

ATTACHMENT 3

**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 221-011-021, Miranda area, County of Humboldt

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Background

Modified Project Description and Project History –

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

A Conditional Use Permit for 18,300 square feet existing outdoor commercial cultivation with 1,800 square feet of nursery space. Estimated annual irrigation water usage is 200,000 gallons. Rainwater catchment will provide 11,000 gallons and a point of diversion will provide 190,000 gallons. Water storage is 71,000 gallons of existing tanks, with an additional 130,000 gallons proposed for a total of 201,000 gallons of storage. Power is provided by solar with no generator. Drying and curing will occur onsite and additional processing such as trimming will occur offsite. The project includes a Special Permit for the point of diversion.

The project will also comply with provision of the CCLUO intended to eliminate impacts to sensitive species from noise and from light and noise. Compliance with these and other measures of the CCLUO ensure consistency with the EIR.

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 modified project is for 18,300 square feet of existing commercial cannabis cultivation. The EIR adopts as its baseline for analysis of impacts the existing environmental conditions that include the legacy of a half century of unregulated cannabis cultivation in remote and environmentally sensitive areas of Humboldt County. The modified project will not significantly impact scenic vistas or public views. The project is consistent with the visual character of the area. Per the performance standard of the CCLUO, the project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project parcel is zoned Timber Production Zone (TPZ) and Agriculture Exclusive (AE) and no new cultivation is proposed. Cultivation activities will occur on the AE zoned portions of the parcel. 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. No impact.

Air Quality: The modified project is for existing cultivation and new construction consists of ancillary facilities such as a solar array. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The

project does utilize unpaved road(s) and traffic on unpaved roads can contribute to PM-10, for which the North Coast Air Basin is already in non-attainment, however the EIR for the CCLUO identified this as a significant and unavoidable impact and a Statement of overriding considerations was made by the Board of Supervisors. The use of roads for this cannabis project is therefore not a substantial change or additional significant impact not considered under the EIR.

Biological Resources: A Biological Assessment conducted by Hohman and Associates dated May 2021 found potential habitat for sensitive species on the project parcel. However, the biologist concluded that no impacts would occur if mitigation measures are adopted. No generator will be used on this project. If supplemental lighting is used in the nursery greenhouse, light will be contained within the structure. The modified project includes relocation of cannabis outside of the Streamside Management Area buffer zone to other areas of the parcel. Rare Plant surveys will be conducted prior to any soil disturbance in the outdoor relocation area. The project is conditioned to include the recommendations from the Biological Assessment. The findings and conclusions of the Biological Report are consistent with the findings and conclusions of the EIR for the CCLUO. No significant impact.

Cultural Resources: The modified project was referred to the Northwest Information Center, Sinkiyone Intertribal Wilderness Council, and the Tribal Historic Preservation Officer (THPO) of the Bear River Band. The THPO representative for the Bear River Band recommended approval with the inclusion of inadvertent discovery protocol. The project is conditioned as such. The project does not involve significant historical resources. Less than significant impact.

Energy: The modified project includes use of a solar array as a primary energy source with a generator present for emergencies only. The project energy demand and use of a solar array will not result in wasteful, inefficient, or unnecessary consumption of energy resources during operation. Use of a solar array does not conflict with or obstruct any state or local plan for renewable energy or energy efficiency. No impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The cultivation area will take place on existing graded flats. No new grading will occur. No impact.

Greenhouse Gas Emissions: The site uses solar array as the primary power source. The project includes a generator for emergency purposes which is not uncommon for agricultural operations in rural areas and is part of the baseline conditions adopted in the EIR. The project would not result in significant sources of greenhouse gas emissions. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment. All hazardous materials are stored properly 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, however no significant wood framed structures will be constructed as part of this project. The project would not impair emergency response or create a significant risk from wildfire. Less than significant impact.

Hydrology and Water Quality: The EIR adopts as its baseline for analysis of impacts the existing environmental conditions that include the legacy of a half century of unregulated cannabis cultivation in remote and environmentally sensitive areas of Humboldt County. The continued operation of 18,300 square feet of existing outdoor cultivation will not degrade any water sources or contribute to sedimentation and most conform to the performance standards described in the CCLUO as well as State Water Resources Control Board General Order NO WQ 2019-0001-DWQ. The continued cultivation does not substantially alter the existing drainage pattern of the site or area and the project site is not located within a flood hazard or tsunami zone. No impact.

Land Use and Planning: The modified project to continue an existing operation 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: The modified project to continue an existing operation will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. The project will not result in the loss of availability of a locally important mineral resource recover site. No impact.

Noise: The modified project to continue an existing will not increase existing noise levels from the operation which includes typical farm equipment. The project will not result in the generation of excessive groundborne vibration or noise levels. No impact.

Population and Housing: The modified project is for existing 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 continued operation of 18,300 square feet of existing outdoor cannabis cultivation 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 six workers will be on-site during peak operations. The parcel is accessed from Salmon Creek Road. A Road System Assessment and Improvement Plan dated July 9, 2021, was prepared and was updated on February 18, 2022. The project access roads are equivalent to category 4 road standards. Conditions of approval require maintenance of the access roads. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: The project will adhere to the Inadvertent Discovery Protocol as recommended by local tribes. No impact.

Utilities and Service Systems: Solid waste is taken to the local transfer Station in an amount the service station is capable of handling. The project will provide portable toilets and handwashing stations for cultivation staff while permanent ADA accessible facilities are developed. Water for propagation and cultivation is sourced from rainwater catchment. All water, utilities, and wastewater are handled onsite. No 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. No impact.

No changes are proposed for the Final EIR recommended mitigations. The proposal to authorize the project and minor improvements necessary to bring the operation into compliance with the CCLUO is fully consistent with the impacts identified and adequately mitigated in the Final EIR. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the Final EIR.

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

- Cultivation, Operations and Security Plan, Amended Sections prepared by the applicant submitted January 16, 2024.
- Site Plan prepared by the Applicant received January 2024.
- Timber Conversion Mitigation Report prepared by Hohman Associates dated July 2021.
- Road Evaluation Report Plan prepared by SL Consulting, dated July 8, 2021
- Road Evaluation Report Plan prepared by Chapman Engineering, dated February 2022
- Biological Assessment prepared by Hohman Associates May 2021

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)).

- The Project was referred to the Bear River Band of the Rohnerville Rancheria, the Inter-Tribal Sinkyone Wilderness Council and the Northwest Information Center (NWIC) on August 29, 2017. As requested by the Bear River Band of the Rohnerville Rancheria, a Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in March 2021 (on file and confidential), which noted three prehistoric isolated chert flakes were identified, but concluded that the proposed project will not result in any adverse changes to historical or archaeological resources. The Report, as well as the Bear River Band of the Rohnerville Rancheria in September 2021, recommended Inadvertent Discoveries Protocol, which has been included as an ongoing condition of approval.

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. Two watercourses traverse the site. However, 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 18,300 square feet of pre-existing cultivation in an Agricultural Exclusive (AE) zone which requires a Conditional 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 Agriculture Exclusive zone (AE). No new increased cultivation will occur. There was no tree removal conducted for cannabis cultivation activities.

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

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

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

- Water for irrigation is currently provided by a point of diversion from an unnamed Class II tributary of Salmon Creek. The applicant seeks a Special Use Permit for the development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion. A water right has been issued for use of the point of diversion, (Attachment 3G). The water right allows up to 0.60 acre-feet, or 195,511 gallons, per year to be collected from November 1 to March 31 of each year. Conditions of approval require the applicant to comply with the terms and conditions of the appropriative water right. The project proposes using rainwater catchment to reduce use of the diversionary water source.

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

- Power will be sourced from a photovoltaic and battery system and no generators are a part of the project.

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

- Power will be sourced from a photovoltaic and battery system and no generators are a part of the project.

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

- The project will not include onsite processing activities, Portable toilets and handwashing facilities will be provided for agricultural workers. 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)).
- The project is conditioned that the applicant provide 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).

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

- The project is for outdoor cultivation and does not use artificial light.

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 August 31, 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.