

Recommended Commission Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

1) Find that the Commission has considered the Addendum to the adopted Environmental Impact Report for the Commercial Cannabis Land Use Ordinance (CCLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Special Permits and 3) approve the Natures Health Group, Inc. Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Natures Health Group, Inc. seeks a Special Permit to permit a microbusiness with the following activities: 9,900 square feet (sf) of mixed-light cultivation (5,500 sf of that was pre-existing under application 12279), non-volatile manufacturing, and distribution. Cultivation activities will occur year-round with 4 to 5 cycles per year, and a 1,125 sf greenhouse is proposed for ancillary propagation. The application was originally submitted under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO 1.0) under application 12279, and was transitioned to the Commercial Cannabis Land Use Ordinance (CCLUO 2.0) under this application 16073, due to the presence of a school bus stop within approximately 200 feet to the nearest cultivation area. An additional Special Permit is being requested to approve a setback reduction to the nearby school bus stop. As there was 5,500 square feet of pre-existing cultivation, the applicant is eligible for a provisional permit and may be allowed to have two years to complete the conditions associated with the provisional permit under a compliance agreement. All new activities associated with non-volatile manufacturing, and distribution shall not be allowed to commence until all development conditions are completed.

The applicant plans to have five (5) 22' x 90' greenhouses used for 9,900 sf of mixed-light cultivation area, and one (1) 15' x 75' greenhouse for 1,125 sf of ancillary propagation. Two (2) storage containers will be used for drying and harvest storage area. Distribution and non-volatile manufacturing activities are proposed to occur within the existing residence, which will require upgrades to bring the building to commercial standards with an ADA compliant restroom. The proposed commercial structure is equipped with a permitted septic (Permit# 18/19-0961). The applicant anticipates utilizing up to six (6) employees for all activities on-site. Trimming activities will be performed off-site at a licensed third-party processing facility, and the applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility to be furnished during an annual inspection (**Ongoing Condition B.1**). The project was referred to the Department of Environmental Health (DEH) on February 10, 2021, and comments were received on February 24, 2021. DEH commented with a recommendation of conditional approval based on the condition that industrial tailings associated with the manufacturing process shall not be discharged into the Onsite Wastewater Treatment System (**Ongoing Condition B.2**).

The project was referred to the Building Division on February 10, 2021. A Building Inspection was conducted on June 15, 2021, and comments from the building inspector recommended conditional approval of the project based on the condition that all required grading, building, plumbing, electrical, and mechanical permits and or Agricultural Exemptions are obtained. The project is conditioned to obtain building permits for the five (5) mixed-light greenhouses, one (1) ancillary propagation greenhouse, two (2) storage containers, and all grading conducted for cannabis cultivation activities in excess of 50 cubic yards (**Condition A.7**).

The applicant plans to utilize the existing residence for non-volatile manufacturing and distribution activities. Non-volatile manufacturing activities will include bubble hash, keif, rosin, and pre-rolls. No

manufacturing or distribution activities shall occur on-site until the proposed commercial structure has been upgraded and obtained commercial building permits with the Building Division (**Condition B.3**).

Setbacks

The project is located within the Freshwater School District and the applicant is applying for a Special Permit to reduce the 600 foot setback from a nearby school bus stop, to approximately 200 feet to the nearest cultivation area. Cultivation activities are not visible from the school bus stop, and greenhouses will be fully enclosed with carbon filters used for odor mitigation. The project was referred to the Freshwater School District on February 10, 2021, and comments were received on March 9, 2021. Comments from the Freshwater School District included that the District cannot "recommend" approval of a permit to engage in illegal activity without risking federal consequences, and should the applicant wish the Freshwater School District to consider a waiver, a Board meeting would be required. The applicant contacted the School District in 2021 to request a Board meeting, but no meeting was scheduled to consider a waiver. The Planning Division reached out to the School District again on April 13, 2022, to see if they still requested a Board meeting, or if they would like to update their referral comments for the project. Updated comments from the Freshwater School District were received on April 21, 2022, removing the request for a Board meeting, and keeping the non-recommendation for approval of the proposed project.

A site visit was conducted on July 9, 2021, and photos were taken at the school bus stop location looking towards the cultivation area (attached), and no visual line of site could be seen through the existing trees at the property line. The applicant plans to have odor mitigation within the greenhouses and drying areas in order to prevent odor pollution for the school children. As the cultivation of cannabis will not be seen or smelled, it has been determined that the proposed activities will not be detrimental to any potential students at the school bus stop location.

All cultivation areas are located 30 feet from property lines, 300 feet from all neighboring residences, 270 feet from undeveloped parcels, and 600 feet from any church or other place of religious worship, public park, or tribal cultural resource.

Timber Conversion

The subject parcel is zoned Agriculture General and there was approximately 0.4 acres of trees removed on the parcel prior to 2005, in association with a homesite and the existing cultivation area. The applicant also had a Less-than-three-acre conversion permit (TRM-17-036) approved on-site in 2018, which is not in association to cannabis activities. Approximately 2.9 acres of tree removal occurred in the northern section of the property in 2018, and the applicant shall not be allowed to have any cultivation activities located within the approved Less-than-three-acre conversion area on-site, and shall designate on the Site Plan as a cannabis restricted area and submit to the Planning Division (**Ongoing Condition B.4 & Condition A.5**). The project was referred to CalFire on August 30, 2018, and comments were received on October 8, 2018, stating that the project involves "Timberlands" and the project referral did not specify that trees are not to be removed, and timber harvest document or Less-than-3-acre conversion exemption may be required to complete the project. No tree removal is proposed as part of the project, and the applicant did obtain a Less-than-3-acre conversion for the area converted on the site. The project was referred to CalFire again on February 10, 2021, and no comments were received.

Fire Hazard

The project is located within an area known to have High Fire Hazard Severity designation, and is within the Humboldt #1 Fire Protection District as well as the State Responsibility Area for CalFire. The project was referred to the Humboldt #1 Fire Protection District on August 30, 2018, and comments were received by the agency on October 4, 2018 recommending approval for the proposed project. There is a designated firetruck turnaround shown on the Site Plan, and the applicant shall designate a minimum of 2,500 gallons of water storage on-site designated for fire suppression needs only, in addition to the 64,400 gallons of water storage designated for cannabis activities and shall submit to the Planning Division (**Condition A.5**).

Water Resources

The project originally proposed the use of a permitted on-site well (Permit# 17/18-1520) for water source, but as the well is located within 400 feet of the property line, and the applicant was not able to obtain groundwater testing of the well to determine the connectivity of the source supply well, the applicant will not utilize the on-site well for cannabis irrigation (**Ongoing Condition B.5**). The project will obtain water through rain catchment off of rooftops connected to on-site water storage. No cultivation shall commence on-site until rain water has been captured and stored in the existing tanks (**Condition A.8**). Total existing water storage is 36,800 gallons in hard plastic water tanks, and the applicant plans to add an additional 27,600 gallons of water storage on-site for a total of 64,400 gallons. The addition of 4,400 sf of mixed-light cultivation and 1,125 sf of ancillary propagation area shall not be added to the site until the 27,600 gallons of proposed water storage has been added on-site, and filled with rain water (**Condition A.9**). Anticipated annual water usage for the project is 94,000 gallons: 90,000 gallons for irrigation (8.16 gal/sq. ft./year), 1,000 gallons for distribution, and 3,000 gallons for manufacturing. Water will be recycled throughout the year with the use of dehumidifiers within the enclosed greenhouses, which will be connected to the water tanks. The applicant shall keep logs of the amount of water collected and added to on-site storage through dehumidifiers, which shall be furnished during an annual inspection to show adequate water supply for the project (**Ongoing Condition B.6**). The applicant anticipates a low annual water demand for the irrigation of cultivation due to the high humidity of the area and the use of water conservation methods and a drip irrigation system. The applicant shall add a water meter to monitor the amount of water used for cannabis irrigation, and shall keep logs on-site to be furnished during an annual inspection (**Condition A.10 & Ongoing Condition B.7**). In the event that there is not enough water storage on-site to meet the annual needs for 9,900 sf of year-round mixed-light cultivation and 1,125 sf of ancillary propagation, the applicant shall either lower the amount of cannabis cultivated on-site, or shall shorten the mixed-light cultivation season until additional water storage is added on-site to meet the needs for the project (**Ongoing Condition B.7**).

The site was historically enrolled in the North Coast Regional Water Quality Control Board's Order R1-2015-0023 for Waiver of Waste Discharge, under WDID 1B170053CHUM. The applicant did obtain a Water Resource Protection Plan (WRPP) for the site, prepared by Green Road Consulting, dated October 19, 2017. The WRPP states that there are no stream crossings that exist on the subject parcel, and includes recommendations for site maintenance and erosion control measures. The applicant shall adhere to the recommendations within the report shown in Table 5. Summary of Required Remediation in the WRPP (**Condition A.11**).

The applicant has also enrolled under the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001. The applicant has obtained a Notice of Applicability (NOA) letter from the SWRCB dated September 24, 2019, showing enrollment under WDID: 1_12CC415786. The NOA states that the project requires a Site Management Plan (SMP) for the project. The applicant shall obtain an SMP for the project site, shall submit to the Planning Division, and shall adhere to the recommendations within the report (**Condition A.12**).

There are no streams or stream crossings located on the property and water will be sourced from rain catchment collected off of rooftops and dehumidifiers, therefore no Lake or Streambed Alteration Agreement with Fish & Wildlife is required for the project.

Biological Resources

There is one mapped biological resources shown on the subject parcel in the CNDDDB database in Humboldt County Web GIS, for alpine marsh violet. The nearest known activity center for Northern Spotted Owls (NSO) is 0.83 miles to the proposed project site. As the site will host existing and new activities, the applicant did obtain a Biological Resource Assessment (BRA) for the project, prepared by Biologist Ivonne Romero & Ecologist Georgia Hammer with Pacific Watershed Associates, dated February 2022. A site visit was conducted on August 10, 2021, and no special status plant species were found on-site during the protocol level plant survey. As the proposed site for new cultivation activities is within a pre-disturbed area, no future plant surveys are required for the rearrangement of greenhouses within the existing footprint. The BRA also states that there is no known occurrence of NSO's within a 0.25

mile radius of the project, but the project area is surrounded by potentially suitable foraging habitat for the species. The BRA recommends that the applicant comply with International Dark Sky Standards, and shall not allow the escape of light between dusk and dawn from any greenhouses utilizing lights (**Ongoing Condition B.8**). As well, the applicant shall work to eradicate any invasive species present on-site, and shall identify and remove any presence of existing invasive species on-site (**Ongoing Condition B.11**).

The project was referred to the California Department of Fish & Wildlife (CDFW) on August 30, 201, and again on February 10, 2021. No comments were received by the agency. As there are no streams, stream crossing or diversions used for the project, the applicant is not required to obtain a Lake or Streambed Alteration Agreement with CDFW.

Noise

As there are no generators proposed for the project, no noise pollution will be present from the use of generators on-site. Section 55.4.12.6 of the CCLUO states that Noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of the site. The project is for a pre-existing cultivation site, and measurements of ambient noise levels were taken at three locations at the property line, which showed an existing ambient noise level of 42 to 59 decibels. The project does plan to include the use of fans with carbon filters within the enclosed greenhouses, and noise levels shall not exist in excess of 45 to 62 decibels (three decibels above existing ambient noise) at any property line when all activities are in operation (**Ongoing Condition B.12**). As well the project is conditioned that the combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. (**Ongoing Condition B.9**).

Tribal Cultural Resource Coordination

The proposed project is located within the mapped ancestral aboriginal territories for the Wiyot, Blue Lake Rancheria, and Bear River Band tribes. The project was referred to all three tribes, and the Northwest Information Center (NWIC) on August 30, 2018. The NWIC commented on the project on September 11, 2018, recommending that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. A comment was received from the Blue Lake Rancheria tribe on September 5, 2018, recommending that the project adhere to inadvertent discovery protocols. The applicant did have a Cultural Resource Investigation Report (CRIR) prepared for the site by Archaeologist Nick Angeloff with Archaeological Research and Supply Company, dated June 2018. The CRIR found no archaeological or cultural resources during the investigation. The Bear River Band THPO commented on the project on August 12, 2019, also requesting that the applicant adhere to inadvertent discovery protocols (**Informational Note 3**).

Energy Plan

No generators are proposed as part of the project. The parcel is currently powered by PG&E and the applicant is enrolled in the community choice energy 100% renewable program. The applicant shall continue to obtain power from 100% renewable energy source for the life of the project (**Ongoing Condition B.13**). In the event that PG&E is not able to support the increased power required for the additional mixed-light and commercial activities, the applicant shall not commence the additional mixed-light and commercial activities until an increase in power amperage can be supplied to the site by PG&E (**Ongoing Condition B.14**).

Access & Parking

The project site is accessed off of Shale Lane, which is a non-county maintained road located off of Greenwood Heights Drive which is county maintained. The applicant submitted a Road Evaluation Report form for the 300 foot section of Shale Lane, which designates the road as being developed to a Category 4 road standard. The project was referred to the Department of Public Works on February 10, 2021, and comments were received on March 12, 2021. Comments from the agency included a recommendation for conditional approval of the project, based on the following conditions: all fences and gates shall be located outside of the County right of way and no materials shall be stored or placed

in the County right of way (this condition shall be completed prior to commencing new activities on-site), and all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) (**Condition A.13**).

The applicant anticipates utilizing up to six (6) employees when all activities are in operation on-site. The Site Plan designates a total of four (4) regular off-street parking spaces and one (1) ADA parking space located near the proposed commercial structure. The applicant's Operations Plan states that a maximum of 2-3 vehicles will be used to transport employees per day. One parking space shall be available at all times for a potential visitor, and the applicant's employees shall utilize a carpooling plan to ensure that no more than three (3) vehicles are present at any one time on the property (**Ongoing Condition B.15**). With a maximum of three (3) vehicles on-site for employees, and the potential of up to one visitor per day, a maximum of seven (7) vehicle trips are anticipated per day.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project is located in the Eureka Plain Planning Watershed, which under Resolution 18-43 is limited to 89 permits and 31 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 16 permits and the total approved acres would be 8.97 acres of cultivation.

Public Comment

The project is located within the Freshwater Community Planning Area (FCPA). Although the FCPA is not one of the areas of influence designated in the CCLUO, a Notice of Application was sent to the surrounding property owners within 1,000 feet of the site on May 10th, 2021. Comments were received by several neighbors with concerns regarding water usage from the well and its effects to surrounding water sources, presence of a school bus stop within 600 feet of the cultivation area, past presence of aggressive dogs on-site, increased traffic on the access road, inadequate power provided by PG&E for the proposed activities, concerns regarding potential runoff, safety and security, concerns about the approved 3-acre conversion on-site, distance to fire department, past power outages in the area, and the potential contamination of surrounding water sources with the use of agricultural chemicals on-site.

The applicant has transitioned their project to fully utilize rain catchment and dehumidifiers for water source, and the project is conditioned to not use the on-site well for cannabis irrigation. The applicant is requesting a Special Permit in order to approve a setback reduction to the school bus stop to approximately 200 feet, and will incorporate fully enclosed greenhouses with carbon filters to prevent odor pollution. It has been determined that project activities cannot be seen from the school bus stop, and if the presence of cannabis cannot be seen or smelled, the project will not be detrimental to the presence of students at the school bus stop. The applicant has stated that no one has been living at the site for the last three years, and no dogs are currently present or planned to be at the site in the future. As well, the property is fenced, and in the event that dogs are present on-site the fence will be closed off to prevent the harassment of neighbors. The site is supplied by PG&E power, and no generators are proposed for the project. The project has also been conditioned that if there is inadequate power amperage provided by PG&E, no new activities shall commence until additional power can be sourced by PG&E. The site is enrolled in the SWRCB's General Order and is required to comply with all standard conditions of the Order in order to address potential runoff issues. The applicant has a security plan which incorporates locked gates, the use of security cameras and automatic notification systems, and storing all finished products within a secured and locked area. The property owner did obtain an approved Less-than-3-acre conversion permit on-site, which allowed approximately 2.9 acres of tree to be converted on-site. The conversion area is not associated to cannabis operations and the applicant shall not conduct cannabis activities within the conversion area. The project was referred to the Humboldt #1 Fire Protection District, and was given a recommendation of approval by the agency. In regards to the potential for power outages at the site and no existing emergency back up power source, the Planning Commission may decide to add a condition to the project to add a sufficient emergency

back-up power source to ensure that the greenhouses carbon filtration systems are adequately running in the presence of a power outage.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Environmental Impact Report that was adopted for the Commercial Cannabis Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

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RECCOMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Special Permit (SP).

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Department has determined that the project is consistent with the EIR for the CCLUO as stated above. However, the Commission may reach a different conclusion. In that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.