

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

Resolution Number 23-

Record Number PLN-12426-CUP

Assessor's Parcel Numbers: 214-142-012

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Patient 2 Patient, Inc. Conditional Use Permit and Special Permit.

WHEREAS, Patient 2 Patient, Inc. submitted an application and evidence in support of approving a Conditional Use Permit and Special Permit for Record No, PLN-12426-CUP. The permit requests a Conditional Use Permit for approximately 86,000 square feet (sf) of outdoor cannabis cultivation and approximately 7,500 sf of commercial nursery space, employee housing, and appurtenant facilities to support the operation. The applicant is also seeking a Special Permit in concert with work to remediate and restore areas of the property previously used for cannabis cultivation and resolve violations associated with impacts to wetlands and riparian areas that occurred as a result of unauthorized expansion and relocation of cultivation areas that occurred within these areas between 2015 and 2018.

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permit and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

WHEREAS, during their hearing on October 5, 2023, the Humboldt County Planning Commission considered incorporating substitute mitigation measures in the draft mitigated negative declaration and Mitigation, Monitoring, and Reporting Program (MMRP) and revised conditions of approval for the project with those described further below in Attachments 1A and 1B; and

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

1. FINDING:

Project Description: A Conditional Use Permit and Special Permit to recognize lawful pre-existing cannabis cultivation and authorize relocation and expansion of cultivation activities on an approximately 361-acre parcel. The project includes two distinct parts. **Part 1** involves a Special Permit to authorize development within riparian and wetlands areas as part of remediation and restoration of approximately 6.7 acres of land disturbance associated with seven (7) discrete areas historically used for cannabis cultivation. **Part 2** involves a Conditional Use Permit to allow development and operation of approximately 86,000 square feet of Outdoor cannabis cultivation in greenhouses within an approximately 6-acre area in the northern portion of the project parcel. The Conditional Use Permit is being requested pursuant to the Humboldt County Commercial Cannabis regulations which allow up to 1-acre of cultivation per 100 acres on parcels where 320 acres or larger in size. The amount of cultivation area proposed

is approximately one third larger (33%) in size than historic cultivation levels managed during the peak of prior lawful pre-existing operations at the property and will accommodate relocation of cultivation activities from the seven former sites targeted for remediation and restoration.

EVIDENCE: Project File: PLN-12426-CUP

2. FINDING: **CEQA:** As required by the California Environmental Quality Act, the project was found subject to CEQA and a Draft Initial Study and Mitigated Negative Declaration (IS/MND) were prepared for the project by the Planning and Building Department, Planning Division (Attachment 3) (SCH# 2023080682) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). The Draft IS/MND has evaluated the project for any adverse effects on the environment.

EVIDENCE: a) The CEQA document includes an analysis of the subject Conditional Use Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated from August 29, 2023 to September 29, 2023.

b) The IS/MND included eighteen (18) mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

3. FINDING **ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Agriculture and Forestry Resources, Air Quality, Energy, Geology and Soils, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire.

EVIDENCE a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.

b) Initial Study/Mitigated Negative Declaration circulated for public review August 29, 2023 to September 29, 2023.

4. FINDING **ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The Initial Study identified potentially significant impacts to Biological Resources, Cultural Resources, Greenhouse Gas Emissions, Hydrology and Water Quality, Tribal Cultural Resources, and Mandatory Findings of Significance which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

- a) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:

BIO-1 Worker Environmental Awareness Program
BIO-2 Nesting Bird Pre-construction Surveys
BIO-3 Accidental Spill Prevention
BIO-4 Revegetation and Planting
BIO-5 Off-site Mitigation Credits

Through incorporation of the above referenced mitigation measures, impacts to biological resources will be avoided during restoration and remediation activities as well as during the development of the new site described in Part 2 of the project description.

- EVIDENCE** b) **Cultural Resources & Tribal Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for Cultural Resources and Tribal Cultural Resources:

CR-1 Archaeological and Native American Monitoring
CR-2 Inadvertent Discovery of Cultural Resources

By requiring monitoring for cultural resource discovery during future ground disturbance, potential impacts to these resources can be avoided.

- EVIDENCE** c) **Greenhouse Gas Emissions:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for Greenhouse Gas Emissions:

GHG-1 Energy Source for Cultivation

Through incorporation of the above referenced mitigation measure, impacts from Greenhouse Gas Emissions will be avoided during future operation of the site. By prohibiting Mixed-Light Cultivation until an adequate power source is available, GHG emissions from ongoing generator use are kept well below levels in the environmental baseline for the site.

- d) **Hydrology and Water Quality:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for Hydrology and Water Quality:

WQ-1& 2 Restore Pre-Existing Wetlands
WQ-3 - Remediate Cultivation Area
WQ-4 - Restore Diverted Watercourses to Original Channel
WQ-5 - Improve Functioning of On-Stream Pond

- WQ-6 - Decommission Road Crossing
- WQ-7 - Upgrade Road Crossing to Improve Water Quality
- WQ-8 - Site D – Restore Pre-Existing Wetland
- WQ-9 - Site E – Restore Streambed
- WQ-10 - Site G – Restore Pre-Existing Wetland and Streambed
- WQ-11 - Compensatory/Temporal Impact Mitigation – On-Site Wetland Creation or Off-Site Wetland Creation/Restoration/Enhancement or Mitigation Credits

Through incorporation of the above referenced mitigation measures, impacts to water quality will be avoided during restoration and remediation activities as well as during the development of the new site described in Part 2 of the project description.

- e) **Mandatory Findings of Significance:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures addressing the Mandatory Findings of Significance (part a):

Through incorporation of the eighteen mitigation measures included, impacts concerning Mandatory Findings of Significance (a) will be avoided during future remediation, restoration, development, and operation of the site. Following completion of the project, impacts from the project will be far below the environmental baseline of the pre-existing development activities.

5. FINDING

CEQA Public Comments: There have been comments from the California Department of Fish & Wildlife (CDFW) as well as the California Department of Cannabis Control (DCC).

EVIDENCE

- a) Comments from CDFW have been addressed through the addition of an additional Condition of Approval (COA A16) and minor revisions to Mitigation Measure BIO-2
- b) Comments from the Department of Cannabis Control primarily concern recommendations for inclusion or reiteration of information and references that are already found in the IS/MND. Their comments have been considered and do not change the conclusions reached in the Mitigated Negative Declaration.

6. FINDING

Substitution of Mitigation Measures: Section 15074.1 of the CEQA Guidelines provides for the substitution of mitigation measures by the Lead

Agency at a public hearing prior to approving a project. Recirculation of the environmental document is not required so long as the Lead Agency include written findings explaining why the new measure is equivalent or more effective in mitigating or avoiding potentially significant effects on the environment, and in itself will not have the potential to create an adverse impact of its own greater than the original measure.

- a) In response to public comments on the Draft IS/MND provided by the California Department of Fish & Wildlife, revisions to Mitigation Measures BIO-2 were performed, enlarging the required wildlife buffers and shortening the period of time that may elapse between when pre-construction wildlife surveys are performed and when development activities commence. These changes make the measure more effective in mitigating potential significant effects from the project and do not introduce new potential adverse impacts not previously considered during the analysis performed under the Draft IS/MND. The change merely shortens the time period between survey and project implementation. While this could result in a greater number of surveys needing to be performed, the surveys themselves pose no risk of resulting in adverse effects to the environment.
- b) In response to public comments on the Draft IS/MND provided by the California Department of Fish & Wildlife, an additional Condition has been added to the Recommended Conditions of Approval for the project (COA A16), requiring that monitoring of all remediation and restoration activities occur for a minimum of five (5) years. The addition of this requirement makes the measure more effective in mitigating potential significant effects from the project and does not introduce new potential adverse impacts not previously considered during the analysis performed under the Draft IS/MND. The change merely lengthens the time period under which monitoring of the remediation and restoration activities must occur. While this could result in a greater number of visits and inspections of the property following the completion of remediation and restoration work, the inspections themselves pose no risk of resulting in adverse effects to the environment.

FINDINGS FOR CONDITIONAL USE PERMITS AND SPECIAL PERMITS

7. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

EVIDENCE

- a) General Agriculture and Intensive Agriculture are allowable uses in the Agricultural Grazing land use designation. The proposed cannabis project, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial

agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

- b) The General Plan Circulation Element requires *Decisions to change or expand the land use of a particular area shall include an analysis of the impacts to existing and proposed transportation facilities and services so as to minimize or avoid significant operational, environmental, economic, and health-related consequences.* The project does not change or expand the allowable land uses in this area, as the project site is an existing agricultural operation.

Conditions of Approval are included setting maximum daily vehicle trips for the project and requiring the applicant to implement measures to lower daily vehicle traffic to and from the site.

- c) The proposed project is consistent with the Conservation and Open Space Element - Biological Resources through the following project design elements: A potential wetland area was identified on the subject parcel west of the area targeted for development under Part 2 of the project. Due to the distance and landscape between the potential wetland and the project site, the potential wetland will not be disrupted by Project activities. No wetland areas were identified within 100 feet of any proposed new development activities. Remediation and restoration efforts will be conducted in accordance with biological surveys and restoration plans developed for the site and subject to review and approval by trustee agencies. CDFW was consulted in preliminary preparation stages of the Initial Study/Mitigated Negative Declaration however no comments were submitted. Mitigation Measures are included to require pre-construction survey for nesting birds incorporate timeframes and buffers recommended by the California Department of Fish & Wildlife.

After a review of Essential Habitat Connections identified in the California Essential Habitat Connectivity Project, no significant barriers to wildlife movement corridors were identified within the Project design.

- d) The Goals and policies of the Conservation and Open Space Cultural Resources have been complied with based on the referral to Northwest Information Center, Bear River Band, and Sinkyone tribe. The applicant submitted a Cultural Resource Investigation prepared by Archaeological Research & Supply Company evaluating the subject property. No artifacts, features, sites or other cultural resources were identified on the subject parcel. The Bear River Band of the Rohnerville Rancheria THPO has recommended use of a tribal Cultural Monitor during future ground disturbing activities. This has been included within the recommended Conditions of Approval and Mitigation Measures within the IS/MND.. Pursuant to AB52 under the California Environmental Quality Act, an opportunity for formal consultation was offered to the following parties:

Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. No consultation was requested in response to AB52 referral outreach.

- e) The project is consistent with the Conservation and Open Space Scenic Resources policies as the only applicable policy is related to restricting light and glare. The project involves mixed-light cultivation. The CCLUO requires that mixed light cultivation comply with 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, uplight, or glare (BUG). The project is required to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.
- f) The project is consistent with the Water Resources Element through the following project design elements: The project does not utilize diversion from a surface water source, as water will come from rainwater catchment within several existing ponds and an existing well (on an emergency/backup basis only). The well is located within the South Fork Eel River subbasin. This subbasin is not subject to the Sustainable Groundwater Management Act (SGMA) and the basin prioritization is very low. Water storage features have emergency shutoff valves and float valves where appropriate, pond overflow features have been constructed consistent with engineering professional standards by a qualified licensed engineer in accordance with Humboldt County Code and SWRCB regulations. The slope of the proposed new cultivation area is less than 15% and surface water naturally percolates through the soil without channelization. Irrigation water will be applied at agronomic rates and detected leaks in the irrigation systems shall be fixed immediately to reduce runoff. With the exception of remediation and restoration activities included under Part 1 of the project, all new structures and cultivation areas proposed as Part 2 of the project will be located outside of Streamside Management Area buffer zones.
- g) The project is in compliance with the Noise Element as there are no sensitive receptors which would be adversely affected by the project. Nearby parcels in the area are often 160 acres or larger in size. The predominant land uses in the vicinity of the project include grazing, agricultural and scattered rural residential uses. The surrounding vicinity is not heavily populated.

Project activities are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards. Project activities within the greenhouses and hoop structures will be limited from a noise-generating perspective (e.g., conventional air movement fans) and will meet applicable County building and zoning code requirements for

noise levels. Outdoor noise-generating activities will include vehicle use and small agricultural support equipment.

- h) The project complies with the Safety Element of the General Plan as follows:

According to the Humboldt County Geographic Information System (GIS) the project location is not within the 100-year floodplain of any surface water features. The proposed project site is located within an area of low instability, and no mapped historic landslides are present in the project area.

The project is located in the Wood Ranch area, which is located outside of the boundaries of the Miranda Response area, Briceland Fire Protection District, and Redway Fire Protection District. A Condition of Approval (COA A17) has been included requiring that the applicant develop and submit an emergency response plan for the property. The plan will be used to train employees and residents of the property of the steps to be taken during a wildland fire event.

8. FINDING

The proposed development is consistent with the purposes of the existing AE zone in which the site is located.

EVIDENCE

- a) The Agricultural Exclusive Zone or AE Zone is intended to be applied to areas of the County in which general agriculture is an allowable use for AE zones.
- b) All general agricultural uses are principally permitted in the AE zone.
- c) The location and height of all project elements meet the setback and building height requirements for the AE zone.
- d) The parcel was created in compliance with all applicable state and local subdivision regulations, and recently resulted from the recent voluntary merger of several underlying parcels initiated by the applicant. The lands presently known as APN 214-142-012 are one legal parcel created by Notice of Merger and Certificate of Subdivision Compliance.

9. FINDING

The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

EVIDENCE

- a) The CCLUO allows commercial cannabis cultivation to be permitted in areas zoned AE (HCC § 314-55.4.6.1).
- b) The applicant has supplied a report prepared by a licensed engineer evaluating the road network and relevant segments of road that includes substantial evidence to support finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

The project will obtain water from rainwater catchment and a groundwater well that is not within a defined groundwater basin and is not diverting from nearby surface waters. The applicant has provided a well evaluation report prepared by a licensed geologist demonstrating no adverse impacts to groundwater resources and a disconnection from surface water features. Consequently, water use associated with irrigation of the cultivation area will not result in impacts to nearby watercourses such as the South Fork of the Eel River and similar public trust resources.

- d) The location of the cultivation complies with all setbacks and performance standards of the CMMLUO.
- e) All the applicable performance standards are included as conditions of project approval. They are required to be met throughout the timeframe of the permit.
- f) The project as proposed is in compliance with applicable siting criteria. No timberland conversion is proposed, and the new development will be located in areas identified as having prime agricultural soils.
- g) The project is proposed within the South Fork Eel River Planning Watershed, which has a cap of 730 permits and 251 acres. Approval of this project would result in 378 approved permits and 143 acres of cultivation in the South Fork Eel River Planning Watershed.

10. FINDING

The operation of a commercial cannabis cultivation operation 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 a privately-maintained road that can safely accommodate the amount of traffic.
- b) The proposal to operate a commercial cannabis cultivation operation is similar to other agricultural uses in the immediate area.
- c) The location of the operation is more than 600 feet from any school, school bus stop, or church.
- d) Irrigation water will not be sourced from surface water.

11. 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

The parcel was not included in the housing inventory of Humboldt County's

2019 Housing Element and is zoned Agriculture Exclusive and Timberland Production Zone (TPZ).

DECISION

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

- Adopts the Mitigated Negative Declaration for the Patient 2 Patient, Inc. Conditional Use Permit and Special Permit; and
- Adopts the Substitute Mitigation Measures included in Attachment 1A and 1B; and
- Adopts the Mitigation Monitoring and Reporting Program for the Patient 2 Patient, Inc. Conditional Use Permit and Special Permit; and
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit and Special Permit for Patient 2 Patient, Inc. based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment A and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on October 5, 2023.

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 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 Ford, Director
Planning and Building Department