COUNTY OF HUMBOLDT

For the meeting of: 11/5/2024

File #: 24-1369

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:
Ten Redwoods LLC Conditional Use Permit and Special Permit
Assessor Parcel Numbers (APN) 208-241-017
Record No.: PLN-11737-CUP
Dinsmore area

A Conditional Use Permit for 11,700 square feet of existing outdoor cannabis cultivation. Irrigation water is sourced from a rainwater catchment pond and a Class II stream diversion. A 300,000-gallon pond and 125,000 gallons of hard-sided tanks store water for the project. Estimated annual irrigation water usage is 104,750 gallons. Drying and curing occurs onsite, with all other processing occurring offsite at a licensed facility. Power is provided by generators, the project is conditioned to transition to 100% renewable power by January 1, 2026, with generators reserved for emergencies only. The project includes a Special Permit for development and restoration in a streamside management area.

RECOMMENDATION(S):
That the Planning Commission:

1. Adopt resolutions (Resolution 24-__) (Attachments 1) which does the following:
    a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Ten Redwoods LLC project (Attachment 3); and
    b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
    c. Approves the Ten Redwoods LLC Conditional Use Permit and Special Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:
Project Location: The project is in the Dinsmore area, on the west side of Ridge Road, approximately 1.25 miles North from the intersection of Ridge Road, County Line Creek Road and River Road, on the property known to be in Section 36 of Township 02 North, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Residential Agriculture (RA); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3)

Present Zoning: Forest Recreation (FR); Special Building Site (B-5(40))

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: A Conditional Use Permit for 11,700 square feet of existing outdoor cannabis cultivation. Cultivation will occur in on graded flats as full sun. Two of the cultivation areas are located partially within the streamside management area of an ephemeral watercourse. The project proposes relocating these cultivation areas to an environmentally superior location. The cultivation areas and associated infrastructure is shown on the site plan, **Attachment 1C**. Irrigation water for cannabis is supplied by a rainwater catchment pond and a permitted diversion from an unnamed intermittent watercourse. Irrigation water is stored in the 300,000-gallon rainwater catchment pond and 125,000-gallon of hard plastic tanks. The project has 8,000 gallons of water storage dedicated to domestic and fire suppression use. Water for cannabis cultivation is used from March to November. Water source, storage and use is detailed in the Operations Plan, **Attachment 1B**.

The project includes onsite relocation of cannabis cultivation areas. The purpose of the relocation is to remove cannabis cultivation from streamside management areas. Staff from the California Department of Fish and Wildlife (CDFW) conducted a site inspection on August 21, 2024. The referral comments from CDFW are incorporated as **Attachment 5D**. The site inspection identified several possible impacts to wildlife and watercourses. CDFW comments resulted in project conditions that are further described in the Water Resources and Biological Resources sections of this report and in **Attachment 1A** Conditions of Approval.

Green waste is composted in a designated area away from surface waters as noted on the site plan. Organic fertilizers and pesticides are stored in an agricultural storage structure that meets all requirements for secondary containment. All fuel and hazardous materials are stored in secure areas with secondary containment in accordance with applicable regulations. Garbage and recycling are stored in a secure waste storage area. The waste storage area complies with Best Practical Treatment or Control (BPTC) measures to prevent wildlife tampering and transport of waste to waters of the State. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. Domestic wastewater treatment is proposed to be managed with a proposed onsite wastewater treatment system that will be permitted with the Humboldt County Department of Environmental Health. The applicant will pursue permitting for the proposed septic systems upon

project approval. The project is conditioned that portable toilets must be used until approval of a permitted onsite wastewater treatment system (OWTS) (**Condition of Approval B.3**). In addition, the project is conditioned that evidence is provided to County staff during annual inspections to confirm the continual use of portable toilets to serve the needs of cultivation staff until the OWTS and residence is permitted.

Water Resources:
Irrigation water is supplied by a 300,000-gallon rainwater catchment pond which has been found by CDFW to be on-stream, and a point of diversion. Total estimated annual water use is 104,750 gallons/year (8.95 gallons/square foot). Tanked water storage includes eight 5,000-gallon, four 3,500 gallon, six 3,000-gallon tanks, 20 2,500-gallon and two 1,500-gallon tanks. A Water Management Plan is included in the operations plan for the project Watering practices primarily include a focused drip irrigation system, with occasional top-feed hand watering based on need.

The applicant has the right to divert 0.20 acres feet, or 65,170.2 gallons, between November 1 and May 31 each year. Certificate H100103 from the State Water Resources Control Board authorizes the diversion which is located at latitude 40.5126 longitude -123.5612. The applicant is conditioned to comply with all the conditions of the water right for the life of the project (**Condition of Approval B.18**). The applicant shall install a water meter The applicant provided a rainwater catchment analysis for the pond. The pond has a 3,925 square foot catchment area, multiplied by 21.98" of rain that fell in the driest year in the past 30 years, multiplied by the conversion .6234 conversion factor equals 53,488 gallons of rainwater collection. The rainwater catchment pond is pumped into tanks during the dry season, June 1st to September 31st for irrigation of cannabis. The total water budget for the project including domestic use is 114,830 gallons. In an extreme drought year, the combination of the point of diversion and rainwater catchment can provide a total of 118,658 gallons of water which will be adequate to meet the project needs.

A final Lake and Streambed Alteration Agreement (LSAA, EPIMS-HUM-31749-R1C (**Attachment 4B**) was issued for one water diversion from an unnamed tributary to the Mad River. The project is conditioned to comply with the terms of the LSAA, the diversion must allow for 80% of the water to flow past the point of the diversion and no more than three gallons per minute shall be withdrawn from the watercourse, (**Condition of Approval B.5**). Timberland Resource Consultants prepared a Site Management Plan (SMP), **Attachment 4C**, in April 2020. The SMP identifies the pond as an off-stream rainwater catchment pond. From the SMP: "In 2016, a portion of the pond cutbank failed causing slumping to extend upslope. The cutbank was regraded to a stable angle that exposed bare soil. Rill from stormwater runoff has formed in this area as a result of lacking erosion control. The rilling leads into the pond giving the false impression of a potential watercourse channel visible in 2019 aerial imagery. A review of historical aerial imagery from both 2005 and 2016 depicts no evidence of a watercourse or rilling." The application review from the Planning and Building Department was similarly proceeding under the understanding that this was an off-stream pond and thus no water right from the State Water Resources Control Board was asked for or obtained by the applicant.

However, while onsite, CDFW stated that the onsite reservoir used for cannabis irrigation is an onstream pond and should be included in the LSAA as a project. Image 1 below is a photograph taken on August 21, 2024, showing the pond and the area where CDFW made the determination that a watercourse enters the pond.

The project is conditioned to install water meters at the point of diversion and the outlet of the rainwater collection pond, and/or the rainwater collection tanks and to keep monthly records of water usage. The water meter records shall be made available to the Planning Department at each annual inspection or as requested by planning staff (**Condition of Approval A.2**).

Image 1: Pond and upslope area

The applicant does not believe that the pond is on-stream, however the project is recommended by

staff to be conditioned to require the applicant to modify the LSAA to include the pond as an instream feature **(Condition of Approval A.3a**). The project is further conditioned to provide documentation demonstrating that the applicant has initiated consultation with the State Water Resources Control Board's (SWRCB) Division of Water Rights to determine the need for a water right for cultivation use of the pond's water (**Condition of Approval A.4**). If correspondence with SWCB's Division of Water Rights concludes a water right is required for the pond, the applicant is conditioned to secure said right within two years of project approval. If the Water Board believes that a water right is needed and the applicant is unable to secure a SWRCB-required water right for the pond the applicant must develop rainwater catchment facilities sufficient to provide 39,580-gallons of water per year or cultivation area must be reduced proportionally to the water deficit (**Condition of Approval A.5**).

The project referral to the Division of Environmental Health (DEH) resulted in a request for conditions of approval. The project is conditioned requiring the use of portable toilets for cultivation activities unless a septic system is permitted in association with a permitted structure (**Condition of Approval B.3**). It is noted there is a septic system currently on site next to the residence but the compliance and permitting status of the system is unknown. The project was referred to the Humboldt Bay Municipal Water District who in 2018 expressed concerns about the project's potential to impact the water quality and water supply in the Mad River and requested a CEQA review of the project. This was a standard comment for the HBMWD at the time and may not reflect the current position of the District. Nonetheless, the impact on water quality and water quantity is well addressed through the erosion and water quality standards that are required to be in place and the low amount of water use combined with seasonal forbearance from diversion. An addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance is included as **Attachment 3**.

Biological Resources: A review of the California Natural Diversity Database did not indicate the potential of any special status plants of animals on the project site. The nearest mapped Northern Spotted Owl activity center is approximately 1.3 miles to the southeast on the other side of the Mad River (HUM0043). The proposed project will utilize the pre-existing disturbed areas created prior to baseline. The project has been conditioned to ensure supplemental lighting associated with the nursery and mixed light cultivation adheres to Dark Sky Association standards (**Condition of Approval B.8**). Permit conditions of approval also prohibit using synthetic netting (**Condition of Approval B.10**), ensure refuse is contained in wildlife-proof storage (**Condition of Approval B.11**), and prohibit use of anticoagulant rodenticides to further protect wildlife (**Condition of Approval B.13**). While onsite, CDFW staff observed that cultivation site two had been colonized by a non-native invasive thistle. 16. (**Condition of Approval A.16)** requires the development and implementation of an invasive species removal and monitoring plan to remove the non-native thistle and prevent the continued spread of this species. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

Onsite Relocation: Cultivation areas two and three are fully or partially in the Streamside Management Area. The project proposes relocating these cultivation areas, a total of 4,020 square feet to an area southwest of the existing residence. The applicant provided an Analysis, conducted by Timberland Resource Consultants in 2019, that concluded the relocation site is environmentally superior. The relocation site is over 100 feet away from the nearest Class II watercourse. In addition, the relocation site is within the curtilage area of the existing residence and sheds. Relocating the two northern cultivation areas will allow for the removal and proper disposal of plastic waterline that previously ran up the hill. Shorter water lines will reduce the possibility of water leaks and erosion. Additionally, condensing the two northern locations into one preexisting cultivation area will reduce the transport of cultivation related materials throughout the property and allow for approximately 23 water storage tanks to be relocated to a more central location. A Restoration Plan was submitted with the Environmentally Superior Site Analysis (**Attachment 4E**). The Site Management Plan (**Attachment 4C**) recommended that a wetland delineation be prepared for the proposed relocation area. Timberland Resource Consultants prepared a Wetland Delineation Report in January 2023 (**Attachment 4F**). The report concluded that the relocation site did not contain wetlands, only one wetland criteria was identified. The report also mentioned that the proposed relocation site was characterized by slopes around five percent. A Restoration Plan was included in the 2019 analysis by Timberland Resource Consultants (**Attachment 4E**). All cultivation related infrastructure, including pots, grow bags, greenhouses, fence posts, trellising shall be removed. Disturbed areas will be raked flat and seeded with a native grass mix. Straw and straw wattles will be applied to prevent erosion on areas to be restored (**Condition of Approval A.10**). The access roads to the sites slated for retirement will also be treated. In addition, five pots in cultivation area seven will be relocated out of the Streamside Management Area, disturbed areas will be seeded with native grasses and mulched to prevent erosion (**Condition of Approval A11**).

Energy: Power is currently provided by generators. The applicant revised their operations plan to eliminate mixed light cultivation; the proposed full term outdoor cultivation needs less electricity. The project is conditioned to convert to renewable energy no later than January 1, 2026 (**Condition of Approval A.19**).

Access: The Site is accessed from Trinity County by going west on River Road, and then turning right onto Eight Mile Ridge Road north for 1.25 miles and then tuning left onto the private access driveway for the parcel. Per the operations plan, there is a maximum of two employees onsite at any given time. The site plan depicts three parking spaces for employees and an emergency vehicle turnaround. Per the request from the Humboldt County Department of Public Works Land Use Division, a Road Evaluation was prepared By David Nicoletti, CE in April 2020 **(Attachment 4D)**. Three road segments were evaluated: from the project parcel to Eight Mile Ridge Road, from Eight Mile Ridge Road to River Road, River Road to the Humboldt/Trinity County Line. None of the road segments were determined to be equivalent of road category 4 or better. Subsequent review of each segment found that the roadway can accommodate the cumulative increased traffic from the proposed use if the

recommendations in the road evaluation are implemented. River Road and Eight Mile Ridge Roads serves many parcels, and the road evaluation indicates that the Road is maintained by a road maintenance association. The reasonably correctable deficiencies identified on River Road include areas where the road is less than 12 feet wide, clogged or partially clogged culverts, erosion/drainage issues and slides, and vegetation encroachment into road turnouts and shoulders. The applicant is conditioned to demonstrate participation in Road Maintenance Associations for River Road and Eight Mile Ridge Road. Road Maintenance Associations for shared roads shall adhere to and implement the recommendations included in the engineered road evaluations prepared for the project's access roads. If the applicant is unable to coordinate road improvements through the Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. Evidence of such payments shall be submitted to Humboldt County Planning and Building Department (**Condition of Approval A.12**).

Geologic Suitability: The project does not propose any new construction or grading. The relocation cultivation site is less than 15% slope. A licensed Geologist, Lindberg Geologic Consulting May 30, 2016, evaluated the pond for stability and determined it to be adequately stable (**Attachment 4G**).

Timber Conversion: The site is sparsely treed oak woodland and prairie. Cultivation occurs on non-timberland open areas. Staff review of time-sequenced air photos did not indicate the removal of trees for the purpose of cannabis cultivation associated with the project. No stumps or indications of tree cutting were identified during a site inspection on 8/21/2024. No new tree cutting is proposed as part of the project. CalFire referral replied with standard project conditions.

Security and Safety: The applicant has implemented security measures to safeguard the product and prevent nuisance from occurring on the property. Cultivation at the project occurs behind locked gates. The project was referred to the Southern Trinity Volunteer Fire Department. Comments received back from the Southern Trinity Volunteer Fire Department stated that wildland fire suppression for Eight Mile Ridge Road is provided by the US Forest Service and requested that Eight Mile Ridge Road be kept open for that purpose (**Attachment 5E**).

Tribal Consultation:

The project is located within the Bear River Band of the Rohnerville Rancheria's Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria and the Northwest Information Center (NWIC) on August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band of the Rohnerville Rancheria on October 30, 2018, requesting a cultural resources inventory report. A Cultural Resource Inventory Report was prepared by DZC Archaeology and Cultural Resource Management in December of 2019. The report identified two cultural conditions that are characterized as lithic scatter. Two archaeological site boundaries were identified on the property, and the report recommended that the areas be protected from future development. The Cultural Resource Inventory Report was referred to the Bear River Tribe for

review. The tribe concurred with the findings of the Cultural Resources Report and agreed that if the areas where the archeological resources were found were protected from disturbance, the project was unlikely to impact tribal cultural resources. The conditions of approval require the applicant submit a development plan protecting the areas identified in the report from ground disturbance, and to record a notice of development plan on the deed **(Conditions of Approval A.13 to A.15**). In addition, the standard Inadvertent Discovery Protocols have been included in the conditions of approval as (**Condition of Approval B.1**).

Public Trust Resources: The project is in the Mad River Watershed; the project is .61 miles away from the river. A deep chasm bisects the parcel east to west. This chasm contains a Class II watercourse that is home to the point of diversion that contributes 65,170-gallons to the project's water budget. An additional 53,488-gallons of rainwater collection provides the balance of the water budget. The Mad River provides recreational opportunities for swimming, boating, and fishing. The river also provides domestic and industrial water to much of the Humboldt Bay Region. The Mad River has been heavily modified and managed to provide community water. Ruth Lake Dam was put in place to meter water flow for downstream community use. Prior to the creation of dams on the Mad River, the river would effectively dry up in the summer months. The project collects water in the rainy season from November 1st to April 31st when the river has excess water due to rainfall. Water from the tanks and the pond are used in the dry season when releases from Ruth Lake meter the flow of water available for public trust resources. The project has no impact on flows during the dry season, thus the use of the stored water for irrigation purposes will not cause any significant adverse impact to the Mad River or otherwise substantially impair the public trust uses or values related to commerce, navigation, fisheries, public access, preservation of trust lands in their natural state, or water-related-recreation and other activities. In their referral comments CDFW identified "observed unused, uncontained cement" that poses a threat to public trust resources. This cement was in fact cured concrete that Planning staff does not believe poses a threat to public trust resources.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43:
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. The project site is in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 73 permits and the total approved acres would be approximately 27.23 acres of cultivation.

Environmental Review:
Environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

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. (Attachment 5)

ATTACHMENTS:

1. Draft Resolution
    A. 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
5. Referral Agency Comments and Recommendations
6. Watershed Map

APPLICANT AND OWNER INFORMATION:

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