



AGENDA
RIO DELL PLANNING COMMISSION
REGULAR MEETING – 6:30 P.M
TUESDAY, AUGUST 23, 2016
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE, RIO DELL

WELCOME . . . *By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the Commission are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell Planning Commission meetings often.*

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CEREMONIAL MATTERS

- 1) 2016/0823.01 - Swearing in of Sandy Blakely as Alternate Planning Commissioner for a Three (3) Year Term Ending 12/31/19

E. CONSENT CALENDAR

- 1) 2016/0823.02 - Approve Minutes of the April 12, 2016 Special Meeting **(ACTION)** 1

F. PUBLIC PRESENTATIONS

This time is for persons who wish to address the Commission on any matter not on this agenda and over which the Commission has jurisdiction. As such, a dialogue with the Commission or staff is not intended. Items requiring Commission action not listed on this agenda may be placed on the next regular agenda for consideration if the Commission directs, unless a finding is made by at least 2/3rds of the Commission that the item came up after the agenda was posted and is of an urgency nature requiring immediate action. Please limit comments to a maximum of 3 minutes.

G. SCHEDULED MATTERS/PUBLIC HEARINGS/STUDY SESSIONS

- 1) 2016/0816.03 - Adopt Resolution No. PC 097-2016 Recommending the City Council Amend Section 17.40 of the Rio Dell Municipal Code (RDMC) to Accurately Reflect the Referenced Sections **(DISCUSSION/POSSIBLE ACTION)**

- 2) 2016/0823.04 - Adopt Resolution No. PC 098-2016 Approving Lot Line Adjustment for Stephen Adams, APN No's. 052-202-009 and 052-202-010, LLA 16-01
(DISCUSSION/POSSIBLE ACTION) 20
- 3) 2016/0823.05 - Adopt Resolution No. PC 099-2016 Recommending the City Council Amend Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) Establish Maximum Building Heights and Floor Areas Based on Size of Parcel and to Allow for Exceptions by the Planning Commission when Certain Findings Can be Made; and (2) Establish Regulations Regarding Cargo Containers
(DISCUSSION/POSSIBLE ACTION) 41
- 4) 2016/0823.06 - Ordinance No. 348-2016 Establishing Commercial Medical Cannabis Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC) **(RECEIVE & FILE)** 49

H. ADJOURNMENT



In compliance with the American with Disabilities Act (ADA), if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.

*The next Regular Planning Commission meeting is scheduled for
Tuesday, September 27, 2016 at 6:30 p.m.*

**CITY OF RIO DELL
PLANNING COMMISSION
SPECIAL MEETING
APRIL 12, 2016**

A special meeting of the Rio Dell Planning Commission was called to order at 6:30 p.m. by Commissioner Long.

Present were Commissioners Long, Marks and Woodall. Absent were Commissioners Angeloff and Millington.

Others present were Community Development Director Caldwell and City Clerk Dunham.

CONSENT CALENDAR

Motion was made by Marks/Woodall to approve the consent calendar including approval of minutes of the March 8, 2016 special meeting and approval of minutes of the March 22, 2016 regular meeting. Motion carried 3-0.

PUBLIC PRESENTATIONS

Richard Lemon addressed the Commission on the proposed marijuana regulations and presented a stick with markings indicating the strength of marijuana in the 1960's and the strength now; it showed marijuana 6 times stronger today than in the 1960's. He commented that according to the Federal Drug Administration (FDA) it is 20-30 times stronger. He expressed concern about children and said the legislation approving the cultivation and distribution of medical marijuana will likely pass for anyone over the age of 21. He said as a former high school teacher, about one-third of his students at that time admitted to using marijuana. He stated that the use is even more prevalent among high school and college students today.

He added that his neurologist explained to him how the brain develops in stages and said if a young person uses marijuana it can strongly influence the way the brain develops. He said the worst of it is that a woman during child bearing years using marijuana who gives birth can have a child with a brain that is 10% smaller than normal.

He said he is glad to see the City proposing regulations on edibles and said his sister lives in Colorado Springs and where she lives they are putting marijuana in brownies, ice cream, and suckers to name a few and like guns, edibles are not

required to be locked up. As a result, he said kids get into the edibles and end up in the hospital or worse.

SPECIAL MEETING MATTERS

Recommendations on Testing Laboratories and Dispensaries/Consideration of Draft Commercial Medical Marijuana Land Use Ordinance (CMMLUO), Section 17.30.195 of Title 17 of the Rio Dell Municipal Code (RDMC)

Community Development Director Caldwell provided a staff report and said as the Commission is aware; this meeting is the fifth in a series of meetings regarding the discussion of the Medical Marijuana Land Use Ordinance (MMLUO). He said at this meeting the Planning Commission will be discussing Testing Laboratories and Dispensaries including: Testing Licenses; Type 10 Dispensary Licenses; and Type 10A Dispensary Licenses.

Testing Laboratories

Community Development Director Caldwell said staff is recommending that testing laboratories be conditionally permitted in the Industrial Commercial (IC), Town Center (TC), Neighborhood Center (NC), and Community Commercial (CC) designations subject to a Conditional Use Permit (CUP) and performance standards deemed appropriate by the Planning Commission and/or the City Council.

He noted that labs other than those testing cannabis are currently principally permitted uses in all of the City's commercial zoning districts.

Community Development Director Caldwell presented a handout on ***Dispensaries-Recommended Performance Standards and State Regulations***.

He said one of the concerns expressed regarding testing laboratories is what happens to the product once it is tested and how much product is kept on site. He explained that testing of cannabis only requires a small amount of product and the rest is put into a solvent which makes it useless.

Commissioner Long asked for clarification on how the lab acquires the cannabis for testing.

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Community Development Director Caldwell explained a lab technician goes to the site and takes random samples (usually 1-3 grams) then takes it back to the lab for testing.

Gordon Griswold and Michelle Malaret, Co-Owners of *Leaf Detective*, a testing laboratory in the Bay Area, were present to address the Commission on cannabis testing labs.

Gordon Griswold began by stating that they would like the opportunity to partner with the City to make sure products are safe. He said there were seven (7) dispensaries in Colorado where they found pesticides in the cannabis and also in Washington there was a lab that was passing tests on cannabis with pesticides. He said he has no problem telling the cultivator that they have pesticides in their cannabis and that he will not endanger his integrity or the integrity of his company by doing that.

He said they have been working with a local realtor and looking for potential locations to establish a lab for the past six (6) weeks and Rio Dell being part of Humboldt County, is on the leading edge regarding the advancement of cannabis and that he sees the City as the leader and a jurisdiction that is taking a logical approach with regard to regulations.

He noted that Oregon and Washington have very stringent requirements which make it difficult to do business as a cultivator or testing laboratory.

He added that Rio Dell is taking a very pragmatic approach and he likes what he sees.

Commissioner Marks asked if California has implemented testing requirements for cannabis.

Staff commented that there are some requirements in place but the complete requirements are evolving.

Michelle Malaret commented that they are looking at two potential locations for establishing a testing lab; 541 Wildwood Ave., and 70 Wildwood Ave. She indicated that they have already obtained approval by the Humboldt County Health Department, Alcohol & Beverage Control (ABC), as well as the property owners.

She said as far as odors, all testing occurs under a filtered fume hood similar to a home kitchen hood.

Richard Lemon asked if they test for THC and if there is a limit.

Michelle Malaret said they do test the level of THC but there is no limit as to the amount contained in the sample.

Gordon Griswold stated that in the 1960's and 1970's, the average level of THC was 1-3%; today the average is around 16% although he has seen it as high as 27%.

Commissioner Long said because of the required chain of custody, he understood a lab technician would go to the cultivation site and take random samples.

Michelle Malaret explained the regulations state that a transporter must be involved and they bring it back to the testing lab so there is no direct contact between the cultivator and the lab. She noted that the regulations vary between states and she doesn't know how California will develop its rules.

She commented that their preference is not to have large amounts of product on site at any one time. She said with regard to environmental concerns, their testing materials never go into the sewer system and they even use bottled water for testing. The entire sample is put into solvent and becomes contaminated; that along with any waste such as paper towels are disposed of at a hazardous waste site. She noted that she has already talked to Humboldt Waste Management Authority (HWMA) and they are set up to handle the waste products.

Michelle Malaret held up a tea bag representing 2.5 grams of tea and said they only ask for one (1) gram of cannabis for each test. The point she was making is that a very small amount of cannabis is required for testing so there are no odors or people trying to break in to steal it. She said that any cannabis not tested by the end of the day is locked up in a metal cabinet; although it is unlikely they would have more than 10-15 grams at the end of any given day.

As far as traffic, they only expect 1-2 customers at any time and that it takes each customer approximately 5-10 minutes to complete the required forms. She

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noted that the reason they would like to establish a testing lab in the downtown is to attract customers and invigorate the economy.

Commissioner Marks asked if part of their testing is to measure the amount of residue that is removed during the extraction process.

Michelle Malaret stated that they currently are not testing residual solids at their facility.

Gordon Griswold noted that the equipment required to test residual solids is extremely expensive; estimated at around \$100,000.

Gordon Johnson asked how many employees would be required to operate a testing lab in Rio Dell.

Gordon Griswold said initially there would be two (2) people running the lab but as business picks up there could be additional employees. He noted their normal turnaround time for tests is 24 hours whereas; some labs take 1-2 weeks or longer to complete tests.

Gordon Johnson asked what they charge for testing.

Michelle Malaret said they charge \$80 for a potency test and to test everything including mold and pesticides it's between \$210 and \$250.

Commissioner Woodall questioned the hours of operation.

Michelle Malaret said they were proposing to be open from 11 a.m. to 7 p.m. However; the café at 70 Wildwood Ave. is open from 12 noon to 8 p.m. so they could adjust their hours to accommodate those hours of operation.

Staff drew the Commission's attention to the proposed Performance Standards for Testing Laboratories and recommended a small revision to remove the City Manager and include the Planning Commission as the approval authority related to security systems. He said he should have made the correction prior to presenting it to the Commission.

Don Ashley from *Digipath Labs* in Las Vegas, NV was also present to address the Commission regarding testing laboratories. He provided a handout that

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identified 22 tests they perform including the step by step process from beginning to end.

He pointed out that Las Vegas regulations for testing are the most stringent from anywhere else and their goal is to partner with growers to provide accurate, safe and fast test results. He said California doesn't ask for anything even close to what Las Vegas requires but thinks it will eventually come to that.

He said they also test the potency of edibles and sometimes the residual solvents. He noted that through chemo-profiling they can extract the strain and he believes patients should understand what they are ingesting in their body.

He commented that they are currently looking at the Eel River Industrial Park as a potential site for a testing laboratory and provided a conceptual drawing of a 2,500 sq. ft. facility with an additional 2,500 sq. ft. for future growth.

An unidentified person in the audience said it is good to see people showing interest from other places but he has lived in Humboldt County all his life and this is a big industry. One of the big concerns is that jobs are generated for local citizens. He asked how the Planning Commission is going to make sure this facility will generate local jobs.

Commissioner Long explained that who or how many people they employ is beyond the jurisdiction of the Planning Commission.

Don Ashley noted that they would be hiring local people and they actually went to Humboldt State University and talked to approximately 50 people. He said he can't really implant people here, as Humboldt County has its own set of philosophies on day-to-day life and is very unique.

Discussion continued regarding whether there should be a limit on the number of testing labs and if the community could support two (2) labs.

Community Development Director Caldwell said being within "Emerald Triangle" Rio Dell could absolutely support two (2) testing labs.

James Cortazar commented that he would like to see the market dictate the number of cannabis related businesses in Rio Dell and that it would be a great idea to allow a wide range of different cultivators and producers which is why so

many people come to Humboldt County; for the wide variety of cannabis strains.

Community Development Director Caldwell stated that the Planning Commission has the authority to limit the number of dispensaries in the City but doesn't believe the State has established a limit. He said they have however; put a limit on the number of large commercial cultivators and on the volatile extraction process.

He said every application in the City of Rio Dell must first obtain a State license before they can begin any business activity in the City although it's his understanding the State will give preference to applicants that have already obtained local approval.

Commissioner Woodall referred to the staff report under *Dispensary; General, Type 10* where it stated that only one retail site is allowed and no other licenses are allowed under the Type 10 license.

Staff explained that under a Type 10 license it only covers the dispensary and under a Type 10A license the dispensary can actually have cultivation and manufacturing operations within the dispensary. He said what it means is that the operator can only hold one license.

Commissioner Marks referred to an article in the Times-Standard comparing Humboldt County to Colorado and comments regarding multiple licenses and suggested starting off with one (1) dispensary since the City had complaints with the smoke shop. Provided it doesn't create an element the City doesn't like, that restriction could then be lifted.

Community Development Director Caldwell suggested the Commission complete the discussion on testing laboratories before getting into other subjects. He reviewed staff's recommended action and asked for a straw vote of the Commission regarding recommending approval by the City Council on the regulations for testing laboratories as proposed.

The three Commissioners present agreed with the recommended action.

Dean Smither commented that at the last meeting there was discussion on manufacturing provisions and someone proposed the construction of a 10,000 sq. ft. facility at the Eel River Industrial Park. He said now there is an additional

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proposal for a 5,000 sq. ft. testing facility. He questioned the Cal-Trans requirement for a traffic study for any development over 10,000 sq. ft.

Community Development Director Caldwell said that staff was in contact with CalTrans and learned that improvements may not necessarily be required as a result of the traffic study. He pointed out that Dean Smither may be able to turn in plans and construct a facility however; there would be larger hurdles to construct a facility at the Industrial Park.

Next was review and discussion of the Performance Standards for Dispensaries.

Community Development Director Caldwell stated that staff is only proposing that Type 10 Dispensaries be allowed at this time unless the Commission would like to recommend Type 10A Dispensaries as well. He said staff is recommending that dispensaries be conditionally permitted in the Town Center (TC) subject to a Conditional Use Permit (CUP), State regulations, recommended performance standards and conditions and limitations deemed appropriate by the Planning Commission and/or City Council.

He continued with review of the recommended performance standards in addition to the State requirements and said between the State's requirements and the City's performance standards; he feels everything will be adequately addressed with regard to dispensaries.

He pointed out that the Commission has options with regard the number of dispensaries allowed and said they could limit it to one (1) dispensary at first and solicit for RFP's to determine which applicant to select; or as James Cortazar suggested, let the market determine the number of dispensaries.

Commissioner Marks expressed concern about laws changing where edibles become a food item and cottage industries making edibles without complying with all of the labeling requirements. She said to keep in mind that they are not held to the same standards as someone that has 100 employees.

David Bridge commented that the State is developing provisions for Cottage Industry licenses and that it is being talked about at the County level.

Community Development Director Caldwell pointed out that Cottage Food Industries must be approved by the County Department of Environmental Health before the City can issue a license.

Dean Smither commented that dispensaries will be subject to a Conditional Use Permit and if they are not complying with the conditions, the City can revoke it. He said taking marijuana out of the equation, there are no regulations on the number of pharmacies the City allows. He agreed that the City should let the market dictate how many dispensaries there are and as far as the RFP process, a business could look great on paper but it doesn't necessarily mean they can operate a good business.

Commissioner Marks said her concern is that there will be loitering around dispensaries like the smoke shop and with a limited police force it may be difficult to control.

Community Development Director Caldwell said the State regulations don't allow loitering and if there are complaints, the City will track them and send the owner a letter. If they don't comply, their CUP can be revoked.

Dean Smither commented that it's up to the business owner to be responsible and take appropriate action to make sure people who are loitering leave the premises. He said part of the reason there is crime in Rio Dell is because it is difficult for people to make a living. He said as you start seeing prosperity, things will clean up. He also noted that opening dispensaries at 9:00 a.m. is a little late and thought that perhaps 7:30 would be more appropriate for people that have to be at work at 8:00.

Don Ashley noted that dispensaries in Los Angeles for example must have security so once the customer makes their purchase, they must leave the premises. He said no dispensary will risk jeopardizing their dispensary license by allowing kids to hang out.

James Cortazar commented that there will probably be no security "guard" on duty per say however; there will be a responsible person making sure everyone is abiding by the rules so they can protect their license.

Commissioner Woodall commented that perhaps the City will generate enough revenue to enhance the police force. She expressed support to not limit the

number of dispensaries provided they are subject to a Conditional Use Permit.

Commissioner Long stated that having a competitive market will basically self-regulate the number of dispensaries so he agreed to not limit the number.

Commissioner Marks was not in support of having no limit on the number of dispensaries in the City.

Community Development Director Caldwell asked if the Commission wanted to recommend allowance of Type 10A dispensary licenses which are facilities where medical cannabis, medical cannabis products, or devices for the use of medical cannabis are offered for retail sale including an area for cultivation and manufacturing.

He recommended that if the Commission wants to consider allowing Type 10A licenses that a limit is set on the size of the cultivation area and to require scrubbers and carbon filters.

James Cortazar noted that the cultivation area at the dispensary in Arcata is approximately 2,000 – 3,000 sq. ft. and that there are no odors at that site.

David Bridge added that there is also a vegetation room and a mother room so it's not all flowering plants.

Commissioner Long said he would like to limit the size of the cultivation area at dispensaries because it could virtually encompass a whole block and take away other potential business opportunities.

Gordon Griswold pointed out that there are a couple of ways to determine licensing for cultivation which can be the canopy size based on space or a per plant method. He said the per plant method helps with "seed to sale" tracking so asked the Commission to keep in mind that under a per plant model for seed to sale tracking, the number of tags correlates with the number per license that the cultivator has whereas; the square footage method allows as many plants as they can grow in that area which can vary considerably depending on the size of the plants.

He said the Commission also needs to define the plants. He said that Colorado doesn't define the plants until they are 8 inches tall and babies are not counted.

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Community Development Director Caldwell said Mr. Griswold made a good point and the Commission many want to base the limit on the number of flowering plants.

David Bridge stated that he works with a cultivator in Oregon and noted that their number is six (6) plants and they are trying to get it to 12. He said what they are doing is growing six (6) plants in a 1,200 sq. ft. area and they vege them for a long time so they grow out instead of up which is how they get around the regulations. He said it makes it easy to track but also very easy for the cultivator to get around the rules. He said plants can easily be trained so six (6) plants can fill an entire room.

Commissioner Long said that it seems that limiting the square footage would be easier than trying to identify plants.

Commissioner Marks asked if there is a way to approve Type 10A licenses with a stipulation that the cultivation be located off site rather than at the dispensary.

Community Development Director Caldwell explained it is his understanding that a type 10A license would allow the business to apply for other type licenses and be composed of a 10A dispensary license and also includes a cultivation license which would either be a type 1, 1(a), 2, or 2(a) license, and the same for manufacturing.

Community Development Director Caldwell said he would recommend restricting the canopy size.

Commissioner Long asked for a straw vote on whether to restrict licenses to dispensaries only, or to allow cultivation and/or manufacturing at dispensaries.

Community Development Director Caldwell commented that he would not recommend manufacturing (extractions) to occur in the Town Center (TC) zone; only commercial kitchens in the Town Center (TC). He said the question is whether to allow accessory cultivation.

Commissioners Marks and Woodall expressed support for dispensaries, only without manufacturing or cultivation.

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Commissioner Long said he would consider allowing cultivation if there was a size restriction.

Commissioner Long said he would consider allowing cultivation if there was a size restriction.

Community Development Director Caldwell pointed out that if someone wanted to have a cultivation area with a dispensary, they could make application for a text amendment to the code.

He said this wraps up the discussion of dispensaries and testing laboratories however; there are a couple of things he would like to touch on that he and Commissioner Marks had a discussion on earlier and said the first suggestion was to somehow promote only organic cultivation in the City. He said if the City were to do that and the tests were to come back showing it wasn't organic, he is not sure what would happen at that point.

David Bridge noted that the State is going to require that all cannabis be organic by the year 2020 anyway. He said it would be better to not address organic regulations at this time as the State has yet to set up any testing standards.

Community Development Director Caldwell commented that he knows that organic cannabis sells for more than other cannabis and is desired for edibles.

Commissioner Marks asked if cannabis can be labeled as organic is it hasn't been certified as such.

James Cortazar commented that the Agricultural Department comes to the site and inspects the process not the product when certifying an agricultural product as organic.

Community Development Director Caldwell said based on that information he would recommend waiting until the State sets standards for organic cannabis.

David Bridge said there are third-party certifiers but there needs to be information out there so the growers will know what they can and can't use for their cannabis to be certified as organic.

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Community Development Director Caldwell said the other suggestion that Commissioner Marks brought up was that she would like applicants to be residents of California.

Councilmember Marks said in Colorado there is a 2-year residency requirement to obtain a license and a 6 month residency requirement in Washington.

Matthew Fortozzo commented that as a patient he feels it is important to have mandatory inspections by various agencies and noted that chemicals or pesticides such as *Eagle 20* are very harmful. He said probably 95% of medical marijuana patients don't know what is in their products.

David Bridge noted that 75-80% of cannabis today is not good enough quality to pass the current standards. He said Northern Colorado University recently produced a study regarding pesticides on cannabis which he said he would forward to the Community Development Director when he gets it. He said there is a huge education bubble for the cultivators in order to meet the requirements that are tentatively being set up by the State.

Commissioner Woodall stated that she doesn't have a problem with people not being California residents and if they have the money and want to invest in the City it would be a benefit.

Commissioner Long commented that even if the applicants were restricted to California the next issue would be to restrict licenses to Humboldt County.

Community Development Director Caldwell said everyone has to subscribe and play by the rules no matter where they come from.

Gordon Griswold said as a testing laboratory company they have no stand on the issue but warned the Commission to be careful how much they restrict because if you make it too difficult, the black market will continue and 90% of the customers will still purchase on the black market with only 10% purchasing from the dispensary.

David Bridge stated that the latest consensus from *True Humboldt* and other Humboldt groups is that only one-half of one percent of the farms cultivating in Humboldt County have actually accomplished getting through the permitting process.

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Commissioner Long commented that if the City implements safe and reasonable policies and the applicants abide by them, they will become more comfortable with the policies.

Matthew Fortozzo said if dispensary licenses are opened up to everyone and the City imposes somewhat relaxed policies they can see who the serious players are who want to comply and it will weed out those that don't.

Michelle. Malaret asked if she could see a show of hands in the audience of how many people plan to open dispensaries; there were three hands raised.

Community Development Director Caldwell reviewed staff's recommendation regarding adoption of the resolution.

Motion was made by Woodall/Marks to adopt Resolution PC 094-2016 recommending approval of Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC) with the minor amendments as recommended. Motion carried 3-0.

Billy Joe Long, Vice Chair



Attest:

Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: August 23, 2016

To: Planning Commission
From: Kevin Caldwell, Community Development Director 
Through: Kyle Knopp, City Manager 
Date: August 1, 2016
Subject: Chapter 17.40 of the Rio Dell Municipal Code (RDMC)

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding amending Section 17.40.030 of the Enforcement Regulations, Chapter 17.40 of the Rio Dell Municipal Code (RDMC);
2. Open the public hearing, receive public input and deliberate;
3. Find that:
 - (a) The proposed text amendment is consistent with the General Plan; and
 - (b) The proposed text amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA);
4. Adopt Resolution No. PC 097-2016 recommending that the City Council amend Chapter 17.40 of the Rio Dell Municipal Code (RDMC) to accurately reflect the referenced sections.

Background

In late 2014 the City reformatted Chapter 17.25 and added a number of new regulations to Chapter 17.30, to the Rio Dell Municipal Code (RDMC). In recently reviewing the Enforcement regulations, Chapter 17.40 of the RDMC, staff discovered that Section 17.40.030 referred to two

Sections that were recodified to new section numbers. The two referenced sections, 17.25.030 and 17.25.120 refer to "Adult Entertainment" and "Camping". Those sections were recodified to Sections 17.30.030 and 17.30.170 respectively. Below is a copy of the existing and proposed language.

17.40.030 Penalty.

Notwithstanding any other provisions of this title, including RDMC 17.40.020, any person, whether principal, agent, employee or otherwise who violates RDMC ~~17.25.030~~ 17.30.030 or ~~17.25.120~~ 17.30.170 shall be guilty of a misdemeanor and may be punished as follows:

- (1) By imprisonment in the County Jail not to exceed six months; or
- (2) A fine not to exceed \$1,000 for violations of RDMC ~~17.25.030~~ 17.30.030 and a fine not to exceed \$500.00 for violations of RDMC ~~17.25.120~~ 17.30.170; or
- (3) A combination of such imprisonment and fine. [Ord. 252 § 8.02.5, 2004.]

Procedural Requirements

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.

- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are no polices in the General Plan which would prohibit amending the zoning regulations to accurately refer to the originally intended provisions.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a *significant* effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendments, to reestablish the original intended numerical sequence of the regulations, staff believes there is no evidence to suggest that the minor amendment will have a *significant* effect on the environment.

Attachments

Attachment 1: Resolution No. PC 097-2016 recommending that the City Council amend Chapter 17.40 of the Rio Dell Municipal Code (RDMC) to accurately reflect the referenced sections.

RESOLUTION NO. PC 097-2016



**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING THAT THE CITY COUNCIL AMEND CHAPTER 17.40 OF THE RIO
DELL MUNICIPAL CODE (RDMC) TO ACCURATELY REFLECT REFERENCED SECTIONS
WHICH WERE RECENTLY AMENDED:**

WHEREAS the City has added a number of new regulations to Chapter 17.30, General Provisions and Exception, to the Rio Dell Municipal Code (RDMC) over the past couple of years; and

WHEREAS based on the added provisions, the numerical section numbers have changed; and

WHEREAS in recently reviewing the Enforcement regulations, Chapter 17.40 of the RDMC, staff discovered that Section 17.40.030 referred to two Sections that were recodified to new section numbers; and

WHEREAS the two referenced sections, 17.25.030 and 17.25.120 refer to "Adult Entertainment" and "Camping". Those sections were recodified to Sections 17.30.030 and 17.30.170 respectively; and

WHEREAS the Planning Commission is now recommending that Section 17.40.030 be amended to accurately reflect the new sections numbers; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell finds that:

1. The proposed amendments are consistent with the General Plan and any applicable specific plan; and
2. The proposed amendments are Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Rio Dell recommends that the City Council approve the proposed amendments to Section 17.40.030 of the Rio Dell Municipal Code (RDMC) to accurately reflect the new sections numbers.

I HEREBY CERTIFY that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on August 23, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nick Angeloff, Chairperson

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 097-2016 adopted by the Planning Commission of the City of Rio Dell on August 23, 2016.


Karen Dunham, City Clerk, City of Rio Dell

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: August 23, 2016

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager 

Date: August 2, 2016

Subject: An application for a Lot Line Adjustment between two where 233+/- square feet will be adjusted from APN 052-202-09 to APN 052-202-10. APN 052-202-09 is developed with a single family residence and detached garage. APN 052-202-10 is vacant.

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding the proposed lot line adjustment;
2. Open the public hearing, receive public input, close the public hearing and deliberate;
3. Find that the proposed lot line adjustment is consistent with the Rio Dell General Plan, Zoning and Building regulations and is Categorically Exempt pursuant to Section 15305 of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations
4. Adopt Resolution No. PC 098-2016 approving the proposed lot line adjustment.

Summary

Ontiveros and Associates recently submitted an application for a lot line adjustment between 2 parcels of about 4,056 square feet (APN 052-202-10; Adams) and about 5,066 square feet (APN 052-202-09; Price). The proposed lot line adjustment will adjust about 233 square feet from APN 052-202-09 to APN 052-202-10.

Based on a review of the Preliminary Title Report, current deeds and creation deeds, staff has determined that both parcels are legal, separate parcels created in compliance with the Subdivision Map Act and local regulations.

The Adam's parcel, APN 052-202-10, was created by deed in on February 25th, 1946, Book 283 of Deeds, Page 399. The Price parcel, APN 052-202-09 was also created by deed on June 13th, 1947, Book 523 of Deeds, Page 278.

Based on the proposed project, staff has determined that the project is Statutorily Exempt pursuant to Class 5, Section 15305 of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. This exemption applies to lot line adjustments with an average slope of less than 20% and does not result in any changes in land use or density.

The applicant has submitted evidence in support of making the required findings. Lot line adjustments *shall* be approved if the required findings can be made. Therefore staff recommends that the Planning Commission approve the project as conditioned.

Required Findings

Section 16.35.030 Rio Dell Municipal Code (RDMC).

A lot line adjustment shall be approved or conditionally approved when there is compliance with all of the following approval criteria:

- (1) The application is found to be complete; and
- (2) Either (a) the parcels to be adjusted are found to be in compliance with the Subdivision Map Act and local subdivision regulations, or (b) a Conditional Certificate of Subdivision Compliance for the parcel or parcels has been issued for recordation prior to or concurrent with the lot line adjustment; and
- (3) The proposed lot line adjustment neither causes non-conformance nor increases the severity of pre-existing nonconformities with the General Plan, Zoning and Building ordinances. Providing compliance with this subsection, the approval shall not be conditioned on correction or preexisting non-conformities with the General Plan, Zoning and Building ordinances.

Staff Analysis

1. Complete Application

The applicant has submitted the required application materials including the map/plot plan illustrating the proposed lot line adjustment, copies of the current deeds, creation documents and copies of a Preliminary Title Report (PTR) for each of the parcels.

2. Subdivision Map Act Compliance

As previously indicated, both parcels were created in compliance with State and local regulations. The Adam's parcel, APN 052-202-10, was created by deed in on February 25th, 1946, Book 283 of Deeds, Page 399. The Price parcel, APN 052-202-09 was also created by deed on June 13th, 1947, Book 523 of Deeds, Page 278. A copy of the creation deeds are included as Attachment 2.

3. General Plan, Zoning and Building Ordinance Consistency

The parcels are planned and zoned Urban Residential (UR). The purpose of the Urban Residential zone is to provide neighborhood residential areas with varying densities for single family dwellings. A copy of the Urban Residential development standards is included as Attachment 2. The Urban Residential designation requires a minimum parcel size of 6,000 square feet. Both parcels are less than the required 6,000 square feet for new parcels. They are considered legal, nonconforming parcels. The Adams parcel (APN 052-202-10) is currently about 4,056 square feet. The Price parcel (APN 052-202-09) is currently about 5,066 square feet. Again, the proposed lot line adjustment will adjust about 233 square feet from the Price parcel (APN 052-202-09) to the Adams parcel (APN 052-202-10). The resulting Adams parcel will be about 4,290 square feet and the resulting Price parcel will about 4,832 square feet.

The proposed lot line adjustment does not result in any nonconformity in regards to setbacks or lot coverage and does not require the relocation of any easements or utilities.

Based on comments from referral agencies, information submitted by the applicant and the recommended conditions of approval, the evidence supports the finding that the proposed lot line adjustment is in conformance with all applicable policies of the Zoning Regulations, General Plan and Building Regulations.

4. California Environmental Quality Act (CEQA)

Based on the proposed project, staff has determined that the project is Statutorily Exempt pursuant to Class 5, Section 15305 of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. This exemption applies to lot lines adjustment with an average slope of less than 20% and does not result in any changes in land use or density.

Attachments:

- Attachment 1: Project Referral and Maps
- Attachment 2: Current Deeds and Creation Deeds
- Attachment 3: Urban Residential Development Standards
- Attachment 4: Conditions of Approval
- Attachment 5: Resolution No. PC -098-2016



675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532

Community Development Department

Project Referral

Date: July 28, 2016

- To: [x] Public Works, [x] Rio Dell Fire District, [x] Rio Dell Police Department, [] County Environmental Health, [] County Planning Department, [] Regional Water Quality Control Board, [] Building Inspection, [x] Rio Dell City Manager, [] City Engineer (GHD), [] Caltrans District #1, [] Fish and Wildlife, [x] Applicant/Agent

Applicant: Stephen Adams
Address: 1742 Cecil Avenue
City/State/Zip: Fortuna, CA. 95540
Telephone: (707) 599-4309
Email:

Agent: Ontiveros & Associates
Address: 404 N. Fortuna Boulevard
City/State/Zip: Fortuna, CA. 95540
Telephone: (707) 725-7410
Email: karl.prebor@suddenlinkmail.com

Assessor Parcel Number(s): 052-202-09 & 10

General Plan/Zoning: Urban Residential

Project Description: A lot line adjustment between two parcels where 233+/- square feet will be adjusted from APN 052-202-09 to APN 052-202-10. APN 052-202-09 is developed with a single family residence and detached garage. APN 052-202-10 is vacant.

Project Location: The project site is located at the intersection of Center Street and Pacific Avenue.

Please review the attached information regarding the above referenced project and provide your comments with any recommended conditions of approval within 10 calendar days of the above date. If no response is received or a request for an extension is not received within 10 calendar days of the above date, it will be assumed that your agency has no comments or concerns regarding the project. The project is scheduled to be heard at the Planning Commission meeting of August 23, 2016.

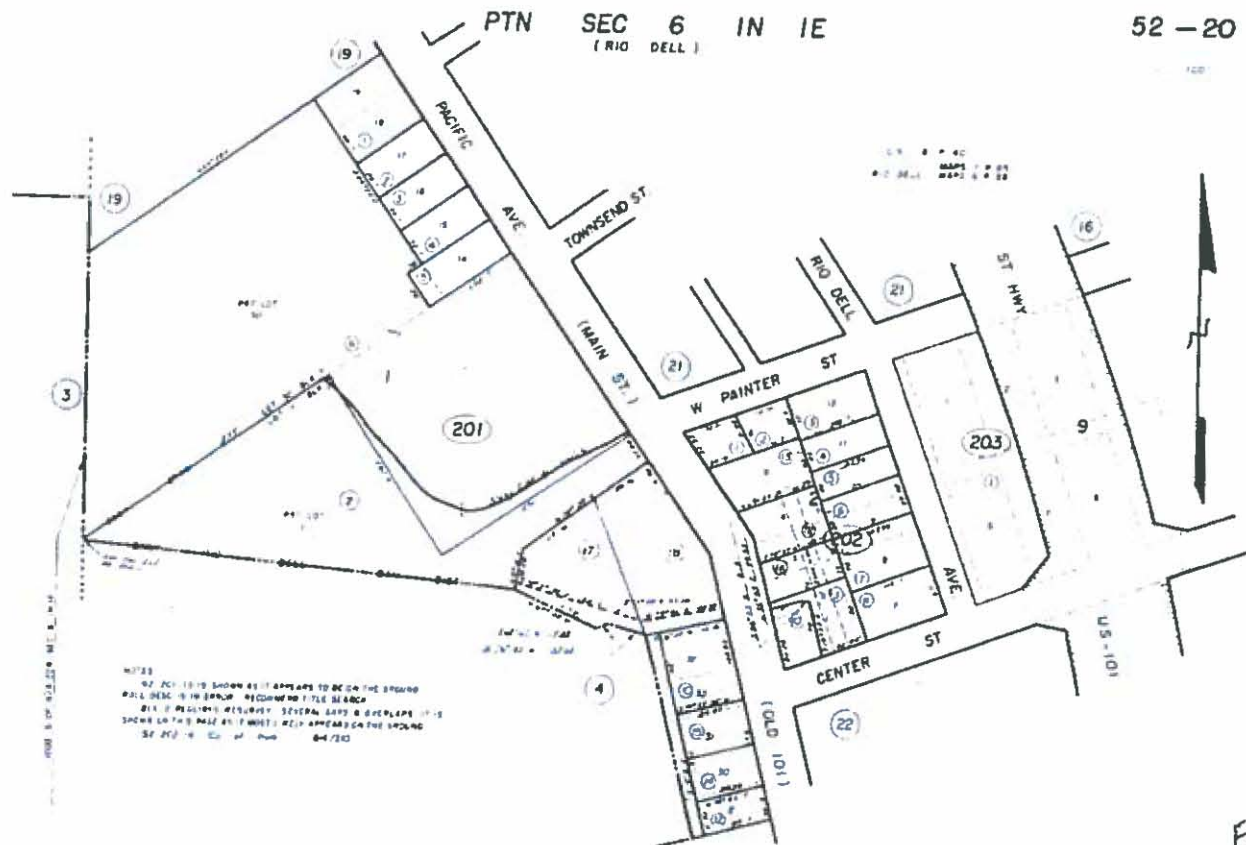
If you have any questions concerning the project, please contact Kevin Caldwell, Community Development Director between 8:00 a.m. and 5:00 p.m. Monday through Friday at (707) 764-3532.

We have reviewed the above referenced application and recommend the following (please check one):

- [] Recommend approval. The Department has no comment at this time.
[] Recommend conditional approval. Suggested conditions attached.
[] Other comments:

Print Name:

Date:



Adams Lot Line Adjustment

Applicant: Stephen Adams
 Address: 1742 Cecil Avenue
 City/State/Zip: Fortuna, CA. 95540
 Telephone: (707) 599-4309
 Email: _____

Agent: Ontiveros & Associates
 Address: 404 N. Fortuna Boulevard
 City/State/Zip: Fortuna, CA. 95540
 Telephone: (707) 725-7410
 Email: karl.prebor@suddenlinkmail.com

Assessor Parcel Number(s): 052-202-09 & 10

General Plan/Zoning: Urban Residential

Project Description: A lot line adjustment between two parcels where 233+/- square feet will be adjusted from APN 052-202-09 to APN 052-202-10. APN 052-202-09 is developed with a single family residence and detached garage. APN 052-202-10 is vacant.

Project Location: The project site is located at the intersection of Center Street and Pacific Avenue.

RECORDING REQUESTED BY:
Fidelity National Title Company of California
Escrow No.: 05-228035-MC
Locate No.: CAFNT0912-0912-0001-0000228035
Title No.: 05-228035

2006-15156-4
Recorded — Official Records
Humboldt County, California
Carolyn Cnich, Recorder

Recorded by FIDELITY NATIONAL TITLE CO.
Rec Fee 16.00
Doc Trf Tax 44.00
Clerk: LH Total: 60.00
May 24, 2006 at 10:00

**When Recorded Mail Document
and Tax Statement To:**

Mr. and Mrs. Stephen Adams
1742 Cecil Ave
Fortuna CA 95540

APN: 52-202-10

SPACE ABOVE THIS LINE FOR REORDER 3 USE

GRANT DEED

**The undersigned grantor(s) declare(s)
Documentary transfer tax is \$44.00**

- [X] computed on full value of property conveyed, or
- [] computed on full value less value of liens or encumbrances remaining at time of sale,
- [] Unincorporated Area City of Fortuna,

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Robert E. Parsells, a married man and Michael F. Austrus and Nancy E. Austrus, husband and wife


hereby **GRANT(S)** to Stephen Adams and Susan Adams, husband and wife as joint tenants


the following described real property in the City of Fortuna, County of Humboldt, State of California:


SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: May 3, 2006

STATE OF CALIFORNIA)
COUNTY OF Humboldt)
ON May 6, 2006 before me,
Loene Rose Gossett, Notary Public
(here insert name and title of the officer), personally
appeared Robert E. Parsells


Robert E. Parsells

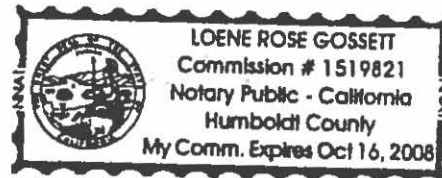

Michael F. Austrus


Nancy E. Austrus

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature Loene Rose Gossett



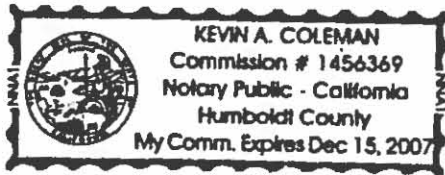
MAIL TAX STATEMENTS AS DIRECTED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of Humboldt } ss.

On 12 MAY 2006 before me, Kevin A. Coleman, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared MICHAEL F. AUSTRUS
Name of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Grant Deed

Document Date: MAY 3, 2006 Number of Pages: 2

Signer(s) Other Than Named Above: ROBERT F. PARSELLS + (NANCY F AUSTRUS)
(NOT YET SIGNED)

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____

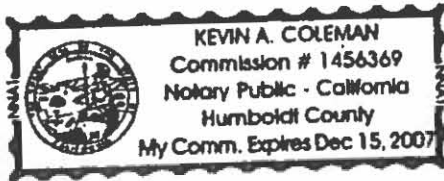


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Humboldt } ss.

On 12 MAY 2006 before me, Kevin A. Coleman, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Nancy E. AUSTRAUS
Name(s) of Signer(s)

personally known to me
 proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: GRANT DEED

Document Date: MAY 3, 2006 Number of Pages: 2 + CAPA

Signer(s) Other Than Named Above: ROBERT F. PARCELS AND MICHAEL F. AUSTRAUS

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer Is Representing: _____



EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF RIO DELL, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

That portion of Lots 1 and 2 in Block 2 of the Town of Rio Dell, according to the map thereof on file in the Recorder's office of said Humboldt County in Book 1 of Maps, Page 55, described as follows:

BEGINNING on the Southwest corner of said Lot 1; and running

thence Northerly along the West line of said Lots 1 and 2 a distance of 80.38 feet to a 3/4 inch pipe monument located North 60 degrees 58 minutes East 61.75 feet from a 6 inch by 6 inch concrete monument set on the Westerly right of way line of the State Highway on the Northerly end of a tangent of said highway running North 14 degrees 25 minutes West; running

thence from said 3/4 inch pipe monument North 75 degrees 3 minutes East 44.35 feet;

thence South 86 degrees 25 minutes East 8.15 feet to a 3/4 inch pipe monument;

thence South 14 degrees 37 minutes East 74 feet, more or less, to the Southerly line of said Lot 1; and

thence South 70 degrees West along said last mentioned line to the point of beginning.

Lot 1 in Block 2 of the Town of Rio Dell according to the map of said town on file in the Recorder's Office of said Humboldt County in Book 1 of maps page 55.

Also that portion of Lot 2 in said Block 2 bounded and described as follows:

BEGINNING at the southwest corner of said Lot 2 and running;

thence northerly along the County Road (also known as Main Street) 22 feet;

thence in an easterly direction parallel with the south line of said Lot 2 to the east line of said Lot;

thence southerly along said east line 22 feet more or less to the southeast corner of said lot;

thence westerly along the southerly line of said lot to the place of beginning.

WITNESS my hand this date: July 8 1946

Ethel D. Roscoe

STATE OF CALIFORNIA, }
County of Humboldt. } SS.

On this date: July 16, 1946, before me the undersigned, a notary public in and for said County, personally appeared ETHEL D. ROSCOE known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

WITNESS my hand and official seal.

(SEAL) Elma Larsen
Notary Public in and for the County of Humboldt,
State of California.

7193 Filed for Record at the Request of Belehner Abstract & Title Co., July 19th, 1946, at 9:31 o'clock A. M., and recorded in Book 285 of Deeds at page 398, Records of Humboldt County, California.

Comp. by *Ethel D. Roscoe* ... Comp. by W. J. Crane, Recorder.
Fees Paid \$1.00 By Bernice Starr, Deputy Recorder.

GRANT DEED

285 Deeds 399

NICHOLAS V. TOMPKINS and MAYBELLE A. TOMPKINS (formerly MAYBELLE A. BROWN) husband and wife, in consideration of Ten Dollars, to them in hand paid, receipt of which is hereby acknowledged, do hereby GRANT TO Huey Finley and Laura Finley, Husband and wife in joint tenancy all that real property in the County of Humboldt, State of California, described as follows:

These portions of Lot 1 and of Lot 2 of Block 2 of the Town of Rio Dell according to the map thereof on file in the Recorder's office of Humboldt County in Book 1 of Maps, Page 55, particularly described as follows:

Beginning at the southwest corner of said Lot 1 and running thence northerly along the west line of said Lot 1 and of said Lot 2, 80.38 feet to a 3/4 inch pipe monument located north 60 degrees 58 minutes east 61.75 feet from a 6 inch concrete monument set on the westerly right of way line of the State Highway at the northerly end of a tangent of said Highway running north 14 degrees 25 minutes west, running thence from said 3/4 inch pipe monument north 75 degrees 3 minutes east 44.35 feet, thence south 86 degrees 25 minutes east 8.15 feet to a 3/4 inch pipe monument, thence south 14 degrees 37 minutes east 74 feet more or less to the southerly line of said Lot 1, thence south 70 degrees west along the last mentioned line to the point of beginning.

EXECUTED this 25th day of Feb. 1946.

Maybelle A. Tompkins
Nicholas V. Tompkins



Traet B
CREATION DEED
APJ
052.202.10

STATE OF CALIFORNIA }
County of Humboldt. } ss. (ACKNOWLEDGMENT BY INDIVIDUAL)

On this 25th day of Feb. in the year One Thousand Nine Hundred and Forty Six, before me, Geo. W. Yuill, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared Maybelle A. Tompkins and Nickolas V. Tompkins known to me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the said County of Humboldt, the day and year in this certificate first above written.

(SEAL) Geo. W. Yuill,
Notary Public in and for the County of Humboldt,
State of California.

7194 Filed for Record at the Request of Belcher Abstract & Title Co., July 19th, 1946, at 32 min. past 9 o'clock, A. M., and Recorded in Book 283 of Deeds at page 399, Humboldt County Records.

Fee \$1.00 *Edward J. Jennings* Comptroller By W. J. Crane, Recorder.
Bernice Starr, Deputy Recorder.

DEED

I, CATHERINE E. DELANEY, a widow GRANT to WILLIAM J. WINEBERG all that real property situated in the County of HUMBOLDT, State of California, bounded and described as follows, to-wit:

The east half of the southwest quarter of Section 8 and the northeast quarter of the northwest quarter of Section 17 in Township 5 South of Range 3 East of the Humboldt Base and Meridian.

Containing 120 acres more or less.

WITNESS my hand this date: February 13 1946.

Catherine E. Delaney

STATE OF CALIFORNIA, }
County of Humboldt. } ss.

On this date: February 26 1946, before me the undersigned, a notary public in and for said county, personally appeared Catherine E. Delaney, a widow known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Witness my hand and official seal.

(SEAL) I. R. Belcher
Notary Public in and for the County of Humboldt,
State of California.

7202 Recorded at the request of William J. Wineberg, July 19th, 1946, at 59 minutes past 10 A. M., in book 283 of Deeds page 400, Records of the County of Humboldt.

Paid \$1.00 *Edward J. Jennings* Comptroller By W. J. Crane, Recorder.
Bernice Starr, Deputy.

RECORDING REQUESTED BY
Humboldt Land Title Company
AND WHEN RECORDED MAIL TO

Name Scott Price
Address 5725 Redwood Drive
Rohnert Park, Ca. 94928

2005-28422-2
Recorded — Official Records
Humboldt County, California
Carolyn Crnich, Recorder
Recorded by HUMBOLDT LAND AND TITLE CO
Rec Fee 10.00
Doc Trf Tax 77.00
Survey Mon 10.00
Clerk: KJ Total: 97.00
Aug 23, 2005 at 10:00

Order No. 00122086-001-FH

SPACE AB

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

City of Rio Dell
Parcel No. 052-202-009

Documentary Transfer Tax is \$ 77.00

- computed on full value of interest or property conveyed, or
 full value less value of liens or encumbrances remaining at
the time of sale

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Russell D. Laustrup, aka Russell D. Lastraup, and Elsie Laustrup, husband and wife
hereby GRANT(S) to
Scott Price, an unmarried man

the following real property in the City of Rio Dell
County of Humboldt, State of California:

See Exhibit A attached hereto and made a part hereof.

Dated: August 22, 2005

STATE OF CALIFORNIA
COUNTY OF Humboldt

On August 22, 2005 before me,
_____ the undersigned _____

a Notary Public in and for said County and State, personally appeared

Russell D. Laustrup and Elsie Laustrup

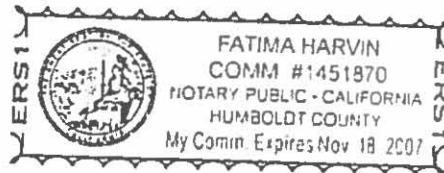
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

WITNESS my hand and official seal.

Signature Fatima Harvin

My Commission Expires: November 18, 2007

Russell D. Laustrup
Russell D. Laustrup
Elsie Laustrup
Elsie Laustrup



(This area for official notarial seal)

MAIL TAX STATEMENTS TO PARTY SHOWN ON THE FOLLOWING LINE; IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

Name

Street Address

City & State

Exhibit A

DESCRIPTION

That real property situate in the City of Rio Dell, County of Humboldt, State of California, described as follows:

Those portions of Lots 1 and 2 in Block 2 of the Town of Rio Dell, according to the Map thereof on file in the Recorder's Office of Humboldt County in Book 1 of Maps, Page 55, more particularly described as follows:

BEGINNING at a ¾-inch pipe monument on the West line of said Lot 2 and located North 60 degrees 58 minutes East 61.75 feet from a 6-inch by 6-inch concrete monument set on the Westerly right of way line of the State Highway at the Northerly end of a tangent of said highway, running North 14 degrees 25 minutes West; and running
thence from said ¾-inch pipe monument, North 75 degrees 3 minutes East 44.35 feet;
thence South 86 degrees 25 minutes East 8.15 feet to a ¾-inch pipe monument;
thence South 14 degrees 37 minutes East 74 feet, more or less, to the Southerly line of said Lot 1;
thence North 70 degrees East along the last mentioned line 62.80 feet to the Southeast corner of said Lot 1;
thence North along the Easterly line of said Lots 1 and 2, a distance of 82 feet to a point located Northwesterly 22 feet from the Southeast corner of said Lot 2;
thence South 70 degrees West (along a line parallel with and at all points 22 feet Northerly from the South line of said Lot 2, said 22 feet being measured at right angles to said line) 108.6 feet, more or less, to the West line of said Lot 2; and
thence Southeasterly along the last mentioned West line 2.19 feet to the point of beginning.

GRANT DEED

523-27B

Tract A



NICOLAS V. TOMPKINS and MAYBELLE A. TOMPKINS, husband and wife,

in consideration of Ten Dollars,

to them in hand paid, receipt of which is hereby acknowledged, do hereby

GRANT TO ANDREW C. LAUSTERUP and GOLDIE LAUSTERUP, husband and wife,

all that real property in the County of Humboldt, State of California, described as follows:

These portions of Lot 1 and of Lot 2 of Block 2 of the Town of Rio Dell according to the map thereof on file in the Recorder's Office of Humboldt County in Book 1 of Maps, Page 55, particularly described as follows:

Beginning at a 3/4 inch pipe monument on the west line of said Lot 2 and located north 80 degrees 58 minutes east 61.75 feet from a 6 inch by 6 inch concrete monument set on the westerly right of way line of the State Highway at the northerly end of a tangent of said Highway running north 14 degrees 25 minutes west, running thence from said 3/4 inch pipe monument north 75 degrees 3 minutes east 44.35 feet, thence south 85 degrees 25 minutes east 8.15 feet to a 3/4 inch pipe monument, thence south 14 degrees 37 minutes east 74 feet more or less to the southerly line of said Lot 1, thence north 70 degrees east along the last mentioned line 62.80 feet to the southeast corner of said Lot 1, thence north 19 degrees east along the east line of said Lot 1 and of said Lot 2, 82 feet to a point located north 19 degrees west 22 feet from the southeast corner of said Lot 2, thence south 70 degrees west (along a line parallel with and at all points 22 feet northerly from the south line of said Lot 2, said 22 feet being measured at right angles to said line) 108.6 feet more or less to the west line of said Lot 2, thence southeasterly along the last mentioned west line 2.19 feet to the point of beginning.

CREATION DEED

APW

052.202.09

EXECUTED this 13th day of June, 1947

Nicholas V. Tompkins
Maybelle A. Tompkins

94986
B. C. Andrew C. Lausterup
Rio Dell

278

STATE OF CALIFORNIA

County of Humboldt

(ACKNOWLEDGMENT BY INDIVIDUAL)

On this 13th day of June, 1959, in the year One Thousand Nine Hundred and Fifty-nine before me, George W. Snow, a Notary Public in and for said Humboldt County, residing therein, duly commissioned and sworn, personally appeared Andrew O. Lastrup, Maybelle A. Tompkins and Goldie Lastrup known to me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the said County of Humboldt the day and year in this certificate first above written.

George W. Snow
Notary Public in and for the County of Humboldt, State of California

STATE OF CALIFORNIA

County of

(ACKNOWLEDGMENT BY CORPORATION)

On this day of in the year One Thousand Nine Hundred and before me, a Notary Public in and for said County, residing therein, duly commissioned and sworn, personally appeared known to me to be the of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the said County of the day and year in this certificate first above written.

Notary Public in and for the County of State of California

GRANT DEED

NICHOLAS V. TOMPKINS and
MAYBELLE A. TOMPKINS
TO
ANDREW O. LAUSTRUP and
GOLDIE LAUSTRUP

Dated 1959
Filed for Record at the Request of
at min. past o'clock M.
and Recorded in Book of
County Records
Recorder
Deputy Recorder
RETURNS WHEN RECORDED TO

2941
RECORDED AT REQUEST OF
GLOVER CONTRACT & TITLE CO.
OFFICIAL
VOL. 523 RECORDS # 278
FEB 20 3 21 PM 1959
INDEXED
HUMBOLDT COUNTY RECORDS
JAMES C. ALBANA, RECORDER
Deputy



**Urban Residential Zone Development Standards
Section 17.20.030 Rio Dell Municipal Code**

17.20.030 Urban Residential or UR zone.

The purpose of the Urban Residential or UR zone is to provide neighborhood residential areas with varying densities for single-family dwellings. The following regulations shall apply in all Urban Residential or UR zones:

(1) Principal Permitted Uses.

(a) Detached single-family dwellings.

(2) Uses Permitted with a Use Permit.

(a) Attached dwellings with a minimum lot size of 4,000 square feet;

(b) Rooming and boarding of not more than two persons not employed on the premises;

(c) Public and private non-commercial recreation facilities;

(d) Schools, churches, civic and cultural uses including City offices and day care centers.

(e) Uses not specifically identified, but similar to and compatible with the uses permitted in the zone.

(3) Other Regulations. See Table 17.20.030 for development standards for the Urban Residential (UR) zone.

Table 17.20.030
Development Standards for the Urban
Residential or UR Zone

Site Development Standard	Zone Requirement
Minimum Lot Area:	6,000 square feet
Maximum Ground Coverage:	50%
Minimum Lot Width:	60 feet
Minimum Yards	
Front:	20 feet
Rear:	10 feet
Side:	5 feet
Maximum Building Height:	35 feet

Adams Lot Line Adjustment
APN No's. 052-202-09 & -10; Case No. LLA 16-01

Conditions of Approval

Approval of the Lot Line Adjustment is conditioned upon the following terms and requirements:

1. The instruments of record as approved by the Planning Department shall be recorded and the lot line adjustment shall be completed within thirty-six (36) months of approval of the lot line adjustment.

Prior to expiration, the applicant or property owner may request extension of the filing deadline by submitting a written extension request and a filing fee as set by resolution of the City Council.

The Planning Director may grant a maximum of three years extension of the filing deadline if the Planning Director finds that the conditions under which the tentative approval was issued have not significantly changed.

2. A Notice of Lot Line Adjustment shall be recorded for the resulting parcels. The following information must be submitted to the Planning Department for review prior to recordation:

(a) A copy of the deeds to be recorded for the adjusted parcels; provided however, that when the parcels being adjusted are held in common ownership, no new deeds shall be required for the preparation of the Notice of Lot Line Adjustment.

(b) A Lot Book Guarantee or Preliminary Title Report current within 6 months or other evidence satisfactory to the Planning Department regarding ownership of parcels.

(c) Completed "Notice of Lot Line Adjustment and Certificate of Subdivision Compliance" forms (these are available from the Planning Department).

3. When the parcels being adjusted are not held in common ownership, copies of the executed deeds (signed but not recorded) must be submitted for review and approval to the Planning Department.

4. Pursuant to Section 8762 of the Business and Professions Code a Record of Survey monumenting the corners of the new property line(s) may be required. The City Engineer shall not require the Record of Survey if in his opinion any one of the following findings can be made:

(a) The new boundary line(s) are already adequately monumented of record.

(b) The new boundary line(s) can be accurately described from Government Subdivision Sections or aliquot parts thereof.

(c) The new boundary line(s) can be accurately described and located from existing monuments of record.

(d) The new boundary is based upon physical features (i.e. roads, creeks, etc.) which themselves monument the line.

5. The applicants shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the lot line adjustment have been paid in full if payable, or secured if not payable to the satisfaction of the County Tax Collector's Office, and all special assessments on the parcels must be paid or reapportioned to the satisfaction of the affected assessment district. Please contact the Tax Collector's Office approximately three to four weeks prior to submitting the required conditions of approval.

6. The applicant shall pay the application processing fees within 30 days of billing.

Informational Note:

1. Approval of the Lot line Adjustment does not guarantee that the parcels are suitable for development in accordance with existing and future regulations.

RESOLUTION NO. PC 098-2016



**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
APPROVING THE ADAMS/PRICE LOT LINE ADJUSTMENT**

WHEREAS Ontiveros and Associates recently submitted an application for a lot line adjustment between 2 parcels of about 4,056 square feet (APN 052-202-10; Adams) and about 5,066 square feet (APN 052-202-09; Price); and

WHEREAS the proposed lot line adjustment will adjust about 233 square feet from APN 052-202-09 to APN 052-202-10; and

WHEREAS the parcels are planned and zoned Urban Residential (UR). The purpose of the Urban Residential zone is to provide neighborhood residential areas with varying densities for single family dwellings; and

WHEREAS the Urban Residential designation requires a minimum parcel size of 6,000 square feet; and

WHEREAS the Adams parcel (APN 052-202-10) is currently about 4,056 square feet and the Price parcel (APN 052-202-09) is currently about 5,066 square feet.

WHEREAS both parcels are less than the required 6,000 square feet for new parcels. They are considered legal, nonconforming parcels; and

WHEREAS the resulting Adams parcel will be about 4,290 square feet and the resulting Price parcel will be about 4,832 square feet; and

WHEREAS the Adams parcel, APN 052-202-10, was created by deed in on February 25th, 1946, Book 283 of Deeds, Page 399 and the Price parcel, APN 052-202-09 was also created by deed on June 13th, 1947, Book 523 of Deeds, Page 278; and

WHEREAS both parcels were created in compliance with State and local regulations; and

WHEREAS the proposed lot line adjustment does not result in any nonconformity in regards to setbacks or lot coverage and does not require the relocation of any easements or utilities; and

WHEREAS the applicant has submitted evidence in support of making the required findings and

WHEREAS the City has reviewed the submitted application and evidence and has referred the project to various agencies for review, comments and recommendations; and

WHEREAS the reviewing agencies have recommended approval or conditional approval; and

WHEREAS staff has determined that the project is Statutorily Exempt pursuant to Section 15305 of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations; and

WHEREAS pursuant to Section 15305 of the CEQA Guidelines this exemption applies to lot line adjustments with an average slope of less than 20% and does not result in any changes in land use or density.

NOW, THEREFORE, BE IT RESOLVED the City finds that based on evidence on file and presented in the staff report that the proposed lot line adjustment complies with all of the following required findings:

1. That the proposed lot line adjustment is consistent with the City's General Plan; and
2. That the proposed lot line adjustment complies with the requirements and standards of the City's zoning regulations; and
3. That the proposed lot line adjustment complies with the requirements and standards of the City's Building Regulations; and
4. That the proposed lot line adjustment Statutorily Exempt pursuant to Section 15305 of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Rio Dell approves the proposed lot line adjustment subject to the recommended conditions of approval.

APPROVED AND ADOPTED by the Planning Commission of the City of Rio Dell at their meeting of August 23, 2016 by the following vote:

I **HEREBY CERTIFY** that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on August 23, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Nick Angeloff, Chairperson

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 098-2016 adopted by the Planning Commission of the City of Rio Dell on August 23, 2016.

Karen Dunham, City Clerk, City of Rio Dell

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



For Meeting of: August 23, 2016

To: Planning Commission
From: Kevin Caldwell, Community Development Director 
Through: Kyle Knopp, City Manager
Date: August 10, 2016
Subject: Text Amendment Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC)

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding amending Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC);
2. Open the public hearing, receive public input and deliberate;
3. Find that:
 - (a) The proposed text amendment is consistent with the General Plan; and
 - (b) The proposed text amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA);
4. Adopt Resolution No. PC 099-2016 recommending that the City Council amend Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made; and (2) establish regulations regarding cargo containers.

Background

Accessory Buildings Heights and Sizes: Staff has been contacted a number of times over the past few years regarding the construction of detached accessory structures and in particular the height limitation of fifteen (15) feet in the City's residential zones. Detached accessory buildings are allowed in residential zones, provided they are accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal residential use.

Many jurisdictions allow greater heights on larger parcels and exception provisions without the need for a variance. As such, staff is recommending the following amendments regarding building heights and size limitations to Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC):

(2) Detached aAccessory buildings in suburban residential, urban residential, residential multifamily and suburban zones shall conform to the following development standards ~~not exceed 15 feet in height~~. See "Building Height" definition, Section 17.10.010.

(a) Maximum Building Height

(i) Fifteen feet (15') on lots 20,000 square feet or less.

(ii) Twenty-six feet (26') on lots larger than 20,000 square feet.

(b) Maximum Gross Floor Area

(i) 1,000 square feet on lots 20,000 square feet or less.

(ii) 1,500 square feet on lots larger than 20,000 square feet.

(3) Exceptions. The Planning Commission may modify by use permit, the height and floor area requirements of this part, upon a showing of good cause. For any such modification, the Planning Commission shall be required to make the following findings:

(a) The proposed modification will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area;

(b) The proposed modification will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site; and

(c) The proposed modification will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare.

(d) In issuing a use permit, the Planning Commission may require such changes or alterations to the building as it may deem necessary to satisfy the findings specified in this part. Such changes or alterations may include, but shall not be limited to the following:

- Building height
- Building area

- [Setback from property line](#)
- [Screening or landscaping](#)

The “Exception” recommendations are for the most part the same exception provisions to exceed the allowable fence height regulations, Section 17.30.120 of the RDMC.

Cargo/Shipping Containers: Another issue related to accessory structures is the use of cargo or shipping containers used as accessory structures. Staff has been contacted a number of times the past few years from those who would like to place and utilize cargo/shipping containers on their parcels and those who have expressed concern regarding the visual appearance of cargo containers. The City does not currently have any regulations regarding the use of cargo/shipping containers used as accessory structures.



Millions of cargo/shipping containers have been manufactured in recent years to accommodate trade between North America and Asia. Used ones are plentiful and inexpensive. Not surprisingly, many property owners have found new uses for them as auxiliary storage buildings. Shipping containers are an increasingly common sight in the City and throughout the nation. In response many jurisdictions have enacted regulations regarding the placement and use of cargo/shipping containers the past few years to protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area.

It appears based on staff’s review that larger urban communities do not allow cargo/shipping containers in residential zones. However, quite a few smaller urban and rural jurisdictions do allow one cargo/shipping container not exceeding 320 square feet in residential zones subject to some common general provisions, including:

- Lot must be developed with the primary residential use;
- Unit must be placed on a gravel pad;
- Placed on the rear half of the lot;
- Must meet setback requirements;
- Must not exceed allowable lot coverage;
- Must be painted a solid neutral color (i.e. beige, taupe and browns) or a color(s) to match the residence;
- Containers cannot be stacked;

Some jurisdictions require additional provisions to ensure the residential character and compatibility of the neighborhood, including:

- Be sited or screened so as not to be visible from any public or private road that directly abuts the subject parcel; or
- Be sited behind the primary structure (residence) and not prominently visible from the street;
- Limit the size to 160 square feet (8’ x 20’) on lots less than 10,000 square feet

Staff is also recommending that cargo/shipping containers be allowed in all zones on a temporary basis when utilized during construction or grading operations for the site where located and when utilized solely for the storage of supplies and equipment that are used for construction or grading on that site.

Staff is recommending that existing cargo containers not be considered legal nonconforming uses and that they be brought into compliance within 180 days after the effective date of the ordinance.

Staff is recommending that Chapter 17.10, Definitions of the RDMC be amended to include the following definition of "Cargo/Shipping Container":

Cargo/Shipping Container means a container made of steel or similar material which is designed for securing and protecting items for transport or storage. Cargo/Shipping containers include, but are not limited to, containers commonly used as shipping containers on ships and railroads, and/or tractor trailers, PODS (Portable On Demand Storage) and other similar units.

Procedural Requirements

Pursuant to Section 17.35.010 of the City of Rio Dell Municipal Code, the following City procedures are required to amend the Ordinance:

- An amendment may be initiated by one or more owners of property affected by the proposed amendment, as set out in Section 17.35.010(3), or by action of the Planning Commission, or the City Council.
- The application of one or more property owners for the initiation of an amendment shall be filed in the office of the City Clerk on a form provided, accompanied by a filing fee.
- Subject only to the rules regarding the placing of matters on the Planning Commission agenda, the matter shall be set for a public hearing.
- Notice of hearing time and place shall be published once in a newspaper of general circulation at least ten calendar days before the hearing or by posting in at least three public places.
- At the public hearing, the Planning Commission shall hear any person affected by the proposed amendment. The hearing may be continued from time to time.
- Within 40 days of the conclusion of the hearing, the Planning Commission shall submit to the City Council a written report of recommendations and reasons therefore.
- Subject only to the rules regarding the placing of matters on its agenda, the City Council, at its next regular meeting following the receipt of such report, shall cause the matter to be set for a public hearing. Notice of the time and place of the hearing shall be given as provided in Section 17.35.010(5), hereof.
- At the public hearing, the City Council shall hear any person affected by the proposed amendment. The hearing may be continued to a specified future date, but shall be concluded within 60 days of the commencement thereof.
- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

Zone Reclassification Required Findings

1. The proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected.

There are a number of polices in the General Plan which protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area. The proposed amendments are consistent and compatible with the General Plan.

2. The proposed amendments have been processed in accordance with the California Environmental Quality Act (CEQA).

Based on the nature of the project, staff has determined that the project is Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations. Pursuant to Section 15061(b) (3) of the CEQA Guidelines this exemption is covered by the general rule that CEQA applies only to projects which have the potential for causing a *significant* effect on the environment. Where it can be seen with certainty that there is no possibility that the project in question may have a significant effect on the environment, the project is not subject to CEQA. Based on the nature of the proposed amendments, to protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area, staff believes there is no evidence to suggest that the minor amendments will have a *significant* effect on the environment.

Attachments

Attachment 1: Resolution No. PC 099-2016 recommending that the City Council amend Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made; and (2) establish regulations regarding cargo containers.

RESOLUTION NO. PC 099-2016



RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIO DELL
RECOMMENDING THAT THE CITY COUNCIL AMEND SECTION 17.30.020
ACCESSORY USES AND BUILDINGS OF THE RIO DELL MUNICIPAL CODE (RDMC) TO
(1) ESTABLISH MAXIMUM BUILDING HEIGHTS AND FLOOR AREAS BASED ON THE
SIZE OF THE PARCEL AND TO ALLOW FOR EXCEPTIONS BY THE PLANNING
COMMISSION WHEN CERTAIN FINDINGS CAN BE MADE; AND (2) ESTABLISH
REGULATIONS REGARDING CARGO CONTAINERS.

WHEREAS staff has been contacted a number of times over the past few years regarding the construction of detached accessory structures and in particular the height limitation of fifteen (15) feet in the City's residential zones; and

WHEREAS detached accessory buildings are allowed in residential zones, provided they are accessory to and subordinate to the principal use of the site and serves a purpose which does not change the character of the principal residential use; and

WHEREAS many jurisdictions allow greater heights on larger parcels and exception provisions without the need for a variance; and

WHEREAS the Planning Commission is recommending the amendments regarding building heights and size limitations to Section 17.30.020, Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC); and

WHEREAS the Planning Commission recommends that the allowable height of detached accessory structures on lots less than 20,000 square feet in size be limited to fifteen (15) feet; and

WHEREAS the Planning Commission recommends that the allowable height of detached accessory structures on lots greater than 20,000 square feet in size be limited to twenty-six (26) feet; and

WHEREAS the Planning Commission recommends that the allowable area of detached accessory structures on lots less than 20,000 square feet in size be limited to 1,000 square feet; and

WHEREAS the Planning Commission recommends that the allowable area of detached accessory structures on lots greater than 20,000 square feet in size be limited to 1,500 square feet; and

WHEREAS the Planning Commission also recommends exception provisions to allow for greater heights and larger sizes based on specific findings; and

WHEREAS another issue related to accessory structures is the use of cargo or shipping containers used as accessory structures; and

WHEREAS staff has been contacted a number of times the past few years from those who would like to place and utilize cargo/shipping containers on their parcels and those who have expressed concern regarding the visual appearance of cargo containers; and

WHEREAS the City does not currently have any regulations regarding the use of cargo/shipping containers used as accessory structures; and

WHEREAS shipping containers are an increasingly common sight in the City and throughout the nation; and

WHEREAS in response many jurisdictions have enacted regulations regarding the placement and use of cargo/shipping containers the past few years to protect the character of neighborhoods and communities, reduce the potential for health and safety hazards, maintain and protect the visual qualities and property values of an area; and

WHEREAS the Planning Commission recommends allowing one cargo/shipping container not exceeding ___ square feet in residential zones subject to specific performance standards intended to protect the character of neighborhoods and maintain and protect the visual qualities and property values of an area; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Rio Dell finds that:

1. The proposed amendments are consistent with the General Plan and any applicable specific plan; and
2. The proposed amendments are Statutorily Exempt pursuant to Section 15061(b) (3) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Rio Dell recommends that the City Council approve the proposed amendments to amend Section 17.30.020 Accessory Uses and Buildings of the Rio Dell Municipal Code (RDMC) to (1) establish maximum building heights and floor areas based on the size of the parcel and to allow for exceptions by the Planning Commission when certain findings can be made; and (2) establish regulations regarding cargo containers.

I HEREBY CERTIFY that the forgoing Resolution was PASSED and ADOPTED at a regular meeting of the Planning Commission of the City of Rio Dell on August 23, 2016 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Nick Angeloff, Chairperson

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Resolution No. PC 099-2016 adopted by the Planning Commission of the City of Rio Dell on August 23, 2016.

Karen Dunham, City Clerk, City of Rio Dell

For Meeting of: August 23, 2016

To: Planning Commission

From: Kevin Caldwell, Community Development Director 

Through: Kyle Knopp, City Manager

Date: August 19, 2016

Subject: Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

Recommendation:

That the Planning Commission:

1. Receive staff's report regarding changes made to the April 12th, 2016 Planning Commission recommendations regarding Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code;

Discussion

A number of changes have been made to the April 12th, 2016 Planning Commission's recommended Ordinance No. 342-2016. Section 17.35.010 of the Rio Dell Municipal Code requires that any changes be referred back to the Planning Commission. Below is a copy of the referenced section:

- The City Council shall not make any change in the proposed amendment until the proposed change has been referred to the Planning Commission for a report, and the Planning Commission report has been filed with the City Council.

The proposed changes do not require a public hearing and comment, but only the need to report the proposed changes to the Commission. The changes are actually more restrictive than the Planning Commission recommendations. Because the original Planning Commission recommended regulations, Ordinance No. 342-2016 was not approved, staff has been advised procedurally that the current recommended regulations are considered a new ordinance. Ordinance No. 348-2016 is attached for your review. The Planning Commission's role is to review and comment only on those recommended changes. The Commission's comments and/or recommendations are then filed with the City Council.

The primary change is that all cannabis related activities be located north of the Eel River in the area commonly known as the Sawmill Annexation Area. Below is a summary of the changes:

- Limit all cannabis related activities to the area known as the Sawmill Annexation area. Pages 7, 8 and 9 of the Draft CMCLUO;
- Eliminate dispensaries as an allowed use within the City, including the Sawmill Annexation area;
- Clarify the difference between Outdoor (open field) and Greenhouse cultivations. Definitions pages 5 and 6 of the Draft CMCLUO;
- Clearly prohibit Outdoor-Open Filed cultivation within the City. Definitions page 6 and General Provisions pages 7, 8 9 and 10 of the Draft CMCLUO;
- Eliminate odor discharges to neighboring properties from cultivation and manufacturing facilities. Pages 14 and 18 of the Draft CMCLUO;
- Require that employees involved in cultivation and processing activities have access to coveralls in addition to facemasks and gloves. Page 15 of the Draft CMCLUO;
- Require that cultivation, processing, manufacturing facilities, testing laboratories and dispensaries be alarmed with either an audible or silent alarm system that are operated, monitored by a recognized security company. Page 12 of the Draft CMCLUO;
- Require that security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission for cultivation, processing, manufacturing facilities, testing laboratories and dispensaries. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. Page 12 of the Draft CMCLUO.

Another item of discussion was the possibility to require a construction deposit and/or performance bond for new cannabis related facilities. Performance bonds are typically associated with public improvements and/or public projects. Staff is checking with the City Attorney on the applicability of requiring a construction deposit and/or performance bond for new cannabis related facilities.

Attachment 1: Draft Ordinance No. 348-2016, Medical Marijuana Commercial Land Use Regulations, Section 17.30.195 of the Rio Dell Municipal Code (RDMC).

ORDINANCE NO. 348-2016



An ordinance establishing Section 17.30.195 of Title 17 of the Rio Dell Municipal Code relating to the Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use.

The City Council of the City of Rio Dell ordains as follows:

WHEREAS, California Government Code Section 65850, et seq. authorizes counties and cities to regulate land use, including agriculture, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on October 9, 2015 Governor Brown approved a package of three bills enacted by the legislature on September 11, 2015, SB 643, AB 243, and AB 266, providing for comprehensive, concurrent regulation and licensing by state and local governments of medical cannabis as an agricultural product, including its cultivation, processing, testing, manufacture, distribution, transportation, dispensing, and delivery; and

WHEREAS, pursuant to Section 11362.777, subsection (c)(3), "A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the Department of Food and Agriculture's state licensing requirements"; and

WHEREAS, the state statutes establishing a regulated, legitimate basis for commercial medical cannabis economic activities under the authorization of state law provide an opportunity to bring unregulated activities into compliance with existing law and ameliorate adverse environmental impacts, while bringing it out of the shadows of an underground, black-market economy into a legitimate agricultural and commercial contributor to the local and state economy; and

WHEREAS, the City of Rio Dell has previously adopted a land use ordinance governing indoor and outdoor cultivation of medical cannabis for personal use; and

WHEREAS, the Planning Commission held five public hearings on the proposed Ordinance governing the Commercial Cultivation, Processing, Testing, Manufacturing and Distribution of Cannabis for Medical Use to receive a reports on the draft ordinance, as well as evidence and public testimony; and

WHEREAS, the Planning Commission reviewed and considered the report, evidence, and other testimony presented to the Commission, and recommended revisions to the draft land use Ordinance Governing the Commercial Cultivation of Commercial Cultivation, Processing, Manufacturing and Distribution for Medical Use; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Sections 65350 – 65362 of the California Government Code; and

WHEREAS the City has reviewed and processed the proposed amendment in conformance with Section 17.35.010 of the City of Rio Dell Municipal Code; and

WHEREAS the City finds that based on evidence on file and presented in the staff report that the proposed amendment is consistent and compatible with the General Plan and any implementation programs that may be affected; and

WHEREAS the proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA); and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Rio Dell does hereby ordain as follows:

SECTION 1. Section 17.30.195 of Title 17 of the Rio Dell Municipal Code is hereby added as follows:

(1) Authority and Title

This Section shall be known as the Medical Cannabis Commercial Land Use Ordinance (“MCCLUO”), which provides for the regulation of Commercial Cultivation, Processing, Manufacturing and Distribution of cannabis for medical use, as defined in this Code, located within the City of Rio Dell

(2) Purpose and Intent

The purpose of this Section is to establish land use regulations concerning the commercial cultivation, processing, manufacturing and distribution of cannabis for medical use within the City of Rio Dell in order to limit and control such cultivation in coordination with the State of California in the implementation of the Medical Cannabis Regulation and Safety Act (MCRSA)(SB 643, AB 266, and AB 243 as adopted September 11, 2015, and approved by the Governor on October 9, 2015), so as to ensure the health and safety of employees, independent contractors, visitors to the area, neighboring property owners, and end users of medical cannabis; to protect the environment from harm to streams, fish, and wildlife; to

ensure the security of the medical cannabis; and to safeguard against the diversion of medical cannabis for non-medical purposes. It is intended to address the City of Rio Dell's prerogative to permit, and control commercial cultivation, processing, manufacturing and distribution of cannabis for medical cannabis as set forth in the MCRSA, including, but not limited to the provisions of Business and Professions Code Sections 19315, 19316, 19320, 19322, 19332, and 19360 and Health and Safety Code Section 11362.777, in conjunction with state licensing requirements, in order to protect the public health, safety, and welfare of the residents of the City of Rio Dell, and to reduce or eliminate any adverse environmental effects of existing commercial cannabis cultivation operations in the City of Rio Dell, and to prevent adverse environmental effects of any new commercial cannabis activities which may be permitted in the future in accordance with this Section and state law. This Section is not intended to supersede the provisions of Section 17.30.190 of the Rio Dell Municipal Code concerning cultivation of medical cannabis for personal use.

(3) Applicability and Interpretation

- (a) These regulations shall apply to the location and permitting of commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use in zoning districts within which such use is authorized, as specified in this Section.
- (b) The commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use within the jurisdiction of the City of Rio Dell shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section.
- (c) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, from compliance with all other applicable zoning, and land use regulations, as well as compliance with any applicable state laws.
- (d) Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacturing, and distribution of cannabis for medical use, as defined herein, from any and all applicable local and state construction, electrical, plumbing, land use, water rights, waste water discharge, streambed alteration, or any other environmental, building or land use standards or permitting requirements.
- (e) Nothing in this Section is intended, nor shall it be construed, to preclude a landlord or property owner from limiting or prohibiting commercial cultivation, processing, manufacturing, or distribution of cannabis for medical use on private property.
- (f) The definitions in this Section are intended to apply solely to the regulations in this section.

(g) Notwithstanding the fact that Health and Safety Code Section 11362.777 declares that medical cannabis is an agricultural product for purposes of that Section and the MCRSA, Business and Professions Code Section 19300, et. seq., the commercial cultivation of cannabis for medical use is a highly regulated specialty crop and cultivation and processing of that specialty crop shall not be allowed as a principal permitted use unless a Conditional Use Permit is first obtained from the City of Rio Dell, and the person engaged in such activity has obtained all state licenses and permits which may be required by the applicable state licensing authorities whenever such licenses become available.

(4) Release of Liability and Hold Harmless

As a condition of approval for any Conditional Use Permit approved for the commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use, as defined herein, the owner or permittee shall indemnify and hold harmless the City of Rio Dell and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of the commercial cultivation, processing, manufacture, or distribution of cannabis for medical use.

(5) Penalties and Enforcement

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the Rio Dell Municipal Code and the MMRSA.

Any violation of this Section, including, but not limited to failure to obtain and maintain in good standing the required Conditional Use Permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the City under the applicable state and City laws, including those set forth in [Section 17.40.020 of](#) the Rio Dell Municipal Code.

(6) Definitions

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as shown on the latest mapping prepared by the County of Humboldt Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be

discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. "Cannabis" also means cannabis as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agriculture Code or Section 11018.5 of the Health and Safety Code.

"Commercial Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis for medical use, including nurseries, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Cannabis Regulation and Safety Act (MCRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Cultivation Area" the area encompassed by the perimeter surrounding the area within which cannabis plants are cultivated. Where plants are cultivated in separated pots, beds or plots, the cumulative total surface area of all such pots, beds or plots, and the surface area underneath the maximum anticipated extent of vegetative growth of cannabis plants to be grown in separate pots, beds or plots, used in combination for a single permitted cultivation operation.

"Cultivation site" means the location or a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

"Dispensary" means a facility where medical cannabis, medical cannabis products, or devices (excluding pipes and water pipes) for the use of medical cannabis products are offered, either individually or in any combination, for retail sale.

"Distribution Facility" means the location or a facility where a person licensed with a Type 11 license pursuant to the MCRSA conducts the business of procuring medical cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes prior to transport to licensed dispensaries.

"Greenhouse" means a structure, primarily of glass or clear poly-film or polycarbonate plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants.

"Indoor" means indoor cultivation using exclusively artificial lighting.

"Licensee" means a person issued a state license under the MCRSA to engage in commercial cannabis activity.

“Manufacturing Facility” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Mixed-Light” means cultivation occurring in a greenhouse using a combination of natural and supplemental artificial lighting at a maximum threshold as set forth in performance standards in Section 17.30.190(8) of this ordinance, or as to be determined by the Department of Food and Agriculture, whichever is less.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products for retail or wholesale sale, used specifically for the planting, propagation, and cultivation of medical cannabis.

“Outdoor” means outdoor open-field (not in a greenhouse) cultivation using no artificial lighting. Outdoor cultivation as defined herein is not allowed in the City of Rio Dell.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Premises” means a legal parcel compliant with the Subdivision Map Act, or a leasehold interest in agricultural land for agricultural purposes of outdoor or mixed-light cultivation or processing of medical cannabis, or space in an industrial or commercial building for purposes of indoor cultivation, processing, manufacture, or distribution of medical cannabis.

“Processing Facility” means the location or facility where medical cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the medical cannabis is grown and harvested.

“State license,” means a state license issued pursuant to the MCRSA.

“Testing Laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

- (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry on the state; and
- (2) Registered with the Department of Public Health.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

(7) General Provisions

This section applies to all facilities and activities involved in the Commercial Cultivation, Processing, Manufacturing, Testing or Distribution of cannabis for medical use, as defined in this Section.

- (a) All commercial cultivation, processing, manufacturing, testing, or distribution of cannabis for medical use shall operate in compliance with this Section, as well as all applicable state and local laws and conditions as deemed appropriate by the Planning Commission and/or the City Council.
- (b) ~~Outdoor~~ Greenhouse and Mixed-Light commercial cultivation of cannabis for medical use shall be conducted entirely within a fully enclosed, secure and lockable greenhouse and shall be conditionally permitted in the ~~Rural (R)~~ Industrial Commercial (IC) and Natural Resources (NR) designations located in the Sawmill Annexation area, pursuant to the ~~“Outdoor”~~ “Greenhouse” and “Mixed-Light” parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (c) Indoor commercial cultivation of cannabis for medical use shall be conditionally permitted in the Industrial Commercial (IC); ~~Rural (R)~~ and Natural Resources (NR) designations located in the Sawmill Annexation area pursuant to the “Indoor” parcel size and cultivation area provisions described in Table 8.1 and subject to the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (d) Processing Facilities accessory and appurtenant to on site cultivation for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC); ~~Rural (R)~~ and Natural Resources (NR) designations located in the Sawmill Annexation area zoning districts, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (e) Stand alone, independent Processing Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation zoning district

located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.

- (f) Extraction manufacturing of commercial cannabis concentrates for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area, subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (g) Manufacturing of edibles (commercial kitchens) for medical use shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (h) Wholesale Distribution Facilities for commercial cannabis for medical use shall be a conditionally permitted use in the Industrial Commercial (IC) designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (i) Nurseries, as defined herein, producing commercial cannabis nursery products for retail sale, bulk wholesale sale or to supply retail nursery outlets shall be a conditionally permitted use in the Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations, located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- (i) Testing laboratories as herein defined shall be conditionally permitted in the Industrial Commercial (IC), ~~Town Center (TC), Neighborhood Center (NC) and Community Commercial (CC)~~ designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.
- ~~(j) Dispensaries as herein defined shall be conditionally permitted in the Town Center (TC) designation located in the Sawmill Annexation area subject to a Conditional Use Permit and the conditions and limitations set forth in this Section and as deemed appropriate by the Planning Commission and/or the City Council.~~

- (j) Other than as enumerated in this Section, the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use in any other zoning district in the City of Rio Dell is prohibited.
- (k) The fact that an applicant possesses other types of state or county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Conditional Use Permit from the City of Rio Dell to engage in the commercial cultivation, processing, manufacturing, testing or distribution of cannabis for medical use within the jurisdiction of the City.
- (l) No more than four commercial cannabis activity permits of any type enumerated in Sections 17.30.195(8)(b) through 17.30.195(8)(g) of this ordinance may be issued to a single person, as defined herein. For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, shall be collectively considered a single person with those entities.

(8) Cultivation Locations, Parcel Sizes and Allowable Canopies

The ~~location of~~ commercial cultivation of cannabis for medical use within the City shall be located in the Sawmill Annexation area ~~determined by the zoning designation and the size of the parcel on which the activity is to be conducted~~ in accordance with the following table:

**Table 8.1
Cultivation Locations, Parcel Sizes and Allowable Canopies**

**~~Outdoor~~ Greenhouse & Mixed-Light Cultivation
Rural (R) Industrial Commercial (IC) and Natural Resources (NR) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1 & 1B, "Specialty Outdoor <u>Greenhouse</u> & Specialty Mixed Light"	< 1 acre	1,000 sq. ft.
	1-2.49 acres	2,000 sq. ft.
	2.5-4.99 acres	5,000 sq. ft.
Type 2 & 2B, "Small Outdoor <u>Greenhouse</u> & Small Mixed Light"	5.0- 19.99 acres	10,000 sq. ft.
Type 3 & 3B, " Outdoor <u>Greenhouse</u> & Mixed Light"	≥ 20 acres	22,000 sq. ft.

**Indoor Cultivation
Industrial Commercial (IC) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	5,000 sq. ft.
Type 2A, "Small Indoor"	1.0- 1.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 2 acres	22,000 sq. ft.

**Indoor Cultivation
~~Rural (R)~~ and Natural Resources (NR) Designations**

State License Type	Parcel Size	Allowable Canopy
Type 1A, "Specialty Indoor"	< 1 acre	1,000 sq. ft.
	1-1.99 acres	2,000 sq. ft.
	2.0-4.99 acres	5,000 sq. ft.
Type 2A, "Small Indoor"	5.0- 9.99 acres	10,000 sq. ft.
Type 3A, "Indoor"	≥ 10 acres	22,000 sq. ft.

**Nurseries
Industrial Commercial (IC), ~~Rural (R)~~ and Natural Resources (NR) designations**

State License Type	Parcel Size	Allowable Canopy
Type 4, "Nursery"	N/A	43,560 sq. ft. State Limit

- (a) Processing of cannabis that is cultivated pursuant to these regulations may occur at the cultivation site subject to the Processing Performance Standards and Employee Safety Practices enumerated in Section 17.30.195(10) thru 17.30.195(13) are met.
- (b) Multiple applicants may obtain a Conditional Use Permit for ~~outdoor~~ **greenhouse** cultivation, mixed-light cultivation, or both, on one legal parcel so long as the cumulative cultivation area is within one contiguous cultivation footprint that does not exceed the total cultivation area size limits set forth in Table 8.1, Cultivation Locations, Parcel Sizes and Allowable Canopies.
- (c) A combination of cultivation types may be allowed in the same zone (e.g. ~~outdoor~~ **greenhouse** and, mixed light cultivation, or indoor cultivation and processing) that are for a total area equal to or less than the cultivated area size limit for the size of the underlying parcel.

(9) Application Requirements for All MCCLUO Conditional Use Permits:

- (a) A completed standard application form for a Conditional Use Permit with the required deposit.
- (b) If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement.
- (c) A Site Plan shall be submitted showing the entire parcel, including easements, streams and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including: access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within ¼ mile (1,320 ft.) of a school, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least ~~600~~ 1000 feet.
- (d) A Plan of Operations shall be submitted that includes, describes and addresses the following:
 - (i) A complete project description including the proposed use(s), hours and days of operation, number of employees, and the duration (temporary, seasonal or permanent) of the operation.
 - (ii) The number of daily and/or weekly incoming and outgoing deliveries
 - (iii) A Security Plan that addresses the cultivation, storage, processing, manufacturing and testing of any medical cannabis, including but not limited to video monitoring and commercial alarm systems.
 - (iv) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
 - (v) A description of the storage or use of any solvents, fertilizers, pesticides, fungicides, rodenticide, or herbicides.
 - (vi) A description of any discharge or emissions the operation will generate.
 - (vii) A description of any noise level increase as a result of the operation.
 - (viii) A description of the operation's use of public facilities such as roads, water or sewer

systems.

(ix) A description of any proposed water source, storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection.

(e) A Security Plan shall be submitted that includes, describes and addresses the following:

(i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission.

(ii) The facility shall be alarmed with an audible interior and/or exterior silent alarm system; ~~unless waived for extenuating circumstances by the Planning Commission~~ that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee.

~~(e)~~ (f) **Tribal Consultation:** For any ground disturbing activities, acknowledge that the City will consult with the local Wiyot Tribe, including their Tribal Historic Preservation Officer (THPO) or other tribal representatives, before the approval of any Conditional Use Permit. During this process, the tribe may request that operations associated with the Conditional Use Permit be designed to avoid, minimize or mitigate impacts to Tribal Cultural Resources, as defined herein. Examples include, but are not limited to: conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern.

~~(f)~~ (g) **Community Relations:** Each medical cannabis facility shall provide the City Manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the medical cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the medical cannabis facility. Each medical cannabis facility shall also provide the above information to its business neighbors located within ~~100~~ 300 feet of the medical cannabis facility.

~~(g)~~ (h) Consent ~~to a~~ to a minimum of at least one quarterly on-site compliance inspection, to be conducted by appropriate City officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays). The applicant shall be required to pay the Inspection Fee in effect at that time.

~~(h)~~ (i) Owner(s) or employee(s) who makes or will make operational or management decisions that directly impact the business shall consent to a background check pursuant to Section 19322(a)(1)(A) of the Business and Professions Code, including submitting to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests, and information as to the existence and content of a record of State and Federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal. The applicant shall be responsible for the costs associated with the required background check.

(i) No Owner or employee who makes or will make operational or management decisions that directly impact the business shall have been convicted of an offense, or is currently free on bail or on his or her own recognizance pending trial or appeal for an offense, that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, including but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, ~~sale,~~ manufacture, transportation, or cultivation of a controlled substance;

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

~~(i)~~ (j) Compliance with the provisions of the Medical Cannabis Regulation and Safety Act.

(k) Inventory Tracking System. All permittees shall purchase, implement and maintain updates to the inventory tracking software from the City's inventory tracking software system (ITSS) provider. A permittee must have at least one individual Owner or contractor who successfully completes all training necessary to properly use the ITSS as a System Administrator. The System Administrator may also designate specific inventory tracking system user(s) that have successfully completed all ITSS training required to access the system under the direct control of the System Administrator. The System

Administrator and any designated users shall participate in all ongoing and continuing training as required to stay current with the software.

(i) Inventory Tracking. Permittees shall, at all times, maintain current inventory information on the City's ITSS.

(10) Performance Standards for all MCCLUO Cultivation Operations:

- (a) No surface water withdrawals shall be allowed as part of any cultivation operations.
- (b) No Timberland Conversion Permits or Exemptions as approved by the California Department of Forestry and Fire Protection (CAL-FIRE) shall be used to facilitate the cultivation of medical cannabis.
- (c) The area of cannabis cultivation shall be located as shown on the application site plan, set back at least 50 feet from any property line, and ~~600~~ **1000** feet from any School. Cannabis cultivation is declared to be development, subject to compliance with Section 17.30.110, Environmentally Sensitive Habitat Area's (ESHA's). For purposes of this section, where enhanced, reduced, or modified watercourse or wetland setbacks have been agreed to by the operator and the RWQCB under enrollment pursuant to NCRWQB Order No. 2015-0023 and/or preparation of a Water Resources Protection Plan, these may control and supersede any setback applied pursuant to Section 17.30.110.
- (d) Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the City of Rio Dell or other responsible agency.
- (e) For cultivation areas for which no enrollment pursuant to NCRWQB Order No. 2015-0023, is required by that Order, compliance with the standard conditions applicable to all Tier 1 dischargers.
- (f) The storage or use of any fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be in compliance with the manufacture's recommendations and regulations administered by the State Department of Pesticide Regulation. Hazardous materials and wastes from agricultural businesses are regulated by the Humboldt County Environmental Health Division, which administers the Hazardous Materials program as one of the Certified Unified Program Agencies (CUPA). This includes the application, inspection, enforcement, and reporting under the program requirements and standards set by the California Environmental Protection Agency (CalEPA).

- (g) Trucked water shall not be allowed as the primary water source. Water is to be sourced locally (on-site), except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action."
- (h) Carbon filter fans or equivalent superior filters/scrubbers shall be required to ~~minimize or~~ eliminate odor discharges to neighboring properties from cultivation and processing facilities.
- (i) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (j) Those cultivators using artificial lighting for mixed-light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. Should the City receive complaints that the lighting is out of alignment or not complying with these standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment has been repaired, inspected and corrected as necessary.
- (k) Generators are only allowed as an emergency back-up power source. The noise produced by a generator used for cannabis cultivation shall not be audible from neighboring residences. The decibel level for generators at the property line shall be no more than 60 decibels.
- (l) Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, and in such a way that no spillage occurs.
- ~~(m) The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee. Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).~~
- ~~(n)~~ **(m)** Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(11) Employee Performance Standards for Cultivation and Processing Activities:

- (a) Pursuant to the MMRSA, Health and Safety Code section 19322(a)(9), an applicant seeking a cultivation license shall “provide a statement declaring the applicant is an ‘agricultural employer,’ as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.”
- (b) Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.
- (c) Cultivators engaged in processing shall comply with the following Processing Practices:
 - i. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment; and
 - ii. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis; and
 - iii. Employees handling cannabis in processing operations must have access to facemasks, coveralls and gloves in good operable condition as applicable to their job function; and
 - iv. Employees must wash hands sufficiently when handling cannabis or use gloves.
- (d) All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - i. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - Emergency action response planning as necessary; and
 - Employee accident reporting and investigation policies; and
 - Fire prevention;
 - Hazard communication policies, including maintenance of material safety data sheets (MSDS); and
 - Materials handling policies; and

- Job hazard analyses; and
 - Personal protective equipment policies, including respiratory protection.
- ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
- Operation manager contacts; and
 - Emergency responder contacts; and
 - Poison control contacts.
- iii. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
- iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
- (e) All cultivators shall, at the time of the application for a cultivation permit, include a Processing Plan with all of the following:
- i. Summary of Processing Practices.
 - ii. Description of location where processing will occur.
 - iii. Estimated number of employees, if any.
 - iv. Summary of Employee Safety Practices.
 - v. Description of toilet and handwashing facilities.
 - vi. Description of plumbing and/or septic system and whether or not the system is capable of handling increased usage.
 - vii. Description of source of drinking water for employees.
 - viii. Description of increased road use resulting from processing and a plan to minimize that impact.

ix. Description of on-site housing, if any.

(12) Performance Standards for Manufacturing Activities:

- (a) Compliance with CAL/OSHA, OSHA regulations.
- (b) Compliance with State and local building regulations, including the California Building Code (CBC) and the California Fire Code (CFC).
- (c) A Security Plan that addresses how the following measures shall be implemented or complied with:

~~(i) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).~~

~~(ii) The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee. Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).~~

~~(iii)~~ (i) Entrance to the extraction areas and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

~~(iv)~~ (ii) Medical cannabis shall be stored in buildings that are completely enclosed, and in a locked vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.

~~(v)~~ (iii) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

- (d) If using CO₂ in processing, a professional grade closed-loop CO₂ gas extraction system rated to a minimum of fifteen thousand (15,000) pounds per square (PSI) is required for every vessel in the system.
- (e) Extraction processes shall use a commercially manufactured professional grade closed-loop extraction system designed to recover the solvents and built to codes of recognized and generally accepted sound engineering practices, such as (i) The American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) The American Society for Testing and Materials (ASTM).
- (f) Volatile extraction operations shall occur in a spark-proof, explosion-proof room equipped with evacuation fans and lower explosive limit (LEL) detectors.
- (g) Carbon filter fans or equivalent superior filters/scrubbers shall be required to ~~minimize or~~ eliminate odor discharges to neighboring properties.
- (h) A Waste Management/Disposal Plan shall be submitted describing any produced wastes, including by-products, recycling, reusing, recovery, storage, diversion and handling and disposal.
- (i) Manufacturers of edibles shall comply with the regulations in the California Health and Safety Code, which includes the California Retail Food Code administered by the California Department of Health Services - Food and Drug Branch, California Department of Food and Agriculture and the County Department of Environmental Health.
- (j) Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

(13) Performance Standards for Testing Laboratories

- (a) ~~The facility shall be alarmed with an audible interior and/or exterior silent alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee. Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).~~
- ~~(b)~~ (a) Entrance to the lab area and any cannabis storage areas shall be locked at all times, and under the control of facility staff.

- ~~(e)~~ **(b)** Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.
- ~~(d)~~ **(c)** Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the California Building Code.
- ~~(e)~~ **(d)** All laboratory testing facilities shall comply with Sections 19341 through 19345 of the California Business and Professions Code.
- ~~(f)~~ **(e)** Comply with any special conditions applicable to that permit or parcel which may be imposed as a condition of the required Conditional Use Permit.

~~(14) Performance Standards for Dispensaries~~

- ~~(a) The facility shall be alarmed with an audible interior and exterior alarm system, unless waived for extenuating circumstances by the Planning Commission that is operated and monitored by a recognized security company, deemed acceptable by the Planning Commission. Any change in the security company shall be subject to the approval of the City Manager or his designee. All current contact information regarding the medical cannabis facility's security company shall be provided to the City Manager or designee. **Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).**~~
- ~~(b) Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 240 concurrent hours of digitally recorded documentation in a format approved by the Planning Commission. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras shall include, but are not limited to, the public areas, processing areas, storage areas, employee areas, all doors and windows, and any other areas as determined to be necessary by the Planning Commission. **Provision has been required as part of all cannabis CUP applications. See Section 17.30.195(e).**~~
- ~~(c) Entrance to the any cannabis storage areas shall be locked at all times, and under the control of facility staff.~~
- ~~(d) Medical cannabis shall be stored in a secured and locked room, vault or safe, or other secured storage structure which is bolted to the floor or structure of the premises.~~
- ~~(e) Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar~~

mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building provisions in the Code.

~~(f) No dispensing location for the collective shall be open between the hours of 8:00 p.m. and 9:00 a.m. on any given day.~~

~~(g) Only qualified patients, as defined in Section 11362.7 of the Health and Safety Code are allowed in dispensaries.~~

~~(h) Medical cannabis may not be inhaled, smoked, eaten, ingested, vaped, or otherwise used or consumed at the premises and/or location.~~

~~(i) The sales of pipes, including water pipes and other paraphernalia are prohibited.~~

~~(j) In addition to the labeling requirements of Section 19347 of the Business and Professions Code, all medical cannabis shall be packaged in an opaque childproof container which shall be accompanied by a leaflet or insert that clearly states the following:~~

~~(i) The complete legal name of the qualified patient who will be using the medical cannabis;~~

~~(ii) The name, address and on-site landline telephone number of the dispensary;~~

~~(iii) The amount of medical cannabis in the container;~~

~~(iv) The name of the attending physician recommending the use of medical cannabis for the qualified patient;~~

~~(v) The date the medical cannabis was provided;~~

~~(vi) A list of the chemicals and/or substances that were used during the processing of the medical cannabis;~~

~~(vii) All necessary health and safety warnings, including, but not limited to direction that the medical cannabis be stored in a clean and dry place and out of the reach of children; and~~

~~(viii) A statement that the City of Rio Dell neither warrants nor guarantees the quality or safety of the medical cannabis contained therein.~~

~~(k) All edible medical cannabis products sold within the City of Rio Dell shall be placed in opaque packaging, without photos or images of food on the label. Packaging that makes the edible product attractive to children or imitates candy is not allowed. Edible medical cannabis products shall not imitate commercially produced goods marketed to children. The~~

~~edible product must be accompanied by a leaflet or insert that clearly states the source/provider of the food production in addition to all of the information required by Subsection 17.30.095(14)(i).~~

~~(i) A sign shall be posted in a conspicuous location inside the premises advising the following: "Both the sale of cannabis and the diversion of cannabis for nonmedical purposes are violations of state law. The use of cannabis may impair a person's ability to operate a motor vehicle or heavy machinery. Loitering at the location of a medical cannabis collective for an illegal purpose is prohibited by California Penal Code Section 647(h). This collective is registered in accordance with the laws of the State of California and the City of Rio Dell."~~

~~(m) Dispensaries shall be located at least 1000 feet from any school.~~

~~(15)~~ **(14) Term of Conditional Use Permit; Inspections.**

- (a) Any Conditional Use Permit issued pursuant to this section shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless the required compliance inspections have been conducted and the permitted site has been found to comply with all conditions of approval.
- (b) If the inspector or other City official determines that the site does not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit and License, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.
- (c) The City shall notify any state license authority, as defined by the MMRSA, whenever the Conditional Use Permit and License has been revoked or terminated.

~~(16)~~ **(15) Appeal of Annual Inspection Determination**

Within ten (10) business days after delivery of the statement of non-compliance, the determination by the inspector that the site is or is not in compliance may be appealed by any interested party to the Planning Commission. The appeal shall be made, in writing, on a form provided by the City. The fee for filing the appeal is based on the adopted fee schedule in effect at the time of the appeal.

- (a) The appeal shall be heard by the Planning Commission within thirty (30) days following the filing of the appeal. The Planning Commission shall render a written ruling on the appeal within three (3) business days following the hearing.
- (b) The decision of the Planning Commission may be appealed to the City Council in accordance with Section 17.35.050 of the Rio Dell Municipal Code. If a timely appeal to the City Council is not filed, the ruling by the Planning Commission shall be final.

Section 2. Severability

If any provision of the ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Section 3. Limitation of Actions

Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 4. Effective Date

This ordinance becomes effective thirty (30) days after the date of its approval and adoption.

I HEREBY CERTIFY that the forgoing Ordinance was duly introduced at a regular meeting of the City Council of the City of Rio Dell on September 6, 2016 and furthermore the forgoing Ordinance was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the _____, 2016 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Frank Wilson, Mayor

ATTEST:

I, Karen Dunham, City Clerk for the City of Rio Dell, State of California, hereby certify the above and foregoing to be a full, true and correct copy of Ordinance No. 348-2016 which was passed, approved and adopted at a regular meeting of the City Council of the City of Rio Dell, held on the _____, 2016.

Karen Dunham, City Clerk, City of Rio Dell