

**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 216-094-009-000; New Harris 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.

A Conditional Use Permit for 11,762 square feet of existing outdoor light deprivation and full-term cannabis cultivation. The irrigation need is 252,000 gallons per year (21.4 gallons per ft²). Water is sourced from three onsite rainwater catchment ponds. Water storage for irrigation consists of one (1) 162,000-gallon pond, one (1) 140,000-gallon pond, one (1) 90,000-gallon pond, 21 5,000-gallon hard tanks, three (3) 10,000-gallon hard tanks, one (1) 24,000 gallon metal tank, seven (7) 3,000 gallon poly tanks, two (2) 5,000 gallon poly tanks, two (2) 1,000 gallon tanks, one (1) 500 gallon tank, and one (1) 300 gallon tank for a total of 605,400 gallons of water storage. Processing activities including drying, curing, and trimming occur onsite within a 968 square foot building. Power is provided through a mix of solar and generator use.

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 existing cultivation and the existence of greenhouses was contemplated as part of the baseline conditions for the Mitigated Negative Declaration. The onsite relocation and consolidation of cultivation areas will decrease the aesthetic presence of the operation. The project is consistent with the agricultural visual character of the area. The project as conditioned will not create a source of light or glare. Less than significant impact.

Agriculture and Forestry Resources: The project will utilize agricultural land for agricultural purposes as contemplated in the Mitigated Negative Declaration. 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 net conversion of forest land to non-forest use. No impact.

Air Quality: Minimal construction activities are associated with this project. The project will not expose sensitive receptors to pollutants or create objectionable odors affecting a substantial number of people. The project does utilize an unpaved road. The use of the existing unpaved road for this cannabis project is not a substantial change or additional significant impact not considered under the baseline conditions for the Mitigated Negative Declaration. Less than significant impact.

Biological Resources: Review of the California Natural Diversity Database (CNDDDB) indicates that the nearest mapped Northern Spotted Owl activity center (HUM0019) is on the project parcel approximately 800 feet north of GH#5. The only area that will utilize lighting is the nursery inside the completely enclosed building. Per the operations plan, structures using artificial light will have blackout tarps manually pulled to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes 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 the Northern Spotted Owl. Less than significant impact.

Cultural Resources: The project site contains agricultural related structures such as greenhouses. No historical resources are present or will be affected by the project. The project is not anticipated to impact any cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. Less than significant impact.

Energy: The project sources electricity from solar and a generator which will transition to renewable energy by January 31, 2026, reserving generator use for emergencies only. Less than significant impact.

Geology and Soils: No new structures are proposed that would expose people to risk of life from earthquakes. No new grading will occur. Less than significant impact.

Greenhouse Gas Emissions: Generator usage will be phased out by January 31, 2026, and limited to emergency situations only. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment 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 very high fire risk. Buildings are located in existing clearings with adequate defensible space. Less than significant impact.

Hydrology and Water Quality: The project obtains water from three (3) man-made ponds. The ponds include two (2) lined instream pond that capture water from two (2)

unnamed class III tributaries to Jewett Creek and a third rainwater catchment pond. The applicant has obtained a final Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to Nine (9) encroachments were to be mitigated on the project parcel (LSAA No. 1600-2017-0559-R1). The applicant shall adhere to the project description and work outlined within the LSAA and renew the expired LSAA with CDFW as a condition of approval. 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: Noise sources from the operation will include typical farm equipment. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The project is conditioned to not produce noise of more than 50 dB at 100 feet or the forest edge, whichever is closer. There is no reason to believe noise will be increased substantially onsite. 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 existing 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 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. No impact.

Transportation: The project will have up to two employees which is consistent with the baseline conditions recognized by the Mitigated Negative Declaration. A road evaluation concludes that access roads function at equivalent to a category 4 if recommended improvements are made. The project includes conditions to improve visibility and drainage conditions along the access roads. Less than significant impact.

Tribal Cultural Resources: The project site is not located within mapped Aboriginal

Ancestral Territories. The project was referred to the Northwest Information Center (NWIC). NWIC recommended a Cultural Resource Study be conducted for the project parcel. The applicant has submitted a Cultural Resource Investigation prepared by Arsenault & Associates, dated February 19, 2021. A comprehensive field survey was conducted, and no cultural artifacts were found. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. Less than significant impact.

Utilities and Service Systems: The project was referred to the Division of Environmental Health (DEH). DEH specifies that the applicant must demonstrate that a properly functioning onsite wastewater treatment system serves the operation. This can be accomplished by either installing a new, permitted septic system; or by providing DEH with an assessment of the existing system performed by a qualified professional engineer, geologist, soil scientist, or REHS that certifies that the existing system complies with the State RWQCB definition of a Tier 0 system - not impairing groundwater or surface water resources. 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 project 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 Site Plan
- Water Resource Protection Plan
- Lake and Streambed Alteration Agreement (expired)
- Cultural Resource Study
- Road Evaluation
- 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(o) and 55.4.10(c)).

The project site is not located within mapped Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC). NWIC recommended a Cultural Resource Study be conducted for the project parcel. The applicant has submitted a Cultural Resource Investigation prepared by Arsenault & Associates, dated February 19, 2021. A comprehensive field survey was conducted, and no cultural artifacts were found. 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 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 contains surface waters, and the project site meets or exceeds the setbacks to streamside management areas. A final Lake and Streambed Alteration Agreement (LSAA) was executed with the California Department of Fish and Wildlife on February 26, 2018 (No. 1600-2017-0559-R1). The LSAA is expired and had a required completion date not later than July 15, 2019. Work for Crossing 3 (see referral comment in Attachment 4) has not been completed, nor has the applicant submitted a work completion report. The applicant shall renew the LSAA with CDFW and complete all work followed by a reporting submittal to CDFW as a condition of project approval. The applicant shall remove all infrastructure and debris from the stream channel and SMA

within 30 days of project approval. As a condition of approval, the applicant shall decommission the road and construct water bars to mitigate road runoff to the streams. 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-foot or any tree line when noise generating equipment are in use.

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

- The project is for existing cultivation on a parcel zoned Unclassified (U). The total amount to cultivation 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 existing cultivation consistent with baseline conditions which is eligible in a U zone. No new increased cultivation will occur. The continued operation and the onsite relocation will not result in additional conversion of timberlands.

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 rain catchment and diversions from onstream ponds for irrigation. The applicant will refrain water diversions during the forbearance period. The project is further conditioned disallowing the use of trucked water except in an emergency.

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

- Generator use will be phased out in favor of renewable energy by January 31, 2026, reserving generator use to emergency situations only.

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 will conduct onsite processing with no employees proposed.

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

- The project is conditioned to comply with 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 June 27, 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.