

Resolution Number _____

County of Mendocino
Ukiah, California

NOVEMBER 17, 2022

U_2021-0011 BETTER PLACE FORESTS

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, GRANTING A COASTAL DEVELOPMENT USE PERMIT MODIFICATION FOR EXPANSION OF A CREMATED REMAINS DISPOSER AND ADOPTING AN ADDENDUM TO THE PREVIOUSLY ADOPTED NEGATIVE DECLARATION.

WHEREAS, the applicant, Better Place Forests, filed an application for a Coastal Development Use Permit with the Mendocino County Department of Planning and Building Services to establish a cremated remains disposer, classified as active recreation, and modification to classification of Use Permit U_2017-0008 as cremated remains disposer, classified as active recreation; Located in the Coastal Zone, approximately 3 miles southeast of the City of Point Arena, on the west side of Ten Mile Road (CR #506), approximately 1 mile south of its intersection with Eureka Hill Road (CR #505); located at 25204 & 25284 Ten Mile Road, Point Arena; APN 027-306-32 & 027-306-31; General Plan RMR20:R; Zoning RMR:20; Supervisorial District 5; (the "Project"); and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.; CEQA) and the CEQA Guidelines (Title 14 California Code of Regulations section 15000 et seq.), a Negative Declaration ("ND") was previously prepared for the original project (U_2017-0008) and was noticed and made available for agency and public review on December 26, 2017 and was adopted by the Planning Commission on February 1, 2018; and

WHEREAS, section 15164 of the CEQA Guidelines provides that an addendum to a previously adopted ND may be prepared if only minor technical changes or additions to the project are necessary or none of the conditions described in CEQA Guidelines section 15162 calling for the preparation of a subsequent environmental impact report or negative declaration have occurred; and

WHEREAS, County staff has prepared an Addendum to the adopted Negative Declaration related to the proposed use permit modification, which is attached to this resolution as Exhibit B and incorporate herein by this reference ("Addendum"), and which determines that none of the conditions described in CEQA Guidelines section 15162 will occur: and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on, November 17, 2022, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Negative Declaration and the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Addendum to the previously adopted Negative Declaration and the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings, based upon the evidence in the record;

1. Pursuant with MCC Section 20.532.095(A)(1), the proposed development is in conformity with the certified Local Coastal Program. The proposed cremated remains disposer services use includes both recreational and conservation components and is consistent with the Remote Residential land use classification with the issuance of this use permit and subject to the recommended conditions of approval; and
2. Pursuant with MCC Section 20.532.095(A)(2), the proposed development would be provided with adequate utilities, access roads, drainage, and other necessary facilities. The site has been served and would continue to be served by an on-site well and septic. There are existing on-site roads that access the parcel, which will be upgraded to current standards; and

3. Pursuant with MCC Section 20.532.095(A)(3), the proposed development, if constructed in accordance with the recommended conditions of approval, is consistent with the purpose and intent of the Remote Residential Zoning District, as well as all other provisions of District II Zoning Ordinance, Title 20 of the Mendocino County Code, including development criteria for Environmentally Sensitive Habitat Areas, and preserves the integrity of the Remote Residential Zoning District.; and
4. An Addendum to the previously adopted ND prepared for this use permit modification has been completed in compliance with CEQA and the CEQA Guidelines. The Addendum to the previously adopted ND was presented to the Planning Commission, which independently reviewed and considered the Addendum, and the Planning Commission has exercised its independent judgment in making the findings and determinations set forth herein. Based on the evidence submitted and as demonstrated by the analysis and findings included in the Addendum, none of the conditions described in section 15162 of the CEQA Guidelines calling for the preparation of a subsequent negative declaration or environmental impact report have occurred.
5. Pursuant with MCC Section 20.532.095(A)(5), the proposed development would not have any adverse impact on any known archaeological or paleontological resources, as there are no known resources within the vicinity of the site. A previous archaeological survey was prepared for the project site and no sites were identified. Standard Condition 8 is in place when archaeological sites or artifacts are discovered; and
6. Pursuant with MCC Section 20.532.095(A)(6), other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. Pursuant with MCC Section 20.532.100(A)(1)(a), while two special-status plant and wildlife species are known to occur on the project site, these include the *Pinus muricata* Alliance habitat area and the riparian vegetation habitat area, no environmentally sensitive habitat areas (ESHAs) would be significantly degraded by the proposed project. Avoidance and minimization measures are recommended to ensure that potential impacts remain at less than significant levels. The proposed project involves establishment of a cremated remains disposer use and associated improvements. No physical development beyond establishment of low impact trail and maintenance to existing trails, skid roads, landing areas, and driveways will occur within the identified ESHA.
8. Pursuant with MCC Section 20.532.100(A)(1)(b), there is no feasible less environmentally damaging alternative, as the project will utilize existing skid roads and cleared areas of the parcel from past logging practices to reduce any potential impacts from establishment of foot trails on the existing skid roads.
9. Pursuant with MCC Section 20.532.100(A)(1)(c), all feasible conditions of approval capable of reducing or eliminating project related impacts have been adopted.

BE IT FURTHER RESOLVED that the Planning Commission hereby approves and adopts the Addendum to the previously adopted ND for the Project, in the form attached to this Resolution as Exhibit B and directs the Mendocino County Department of Planning and Building Services to attach the Addendum to the ND.

BE IT FURTHER RESOLVED that the Planning Commission hereby grants the requested Coastal Development Use Permit, subject to the Conditions of Approval in Exhibit "A", attached hereto.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other material, which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

BE IT FURTHER RESOLVED that the Planning Commission action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: BROOKE LARSEN
Commission Services Supervisor

By: _____

BY: JULIA KROG
Director

ALISON PERNELL, Chair
Mendocino County Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL U_2021-0011 - BETTER PLACE FORESTS

NOVEMBER 17, 2022

Modification of Coastal Development Use Permit U_2017-0008 to reclassify use to Cremated Remains Disposer and expand use to the adjoining 20-acre parcel located at 25204 Ten Mile Road (APN: 027-306-32). Proposed improvements include establishment of low impact trails, maintenance of the existing trails, skid roads, landing areas and driveways, and on-going forest and vegetation management. All-terrain vehicles will be used to transport mobility limited customers throughout the property as required.

APPROVED PROJECT DESCRIPTION: Modification of Coastal Development Use Permit U_2017-0008 to reclassify use to Cremated Remains Disposer and expand use to the adjoining 20-acre parcel located at 25204 Ten Mile Road (APN: 027-306-32). Proposed improvements include establishment of low impact trails, maintenance of the existing trails, skid roads, landing areas and driveways, and on-going forest and vegetation management. All-terrain vehicles will be used to transport mobility limited customers throughout the property as required.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
2. To remain valid, progress towards completion of the project must be continuous. The Applicants have sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Planning Commission.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The Applicants shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the property owner shall cease and desist from all further excavation and disturbances within 100-feet of the discovery and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
9. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded, and shall be positioned in a manner that will not shine light or allow light glare to extend beyond the boundaries of the parcel in compliance with Section 20.504.035 of the Mendocino County Code.
10. Conditions approving U_2021-0011 shall be attached to any building permit application and shall be a part of on-site construction drawings.
11. In order to provide for the protection of identified environmentally sensitive habitat areas (ESHA), the following shall be required during trail development:
 - a. Foot trail establishment within ESHA buffers shall employ methods that displace little to no soil and allow for the free draining of storm water runoff.
 - b. Trails shall be designed to follow the contours of site topography.
 - c. Trail clearing shall occur during fair weather and mulching of exposed soils after April 15th and prior to October 15th.
12. If construction activities are not complete by September 1, 2026, the applicant shall consult with the US Fish and Wildlife Service about potential incidental take of the federally endangered Point Arena mountain beaver (PAMB), consistent with Technical Assistance # AFWO-17B0005-17TA0006.
13. In order to provide for the protection of identified environmentally sensitive habitat areas (ESHA), the following shall be required for treatment of the cremate remains and scattering of the cremains on site:
 - a. Dilute cremains with native soil at a 3:1 ratio at minimum.
 - b. Consider chelating agents or bacterial additives to promote decomposition.
 - c. Ensure proper erosion control measures are in place to limit the amount of cremains and nutrients contained therein that are transported into waterways and sensitive areas. Cremains scattered around trees shall be covered with forest detritus or mulch to effectively limit erosion. On steeper slopes, disturbed areas shall be monitored and re-covered if erosion becomes apparent.
 - d. The buffer guidelines stated below around ESHA shall be followed to ensure pollutants, including cremains, have minimal impact on the landscape. These sensitive areas may be disproportionately affected by salinization and changes to pH. They include the watercourse, which flows southeast to northwest across the property, and the *Pinus muricata* Alliance habitat area on the southern ridge of the property. No spreading is to take place within any ESHA. Within the ESHA buffers as provided in the *Botanical Survey and Environmentally Sensitive Habitat Area Buffer Analysis (May 22, 2016)* spreading shall not take place during the wet season (October 15 – April 15).
14. If the proposed grading activities exceed 50 cubic yards, the applicant shall provide a grading plan prior to issuance of any permits related to this Coastal Development Use Permit.
15. Standard Best Management Practices (BMPs) shall be employed to assure minimization of erosion

resulting from construction. Ground disturbance shall be limited to the minimum necessary and disturbed soil areas shall be stabilized as soon as feasible. Any soil stockpiles shall be covered or otherwise stabilized to prevent dust impacts. Any bare soil created by the construction phase of the project shall be revegetated with native vegetation and/or native seed mixes for soil stabilization.

16. Prior to issuance of any site development, the applicant shall consult with the Mendocino County Air Quality Management District. Prior to issuance of any permits (grading, encroachment, building, septic, etc.) in reliance of this Coastal Development Use Permit, the applicant shall provide evidence that all requirements of the Mendocino County Air Quality Management District have been met.
17. Development within *Campanula californica* population ESHAs will be restricted to the existing road that pass through the populations 1 and 2 as depicted in the Revised Botany Report and Recommendations, Botany Survey Map, page 30. In order to maintain a wet environment, the ditch along the road will not be drained. No other activity will occur in this ESHA.
18. No activity will take place in *Lilium maritimum* population 1 area and the surrounding 50 foot buffer as depicted in the Revised Botany Report and Recommendations, Botany Survey Map, page 30. Vegetation removal within the ESHA and buffer zone will be restricted until after the *Lilium maritimum* blooming season ends in August.
19. Within *Lilium maritimum* population 2, only hand tools will be allowed for limited establishment of foot trails as depicted in the Revised Botany Report and Recommendations, Botany Survey Map, page 30. Vegetation removal within the ESHA and buffer zone will be restricted until after the *Lilium maritimum* blooming season ends in August.
20. The site is limited to a maximum capacity of 30 persons per day.
21. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. **Said fee of \$ 2,598 OR CURRENT FEE shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services within three (3) days of the approval hearing.** Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. The applicant has the sole responsibility to ensure timely compliance with this condition.