



# COUNTY OF HUMBOLDT

For the meeting of: 8/1/2024

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File #: 24-1154

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Consent

**SUBJECT:**

Red Tail Ranch MBC Conditional Use Permit  
Assessor Parcel Numbers (APN) 316-086-017, 316-086-011, 316-086-023, 316-086-025  
Record No.: PLN-12269-CUP  
Redwood Valley/Berry Summit area

An application for a Conditional Use Permit for 43,550 sf of existing outdoor cultivation, 5,121 sf of existing mixed-light cultivation, and ancillary nursery space of 4,867 square feet. Cultivation is being relocated from APN's 316-086-011 and 316-086-023 to 316-086-017. Cultivation on APN 316-086-017 is also being further consolidated into one central cultivation area to comprise the totality of proposed cultivation. Proposed water use is 480,000 gallons sourced from a groundwater well, a diversion, and a rainwater catchment pond. A total of 579,800 gallons of water storage exists on the property. As part of the consolidation four points of diversion will be eliminated and a new diversion upstream from the existing diversions is proposed. Power is primarily provided by a solar system with a backup propane generator. Drying occurs on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. No employees are proposed for this project. A lot line adjustment is also proposed between APN 316-086-017 and 316-086-025 resulting in two parcels of approximately 49 acres and 23 acres.

**RECOMMENDATION(S):**

That the Planning Commission:

Adopt the resolution (Resolution 24-\_\_) (Attachment 1) which does the following:

- a. Finds the Planning Commission has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) that was prepared for the Red Tail Ranch MBC, project; and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and

- c. Approves the Conditional Use Permits subject to the recommended conditions of approval (Attachment 1A)

**DISCUSSION:**

**Project Location:**

The project site is in the Redwood Valley and Berry Summit area, on the South and West side of State Highway 299, approximately 5,000 feet South of the Berry, on the property known as 30000 State Highway 299.

**Present General Plan Land Use Designation:**

Residential Agriculture (RA20), 2017 General Plan. Density: twenty acres per dwelling unit. Agricultural Grazing (AG), 2017 General Plan. Density: 20-160 acres per unit.

**Present Zoning:**

Unclassified (U)

**Environmental Review:**

An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

**State Appeal:**

Project is NOT appealable to the California Coastal Commission.

**Major concerns:**

None.

**Executive Summary:**

The application involves four consecutive parcels, totaling approximately 172 acres. The result of the implementation of the project will be two parcels previously utilized for cannabis cultivation being restored and encumbered by a conservation and open space easement, and one parcel to be developed with a total of 48,671 square feet of commercial cannabis, consisting of 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation.

A total of 17,363 square feet of cultivation is being relocated from APN 316-086-011 and a total of 7,092 square feet of cultivation from 316-086-023 is proposed to be relocated to 316-086-017, which currently contains a total of 24,216 square feet of cultivation. Cultivation on APN 316-086-017 is also being further consolidated into one central cultivation area to comprise the totality of proposed cultivation. Proposed water use is 480,000 gallons sourced from a groundwater well, two diversions, and a rainwater catchment pond. A total of 579,800 gallons of water storage exists on the property. As part of the consolidation four points of diversion will be eliminated and one additional diversion may be obtained. Currently the property owner has a water right to 0.49 acre-feet per year, or 159,667

gallons. Power is primarily provided by a solar system with a backup propane generator. Processing such as drying, curing, and trimming will occur on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. The applicant is prohibited from utilizing the existing and proposed processing structures to trim cannabis until the structures have been permitted by the Building Department to commercial standards. Alternatively, the applicant may elect to obtain agricultural exemptions for the structures for drying and curing cannabis only. Per the applicant the farm is family owned and operated, and no employees are utilized for the project. If employees are required in the future, the applicant will be required to amend their permit to accommodate the addition of employees. A lot line adjustment is also proposed between APN 316-086-017 and 316-086-025 resulting in two parcels of approximately 49 acres and 23 acres. The parcels are legally created, and resultant parcels are consistent with zoning regulations and development standards, and the lot line adjustment is consistent with the general plan.

Figure 1 below shows the location of all of the historic cultivation areas, all of which will be consolidated into the single cultivation flat on APN 316-086-017.

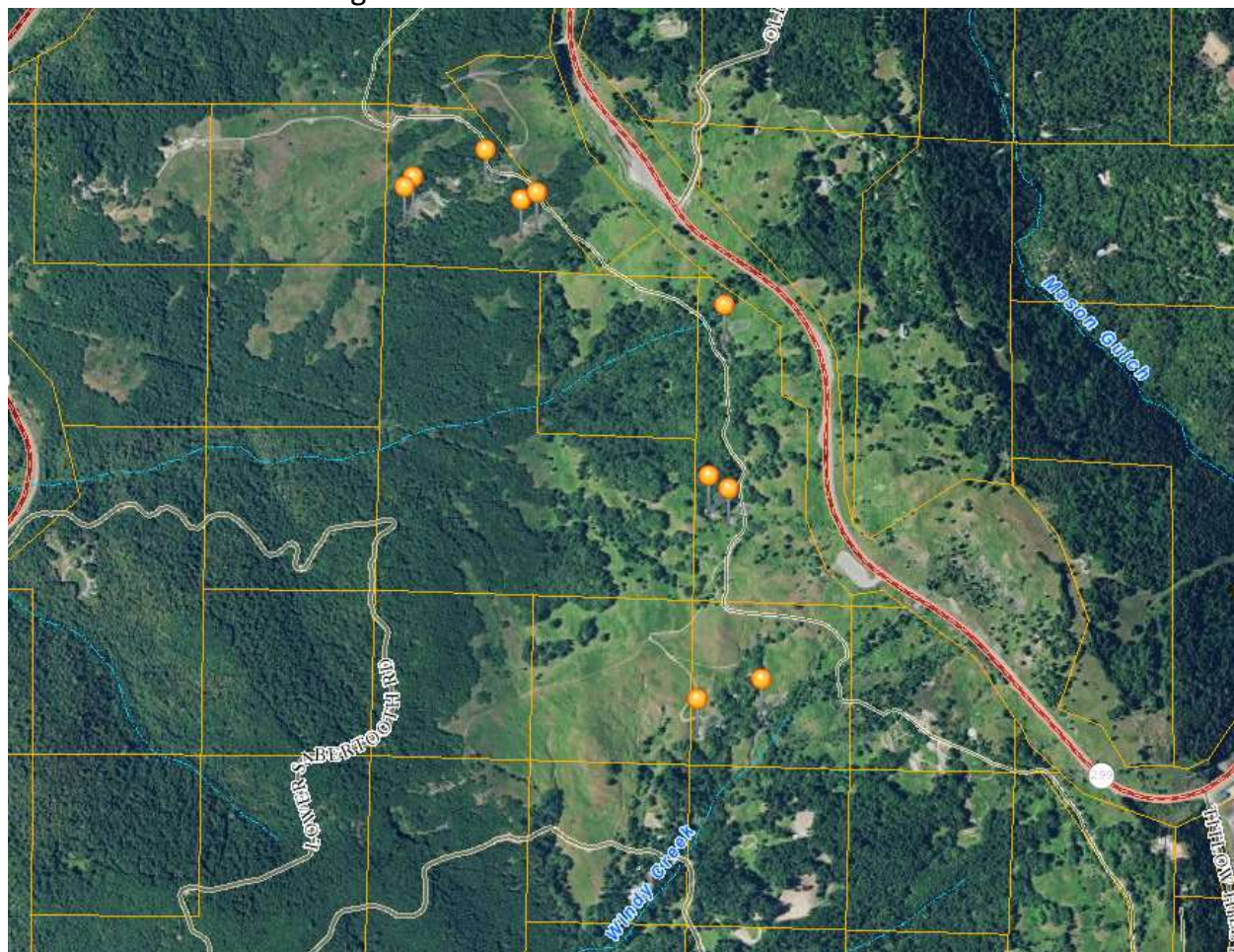


Figure 1

### Environmental Superiority and Conservation Easement Plan

The project proposes to relocate the entirety of the cultivation area from APNs 316-086-011 (APPS #12290) and APN 316-086-023 (APPS #11217) to APN 316-086-017 (APPS #12269). Existing cultivation sites proposed for retirement and relocation are shown in Figure 1 above.

The intent of the relocation and site reconfiguration is primarily an improvement in the environmental resources of the parcels. Environmental improvements include streamlining of operations and resources, reduction of surface water diversions, an increase of riparian buffers, reducing road and water quality impacts from travel on gravel roads, and lower demand for fossil fuel use related to transport of cannabis and cultivation materials.

The proposed relocation and reconfiguration will allow the applicant to include the adjacent parcels in a contiguous conservation easement and preservation of historic ranchland which includes APN 316-086-023. This will allow for multiple environmental benefits including increasing habitat connectivity and allows for other uses such as agricultural grazing land, recreation, and preservation as ecologically valuable oak woodland habitat. The applicant proposed to convert non-cannabis parcel into a natural conservation easement. The addition of APN 316-086-023 through this proposed process will allow for even greater habitat connectivity and land stewardship on several parcels with headwater tributaries to Redwood Creek. The conservation easement will not only prevent commercial cannabis cultivation on the parcel, but also limit development of any kind in the future. Conveyance of participation from the Department of Conservation and Cal Trans to help with the mitigation measures and conversion into a conservation easement of approximately 680-acres. Evidence submitted by the applicant indicate natural vegetation is occurring on the properties, however removal of cannabis cultivation is required, including water lines and wire cages. A recommended condition of approval requires submittal of date specific photographs demonstrating removal of the remaining cannabis infrastructure and natural revegetation conditions, and a supporting Site Plan indicating the location photographs were taken. **(Condition of Approval A15).**

### **Cultivation and Nursery Space**

As noted above, PLN-12269-CUP (APN 316-086-017), will have all cannabis cultivation consolidated and merged on the subject parcel. In previous Cultivation and Operations Plans outdoor utilizing light deprivation techniques had occurred. Total cannabis cultivation is for 42,299 square feet (SF) of existing full-sun outdoor cultivation and 6,372 SF of existing mixed light of cannabis cultivation. In addition, ancillary propagation will occur on the project site totaling 4,867 SF. Processing such as drying, curing, and trimming will occur on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. The applicant is prohibited from utilizing the existing and proposed processing structures to trim cannabis until the structures have been permitted by the Building Department to commercial standards. Alternatively, the applicant may elect to obtain agricultural exemptions for the structures for drying and curing cannabis only.

### **Water Resources:**

Proposed water use is 480,000 gallons sourced from a groundwater well, surface water diversions,

and a rainwater catchment pond. A total of 579,800 gallons of water storage exists on the property. Currently the property owner has a water right to 0.49 acre-feet per year, or 159,667 gallons. As part of the consolidation existing points of diversion currently utilized for cannabis use will be eliminated and one additional diversion may be obtained. The applicant is proposing a new point of diversion further upstream of an existing point of diversion (referred to on the submitted application materials as POD #1) to facilitate gravity filling water storage and minimize the use of fossil fuel powered water pumps. The applicant has applied for a Lot Line Adjustment to include the proposed point of diversion on the property with the developed residence and cannabis operation.

Water for irrigation is sourced from two (2) points of diversion, a groundwater well, and a 500,000-gallon rainwater catchment pond. A Right to Divert and Use Water, by the State Water resources Control Board (SWRCB) was issued (Cert # H100415), dated 1/16/19 for four (4) point of diversions.

A Hydrological Report was prepared by Lindberg Geologic Consulting, dated May 2022 to assess the potential for the well to be hydrologically connected to surface waters or any adjacent wetlands or wells, and if pumping the well could affect such waters. Per the Report the well is unlikely to be hydrologically connected to or capable of influencing the surface water flows in the nearest tributary mapped in Humboldt County GIS, nor does the well appear to be connected to the nearest mapped spring or wetland. The nearest watercourse, an ephemeral tributary of Redwood Creek, is approximately 1,400 feet from the permitted well. As noted in the Well Completion Report (No. e0151530; permit # 11/12-0415), first water was encountered at 100 feet. The well elevation is approximately 2,200 feet above sea level and the bottom of the well is approximately 1,990 feet. The elevation of the ephemeral tributary of Redwood Creek referenced in the report is approximately 2,000 feet at the nearest point, ten feet higher than the bottom of the well, and 1,400 feet away. The well is sealed through the upper 20 feet of any potential unconfined, near-surface aquifers. Per the Well Evaluation Report, the water source from which the well draws appears to be a subsurface aquifer not connected to any other unconfined, near-surface aquifer(s), and the onsite well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands, surface waters, springs, and/or nearby wells in the vicinity. While Redwood Creek is a watercourse that supports important public trust resources such as fisheries, the low likelihood of any hydrologic connection indicates that there is a negligible impact to this public trust resource.

As the well is likely hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board (SWRCB) and is not subject to forbearance or water storage requirements. Recommended conditions of approval require the applicant to install a water meter to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs (**Condition of Approval A12**).

A Water Resource Protection Plan (WRPP; WDID#1B161313CHUM) for APNs 316-086-017 and 316-086-011 prepared by Pacific Water Associates, dated November 2018 for the North Coast Regional



Water Quality Control Board (NCRWQCB, Order No. R1-2015-0023). The WRPP includes recommended best practices for erosion control, monitoring irrigation volumes to prevent runoff, and utilizing a secure storage facility for all cultivation-related materials consistent with the NCRWQCB for both APNs 316-086-017 and 316-086-011. The recommended actions and mitigation measure are required as a condition of approval (**Condition of Approval A9**). Once the proposed project consolidation and Lot Line Adjustment is approved by the County, the project shall develop a Site Management Plan (SMP) to address the activities on the subject parcel APN 316-086-017. Additionally, the applicant has submitted a signed Final Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife (CDFW) for APN 316-086-017 and 316-086-011.

### **Biological Resources:**

There are mapped occurrences of bald mountain milk-vetch and coast fawn lily on the subject parcels mapped along State Highway 299. The mapped occurrences are approximately 525 feet from the nearest cultivation area. The nearest northern spotted owl (NSO) activity center is approximately 0.47 miles from the nearest cultivation area. The nearest mapped marbled murrelet range is approximately 2.6 miles from the property, and the nearest mapped NSO critical habitat is approximately 2.9 miles from the property. Recommended conditions of approval include limiting noise from project activities to 50 decibels 100 feet from the noise source or at the nearest tree line, whichever is more restrictive, proper storage of fuels fertilizers and pesticides, prohibition of monofilament netting, storage of refuse in wildlife proof containers, and prohibition of anticoagulant rodenticide.

The applicant has submitted a Biological Reconnaissance Assessment prepared by Mother Earth Engineering dated September 2020. Mother Earth Engineering staff conducted site visits in January 2019 and September 2020 to evaluate potential habitat and biological resources. No listed species were observed during the site visits. The report concluded that the cultivation areas are outside Streamside Management Areas (SMAs) and there is a low probability of project activities negatively affecting special status species.

CDFW conducted a site visit in June of 2024. Concerns raised by CDFW in their referral comments (Attachment 5C) include proximity to Northern Spotted Owl habitat, impacts on nesting birds, potential wetland and rare plant impacts associated with the proposed nursery, and compliance with the existing LSAA. Recommended conditions of approval to address these concerns are included (Attachment 1A). The recommended conditions of approval are A13, A15, A18, A19, A20, A21, A22, C1, C2, C4 and C8).

### **Energy:**

Energy is currently provided by an existing solar array, with generators used on site as a supplemental power source. The applicant has proposed to increase the size of the solar array to accommodate the entirety of the energy needs of the project. After the project has transitioned to full solar power, the applicant may elect to keep a generator on site for emergency backup power, subject to ongoing

conditions requiring proper storage and containment of the generator fuels and noise limits (**Condition C1, C20**).

**Access:**

Access to the sites is directly off of State Highway 299 to the Old State Highway 299 road that is 0.5 miles to the subject parcel. A Road Evaluation Report, prepared by the Applicant, dated on 7/15/19 was completed with photos of the Old State Highway 299 road. The road evaluation deemed the road segment off of Highway 299 to the access road to be developed to the equivalent of a road category 4 standard. The road is maintained privately.

**Geologic Suitability:**

The project parcels are mapped in the County GIS as having high instability. The location of all existing cultivation and proposed relocation areas on all three (3) sites ranges from 15% to 30%. The existing and proposed cultivation areas are outside any mapped earthquake faults or fault hazard zones, areas of potential liquefaction, or mapped historic landslides. The applicant has been conditioned to provide a grading plan for the areas proposed for relocation, which will be subject to review and approval by the Planning Director (**Condition A13**). Further, this condition will require that the proposed grading utilize terracing and other methods to avoid large cut and fill slopes, with final approval of the grading plan subject to review and approval by the Planning Director.

**Timber Conversion:**

Review of satellite imagery (Humboldt County WebGIS) taken between 2012 and 2021 of the project sites does not show signs of timber conversion at either site. No tree removal is proposed or authorized by this permit. As such, no loss of timber resources is expected to the sites through approval and implementation of the projects as described and conditioned by the permits.

**Tribal Consultation:**

The projects are within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Tsnungwe Council. The project was referred to the Northwest Information Center at Sonoma State and Bear River in September 2018 and September 2021, respectively. Referral responses indicated that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note (**Informational Notes 3**).

**Northern Humboldt Union High School District Concerns:**

The Northern Humboldt Union High School District, hereinafter referred to as the district, has recommended denial of the project. Although the cannabis project is not within 600 feet of any school or school bus stop, the district expressed concerns related to cannabis cultivation. Per the referral response the district is concerned as cannabis is illegal at the federal level and the school district receives federal funds. Additionally, the district has concerns related to cannabis operations in

an area where current/future students may live, and may be required to pass the cannabis operation during trips to and from school.

Planning Staff is recommending approval of the permit application, as there is no indication that cultivation on this property as proposed would jeopardize the flow of federal funds to the Northern Humboldt Union High School District. Additionally, cultivation takes place in existing tree clearings, with surrounding forested lands shielding the cultivation areas from view of roads on adjacent properties and State Highway 299. The existing barn utilized for harvest storage, processing, and packaging, is the closest cannabis infrastructure to an adjacent property under separate ownership, and is approximately 435 feet from the property line. Based on the distance of cannabis infrastructure to adjacent properties under separate ownership, the proposed transition to full solar power to supply operational power needs, conditioned light and noise limits, and the location of the cultivation in clearings surrounded by forested lands, no visual, auditory, or olfactory impact to students traveling to or from school are anticipated.

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

Approval of the projects is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds. The project sites are in the Redwood Creek Planning Watershed, which under Resolution 18-43 is limited to 141 permits and 49 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 15 permits and the total approved acres would be 5.04 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The projects were referred to responsible agencies and most responding agencies have either responded with no comment or recommended approval or conditional approval. (Attachments 5). The Northern Humboldt Union High School District has recommended denial of the project, as although the project is not within 600 feet of a school or existing bus stop, cannabis is illegal at the federal level and the school district receives federal funds, and the district has concerns related to cannabis operations in an area where current/future students may live and be required to pass the cannabis operation during trips to and from school.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
  - A. Recommended Conditions of Approval



- B. Cultivation Operations Plan
- C. Site Plan
- 2. Location Maps
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
  - A. Right to Divert and Use Water
  - B. Notice of Applicability
  - C. Water Resources Protection Plan
  - D. Lake or Streambed Alteration Agreement
  - E. Well Evaluation
  - F. Road Evaluation Report
  - G. Wetland Delineation
  - H. Biological Assessment
- 5. Referral Agency Comments and Recommendations
- 6. Watershed Map

Applicant

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Owner

Same as Applicant

Agent

Same as Applicant

Please contact Michael Holtermann, Planner, at [mholtermann@co.humboldt.ca.us](mailto:mholtermann@co.humboldt.ca.us) or 707-268-3737 if you have any questions about the scheduled item.