

Exhibit "A"

July 20, 2020

**Addendum to the Mitigated Negative Declaration (MND: SCH#2016112028 Adopted April 4, 2017 by  
the Mendocino County Board of Supervisors) for the County of Mendocino Cannabis Cultivation  
Regulations**

Commercial Cannabis Accommodation Combining District

Rezone Application R\_2019-0009

Assessor Parcel Numbers: 160-150-11, 160-150-22, 160-150-39, 160-150-40, 160-190-12, 160-190-13,  
160-190-14, 160-200-27, 160-200-32, 160-200-33, 160-200-34, 160-200-35, 160-200-36 and 160-200-37

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Planner II

This Addendum has been prepared in accordance with Section 15164 Article II, Title 14 of the California Code of Regulations (CCR) as required by the California Environmental Quality Act (CEQA) and serves as an Addendum to the previously adopted Mitigated Negative Declaration (MND; SCH#2016112028) for the Mendocino Cannabis Cultivation Regulations. The County of Mendocino was the lead agency for the environmental review of the Cannabis Cultivation Regulations.

## **BACKGROUND**

The Mendocino County Board of Supervisors adopted Ordinance No. 4381 on April 4, 2017, adding Chapters 10A.17 and 20.242 and a Mitigated Negative Declaration (MND) was adopted by Resolution Number 17-042 for the ordinance. The provisions of the ordinance intended to regulate production by licensed operators and provide clear standards and permitting pathways to help bring baseline cannabis cultivation activities into compliance with existing regulatory frameworks. The ordinance outlines pathways for compliance with new and existing regulations that provide for local review, inspection and oversight ultimately reducing potential environmental effects from existing and proposed cultivation activities. The Board of Supervisors then adopted various amendments to Chapters 10A.17 and 20.242 of County Code that adjusted specific provisions further allowing continuance of current cultivation activities for qualified applicants.

Impacts discussed in the MND were primarily focused on methods to reduce and ultimately eliminate clandestine cannabis cultivation activities occurring in remote and off-grid environments throughout the county. Cannabis cultivation facilities exclusively powered by generators that operate for extended periods produce significant levels of emissions compared to operations with access to grid-supplied energy via public utility. Unauthorized water diversions from natural waterways contribute to the dewatering of streams and provide a mechanism for sediment delivery from land disturbance and pollutant discharge such as pesticides. To attenuate these impacts, the MND proposed changes to the ordinance as mitigating actions required for projects covered in the MND. Even still, many existing small commercial operations were too constrained by the development standards in the code related to cannabis cultivation operations to meet the minimum requirements for obtaining a cultivation permit.

As such, the Mendocino County Board of Supervisors directed that a Request for Proposals (RFP) be circulated to identify and implement strategies to facilitate the permitting of commercial cannabis uses throughout the County. Specific areas of concern were identified and the Board subsequently requested analysis of the potential use of Overlay Zones or Combining Districts to allow for existing cultivation activities to continue in some zoning designations and total prohibition of cultivation activities in others. Two types of districts were ultimately established with corresponding new chapters to the zoning code. Chapter 20.118 created Cannabis Accommodation (CA) Combining Districts to support continued operation of existing cultivation sites and Cannabis Prohibition (CP) Combining Districts in Chapter 20.119 intended to prohibit commercial cannabis use and end existing permitted commercial cannabis use. On May 22, 2018, the Board of Supervisors adopted Resolution NO. 18-076 which included an addendum to the MND to allow for applications to be processed for Accommodation and Prohibition Combining Districts. In doing so, the County reviewed the provisions of the California Environmental Quality Act (CEQA) and the CEQA Guidelines, including Section 15162 (Subsequent EIRs and Negative Declarations) and Section 15164 (Addendum to an EIR or Negative Declaration). Cannabis Accommodation Combining Districts will only allow the permitting of cultivation sites that can demonstrate prior existence and will not provide a basis for permitting new cultivation sites. Additionally, the robust permitting processes includes site inspections and required compliance with County, regional

and state permitting standards, the potential for negative impacts resulting from unpermitted cultivation is reduced through the process of securing and maintaining a cannabis cultivation permit.

## **PURPOSE**

As provided in Section 15164 of the California Environmental Quality Act (CEQA), the lead agency shall determine whether an Addendum is the appropriate document to analyze proposed modifications to a project. In the case with the subject Rezone application R\_2019-0009, the applicant seeks to create the Commercial Cannabis Accommodation Combining District. If approved, the existing cannabis cultivation operations can operate with greater flexibility in the development standards related to cannabis cultivation and alleviate the ‘Sunset Provision for Residential Districts’ and continue operation.

## **DECISION ANALYSIS**

Establishment of a new Cannabis Accommodation District constitutes a “project” subject to CEQA which precipitates the requirement for further environmental review under the California Environmental Quality Act. Section 15162 of the California Environmental Quality Act explains that when a Mitigated Negative Declaration (MND) has been adopted for a project, no subsequent MND 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 will require major revisions of the previous mitigated negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous mitigated negative declaration 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 mitigated negative declaration was adopted shows any of the following:
  - a. The project will have one or more significant effects not discussed in the previous mitigated negative declaration;
  - b. Significant effects previously examined will be substantially more severe than shown in the previous mitigated negative declaration;
  - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one of more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative; or
  - d. Mitigation measures or alternative which are considerably different from those analyzed in the previous mitigated negative declaration would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

No additional mitigation is required. Creation of the district itself does not affect the effectiveness of the mitigation measures outlined in the adopted Mitigated Negative Declaration as there will be no additional environmental impacts associated with establishing the district. The Cannabis Accommodation (CA) Combining Districts allow existing cannabis cultivation operations that are actively seeking County

approval or cultivation permits flexibility of regulations and ultimately provide standards and permitting pathways to bring baseline commercial cannabis cultivation activities into compliance. As part of the cannabis cultivation permitting process for legacy applicants, proof of prior cultivation functions as an eligibility requirement, an affirmation that existing cultivation activities were in operation in 2016 or earlier. Cultivation sites for which applicants seeking permits, are subject to inspection and must comply with applicable regulations and any requirements applied through the cannabis permit review process, as well as review and permitting by regional and state agencies.

The applicant's request to create a Commercial Cannabis Accommodation Combining District does not meet the criteria for preparing a subsequent mitigated negative declaration. An Addendum is appropriate as none of the conditions constituting preparation of a subsequent mitigated negative declaration have occurred.

## **FINDINGS**

1. For the proposed Rezone application R\_2019-0009 to create a Commercial Cannabis Accommodation Combining District, no substantial changes that would require major revisions to the previous Mitigated Negative Declaration (MND) have been identified. No new significant environmental effects increase in the severity of those previously identified in the adopted MND.

Allowing the continuation of use on sites currently in cultivation would not create a new significant impact or increase severity as these sites were already in existence at the time the MND was drafted and are therefore considered part of the baseline conditions. The proof-of-prior cultivation eligibility requirement for cultivation permits charges applicants to demonstrate that cannabis cultivation activities had existed prior before the MND was adopted. All permitted cannabis cultivation sites within approved CA Combining Districts are restricted to 2,500 square feet of canopy, the least allowed in any zoning designation in the county. The proposed Rezone will only allow the continuation of existing cultivation operations or cultivation as allowed under the current County Code and would include local review with inspections and oversight of these operations where no oversight previously occurred.

2. For the Cannabis Accommodation Combining District, no substantial changes occurred with respect to the circumstances under which the project is undertaken that requires major revisions of the previous mitigated negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

The circumstances under which the project is undertaken remain the same and based on the discussion above, no new significant environmental effects resulting from the proposed project are anticipated. The applicant is a current and active permitted Mendocino County Cannabis Cultivator (AG\_2017-0746) and holds a Provisional Adult Use Cannabis Cultivation License (CCL18-0001421) issued by the California Department of Food and Agriculture.

3. For the Commercial Cannabis Accommodation Combining District, there 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.

There has been no new information of substantial importance that was not known and could not have been known at the time the previous MND was prepared and adopted April 4, 2017 by the Mendocino County Board of Supervisors. The baseline conditions describing the overall impacts of existing cannabis cultivation remain the same.

4. The proposed district does not constitute a change in the level of significance previously discussed in the adopted MND. As such, it is concluded that the current Commercial Cannabis Accommodation Combining District will not have one or more significant effects not discussed in the previous MND. There are no mitigation measures previously found not to be feasible that would in fact be feasible and substantially reduce one or more significant effects of the project.

The proposed district does not require changes to any mitigation measures. No new potential impacts have been identified requiring new mitigation measures to be developed.

5. Finally, there are no mitigation measures or alternatives identified in this analysis which are considerably different from those analyzed in the previous MND, and which would substantially reduce one or more significant effects on the environment.

The Rezone R\_2019-0009 request to create a Commercial Cannabis Accommodation Combining District does not involve changes to, or analysis of any mitigation measures previously identified or adopted.

## **CONCLUSION**

Based on the above discussion it is concluded that an Addendum to the adopted Mitigated Negative Declaration is appropriate to address the requirements under CEQA for the proposed Commercial Cannabis Accommodation Combining District because there are no new significant environmental effects that would require new mitigation. The proposed project is consistent with Section 15164 Article II, Title 14 of the California Code of Regulations (CCR) as required by the California Environmental Quality Act (CEQA). Therefore, no additional analysis is required.