

**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 215-271-002; Whitethorn Area, County of Humboldt

**Prepared By
Humboldt County Planning and Building Department
3015 H Street, Eureka, CA 95501**

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Background

Modified Project Description and Project History –

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the Mitigated Negative Declaration (MND) that was adopted for the ordinance to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015, was included in the environmental baseline for the MND and the MND states that “Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting.” The current project was contemplated by the MND and compliance with the provisions of the CMMLUO will fully mitigate all environmental impacts of the project to a less than significant level.

The modified project involves a Zoning Clearance Certificate for Humboldt Sun Kissed Farm and Research Facility for new 10,000 square foot mixed light cultivation (2-3 cycles per year). The cultivation activities will take place within raised beds in five 2,000 square foot greenhouses. All processing of mature plants will take place off site at a licensed processing facility. The applicant's water source is a 900,000-gallon rainwater catchment pond. The projected water usage is about 100,000 gallons a year. Power is to property supplied by PG&E. The applicant will employ two permanent employees and five seasonal employees for a maximum of five days per month. Humboldt Sun Kissed Farm and Research Facility is enrolled with the North Coast Regional Water Quality Board as a Tier 2 discharger.

No known significant archaeological resources are in the project area. An Inadvertent Discovery Protocol was established if any cultural resources are to be encountered during construction. The contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

A review of the California Natural Diversity Database did not indicate any known rare or endangered species on or near the project area. The project proposal is for pre-existing cultivation. Artificial light will only be used in the ancillary nursery which is 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, based on 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 mixed light cannabis cultivation in an existing agricultural field, along with approximately 10,000 square feet to be cultivated in five (5) 2000 square foot greenhouses with raised beds. The project will not significantly impact scenic vistas or public views. The project will utilize 100% light resistant, specifically designed tarps will be automatically pulled over the inside of the greenhouses to avoid any light escape.

Agriculture and Forestry Resources: The project will utilize agricultural 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: Minimal construction activities are associated with the project. All construction activities are associated with the development of five 2000 square foot greenhouses, a proposed 1800 square foot storage shed. The property also contains a previously developed 900,000 rainwater catchment pond all of which will 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 PM-10, for which the North Coast Air Basin is already in non-attainment, however the EIR for the CCLUO identified this as a significant and unavoidable impact and a Statement of overriding considerations was made by the Board of Supervisors. The use of this gravel road for this cannabis project is therefore not a substantial change or additional significant impact not considered under the EIR.

Biological Resources: The project is located in Humboldt County, in the Whitethorn area, on the north and south side Moonlight Meadow Lane, approximately 700 feet south from the intersection of Briceland Thorne Road and Moonlight Meadow Lane. The land to the north, east and west are privately owned forested lands. Much of the site is forested and hilly. The land to the south is agricultural zoned open space.

According to California Natural Diversity Database, the parcels in question do not contain sensitive plant or animal species, nor species of concern. Less than significant impact.

Cultural Resources: A Cultural Resource Survey was completed for the project area by William Rich and Associates in May 2017. No archaeological or historic resources were identified. No Impact.

Energy: The project is for outdoor cannabis cultivation with on-site drying and off-site processing. All energy will be provided by Pacific Gas and Energy. No generators are utilized at this location. Less than significant impact.

Geology and Soils: The new structures proposed will 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.

Greenhouse Gas Emissions: The site uses Pacific Gas and Electric grid electricity. The project does not include a generator for emergency purposes. Less than significant impact.

Hazards and Hazardous Materials: The project will store fertilizers, herbicides and fuel for use in farm equipment existing storage structure. 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 10,000 square feet of cannabis cultivation in five greenhouses. The project will not degrade any water sources or contribute to sedimentation. The project has obtained an LSAA for water diversion and storage through the Department of Fish and Wildlife (DFW)

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 is located on actively managed agricultural land. The area has been in agricultural production in past years. Noise sources from the operation will include typical farm equipment such as tractors. The construction and operation of the greenhouses would create minimal noise. The applicant has created an approved on-site drying structure equaling 2400 square feet. Drying would involve the use of dehumidifiers and fans. The temporary noise impacts from these activities would not create a substantial increase in noise levels. The operation will also be utilizing fans within the greenhouses. There is no reason to believe the noise source will be increased substantially onsite. The project will not result in the generation of excessive ground borne vibration or noise levels. No impact.

Population and Housing: The project is for mixed light cannabis cultivation. A single family was proposed for onsite housing and security purposes in 2018. However, to date no housing has been built on the site. 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 10,000 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. No impact.

Transportation: The operation intends to have one manager, one lead cultivator, one full time Assistant Cultivator, and up to three seasonal labor positions for an estimated total of approximately six employees maximum at the Project site at any given time. A peak of 3 employees during the cultivation season and a peak of 6 employees during the processing seasons are expected.

Road maintenance inspections will be conducted during all *major rain events*. The permit holder considers a *major rain event* to be any rainfall above one-half inch (1/2"). This inspection will include observing existing features for any minor or major issues, such as rolling dips, standing water in outlets, and the diversion of water running directly down and eroding the road surface. Implementation of corrective traffic procedures will occur to reduce traffic on our roads. Transportation and deliveries of medical cannabis and associated supplies will be delivered in bulk to minimize road impacts.

The parcel is accessed from Briceland-Thorne Road via Moonlight Meadow Lane. It has been 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: No cultural resources were identified on the site according to a Cultural Resource Investigation completed by William Rich and Associates in May 2017. The lead agency consulted with local tribes through the project referral process. The project will adhere to the Inadvertent Discovery Protocol. Less than significant impact.

Utilities and Service Systems: Solid waste is taken to the Eel River Recovery Redway Transfer Station in an amount the service station is capable of handling. The project will provide one ADA compliant portable toilet and handwashing station for cultivation. Water for propagation and cultivation is sourced from an onsite rainwater catchment pond. 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 other than five 2000 square foot green houses and Drying Building. All structures 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 new cannabis cultivation site consisting of 10,000 square feet of cultivation, a non-commercial nursery and drying building are 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 projects 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
- Site Management Plan
- County GIS
- Cultural Resources Investigation

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 55.4.11(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 William Rich and Associates. 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. 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 new cultivation and is not subject to a compliance agreement.

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. A Streambed Alteration Agreement, Section 1602, has been approved for the existing point of division for irrigation from an unnamed tributary to the Mattole River.

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

- The project is for 10,000 square feet of new outdoor cultivation on two parcels totaling 23.2 acres zoned Residential Agriculture (RA5-20). Therefore, a Zoning Clearance Certificate is allowed. 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 new cultivation and does not occur on FR, TC, or TPZ zoned lands.

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.

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

- The project uses a diversionary water source for irrigation and is therefore condition to forebear from May 15th to October 31st of each year. 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 does not use a generator for main power or for backup.

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).

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

- He applicant utilizing artificial mixed-light cultivation will shield greenhouses so that little to no light escapes. Light will not escape at a level that is visible from neighboring properties between sunset and sunrise.
- The light source will comply with the International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and 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 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 2, 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.