

Recommended Commission Action

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

Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section 15164 of the State California Environmental Quality Act (CEQA) Guidelines, make all of the required findings for approval of the Conditional Use Permit, and approve the Green Crows, LLC, Conditional Use Permit as recommended by staff subject to the recommended conditions.

Executive Summary:

Green Crows, LLC, seeks a Conditional Use Permit for continued cultivation of 14,814 square feet (SF) of cannabis cultivation consisting of 1,840 SF of mixed-light and 11,314 SF of outdoor cannabis cultivated in two distinct areas on the 20-acre parcel. Up to 1,481 feet of appurtenant nursery space is also proposed to support the operation. The Lower Flat cultivation area to the west, accessed via Fish Canyon Road, would contain 4,816 SF of cultivation in outdoor full-sun raised beds. The Upper Flat cultivation area to the east, accessed via Red Rock Road, would contain 9,998 SF of cultivation consisting of 1,840 SF of cultivation in four mixed-light greenhouses and 8,158 SF of full-sun outdoor cultivation that would be slightly reorganized to allow for a proposed residence and fire-safe turnaround. Cultivation activities extend from April to October. For the immediate future, the applicant will only harvest one cycle per year utilizing only natural light, with the exception of supplemental lighting that will support nursery activities. A 2,000-watt solar system supplies all power for cultivation activities. Two generators are stored onsite for emergency use only. Mixed-light cultivation activities would support up to three harvests annually only if Pacific Gas and Electric Company (PG&E) power lines are developed along Red Rock Road to the project area. In the absence of PG&E power, the applicant will abstain from mixed-light cultivation as a condition of approval (COA #6).

The applicant is proposing to add three sheds for drying or storage to the Lower Flat (800 SF, 384 SF, and 288 SF) and to develop a 1,600-SF drying building and 2,400-SF commercial multiuse structure to the Upper Flat for a total proposed buildout of 5,472 SF for commercial cannabis processing. In addition, the applicant is planning to build a 4,800-SF two-story house with garage on the Upper Flat. In summary, new proposed development on the two existing graded flats (new buildings or expansion of existing greenhouses) would total approximately 13,153 SF, all of which would be permitted as conditions of approval (COAs #7-9). One member-owner and a maximum of four employees would be required during peak operations once the commercial processing facility is constructed. The parcel is furnished with portable toilets. Currently all harvested, dried, cured, and bucked cannabis flower will be transported offsite by a licensed transporter for additional processing. Should processing occur onsite, it will occur in proposed structures designed to meet all applicable commercial building codes and regulations. Security measures for the project would encompass, at a minimum, locked containment for product storage, locked gate(s) at entries into the property, and surveillance and monitoring camera systems at all gates and scattered throughout cultivation areas.

Timber Conversion

A Timber Conversion Evaluation Report (**Attachment 3**) was prepared by Thomas Blair, RPF, on July 2, 2019, which documents how approximately 0.6 acre of previously unauthorized timber conversion occurred between 2009 and 2012. The two timber conversion sites on the parcel are below the 3-acre conversion exemption maximum and took place prior to the CEQA baseline evaluated for the CMMLUO. One recommendation was provided to bring the site into compliance with the California Forest Practice

Act, and this has been made a condition of approval (COA #10). The subject parcel is a pre-existing site that is not proposing expansion or tree removal.

Water Resources

Annual water use is currently 163,600 gallons (11 gallons/SF/year) for the outdoor cultivation but would increase to 229,600 gallons (15.5 gallons/SF/year) if mixed-light cultivation is undertaken (pending PG&E power drop). Water for irrigation is entirely provided by a rain catchment system described in a Water Catchment System report, which details the existence of 4,182 SF of rain interception area from gutters on existing buildings and greenhouses that are capable of collecting 180,000 gallons of water in a typical rain year (**Attachment 3**). The Cultivation and Operations Plan and Site Plan updated in October 2021 (**Attachment 3**) indicates that there are 219,000 gallons of existing water storage (hard tanks and bladders) on the parcel. Total storage will be expanded to capture rainfall from all proposed structures that would result in a modeled capture more than 400,000 gallons each rainy season. In the case of an extremely low rainfall year, the applicant proposes to plant the crop later in the summer to offset water usage, based on real-time calculations of projected water availability as a condition of approval (COA #11). The existing 70,000 gallons of water stored between four bladders identified on the 2021 Site Plan will be replaced with up to 120,000 gallons of water storage tanks positioned in the same locations (three on Lower Flat, one on Upper Flat), which would result in a total of 339,000 gallons of rainwater capture storage. This conversion to hard tank storage will be documented with submission of a revised Site Plan as showing their final location as a condition of approval (COA #12), and all water storage use from tank farms will be monitored in accordance with the State Water Resources Control Board (SWRCB) Cannabis Cultivation Policy (COA #13).

The project site is also supported by a diversion from Fish Creek that acts as an emergency domestic water supply and is labeled as "not in use" on the revised 10/01/2021 Site Plan. Diversion from Fish Creek, an Environmental Protection Agency 303(d) Listed Impaired Water, is not to be used for cannabis irrigation as a condition of approval (COA #11). A Site Management Plan (SMP) was prepared for the project in December 2019 (**Attachment 3**) in accordance with enrollment as a Tier 1 Medium Risk site (WDID #1_12CC423112) with the SWRCB Cannabis Cultivation Policy – General Order WQ 2019-0001. Tier 1 conditions are based on the property containing approximately 18,000 SF of cumulative disturbed area (11,711 of which is cultivation area). The area of use occurs between 680- to 1,080-foot elevation on a west-facing slope. A Class II waterway that is a tributary of Fish Creek runs northeast to southwest through the northern portion of the parcel. This unnamed stream converges with Fish Creek approximately 380 feet west of the parcel. There is one 36-inch corrugated metal pipe culvert on the access road to the parcel. All erosion prevention, sediment control, and winterization Best Practicable Treatment and Control (BPTC) measures prescribed in the SMP and associated Cannabis Order are to be employed during construction and throughout the life of the project as a condition of approval (COA #14). A Lake and Streambed Alteration Agreement (LSAA) prepared in May 2020 (**Attachment 3**) has been filed electronically with the California Department of Fish and Wildlife (CDFW) for replacement of two undersized culverts—an existing 36-inch culvert to be replaced with a 72-inch culvert and an existing 18-inch culvert to be replaced with a 48-inch culvert (EPIMS HUM-10098-R1).

Per the Division of Environmental Health (DEH) referral comments, the applicant shall secure permits and install an onsite sewage disposal system and restroom facility prior to processing onsite as a condition of approval (COA #15). The applicant shall furnish receipts or other documentation to the DEH for the continual use of portable toilets for employees until a permanent septic system is installed to DEH satisfaction. A letter or similar communication from DEH verifying that all requirements have been met will satisfy this condition.

Biological Resources

No Biological Assessment has been prepared for the project. Nearby occurrences of special-status species in the California Natural Diversity Database include the western bumble bee, foothill yellow-legged frog, and white-flowered rein orchid, historically known from the vicinity of the South Fork Eel River approximately 1 mile to the west. The nearest northern spotted owl (NSO) activity center was located approximately 1.26 miles southwest of the cultivation site; however, it has not been occupied by NSO

since 2001. The lands surrounding the lower cultivation site are heavily forested, and therefore have high potential for NSO and special-status species habitat.

Per the applicant, two generators are onsite for emergency power when solar power is ineffectual. These generators will meet the performance standards for noise set by Planning and Building Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o), which requires noise levels be at or below 50 decibels at 100 feet or edge of habitat, whichever is closer. As stated above, mixed-light cultivation will only be used on the parcel if PG&E power becomes available to the applicant, and only at the upper cultivation area further from the forested areas of the lower slopes. The Lower Flat cultivation area to the west, accessed via Fish Canyon Road, would contain 4,816 SF of cultivation in only outdoor full-sun raised beds. As a result, the project is conditioned (Attachment 1B) to ensure the combination of background, generator, and greenhouse fan or other operational equipment-created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the U.S. Fish and Wildlife Service.

The project has been conditioned to abide by the recommendations of the LSAA to ensure supplemental lighting associated with mixed-light cultivation is fully contained with blackout tarps, all outside lighting is on timers or motion sensors to reduce light exposure to wildlife and its potential habitat, and heavy equipment operations are avoided during the NSO critical period of February 1–July 31 (or protocol-level surveys are performed prior to initiating that work). Furthermore, the project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect NSO or other sensitive species.

Tribal Cultural Resource Coordination

There are no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria in 2019. The NWIC responded that its office has no record of any previous cultural resource studies for the project area, but that the project area has the possibility of containing unrecorded archaeological site(s). A study is recommended prior to commencement of project activities. Archaeological Research and Supply Company prepared a Cultural Resource Investigation in February 2019 and reported finding no historical cultural resources on the subject property. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

Access

The project is located in Humboldt County, in the Benbow area, on the west side of Red Rock Road, approximately 1.6 miles south from the intersection of Fairway Drive and Red Rock Road, on the property known as 1360 Red Rock Road (APN: 033-120-013). A Road Evaluation Report was prepared by a registered professional civil engineer on 3/13/2019 indicated that four segments of roads accessing the parcel (from Red Rock Road and Fish Creek Road) are not developed to the equivalent of road category 4 or better. With recommendations completed as presented in a roadway evaluation letter from DTN Engineering and Construction, the roadways can accommodate the cumulative increased traffic from the project. The issues found on Fish Canyon Road and Road H on the property are primarily due to drainage, including partially clogged culverts, lack of waterbars, and rolling dips. At limited locations, the roadway falls under 12 feet in width and over 16% grade. The recommendations of the Road Evaluation Report (e.g., repair slides, unclog culverts, install waterbars, mow and repair drainage ditches) are made a condition of approval (COA #16). Red Rock Road, the private road used to access the project from the north, is maintained regularly by the Benbow Ranch Road Association, of which the applicant has stated they are an active member. Public Works, Land Use Division, stated in a letter dated 5/5/2020 that the applicant's access driveway shall likely require modification to comply with County Code and that the existing driveway at the intersection of East Blue Rock Road that connects to the County-maintained road (and Fairway Drive) shall be paved for a minimum of 50 feet and be

maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Meeting the conditions of County Code is made a condition of approval (COA #17).

Environmental review for this project was conducted, and based on the results of that analysis, Planning staff finds that all aspects of the project have been considered in an MND that was adopted for the CMMLUO and has prepared an addendum to this document for consideration by the Planning Commission (Commission) (See Attachment 2 for more information).

RECOMMENDATION: Based on a review of Planning and Building Department 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.

ALTERNATIVES: The 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 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 Planning and Building 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 2 months later to give staff the time to complete further environmental review.