

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

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

**APN 208-271-011 Dinsmore Area
County of Humboldt**

**Prepared By
Humboldt County Planning and Building Department
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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.

Special Permit for 9,365 square feet of existing outdoor commercial cannabis cultivation. Irrigation water is sourced from an existing permitted on-site well. Total water usage will be 129,000 gallons a year. Existing water storage totals 10,000 gallons. The project is conditioned to add an additional 10,000 gallons of water storage. Drying will occur on site with further processing occurring offsite at a licensed facility. Power is provided by solar with generator backup. Project is conditioned to source power from renewables, reserving the generator for emergencies only.

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 specified measures to cultural resources and to ensure 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 MND if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent Environmental Impact Report (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 9365 square feet of existing outdoor cannabis cultivation. 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 as the project is conditioned to adhere to International Dark Sky Association standards. Less than significant impact.

Agriculture and Forestry Resources: The project involves an agricultural activity on a parcel zoned Forestry Recreation (FR), with a minimum building site area is 40 acres, 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. No additional timber conversion is proposed or authorized under the permit. Less than significant impact.

Air Quality: Construction activities consist of additional water storage tanks, which require 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 would not result in significant sources of greenhouse gas emissions. The project does utilize a gravel road, and

traffic on gravel roads contribute to PM₁₀, for which the North Coast Air Basin is already in non-attainment. However, no additional employees are proposed and 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: Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in November 2021, there are no mapped sensitive species onsite. The nearest Northern Spotted Owl (NSO) sighting is located approximately .78 miles from the nearest cultivation area, while the nearest NSO activity center is located approximately 1.5 miles south-east from the nearest cultivation area on the other side of the Van Duzen River and Highway 36. Power to the site is provided by solar energy with a generator for emergencies. Because there is low potential for NSO habitat to exist on the subject parcel, however conditions of approval will require noise to be at below 50 decibels at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. Additionally, conditions of approval require generator use to cease by or before December 31, 2025. Artificial lighting is only used early in the cultivation season to nurture plants in the nursery before planting them into ground beds. Therefore, the project is conditioned to adhere to International Dark Sky Association Standards for artificial lighting associated with propagation and security lighting. Additional conditions are also included for the protection of wildlife species, including requiring the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, refrain from using anticoagulant rodenticides to further protect wildlife, and if fully contained. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species. The project is conditioned to refrain from using synthetic netting, to ensure refuse is contained in wildlife-proof storage, and to refrain from using anticoagulant rodenticides to further protect wildlife. It was determined that the project and operations will have less than significant impacts with adherence to the recommended conditions of approval. Less than significant impact.

Cultural Resources: The project is the traditional territory of the Bear River Band of the Rohnerville Rancheria. At the Rancheria's request, A *Cultural Resources Inventory Report* was prepared in June 2020 by DZC Archeology & Cultural Resource Consulting, LLC (DZC). The survey found one (1) new recorded resource that was not disturbed by cultivation activities. Recommendations in the report included: no new disturbance in the archeological site boundary and the implementation of the inadvertent discovery protocol. The report was referred to the Bear River Band of Rohnerville Rancheria for review. The Tribal Historic Preservation Officer (THPO) recommendations included capping the shared road and driveway inside the cultural site boundary (Coyote Flat Road) with culturally sterile material, and if grading is conducted in the cultural site, a cultural monitor is to be on-site, and no new ground disturbance or infrastructure shall be placed within the restricted cultural site boundaries. No grading and new infrastructure are proposed in the cultural resource area for the project. All recommendations within the report and from the Bear River THPO are included in the conditions of approval and the applicant is further conditioned to submit a Development Plan that demarcates the cultural site boundary. The Development Plan will be recorded and will specify that the noted area will be ineligible for

development without further review by the Humboldt County Planning Department. Less than significant impact.

Energy: The project is for existing cannabis cultivation. The applicant uses solar energy and a generator to power the operation. The project is conditioned to make a full transition to renewable energy by January 1, 2026. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project parcel is mapped in the County GIS as “high instability” (3). Cultivation areas are located on existing flats. However, natural slopes within the vicinity of where cultivation occurs is mapped between 15% to 20%, as per the County GIS portal. The applicant will be required to secure permits for all structures and grading related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing greenhouses, water tanks over 5,000 gallons, existing structures associated with drying, processing, and storage, or any activity with a nexus to cannabis, and any noise containment structures as necessary. Additionally, cultivation activities are limited to the immediate area surrounding the cultivation areas, and irrigation runoff and erosion control measures are implemented. Less than significant impact.

Greenhouse Gas Emissions: Power is currently provided by solar and a generator. The project is conditioned to make a full transition to renewable energy by January 1, 2026. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides, and fuel in compliance with the California Water Resource Control Board pursuant to Cannabis General Order No. WQ 2019-0001-DWQ. 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 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 project is for existing cannabis cultivation. The project will not degrade any water sources or contribute to sedimentation, as irrigation runoff, erosion control, and watershed protection measures are implemented by the project, as described in the Water Resource Protection Plan (WRRP), WDID# 1B161523CHUM, Cultivation and Operations Plan. Less than significant impact.

Land Use and Planning: The project proposes an agricultural activity on a parcel zoned as Forestry Recreation, 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 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 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. Less than significant impact.

Population and Housing: No housing is proposed nor is any removal of housing proposed. No employees are proposed as part of the project. 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 existing outdoor cannabis cultivation with ancillary propagation 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.

Recreation: The project site is private property and contains no recreational facilities nor are recreational facilities accessed through the property. The cultivation activities will protect fisheries and aquatic habitat on downslope by maintaining buffers from streams and by placing controls on the storage and use of pesticides, rodenticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and the requiring adequate road access. While supplemental lighting may be used for the appurtenant nursery, the proposed project will use a blackout curtain system to block artificial light from escaping, so there would be no glare or light pollution associated with the proposed project. The applicant is required to cultivate only in the area and structures depicted on their Site Map and no encroachment or development is authorized on any other parcels or on areas of the subject parcel not identified on the applicant's Site Map. No impact.

Transportation: The project will be staffed by no more than three workers. Access to the site is via Bear Creek Road and Coyote Flat Road, private roads off State Highway 36. A Road Evaluation Report was prepared for Bear Creek Road and Coyote Flat Road by Omsberg & Preston in August 2019. The assessment concluded that Bear Creek Road can function as a Category 4 equivalent if certain improvements are made. The submitted road evaluation included photographic evidence to verify the needed roadway improvements as described, including roadway maintenance and line of sight. In response to comments received from Department of Public Works in February 2019, the project is conditioned to improve access road maintenance (Bear Creek Road and Coyote Flat Road) as described by the Road Evaluation Report, which include installation of approximately six (6) rolling dips. Due to the number of approved and pending cultivation permits in the area, conditions of approval require the applicant to join or form a Road Maintenance Association (RMA) to share costs for road maintenance and improvements to bring privately maintained roads into Category 4 or equivalent standards. Less than significant impact.

Tribal Cultural Resources: The project is the traditional territory of the Bear River Band of the Rohnerville Rancheria. A *Cultural Resources Inventory Report* was prepared in June 2020 by DZC Archeology & Cultural Resource Consulting, LLC (DZC). The survey found one (1) new recorded cultural resource that was not disturbed by cultivation activities. Recommendations in the report include no new disturbance in the archeological site boundary and the implementation of the inadvertent discovery protocol. The report was referred to the Bear River Band of Rohnerville Rancheria for review. The Tribal Historic Preservation Officer (THPO) recommendations included capping the shared road and driveway inside the cultural site boundary (Coyote Flat Road) with culturally sterile material, and if grading is conducted in the cultural site, a cultural monitor is to be on-site, and no new ground disturbance or infrastructure shall be placed within the restricted cultural site boundaries. No grading and new infrastructure are proposed for the project. All recommendations within the report and from the Bear River THPO are included in the conditions of approval and the applicant is further conditioned to submit a Development Plan that demarcates the cultural site boundary. The Development Plan will be recorded and will specify that the noted area will be ineligible for development without further review by the Humboldt County Planning Department. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources. Less than significant impact.

Utilities and Service Systems: Green waste material is composted onsite within a small area equipped with perimeter containment. Trash and recycling are stored in contractor bags in an outbuilding prior to removal, then hauled to an approved transfer station/disposal facility. Toilet and handwashing is provided with portable rental facilities maintained on a schedule. Water for propagation and cultivation will be sourced from a groundwater well and associated existing and proposed storage tanks. Less than significant impact.

Wildfire: The project will not interfere with any evacuation plan. The project will not develop any significant new structures that will increase the risk of wildfire. The project is conditioned to create and maintain a 2,500-gallon water tank solely for fire suppression purposes. Less than significant impact.

No changes are proposed for the original MND recommended mitigation measures. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 9,365 square feet of outdoor cultivation with ancillary processing activities is fully consistent with the impacts identified and adequately mitigated in the original MND. The project is conditioned to implement responsible agency recommendations, resulting 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:

- Site Plan
- Cultivation and Operations Plan.
- Water Resources Protection Plan

- Well Evaluation Report
- County GIS
- Road Evaluation

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 the traditional territory of the Bear River Band of the Rohnerville Rancheria. As requested by the Rancheria, a *Cultural Resources Inventory Report* was prepared in June 2020 by DZC Archeology & Cultural Resource Consulting, LLC (DZC). The survey found one (1) new recorded resource that was not disturbed by cultivation activities. Recommendations in the report include no new disturbance in the archeological site boundary and the implementation of the inadvertent discovery protocol. The report was referred to the Bear River Band of Rohnerville Rancheria for review. The Tribal Historic Preservation Officer (THPO) recommendations included capping the shared road and driveway inside the cultural site boundary (Coyote Flat Road) with culturally sterile material, if grading is conducted in the cultural site, a cultural monitor is to be on-site, and no new ground disturbance or infrastructure shall be placed within the restricted cultural site boundaries. No grading and new infrastructure are proposed for the project. All recommendations within the report and from the Bear River THPO are included in the conditions of approval and the applicant is further conditioned to submit a Development Plan that demarcates the cultural site boundary. The Development Plan will be recorded and will specify that the noted area will be ineligible for development without further review by the Humboldt County Planning Department

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. 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 9,365 square feet of existing outdoor cultivation. 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 the Forestry Recreation (FR) zoning district. No new increased cultivation will occur. No timber removal has occurred in association with the project.

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)).

- Water for propagation and cultivation is sourced from a permitted groundwater well and associated storage tanks.

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

- A generator is proposed to be used until December 31, 2025. The project is conditioned to reduce generator impacts to less than significant levels.

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 the applicant provides 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 includes ancillary propagation which may include the use of supplemental lighting. Conditions of approval require the applicant to implement light attenuation measures. 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).

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

- The proposed project covers 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 28, 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.