

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 522-026-007-000, Willow Creek 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 35,000 square feet of outdoor commercial cannabis cultivation, with 3,450 square feet of ancillary propagation. Annual water usage is estimated at 190,000 gallons and sourced from two permitted groundwater wells. There are 17,000 gallons of existing water storage on-site with an additional 78,000 gallons of storage proposed for the 2024 cultivation season.. Drying occurs within two 320 square foot storage containers with a proposed 2,400 square foot new building for drying. Trimming will occur off-site at a licensed processing facility. Power is provided by solar, and no generators are used. The proposal includes restoration of previous cultivation areas.

Setbacks:

The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities. The project site is more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource. The project was referred to the Klamath Trinity Unified School District on July 21, 2017, and no comments were received. It was verified that there are no school bus stops located within 600 feet of the proposed project.

Energy:

Electricity Power will be provided by two solar electric and battery systems at the cultivation sites.

Water Resources:

Water will be sourced from two wells under Humboldt County well permit numbers 11/12-0972 and 20/21-0452. Water will be stored in hard sided water tanks, with a storage capacity of 95,000 gallons.

Fire Hazards:

The project is in an area designated to have Very High Fire Hazard Severity. The project is located within the state Responsibility Area and was referred to CalFire on July 21, 2017, and received standard project review comments. The site has ample room for a firetruck turnaround, and the development of a 2,500-gallon water tank for fire suppression only is included in the conditions of approval for the project. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements.

Timber Conversion:

A Less Than 3 Acre Conversion Exemption was accepted by Cal Fire, reference number 1-13EX-066-HUM. The footprints of the cultivation areas are within the boundary of the less than 3-acre conversion.

Biological Resources:

A Biological Assessment was prepared for the project and while there is the potential for some sensitive and protected species to be present onsite, the Biological Assessment concluded that there was a less than significant impact on threatened or endangered species. The proposed project is to continue use of existing developed sites and the potential indirect impacts are mitigated through implementation of best management practices, the SMP required by the State Water Resources Control Board, and with CDFW oversight. There are no mapped sensitive species onsite recorded on site. The project is located approximately 1.08 miles from the nearest known Northern Spotted Owl (NSO) activity center. There was a positive observation of a Northern Spotted Owl .78 miles away a parcel in 1992. The proposed project is for outdoor cultivation with ancillary propagation and 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 outdoor and three pending (outdoor, mixed light) commercial cannabis applications within 1 mile of the NSO activity center, and, because most of the applications 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. The application also includes a restoration effort on a .67-acre area where tree cutting occurred.

Tribal Cultural Resource Coordination:

The project is in the Aboriginal Ancestral Territory of the Hoopa Valley Tribe. The project was referred to the Hoopa Valley Tribe, and the Northwest Information Center (NWIC) on July 21, 2017. A Cultural Resources Investigation was conducted for the Area of Potential Effect (APE) on the subject parcel. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The cultural resource investigation suggested that the inadvertent discovery protocols for cultural resources should be included in the project; these protocols have been included in the conditions of approval.

A Supply Creek Surface Water Supply Study was conducted to evaluate the cumulative impacts applications in this watershed would have on surface water resources within the Hoopa Tribal Reservation. The study concluded that the project's cultivation within the Supply Creek watershed would not have a significant impact on surface water runoff within the Supply Creek watershed.

Access:

The project site is approximately 7.3 miles north of Highway 299. From Highway 299 west of Willow Creek, go north on Old Three Creeks Road, then turn left on Cloud Crossing Road and stay on it until it ends (APN: 522-021-009) As requested by Public Works, a Road Evaluation Report was prepared for Old 3 Creeks Road from Highway 299 and concluded that the road segment is developed to the equivalent of a road category 4 standard.

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 supplemental lighting and security 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 35,000 square feet of existing outdoor cannabis cultivation, with on-site ancillary propagation, drying, and processing activities. The project will not significantly impact scenic vistas or public views as the project will occur within an area that is surrounded by forested land. 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 involves an agricultural activity on parcels zoned as Timberland Production Zone (TPZ), in which all general agricultural uses are principally permitted. 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 timber conversion occurred after the CMMLUO environmental baseline date of January 1, 2016, and no additional timber conversion is proposed or authorized under the permit. Less than significant impact.

Air Quality: Minimal construction activities are associated with the project. Construction activities included development of the cultivation and nursery spaces, and a drying building, which required minimal grading for placement. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project will not use generators for cultivation operations. The project approval is conditioned upon the applicant transitioning to 100% renewable energy by January 1, 2026. The project would not result in significant sources of greenhouse gas emissions. The project does utilize a gravel road, and traffic on gravel roads contributes to PM10, for which the North Coast Air Basin is already in non-attainment. However, a maximum of 8 people will be onsite during peak operations and a significant increase in traffic is not expected under the project, as this is an existing operation. As such, the continued use of the gravel road for the project is not a substantial change or additional significant impact not considered under the MND for the CMMLUO. Less than significant impact.

Biological Resources: A Biological Assessment was prepared for the project and while there is the potential for some sensitive and protected species to be present onsite, the Biological Assessment concluded that there was a less than significant impact on threatened or endangered species. The proposed project is the continued use of existing developed sites, and the potential indirect impacts are mitigated through implementation of best management practices, the SMP required by the State Water Resources Control Board, and CDFW oversight. There are no mapped sensitive species onsite; however, the nearest Marbled Murrelet habitat is approximately 1.7 miles to the northwest. The project is located approximately 1.08 miles from the nearest known Northern Spotted Owl (NSO) activity center. There was a positive observation of a Northern Spotted Owl .7 miles away a parcel in 1992. The proposed project is for outdoor cultivation and due to the proximity of the cultivation area to NSO habitat, a 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 outdoor and three pending (outdoor) commercial cannabis applications within 1 mile of the NSO activity center, and, because most of the applications 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. The application also includes a restoration effort on a .67-acre area where tree cutting occurred. Less than significant impact.

Cultural Resources: The project is in the Aboriginal Ancestral Territory of the Hoopa Valley Tribe. The project was referred to the Hoopa Valley Tribe, and the Northwest Information Center (NWIC) on July 21, 2017. A Cultural Resources Investigation was conducted for the Area of Potential Effect (APE) on the subject parcel. No cultural resources were found, and the investigation concluded that the project would not affect cultural resources. The cultural resource investigation suggested that the inadvertent discovery protocols for cultural resources should be included in the project; these protocols have been included in the conditions of approval. The project's potential impact on the Hoopa Valley Tribe's water supply was also evaluated and was determined to be less than significant. Less than significant impact.

Energy: The project is for existing outdoor cannabis cultivation with on-site ancillary propagation, drying, and processing activities. Power is currently provided by Photovoltaic (PV) panels with a battery system. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the PV System is reasonable based on the power demand, and how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by January 1, 2026. The project would continue to utilize the generators for emergency back-up purposes, which is not uncommon for agricultural operations in rural areas. Less than significant impact.

Geology and Soils: New structures that would expose people to risk of life from earthquakes will be subject to inspection and permitting by the Humboldt County Building Department. The project occurs on existing flats with low gradient slopes. New grading performed in relation to the pond will be subject to inspection and permitting by the Humboldt County Building Department. Less than significant impact.

Greenhouse Gas Emissions: The project currently utilizes solar energy for power. The project would continue to utilize the two small generators for emergency back-up purposes, which is not uncommon for agricultural operations in rural areas. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides, and fuel in 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 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 Water Resources Protection Plan was prepared by

Timberland Resource Consultants in 2016. The subject property does not contain watercourses. The project has been designed and conditioned such that surface water resources will not be impacted by water use for cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation. There are no streams or stream crossings located near the project. All cultivation occurs on graded flats with any overflow via a rock-lined spillway less than five feet in width and approximately one foot lower than the adjacent pad. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned as Timberland Production Zone (TPZ), in which all general agricultural uses are principally permitted. 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 groundborne vibration or noise levels. Noise sources from the operation will include those of typical agricultural operations. The applicant is has transitioned to 100% renewable energy. Less than significant impact.

Population and Housing: The project is for outdoor cultivation. No housing is proposed nor is any removal of housing proposed. A maximum of eight people may be onsite during peak operations. 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 35,000 square feet of outdoor cannabis cultivation with on-site ancillary propagation, drying, and processing activities on a parcel where agricultural activities are principally permitted. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a school or park. Less than significant impact. Less than significant 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: Up to eight people may be onsite during peak operations. Access to the site is via a public and private drive (Cloud Crossing Road). A Road Evaluation Report was prepared by the applicant certifying the access road as developed to the functional

equivalent of a road category 4 standard and adequate for the proposed use. Less than significant impact.

Tribal Cultural Resources: There was Cultural Resources Investigation performed in the project's area of potential effect. The investigation, conducted by Archeological Research and Supply in March of 2019, discovered no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Hoopa Valley Tribe in 2017. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s), and a study is recommended prior to commencement of project activities. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources reduce the likelihood of impacts. Less than Significant Impact.

Utilities and Service Systems: Green waste material is composted in a designated area away from surface waters as noted on the site plan. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. The project will provide portable toilets and handwashing stations for cultivation staff until permanent ADA accessible facilities are developed. Water for propagation and cultivation will be sourced from a permitted groundwater well and associated existing and proposed 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. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the operation of an existing cannabis cultivation site consisting of 12,020 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:

- Cultivation & Operations Plan
- Site Plan
- Less than Three Acre Conversion Report
- Remediation Plan
- Notice of Applicability letter from the State Water Resources Quality Control Board

- Notice of No Streambed Alteration Agreement
- Water Resources Protection Plan
- (2) Well Completion Reports
- Road Evaluation
- Supply Creek Ambient Water Grab Samples
- Supply Creek Cumulative Impact Assessment
- Supply Creek Surface Water Supply Study
- 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)).

- There was Cultural Resources Investigation performed in the project's area of potential effect. The investigation, conducted by Archeological Research and Supply in March of 2019, discovered no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Hoopa Valley Tribe in 2017. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s), and a study is recommended prior to commencement of project activities. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

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 35,000 square feet of pre-existing outdoor cultivation with ancillary propagation and processing activities in a Timberland Production Zone (TPZ) zone, which requires 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 TPZ zone. 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 water stored in tanks on the property. Tanks will be filled with two permitted wells. The wells are identified in the Well Completion Reports of having an estimated yield of 20 and 60 gallons per minute, which indicates that the well is highly productive. Staff analysis concludes that the wells are unlikely to be significantly connected to surface water hydrology. No trucked water is part of the project.

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

The project uses solar photovoltaic and battery systems for energy at both cultivation sites. The project maintains two 3KW gasoline powered generators on site for emergency use. Less than significant impact

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 will not include onsite trimming activities, dried, cured cannabis will be brought to and approved site for trimming and packaging. 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)).

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

- The project includes outdoor cultivation with ancillary propagation. Conditions of approval require the applicant to implement light attenuation measures for the ancillary propagation operation. Such measures include required compliance with International Dark Sky Association standards Lighting Zone 0 and Lighting Zone 1, and requiring the project be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare (BUG). No use of artificial lighting is authorized by this permit until the applicant can demonstrate compliance with these 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 September 15, 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 the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.