

## **FINDINGS FOR DENIAL**

### **Commercial Cannabis Use Permit CCUP20-0004/Variance V23-0002/ Green Gables Growers Planning Commission/August 24, 2023**

#### **1.0 CEQA FINDINGS**

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received during the public review process. The Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program (MMRP) reflects the independent judgment of the County and has been completed in compliance with the California Environmental Quality Act (CEQA) and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the Initial Study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department at 2850 Fairlane Court, Placerville, CA, 95667.

#### **2.0 GENERAL PLAN FINDINGS**

##### **2.1 The project is consistent with General Plan Policy 2.2.1.2.**

General Plan Policy 2.2.1.2 identifies that the purpose of the Agricultural Lands (AL) designation is applied to lands described in Policy 8.1.1.8. A maximum of two (2) residential dwellings used to support the agricultural use are allowed. The AL designation may be applied in Rural Regions only.

Rationale: Development of the commercial cannabis cultivation is consistent with this policy. Commercial cannabis cultivation and nurseries are allowed by approval of a Commercial Cannabis Use Permit (CCUP) within the Agricultural Grazing, 40-acre Minimum (AG-40) zone district. The AG zone district is consistent with the AL land use designation. The site is within a Rural Region. The proposed project is compatible with the land use designation.

##### **2.2 The project is consistent with General Plan Policy 2.2.5.2.**

This policy requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: The project has been reviewed in accordance with General Plan Policy 2.2.5.2 and has been found to be consistent with all applicable policies of the General Plan. As conditioned, the proposal is consistent with the intent of the General Plan, as determined within the General Plan Findings.

**2.3 The project is consistent with General Plan Policy 2.2.5.21.**

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: The project site is currently developed for agricultural uses. The adjoining properties to the south and east are similarly within the AG zone district. Other surrounding zones include Rural Lands (RL), Limited Agriculture (LA), and Planned Agriculture (PA). The project is consistent with the development standards within Section 130.41.200 of the Zoning Ordinance - Outdoor and Mixed-Light Cultivation of Commercial Cannabis. Therefore, the project has been located and designed to be compatible with adjoining land uses.

**2.4 The project is consistent with General Plan Policy 5.1.2.1**

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utilities to be impacted by that development.

Rationale: The project proposes to utilize a well for water and a solar system for electricity.

**2.5 The project is consistent with General Plan Policy 5.1.2.2**

General Plan Policy 5.1.2.2 requires Provision of public services to new discretionary development shall not result in a reduction of service below minimum established standards to current users, pursuant to Table 5-1.

Rationale: Both the El Dorado Hills Fire Department (EDHFD) and the El Dorado County Sheriff's Office (EDSO) have stated that they can provide service that meets minimum established standards. EDSO requires that the site's surveillance system storage device or cameras must be transmission control protocol (TCP) capable of being accessed from the internet so that law enforcement can evaluate the situation in real time before responding. All agencies identified in Table 5-1 of the General Plan that are applicable were sent the project, and no agency responded that the impact of the project would exceed the minimum level of service.

**2.6 The project is consistent with General Plan Policy 5.2.1.2.**

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The project was reviewed by the EDHFD for adequate fire protection services capacity. The site will be served by a well that was permitted by

the County and has adequate flow rate. The project, as conditioned, is consistent with this policy.

**2.7 The project is consistent with General Plan Policy 5.7.1.1.**

General Plan Policy 5.7.1.1 requires the applicant to demonstrate that adequate emergency water supply, storage, conveyance facilities, and access for fire protection would be provided concurrent with development.

Rationale: EDHFD and CAL FIRE currently provide fire protection services to the project site. The Department has imposed Conditions of Approval to ensure adequate water supply, storage, conveyance and site access for fire protection remains adequate for the project. The site will be served by a well that was permitted by the County and has adequate flow rate. A fire safe plan approved by the Department and CAL FIRE will be implemented at the project site.

**2.7.1 The project is consistent with General Plan Policy 5.7.2.1.**

General Plan Policy 5.7.2.1 requires that prior to approval of new development, the responsible fire protection district shall be requested to review all applications to determine the ability of the district to provide protection services. The ability to provide fire protection to existing development shall not be reduced below acceptable levels as a consequence of new development. Recommendations such as the need for additional equipment, facilities, and adequate access may be incorporated as conditions of approval.

Rationale: EDHFD and CAL FIRE currently provide fire protection services to the project site. Approval of the subject project is conditioned on meeting the public safety and fire protection requirements of the County of El Dorado General Plan, which shall include the provision of a financing mechanism for said services.

**2.7.2 The project is consistent with General Plan Policy 5.7.3.1.**

General Plan Policy 5.7.3.1 requires that prior to approval of new development, the Sheriff's Department shall be requested to review all applications to determine the ability of the department to provide protection services. The ability to provide protection to existing development shall not be reduced below acceptable levels as a consequence of new development. Recommendations such as the need for additional equipment, facilities, and adequate access may be incorporated as conditions of approval.

Rationale: EDSO has reviewed the project including the security plan, performed a background check of the owners, spouses, and designated local contact, and has inspected the site. EDSO requires that the site's surveillance system storage device or cameras must be TCP capable of being accessed from the

internet so that law enforcement can evaluate the situation in real time before responding. The Sheriff's Office has concluded that the department is able to provide law enforcement services for the site. No agency identified that the project would exceed service capacity.

**2.8 The project is consistent with General Plan Policy 6.2.3.2, 6.2.2.2, 6.2.3.1.**

General Plan Policy 6.2.3.2 requires the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

General Plan Policy 6.2.2.2 requires that the County shall preclude development in areas of high and very high wildland fire hazard or in areas identified as wildland-urban interface (WUI) communities within the vicinity of Federal lands that are a high risk for wildfire, as listed in the Federal Register Executive Order 13728 of May 18, 2016, unless such development can be adequately protected from wildland fire hazard, as demonstrated in a WUI Fire Safe Plan prepared by a qualified professional as approved by the El Dorado County Fire Prevention Officers Association. The WUI Fire Safe Plan shall be approved by the local Fire Protection District having jurisdiction and/or California Department of Forestry and Fire Protection. (Resolution 124- 2019, August 6, 2019).

General Plan Policy 6.2.3.1 requires that as a requirement for approving new development, the County must find, based on information provided by the applicant and the responsible fire protection district that, concurrent with development, adequate emergency water flow, fire access, and fire fighting personnel and equipment will be available in accordance with applicable State and local fire district standards.

Rationale: EDHFD and CAL FIRE currently provide fire protection services to the project site. The Department has imposed Conditions of Approval to ensure site access for fire protection remains adequate for the project. A fire safe plan approved by the Department and CAL FIRE will be implemented at the project site to ensure that adequate resources for fire protection will be available onsite.

**2.9 The project is consistent with General Plan Policy 6.5.1.2 and 6.5.1.7.**

General Plan Policy 6.5.1.2 requires where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design.

General Plan Policy 6.5.1.7 Noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.

Rationale: The specific model of greenhouse ventilation fans to be used by the project, and the proposed fan locations, was not known at the time of this analysis. A typical ventilation fan for greenhouse applications would be a Schaefer 54 inch Galvanized Light Trap Box Exhaust Fan Model 545B2G-LT. This specific exhaust fan model has a reference noise level of 73 dBA at a distance of 10 feet. Because noise generated near the ground attenuates at six (6) dBA for every doubling of distance, the predicted noise from a single example fan at the closest residence (over 800 feet) would be 35 dBA. Assuming fans running continuously at night, the noise would not exceed the County's most stringent nighttime noise standard of 45 dBA  $L_{EQ}$ .

**2.10 The project is consistent with General Plan Policy 8.1.4.1.**

General Plan Policy 8.1.4.1 requires that the County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority. Before granting approval, a determination shall be made by the approving authority that the proposed use: A. Will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.

Rationale: Section 130.41.200.5.N of the Zoning Ordinance states "Recommendation of the Agricultural Commission. An application for a Commercial Cannabis Use Permit for outdoor or mixed-light cultivation must be reviewed by the Agricultural Commission and the recommendation of the Agricultural Commission, including any suggested conditions or restrictions, shall be forwarded to and considered by the Planning Commission." The project was reviewed at the Agricultural Commission's regularly scheduled meeting held on May 12, 2021. The Agricultural Commission recommended approval Agricultural Department staff's recommendations of support based on the analysis of compliance with pertinent General Plan policies.

**2.11 General Plan Policy TC-Xa does not apply to the project**

Except as otherwise provided, the following TC-Xa policies shall remain in effect indefinitely, unless amended by voters:

1. Traffic from residential development projects of five (5) or more units or parcels of land shall not result in, or worsen, Level of Service (LOS) F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the County.

Rationale: The project would create no residential parcels; therefore this policy does not apply.

2. The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at LOS F without first getting the voters' approval.

Rationale: This is not applicable as the project is not requesting any modifications to Table TC-2.

3. intentionally blank (Resolution 125-2019, August 6, 2019)
4. intentionally blank (Resolution 159-2017, October 24, 2017)
5. The County shall not create an Infrastructure Financing District unless allowed by a 2/3rds majority vote of the people within that district.

Rationale: The project would create no residential parcels; therefore this policy does not apply.

6. intentionally blank (Resolution 159-2017, October 24, 2017)
7. Before giving approval of any kind to a residential development project of five (5) or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

Rationale: The project would create no residential parcels; therefore this policy does not apply.

## 2.12 **General Plan Policy TC-Xb does not apply to the project.**

To ensure that potential development in the County does not exceed available roadway capacity, the County shall:

- A. Every year prepare an annual Capital Improvement Program (CIP) specifying expenditures for roadway improvements within the next 10 years. At least every five (5) years prepare a CIP specifying expenditures for roadway improvements within the next 20 years. Each plan shall contain identification of funding sources sufficient to develop the improvements identified;
- B. At least every five (5) years, prepare a Traffic Impact Mitigation (TIM) Fee Program specifying roadway improvements to be completed within the next 20

years to ensure compliance with all applicable level of service and other standards in this plan; and

- C. Annually monitor traffic volumes on the county's major roadway system depicted in Figure TC-1.

Rationale: This policy is not applicable as this policy refers to the County preparing a CIP, preparing a TIM Fee Program, and monitoring traffic volumes.

**2.13 General Plan Policy TC-Xc does not apply to the project.**

Developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development during peak hours upon any highways, arterial roads and their intersections during weekday, peak-hour periods in unincorporated areas of the county. (Resolution 201-2018, September 25, 2018).

Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity.

**2.14 The project is consistent with General Plan Policy TC-Xd.**

LOS for County-maintained roads and State highways within the unincorporated areas of the county shall not be worse than LOS E in the Community Regions or LOS D in the Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ratio specified in that table. LOS will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual. Analysis periods shall be based on the professional judgement of the Department of Transportation which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes.”

Rationale: This project is located in a Rural Region and does not worsen (as defined by General Plan Policy TC-Xe) LOS for any County-maintained road or State highway.

**2.15 The project is consistent with General Plan Policy TC-Xe.**

For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- A. A two (2) percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily, or

- B. The addition of 100 or more daily trips, or
- C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This project will generate fewer than 10 trips in the peak hour, and fewer than 100 daily trips. The thresholds in criteria A, B or C of this policy are not met. The cannabis farm will be required to report travel data to the Department of Transportation annually. If the thresholds of this policy are met in the future, a Traffic Study will be required with permit renewal.

**2.16 General Plan Policy TC-Xf does not apply to the project.**

At the time of approval of a tentative map for a single family residential subdivision of five (5) or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County's 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element; or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Rationale: The project will not worsen traffic on the County-road system. Therefore this policy does not apply.

**2.17 General Plan Policy TC-Xg does not apply to the project.**

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: This policy is not applicable as this project does not worsen traffic conditions.

**2.18 This project is consistent with General Plan Policy TC-Xh.**



All subdivisions shall be conditioned to pay the traffic impact fees in effect at the time a building permit is issued for any parcel created by the subdivision.

Rationale: This project will pay TIM fees at the time a building permit is issued.

**2.19 General Plan Policy TC-Xi does not apply to the project.**

The planning for the widening of U.S. Highway 50, consistent with the policies of this General Plan, shall be a priority of the County. The County shall coordinate with other affected agencies, such as the City of Folsom, the County of Sacramento, and Sacramento Area Council of Governments (SACOG) to ensure that U.S. Highway 50 capacity enhancing projects are coordinated with these agencies with the goal of delivering these projects on a schedule agreed to by related regional agencies.

Rationale: This policy is not applicable to the project as it is direction to the County to coordinate with other agencies.

**3.0 ZONING FINDINGS**

**3.1 The project is consistent with Title 130.**

The parcel is within the AG-40 zone district. The AG zone, applies to the development of agricultural enterprises and uses, whether encumbered by a farmland conservation contract or not. This zone shall be utilized to identify those lands most capable of supporting horticulture, aquaculture, ranching, and grazing, based on existing use, soil type, water availability, topography, and similar factors.

Rationale: The project has been analyzed in accordance with Zoning Ordinance Section 130.21.020 (Agricultural, Rural, and Resource Zone Districts Use Matrix) for allowable uses. The proposed use is consistent with the AG-40 zone district as commercial cannabis cultivation facilities are allowed within the AG zone district with the approval of a CCUP. The project has been analyzed in accordance with Zoning Ordinance Chapter 130.41 (Commercial Cannabis) for applicable development standards.

**3.2 The project is consistent with Chapter 130.34: Outdoor Lighting.**

Chapter 130.34 of the Zoning Ordinance establishes outdoor lighting requirements for developments with additional standards found in the Community Design Standards.

Rationale: The proposed project is consistent with the outdoor lighting standards. Conditions have been imposed requiring all lighting to be consistent Chapter 130.34 therefore; this proposal will remain consistent with outdoor lighting standards.

**3.3 The project is consistent with Section 130.41.200 Outdoor and Mixed-Light**

### **Cultivation of Commercial Cannabis.**

Section 130.41.200 requires that outdoor and mixed light cultivation of commercial cannabis shall be subject to Planning Commission approval of a CCUP.

Rationale: This project is a CCUP to allow for the construction and operation of a cannabis cultivation and nursery facility.

#### **3.4 The project is consistent with Section 130.41.200.4.A**

Section 130.41.200.A requires that outdoor or mixed-light commercial cannabis cultivation may only be permitted in the RL, PA, LA, and AG zoned districts subject to a CCUP and Commercial Cannabis Annual Operating Permit (CCAOP) under Section 130.41.100.

Rationale: The project parcel is within the AG-40 zone district.

#### **3.5 The project is consistent with Section 130.41.200.4.B**

Section 130.41.200.4.B requires that outdoor or mixed-light cultivation of commercial cannabis is limited to sites that meet the minimum premises area of 10 acres.

Rationale: The project parcel is approximately 105.9 acres in size.

#### **3.6 The project is consistent with Section 130.41.200.4.C.**

Section 130.41.200.4.C requires outdoor or mixed-light commercial cannabis cultivation is subject to the following limits on maximum canopy based on zone district:

4. Lots zoned AG, LA, and PA with a premises greater than 25 acres: Up to five (5) percent of the size of the premises per outdoor or mixed-light cultivation operation with a maximum of six (6) outdoor or mixed-light cultivation operations, but not to exceed two (2) acres of total canopy coverage for that premises, excluding any nursery area.

Rationale: The project's Conditions of Approval and State licensing restricts the total cultivation canopy to two (2) acres.

#### **3.7 The project is consistent with Section 130.41.200.5.B.**

Section 130.41.200.5.B requires outdoor or mixed-light commercial cannabis cultivation shall not be located within 1,500 feet from any school, school bus stop, place of worship, park, playground childcare center, youth-oriented facility, pre-school, public library, licensed drug or alcohol recovery facility, or licensed sober living facility.

Rationale: Two (2) school bus stops are located on parcels directly adjacent to the

project parcel. One (1) school bus stop is located on the parcel directly to the north, 087-021-005, at the intersection of Heffren Road and South Shingle Road. The other school bus stop is located on the parcel directly to the southeast, 087-021-039, at the intersection of Memory Lane and South Shingle Road. While the cannabis canopy is approximately 2,400 feet from both bus stops, the setback is measured from property line to property line. The project would be inconsistent with this is section, without the approval of Variance V23-0002 reducing the setback from 1,500 feet to zero (0) feet as measured from property line to property line.

**3.8 The project is consistent with Section 130.41.200.5.C.**

Section 130.41.200.5.C requires that outdoor or mixed-light cultivation of commercial cannabis shall be setback a minimum of 800 feet from the property line of the site or public right-of-way and shall be located at least 300 feet from the upland extent of the riparian vegetation of any watercourse.

Rationale: The project cultivation area is greater than 800 feet from the property line of the site or public right-of-way and is located at least 300 feet from the upland extent of the riparian vegetation of any watercourse (Exhibit F).

**3.9 The project is consistent with Section 130.41.200.5.D**

Section 130.41.200.5.D requires that any cannabis odor shall not be equal or greater than a seven (7) dilution threshold (DT) when measured by the County with a field olfactometer at the property line on which the cannabis is cultivated or processed for a minimum of two (2) olfactometer observations not less than 15 minutes apart within a one (1) hour period (seven DT one hour).

Rationale: The project would be located within mixed light greenhouses a minimum of 800 feet from all property lines. With the implementation of Condition of Approval 12, requiring the installation of an activated carbon filtration or equivalent system, the required setbacks and the enclosed nature of the project, odor impacts are anticipated to be less than a seven (7) DT when measured at the property line.

**3.10 The project is consistent with Section 130.41.200.5.E**

Section 130.41.200.5.E requires that commercial cannabis cultivation may only be permitted if sufficient evidence submitted to the County demonstrates: (1) there is adequate water supply in the watershed and water rights to serve the cultivation site; and (2) all required State permits are obtained from the State Water Resources Control Board and any other State agency with jurisdiction.

Rationale: The project site contains a well permitted by the El Dorado County

Environmental Management Department. The water source has been reviewed and approved by the State Water Resources Control Board and the California Department of Fish and Wildlife.

**3.11 The project is consistent with Section 130.41.200.5.G**

Section 130.41.200.5.G requires that cannabis shall be screened from public view so that no part of a plant can be seen from an adjacent street or adjacent parcel. Screening shall be accomplished by enclosure within a greenhouse or hoop house or by use of fencing or vegetation.

Rationale: The project proposes mixed light greenhouses. The mixed light greenhouse cultivation will be screened by use of exclusionary fencing with visually excluding slats or shade cloth and existing natural vegetation.

**3.12 The project is consistent with Section 130.41.200.5.H**

Section 130.41.200.5.H requires that areas where cannabis is cultivated, the premises on which cannabis is cultivated, or a portion thereof that includes the cultivation area shall be secured by a minimum six (6) foot high solid wood or chain link wildlife exclusionary fence, such as cyclone or field game fencing, with locked gates built in compliance with building and zoning codes.

Rationale: The security plan reviewed and approved by the EDSO includes security fencing enclosing all cultivation areas.

**3.13 The project is consistent with Section 130.41.200.5.I**

Section 130.41.200.5.I requires that electrical power for outdoor or mixed-light cultivation operations including, but not limited to, illumination, heating, cooling, water supply, and ventilation, shall be provided by on-grid power with a 100 percent renewable source, on-site zero net energy renewable source, or with the purchase of carbon offsets of any portion of power not from renewable sources.

Rationale: The project site contains a solar system approved the County that will be the power source for the mixed-light cultivation operation.

**3.14 The project is consistent with Section 130.41.200.5.J**

Section 130.41.200.5.J requires that all lights used for mixed-light cultivation shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process.

Rationale: Consistency with this policy will be reviewed within all building permits related to this CCUP for compliance with Article 3, Chapter 130.34 (Outdoor Lighting). Those cultivators using artificial lighting for mixed-

light cultivation shall shield greenhouses so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

**3.15 The project is consistent with Section 130.41.200.6.A**

Section 130.41.200.6.A requires a CCUP and CCAOP for a commercial cannabis nursery shall be subject to all of the restrictions and requirements in this Section 130.41.200 for any activities of the nursery that will be conducted outdoors or in mixed-light and all of the restrictions and requirements in Section 130.41.300(4) and (5) for all activities of the nursery that will be conducted indoors.

Rationale: The nursery use proposed within this CCUP is consistent with the development standards within Section 130.41.200 including the required 800-foot setback.

**3.16 The project is consistent with Section 130.41.300.4.G.**

Section 130.41.300.4.G requires that no CCUP may be issued until a background check of all owners and the Designated Local Contact is completed with review and recommendation by the Sheriff's Office including, but not limited to, criminal history, fingerprinting, and any pending charges. The applicant shall be responsible for the cost of the background check. The County may deny an application based on the results of a background check if the County determines that information in the background check makes it more likely than not that any amount of funding for the operation will be or was derived from illegal activity or because the criminal history or other information discovered in the background check of an owner or spouse of an owner weighs against the owner's trustworthiness or ability to run a legal business in compliance with all regulations, including but not limited to the risk of involvement or influence by organized crime, prior convictions involving controlled substances or violent crimes, the likelihood that sales and income will not be truthfully reported, or the risk that cannabis will be illegally provided or sold to individuals under the age of 21.

Rationale: EDSO has completed the interim background review and determined that all required persons met the minimum background check requirements and recommended further processing of the application.

**3.17 The project is consistent with Section 130.41.100.4.H.**

Concentration of commercial cannabis activities and proximity to an existing or proposed commercial cannabis activity shall be considered in determining whether to grant a CCUP.

Rationale: The subject project site is approximately 9.5 miles from the closest processing application for commercial cannabis cultivation (CCUP20-0001). There would be no anticipated significant land use incompatibilities

or significant impacts to public health resulting from the density of proposed and existing commercial cannabis activities.

#### **4.0 CONDITIONAL USE PERMIT FINDINGS**

##### **4.1 The issuance of the permit is consistent with the General Plan.**

Rationale: The proposed commercial cannabis cultivation use is consistent with the policies and requirements in the General Plan as discussed in the General Plan section of the Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0 above.

##### **4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.**

Rationale: The proposed use will not significantly conflict with the adjacent uses and the project site. The project site is currently developed for agricultural uses. The adjoining properties to the north, south, and east are similarly within the AG zone district. The project is consistent with the development standards within Section 130.41.200 of the Zoning Ordinance - Mixed-Light Cultivation of Commercial Cannabis. The proposed commercial cannabis cultivation is anticipated to result in insignificant environmental impacts to neighboring parcels. Therefore, the project has been located and designed to be compatible with adjoining land uses. The proposed use is not anticipated to create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the Staff Report and CEQA Initial Study. Studies prepared by qualified professionals conclude that noise and traffic will not exceed County development standards.

##### **4.3 The proposed use is specifically permitted by Conditional Use Permit.**

Rationale: As discussed in Section 3.1 above, the proposed use is consistent with the AG-40 zone district as commercial cannabis cultivation and nursery facilities are allowed within the AG zone district with the approval of a CCUP. The project has been analyzed in accordance with Zoning Ordinance Chapter 130.41 (Commercial Cannabis) for applicable development standards.

#### **5.0 VARIANCE FINDINGS**

##### **5.1 There are special circumstances or exceptional characteristics or conditions relating to the land, building, or use referred to in the application which circumstances or conditions do not apply generally to land buildings, or uses in the vicinity and the same zone.**

Rationale: The eastern border of the project parcel abuts South Shingle Road, which is the main thoroughfare running south from U.S. Highway 50. Because of the rural nature of the area south of U.S. Highway 50, the school bus stops are typically located at intersections along South Shingle Road and Latrobe Road. Typically parcels within the project vicinity located adjacent to South Shingle Road and Latrobe Road are likely to be located within 1,500 feet of a parcel with a school bus stop located on it (Exhibit I). Parcels with the project vicinity along and between South Shingle Road and Latrobe Road would also not be able to meet the required 1,500 setback measured parcel line to parcel line. There are not special circumstances, exceptional characteristics or conditions which do not apply generally to land or uses in the vicinity and the same zone.

**5.2 The strict application of the zoning regulations as they apply to the subject property would deprive the subject property of the privileges enjoyed by other properties in the vicinity and the same zone (California Government Code Section 65906).**

Rationale: Parcels of the same size and zone located along and between South Shingle Road and Latrobe Road are also impacted by being located within 1,500 feet of either a school or school bus stop (Exhibit I). The nearest approved cannabis cultivation (CCUP20-0001) project is located approximately 9.3 miles to the east and the nearest processing cannabis cultivation application (CCUP21-0004) is located approximately 12 miles to the east. Surrounding parcels primarily consist of rural residential and agricultural uses. The project parcel would still be able to have residential and agricultural uses on-site. Cannabis cultivation is not considered to be an agricultural use. The strict application of the provisions of the ordinance, would not deprive the applicant of the reasonable use of the land or building allowed for by other land in the vicinity and the same zone.

**5.3 The Variance granted shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated (California Government Code Section 65906).**

Rationale: Parcels of the same size and zone located along and between South Shingle and Latrobe Road are also impacted by being located within 1,500 feet of either a school or school bus stop (Exhibit I). The nearest approved cannabis cultivation (CCUP20-0001) project is located approximately 9.3 miles to the east and the nearest processing cannabis cultivation application (CCUP21-0004) is located approximately 12 miles to the east. Surrounding parcels primarily consist of rural residential and agricultural uses. The project parcel would still be able to have residential and agricultural uses onsite. Cannabis cultivation is not considered to be an agricultural use. The Variance request would constitute a grant of special privileges inconsistent

with limitations upon other properties in the vicinity and zone in which the property is situated.

- 5.4 **The granting of the Variance is compatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan and any applicable specific plan, and not detrimental to the public health, safety, and welfare or injurious to the neighborhood.**

Rationale: As detailed in Finding 5.1 through 5.3 the proposed Variance is incompatible with the maps, objectives, policies, programs, and general land uses specified in the General Plan.