

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 211-184-006; Honeydew Area, County of Humboldt

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March 2023

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 Conditional Use Permit for 10,800 square feet of existing Mixed Light and 1,000 square feet of existing Outdoor commercial cannabis cultivation. Annual water usage is estimated to be 110,000 gallons/ year (9.3gal/sf). Water for irrigation is sourced from an existing well. Water is stored in a bladder (20,000 gallons), and hard tanks (12,500 gallons) for a total of 32,500 gallons. Processing, including drying and trimming, occurs on-site in an existing pagoda. The applicant states that three seasonal employees are needed for operations. Electricity is sourced from a combination of generator and solar power.

A Cultural Resources Investigation was conducted by Nick Angeloff in February 2019. Two areas within the three parcel study area were identified as having cultural or historical resources and have been mapped for avoidance. All development will be outside these two identified areas, and it is noted that the potential for inadvertent discovery of such resources exists. Ongoing conditions of approval are incorporated regarding the inadvertent discovery protocol to protect cultural resources.

A review of the California Natural Diversity Database determined a Northern Spotted Owl activity center was located approximately 1.5 miles southeast of the project site. The project proposal is for pre-existing cultivation. Artificial light will only be used in the Mixed Light greenhouses which are equipped with blackout tarps to eliminate light from escaping the structures from a half hour prior to sunset and a half hour after sunrise. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact Northern Spotted Owl or other sensitive species.

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 commercial cannabis cultivation in an existing graded flat in 3-4 greenhouses. The project will not significantly impact scenic vistas or public views as the parcel is secluded and not easily observable from neighboring properties. The project is consistent with the visual character of the area. The project will not create a source of light or glare, as it has been conditioned to require blackout tarpaulins area utilized to prevent any light escaping between dusk and dawn daily, when in use. No impact.

Agriculture and Forestry Resources: The project will utilize land with a zoning designation of Unclassified (U) for continued cannabis cultivation purposes as contemplated in the MND. The project will not convert prime farmland or conflict with existing zoning 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: Project site is developed already with three Mixed Light cultivation greenhouses, a residence, a 36' x 52' structure for drying, curing, and storage of commercial cannabis materials, and water storage facilities. Since development has already occurred project will not expose sensitive receptors to pollutants. Nearest neighboring residence is approximately 2,000 feet away, so creating objectionable odors affecting a substantial number of people is of low likelihood.

Project utilizes a combination of solar and generator power. Solar is installed at the residence and provides power for the drying and curing of cannabis. Generator use provides power for the Mixed Light greenhouses, including artificial lighting and circulation fans. The generator use is limited to a single 20 kilowatt (kW) Whisper Watt brand appliance, which is required to operate in accordance with North Coast Air Quality Management District (NCAQMD) standards. Less than significant impact.

Biological Resources: A list of potential special status species was generated in January 2023 using the California Native Diversity Database (CNDBB). The project site is located approximately 1.5 miles from the nearest Northern Spotted Owl activity center. Greenhouses using artificial lighting will be covered with light deprivation tarpaulins from dusk until dawn daily, when in use. Additionally, generator noise is conditioned to be attenuated to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer. Less than significant impact.

Cultural Resources: Project as referred to affected tribal entities, including Northwest Information Center (NWIC) and Bear River Band of the Rohnerville Rancheria. A subsequent Archaeological Survey was conducted by Nick Angeloff in February 2019, which included three adjacent parcels under common ownership. While the study determined the presence of culturally sensitive materials and areas, the cultivation is limited to areas outside these locations and the project is conditioned with inadvertent discovery protocol for any ground disturbing activities. Most of the development has already occurred, so likelihood of impacts to sensitive cultural and archaeological resources is low. No Impact.

Energy: The preexisting cultivation relied on solar and generator based power, which was contemplated within the MND. Continuing with this baseline condition is consistent with the findings of the MND. However, project conditions and plans submitted by the applicant indicate a grant has been approved to convert the entire operation to solar power with a battery storage array and generator serving only as backup in emergency scenarios. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. The project occurs on existing graded flats that have historically been used for cannabis cultivation. No significant grading will occur. Less than significant impact.

Greenhouse Gas Emissions: The site uses a combination of solar and generator to power the

project. The use of a generator to support preexisting cannabis cultivation as contemplated by the MND as part of baseline conditions. Less than significant impact.

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

Hydrology and Water Quality: The project is for a total of 11,800 square feet of cannabis cultivation on existing graded flats. Irrigation water is sourced from an onsite well that has been evaluated by a state licensed hydrogeologist and determined to unlikely be connected to any surface waters, or nearby wells and springs. Additionally, the project shall adhere to the state waterboard requirements for winterization of the site, including periodic assessment of site runoff to prevent any erosion, sedimentation, or nutrient runoff to surface waters. A Site Management Plan has been created for the project and lists 18 specific site upgrades necessary to ensure protection of water quality. Project conditions require applicant to address these items within a designated timeframe. No Impact.

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

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

Noise: The project is located near public lands, and is approximately 2,000 feet away from any neighboring residence. Generator noise is to be attenuated to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer, so noise is conditioned to be minimized. Additionally, noise from generator cannot be audible from neighboring residences, or more than 60 dB at the parcel line. Less than significant impact.

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

Public Services: The project is for 11,800 square feet of cannabis cultivation on a site where agriculture is the historical dominant use. The project will not increase the need for fire or law enforcement services. The project is not within 600 feet of a park or a school, but both federal and state publicly owned lands are within 600 feet of the project site. A Special Permit is

required to reduce setback requirements from Public Lands. However, the project site allows no public access to these public lands, and conditions limit the volume of noise produced by the operation. Less than significant impact.

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

Transportation: Two onsite operators and up to three seasonal workers will support the operation. Licensed engineer Allan Baird, which concluded that the access was sufficient for the commercial traffic. The project site will also have adequate emergency access. Less than significant impact.

Tribal Cultural Resources: Project as referred to affected tribal entities, including Northwest Information Center (NWIC) and Bear River Band of the Rohnerville Rancheria. A subsequent Archaeological Survey was conducted by Nick Angeloff in February 2019, which included three adjacent parcels under common ownership. While the study determined the presence of culturally sensitive materials and areas, the cultivation is limited to areas outside these locations and the project is conditioned with inadvertent discovery protocol for any ground disturbing activities. Most of the development has already occurred, so likelihood of impacts to sensitive cultural and archaeological resources is low. Less than significant impact.

Utilities and Service Systems: Solid waste is taken offsite to a municipal transfer station. The site is developed with Onsite Wastewater treatment System (OWTS) assessed by a licensed engineer to be appropriately sized for the operation and number of employees proposed. Securing permits for the OWTS from Humboldt County Division of Environmental Health (DEH) will be a term and condition of approval. 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. All structures with a nexus to commercial cannabis cultivation will comply with all building and fire codes. Less than significant impact.

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 10,000 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 and Plot Plan
- Light Pollution Control Plan

- Site Management Plan
- Groundwater Analysis
- Road Evaluation
- Cultural Resources Investigation
- 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 Mitigation Monitoring and Reporting Program

Mitigation Measure 1: Required setback from tribal cultural resources and tribal consultation process (55.4.11(d) and 55.4.10(n)).

- The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation was performed by Nick Angeloff. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval, and avoidance of two areas within the three-parcel assessment. The project site meets or exceeds the setbacks from tribal cultural resources.

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

- The project is for existing cultivation and project approval includes a compliance agreement to cure unresolved violations of state or county code.

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

- The project is located within the inland portion of the county and is subject to the setback standards in the Streamside Management Areas and Wetlands Ordinance as well as Chapter 10 (Conservation and Open Space Elements) of the General Plan. The project site meets or exceeds the setbacks to streamside management areas.

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

- The project is for 11,800 square feet of existing cultivation in a Unclassified (U) zone

which requires a Conditional Use Permit. The project complies with the requirements described in 55.4.8.2 *et seq.*

Mitigation Measure 5: Retirement, Remediation, and Relocation Program (55.4.14 *et seq.*)

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

Mitigation Measure 6: Cannabis Cultivation on Forest Lands

- This project is for existing cultivation consistent with baseline conditions which is eligible in a Unclassified (U) zone. No new increased cultivation will occur. There was tree removal conducted prior to January 1, 2016 which was assessed by a Registered Professional Forester for compliance with CalFire regulation.

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

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

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

- The project uses a permitted and likely hydrologically disconnected (per licensed hydro engineer) groundwater well for irrigation. The project is further conditioned disallowing the use of trucked water except in an emergency.

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

- The project uses a generator to supplement PV system. The project is conditioned requiring that noise from the generator will not exceed 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer, and no more than 60 dB at the property line. Generator noise cannot be audible from neighboring residence(s).

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

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

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

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

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

- The project is for a combination of Outdoor and Mixed Light. Project conditions require shielding of artificial lighting from dusk until dawn daily, when in use, to prevent any light escape and ensure adherence to International Dark Sky Association 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 August 4, 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.