access:** The project is accessed from the County-maintained Sprowl Creek Road, and then onto approximately three miles of privately maintained roads. As requested by Public Works, a Road Evaluation Report was prepared for the Private Roads to the intersection of Sproul Creek Road. The permittee shall take action to form or join a Road Maintenance Association (RMA) for the maintenance of the private roads. Sproul Creek Road has a paved surface at the intersection of the access road therefore, The Humboldt County Department of Public Works requires that the private access road be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County Road. Staff confirmed that the apron was improved to meet the specified standards. Given the multiple other private properties that access Sproul Creek Road the applicant is conditioned to join a Road Maintenance Association to conduct the required maintenance and improvements identified by the road evaluation.

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 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 29,200 square feet of outdoor commercial 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 include development of the cultivation and nursery spaces, storage areas, and water storage tanks, which 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 will use a generator for cultivation operations; however, the project approval is conditioned upon the applicant transitioning to 100% renewable energy by January 1, 2026. 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 five 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:** Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB) on December 16, 2023, there are no mapped

special status species onsite. The project is located approximately 5.7 miles away from the nearest known Northern Spotted Owl (NSO) activity center. This activity center is on the other side of the Eel River and Highway 101. Given the distance from reported activity centers, and the geographic and man-made features between the project and the activity centers the project is unlikely to have any detrimental NSO impacts. The ongoing conditions of approval for the project include the following requirements: compliance with International Dark Sky Standards for lighting within the propagation greenhouse and ensuring that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use on this activity center from permitted commercial cannabis cultivation sites in the vicinity. The application also includes a restoration on 22,950 square feet of cultivation area from eight scattered sites on the parcels will be relocated to a environmentally superior location. Less than significant impact.

**Cultural Resources:** The project is in the Aboriginal Ancestral Territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Hoopa Valley Tribe, and the Northwest Information Center (NWIC) on October 22, 2020. A Cultural Resources Investigation was conducted for the Area of Potential Effect (APE) on the subject parcel. 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. Less than significant impact.

**Energy:** The project is for existing outdoor cannabis cultivation with on-site ancillary propagation, drying, and processing activities. Power is proposed to be provided by generators. Conditions of approval require the applicant to transition to 100% on-site renewable energy or grid power 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:** New structures that would expose people to risk of life from earthquakes will be subject to inspection and permitting by the Humboldt County Building Department. The project occurs on existing flats with low gradient slopes. New grading will be subject to inspection and permitting by the Humboldt County Building Department. Less than significant impact.

**Greenhouse Gas Emissions:** The project proposes the use of generators. However, the conditions of approval require the applicant to transition to 100% on-site renewable energy or grid power 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. 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:** Prior to cultivating the applicant shall provide documentation demonstrating enrollment State Water Board General Order No. WQ 2019-0001-DWQ by providing a copy of the Notice of Applicability and a Site Management Plan. The project will not degrade any water sources or contribute to sedimentation. There are no streams or stream crossings located near the project. All cultivation occurs on graded flats with any overflow via a rock-lined spillway less than five feet in width and approximately one foot lower than the adjacent pad. 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 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 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 before the end of 2026, and noise attenuation measures will be implemented as conditions of approval. Less than significant impact.

**Population and Housing:** The project is for outdoor cannabis cultivation. No housing is proposed nor is any removal of housing proposed. A maximum of five 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 29,200 square feet 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. There are no recreational facilities located within 600 feet of the project. No impact.

**Transportation:** Up to five people may be onsite during peak operations. Access to the site is via a private drive. 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:** There was Cultural Resources Investigation performed in the project's area of potential effect at the request of the Bear River Band of the Rohnerville Rancheria. An investigation was conducted by William Rich and Associates in January of 2022. The investigation concluded that no archaeological or historic-period cultural resources exist in the limits of the project area. 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. The Bear River Band of the Rohnerville Rancheria reviewed the Cultural Resources Investigation and concurred with its findings. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources. 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 rainwater catchment system and associated existing and proposed storage tanks. 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 operation of an existing cannabis cultivation site consisting of 29,200 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:

- Cultivation & Operations Plan
- Site Plan
- Road Evaluation
- Restoration Plan
- 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)).

- There was Cultural Resources Investigation performed in the project's area of potential effect. The investigation, conducted by William Rich and Associates in January of 2022, discovered no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria in 2020. 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. 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 29,200 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 rainwater catchment. 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)).

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

- The project includes outdoor cultivation with ancillary propagation. Conditions of approval require the applicant to implement light attenuation measures for the propagation greenhouses. 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 October 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.