

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 for the Commercial Medical Land Use Ordinance (CCMLUO) pursuant to Section §15164 of the State CEQA Guidelines, making all of the required findings for approval of the Conditional Use Permit and approve the Midgad, LLC, project subject to the recommended conditions.

Executive Summary: The applicant is seeking a Conditional Use Permit for 19,800 square feet of existing outdoor commercial cannabis cultivation. Light deprivation techniques are utilized to achieve two harvests annually. The project will be supported by a 1,000 square-foot propagation greenhouse which will utilize supplemental lighting. The applicant will be required to adhere to International Dark Sky Standards (**Ongoing Requirement B.2**). All processing activities occur onsite in two existing structures, one of which is a 720 square foot two-story building and the other is a 437 square foot structure. The structures in their current configuration cannot be used for trimming and/or packaging. These types of activities must take place in a F1 Occupancy Type commercial structure with an accessible restroom and accessible parking. The owner must secure permits and complete any building of such structure within the 2-year provisional period. Alternatively, the operator may discontinue this use and process at an off-site licensed third-party facility. This requirement has been included as a condition of approval (**General Condition A.8**). The applicant may utilize between 2 and 4 employees to assist with operations.

Water Resources

Water for irrigation has historically been sourced from two existing ponds. One pond is a 194,000-gallon rainwater catchment pond, and the other pond has a capacity of 236,000-gallons. The 236,000-gallon pond was believed to be an unlined rainwater catchment pond, however, the applicants Lake and Streambed Alteration Agreement with California Department of Fish and Wildlife (CDFW) alluded to the pond being a diversionary water source. Prior to the 2022 cultivation season the applicant will either (1) enlarge the 194,000-gallon rainwater catchment pond to a capacity of 236,000 gallons, (2) provide documentation from a qualified professional that the 220,000-gallon pond is not hydrologically connected to surface waters, or (3) obtain an additional 17,000 gallons of water storage to meet the projected annual water usage of 227,000 gallons (**General Condition A.9**). The applicant utilizes a registered point of diversion from an unnamed spring for domestic purposes. The spring diversion is not an authorized irrigation source for this project.

Existing available water storage for the project totals 210,000 gallons between the 195,000-gallon rainwater catchment pond and 20,000 gallons of hard tank water storage. The site is also equipped with a 2,500-gallon water tank dedicated to fire suppression and 4,500 gallons of water storage for domestic storage.

The project was referred to the Division of Environmental Health (DEH) who recommended that the application be approved with the added condition that the applicant demonstrate that a properly functioning onsite wastewater treatment system serves the operation. This can be accomplished by either installing a new, permitted septic system; or by providing DEH with an assessment of the existing system performed by a qualified professional engineer, geologist, soil scientist, or REHS that certifies that the existing system complies with the State RWQCB definition of a Tier 0 system - not impairing groundwater or surface water resources. Additionally, the applicant will be required to discontinue the use of, and decommission, the existing outhouse (**General Condition A.7**). The project description

incorrectly stated that the applicant was using a well for irrigation, therefore the DEH requested that the applicant provide evidence of the approved well permit, destroy the well, legalize the well through installation of a new sanitary surface seal, or provide compelling evidence that the well was installed prior to February 1973. This will not be included as a condition of approval as there is no existing well.

Energy Resources

Energy for the operation is sourced from two solar arrays with a combined capacity of 6.9 kW. The solar arrays inverter has a capacity of 12 kW which provides sufficient energy to meet the projects energy demand. There is a third solar array that serves the applicants residence for domestic purposes which will not be used in the operation. The site is also equipped with a 14-kW propane generator for back-up use only. When in use, the project will be held in a secondary containment structure to attenuate noise. Noise from project related activities will not exceed 50 decibels of continuous noise as measured 100 feet from the noise source or edge of habitat, whichever is closer (**Ongoing Requirements B.1**).

Biological Resources

The subject parcel is located in the Salmon Creek Watershed and contains three Class III ephemeral watercourses. All cultivation related infrastructure adheres to the Streamside Management Area setback requirements. A review of the California Natural Diversity Database (CNDDDB) found that no species of special concern have been mapped on the subject parcel. The nearest Northern Spotted Owl activity center mapped in the CNDDDB is located over two miles southeast of the project. The existing project is not anticipated to impact any special status plant and animal species or sensitive natural communities. Noise and light attenuation measures have been included as ongoing requirements of the project. The project was referred to CDFW in March of 2019, no response was received. The applicant has entered into a Lake and Streambed Alteration Agreement with CDFW. The applicant will be required to adhere to and implement all conditions of the LSAA (**Ongoing Requirement B.17**).

The project site is located in the South Ford 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 257 permits and the total approved acres would be approximately 71.96 acres of cultivation.

The applicant submitted a *Site Management Plan* (SMP) prepared by Margo Advisors. The SMP did not identify any corrective actions to be undertaken. The applicant will be required to monitor the site, in accordance with the SMP, and complete any future corrective actions required to minimize erosion, prevent sediment discharge to surface waters, and protect water quality (**General Condition A.13**).

Tribal Cultural Coordination

The applicant has submitted a *Cultural Resource Investigation* prepared by DZC Archaeology and Cultural Resource Management, dated December 2019. A comprehensive field survey was conducted in April of 2018 and encompassed 35 acres. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources. The Cultural Resource Investigation was sent for tribal review. The Bear River Band of Rohnerville Rancheria requested that a condition of approval include the inadvertent discovery protocol. This has been included as a condition of approval for the project (**Ongoing Requirement B.25**).

Access

Access to the site is via a private driveway off of Upper Thomas Road (soon to be named Early Ranch Road), a privately maintained access road. According to the Road Evaluation Report, which was prepared by a Civil Engineer, Upper Thomas Road is not developed to the equivalent of a Category 4 road standard. However, it does meet the functional equivalent required for the project needs with minor improvements (**General Condition A.12**). The project was referred to the Department of Public Works Land Use Division which recommended the project be approved with the condition that the

applicant pave where Upper Thomas Road (Early Ranch Road) meets the county-maintained road, Thomas Road. This will not be included as a condition of approval as the work has already been completed by another applicant. A condition of approval will require that the applicant maintain the location where Upper Thomas Road (Early Ranch Road) intersects with Thomas Road in accordance with the Humboldt County Sight Visibility Ordinance. Compliance with this requirement will be assessed at the applicants annual inspection (**General Condition A.11**).

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).

RECOMMENDATION: 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.

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.