

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number: 24-

Record Number: PLN-12269-CUP

Assessor's Parcel Number: 316-086-017, 316-086-011, 316-086-023, 316-086-025

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Red Tail Ranch MBC Conditional Use Permit request.

WHEREAS, Red Tail Ranch MBC, submitted an application and evidence in support of approving a Conditional Use Permit for 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation. 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 may be utilized. Power is primarily provided by a solar system with a backup propane generator. Processing occurs on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. 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; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on August 1, 2024, and reviewed, considered, and discussed the application for a Conditional Use Permit, and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** The application is a Conditional Use Permit for 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation. 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 may be utilized. Power is primarily provided by a solar system with a backup propane generator. Processing occurs on-site in existing barn structures, with two additional proposed to be near the consolidated cultivation area. 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.

EVIDENCE: a) Project File: PLN-12669-CUP

2. **FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

EVIDENCE: a) Addendum prepared for the proposed project.

- b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
- c) A Water Resource Protection Plan (WRPP; WDID-1B161313CHUM) was prepared for subject sites (APN: 316-086-017, 316-086-011). The WRPP details existing site conditions, how the properties are or will meet the provisions and requirements of the North Coast Regional Water Quality Control Board (NCRWQCB).

The applicant has been conditioned to submit a copy of the Site Management Plan prepared for the property within 60 days of project approval.

- d) The applicant submitted a well evaluation prepared by Lindberg Geologic Consulting, which concluded the well has a low likelihood of having any direct connection to surface waters. The report concluded that the well appears to be hydrologically isolated from all nearby wells, surface waters, springs, or wetlands.
- e) 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. The comments back resulting recommended that the proposed projects will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, from comments on 6/14/19 and 9/10/21, respectively. The inclusion of the standard inadvertent discovery protocol as recommended by the cultural reports is incorporated into the projects as an informational note.

- f) 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.

FINDINGS FOR CONDITIONAL USE PERMIT

- 3. **FINDING:** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

- EVIDENCE:** a) The property has land use designations of both Residential Agriculture (RA20) and Agricultural Grazing (AG). The boundary between these designations straddles the proposed cultivation site.

The RA designation is not designated as an open space designation and is not part of the Open Space Action Program. The AG designation is designated as an open space designation and maintenance of these lands for agricultural uses is consistent with the Open Space Plan and Open Space Action Program.

Cannabis cultivation is an agricultural product and is consistent with the use of Open Space land for managed production of resources. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

- 4. **FINDING:** The proposed development is consistent with the purposes of the existing zone in which the site is located

- EVIDENCE:** a) The Unclassified Zone or U Zone is intended to be applied to areas of the county that have not been sufficiently studied to justify precise zoning classifications.

- b) All general agricultural uses are principally permitted in the U zone.

- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor and 22,000 SF of existing mixed light cannabis on a parcel zoned U over 1 acre in size subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation on a 49-acre parcel is consistent with this and with the cultivation area verifications prepared by the County.

5. FINDING: The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

EVIDENCE: a) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor and 22,000 SF of existing mixed light cannabis on a parcel zoned U over 1 acre in size subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation on a 49-acre parcel is consistent with this and with the cultivation area verifications prepared by the County.

b) Per DS-22-912 the subject parcel is recognized as a legal parcel by amended Certificate of Subdivision Compliance 2005-22120-2 recorded July 5, 2005.

c) 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.

Water for irrigation is sources 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.

Per a report from a licensed geologist, the well is hydrologically disconnected from surface waters and therefore 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. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually

to demonstrate there is sufficient water available to meet operational needs.

A Water Resource Protection Plan (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 shall be continued until completed. Once the proposed project consolidation and merger 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. A Site Management Plan (SMP; WDID 1_12CC417459 for APN 316-086-023 (APPS # 11217), prepared by Mother Earth Engineering, date August 2021 for the fulfillment of Water Quality Order WQ 2019-0001-DWQ for the State Water Resources Control Board. The document will need to be amended and updated to address the consolidation and merger to APN 316-086-017.

The California Department of Fish and Wildlife (CDFW) Final Lake and Streambed Alteration Agreement (LSAA) is for APN 208-321-004 and 208-321-006 identified ten (10) encroachments. Three (3) encroachments are for water diversion, five (5) encroachments to upgrade and improvements to undersized culverts, one (1) encroachment is installation of stream crossing and restoration a stream area, and one (1) is to conduct work on spring fed pond rendering it incapable of storing water The project is required to implement and adhere to and make the required remediation corrections pursuant to the recommendations included within the WRPP and LSAA. Furthermore, the applicant is required to provide evidence of enrollment with the SWRCB Cannabis Cultivation General Order (Order No. WQ 2019-0001-DWQ) including but not limited to submitting a copy of the Site Management Plan.

- d) 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.

- e) The slope of the existing cultivation is between 15%-30%, and proposed relocation areas where cannabis will be cultivated in ranges of 15%-30% per USGS slope data.
- f) The location of the cultivation complies with most setbacks required in Section 314-55.4.11.d. It is more than 30 from any property line and more than 600 feet from any school, church, or Tribal Cultural Resource.

6. FINDING:

The cultivation of 43,550 sf of existing outdoor cultivation and 5,121 sf of existing mixed-light cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE:

- a) The site is located on road that has been self-certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation. The access road is the historic Highway 101 route before its relocation. This access intersects a State Highway, and as a result the project was referred to Caltrans District 1. No responses have been received to date.
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- c) Irrigation water is sourced from a permitted groundwater well that has been determined to be hydrologically disconnected from surface waters, a point of diversion for which the applicant has demonstrated a valid water right, and a 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, which include the two utilized for cannabis cultivation. The points of diversion will not be utilized as a result of cultivation consolidation.

A Hydrological Report was prepared by Lindberg Geologic Consulting in April 11, 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 has a low potential of having any direct connection to surface waters. The nearest watercourse, an ephemeral tributary of Redwood Creek (Class II), is approximately 1,400 feet from the permitted well. According to the Hydrological Report, the well is located in the central portion of APN 316-086-017. As noted in the Well Completion Report (No. e0151530; permit # 11/12-0415) (Attachment 3), the well is 220 feet deep and drilled through very fractured sandstone gray and shale soft dark gray. The 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 is approximately 2,000 feet at the nearest point. As stated previously, the elevation of the bottom of the permitted well is 1,990, making the nearest watercourse, ephemeral tributary of Redwood Creek, 10 feet below the elevation of the bottom of the permitted well, based on County Web GIS map. The well is sealed through the upper 20 feet of any potential unconfined, near-surface aquifers. When considered with the stratigraphy and geologic structure, distances (horizontal and vertically) from the nearest surface waters, depth of the producing zone for the well (100 to 186 feet, fractured sandstone), position of the well relative to the nearest surface waters in the vicinity, the depth of the surface seal, and the fact the well was “developed from the bottom,” is sufficient to preclude the potential for hydraulic connectivity with perennial surface waters, of which there are none closer than 1,400 feet to ephemeral tributary of Redwood Creek. In conclusion, per 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.

- d) Provisions have been made in the applicant’s proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected. Measures are included in a Water Resources Protection Plan prepared by Pacific Water Associates, and the applicant has been conditioned to prepare a Site Management Plan after completion of cultivation consolidation.
- e) The project utilizes a solar array and generators for supplemental

power, and has proposed to transition to full solar power for project activities with a generator kept on site for emergency backup use.

7. FINDING: The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE: a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but is currently developed with one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized on this parcel.

8. FINDING: Approval of this project 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.

EVIDENCE: a) The project site is located 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.

FINDINGS FOR LOT LINE ADJUSTMENT

9. FINDING: The Lot Line Adjustment application is complete

EVIDENCE: a) The applicant has submitted application materials identifying proposed lots to be adjusted, a copy of current deeds and information showing the feasibility of the adjusted lots to be utilized for their intended purposes.

10. FINDING: The project is consistent with the Subdivision Map Act

EVIDENCE: a) The parcels are two separate legal parcels created in compliance with the Subdivision Map Act as demonstrated by Certificate of Subdivision Compliance 2013-027773-2, recorded December 12, 2013 (APN 316-086-025), and Amended Certificate of Subdivision Compliance 2005-22120-2, recorded July 5, 2005 (APN 316-086-017).

11. FINDING: The proposed Lot Line Adjustment is consistent with the General Plan

EVIDENCE: a) The Lot Line Adjustment is consistent with the Land Use Designations of the resulting properties. Both resulting properties exceed minimum parcel sizes for Agricultural Grazing (AG) and

Residential Agriculture (RA) land use designations, and the adjustment is intended to facilitate improved management of agricultural lands.

- b) The subject properties are within a mapped High Instability zone. The subject properties are outside any mapped earthquake faults or fault hazard zones, areas of potential liquefaction, or mapped historic landslides.

The project is outside all mapped flood zones.

The project is within the State Response Area and is not within a local Fire Response Area. The project has been conditioned to provide an “Acknowledgement of no Available Emergency Response and Fire Suppression Services”. The proposal was referred to CalFire in August 2018 for review and comments. No response has been received to date.

- c) 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. The comments back resulting recommended that the proposed projects will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, from comments on 6/14/19 and 9/10/21, respectively.

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.

12. FINDING: The proposed Lot Line Adjustment is consistent with zoning regulations and development standards of the Unclassified (U) Zone.

EVIDENCE: a) Resulting parcel 1 is developed with an existing residence and agricultural operation, both of which are principally permitted uses in the U zone. The Lot Line Adjustment will not preclude resulting parcel 2 from conducting agricultural operations, which is a principally permitted use. Both resulting parcels will exceed minimum parcel size, lot width, and lot depth for the U zone, and all development meets or exceeds minimum setbacks and minimum distance between major buildings, and does not exceed maximum ground coverage.

13. FINDING: The proposed Lot Line Adjustment will not adversely impact the environment, is compliant with CEQA, and will not be detrimental to public health, safety, or welfare, and will not be materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) All responding referral agencies have approved or conditionally approve the proposed project. The project will not result in changes in land use density and will not create a new parcel. The Lot Line Adjustment has been analyzed as part of the entirety of the project in a project specific addendum to the Mitigated Negative Declaration prepared for the Commercial Medical Marijuana Land Use Ordinance.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit and Lot Line Adjustment for Redtail Ranch, MBC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **August 1, 2024**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John H. Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above-entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department