

**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 222-071-030; Garberville 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.

The modified project involves a Conditional Use Permit for 30,000 square feet of existing outdoor light-deprivation cannabis cultivation. The proposed project includes relocation of eight historic cultivation areas into three cultivation areas. The applicant is also proposing a 3,000-square-foot nursery to support on-site operations. The applicant estimates 264,825 gallons of water is required to meet annual needs. Water for irrigation is sourced from an existing 930,626-gallon off-stream rainwater catchment pond. Water is stored in the described pond and three hard tanks for a total capacity of 932,531 gallons. Drying will occur on-site within a proposed 2,000 SF structure, with other processing completed offsite. Electricity is provided by a propane generator and solar power. There will be up to three employees onsite. The application also includes a Special Permit as is required for development in the Streamside Management Area (SMA) for the realignment of native channels and restoration efforts within the SMA associated with the removal of cannabis cultivation and associated infrastructure.

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 pre-existing outdoor cannabis cultivation on an agricultural parcel. The project will not significantly impact scenic vistas or public views as the project site is surrounded mostly by trees and the project will not change the existing character of the area due to the numerous other permitted cultivation operations nearby. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes. The project will not convert prime farmland or conflict with existing zoning for agricultural use or Williamson Act contract. The project will not

result in the loss of forest land or conversion of forest land to non-forest use. No impact.

Air Quality: Grading associated with the project will conform to the Grading and Erosion Control Plan prepared for the project. 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 will require the use of up to three employees, and a minimal increase in traffic on the gravel road is anticipated as part of the project. Less than significant impact.

Biological Resources: The nearest Marbled Murrelet habitat is approximately 0.37 miles to the northeast. The Nearest Northern Spotted Owl activity center is located 1.29 miles south of the cultivation area with an observation on the adjacent parcel, approximately 0.55 miles southeast from the cultivation area. Although the proposed project is for outdoor cultivation, the applicant is proposing to use artificial lighting in the three (3) 1,000-square-foot propagation greenhouses. Due to the proximity of the cultivation area to NSO habitat, a proposed condition of approval to this project would require the applicant to maintain generator and fan noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled Murrelet. The use of supplemental lighting complying with dark-sky standards can adequately address any lighting impacts on NSO and so does not recommend the prohibition of supplemental lighting during the breeding season but is recommending a condition of approval be added to this permit that would prohibit the use of artificial light until the applicant can demonstrate compliance with these noise and light standards. There is one approved (mixed light) and three pending (outdoor) commercial cannabis applications within 1 mile of the NSO activity center, and, because the majority of the application only use artificial lighting for short durations, there is, therefore, no likelihood of cumulative impacts on this activity center from permitted commercial cannabis cultivation sites in the vicinity. Less than significant impact.

Cultural Resources: The project was referred to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Sinkyone Intertribal Wilderness Council. Both NWIC and the Bear River Band of Rohnerville Rancheria requested a cultural resources study. A Cultural Resource Investigation Report was prepared by Roscoe and Associates. One archeologic site and four historic fruit trees were found on the subject parcel. The following conditions of approval are included for the project:

1. A Tribally approved cultural resources monitor shall be present for all ground-disturbing activities associated with the pending CMMLUO permit at this location, on APN 222-071-030.

2. Additionally standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval.

The proposed relocation area described in the THPO response has been updated to adhere to these concerns by condensing the proposed cultivation and disturbed area from 1 acre to 20,020 SF to be located more eastwardly from the original proposal location. Less than significant impact.

Energy: Electricity is sourced from a solar system and a generator. The cultivation will be outdoor with the use of lights for nursery propagation. Less than significant impact.

Geology and Soils: The project parcel is mapped in the County GIS as high instability. The location of the proposed relocation sites “B” and “C” is mapped as primarily 15% slope or less while relocation site “A” is mapped depicting slopes between 15-30%. As proposed the project seeks to modify the existing slopes at cultivation area “A” which has existing slopes ranging from 12% to 28.5% down to a slope of 3%. A Grading and Erosion Control Plan was prepared to mitigate for any impacts from grading activities that would increase hazards. Less than significant impact.

Greenhouse Gas Emissions: Power is provided by solar and a generator, and the project is conditioned to move to 80% renewable energy by the end of 2026. Less than significant impact.

Hazards and Hazardous Materials: Project site will not store any hazardous waste in threshold beyond domestic use. If any additional storage of hazardous waste becomes necessary, an appropriate application will be filed with Environmental Health. All hazardous materials are stored in a secure 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 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 project is for a total of 33,000 square feet of cannabis cultivation and propagation on graded flats. The project will not degrade any water sources or contribute to sedimentation. All cultivation related activities occur outside of required watercourse and wetland buffers. The project will utilize rain catchment for irrigation. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned for agriculture. 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 will be powered by a generator and solar. Noise sources from the operation will include drying activities, which will occur within an enclosed structure, and occasional generator use. Drying would involve the use of fans and dehumidifiers. The temporary noise impacts from these activities would not create a substantial increase in noise levels. Noise from the generator will be required not to exceed 50 decibels at 100 feet, or at the nearest tree line, whichever is closer. There is no reason to believe that noise will be increased substantially on-site. The project will not result in the generation of excessive groundborne vibration or noise levels. Less than significant impact.

Population and Housing: The project is for 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 cannabis cultivation on a site where agriculture is principally permitted. 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. There are no recreational facilities located within 600 feet of the project. No impact.

Transportation: The project will require the use of up to three employees. An increase in traffic would be minimal. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: The project was referred to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Sinkyone Intertribal Wilderness Council. Both NWIC and the Bear River Band of Rohnerville Rancheria requested a cultural resources study. A Cultural Resource Investigation Report was prepared by Roscoe and Associates. One archeologic site and four historic fruit trees were found on the subject parcel. The following conditions of approval are included for the project:

1. A Tribally approved cultural resources monitor shall be present for all ground-disturbing activities associated with the pending CMMLUO permit at this location, on APN 222-071-030.
2. Additionally standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval.

The proposed relocation area described in the THPO response has been updated to adhere

to these concerns by condensing the proposed cultivation and disturbed area from 1 acre to 20,020 SF to be located more eastwardly from the original proposal location. Less than significant impact.

Utilities and Service Systems: Solid waste and recycling is taken to the Recology Redway Transfer Station. The subject parcel contains a compost toilet and a greywater system on the subject parcel. Until the compost toilet and greywater system or development of an Onsite Wastewater Treatment System OWTS are permitted through the Department of Environmental Health, the applicant is required to provide portable toilets and handwashing stations for employees. Water for propagation and cultivation is sourced from rain catchment. Power is sourced onsite. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. There will be no significant new structures that will increase the risk of wildfire. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 30,000 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
- Site Plan
- Site Management Plan
- Cultural Resources Report
- Botanical Study
- Grading and Erosion Control Plan
- Soils Report and Correction
- Lake or Streambed Alteration Agreement
- Road Evaluation Report
- Aquatic Resources Delineation
- County GIS

Other CEQA Considerations

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

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

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

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

- The project was referred to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Sinkyone Intertribal Wilderness Council. Both NWIC and the Bear River Band of Rohnerville Rancheria requested a cultural resources study. A Cultural Resource Investigation Report was prepared by Roscoe and Associates. One archeologic site and four historic fruit trees were found on the subject parcel. The following conditions of approval are included for the project:
 1. A Tribally approved cultural resources monitor shall be present for all ground-disturbing activities associated with the pending CMMLUO permit at this location, on APN 222-071-030.
 2. Additionally standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval.The proposed relocation area described in the THPO response has been updated to adhere to these concerns by condensing the proposed cultivation and disturbed area from 1 acre to 20,020 SF to be located more eastwardly from the original proposal location. Less than significant impact.

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. The project meets the setbacks required from watercourses, wetlands, property lines, schools, school bus stops, churches or other place of religious worship or tribal cultural resources.

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

- The project is for 30,000 square feet of pre-existing cultivation in an Agriculture Exclusive (AE) 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 pre-existing cultivation consistent with baseline conditions which is eligible in an AE zone. 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(j)).

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

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

- The project will utilize rain catchment for irrigation. No surface water diversion is a part of the project.

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

- Power will be sourced by solar and a generator. The project is conditioned that noise from the generator does not exceed 50 decibels at 100 feet from the generator or at the nearest tree line, whichever is closer.

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

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

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

- The project is conditioned that performance standards for cultivation and processing activities are maintained.

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

- The project is conditioned that all lighting within the nursery propagation area conform to International Dark Sky standards.

Mitigation Measure 13: Humboldt Artisanal Branding Provision (55.4.15).

- The proposed project is for more than 3,000 square feet therefore this measure does not apply.

Mitigation Measure 14: Sunset Clause for applications

- The application was received on December 22, 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.