



# COUNTY OF HUMBOLDT

For the meeting of: 8/1/2024

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**File #:** 24-1152

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Consent

**SUBJECT:**

Green With Envy, LLC Special Permit

Assessor's Parcel Numbers: 210-131-017

Record Numbers: PLN-11942-SP

Dinsmore area

A Special Permit for 7,680 square feet of existing outdoor commercial cannabis cultivation supported by a 700 square foot ancillary nursery on the parcel 210-131-017. Estimated annual irrigation water usage is approximately 62,000 gallons. Irrigation water is sourced from two rainwater catchment ponds located on parcel 210-131-015 with a total storage capacity of 465,930 gallons. The water sources are also shared with applications 12321 and 12323 which are owned and operated by the same applicant. Drying will occur onsite on parcel 210-131-018 and trimming will occur offsite at a licensed facility. Power is provided by generators with a transition to renewable energy by January 2026 reserving generators for emergency use only. The Special Permit includes encroachment into streamside management areas for irrigation water lines.

**RECOMMENDATION(S):**

That the Planning Commission:

1. Adopt resolutions (Resolution 24-\_\_ ) (Attachments 1) which does the following:
  - a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Green With Envy, LLC project (Attachment 3); and
  - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
  - c. Approves the Green With Envy, LLC Special Permit subject to the recommended conditions of approval (Attachments 1A).

**DISCUSSION:**

**Project Location:**

This project is in the Dinsmore area, on the west side of Burr Valley Road, approximately 7.0 miles southeast from the intersection of State Highway 36 and Burr Valley Road, on the property known to be in the west half of the southeast quarter of the southwest quarter of Section 34, Township 01 North, Range 05 East.

**Present General Plan Land Use Designation:**

Residential Agriculture (RA); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3).

**Present Zoning:**

Forestry Recreation (FR); Special Building Site (B-5(40)).

**Environmental Review:**

An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

**State Appeal:**

Project is NOT appealable to the California Coastal Commission.

**Major Concerns:**

None

**Executive Summary:**

A Special Permit for 7,680 square feet of existing outdoor commercial cannabis cultivation supported by a 700 square foot ancillary nursery on the parcel 210-131-017. Estimated annual irrigation water usage is approximately 62,000 gallons. Irrigation water is sourced from two rainwater catchment ponds located on parcel 210-131-015 with a total storage capacity of 465,930 gallons. The water sources are also shared with applications 12321 and 12323 which are owned and operated by the same applicant. Drying will occur onsite on parcel 210-131-018 and trimming will occur offsite at a licensed facility. Power is provided by generators with a transition to renewable energy by January 2026 reserving generators for emergency use only. The Special Permit includes encroachment into streamside management areas for irrigation water lines.

A rainwater catchment analysis was provided within the applicant's Operations. Using data from low rainfall years, the rainwater catchment analysis demonstrates that sufficient rainwater can be collected to fill the ponds to capacity. The total amount of water storage from the irrigation ponds and tanks is more than double the estimated annual water usage. On October 23, 2023 the California Department of Fish and Wildlife (CDFW) issued a notice of violation (NOV) for seven areas. As of April 30, 2024, the applicant has cured three of the violations. The remaining violations include fixing culverts, correcting erosion from a road, and removing debris within 150 feet of a stream. The project

is conditioned to cure the remaining violations listed in the CDFW NOV. The applicant has obtained a Lake and Streambed Alteration Agreement (LSAA) (EPIMS-HUM-24784-R1) to conduct the work necessary to cure the violations. The project is conditioned requiring the use of portable toilets for cultivation activities until a septic system is permitted or certified by DEH as having capacity to serve the cannabis operation.

As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

The applicant provided a road evaluation concluding that the road segments are developed to the equivalent of a road category 4 standard. The project is conditioned requiring the applicant provide documentation they are a member of the road maintenance association and are current on all dues and payments. No timberland conversion is associated with this project. A Cultural Resource Investigation and consultation with Bear River resulted in the standard inadvertent discovery protocol.

#### **Water Resources:**

The estimated annual irrigation water usage of 61,632 gallons for this Special Permit is sourced from two rainwater catchment ponds, which translates to 8.03 gallons per square foot per year. The two ponds are shared by two adjacent cultivation operations under the same ownership, PLN-12321-SP and PLN-12323-CUP respectively. The two ponds have an estimated total capacity, without liners, of approximately 466,000 gallons (Pond A 306,900 gallons and Pond B 159,030 gallons). The total estimated annual water use for all three operations is 242,000 gallons which is approximately 52% of the two ponds total volume. A rainwater catchment analysis was provided within the applicant's Operations Plan (**Attachment 1B**). Using data from low rainfall years, the rainwater catchment analysis demonstrates that sufficient rainwater can be collected to fill the ponds to capacity. Additionally, there is 32,400 additional gallons of hard tank storage. Water will be pumped from the catchment ponds to tank storage during the rainwater catchment season, further increasing water security and storage. The project is conditioned to require water meters and water usage logbooks which must be kept and made available during annual inspection of the cannabis operation (**Condition of Approval A2**). The project is conditioned requiring the applicant, to the satisfaction of the California Department of Fish and Wildlife (CDFW), to provide Bull Frog Management plans and alter the spillways for the irrigation ponds (**Condition of Approval A5**).

On October 15, 2020 CDFW issued a notice of violation. The applicant cured all the 2020 violations. However, on October 23, 2023 the CDFW issued a new notice of violation for seven areas. As of April 30, 2024, the applicant has cured three of the violations. The remaining violations include fixing culverts, correcting erosion from a road, and removing debris within 150 feet of a stream. The project is conditioned to cure the remaining violations listed in the CDFW NOV (**Condition of Approval A6**). The applicant has obtained a Lake and Streambed Alteration Agreement (LSAA) (EPIMS-HUM-24784-R1) to conduct the work necessary to cure the violations. The project is also conditioned to comply with the LSAA (**Condition of Approval A6**).

The project referral to the Division of Environmental Health (DEH) resulted in project conditions requiring the use of portable toilets for cultivation activities until a septic system is permitted or certified by DEH as having capacity to serve the cannabis operation **(Condition of Approval B2)**.

Per the Operations Plan, irrigation methods include drip emitters water lines, manifolds, and fittings will be monitored on an ongoing basis for leaks and cracks. The pond located on APN 210-131-017 will not be used for cannabis irrigation **(Condition of Approval B1)**.

### **Biological Resources:**

A review of the California Natural Diversity Database did not indicate any known rare or endangered species in the project area. The nearest mapped Northern Spotted Owl activity center (HUM0548) is 0.7 miles to the southeast and another (HUM0532) is approximately 0.61 miles to the northwest. The project utilizes pre-existing disturbed areas and cultivation does not use artificial light except for the ancillary nursery. The project has been conditioned to ensure supplemental lighting associated with the onsite nursery adheres to Dark Sky Association standards including security lighting **(Condition of Approval C3)**. Permit conditions of approval also prohibit using synthetic netting **(Condition of Approval C5)**, ensure refuse is contained in wildlife-proof storage **(Condition of Approval C6)**, and prohibit use of anticoagulant rodenticides to further protect wildlife **(Condition of Approval C8)**. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

The project site contains multiple unnamed ephemeral tributaries. The project site plan depicts all cultivation areas outside applicable streamside management areas and riparian buffers. A 2,320 square feet greenhouse previously used for cultivation will be removed and the area restored to its pre-cultivation condition. This is the southernmost greenhouse depicted in red on APN 210-131-017 on the site plan. The project is conditioned to require a restoration plan with monitoring and provide an implementation report to ensure the area has successfully revegetated **(Condition of Approval A12)**.

### **Energy**

Energy is provided by generators. The project is conditioned requiring transition to renewable sources no later than January 1, 2026 **(Condition of Approval A11)** after which generators will then be reserved for emergency use only. While in use, any generator may not emit more than 50dB of sound at 100 feet or forest edge, whichever is closer **(Condition of Approval C2)**.

### **Access:**

From the State maintained Highway 36, the project parcel is accessed from Burr Valley Road, which is privately maintained. The approximately 6.7-mile access route is maintained through a road association. The applicant provided a road evaluation concluding that the road segments are developed to the equivalent of a road category 4 standard. The project is conditioned requiring the

applicant provide documentation they are a member of the road maintenance association and are current on all dues and payments (**Condition of Approval B3**). All three adjacent projects are operating together and will have a maximum total of five employees at peak operation. The project is conditioned requiring a Site Plan revision to depict the location of parking areas (**Condition of Approval A7**).

**Geologic Suitability:**

The project parcel is mapped in the County GIS as high instability. The existing cultivation is in areas ranging from 15% to 30% slope. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done previously without permits (**Condition of Approval A8**). The applicant must provide a copy of the Notice of Applicability as a condition of approval (**Condition of Approval A7**).

**Timber Conversion:**

Review of aerial imagery indicates that no timberland conversion is associated with this project. A CalFire referral on December 3, 2017, replied with standard comments requesting emergency turnaround, building numbers, and dedicated water storage for fire protection (**Attachment 5**). Project conditions of approval include the requested items (**Condition of Approval A7**).

**Security and Safety:**

Per the project Operations Plan, access to the parcel is gated and locked and security cameras are used. The project conditions require a revised site plan to identify the locations of water storage dedicated for fire protection and emergency vehicle turnarounds (**Condition of Approval A7**). The project was referred to the Bridgeville Fire Protection District which did not respond.

**Tribal Consultation:**

The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. A Cultural Resources Investigation was conducted by DZC Archaeology and Cultural Resource Management. The Investigation identified three isolates on the project parcel and recommended inadvertent discovery protocol. Consultation with the Bear River Tribal Historic Preservation Officer concurred with the requested standard inadvertent discovery protocol (**Condition of Approval C1**).

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

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. The project site is in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of the three adjacent projects together, the total approved permits in this Planning Watershed would be 134 permits and the total approved acres would be approximately 45.06 acres of cultivation.

**Environmental Review:**

Environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comments, comments, or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, Staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Draft Resolution
  - A. Conditions of Approval
  - B. Operations Plan
  - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
  - A. Lake and Streambed Alteration Agreement
  - B. CDFW Notice of Violation
  - C. Road Evaluation
  - D. Site Management Plan
5. Referral Agency Comments and Recommendations
  - A. Division of Environmental Health
  - B. CDFW
  - C. CalFire
6. Watershed Map

Applicant

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Green With Envy, LLC  
Matt Grace  
18034 Ventura Blvd, Unit 124  
Encino CA 91316

Owner

PVH Management Group LLC  
8271 Campbell Court  
Hemet CA 92545

Agent

ETA Humboldt  
PO Box 147  
Phillipsville CA 95559

Please contact Steven A. Santos, Senior Planner, at [sasantos@co.humboldt.ca.us](mailto:sasantos@co.humboldt.ca.us) or (707)268-3749 for questions about this scheduled item.