



COUNTY OF HUMBOLDT

Legislation Details (With Text)

File #: 23-1334 **Version:** 1 **Name:**
Type: Resolution **Status:** Public Hearing
File created: 9/26/2023 **In control:** Planning Commission
On agenda: 10/5/2023 **Final action:**
Title: Patient 2 Patient, Inc.; Conditional Use Permit and Special Permit
Record Number: PLN-12426-CUP (filed 12/23/2016)
Assessor Parcel Numbers (APN) 214-142-012
Wood Ranch area (Redway)

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.

Sponsors: Planning and Building, Laura McClenagan

Indexes:

Code sections:

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Date	Ver.	Action By	Action	Result
10/5/2023	1	Planning Commission	approved	Pass

To: Planning Commission

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

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RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 23-__), (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Mitigated Negative Declaration prepared for the Commercial Medical Marijuana Land Use Ordinance (SCH# 2015102005) and the Mitigated Negative Declaration prepared for the project (SCH# 2023080682); and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Conditional Use Permit and Special Permit, subject to the recommended conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located on a 361-acre parcel in unincorporated southern Humboldt County, California, in the Wood Ranch area approximately 3 miles north of Redway. Access to the site is provided from Wood Ranch Road, and the property is located approximately 2.5 miles from the beginning of Wood Ranch Road near its intersection with the road to Eel River Conservation Camp

#31. The eastern boundary of the property follows the South Fork Eel River and is adjacent to Highway 101.

Present General Plan Land Use Designation: Timber Production (T), Slope Stability: High Instability (3), Density: 40 to 160 acres per dwelling unit.

Present Zoning: Agriculture Exclusive (AE); Timberland Production (TPZ).

Environmental Review: A Draft Initial Study and Mitigated Negative Declaration (IS/MND) has been prepared for the project (SCH# 2023080682) pursuant to the California Environmental Quality Act (CEQA). The review period for the Draft IS/MND ended on September 29, 2023.

State Appeal: The proposed project is NOT appealable to the California Coastal Commission.

Major concerns: Traffic, Development Timing

Executive Summary: The Applicant (Patient 2 Patient, Inc.) is seeking 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 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.

Part 1 Remediation & restoration work includes: (1) removing all development related material from the sites; (2) pulling back fill and fill slopes and re-contouring fill into source cut hill slopes to recreate pre-development, historic topography; (3) implementing erosion control measures to prevent sediment transport into water courses; (4) re-planting native vegetation; and (5) removing drainage structures as needed and improving drainage channels to the pre-development state. Work is designed to correct outstanding violations and comply with direction received from state and federal agencies, and is detailed in a draft Cleanup, Restoration, and Monitoring Plan (CRMP). Work will likely also involve on and off-site compensatory mitigation such as wetland creation and enhancement activities or similar measures.

Part 2 involves erection of 35-50 greenhouses totaling approximately 86,000 ft.² in size. Within this same area of the property, approximately 7,500 ft.² of additional greenhouses are proposed to be developed for use in nursery/propagation activities as well as construction of a 12,500 square foot drying barn. Pre-existing cultivation on the property has historically occurred in a Mixed-Light fashion, with artificial lighting being powered by on-site generators. To minimize generator use, cultivation within the proposed greenhouses will be exclusively Outdoor (no artificial lighting) in the

near-term. Use of artificial lighting is planned to resume in conjunction with a switch to Mixed-Light Cultivation once grid power or on-site renewable energy infrastructure is in place and of sufficient capacity. A Generator is proposed to continue to be used to help power some of the nursery/propagation areas including approximately 2,446 ft.² of nursery spaces historically operated within two existing structures on the property. The parcel is developed with a well and several ponds providing a total of approximately 2.2 million gallons of stored water for cannabis irrigation, as well as an additional 20,000 gallons in hard tanks. Additional water tanks are proposed to be installed near the site of the proposed new greenhouses. With initially two harvests per year, approximately 866,240 gallons of water are required. Should Mixed-Light cultivation resume, use of supplemental lighting will make possible a third harvest which would result in an approximately 50% increase in water use (totaling 1,299,360 gallons of water use annually). The cultivation stage will require minimal staffing as the plants will be watered using drip irrigation. The harvesting stage of production will require use of additional seasonal staff members to harvest and hang the plant for drying and curing, followed by removal of dried buds and trimming. The dried product will then either be packaged on-site and/or moved to a distribution facility. Management of the cultivation site is expected to require 4-8 employees during regular operations, which would increase to twelve (12) staff during the two or three annual harvests. The temporary staffing increases during harvest lasts approximately 30-days and ordinarily occurs during midsummer and fall.

Access: Access to the site is provided by Wood Ranch Road. A private road system composed of over 13 miles of roads providing access to approximately 26 parcels held by separate owners, the width and condition of the road varies. The project parcel is located a little past the midway point of the lower road system, approximately 2.5 miles from its intersection with the road to Eel River Conservation Camp #31, where the road begins. The majority of this stretch of the road complies with Category IV road standard (18-20 feet) or meets the same practical effect due to the location and frequency of existing shoulders and turnouts. The number of vehicle trips generated by the proposal has been a source of concern amongst owners of properties in the Wood Ranch area. The applicant has worked with their agent and staff to help identify and incorporate measures for lowering daily vehicle trips and establishing limits on daily trips and monitoring and controlling driving behavior amongst employees. Attachment 4C includes an exhibit characterizing how the current proposal compares to historical traffic volumes and staffing levels experienced over the past ten (10) years during which time the property has been used for commercial cannabis cultivation activities at various sizes and scales. Condition of Approval B4 includes restrictions on daily vehicle trips and obligates the owner/operator to implement various measures to lower vehicle traffic and Condition of Approval B5 requires the applicant to maintain and designate a point of contact for neighboring property owners in the event they observe damage to the road or instances of excessive speed or dangerous driving by the applicant's employees or contractors.

Water Source and Irrigation Plan: With initially two harvests per year, approximately 866,240 gallons of water are required (10 gallons per square foot per year). When grid power or adequate on-site renewable energy is available, use of supplemental lighting will be possible allowing a third harvest and an approximately 50% increase in water use totaling 1,299,360 gallons of water use annually (15 gallons per square foot per year). The parcel is developed with several existing ponds. Water stored in the two northernmost ponds totals of approximately 2.2 million gallons when full. Stored water from these ponds has historically been used for cannabis irrigation and is proposed to

continue. An additional 20,000 gallons of water is also stored in hard tanks. The parcel also hosts an existing well near the western property boundary. The well produces water at 25 gallons per minute, which is sufficient to provide irrigation and drinking water for the existing site uses as well as the proposed project uses. Water from the well can be used to supplement or substitute for stored water supplies in the ponds during dry periods. An assessment of the well conducted by Lindberg Geological Consulting determined it to be hydraulically isolated from nearby wells, surface waters, springs or wetlands on the parcel and its vicinity. Condition of Approval B1 has been included requiring that all cannabis irrigation first utilize stored water from the on-site ponds for all irrigation demands and only rely upon well water when stored water is depleted or otherwise unavailable.

Biological Resources/Water Quality: Satellite imagery confirms that lawful pre-existing cultivation (pre-2016) historically occurred within three (3) discrete areas. Between 2015 and 2018 the applicant enlarged the westernmost cultivation area and added four (4) new areas of cultivation relocated. This unauthorized expansion of cultivation proved to be both presumptuous and problematic as it occurred within areas host to wetlands and included culverting and manipulating the alignment of several nearby watercourses. This resulted in violations and enforcement from both state and local agencies, including the North Coast Regional Water Quality Control Board, California Department of Fish & Wildlife, and Humboldt County Code Enforcement. In 2021, a Notice of Violation and Cleanup and Abatement Order (R1-2021-0003) were issued by the North Coast Regional Water Quality Control Board compelling the remediation and restoration of most of these sites. At this time, all cultivation activities have been suspended and greenhouses and other cultivation infrastructure have been completely removed from nearly all of the sites. A Cleanup, Restoration, and Monitoring Plan (CRMP) detailing remediation and restoration measures is awaiting final review and approval by the Regional Board. Ultimately, under the CRMP the goal is for all seven (7) of the historic cultivation sites to be removed and restored to pre-development conditions. Compensatory mitigation for temporal impacts to wetlands may involve creation of new or expanded on-site wetlands, purchase of credits for off-site mitigation, or both. The Draft IS/MND includes a variety of Mitigation Measures for lessening or avoiding potential impacts to Biological Resources and Water Quality. These include Pre-Construction Surveys for Nesting Birds, Revegetation and Planting, Wetland Restoration, remediation of cultivation areas, restoration of diverted watercourses to their original channels, improving the function of the on-stream pond, decommissioning of certain road crossings and upgrade of others. In response to recent comments on the Draft IS/MND received from the California Department of Fish & Wildlife, staff have modified the language governing pre-construction surveys (Mitigation Measure BIO-2) and included a Condition of Approval imposing a mandatory 5-year monitoring period (Condition A16). The area targeted for on-site relocation and expansion was previously the site of a private motocross track. This area of the property was surveyed for Biological Resources which resulted in the discovery of a small isolated seasonal wetland and ephemeral drainage course adjacent to the western edge of the relocation area. The applicant has adjusted the development footprint of their proposal to allow for accommodation of a 100-foot buffer from this feature.

Generator Use

Though generators have historically played a large role in Mixed-Light Cultivation activities on the property, the applicant is proposing to forgo mixed-light cultivation and grow exclusively in an outdoor fashion until energy from grid power or on-site renewable energy systems is available and of sufficient capacity to accommodate the mixed-light electrical demand. This restriction is applied through

Mitigation Measure GHG-1 (Energy Source for Cultivation) of the Draft IS/MND. Use of generators supplying power to propagation (nursery) areas may continue until January 1, 2026. Following this date, all generator use will be restricted to backup power during an emergency. Growing exclusively in an Outdoor fashion and phasing out generator use will ne a large benefit to local wildlife populations, which can often be adversely affected by noise and light pollution effects that can accompany Mixed-Light Cultivation operations in this type of setting.

Tribal Consultation: The project is located within the boundaries of ancestral territory linked to the Bear River Band of the Rohnerville Rancheria (BRB) and Intertribal Sinkyone Wilderness Council (ISWC). An initial pedestrian survey for cultural resources was performed on February 25, 2021. A follow-up survey was performed in 2022 to evaluate the potential sensitivity of the area chosen for relocation and expansion of cultivation activities, which is located in the northern portion of the property. Though no formal consultation was ever requested by BRB or ISWC, both were contacted by archaeological professionals while preparing for and following surveys for cultural resources. The THPO for the Bear River Band of the Rohnerville Rancheria has requested that a tribal cultural monitor be on-site during future ground disturbing activities. This has been included as a Condition of Approval A6 and is also listed as Mitigation Measure CR-1 within the IS/MND.

9/13 Community Meeting

A Community meeting organized by planning staff was held at the Mateel Community Center on September 13, 2023. Invitation to the meeting was sent out to all property owners in the Wood Ranch area. The purpose of the meeting was to provide information about the proposal and answer questions in a casual and convenient setting. The meeting was well attended (10-15 people). The principal concerns expressed by most attendees surrounded the volume of traffic on Wood Ranch Road, wear and tear on the road, dangerous driving behavior observed, and noise and dust from additional vehicle traffic. The applicant has agreed to a number of specific measures designed to help address these concerns. They are reflected in project Conditions of Approval B2 thru B5, which require the applicant to install speed limit signage on the road, commit the applicant to contribute a larger share of the annual road maintenance dues collected, take various measures to help reduce daily vehicle trips/traffic and prevent and control speeding and unsafe driving by employees and contractors.

Staff Recommendation - Development Timing

In light of the scale of the unpermitted relocation and expansion of the pre-existing cultivation sites that occurred between 2016-2018 and severity of associated environmental impacts and violations, staff believe it is fitting that Commission restrict the development and operation of the new cultivation sites (**part 2** of the project description) until the remediation and restoration work (**part 1** of the project description) has been completed and has entered the monitoring phase. This approach is consistent with past recommendations of staff given under similar circumstances (where an applicant engaged in unpermitted expansion or relocation ahead of the permit process). The Development Timing restriction is included as a Condition of Approval A18. During the 9/13 Community Meeting, a number of attendees advocated for this approach to the permit timing.

Consistency with Board of Supervisors Resolution No. 18-43 (Permit/Acreage Cap):

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and

acres which may be approved in each of the County's Planning Watersheds. The project site is located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251-acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 378 cultivation permits and the total approved acres would be 143-acres of cultivation.

CEQA: Staff prepared a thorough environmental analysis which included the preparation of a Draft Initial Study and Mitigated Negative Declaration (IS/MND) pursuant to the CEQA Statute. The Document includes eighteen (18) different mitigation measures specifically designed to address potential impacts to Biological Resources, Tribal Cultural Resources, Greenhouse Gas Emissions, and Water Quality. The Draft IS/MND is included in Attachment 3.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comment or recommended approval or conditional approval. Comments recently received from the California Department of Fish & Wildlife and Department of Cannabis Control are included as part of Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add, amend, or remove conditions of approval; OR
2. The Planning Commission could deny approval of the requested permits if you are unable to make all of the required findings. This could include adjustment of the development timing provisions of Condition of Approval A18.
3. The Planning Commission could approve the Special Permit allowing restoration and remediation activities to proceed pursuant to Part 1 of the project description while denying the Conditional Use Permit for the relocation and expansion of Cultivation activities sought under Part 2 of the project description.
4. The Commission could decide the project may have environmental impacts that would require further environmental review pursuant to CEQA.

Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Staff prepared a thorough environmental analysis which is documented in the Draft Initial Study and Mitigated Negative Declaration prepared for the project, and did not identify any potentially significant unmitigable impacts. Consequently, planning staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Mitigation Monitoring & Reporting Program with Substitute Mitigation Measures
 - C. Site Planset
 - D. Revised Cultivation Area Verification dated October 17, 2018
2. Vicinity Map
3. Draft Initial Study & Mitigated Negative Declaration
 - A. Appendix 1 - CalEEMod Output Files

- B. Appendix 2 - Biological Resources Assessment
 - C. Appendix 3 - Fuel Consumption Calculations
 - D. Appendix 4 - Noise Measurements and Calculations
 - E. Appendix 5 - Draft Cleanup, Restoration, and Monitoring Plan (CRMP)
 - F. Appendix 6 - Aquatic Resources Delineation (Wear 2019)
 - G. Appendix 7 - Aquatic Resources Impact Assessment (Wear 2022)
 - H. Appendix 8 - Wetland Delineation Report (Naiad 2021)
 - I. Appendix 9 - Well Hydrological Connectivity Report (Lindberg 2022)
 - J. Appendix 10 - Botanical Survey (Naiad 2021)
 - K. Appendix 11 - Water Management Plan (S. Luu 2022)
 - L. Cultural Resources Investigations (excluded/confidential)
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Included with Attachments 3A thru 3K [Appendices 1-10 of Draft IS/MND]
 - B. Site Plan (included in Attachment 3C)
 - C. Wood Ranch Road Historic Vehicle Use
 - 5. Referral Agency Comments and Recommendations
 - A. Table Summarizing Referral Agency Comments and Recommendations
Comments on Draft IS/MND
 - B. letter dated September 26, 2023 - comments from Cal. Dept. of Fish & Wildlife
 - C. letter dated September 27, 2023 - comments from Dept. of Cannabis Control
 - 6. Public Comments Received
 - A. Glen Hass
 - B. Marcia Murphy
 - 7. Watershed Map

Owner

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item.