



## Legislation Details (With Text)

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**Type:** Action Item      **Status:** Agenda Ready

**File created:** 4/16/2021      **In control:** Planning Commission

**On agenda:** 4/22/2021      **Final action:**

**Title:** 9:40 a.m. Continued from April 8th, 2021 PC Hearing. Public Hearing to consider a Major Use Permit (UP 19-40) to consider approval of a commercial cannabis cultivation project on a 77+ acre property, and consideration of adopting a Mitigated Negative Declaration (IS 19-59) on Thursday April 22, 2021, 9:40 a.m., in the Board of Supervisors' Chambers, 255 N. Forbes Street, Lakeport, California. Applicant / Owner: CUA Enterprises. Proposed Project: Three (3) A-Type 3 medium outdoor cannabis cultivation licenses requesting 104,800 sq. ft. of cannabis cultivation area and one (1) A-Type 13 self-distribution license. Location: 25252, 25322, 25372 & 25312 Jerusalem Grade Road, Middletown, CA; APNs: 013-017-92, 013-017-74, 013-017-36 and 013-017-31. Environmental Evaluation: Mitigated Negative Declaration.

**Sponsors:** Community Development

**Indexes:**

**Code sections:**

**Attachments:** 1. Staff Report UP 19-40 V2, 2. Attachment 1 vicinity map, 3. Attachment 2 PMP, 4. Attachment 3 agency comments, 5. Attachment 4 conditions, 6. Attachment 5 site plans, 7. Attachment 6 IS

Date	Ver.	Action By	Action	Result
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## Memorandum

### STAFF REPORT

**TO:** Planning Commission

**FROM:** Scott DeLeon, Community Development Director  
Toccarra Thomas, Community Development Deputy Director

Prepared by: Eric Porter, Associate Planner

**DATE:** April 22, 2021

**RE: CUA Enterprises**

- Major Use Permit (UP 19-40)
- Initial Study (IS 19-59)
- Early Activation (EA 19-65)

Supervisor District 1

**ATTACHMENTS:**

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Conditions of Approval

5. Site Plans
6. Initial Study

## I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for commercial cannabis cultivation to allow a total of 104,840 square feet of cultivation area and an estimated 100,000 sq. ft. of canopy area on a property located at 25252, 25322, 25372 and 25312 Jerusalem Grade Road (parcel size  $\pm 77.04$  acres) Middletown, California, APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31. The applicant's proposal will include the following:

**Three (3): A - Type 3: "Outdoor" License:** Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.

- *The total proposed cultivation canopy is approximately 104,840 square feet. (3 acres) and will be cultivated in above ground pots (known as smart pots).*

### **One (1): A - Type 13 "Self Distribution License"**

The Project Property is currently accessed by a shared private gravel driveway off of Jerusalem Grade. It is notable that the entire property is surrounded by BLM land, and BLM has submitted a letter stating that they would not guarantee that this project might not be subject to criminal prosecution, since cannabis is still a Schedule 1 narcotic at the Federal level. *Please see Attachment 3, letter from the BLM.*

The proposed canopy area will be surrounded by a 6-foot tall galvanized woven wire fences, covered with privacy mesh to screen from public view.

The proposed ancillary facilities include:

- One (1) 8' x 20' harvest storage shed;
- One (1) 10' x 12' wooden security shed;
- One (1) 120 square foot pesticides, agricultural chemical storage shed; and
- Four (4) 8,000-gallon water storage tanks.

The proposed cultivation method will be an organic soilless growing with micro-spray drip irrigation systems. Additionally, agricultural chemicals associated with cannabis cultivation including fertilizers, pesticides, and petroleum products will be securely stored inside the proposed pesticides and agricultural chemical storage shed.

The parcels are located at the base of Bishop Mountain in eastern Lake County and lie within the Upper Putah Creek watershed (HUC10) and the Hunting Creek sub-watershed (HUC12).

Multiple ephemeral Class III watercourses begin on the Project Property and flow northeast into Jericho Creek. The cannabis cultivation area will be setback more than 100 feet from the top of the bank of any bodies of water. There are no other surface water bodies on the Project property.

The proposed cultivation operation will utilize drip irrigation systems, to conserve water resources. All water for the cultivation operation will come from two existing onsite groundwater wells and the project site has been enrolled for coverage under the State Water Resources Control Board.

The well on site will be pumped to the water storage tanks proposed right next to the proposed canopy area. Water use is projected to be approximately 10,000 gallons per day, 75,000 gallons per year. The cultivation area is relatively flat with 5 % to 15% slopes. A native grass seed mixture and certified weed-free straw mulch is proposed around the exposed soil area every year before eastern portion of the cultivation area to filter sediment from stormwater as it moves on to the property's seasonal drainages. The natural existing vegetated buffer will be maintained as needed between all project areas and waterways on the property. All organic waste will be placed in the designated composting area within the cultivation area.

The proposed project site is accessed from a private easement road (Jerusalem Grade Road beyond the Putah Creek Bridge) that is not compliant with Public Resource Code sections 4290 and 4291. The easement road connects to Jerusalem Grade Road, a county maintained road to the west of the bridge over Putah Creek. The applicant has indicated that the access road will be graveled to support a 75,000 lb load as well as be a minimum of 20 feet wide and have a 60 feet by 20 feet hammerhead turnaround at the terminus.

A minimal increase in traffic is anticipated due to construction, maintenance and weekly and/or monthly incoming and outgoing deliveries through the use of small vehicles only. Daily employee trips are anticipated to be between 8 and 12 trips during cultivation season from April 1<sup>st</sup> to November 15<sup>th</sup>.

### **CONSTRUCTION**

*According to the applicant, the following is in regards to the site preparation and construction:*

- Less than fifty (50) cubic yards of grading will be anticipated for the proposed cultivation operation.
- Materials and equipment will only be staged on previously disturbed areas (existing roads, parking and work areas). No areas will be disturbed for the purpose of staging materials or equipment.
- Any drivers will be instructed to drive slowly for safety and keep down dust to mitigate the generation of dust during construction.
- All construction activities, including engine warm-up, will be limited to Monday through Saturday between the hours of 8:00am and 7:00pm.
- All equipment will be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. All equipment will only be refueled in locations more than 100 feet from surface water bodies, and any servicing of equipment will occur on an impermeable surface. In the event of a spill or leak, the contaminated soil will be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
- Estimated construction period is 2 weeks and could generate a maximum of 40 to 80 vehicle trips, in addition to the 4 to 8 vehicle trips generated by employees

**Staff is recommending approval of Major Use Permit, UP 19-40.**

### **I. RECOMMENDATION**

**Staff recommends the Planning Commission take the following actions.**

#### **A. Adopt Mitigated Negative Declaration (IS 19-59) for Major Use Permit (UP 19-40) with the following findings:**

1. Potential impacts to aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 and AES-2.
2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5 and AQ-6.
3. Potential environmental impacts related to cultural and tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
4. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, BIO-6, BIO-7 and BIO-8.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, GEO-3 and GEO-4.
6. Potential impacts regarding hazards and hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1, HAZ-2, HAZ-3, HAZ-4 and HAZ-5.
7. Potential impacts related to hydrology and water quality can be mitigated to less than significant impacts with the inclusion of mitigation measures HYD-1, HYD-2, HYD-3 and HYD-4
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.

9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.
11. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

**B. Approve Major Use Permit UP 19-40 with the following findings:**

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Lower Lake Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

**Sample Motions:**

**Mitigated Negative Declaration (IS 19-59)**

I move that the Planning Commission find that the Major Use Permit (UP 19-40) applied for by **CUA Enterprises** on property located at **25252, 25322, 25372 and 25312 Jerusalem Grade Road, Middletown**, and further described as **APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **April 8, 2021**.

**Major Use Permit (UP 19-40)**

I move that the Planning Commission find that the **Major Use Permit (UP 19-40)** applied for by **CUA Enterprises** on property located at **25252, 25322, 25372 and 25312 Jerusalem Grade Road, Middletown**, further described as **APNs 013-017-92, 013-017-74, 013-017-36 and 013-017-31** does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **April 8, 2021**.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may*

*be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*