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

**Resolution Number: 24-**

**Record Number: PLN-11737-CUP**
**Assessor's Parcel Number: 208-241-017**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Ten Redwoods LLC Conditional Use and Special Permit.**

**WHEREAS**, Ten Redwoods LLC provided an application and evidence in support of approving a Conditional Use and Special Permit for an existing 11,700 square foot outdoor commercial cannabis cultivation operation; and

**WHEREAS,** the lead agency, prepared an Addendum to the Mitigated Negative Declaration (MND) prepared for the Commercial Medical 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 October 3, 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:** 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. 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.

   **EVIDENCE:** a) Project File: PLN-11737-CUP

**2. FINDING:** **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the project pursuant to Section 15164 of the CEQA guidelines.

**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) The project is conditioned to demonstrate compliance with the State Water Board Cannabis General Order for Waste Discharge. Conditions of approval require the applicant to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.

d) The project is for pre-existing cultivation. The nearest mapped Northern Spotted Owl activity center (HUM0043) is 1.3 miles to the southeast. The project utilizes pre-existing open areas, and cultivation does not use artificial light except for the ancillary nursery. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the backup generator or at the edge of the nearest forest habitat, whichever is closer. 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.

e) A Road Evaluation Report concludes the route leading to the subject parcel can be developed to the equivalent of a category 4 road standard with the implementation of repair and remediation measures and does not have any evidence of a site-specific safety problems. The project is conditioned to implement repair and remediation measures through participation in Road Maintenance Association or to make a fair share contribution to road maintenance and repair measures

f) The continued cultivation of commercial cannabis will not result in a timber conversion.

g) Consultation with the Bear River Band of the Rohnerville Rancheria resulted a cultural resource inventory report. The cultural resource inventory report determined that two archeological site boundaries on the property should be protected from disturbance as a condition of approval. The Bear River Band THPO concurred, and two areas of the parcel will be protected from disturbance with a development plan and a deed restriction. In addition, the standard inadvertent discovery protocol as a condition of approval. As conditioned the project is unlikely to impact tribal cultural resources.

**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) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. The proposed cannabis cultivation, 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.

**4. FINDING:** The proposed development is consistent with the purposes of the existing Forestry Recreation (FR) zone in which the site is located.

**EVIDENCE:**

a) The Forestry Recreation (FR) zone is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.

b) All accessory agricultural uses are principally permitted in the FR zone.

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of

up to 43,560 square feet of existing outdoor cannabis cultivation and up to 22,000 square feet of existing mixed-light commercial cannabis on a FR zoned parcel over 1 acre 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 11,700 square feet of existing cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared conducted by staff.

d) All cultivation is at least 30 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

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

**EVIDENCE:**

a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned FR (HCC 314-55.4.8.2.2).

b) The parcel was created in compliance with all applicable state and local subdivision regulations. The 42-acre parcel's legality is established by the recorded map of Timberline Estates, filed in the Humboldt County Recorder's Office in Book 24 of Surveys, pages 24 to 32 inclusive, parcel 134.

c) The project will obtain water from rainwater catchment, an eligible water source and point of diversion from a class II watercourse through an approved water right Certificate H100103. A provided rainwater catchment analysis demonstrates adequate water can be collected in low rainfall years.

d) A Road Evaluation Report found the access roads to be functionally appropriate for the expected traffic with specified maintenance and repair procedures.

e) The slope of the land where existing cannabis will be cultivated is 0% to 15% and 15% to 30 % on existing flats. No new grading will occur.

f) The continued cultivation of cannabis will not result in the net conversion of timberland.

g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line and more than 600 feet from any school, church, public park, or

Tribal Cultural Resource.

**6. FINDING:** The continued cultivation of 11,700 square feet of existing cannabis 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 found to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.

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 sizes in the area.

c) Irrigation water will come from a point of diversion and rainwater catchment, eligible water sources.

d) Provisions have been made in the applicant's proposal and conditions added to the project to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

**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 does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be permitted 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 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.

**9. FINDING:** The use of the point of diversion for irrigation purposes will not have any adverse impacts on any public trust resources.

**EVIDENCE:** a) 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 projects 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 for 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 pond are used in the dry season when releases from Ruth Lake limit 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.

## 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 Special Permit for Ten Redwoods LLC, subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **October 3, 2024**.

The motion was made by COMMISSIONER _____and second by COMMISSIONER _____ and the following 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