

**From:** [Planning Clerk](#)  
**To:** [McClenagan, Laura](#)  
**Subject:** FW: Opposition to PLN-11923-CUP  
**Date:** Thursday, August 06, 2020 5:01:24 PM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)

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***dmoxon (3)***



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**From:** Mad River <[friendsofthemadriver@gmail.com](mailto:friendsofthemadriver@gmail.com)>  
**Sent:** Thursday, August 6, 2020 3:22 PM  
**To:** Planning Clerk <[planningclerk@co.humboldt.ca.us](mailto:planningclerk@co.humboldt.ca.us)>  
**Cc:** Madrone, Steve <[smadrone@co.humboldt.ca.us](mailto:smadrone@co.humboldt.ca.us)>  
**Subject:** Re: Opposition to PLN-11923-CUP

The subject line of yesterdays email was incorrect and email body text was correct. These comments are on project Adesa 11923 CUP opposition

Friends of the Mad River

On Aug 5, 2020, at 3:59 PM, Mad River <[friendsofthemadriver@gmail.com](mailto:friendsofthemadriver@gmail.com)> wrote:

**Record PLN-11923-CUP:**

**APNs (315-145-002, 315-211-003 and -004)**

Dear Planning Commissioners and Supervisor Madrone,

We, as residents and concerned citizens of the Mad River, join in the opposition to this project among others' objections included in your packet, for the following reasons, set forth below. We are also intimidated by the large, wealthy, out-of-area interests that are discussed below. Fear of reprisal has prevented some individuals from speaking up.

The location for this project in a rural, traditional ranching community, and the permit process to allow a project of this scale are not acceptable.

This project would industrialize a very rural area typical of ranching and timberlands that many of us seek to protect from this type of development. We are disappointed and distressed that despite one of the central purposes of the Humboldt marijuana ordinances and general plan being to limit such projects to previously developed areas with available grid electric power and suitable transportation facilities, that the planning department has chosen to promote this project in our rural valley.

This location is the opposite of what the Board of Supervisors has directed for marijuana development in the county. The proposed project should be rejected based on its inappropriate location, resulting in unsupportable increases in greenhouse gas (GHG) emissions, VMTs, wildfire risks, and habitat degradation, as well as clear incompatibility with the current Commercial Cannabis Land Use Ordinance (CCLUO) and its EIR, and the general plan.

We understand that this project is being processed by planning staff under an MND that relies on the outdated and ineffective CMMLUO and

it's failed MND that was found deficient by a court and settlement with Humboldt Mendocino Marijuana Advocacy Project. When in fact, this project as proposed would not even be possible or legal under the CCLUO/EIR that is now in effect. Such an end-run would mock the County's efforts to rein in the rampant environmental and social impacts from the marijuana industry, and open the floodgates for other exceptions/exemptions for more Industrial marijuana projects in this rural ranching community.

Maple Creek Investments, LLC. (MCI) is also before the Planning Commission tonight seeking an amendment to their project, which has been approved pursuant to the CCLUO *and* an FEIR, two critical documents that are avoided and ignored by this project and planning staff. The Staff Report for MCI acknowledges the accumulating cumulative impacts to the area: "However, the Maple creek area is an extremely rural and secluded community with limited development, with large land holdings that have historically been managed primarily for cattle grazing and timber. If approved however this would not be the first commercial cannabis operation approved in the vicinity. The property immediately south of the project site was approved for 17,000 square feet of commercial cannabis cultivation by the Planning Commission on September 19, 2019. Other properties in the immediate vicinity have applications for commercial cannabis in progress, with at least four nearby properties having been engaged in commercial cannabis cultivation since at least 2015." (pg 5, MCI Staff Report). This is the definition of cumulative impacts that the CCLUO requires the county to avoid.

Also, it is worth noting that MCI has PG&E power already, but that this project would use approximately 180,000 gallons of diesel annually and potentially extend a PGE power line into a fire prone landscape.

Rejecting this project now in favor of a more comprehensive evaluation, under the CCLUO with an EIR, of the continuing disruption of this “extremely rural and secluded community,” may be the last chance to protect the character of this threatened hamlet.

There appear to be many aspects of this project that conflict with the CCLUO, including: the unpaved and un-striped access road, use of diesel power for the majority of electricity, growing mother plants on-site rather than an approved off-site facility with access to grid or renewable power sources, inappropriate encroachment on the site’s prime agricultural soils, the use of artificial lighting between September and February, intrusion into protected species’ habitat (yellow legged frog, red legged frog, spotted owl, grasshopper sparrow, golden eagle) and the reasonably foreseeable development of other similarly industrial projects nearby.

Although some of these conflicts may be technically legal, at a minimum they should be considered not with an MND under the old superseded CMMLUO, but with a full EIR under the CCLUO consistent with the county’s general plan. The precedent this CUP would set if approved is, well, unprecedented, and alarming.

A quick read of the biological reports reveals a region rich in biological diversity, amongst the timberlands, cattle pasture and other features of Mad River coastal mountainous riparian rural life in Humboldt.

This project is clearly within spotted owl territories that would alone disqualify the project under CCLUO. Two of three monitored sites are less than the 1.3 miles from the no cultivation zone prescribed under the CCLUO. The third is 1.8 miles away, however additional habitat and

usage by owls may be occurring, but no surveys have been performed by the applicant. These sites, and the following precautions, should alert the Commissioners to the current and potential fecundity of the habitat that you are being asked to intrude upon:

“Spotted Owl habitat on neighboring Green Diamond Resource Company is monitored annually under their Habitat Conservation Plan. As mentioned in the Technical Memorandum dated August 31, 2018, there are 3 Spotted Owl sites monitored in the vicinity of the AMT project: HUM 0657 (~1.8 miles NW), HUM 1035 (~0.6miles N), and HUM 1038(~1.1mi W). I checked with the Green Diamond Resource Company Wildlife Department and all three sites’ final status was unoccupied for 2018.” (PNW 12/8/18)

“The closest designated critical habitat is for the northern spotted owl (*Strix occidentalis caurina*), approximately 1 mile to the southwest and 1.5 miles to the east of the study area. Additionally, critical habitat for steelhead (*Oncorhynchus mykiss irideus*) is mapped 1 mile to the southwest of the study area along the main stem of the Mad River.” (6.3.1 SHN, **6.3.1 Designated Critical Habitat**)

“Within the 9-quad search, there are many Rarefind occurrences, with the closest being 0.7 miles from the study area; the most recent observation date within the 9 quads for this taxon was 2016. The study area contains limited habitat, but high-quality habitats exists adjacent to the study area.” (3-5SHN)

“No construction work shall occur during the northern spotted owl nesting season (February 1st- July 31st) unless a wildlife biologist with experience in northern spotted owl protocol surveys completes a

biological assessment of the property to determine whether the area has northern spotted owl presence and whether site specific avoidance measures are necessary to avoid any impact to the species. Any measures developed by the biologist must be adhered to during the nesting season. Regardless of northern spotted owl presence on the property, no proposed activity generating noise levels 20 or more decibels above ambient noise levels or with maximum noise levels above 90 decibels may occur during the northern spotted owl nesting season.” (Bio-1, 110-111 **BIO-1 Limits of Construction Period for Northern Spotted Owl**)

Nearby we as residents have personally watched and/or heard owls, lions, bobcat, elk herds, otter and merganser families, cormorants, berry eating ducks, pond turtles, osprey, red-tailed hawks, golden eagle, kingfisher, giant salamander, black forest scorpion, black-banded rattlesnakes, grouse, pileated woodpecker, spotted skunk, coyote, fox, mink, rainbow and steelhead trout, Chinook salmon, bear, lamprey eel, myriad varieties of bees, bald-faced and other wasps and hornets, orange larkspur, mule ear, streamside and calypso orchids, stately lilies, a great variety of trees and flowers, and many other species that are rarely visible during fleeting sporadic daytime surveys. The creeks feed critical cold water into the temperature impaired Mad River.

These increasingly precious remote areas are habitat petri dishes with tremendous rejuvenating potential that would be interrupted by this and other proposed related industrial-scale projects.

The mid-elevation (1800-2600 feet) hilly terrain interrupted by precious valley meadows is the wrong place for such industrial operations. The project looms from 2300-2800 over valleys with an elevation of 1000

feet, disturbing wide habitat ranges. “Slopes within the proposed development areas range from near-level to 15%, with all proposed development located on slopes of less than 15%. Areas adjacent to proposed development have slopes ranging up to approximately 30%.” (98-99)

Check out SHN’s pictures of the areas in your packet, and it becomes immediately obvious that this is no place for these industrial operations.

A second golden eagle nest is nearby, very close to another significant proposed project industrial marijuana project known as Mad River Estates, which should be included in any legitimate cumulative analysis, for this project. PNW Biologicals were forced to reconsider their original opinion that this project would not interfere with golden eagles after becoming aware of the second nest in the area. Alternative nest sites reflect “core areas of Golden Eagle territory,” and are likely to be used. (“Conservation Significance of Alternative Nest Sites of Golden Eagles” [Global Ecology and Conservation](#), Jan., 2015). The us fish and wildlife service should be made aware that this golden eagle pair is at risk of losing their territory to industrial marijuana development.

These eagles range over 10 square miles, with a nest curtilage of over 2-3 miles, and their use of habitat is restricted neither to hunting nor nesting, as implied in the PNW letter, or they would not be here: “Further, your project area is situated in a prairie between narrow forested areas that make that section of prairie less desirable to the hunting style of Golden Eagles in general. With additional viewing of the area, I still did not observe the types of trees that Golden Eagles use in Humboldt County (very large, old growth Douglas-fir) near your project area and thus there is no concern that a Golden Eagle nest would

move-in near the project site.” (2/18/19 PNW Biologicals)

The applicants’ consultants repeatedly infer from the existing habitat the likely absence of inhabitants or impacts. This allows for serious underestimation of both. For example, without the objective evidence that there are two local Golden Eagle nests, they would dismiss their presence and support their contention with the inadequate habitat and their failure to see one during a random field survey. In any case, the eagles’ presence, like the owl sites, are potent warnings of the habitat that will be unavoidably disturbed by all the new activities associated with this project, combined with Mad River Estates and other nearby marijuana projects.

Another affected species, the grasshopper sparrow, is listed as a species of special concern by CDFW. This species makes inconspicuous ground nests in short grass prairies during the breeding season (typically April through July). Although this sparrow migrates to southern climates in the fall through winter, its habitat does not and is subject to long-lasting disturbances, notwithstanding CDFW’s recommended encroachment limits during nesting season.

The record is replete with comparable apparent efforts to ignore, minimize, and dismiss destructive significant environmental and cultural impacts to an irreplaceable rural habitat whose very existence is threatened by this and other similar CUPs. Too often, as in this project, consultants miss the forest for the trees by basing their mitigations on piece-mealing the project’s impacts. The Staff Report then relies on these unsupportable assertions regarding major impacts from the proposed project.



For example, this particular CUP opens the gate for others that are pending in the same region: right next to the Adesa project is a bigger proposed development called Mad River Estates, at least preliminarily with two parking areas with a total of 36 spaces for 24 full time employees, 25 part time employees and 49 employees on-site during the peak harvest and processing season, operating 24/7/365.

Perhaps this is the same or related to another project on page 10 of your agenda: Maple Creek Investments, LLC<sup>[1]</sup> Record Number: PLN-2018-15197<sup>[1]</sup> Assessor's Parcel Number (APN): 315-011-009, Butler Valley Road, Maple Creek area

It is disconcerting to read Planning's self-serving rationalizations regarding the obvious growth induction potential of this and other related new industries. "The proposed project will not produce significant growth inducing or cumulative impacts that will result in the conversion of farmland or forest land. Growth inducing impacts are generally caused by projects that have a direct or indirect effect on economic growth, population growth, or land development."

And "While other proposed cannabis operations are located much closer to these golden eagle individuals and may, therefore, have a greater impact, "[t]he mere existence of significant cumulative impacts cause by other projects alone shall not constitute substantial evidence that the proposed project's incremental effects are cumulatively considerable." (Et Seq, pg 17).

Please review the cumulative impacts document prepared by county staff contained in this project's file, where multiple other projects have been recently reviewed, are either under consideration, or are likely to be re-submitted for review in the near future, especially if this CUP is approved.

This obvious obeisance to the proponent does not serve the public interest, despite the lucrative income from taxes to the County coffers. This income could just as easily be generated from these projects in suitable locations.

This project will require diesel generated power despite being a new and not a “pre-existing cultivation site,” as defined under the updated CCLUO, and there is no assurance, or practical reason to believe that it will be feasible to supply 80% of the power needs from the proposed future solar PV array.

Greenhouse Gas Emissions from diesel power generation, construction activities, frequent vehicle transports, and the ominous threat of wildfire in this unprotected area should be sufficient to reject this CUP.

The current proponent’s facility depends on diesel power, partially offset by a **proposed** solar PV system. According to the Staff Report, the total operational GHG emissions of approximately 6,244 metric tons of CO2 can be dismissed because “...it is still far less than the 250,000 metric ton reporting threshold for new projects,” ignoring the unmitigated additional emissions to our imperiled atmosphere that would not exist in appropriate locations. Other stationary sources of emissions from the project include the proposed cultivation, processing, and manufacturing buildings, but these are likewise minimized. (50-51)

That “The proposed facility will use forced-air gas heating instead of woodstoves or fireplaces which will significantly reduce GHG emissions generated from heating during long-term operation of the project,” is an irrelevant comparison, and should be accompanied by some explanation of the impacts from the origins of the gas. (52-53)

The fact that “The NCUAQMD and Humboldt County have not adopted any thresholds of significance for measuring the impact of GHG

emissions generated by a proposed project,” does not translate into no impacts.

The on-site presence of propane cylinders and two 5000 gal diesel tanks not only pre-dispose to increased risks of calamitous fire, but, contrary to Staff Report, would expose workers and local residents to harmful pollutants from diesel fire other than CO<sub>2</sub>, carbon and ozone in the event of a fire.

If this project and others in the area result in a successful attempt to bring PGE power lines to projects, this would introduce yet more ignition sources to an area without formal local fire protection.

The Kneeland Volunteer Fire Dept is many miles away, and CalFire’s helicopter crew, the responsible Agency, is also miles away from this “Very High” fire hazard severity zone. (58) Support ground crews would have to come from the coast or Bridgeville.

The location of this project on a flat terrace surrounded by slopes ranging from 15-30%, with elevations from 1000 to nearly 3000 feet, creates fire hazards for the entire area, as fire and winds tend to travel upslope, pre-heating fuels as the fires advance, with fireballs descending downslope to ignite fuels below original ignition points. Post-fire fragile Franciscan soils could subject the region to increased landsliding. Neighbors are worried: “Mentioned in the plan are their own residences .9 miles to the west. WHAT ABOUT US? The property line for this project appears to be less than 200 feet from the grow houses. Our residences are nearly the same distance as theirs to the EAST of the project site.” (103)

Therefore, CalFire also objects to this project for obvious reasons: "CALFIRE does not support development in areas where there is no local agency fire service for structure fires and emergency medical response. Fire services should be extended into service gap areas as a condition of development. New development can adversely impact existing fire services. Careful consideration must be given where development may overload the local fire service's ability to respond."  
(91)

The Humboldt Bay Municipal Water District (HBMWD) and other commenters have requested a full EIR, which should be a mandatory requirement for a signal project that promises the transformation of a region from habitat-rich rural to industrial, the opposite of the intent of the County's Cannabis Ordinance's evolution. Foreseeable projects and cumulative impacts, such as growth induction, would then be more fully considered.

HBMWD expressed serious concerns over "a potential risk to fish and wildlife, water quality of the Mad River watershed, traffic, impacts to protected species, and impacts from the proposed ponds. Citing the cannabis land use regulations, the district expresses concerns regarding inadequate setbacks of the ponds from other hydrologic features, and safe drainage designs. The district requests confirmation that the well water source is hydrologically disconnected from surface water, in order to ensure the integrity of the Mad River and Cowan Creek water flows. They also worry about water contamination from the new septic system. The district believes "the project is not exempt from the California Environmental Quality Act," citing particularly "the cumulative impacts of this project in conjunction with other projects in the Mad River area," "drawing on limited water and posing a potential threat to the drinking water source and sensitive habitats." (95-97)

The project site plans further indicate the placement of two contiguous 43,200 square foot mixed-light greenhouses for Adesa Organic, LLC partially on prime agricultural soil. <sup>SEP</sup>(16)

While 10 vanpools daily translate into fewer VMT than would be from individual vehicles traveling the 31 miles from Eureka and Arcata is a low bar in this very rural location with very low existing VMTs. “Assuming 10 daily vanpool **and other vehicle trips**,” does little to reassure us that the “other trips” will not include many private vehicles driven by people unfamiliar and unrelated to the special nature of the surroundings, and the realities of human-caused wildland fires. “If employees prefer they can carpool and park in the parking lot at the processing buildings, which will have at least one ADA accessible spot.” (6)

These type vehicle drivers are increasingly common on Kneeland, Mt View, and Maple Creek Roads related to imported workers in the marijuana industry.

Add to all of these greenhouse and other emissions, the noise, road wear, and accident risk to pedestrians, schoolchildren, animals, and other vehicles from the accelerated vehicle use on these very rural roads, parts of which are not maintained during the wet season.

The letter from local resident Wendy Orlandi regarding dangers to schoolchildren on these roads is unsettling. (98)

**Multiplied with impacts from foreseeable nearby projects, these impacts imperil this entire richly diverse rural habitat sanctuary for all residents, human and other, for no reason other than expansion of industry into an inappropriate setting (\$\$\$).**

**The Bear River Tribe has registered legitimate concerns around Cowan Creek and other areas, because, of course, this is original Indian Country, as it was, and is, so rich in beauty and valuable resources. Please take note of HBMWD and Audubon’s strong objections. And please accord substantive weight to the testimony from family members whose names grace local creeks, such as the Wilsons, whose**

family co-owned and managed property next to the applicant's for more than a 100 years. Their property is downhill from the applicant's pond (103) that is designed to contain over 3 million gallons of water (7), and from another 30,000 gal stored in hard tanks (7)(CalFire and HBMWD state 90,000 gallons in tank storage? Pg 89 & 95). They have not the resources nor time to hire expensive consultants, like the proponents. Political pressures from the marijuana industry, politicians and even the planning department, also influence the process, and not in environmentally or culturally sensitive ways.

Thank you for your careful consideration. We appreciate the difficulties in critically reviewing projects that increase our economic potential, but in this and similar proposals, preferable feasible alternative locations are available that do not set bad precedent.

- Friends of the Mad River