

**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 216-271-013-000; Alderpoint Area, County of Humboldt

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

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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.

A Conditional Use Permit for 26,500 square feet (SF) of existing outdoor and 3,000 SF of existing outdoor for a total of 29,500 commercial cannabis cultivation and 2,950 SF ancillary nursery. Estimated annual water usage is 243,000 gallons and is provided by an existing permitted onsite well. Water storage totals 68,200 gallons. Onsite processing is proposed, and power is provided by Pacific Gas and Electric Company.

Water for irrigation is provided by an onsite well. Water storage onsite also includes (12) 5,000-gallon tanks, (4) 1,150-gallon tanks, (1) 1,110-gallon tank, (5) 500- gallon tanks totaling 68,200 gallons. One (1) 2,500-gallon HDPE water tank is for fire protection use. Irrigation water will be applied through traditional hand watering methods.

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 limited to mixed light greenhouses and outdoor light deprivation. Artificial lighting is allowed within areas specifically designated for mixed light and ancillary nursery greenhouses; project conditions prohibit the use of any artificial lighting until County staff verifies the lighting adheres to International Dark Sky Association standards. The project will not significantly impact scenic vistas or public views as the parcel is privately owned and does not provide any public access to public lands. The project is consistent with the visual character of the area, which is Rural Community Center. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize agricultural production lands for agricultural purposes as contemplated in the MND. The project will not convert prime farmland or conflict with existing zoning for Forestry Recreation or any proposed 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: The site is already developed with mixed light greenhouses for commercial cannabis cultivation and an existing structure for drying and curing harvested product, so development is minimal and already complete. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project site is served by Pacific Gas and Electric Company for power. The parcel is approximately 7.26-acres, so odors from cultivation activities are unlikely to affect neighboring residents. No impact.

Biological Resources: Per review of CDFW's California Natural Diversity Database (CNDDDB) in December 2021, there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) activity center is located approximately 5.00 miles from the nearest cultivation area, with the nearest NSO positive observation sighting located approximately 4.8 miles away. A generator for all cultivation and domestic uses will only be used as an emergency backup power supply. Use of the onsite generator follows all Humboldt County and State of California guidelines. Conditions of approval require the applicant adhere to noise and light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. 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 Study was conducted by William Rich and Associated in April of 2018. No historic or prehistoric era resources were located on the project parcel pertaining to cultivation. No further archaeological study or mitigation measures were recommended for the project beyond inadvertent discovery protocol. Less than significant impact.

Energy: Power is provided by Pacific Gas and Electric Company. Generator use for cultivation will only be used as an emergency backup power source. No impact.

Geology and Soils: An Engineering Geologic Soils Report was prepared by Whitchurch Engineering in May 2020 to assess the suitability of the previous grading for the areas of cultivation on the site. Conclusions of report state that if the grading were to move or settle, there is sufficient ground surface area on the subject parcel below the graded areas to clean up any debris deposited by the movement. It does not appear that movement would affect neighboring properties, any environmentally sensitive areas, or established drainage ways. All the cut and fill banks associated with these benched areas must be revegetated with grasses/ erosion resistant foliage. Less than significant impact.

Greenhouse Gas Emissions: Cultivation proposed is outdoor light deprivation and mixed light. Power is provided by Pacific Gas and Electric Company, which is utilized for drying,

pumps for fertilizer, atomizer, supplemental lighting, and processing machinery. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers and herbicides are stored in a storage shed with secondary containment to prevent contamination with runoff. 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: A Conditional Use Permit for 26,500 SF of existing outdoor and 3,000 SF mixed-light commercial cannabis cultivation with a 2,950 SF ancillary nursery. Irrigation water is sourced from an existing onsite well with 68,200 gallons of tank storage. Estimated annual water usage is 243,000 gallons which equals approximately 8.2 gallons per square foot. Processing occurs onsite and electricity is sourced through PG&E with an emergency backup generator.

The project will not degrade any water sources or contribute to sedimentation. Applicant is required to adhere to the recommendations within the Site Management Plan (SMP) required by the state waterboard and Lake and Streambed Alteration Agreement (LSAA) from California Department of Fish & Wildlife (CDFW) as they pertain to winterizing the site to prevent erosion, sedimentation, slope stability corrections, and nutrient runoff. No impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for Forestry Recreation. 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 ground borne vibration or noise levels. Noise sources from the operation will include those of typical agricultural operations, and the use of a backup generator. The project is conditioned limiting noise to 50dB at 100 feet or forest edge, whichever is closer. 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. 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 29,500 SF 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: Access to the site is by River Road via Alderpoint Road. River Road and Alderpoint Road are maintained by the County. Additionally, Public Works comments: all driveways and road intersections onto the County Road shall be maintained in accordance with the Sight Visibility Ordinance; and the County Roads on private road intersection (River Road) shall obtain an encroachment permit from non-county roads to County maintained right of way. Improvements to the driveway apron (encroachment) that connects to the County Road (River Road) to the site access entrance. The project is conditioned to comply with Public Works comment requests. A maximum of four (4) employees may be utilized during peak operations. Less than significant impact.

Tribal Cultural Resources: A Cultural Resource Study was conducted by William Rich and Associates in April of 2018. No historic or prehistoric era resources were located on the project parcel pertaining to cultivation. No further archaeological study or mitigation measures were recommended for the project beyond inadvertent discovery protocol. As such, ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect any previously unknown cultural or tribal cultural resources that may be encountered in the future. Less than significant impact.

Utilities and Service Systems: Solid waste is stored in a manner to prevent access by wildlife and prevents discharge to any surface waters. Solid waste is to be disposed of at an authorized municipal waste transfer station. Water for irrigation is provided by a well located near the southeastern portion of cultivation of the parcel. 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 cultivation hoops which will comply with all building and fire codes pertaining to Agricultural Exempt structures. 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 26,500 SF of existing outdoor and 3,000 SF mixed-light commercial cannabis cultivation with a 2,950 SF ancillary nursery of existing cannabis cultivation with ancillary propagation and processing activities 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:

- Operations Plan and Site Plan
- Site Management Plan
- County GIS
- Botanical Survey
- Well Completion Report
- Aquatic Resources Delineation Report
- Investigation of Unpermitted Grading

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 Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.11(d) and 55.4.10(n)).

A Cultural Resources Investigation Report was prepared by William Rich, MA, RPA, of William Rich and Associates (April 2018). A field survey encompassing

approximately 5.3 acres was performed by Rich on February 21, 2018. The report recommended no additional surveys be conducted on the subject parcel unless the applicant intends to remove the historical building. The project therefore aligns with the provisions of Humboldt County Code Sections 55.4.11(d) and 55.4.10(n). No known archaeological or historic resources occur within the project area. Ongoing conditions of approval are incorporated regarding the Inadvertent Discovery Protocol to protect 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 one Class III drainage, and the project is conditioned to address the fill within the SMA as well as mitigate for slope failures associated with the existing cultivation sites, pond, and graded flats be stabilized to safeguard against further erosion.

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

The project is for 29,500 square feet of existing cultivation in a Forestry Recreation (FR) 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 *et seq.*)

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 Forestry Recreation (FR) zone designation. No increase of cultivation will occur beyond the verified pre-existing cultivation (between Jan. 1, 2006 and Jan. 1, 2016).

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 primary source of electrical power for mixed light cultivation is Pacific Gas and Electric Company.

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

The primary source of electrical power for mixed light cultivation is Pacific Gas and Electric Company. Mixed light and ancillary propagation occur on site in dedicated greenhouses. Generator noise associated with emergency backup generators is conditioned to be disallowed until the applicant can demonstrate it/they operate at or below the 50 decibel (dB) threshold at 100 feet or nearest forested edge, whichever is closer. These conditions will prevent disturbance of any Northern Spotted Owl or Marbled Murrelet, or any other sensitive receptors.

Mitigation Measure 10: Storage of Fuel (55.4.11(p)).

The project is generally 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 a proposed on-site ancillary processing, and the operations plan describes processing practices and up to three (4) employees are proposed.

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

The project is for outdoor and mixed light cultivation. 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.

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 30, 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.