

ATTACHMENT 2

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

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

APN 221-021-026; 3908 Thomas Road; Miranda Area, County of Humboldt

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

September 2024

Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Conditional Use Permit for 29,938 square feet of existing outdoor commercial cannabis cultivation and 2,400 square feet of existing mixed light commercial cannabis cultivation totaling 32,838 square feet. The project includes 3,160 square feet of ancillary nursery and onsite relocation and restoration of cultivation areas. Estimated annual water use is 220,000 gallons and sourced from rainwater catchment. Water storage is provided by nine 2,500-gallon poly water and a 250,000-gallon pond for a total of 272,500 gallons of storage. Processing, including trimming, will occur on site. Electricity is provided by a solar array with a generator for emergency backup only. A Special Permit is included because the project is within 600 feet of public lands managed for open space.

No known significant archaeological resources are in the project area. A cultural Resources Investigation (“report”) was prepared by William Rich, M.A. of William Rich and Associates in December 2018. No artifacts, features, deposits, or any other historic cultural resources, including tribal cultural resources, were found during the field survey conducted for the report. No further archaeological studies are recommended for permit approval. The Bear River Band of the Rohnerville Rancheria reviewed the Investigation and recommended the inadvertent discovery protocol be applied to the project. Representatives from the Intertribal Sinkyone Wilderness Council did not respond to a request for comments.

A list of potential special status species was generated in November 2021 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). At least one known NSO Activity Center occurs within 0.9 miles of the cultivation sites and within 500 ft of Designated Northern Spotted Owl Final Critical Habitat (CDFW 2024). The applicant shall implement the mitigation measures identified in the CMMLUO Mitigated Negative

Declaration (MND) adopted on January 26, 2016 and adhere to the recommendations prepared by CDFW regarding minimizing disturbance to the NSO. The Department of Fish and Wildlife reviewed the project and requested additional approvals be added to the project to minimize disturbance to nearby wildlife. Recommendations included: minimizing impacts on potential Northern Spotted Owls, installation of an overflow spillway on the rain catchment pond to withstand a 100-year flood event, installation of multiple exist ramps in the rainwater catchment pond, compliance with the CDFW Bullfrog Management Plan, and for refuse be placed in a wildlife proof storage container. The noise produced by the generator shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, shall not harass Marbled Murrelet and shall be no more than 60 decibels at the property line. Conformance will be evaluated by County Staff during inspections using current auditory disturbance guidance prepared by the United Staes Fish and Wildlife Service.

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

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

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

reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Summary of Significant Project Effects and Mitigation Recommended

A review of Appendix G impacts:

Aesthetics: The project is for 33,250 square feet (SF) of cannabis cultivation in 11 greenhouses consisting of 23,250 SF outdoor cultivation and 10,000 SF mixed light cultivation. The project will not significantly impact scenic vistas or public views as the vast majority will be cultivated in greenhouses. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the EIR. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. Timber conversion has occurred onsite, with a total of 2.47 acres of timberland being removed. A restocking plan has been prepared and is conditioned to implement and will restore .42 acres of timberland. Less than significant impact with mitigation.

Air Quality: Minimal construction activities are associated with the project. All construction activities are associated with the relocation and restoration of cultivation area, construction of the new propagation facility, and part time operation of a 25kw generator. 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 not utilize a gravel road, and traffic on gravel roads contribute to PM-10, for which the North Coast Air Basin is already in non-attainment, therefore no increase in PM-10 would occur. No impact.

Biological Resources: The project is in the Miranda area south of Salmon Creek. The land to the north, east and south is private timberland. Most of the site is forested and hilly. A list of potential special status species was generated in November 2021 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). One (1) special status species appears over two (2) miles from the project area: the marbled murrelet (approximately 16,000 feet away). Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, impacts to biological resources with project conditions of approval in place are considered low and unlikely. The findings and conclusions are consistent with the findings and conclusions of the EIR for the CCLUO. Less than significant impact.

Cultural Resources: A cultural resources investigation (“report”) was prepared by William Rich, M.A. of William Rich and Associates (December 2018). No artifacts, features, deposits, or any other historic cultural resources, including tribal cultural resources, were found during the field survey conducted for the report. No further archaeological studies are recommended for permit

approval. Consultation letters were sent to Native American groups associated with the project area. The Native American Heritage Commission (NAHC) provided a suggested list of Native American representatives to contact. The Bear River Band of the Rohnerville Rancheria requested to see a copy of the finalized report and recommended the inadvertent discovery protocol be applied to the project. Representatives from the Intertribal Sinkyone Wilderness Council did not respond to requests for comments. The report recommended establishing protocols to protect cultural resources and/or human remains which may be discovered inadvertently during project work. The standard Inadvertent Discovery Protocol will be used to protect artifacts or remains that may be discovered during project work (**Condition C1**). Less than significant impact.

Energy: The project is for outdoor cannabis cultivation with on-site drying and processing. After December 31, 2024, the project is required to either convert to solar power energy sources, or furnish proof of the purchase of 100% renewable electricity. The requirement for renewable power does not conflict with or obstruct any state or local plan for renewable energy or energy efficiency. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on sloped land that has historically been used for agriculture. No significant grading will occur, and topsoil is preserved through the use of annual rotation and cover cropping.

Greenhouse Gas Emissions: The site uses Pacific Gas and Electric grid electricity for the residence however cultivation activities utilize a diesel generator and is required to demonstrate the sourcing of 100% renewable power through an eligible program. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment existing storage structures. All hazardous materials are stored in a locked area with secondary containment in accordance with applicable regulations. The project does not expose the public to hazards. The project is in a rural area rated as a high fire risk area, however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. The project site is accessible year round, from Thomas Road, a county maintained road. Less than significant impact.

Hydrology and Water Quality: The project is for a total of 33,250 square feet of cannabis cultivation in an agricultural field. The project will not degrade any water sources or contribute to sedimentation. The project will utilize hand watering techniques to minimize water waste. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel with no zoning designation. The project will not physically divide an established community or result in a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. No impact.

Mineral Resources: No mining is proposed. The project will not result in the loss of availability of a known mineral resources that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover

site. No impact.

Noise: The project is located in actively managed agricultural land. The area has been in agricultural production for more than 10 years. Noise sources from the operation will include typical farm equipment such as tractors, and construction of the new propagation facility. The applicant is proposing to dry on-site in an existing structure. Drying would involve the use of dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The operation will be planting directly in the ground without the use of fans. There is no reason to believe the noise source will be increased substantially onsite. The project will not result in the generation of excessive ground borne vibration or noise levels. No impact.

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

Public Services: The project is for 33,250 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school. No impact.

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

Transportation: Up to five full time workers will be on-site. The parcel is accessed from Thomas Road, which is a county-maintained road. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: The lead agency and applicant consulted with local tribes through the project referral process, including Bear River Band which requested application of inadvertent discovery protocol conditions. The project will adhere to the Inadvertent Discovery Protocol. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to the Redway Transfer Station in an amount the service station is capable of handling. The project will provide ADA compliant toilets and handwashing stations for cultivation staff. Water for propagation and cultivation is sourced from an existing rain catchment pond, groundwater well, and water 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 other than the propagation facility which will comply with all building and fire codes. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 33,250

square feet of cultivation with ancillary propagation and processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents:

- Operations Plan and Plot Plan
- Site Management Plan
- Timber Restocking Plan
- Timberland Conversion Evaluation Report
- Road Evaluation Report
- Lake and Streambed Alteration Agreement
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial project for which the MND was adopted.

Project impact analysis of conformance to the Mitigated Negative Declaration Substituted Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.10(o) and 55.4.10(c)).

- The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation was completed for the parcel and no cultural, historic, or tribal cultural resources were discovered onsite. The Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval. The project site meets or exceeds the setbacks from tribal cultural resources.

Mitigation Measure 2: Curing violations of state, county code (55.4.11(a)).

- The project is for existing cultivation and project approval includes a compliance

agreement to cure unresolved violations of state or county code.

Mitigation Measure 3: Required setbacks from watercourses, wetlands, and Environmentally Sensitive Habitat Areas (55.4.11(d)).

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project parcel contains three streams and the project site has been reconfigured to meet the setbacks to streamside management areas.

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

- The project is for 33,250 square feet of existing cultivation in an Unclassified (U) zone which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 et seq.

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14)

- The project is not participating in the Retirement, Remediation, and Relocation program therefore this mitigation measure does not apply.

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in a Residential Agriculture (RA) zone. No new increased cultivation will occur. There was tree removal conducted previously which was assessed by a Registered Professional Forester for compliance with CalFire regulation. CalFire was provided a copy of the assessment and provided the opportunity to amend the recommendations of the Forester.

Mitigation Measure 7: Use of fertilizer, pesticide, fungicide, rodenticide, or herbicide (55.4.11(j)).

- The project operations plan describes measures that will be taken to properly store and handle hazardous materials. Compliance with the operations plan is a condition of project approval. The use of anticoagulant rodenticide is prohibited. The project is conditioned requiring the applicant to provide written compliance with the Certified Unified Program Agency (CUPA) requirements.

Mitigation Measure 8: Diversion of surface water and trucked water (55.4.11(l)-(m)).

- The project uses a diversionary water source for irrigation and is therefore condition to forebear from May 15th to October 31st of each year. The project is further conditioned disallowing the use of trucked water except in an emergency.

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

- The project uses a generator for agricultural uses and will be required to transition to solar or renewable energy sources by January 1, 2025. The project is conditioned requiring that noise from the generator will not exceed 60 decibels at the property line.

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

- The project is conditioned that fuel shall be stored and handled in compliance with applicable state and local laws and regulations and in such a way that no spillage occurs.

Mitigation Measure 11: Performance Standards for Cultivation and Processing Activities (55.4.11(q)-(u)).

- Applicant has provided a statement declaring they are an agricultural employer as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code).
- The project includes onsite ancillary processing and the operations plan describes processing practices and employee safety standards.

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

- The project is for mixed-light cultivation and would utilize black-out tarps that would be secured 30 minutes prior to anticipated sunset and remain in place 30 minutes after to sunrise.

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 November 23, 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.