

RESOLUTION NO. 2023 - XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA CONDITIONALLY APPROVING MODIFICATIONS (MOD-23-0001 AND MOD-23-0002) TO CONDITIONAL USE PERMIT (CUP-22-0006) AND DESIGN REVIEW (AA-22-0007) TO ALLOW THE SORREL LEAF HEALING CENTER AT 124 INDIANOLA ROAD (APN 402-161-005)

WHEREAS, on November 14, 2022, the Planning Commission adopted Resolution No. 2022-27 which authorized the use of an existing single-family home with proposed addition and existing and proposed accessory buildings as a mental health crisis facility to provide temporary (24-hour) and residential (30-day) stays, and outpatient therapy, for children aged 7 to 18, at 124 Indianola Road (APN 402-161-005); and

WHEREAS, in their approval, the Planning Commission also approved Design Review of the original proposal for the renovation of the existing 4,872-square-foot residence with a one-story addition, renovation of the existing 1,042-sf accessory building, and the addition of a greenhouse, barn, and yoga and meditation pavilion; and

WHEREAS, Sorrel Leaf Healing Center, Inc. now proposes to modify the proposal by eliminating temporary (24-hour) stays from the scope of the facility's operation; changing the footprint of the proposed addition to the main structure, existing accessory building, and proposed accessory buildings; changing the location and amount of proposed solar panels; changing the location of proposed accessory buildings; repaving the driveway; changing the parking configuration; reducing the number of parking spaces by one; and expanding the size and slightly relocating the primary and reserve leach fields for the on-site septic system; and

WHEREAS, as a result of the proposed changes, the project requires modification of the previously approved Conditional Use Permit and Design Review; and

WHEREAS, the property at 124 Indianola Road has a land use designation of Estate Residential (ER), and is zoned One Family Residential (RS-12,000); and

WHEREAS, the proposed use qualifies as a "Charitable Institution" as defined by Eureka Municipal Code (EMC) §10-5.2906.2(n) and, pursuant to EMC §10-5.2983, Charitable Institutions require a Conditional Use Permit (CUP) in the RS-12,000 zone district; and

WHEREAS, pursuant to EMC §§ 10-5.1801.2, 10-5.2421, and 10-5.2987, the proposed project requires Architectural Review (i.e., Design Review) because it involves new construction and a conditional use in the RS-12,000 zone district; and

WHEREAS, the Conditional Use Permit and Design Review approvals are a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, the project is located in the coastal zone in both California Coastal Commission and City of Eureka Coastal Development Permit (CDP) jurisdiction, and, pursuant to Coastal Act §30601.3, the applicant, City of Eureka's Development Services Director and California Coastal

Commission Executive Director have agreed to a consolidated CDP process, whereby the California Coastal Commission processes one CDP application for the entire project; and

WHEREAS, the Planning Commission of the City of Eureka did hold a duly noticed public hearing at City Hall in the City of Eureka on July 10, 2023, at 5:30 p.m. both in person and via Zoom in the Council Chamber, to consider the modifications; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the subject application in accordance with EMC Title 10, Chapter 5, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

1. The proposed location of the conditional use as modified is in accord with the objectives of the Zoning Code and the purposes and intent of the RS-12,000 zone district.
2. The proposed location of the conditional use and the conditions under which it will be operated and maintained as modified will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
3. The conditional use as modified will comply with each of the applicable provisions of the Zoning Code.
4. The conditional use as modified and as conditioned is consistent with the certified Local Coastal Program.
5. The proposed site and architectural improvements as modified are not ugly, monotonous, hazardous or inharmonious with their surroundings, and will not have an adverse effect on the value of properties within the vicinity.
6. The project as modified is exempt from CEQA because the proposed building addition to the main residence and proposed addition to the existing accessory building both qualify for a Class 1 exemption from CEQA (§15301 of the CEQA Guidelines) as the proposed use will be located within existing structures and proposed additions to the existing structures will not result in an increase of more than 2,500 square feet of the floor area of either structure, and the proposed new accessory structures qualify for a Class 3 exemption from CEQA (§15303 of the CEQA Guidelines).

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed applications for modifications to a previously-approved Conditional Use Permit and Design Review should be approved subject to the following conditions. Compliance with conditions will be to the satisfaction of Development Services – Planning unless noted otherwise.

1. **Building and Fire Department Approvals.** Prior to commencement of construction, the applicant shall obtain all required Building and Fire permits to the satisfaction of Development Services - Building and Humboldt Bay Fire; all new accessory structures shall not exceed a maximum building mean height of 12 feet.
2. **Lighting Restrictions.** To minimize the trespass of artificial light, all outdoor lighting fixtures during construction and operation shall be fully shielded and downward facing and shall meet the International Dark Sky Association's (IDA) requirements for reducing waste of ambient light ("dark sky compliant"). Outdoor lighting shall consist of LEDs

with color temperatures less than 3000 Kelvins.

- a. Exterior lighting shall be shielded with fixtures or hoods.
 - b. Exterior lighting shall not produce an illumination level greater than one foot-candle.
 - c. Exterior lighting shall be directed downward such that no light or glare extends into surrounding wetlands/ESHAs.
 - d. Prior to installation of any exterior lighting, lighting specifications shall be submitted to Development Services - Planning for review and approval consistent with this standard.
3. **Construction Noise Limitations.** Project construction shall be performed on standard work days (Monday through Friday) between the hours of 7:00 a.m. and 7 p.m. Construction activities outside these hours and days may be allowed for good cause with prior approval from Development Services – Planning.
4. **Tribal Monitor.** A tribal monitor from the Bear River Band of Rohnerville Rancheria shall be present for all ground disturbing components of the project. Tribal Historic Preservation Officers from surrounding Tribal entities will be notified upon any project plan alterations, amendments, subsequent surveys or discoveries.
5. **Inadvertent Discovery Protocol.** Ground disturbing activities are subject to the City's standard protocol for inadvertent archeological discovery (cultural or historical artifacts) as follows:
- a. If archaeological resources are encountered during construction activities, all onsite work shall cease in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist will be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officers for the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, and Wiyot Tribe are to be contacted immediately to evaluate the discovery and, in consultation with the project proponent, City of Eureka, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. Historic archaeological discoveries may include 19th century building foundations; structure remains; or concentrations of artifacts made of glass, ceramic, metal or other materials found in buried pits, old wells or privies.
 - b. If paleontological resources, such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions are discovered during ground-disturbing activities, work shall stop in that area and within 100 feet of the find until a qualified paleontologist can assess the nature and importance of the find and, if necessary, develop appropriate treatment measures in conformance with Society of Vertebrate Paleontology standards, and in consultation with the City of Eureka.

- c. In the event of discovery or recognition of any human remains during construction activities, the landowner or person responsible for excavation would be required to comply with the State Health and Safety Code section 7050.5. Construction activities within 100 feet of the find shall cease until the Humboldt County Coroner has been contacted at 707-445-7242 to determine that no investigation of the cause of death is required. If the remains are determined to be, or potentially be, Native American, the landowner or person responsible for excavation would be required to comply with Public Resources Code (PRC) section 5097.98. In part, PRC section 5097.98 requires that the Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the landowner or the person responsible for the excavation work for the appropriate means of treating the human remains and any associated grave goods within 48 hours of being granted access to the site. Additional provisions of PRC section 5097.98 shall be complied with as may be required.
6. **Signage.** Unless otherwise exempted by Eureka Municipal Code (EMC) §10-5.1703, no signs shall be placed or erected onsite without a City of Eureka Sign Permit approved by Development Services – Planning, and, if required, a building permit from Development Services – Building.
7. **Construction-Phase Erosion and Sediment Control Plan.** Prior to the commencement of construction, the applicant shall submit, for review and approval by Public Works - Engineering, a construction-phase Erosion and Sediment Control Plan (ESCP) demonstrating impacts to the biological productivity and the quality of coastal waters shall be avoided and minimized during all construction phases. The ESCP shall demonstrate proposed best management practices (BMPs) in accordance with provision E.10.b of the Phase II MS4 Stormwater Permit to prevent construction waste, debris or contaminants from entering the storm water system or leaving the property. BMPs may include, but are not limited to the use of wattles, compost socks, silt fences, or filter materials at drain inlets and gutters to retain debris, dirt and other pollutants generated by such work. The ESCP must include a rationale for why specific BMPs were chosen as well as BMP details. The ESCP shall also name and provide contact information of the Responsible Individual (RI) installing and maintaining BMPs. The RI shall ensure BMPs are in place before commencing work and contact Public Works - Engineering 24 hours in advance for inspection. The Permittee shall undertake development in accordance with the approved final ESCP. Any proposed changes shall be reported to Public Works - Engineering who will determine whether an amendment is required.
8. **Post-Construction Stormwater Control Plan.** Prior to the issuance of any building permits, the Permittee shall complete a Stormwater Control Plan (SCP) review with Public Works - Engineering consistent with requirements from the Humboldt LID Manual for Discretionary Regulated Projects. The SCP must incorporate Low Impact Development (LID) site design, source control, and runoff reduction measures to meet Provisions E.12.b - E.12.e of the Phase II MS4 Stormwater Permit. The Best

- Management Practices (BMPs) should be vegetation-based infiltration BMPs (e.g., bioretention) to meet the Order's Maximum Extent Practicable stormwater control standard. On-site infiltration systems, such as infiltration trenches or basins, dry wells, and subsurface infiltrations systems are not credited site design measures per MS4 provision E.12.b. The Permittee shall undertake development in accordance with the approved final SCP. Any proposed changes shall be reported to Public Works - Engineering who will determine whether an amendment is legally required. Implementation of structural post-construction BMPs included in the final approved SCP shall be inspected by Public Works – Engineering and may be subject to an Operations and Maintenance Verification Program consistent with MS4 provision E.12.h.
9. **Service Connections.** Upgrades to the existing water service, with backflow devices, shall be installed. The type, size and location of the backflow device must be included on proposed building plans. If a separate fire service is required by the designer or by code, installation will be at cost. Any such service will include an appropriate backflow device and bypass meter per current City standards. All service connections shall be installed prior to the final certificate of occupancy to the satisfaction of Public Works – Engineering.
 10. **Coastal Development Permit.** Prior to the issuance of any building permits, the applicant shall obtain a Coastal Development Permit from the California Coastal Commission. The project shall comply with all conditions of the Coastal Development Permit.
 11. **Biological Assessment and Delineation of Waters and ESHA Recommendations.** The project shall comply with all recommended measures identified in the Biological Assessment Report and the Delineation of Waters and ESHA unless the California Coastal Commission imposes a more stringent condition in the issuance of the Coastal Development Permit (CDP), in which case, the Commission's condition shall apply. Under no circumstances shall construction activities or site improvements, including driveway improvements and associated stormwater management facilities, encroach into bordering wetlands and/or ESHA.
 12. **Humboldt County Division of Environmental Health (DEH) Approval.** Prior to the installation of the on-site septic system, the applicant must obtain approval for the design of the septic system from DEH; and prior to obtaining the final certificate of occupancy, the applicant shall provide evidence DEH has permitted and inspected the on-site septic system.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Eureka does hereby approve the Conditional Use Permit and Design Review modifications, subject to the conditions listed above.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 10th day of July, 2023 by the following vote:

AYES: COMMISSIONERS

NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Meredith Maier, Chair, Planning Commission

Attest:

Cristin Kenyon, Executive Secretary