

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

Resolution Number 23-

Record Number PLN-11494-SP

Assessor's Parcel Numbers: 095-201-008 & 095-041-013

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Natures Jar, Inc., Special Permit.

WHEREAS, Natures Jar, Inc., submitted an application and evidence in support of approving a Special Permit for the continued operation of 7,914 square feet of outdoor cannabis cultivation, and appurtenant nursery & drying activities; and a Special Permit to reduce the setback from Public Lands; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration (MND) prepared for the Commercial Medical Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on May 4, 2023, and reviewed, considered, and discussed the application for a Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

FINDING:

Project Description: The application is a Special Permit for 7,914 square feet (sf) of outdoor commercial cannabis cultivation with 790 sf ancillary propagation. The applicant will conduct light-deprivation techniques without the use of supplemental lights, and two (2) harvests are anticipated per year. Historic cultivation areas were retired and relocated to a more environmentally suitable location on-site. The estimated annual water use is 72,750 gallons (8.4 gal/sf/yr). Water for irrigation is sourced from a permitted well, a point of diversion, and 7,000 gallons of rain catchment water tanks. Total existing water storage designated for irrigation is 19,700 gallons in hard tanks, and an additional 50,000 gallons is proposed for additional rain catchment storage tanks. Total future water storage would be 69,700 gallons. Drying and curing will take place in storage containers on-site, and trimming will occur off-site at a licensed processing facility. The applicant will utilize up to two (2) full-time employees. One (1)

generator is used for the well pump, and the applicant is proposing to transition to 100% solar power. The project also includes a Special Permit to request a setback reduction from public lands due to proximity to Humboldt Redwoods State Park.

EVIDENCE: Project File: PLN-11494-SP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

- EVIDENCE:**
- a) Addendum Prepared for the proposed project.
 - b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
 - c) The applicant is proposing to utilize an existing permitted well (Permit #16/17-1/27) for water source. The applicant has obtained a Well Assessment Report (WAR), prepared by licensed geologist David Lindberg with Lindberg Geologic Consulting, dated December 6, 2022. The WAR states that it was determined that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands or other surface waters in the vicinity.

The point of diversion from the Class III stream on-site is under a claimed water right S028521. The applicant submitted an Initial Statement of Water Diversion and Use in October of 2020, and has proof of a submitted Small Irrigation & Use Registration on December 21, 2020, to the Division of Water Resources. There is no Water Right Certificate on file for this diversion, and the applicant shall not utilize the stream diversion for irrigation until a Water Right Certificate has been obtained by the Division of Water Resources. The applicant shall adhere to the terms and conditions set forth in the Certificate.

The applicant has 7,000 gallons of rain catchment tanks, and is proposing to install an additional 50,000 gallons of rain catchment tanks. Rain catchment will be the primary water source once all rain catchment tanks have been installed.

- d) The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B171602CHUM. The applicant has a Water Resource

Protection Plan (WRPP) that was prepared by Timberland Resource Consultants, dated April 4, 2018, to address measures needed for the site to meet the standard conditions of the Order.

The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. The applicant has submitted a Notice of Applicability letter dated December 8, 2020, showing enrollment in the General Order under WDID 1_12CC428914 as a Tier 1 Moderate Risk site. The applicant is required to have a Site Management Plan (SMP) prepared for the project site to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP report to the Planning Division, and to adhere to the corrective actions and ongoing monitoring and winterization methods recommended in the final SMP.

- e) The applicant has obtained a Streambed Alteration Agreement with the California Department of Fish & Wildlife (CDFW) for the in-stream work needed to upgrade three (3) culverts on-site, and for the use and continued maintenance of a surface diversion for domestic and irrigation purposes (SAA No. EPIMS-HUM-13784-R1). The applicant shall adhere to the project description and work outlined within the SAA No. EPIMS-HUM-13784-R1.
- f) The project is located approximately 0.7 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site does not contain potential habitat areas for any rare or endangered species. As the project is for pre-existing activities, and no new ground disturbance is proposed, no Biological Assessment was required. The project was referred to CDFW on September 9, 2017, and no comments were received. The applicant is required to comply with International Dark Sky Standards for lighting within the mother propagation area, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.
- g) The previous applicant obtained an approved less-than-3-acre conversion exemption permit (1-16EX-110-HUM) which was approved on April 20th of 2016 for a road and home site in the northern section of the parcel. The less-than-3-acre conversion was for approximately 2.9 acres, and the site was converted to its current size between April and August of 2016. A Notice of Inspection Letter dated August 11, 2016, from CalFire states that during an inspection conducted on August 8, 2016, no violations were observed within the conversion area, that erosion control structures and drainage facilities were installed and functioning properly, and that no stocking report is

required. The project was referred to CalFire on April 25, 2019, and comments were received on May 2, 2019, stating that the Department had no comments at that time.

- h) The project includes the relocation of historic cultivation areas and the associated activities that occurred within streamside management areas (SMA's) on-site. The pre-existing cultivation areas existed as guerrilla grows scattered around the residence on both subject parcels, and associated drying and propagation activities occurred within the residence which is located within the SMA. A Less-Than-3-Acre Conversion Exemption Permit was approved for a home-site on APN 095-201-005 in April of 2016, which was after the adoption of the CMMLUO in January of 2016, under the approved Less-Than-3-Acre Conversion Exemption Permit (1-16EX-110-HUM). All relocated cannabis activities are proposed to be relocated within the conversion area, though the conversion occurred after the date of adoption of the CMMLUO, it is an approved conversion area that is the most environmentally suitable area on the property for the pre-existing cultivation to be located in. As the timber clearing was in line with a conversion permit that was approved by Cal-Fire and pre-existing cultivation activities occurred as guerrilla grows within an SMA, it has been determined that the relocation site within the less-than-3-acre conversion area is environmentally superior to the pre-existing cultivation areas.

As the site had historic guerrilla grows around the residence and within the SMA on-site, the applicant is required to restore those areas to pre-cannabis conditions. A Guerrilla Grow Report was submitted for evidence of pre-existing cultivation areas with map and photo documentation. The photo documentation shows evidence of water lines, soil, cages, grow bags, pots, and cultivation related refuse scattered around the property. The applicant submitted a Restoration Plan that states many truckloads of trash have been hauled to the Eel River Disposal in Fortuna. The applicant shall submit evidence to the Planning Division that all water lines, soil, cages, grow bags, pots, and all cultivation related refuse associated to the historic guerrilla grow areas on APN's 095-201-005 & 095-041-013 have been removed from the site and taken to an appropriate disposal facility, and to show the restoration of the historic cultivation areas.

- i) The project is located within the Bear River Band and Sinkyone Tribes ancestral aboriginal territories. The project was referred to the Bear River Band of Rohnerville Rancheria, Intertribal Sinkyone Wilderness Council, and the Northwest Information Center (NWIC) on September 5, 2017. A response was received from the Bear River Band on January 3, 2018, requesting that Inadvertent Discovery Protocols be a condition

of approval for the project. The applicant shall adhere to Inadvertent Discover Protocols.

- j) Access to the project site is from Sunny Lane, from Sewell Drive, from Newton Road, from State Highway 101. The project was referred to the Department of Public Works on September 5, 2017. Comments from Public Works were received on March 2, 2018, stating that Road Evaluation Reports are required for the non-county maintained access roads. The applicant has submitted a Road Evaluation Report form for all three private access roads (Sunny Lane, Sewell Drive, and Newton Road) designating them as being developed to the equivalent of a road category 4 standard. As the site is located from private roads off of a State Highway, the project was referred to CalTrans on April 18, 2023. No comments were received from CalTrans. The site will be operated by the applicant and up to two (2) employees. Up to six vehicle trips are anticipated per day, the operations are pre-existing, and no increase in traffic is anticipated.

FINDINGS FOR SPECIAL PERMIT

3. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

EVIDENCE

- a) General agriculture is a use type permitted in the Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
- b) The project is located within 600 feet of Public Lands, the Humboldt Redwood State Park, and the applicant is requesting a Special Permit to approve a setback reduction to Public Lands. The project was referred to the California State Parks on April 2, 2021, and no response was received. The nearest cultivation area is approximately 135 feet to the shared parcel boundary with the Humboldt Redwood State Park. The project is consistent with recreational uses on public lands as it is not located near developed campgrounds, trails, or other related facilities. The project site is more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.

4. FINDING

The proposed development is consistent with the purposes of the existing TPZ zone in which the site is located.

- EVIDENCE**
- a) The Timberland Production Zone or TPZ Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
 - b) All general agricultural uses are principally permitted in the TPZ zone.
 - c) Humboldt County Code section 314-55.4.8.2.2 allows for cultivation of up to 10,000 sf of outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in TPZ zones with a Special Permit. The application for 7,914 sf of outdoor cannabis cultivation on a 35-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

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

- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned TPZ (HCC 314-55.4.8.2.2).
 - b) The subject parcel APN's 095-201-005 & 095-041-013 have been determined to be eligible for an unconditioned certificate of subdivision compliance per Section 66499.35 (c) of the Subdivision Map Act due to issuance of a building permit (permit #09-773PH3).
 - c) The applicant is proposing to utilize an existing permitted well (Permit #16/17-1/27) for water source. The applicant has obtained a Well Assessment Report (WAR), prepared by licensed geologist David Lindberg with Lindberg Geologic Consulting, dated December 6, 2022. The WAR states that it was determined that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands or other surface waters in the vicinity.

The point of diversion from the Class III stream on-site is under a claimed water right S028521. The applicant submitted an Initial Statement of Water Diversion and Use in October of 2020, and has proof of a submitted Small Irrigation & Use Registration on December 21, 2020, to the Division of Water Resources. There is no Water Right Certificate on file for this diversion, and the applicant shall not utilize the stream diversion for irrigation until a Water Right Certificate has been obtained by the Division of Water Resources. The applicant shall adhere to the terms and conditions set forth in the Certificate.

The applicant has 7,000 gallons of rain catchment tanks, and is proposing to install an additional 50,000 gallons of rain catchment tanks. Rain catchment will be the primary water source once all rain catchment tanks have been installed.

- d) Access to the project site is from Sunny Lane, from Sewell Drive, from Newton Road, from State Highway 101. The project was referred to the Department of Public Works on September 5, 2017. Comments from Public Works were received on March 2, 2018, stating that Road Evaluation Reports are required for the non-county maintained access roads. The applicant has submitted a Road Evaluation Report form for all three private access roads (Sunny Lane, Sewell Drive, and Newton Road) designating them as being developed to the equivalent of a road category 4 standard. As the site is located from private roads off of a State Highway, the project was referred to CalTrans on April 18, 2023. No comments were received from CalTrans. The site will be operated by the applicant and up to two (2) employees. Up to six vehicle trips are anticipated per day, the operations are pre-existing, and no increase in traffic is anticipated.
- e) The previous applicant obtained an approved less-than-3-acre conversion exemption permit (1-16EX-110-HUM) which was approved on April 20th of 2016 for a road and home site in the northern section of the parcel. The less-than-3-acre conversion was for approximately 2.9 acres, and the site was converted to its current size between April and August of 2016. A Notice of Inspection Letter dated August 11, 2016, from CalFire states that during an inspection conducted on August 8, 2016, no violations were observed within the conversion area, that erosion control structures and drainage facilities were installed and functioning properly, and that no stocking report is required. The project was referred to CalFire on April 25, 2019, and comments were received on May 2, 2019, stating that the Department had no comments at that time.
- f) The location of the cultivation complies with most setbacks required in Section 314-55.4.11.d. It is more than 30 from any property line, and more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.

The project includes a Special Permit to request a setback reduction from public lands due to proximity to Humboldt Redwoods State Park.

6. FINDING

The cultivation of 7,914 square feet of cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving

cultivation on this site will not change the character of the area due to the large parcel size in the area.

- b) Irrigation water will come from a permitted groundwater well (Permit #16/17-1/27), a point of diversion, and rain catchment. The applicant has 7,000 gallons of rain catchment tanks, and is proposing to install an additional 50,000 gallons of rain catchment tanks. Rain catchment will be the primary water source once all rain catchment tanks have been installed.
- c) The parcel is located in an area designated to have a High Fire Hazard Severity, and is located outside of any local fire response area. The project is located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on April 25, 2019. Comments were received by CalFire on December 17, 2020, and the agency stated that they had no comments regarding the project at that time. The Site Plan shows a firetruck turnaround, and the applicant has designated a 3,000-gallon water tank for fire suppression needs only. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements.
- d) Access to the project site is from Sunny Lane, from Sewell Drive, from Newton Road, from State Highway 101. The project was referred to the Department of Public Works on September 5, 2017. Comments from Public Works were received on March 2, 2018, stating that Road Evaluation Reports are required for the non-county maintained access roads. The applicant has submitted a Road Evaluation Report form for all three private access roads (Sunny Lane, Sewell Drive, and Newton Road) designating them as being developed to the equivalent of a road category 4 standard. As the site is located from private roads off of a State Highway, the project was referred to CalTrans on April 18, 2023. No comments were received from CalTrans. The site will be operated by the applicant and up to two (2) employees. Up to six vehicle trips are anticipated per day, the operations are pre-existing, and no increase in traffic is anticipated.

7. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

8. FINDING

Approval of this project is consistent with Humboldt County Board of

Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

- EVIDENCE** a) The project site is located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 302 cultivation permits and the total approved acres would be 91.8 acres of cultivation.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for Natures Jar, Inc., based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **May 4, 2023**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John Ford, Director
Planning and Building Department