

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 220-082-020; Ettersburg 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 16,800 square feet (SF) of existing outdoor commercial cannabis cultivation, with 1,900 SF of ancillary propagation. Two harvests are anticipated annually with the use of light-deprivation techniques. Water for irrigation is sourced from an existing permitted well (permit# 18/19-1012). The applicant has obtained a Well Assessment Report for the well. The projected annual water usage totals 280,000 gallons (15 gallons/SF/year) and water storage on-site totals 76,800 gallons in hard sided storage tanks. Processing and trimming will occur on-site in an existing building. Power is provided by a 12.5 kW solar array, and one emergency backup generator will be on-site. No employees are required for the project, however the applicant will utilize help from family members.

The site is owner-operated with the use of family members, and there is an existing septic system within the Residence on-site. Processing and trimming will occur within the existing processing building on-site. The project was referred to the Department of Environmental Health (DEH) on December 11, 2020, and comments were received on January 26, 2021. Comments from DEH included that processing activities must be supported by an approved onsite wastewater treatment system, or that seasonal/outdoor cultivation sites may be supported by portable toilets, and the applicant must obtain a permit for and install an approved onsite wastewater treatment system to support the processing location. The applicant shall obtain a septic permit for the existing onsite wastewater treatment system, or shall install a new system permitted with DEH.

The project will include nine (9) light-deprivation greenhouses without the use of supplemental lights, and one (1) ancillary propagation greenhouse. Other buildings used for cultivation activities include: one (1) processing/storage building, one (1) office, one (1) solid waste shed, two (2) shipping containers for storage, and one (1) curing building. The project was referred to the Building Division on December 11, 2020, and a building inspection was conducted on January 5, 2021. Comments from the Building Division included a recommendation of approval

based on the condition that all required permits are obtained. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: nine (9) light-deprivation greenhouses, one (1) ancillary propagation greenhouse, one (1) processing/storage building, one (1) office, one (1) solid waste shed, two (2) shipping containers for storage, and one (1) curing building. Historic grading has occurred on the site in association with the cannabis cultivation. The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division. Power is sourced by a solar array with the capacity to provide 12.5kW of power to the site. The applicant shall permit the solar system on-site with the Building Division.

The Assessor's Parcel Number (APN) 220-082-020 contains three (3) separate parcels, two (2) of which are legal parcels, and one (1) that is not a legal parcel where most of the cultivation exists. The applicant has gone through a Notice of Merger (under Record Number PLN-14239-DS) to combine two (2) of these parcels to make them one legal parcel. The final configuration of the legal parcel is seen as the shaded section on the Site Plan. The merged parcels will receive a new APN.

Fire Hazard

The parcel is located in an area known to have a High Fire Hazard Severity, and is within the Telegraph Ridge Fire Protection District for local fire response. The applicant will obtain a will serve letter from the Telegraph Ridge Fire Protection District, or shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. The project is located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on December 11, 2020. Comments were received by CalFire on December 17, 2020, and the agency stated that they had no comments regarding the project at that time. The Site Plan shows a firetruck turnaround, and the applicant is required to have a minimum of 2,500 gallons of water storage designated for fire suppression needs only. The applicant shall designate a minimum of 2,500 gallons of on-site water storage for emergency fire suppression and is conditioned to provide an updated Site Plan to the Planning Division to show the designated fire suppression water storage on-site. The designated fire suppression tank shall also have the appropriate fire hose that meets CalFire SRA requirements.

Water Resources

The project sources water from a permitted well on-site (Permit #18/19-1012). Estimated annual water needed for irrigation is approximately 280,252 gallons of water (15 gal/SF/yr). There are twelve (12) 5,000-gallon hard tanks and six (6) 2,800-gallon hard tanks, for a total of 76,800 gallons of existing water storage on-site for irrigation needs. There is a separate well (Permit #16/17-0837), which is used for domestic purposes only.

The applicant has obtained a Well Assessment Report (WAR) for well Permit #18/19-1012, prepared by licensed geologist David Lindberg with Lindberg Geologic Consulting, dated July 25, 2022. The WAR states that a site visit was conducted on June 13, 2022 to observe the well and local site conditions. It was determined that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands or other surface water features. The well completion report created by Fisch Drilling,

estimated the yield of the well at 6 gallons per minute on October 14, 2020. The well is located approximately 700 feet to the nearest watercourse Painter Creek, which is located east of the well at an elevation of approximately 1,218 feet above sea level. The well is at an elevation of approximately 1,345 feet above sea level, and has a depth to first water at 48 feet below ground surface. The well is sealed through the upper 20 feet of any potential unconfined, near-surface aquifers with which it might communicate hydraulically through the borehole because the bentonite-sealed surface casing isolates the topsoil, brown sandstone, and shale materials from the deeper blue sandstone aquifer. The shale section of the well is on an aquitard with low permeability and transmissivity. The WAR concludes that the well draws water from a confined subsurface aquifer not connected to any unconfined near-surface aquifer(s), and estimates that the aquifer has a recharge rate of approximately 18 million gallons per year.

The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B171395CHUM. The applicant has a Water Resource Protection Plan (WRPP) that was prepared by Dan Mar with Compliant Farms Certified, to address measures needed for the site to meet the standard conditions of the Order. The applicant shall adhere to the monitoring, maintenance and protocols listed in the table of the WRPP.

The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. The applicant has submitted a Notice of Applicability letter dated September 6, 2019, showing enrollment in the General Order as a Tier 1 Low Risk site. The applicant is required to have a Site Management Plan (SMP) prepared for the project site to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP report to the Planning Division, and to adhere to the corrective actions and ongoing monitoring and winterization methods recommended in the final SMP.

The applicant has obtained a Streambed Alteration Agreement with the California Department of Fish & Wildlife (CDFW) for the in-stream work needed to upgrade five (5) culverts on-site (SAA No. 1600-2019-0160-R1). The applicant shall adhere to the project description and work outlined within the SAA No. 1600-2019-0160-R1.

Biological Resources

The project is located approximately 1.2 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site does not contain potential habitat areas for any rare or endangered species. As the project is for pre-existing activities, and no new ground disturbance is proposed, no Biological Assessment was required. The project was referred to CDFW on December 11, 202, and no comments were received. The applicant is required to comply with International Dark Sky Standards, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

Tribal Cultural Resource Coordination

The applicant has submitted a Cultural Resource Investigation prepared by William Rich and Associates dated November 2021. A comprehensive field survey was conducted on October 6,

2021. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. The project was referred to the Bear River Band of Rohnerville Rancheria, Intertribal Sinkyone Wilderness Council, and the Northwest Information Center (NWIC). A response was received from the Bear River Band and NWIC, both of which recommended that a survey be completed. The Cultural Resource Investigation was forwarded to the Bear River Band and the Intertribal Sinkyone Wilderness Council. A response was received from the Bear River Band THPO stating that they agreed with the findings in the CRS report. The applicant shall adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Access

Access to the project site is from 0.7 miles of privately maintained Eubanks Road, from County maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The project was referred to the Department of Public Works on December 11, 2020, and comments were received by the agency on December 28, 2020. Comments from Public Works stated that the intersection of Eubanks Road and County maintained Ettersburg Honeydew Road has been improved, and recommends that the applicant contact and join the road maintenance association. The site will be operated by family members who live on the site. The operations are pre-existing, and no increase in traffic is anticipated.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

Planning staff determined that approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 233 cultivation permits and the total approved acres would be 81.8 acres of cultivation.

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 in an existing flat. The project will not significantly impact scenic vistas or public views as the project site is surrounded by trees and other agricultural sites. The project is consistent with the agricultural visual character of the area. The project will not create a source of light or glare. No impact.

Agriculture and Forestry Resources: The project will utilize unclassified 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: No new construction activities are associated with 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. No impact.

Biological Resources: The project is located approximately 1.2 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site does not contain potential habitat areas for any rare or endangered species. As the project is for pre-existing activities, and no new ground disturbance is proposed, no Biological Assessment was required. The applicant is

required to comply with International Dark Sky Standards for lighting the immature plant area, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use. Less than significant impact.

Cultural Resources: The applicant has obtained a Cultural Resource Investigation prepared by William Rich and Associates dated November 2021. A comprehensive field survey was conducted on October 6, 2021. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. No impact.

Energy: The project will obtain power from a 12.5 kW solar array, and one emergency backup generator will be on-site for emergency purposes only. Cultivation will be outdoor with no use of lights. 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 flat land that has historically been used for agriculture. No significant grading will occur. No impact.

Greenhouse Gas Emissions: The site utilizes a 12.5 kW solar array for the minimal power needed for drying and lights in the propagation greenhouse. Cultivation is outdoor with no lights. There will be one emergency backup only generator on-site. The site will be run by family members who live onsite, the operations are pre-existing and no increase in traffic is anticipated. 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 16,800 square feet of cannabis cultivation in existing open flats. 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 will be irrigated with a drip irrigation system. The project will utilize a well, which has been determined to have a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands or other surface water features. 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 12.5 kW solar array, and one emergency backup generator will be on-site for emergency purposes only. Noise sources from the operation will include drying activities, which will occur within an enclosed structure. Drying activities would involve the use of fans. The temporary noise impacts from these activities would not create a substantial increase in noise levels. There is no reason to believe the noise source will be increased substantially on-site. The project is required to ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use. 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 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 16,800 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. 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: Access to the project site is from 0.7 miles of privately maintained Eubanks Road, from County maintained Ettersburg Honeydew Road. The intersection of Eubanks Road and County maintained Ettersburg Honeydew Road has been improved, and the applicant will join the road maintenance association for the Eubanks Road. The site will be operated by family members who live on the site. The operations are pre-existing, and no increase in traffic is anticipated. The project site will also have adequate emergency access. No impact.

Tribal Cultural Resources: The applicant has obtained a Cultural Resource Investigation prepared by William Rich and Associates dated November 2021. A comprehensive field survey was conducted on October 6, 2021. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. No impact.

Utilities and Service Systems: Solid waste is taken to the Redway Transfer Station in an amount the service station is capable of handling. The project will utilize an existing onsite wastewater treatment system connected to the residence. Water for propagation and cultivation is sourced from a permitted well on-site. Power is sourced by a 12.5 kW solar array. 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 16,800 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:

- Addendums to Cultivation & Operations Plan and Cultivation & Operations Plan
- Site Plan
- Final Streambed Alteration Agreement with CDFW
- Notice of Applicability letter from the State Water Resources Quality Control Board
- Water Resource Protection Plan
- Well Assessment Report prepared by licensed geologist David Lindberg
- Department of Environmental Health Worksheet
- 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 applicant has obtained a Cultural Resource Investigation prepared by William Rich and Associates dated November 2021. A comprehensive field survey was conducted on October 6, 2021. No tribal cultural resources were identified in the assessment area. The

project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol.

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 parcel does not contain any streams or wetlands and meets the setbacks required from property lines, schools, school bus stops, church or other place of religious worship, Public Park or tribal cultural resource.

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

- The project is for 16,800 square feet of pre-existing cultivation in an 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)

- 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 Unclassified (U) 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 a permitted well 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 a 12.5 kW solar array, and one emergency backup generator will be on-site for emergency purposes only. The project is required to ensure that all

noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

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 required to adhere to International Dark Sky Standards for all lighting in the propagation greenhouse.

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 20, 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.