

**Green Management Group of Humboldt, LLC**

Record Number: PLN-11713-CUP

Assessor's Parcel Number: 223-032-001

**Recommended Planning Commission Action:**

1. Describe the application as part a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action to approve the application:

*Adopt the Resolution to 1) find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) pursuant to Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and Special Permit, and 3) approve the Green Management Group of Humboldt, LLC, project as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Green Management Group of Humboldt, LLC, seeks a Conditional Use Permit to allow the continued cultivation of 17,740 square feet (SF) of mixed light cannabis in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Agricultural Grazing (AG) in the Humboldt County 2017 General Plan Update and zoned Agriculture Exclusive with 160-Acre Minimum Building Site Area [AE-B-5(160)] and Timberland Production Zone (TPZ); cultivation occurs in both zoning designations onsite. Cultivation takes place within the western, northern, central, and northeastern portions of the property within six (6) greenhouses. Ancillary propagation (3,210 SF total) occurs in a 2,560 SF portion of Greenhouse #2 and a 650 SF nursery area within an existing 2,600 SF, two-story metal building within the western portion of the site. Up to two (2) harvests are anticipated annually for a growing season that extends from March through November.

Drying and bucking occurs onsite in an existing 2,600 SF metal building. Up to six (6) employees may be utilized during peak operations. The operation is secured behind gated access points and utilizes security lighting and video surveillance. There are full time resident(s) onsite in the existing residence. Additionally, two (2) existing cabins (324 SF and 360 SF) are utilized for onsite housing for employees and can accommodate four (4) employees.

The proposed project also includes a Special Permit for development within the Streamside Management Area for use and maintenance of the two (2) points of diversion (POD), decommissioning of two additional PODs, culvert replacement and maintenance, and decommissioning of four (4) existing stream crossings and associated restoration.

This project was originally scheduled for the Planning Commission hearing of December 2, 2021. At the hearing on December 2, 2021, the Planning Commission contained the project to allow the applicant to work with Planning staff to determine if the applicant is willing to incorporate renewable energy sources (e.g. solar, wind or hydro) into the proposed project. The Planning Commission also had questions regarding the water sources. To respond the Planning Commission request, a section regarding power is included in the executive summary (see below) and the water resources section contains additional information regarding the use of a point of diversion and rainwater catchment pond to meet water demands. Lastly, the Department of Public Works provided additional comments regarding the road evaluation report stating the Road Evaluation Report incorrectly identified Howard Ranch Road as a private driveway. The revised Road Evaluation Report is included with this staff report. Revisions were made the resolutions and conditions of approval to reflect the additional information regarding power, water and access. The addition of this information does not change any recommendations or findings by the Planning staff.

## **Power**

Power for the project is currently provided by gasoline and diesel generators. Per the Cultivation and Operations Plan and additional information provided by the applicant's agent in December 2021 (Attachment 3), each cultivation site uses several Honda 2200 EU generators to power the greenhouse lights, and the house and dry barn are powered by a 25 kW diesel generator. The gasoline and diesel generators were originally proposed to be replaced with propane generators. However, based on feedback and at the request of the Planning Commission during the December 2, 2021, hearing, Planning staff is recommending the use of all generators cease by or before December 31, 2025. The applicant is not in agreement with staff recommendation. The applicant is agreeable to cease use of all but one (1) generator (the 25 kW diesel generator) and proposes to switch to solar power with battery system by the end of 2025.

Use of the existing 25 kW diesel generator at the residence and dry barn is proposed to continue, but only during daylight hours. The applicant proposes to develop a battery storage system for the drying barn and residence to reduce the generator usage from 24 hours per day during drying operations to 12 hours per day.

## **Nursery Space**

As noted above, ancillary propagation, totaling 3,210 SF, associated with the operation occurs in the western portion of the subject property, within a 2,560 SF portion of Greenhouse #2 and a 650 SF nursery area within an existing 2,600 SF, two-story metal building. This equates to approximately 18.1% of the total cultivation area. With the ancillary propagation included, there is a total of 20,950 SF of onsite cultivation; however, based on the County's cultivation area verification, only 21,600 SF was in existence prior to the CMMLUO environmental baseline date of January 1, 2016. Although the parcel is zoned AE and is over 5 acres in size, the cultivation and propagation areas have not been shown to be located on a graded flat where the slope is less than 15% and irrigation water is not sourced solely from a non-diversionary source. As a result, new cultivation could not be considered on the subject parcel, and therefore additional SF for propagation space is not supported by Planning staff.

A nursery space of 10% of the cultivation area is what planning division staff and the Planning Commission have found allowable in the past, which would be equivalent to a nursery space of 1,774 SF, in addition to the 17,740 SF of cultivation that would be authorized by this permit. As the current nursery space (4,010 SF) is larger than what is typically considered ancillary to an operation and allowed on cannabis cultivation sites in Humboldt County, a recommended condition of approval has been included to require the applicant to reduce the amount of nursery space onsite and revise both the Site Plan and Operations Plan to reflect a maximum of 10% of nursery space, or 1,774 SF. Combined, the total cultivation area and nursery space (19,514 SF) would be in conformance with the cultivation amount previously verified by the County.

## **Relocation, Reconfiguration, Replacement, and Remediation**

Under the project, a total of 1,725 cubic yards (CY) of cut and fill for grading is proposed to allow for removal and relocation of greenhouse hoops, consolidating operations on engineered flats, and eliminating two (2) remote cultivation sites. Approximately 1,850 linear feet of roadway will also be decommissioned. As described in Section 4.12 (Cultivation Relocation Environmental Superiority) of the Cultivation and Operations Plan (Attachment 3), and as depicted on the Site Plan, there are seven (7) existing greenhouses (GH #3, GH #5, GH #6, GH #7, GH #8, GH #9, and GH #10) proposed for relocation, reconfiguration, replacement, and/or removal and remediation. Four (4) existing PVC hoop structures will be replaced with larger steel coldframe greenhouses (GH #3 and GH #8-10). GH #5, in addition to 800 linear feet of roadway, will be removed and allowed to revegetate in accordance with Forest Practice Rules. This area is difficult to access and the existing road is in poor condition. The roadway will still provide pedestrian access to review and monitor the restoration and stability of the flat. Additionally, GH #6-7 are currently located within a required Class III buffer and are planned for removal. The cultivation area will be allowed to naturally revegetate as a meadow, and, in addition, relocation of this cultivation area will allow for the removal of four (4) stream crossings and 1,050 linear feet of road.

### Setbacks to Adjacent Properties

Based on review of aerial imagery and the Site Plan, GH #8 within the northeastern portion of the subject site appears to be located within the required 30-foot setback from the northern adjacent property (APN 223-033-003). As a result, the project is conditioned to require the applicant to relocate the existing greenhouse outside of the required setback to a previously disturbed area, provide evidence to demonstrate the greenhouse is currently located outside of the required setback, or obtain written authorization from the adjacent property owner of APN 223-033-003 to allow for the existing greenhouse to be remain within the 30-foot setback.

### Timber Conversion

Review of aerial imagery dating back to 2004 indicates the cultivation areas primarily occur within previously cleared areas; however, it appears that an approximately 0.35-acre area was cleared between 2014 and 2016. No additional tree removal is proposed or authorized by this permit. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and obtain a Timber Conversion Report from a RPF and/or a Less Than Three Acre Conversion Exemption or Timber Conversion Permit from CalFire, as determined necessary by the RPF, to address previously unpermitted timber conversion. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Additionally, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. The Report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

### Water Resources

Estimated annual water usage is 222,000 gallons (12.51 gal/SF) with peak demand occurring in August and September at approximately 40,000 gallons, as shown in the table below.

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
---	1000	10000	18000	24000	30000	35000	40000	40000	24000	---	---

Water for irrigation is provided by an existing 150,000-gallon rainwater catchment pond and two (2) springs. Based on information provided by the applicant's agent in December 2021 (Attachment 3), water is diverted from the two (2) springs to fill tanks for the domestic and irrigation system. Irrigation water is diverted to fill tanks and the pond between November 1<sup>st</sup> and March 31<sup>st</sup> per the Streambed Alteration Agreement with the California Department of Fish and Wildlife (CDFW, discussed below). Gutters are proposed to be installed and plumbed from the residence and barn into the water system to further reduce diversion needs. In a normal water year, rainwater would fill the pond, however, during times of drought, the pond would fill approximately ½ of the capacity. In a normal water year, 67% of the annual water demand would be met by the pond. In a drought year, approximately 34% of the annual water demand. The balance of the water need is met by a point of diversion and is described in

further detail below. There is sufficient storage in the pond and hard-sided tanks to meet forbearance requirements.

A *Right to Divert and Use Water* (Registration ID H508261; Certificate No. H100579) has been issued for use of three (3) points of diversion (POD) for irrigation and fire protection (Attachment 3). As noted in the Cultivation and Operations Plan (Attachment 3), the two PODs associated with the springs (PODs #2 and 3) will be utilized under the project. The *Right to Divert and Use Water* allows for 0.57 acre-feet per year (or 185,735 gallons) of water to be diverted from the two (2) springs. The rate of diversion to storage is limited to 42,000 gallons per day. Storage capacity cannot exceed 0.69 acre-feet (or 224,837 gallons). Existing available water storage is 222,825 gallons in the 150,000-gallon rainwater catchment pond and sixteen (16) hard-sided tanks, ranging in size between 2,500 and 5,000 gallons and totaling 72,825 gallons. This volume of storage is allowable as described in the appropriative right. Conditions of approval require the applicant to monitor water use from the pond and spring diversions annually to demonstrate there is sufficient water available to meet operational needs.

The applicant also seeks a Special Permit for development within the Streamside Management Area for use and maintenance of the two (2) points of diversion (POD), decommissioning of two (2) additional PODs, culvert replacement and maintenance, and decommissioning of four (4) existing stream crossings and associated restoration. A Final Streambed Alteration Agreement (FSAA) with CDFW was issued (Notification No. 1600-2019-0731-R1) in November 2020 for thirteen (13) encroachments, including but not limited to continued use of the two (2) spring diversions and associated improvements (described above). By adhering to the terms and conditions of the Right to Use and Divert Water, which limits the amount of water that can be diverted and the FSAA, which limits when diversion and the associated improvements may occur, the diversion amount, and specifies the use of intake structures that will not impact aquatic species, Planning staff determined that impacts to the watershed are minimized allowing the use of the points of diversion and proposed POD decommissioning, culvert replacement and maintenance, stream crossing decommissioning, and associated restoration, pursuant to a Special Permit.

According to Humboldt County Web GIS and depicted on the Site Plan, there are two (2) unnamed streams that traverse the northern and southeastern portions of the subject parcel. Although respective Streamside Management Area (SMA) buffers are not currently depicted on the Site Plan, Humboldt County Web GIS indicates that the greenhouse depicted as GH #6 on the Site Plan is currently located within the required SMA buffer. However, as detailed above, GH #6 and the adjacent GH #7 are planned for removal and this area will be allowed to revegetate.

A Water Resource Protection Plan (WRPP) was prepared by Pacific Watershed Associates for the subject site in August 2019 (Attachment 3) in compliance with the North Coast Regional Water Quality Control Board's (NCRWQCB) Order No. 2015-0023. As noted in the WRPP, the Report describes and addresses the required elements and standard conditions established in the Order to protect water quality from cannabis cultivation and related activities. It is concluded in the WRPP that the site does not fully meet all twelve (12) of the standard conditions. Included in the WRPP is a prioritized list of the recommended treatments and actions to be implemented to meet the requirements of the Order. The project is conditioned to require the applicant to implement all recommendations contained in the WRPP. Additional conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan.

### **Biological Resources**

Per review of CDFW's California Natural Diversity Database (CNDDDB) in July 2021, there are no mapped sensitive species onsite and the nearest NSO activity center is located approximately 1.05 miles from the nearest cultivation area, with the nearest NSO sighting located approximately 1.31 miles away. Power at the site is currently provided by generators. Per the Cultivation and Operations Plan and additional information provided by the applicant's agent in December 2021 (Attachment 3), each cultivation site uses several Honda2200 EU generators to power the greenhouse lights, and the house and dry barn are

powered by a 25 kW diesel generator, which is proposed to remain under the project. As noted above, based on feedback and at the request of the Planning Commission during the December 2, 2021, hearing, Planning staff is recommending the use of all generators cease by or before December 31, 2025. The applicant is not in agreement with staff recommendation. The applicant does not agree with Planning staff recommendation. The applicant is agreeable to cease use of all but one (1) generator (the 25 kW diesel generator) and proposes to switch to solar power with battery system by the end of 2025. Additionally, the applicant proposes to develop a battery storage system for the drying barn and residence to reduce the generator usage from 24 hours per day during drying operators to 12 hours per day.

CDFW provided comments on the project in July 2019 and requested additional information regarding water source(s), clarification on how water use estimates were derived, requested protocol level surveys if ground disturbing activities proposed, noted the project may have a potentially significant adverse effect on biological resources, specifically NSO, and recommended several conditions of approval. A written response to CDFW's comments was provided in August 2021. In response to CDFW comments, noise and light attenuation measures will be required. The project is conditioned to ensure the combination of background, greenhouse fan, or other operational equipment created noise, meets the noise level threshold of a maximum of 50 decibels at the property line. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service (USFWS). Additionally, based on the Planning Commission's request, Planning staff has included a recommended condition of approval to require the applicant cease use of all onsite generators by the end of 2025. Furthermore, the conditions of approval require the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage and refrain from using anticoagulant rodenticides to further protect wildlife. In addition, due to the on-site pond, the applicant is required to prepare and implement a Bullfrog Management Plan. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

### **Access**

Access to the site is via a driveway off Howard Ranch Road/Ranch Road from Benbow Drive. Benbow Drive, from Oakcrest Drive to State Highway 101, is a Category 4 County-maintained roadway. A Road Evaluation Report for an approximately 5-mile segment of Howard Ranch Road/Ranch Road from Benbow Drive to the property line of the subject property was prepared by the applicant's agent in December 2019 (revised in December 2021 to reflect the correct road name, confirmed by the Department of Public Works on December 14, 2021; Attachment 3), which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per comments received from the Department of Public Works, Land Use Division, the non-County maintained access road that connects to a County-maintained road shall be improved to current standards for a commercial driveways. The applicant is required to pave the access road (Howard Ranch Road/Ranch Road) for a minimum width of 20 feet and length of 50 feet where it intersects the County road (Benbow Drive).

### **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 permits and acres which may be approved in each of the County's Planning Watersheds. 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 269 permits and the total approved acres would be 75.5 acres of cultivation.

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 Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has

prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

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 Conditional Use Permit (CUP) and 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 MND for the CMMLUO 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.