



COUNTY OF LAKE  
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Item 6A  
9:05 AM  
May 9, 2024

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Mireya G. Turner, Community Development Department Director  
Michelle Irace, Principal Planner  
Prepared by Trish Turner, Assistant Planner

**DATE:** May 9, 2024 (Continued public hearing from October 26, 2023)

**SUBJECT:** Consideration of proposed Major Use Permit (UP 21-17), for Seigler Springs North/Brian Pensack, and Mitigated Negative Declaration (IS 21-18), for approval of commercial cannabis cultivation operation consisting of 174,240-sf of outdoor canopy located within a total cultivation area of 196,020-sf; Located: 11615 and 11625 Seigler Springs North Road, Kelseyville (APNs 115-007-03 and 06)

### ATTACHMENTS:

1. Project Site Plans
2. Grading Site Plans
3. Draft Conditions of Approval
4. Property Management Plan
5. Draft Initial Study/ Mitigated Negative Declaration
6. Hydrology Report and Drought Management Plan
7. Grant Deed for Easement Access
8. Oak Mitigation Plan
9. Agency Comments
10. Tribal Comments
11. Public Comments
12. E-Comments from October 26, 2023, Planning Commission Hearing

### EXECUTIVE SUMMARY

The Project proposes Four (4) A- Type 3 “outdoor cultivation” permits consisting of 174,240-sf of outdoor canopy at 11615 and 11625 Seigler Springs North Road, Kelseyville, as described further below in the Project Description section of this Staff Report.

The project proposal was presented to the Planning Commission on October 26, 2023, and during the hearing, the Commissioners raised some concerns that required attention. Firstly, the Commissioners highlighted that there was a proposal to remove trees for the project, and it would be ideal to submit a Tree Mitigation Plan to address this issue. Secondly, the Grading Plans were not uploaded as an attachment, which is a requirement. Lastly, the Commission was informed

that there could potentially be Tribal Cultural Resources on the property and noted that Staff should work with the applicant and local Tribe(s) to address this matter. Due to these issues, the public hearing was continued to a date and time uncertain.

As summarized below, Staff has worked with the applicant to address the Commissioners' concerns that were raised on October 26, 2023.

- The applicant has conducted a tree study and submitted an Oak Mitigation Plan (Attachment 8), which outlines how they plan to plant native oak trees at a 3:1 ratio of trees.
- Staff contacted the local Tribe(s) and Tribal Consultation took place with the Middletown Rancheria on February 28, 2024. As a part of consultation, a site visit was conducted, and Tribal Cultural Resources were found within the vicinity. Staff have included mitigation measures to protect the resources and sent the mitigation to the Tribe(s). Tribal consultation was concluded on April 09, 2024.
- The applicant has already provided the Grading Plans (Attachment 2) and the grading has been analyzed in the Mitigated Negative Declaration (Attachment 5). The October 26, 2023 Planning Commission Staff Report and related documents may be accessed online at: <https://countyoflake.legistar.com/View.ashx?M=A&ID=1161643&GUID=B39BBCAF-C9AE-44DD-A082-39D56BCA63FB>. All public comments received for the hearing are included in Attachment 12.

## PROJECT DESCRIPTION

<u>Project Title:</u>	Seigler Springs North
<u>Permit Numbers:</u>	Major Use Permit      UP 21-17 Initial Study              IS 21-18
<u>Applicant Name &amp; Address:</u>	Seigler Springs Holdings, LLC Brian Pensack 637 Lindaro Street San Rafael, CA 94901
<u>Property Owner:</u>	Seigler Springs Holdings, LLC
<u>Project Location:</u>	11615 and 11625 Seigler Springs North Road, Kelseyville, CA 95451
<u>Parcel Number(s) (APN):</u>	115-007-03 and 115-007-06
<u>Parcel Size:</u>	± 84.55 total
<u>General Plan Designation:</u>	Resource Conservation
<u>Zoning District(s):</u>	"TPZ-B3", Timber Preserve; Minimum Lot Size, 80 acres
<u>Flood Zone:</u>	"D" – Undetermined risk of flood

Although the parcels are currently undeveloped, the existing uses include:

- Access Road

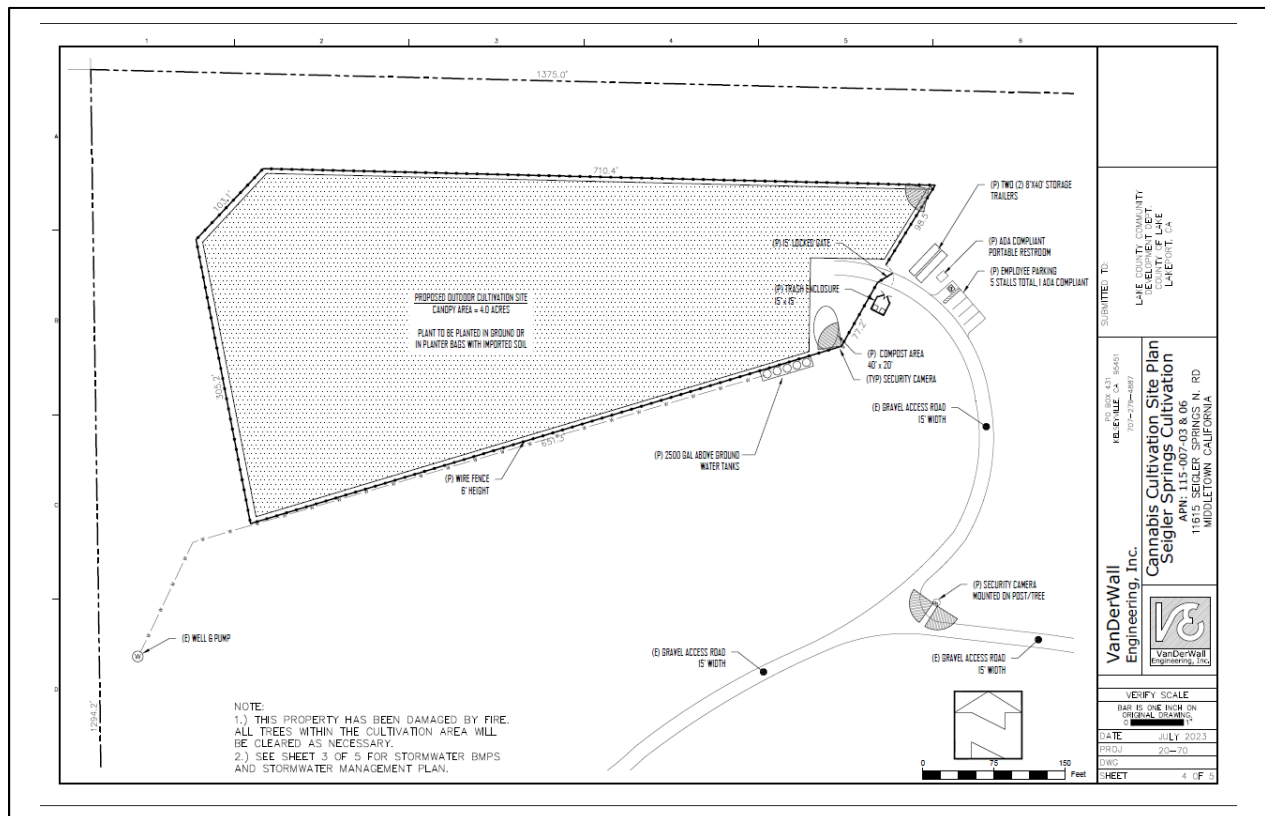
- Entry Gate
- Well
- PG&E Service

The proposed project includes:

- Total cultivation canopy 174,240 sf
- Total cultivation area 196,020 sf
- One American with Disabilities Act (ADA) compliant portable restroom
- One 15' by 15' trash enclosure
- Two 8' by 40' permanent shipping containers for storage
- One 40' by 20' compost area located within the secured six-foot fenced cultivation area
- Five 2,500-gallon water tanks
- One 5,000-gallon water tank made of steel or fiberglass fire suppression system.
- Perimeter fencing

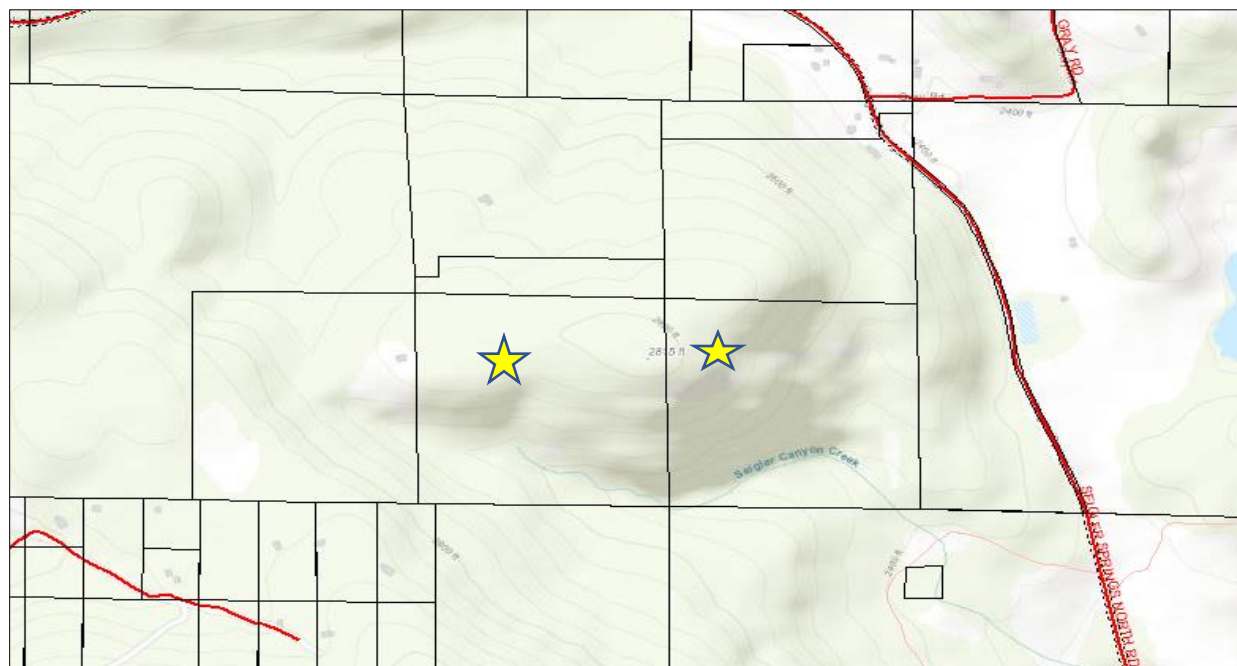
As proposed the project will include three employees during peak season and five parking spaces, one dedicated to ADA parking. The applicant proposes to clear vegetation and brush, including existing tree cover and several downed, dying, and dead trees impacted by the 2015 Valley Fire. An estimated 128,000-sf of vegetation will be cleared, including the removal of about 40 small trees. Trimming of existing trees is necessary to establish the cultivation areas. The importation of any soil for leveling out the cultivation area is not anticipated. Removal of dead and existing trees and vegetation clearing would be completed in compliance with the Lake County Municipal Code Chapters 13 and 30.

**FIGURE 1 – SITE PLANS**



Source: VanDerWall Engineering Site Plan, 2023

**FIGURE 2 – VICINITY MAP**



Source: Lake County ArcReader 10.7

## ASPECTS OF INTEREST

**Issue 1 - Water Analysis:** The Technical Memorandum was prepared by Northpoint Consulting Group, Inc., on July 29, 2022, for the proposed project and was revised on May 19, 2023. Within this memorandum are a Hydrology Report and a Drought Management Plan, both required by Lake County Ordinance No. 3106. Projected water usage makes several assumptions; (1) that each plant requires 6 gallons of water per plant per day, an accepted industry amount; (2) a total canopy area of 174,240-sf is assumed; (3) average daily use is 12,000 gallons, and (4) annual use is 2,160,000 to 2,563,200 gallons, or about 6.6 -7.8 acre-feet per year.

Recharge rates are projected to be between 22.3 and 30.1 acre-feet per year. Well data was collected for other off-site wells; the nearest well is located about 320 feet northwest of the project site. The off-site wells are located 1,200 feet or more from the project site. It is estimated there is sufficient groundwater supply and annual recharge to meet the project's demand during average and dry years. According to the hydrology report there is sufficient groundwater storage in the Clear Lake Volcanics. The project is situated in an area of low population and well densities, with the implementation of water monitoring, reporting, conservation measures, and drought management; it is anticipated the proposed water use for cultivation activities would not have a cumulative impact on the surrounding area.

**Issue 2 -Tree Removal:** The applicant provided an Oak Mitigation Plan prepared by Jacobszoon & Associates dated January 3, 2024 (Attachment 8). Prior to removing any trees, the applicant must incorporate the Oak Mitigation Plan for mitigation, irrigation, and maintenance purposes. There are several dead and downed trees located on this parcel. The parcel was affected by the

2015 Valley Fire, which destroyed many trees on this site. The applicant will remove dead and dying trees as they present a safety hazard. The applicant applied for a Less than Three-Acre Conversion exemption from Cal Fire, Department of Forestry Protection. Healthy trees that are removed that are 5 inch in diameter at 4.5 DBH (diameter at breast height), will be replaced with indigenous species at a ratio of 3:1.

## **PROJECT SETTING**

The proposed project is located at 11615 and 11625 Seigler Springs North Road. Access to the project site is provided by an existing private road off of Seigler Springs North Road. The project site is mostly undeveloped with an existing groundwater well and security gate. The property has a Class III watercourse, Seigler Canyon Creek, that flows about 7.4 miles east and northeast eventually into Cache Creek, which is a tributary to Clear Lake. Seigler Canyon Creek is over 100 feet from the proposed cultivation area. The parcel is located within the Cobb Communities Area Plan, 3.5 miles west of CA State Highway 29 and approximately 6.6 miles away from the nearest Community Growth Boundary.

### **Surrounding Zoning and Uses**

- North: "RL-B5" Rural Land, "B" Combining District (no further division below 5 acres permitted). 7.41 acres and undeveloped. APN: 115-007-02  
"RL-B5", Rural Lands, "B" Combining District (no further division below 5 acres permitted). Undeveloped; about 33.28 acres in size. APN: 115-007-01  
"RL-B5", Rural Lands, "B" Combining District (no further division below 5 acres permitted). Developed with a dwelling; about 33.69 acres in size. APN: 115-007-05
- East: "RL-B5", Rural Lands, "B" Combining District (no further division below 5 acres permitted). Undeveloped. APN: 115-007-07
- South: "RL-WW", Rural Lands, Waterway Combining District 197.61 acres; developed with a dwelling. APN: 115-015-03  
"TPZ-B3", Timber Preserve, "B" Combining District (no further land division below 3 acres allowed). 76.97 acres; developed with a dwelling. APN: 115-015-01
- West: "RL-B5", Rural Lands, "B" Combining District (no further division below 5 acres permitted). 37.97 acres; developed with a dwelling. APN: 115-005-02

**FIGURE 3– ZONING MAP**



Source: Lake County GIS website 2023

## PROJECT ANALYSIS

### General Plan Conformity

The General Plan designation for this parcel is Resource Conservation. In reference to the Lake County General Plan, Chapter 3, Land Use – Resource Conservation purpose is to assure the maintenance or sustained generation of natural resources within the County. The highest priority for these lands is to provide for the management of the County’s natural infrastructure. This management should include, but is not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. In addition, these lands provide important ground water recharge capability which is critical to the maintenance of the natural ecosystem and to providing a sustainable ground water supply for the County. This category would include forest lands in the Timberland Preserve Zones.

### Chapter 3 – Land Use

Goal LU-1: Encourage the overall economic and social growth of the County while maintaining its quality-of-life standards.

- Policy LU-1.3: Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

Pursuant to Article 27, Sec. 21-27.10, Sec. 27.11 Table B of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the “TPZ” Timberland Protection Zone upon securing a Conditional Use Permit and therefore, the proposed project would not be an intrusion of a new incompatible land use within the existing zoning and general plan designation of this area as it is an allowable use. Furthermore, the project location is set in a remote enough location so as not to cause any incompatibility within the immediate proximity of the project.

### Chapter 11 – Water Resources



Goal WR-1: Provide for the current and long-range water needs of County and for the protection of the quality and the quantity of groundwater resources.

- Policy WR-1.2: Sustainable Groundwater Withdrawal. The County shall manage groundwater resources within its jurisdiction through ordinances, project approvals, and agreements to ensure an adequate, safe, sustainable, and economically viable groundwater supply for existing and future use within the County, to maintain and enhance the natural environment, protect existing groundwater users, the overall economy of the County, and groundwater and surface water quality and quantity in a manner consistent with existing law and with a doctrine of safe yield within the groundwater basins of the County.

The applicant submitted a Hydrology Report prepared by Northpoint Consulting Group, Inc., that was revised with a Technical Memorandum on May 19, 2023. The report identified that the approximate amount of annual water usage as 2,160,000 gallons, or 6.6-acre feet per year. The proposed project will use a drip irrigation system using water drawn from the existing groundwater well. Water will be stored in five 2,500-gallon water storage tanks. Additionally, the report stated that the well nearest to the project well is on APN 115-005-02, located approximately 320 ft northwest of the project well. According to the Revised Hydrology Report prepared by Northpoint Consulting Group, dated May 19, 2023, there are numerous nearby wells drilled into similar volcanic rock units that have been shown to be highly productive. Due to the distance from the nearest well, recharge estimates which substantially exceed the water use for the proposed project, the high productivity of groundwater wells drilled in local volcanic rock units, and the maximum pumping rate of 8.0 gpm, the proposed project is unlikely to have a significant cumulative impact on surrounding wells.

### **Community Area Plan Conformity**

The subject site is within the Cobb Communities Area Plan boundary. The Plan contains several policies that are subject to consistency review as follows:

- 3.9: To ensure that the cultural resources of the Cobb Mountain Area are adequately protected.
- 3.9a: Archaeological surveys shall be required in accordance with state law whenever new development could potentially impact unique or significant cultural resources.
- 4.1: To apply reasonable and cost-effective measures to reduce the threat to lives and the property from structural and wildland fires in the Cobb Mountain Area

The proposed project plan adheres to the Cobb Mountain Area Plan and CEQA regulations as stipulated. In order to ensure compliance, an Archaeological Survey of the project area has been conducted by the applicant. The permit holder intends to install a 5,000-gallon water tank, constructed of either steel or fiberglass, complete with all necessary connections for fire suppression. Additionally, all water tanks situated on the property will be equipped with mandatory connections for fire suppression.

### **Zoning Ordinance Conformity**

Article 6 – Timberland Preserve District (TPZ): In reference to Article 6 of the Lake County Zoning Ordinance, this designation is to provide for timberland preserve zoning and the conservation and protection of land capable of producing timber and forest products. The uses specified in this

Section have been determined to be compatible uses consistent with the Timberland Productivity Act of 1982.

Under Article 27, Sec. 21-27.10, Sec. 27.11 Table B of the Lake County Zoning Ordinance, commercial cannabis cultivation is allowable use within the Timberland Preserve zoning district.

Article 30 – Special Lot Size “B” Combining District (B3- 80ac): In reference to Article 30 of the Lake County Zoning Ordinance, this designation is to provide for specified minimum lot sizes; or to promote open space and protect sensitive resources by clustering residential development. Within the “B” combining district, all uses of land shall comply with the regulations of the base zoning district and with the additional regulations of the “B” combining district. In no case shall a “B” combining district reduce a minimum lot size below that required or increase the maximum permitted density above that required in the development standards of the base zoning district with which it is combined.

Land subdivision is not proposed with this project.

Article 27 – Uses Permitted: Article 27, Table B allows for commercial cannabis cultivation in the “TPZ” zoning district subject to the issuance of a minor or major use permit, and subject to any required building, grading and/or health permits. The following standards and criteria apply to commercial cannabis cultivation per Article 27, section 11.

### **Development & Performance Standards**

This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance:

- Minimum Lot Size (20 acres per A-Type 3): The two parcels are approximately  $\pm$  84.55 acres, meeting the requirements of at least 80 acres for four A-Type 3 license types.
- Setback from Property Line (100 feet): The cultivation site is set back a minimum of 100 feet from the nearest property line.
- Setback from Residences: Per Article 27.11(at), the cultivation must be setback at least 200 feet from the nearest residence. The cultivation site proposed will be located at least 200 feet away from the nearest residential property.
- Minimum Fence Height of Six Feet: The proposed security fence will be at least six feet tall.
- Maximum Canopy Area: The project proposes 174,240 sf of cannabis canopy area with 196,020 sf of cultivation area.

### **General Requirements**

There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

The applicant will be required to meet the General Requirements outlined in Section 27.11(at) of Chapter 21 Zoning Ordinance, Ordinance 3106, and Ordinance 3101. If the requirements have not yet been met, a condition of approval has been added to ensure compliance with the local zoning ordinance (Attachment 2).



The applicant has also submitted a Property Management Plan (Attachment 3), outlining compliance with all regulations pertaining to cannabis operations including the following: air quality, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in Article 27.

### **Tribal Consultation**

Eleven local Tribes with aboriginal territories located in and around Lake County were notified of this proposal on November 08, 2022. The Community Development Department did not receive a request for AB 52 Tribal Consultation from any of the forementioned Tribes. The Community Development Department sent out a second AB 52 notice, on January 26, 2024, to Big Valley Rancheria, Cortina Rancheria, Elem Colony, Hopland Band of Pomo, Koi Nation, Mishewal-Wappo, Middletown Rancheria, Redwood Valley, Robinson Rancheria, Scotts Valley Band of Pomo, Upper Lake Habematolel, Yocha Dehe. Middletown Rancheria requested consultation. A site visit was conducted on February 28, 2024. As a part of consultation, a site visit was conducted, and Tribal Cultural Resources were found within the vicinity. Staff have included mitigation measures to protect the resources and sent the mitigation to the Tribe(s). Tribal consultation was concluded on April 09, 2024.

### **AGENCY COMMENTS**

The following agencies submitted comments on this project (Attachment XXXXX):

- Lake County Agricultural Commissioner
- Lake County Community Development Department - Building Division
- Lake County Health Services Department - Environmental Health
- Lake County Public Works Department
- Lake County Sheriff's Department
- Lake County Special Districts Administration

### **TRIBAL COMMENTS**

Tribes with aboriginal territories located in and around Lake County were notified of this proposal on November 08, 2022. Habematolel Pomo and Yocha Dehe both deferred any comments to Middletown Rancheria and Big Valley Band of Pomo Indians. The Community Development Department did not receive a request for AB 52 Tribal Consultation from either of the forementioned Tribes. A second AB 52 notice was sent out on January 26, 2024, to Big Valley Rancheria, Cortina Rancheria, Elem Colony, Hopland Band of Pomo Indians, Koi Nation, Mishewal-Wappo, Middletown Rancheria, Redwood Valley, Robinson Rancheria, Scotts Valley Band of Pomo, Upper Lake Habematolel, and Yocha Dehe. Of these Tribes, Middletown Rancheria responded. The Tribal Historic Preservation Officer for Middletown Rancheria conducted a Site Visit on February 28, 2024. At that time there was evidence of Tribal Cultural Resources within the vicinity. Staff have included mitigation measures to protect the resources and sent the mitigation to the Tribe(s). Tribal consultation was concluded on April 09, 2024.

### **ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (Attachment 4)

was prepared and circulated for public review in compliance with CEQA from 06/30/2023 to 08/01/2023. Minor modifications to the Mitigated Negative Declaration were made by staff for clarification and in order to strengthen existing mitigation measures. These changes do not trigger recirculation of the initial Study because they are minor in nature and do not result in new impacts or that were not previously analyzed (in accordance with CEQA Guidelines 15073.5).

The Initial Study found that the project could cause potentially significant impacts:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Noise
- Tribal Cultural Resources
- Wildfire

**Aesthetics** Impacts relating to Aesthetics have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AES-1 through AES-3:

AES-1: The cultivation area shall be screened from public view by a new 6' tall fence. Fencing material shall be of either chain link with screening slats, or solid wood or metal. Fabric-covered fencing is erodible and not durable, and therefore is not permitted. Regular yearly inspection and maintenance of fencing shall be required.

AES-2: All outdoor lighting shall be directed downward onto the Project site and not onto adjacent properties. All lighting equipment shall comply with the recommendations of [www.darksky.org](http://www.darksky.org).

AES-3: Security lighting shall be motion activated and all outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the lot of record upon which they are placed.

**Air Quality** Impacts relating to Air Quality have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AQ-1 through AQ-6:

**AQ-1:** Prior to any site disturbance, the applicant shall adhere to the Grading Plan and Dust Mitigation Measures shown on the submitted plans for this project.

**AQ-2:** All mobile diesel equipment used must be in compliance with state registration requirements. Portable and stationary diesel-powered equipment must meet all federal, state, and local requirements, including the requirements of the State Air Toxic Control Measures for compression ignition engines. Additionally, the applicant must notify LCAQMD prior to beginning construction activities and prior to any diesel engine use.

**AQ-3:** The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District such information in order to complete an updated Air Toxic emission Inventory.

AQ-4: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.

AQ-5: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt, or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.

AQ-6: All areas subject to infrequent use of driveways, overflow parking, etc., shall be surfaced with gravel, chip seal, asphalt, or an equivalent all weather surfacing. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

**Biological Resources** Impacts relating to Biological Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure BIO-1 through BIO-7:

BIO-1: The use of deer fencing should be restricted to the perimeters of the proposed gardens. No deer fencing or other obstacles to wildlife passage should be installed that will restrict wildlife movement.

BIO-2: Outdoor lighting, if used, should be restricted to the processing facility, and should be directed downward so as not to illuminate adjacent areas. (Note: This mitigation measure was also included in Section I, "Aesthetics")

BIO-3: To mitigate potential impacts to obscure bumble bees, foothill yellow-legged frog, and western pond turtle, State and Federal regulations on pesticide selection and use should be strictly followed. Pesticide use should not occur during periods when winds may transport spray to adjacent areas. As an alternative, the operator may wish to use organic growing methods. It should be noted that State of California regulations for cannabis cultivation include strict standards for purity which may pre-empt use of pesticides.

BIO-4: All work in or near waterways and wetlands should incorporate extensive erosion control measures consistent with Lake County Grading Regulations in order to avoid erosion and the potential for transport of sediments to Seigler Canyon Creek. Coverage under the National Pollutant Discharge Elimination System (NPDES), General Permit for Storm Water Discharges associated with a Construction Activity (General Permit) and a Storm Water Pollution Prevention Plan (SWPPP) may be required.

BIO-5: Prior to any work that involves disturbing the ground or removing trees or brush, the applicant must follow the tree removal and replacement plan that the Permittee submitted to the County. This plan shows that 76 mature and healthy oak trees that are greater than 5 inches in diameter at 4.5 DBH will be removed. Each of these oak trees will be replaced by indigenous species that are no less than 5 feet tall at the time of planting. For each oak tree that is removed, three indigenous species will be planted. These trees must be maintained for up to seven years.

BIO-6: Prior to any tree or brush removal, the applicant shall provide a nesting survey, performed by a professional biologist, that surveys all trees and shrubbery that will be removed for potential nests. If any nests are discovered, the tree / shrub removal shall be postponed until the birds are fledged.

**Cultural Resources** Impacts relating to Cultural Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure CUL-1 through CUL-2:

CUL-1: All employees shall be trained in recognizing potentially significant archaeological, paleontological, or cultural materials that may be discovered during ground disturbance. Prior to ground disturbing activities, the Permittee shall submit a Cultural Resources Plan, identifying methods of sensitivity training for site workers, procedures in the event of an accidental discovery, and documentation and reporting procedures. Prior to ground disturbing activities, the Permittee shall submit verification that all site workers have reviewed the Cultural Resources Plan and received sensitivity training.

CUL-2: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted within 100 feet of the find(s). A professional archaeologist certified by the Registry of Professional Archeologists (RPA) shall be notified and shall evaluate the find(s) and recommend mitigation procedures, if necessary. The findings and mitigation measures shall be reviewed and approved by the Lake County Community Development Director prior to commencing work.

CUL-3: Should any human remains be encountered, the applicant shall halt all work within 100 feet, notify the Sheriff's Department, the culturally affiliated Tribe(s), and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

**Noise** Impacts relating to Noise have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure NOI-1 through NOI-2:

NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00 a.m. and 7:00 p.m., and Saturdays from 12:00 noon to 5:00 p.m. to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.

NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

**Tribal Cultural Resources** Impacts relating to Tribal Cultural Resources have been reduced to Less than Significant with mitigations incorporated as described by Mitigation Measures TCR-1 through TCR-6.

TCR-1: All ground disturbing activities shall be monitored by qualified tribal monitor(s). Ground disturbing activities occurring in conjunction with the Project include, but are not limited to, surveys, testing, concrete pilings, debris removal, re-scrape, punch lists, erosion control (mulching, waddles, hydroseeding, etc.), pot-holing or auguring, boring, grading, trenching, foundation work, excavations, and ground disturbance involving the moving of dirt or rocks with heavy equipment or hand tools within the Project area. Qualified tribal monitor(s) are defined as qualified individual(s) who have experience with identification, collection, and treatment of tribal cultural resources of value to the Tribes. Such individuals will include those who:

a. Possess the desired knowledge, skills, abilities, and experience established by the Native American Heritage Commission (NAHC) through the NAHC's Guidelines for Native American Monitors/Consultants (2005) (Last visited 3/4/2024. Available at <chrome-extension://efaidnbmninnibpcapjpcglclefindmkaj/https://nahc.ca.gov/wp-content/uploads/2019/04/SB-18-Tribal-Consultation-Guidelines.pdf>); OR

b. Members of culturally affiliated Tribe(s) who:

- i. Are culturally affiliated with the project area, as determined by the NAHC; and
- ii. Have been vetted by tribal officials of the Culturally Affiliated Tribes as having the desired knowledge, skills, abilities, and experience established by the Culturally Affiliated Tribes.

TCR-2: The duration and timing of TCR monitoring shall begin at the start of ground disturbing activities and end when ground disturbing activities are completed and final, including the treatment and disposition of any discoveries as outlined in TCR-6 below.

TCR-3: All ground disturbing activities shall halt within 100 feet of any cultural resource discovery. All Culturally Affiliated Tribes will be notified of discovery of cultural resources and be provided access to the cultural resource site to allow for identification and further evaluation in determining the cultural resource significance and appropriate treatment or disposition.

TCR-4: There must be at least one tribal monitor present for every separate area containing a TCR discovery that is at least 100 feet apart, unless otherwise agreed upon in writing between the Tribes and Permit Holder.

TCR-5: All on-site personnel of the Project shall receive cultural resource sensitivity training prior to initiation of ground disturbance activities of the Project. The training must be according to the standards of the NAHC and/or the Culturally Affiliated Tribes (as described in MM TCR-1 above). Training will cover potential exposure of subsurface resources, procedures upon identifying a potential resource, notification of Culturally Affiliated Tribes, protection of discoveries, relevant laws and regulations, protocols for avoidance, consequences of regulatory violations, procedures for pause in construction, procedures for construction setbacks, and confidentiality of discoveries. Tribal monitors will be required to participate in any necessary environmental and/or safety awareness training prior to engaging in any tribal monitoring activities for the project.

TCR-6: The Project applicant must notify all Culturally Affiliated Tribes at least 45 days prior to commencement of any and all ground disturbance activities on the Project Site. All cultural resources unearthed by Project activities shall be evaluated by the Archeologist and monitor(s). The culturally affiliated Tribe(s) must be notified and given an opportunity to inspect, determine the nature of the TCR, and determine the best course of action for avoidance, protection, and/or treatment of the resource to the extent permitted by law. If the resource is determined to be a TCR of value to a Tribe(s), that Tribe(s) will coordinate with the Permit Holder to establish measures by which the Tribe(s) may appropriately protect, treat, and dispose of TCR with dignity, which may include preservation and protection in situ or removal from the Project Site. The Permit Holder will allow the Tribes to facilitate treatment and disposition of the TCR to the extent permitted by law. No destructive or intrusive analysis of nor any photographing, video recording, or similar recording of TCRs shall be permitted by the Permit Holder, except as required by law.

CUL-3: Should any human remains be encountered, the applicant shall halt all work within 100 feet, notify the Sheriff's Department, the culturally affiliated Tribe(s), and a qualified archaeologist for proper interment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

**Wildfire** Impacts relating to Wildfire have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure WDF-1 through WDF-4.

WDF-1: Construction activities will not take place during a red flag warning (per the local fire department and/or national weather service) and wind, temperature and relative humidity will be

monitored in order to minimize the risk of wildfire. Grading will not occur on windy days that could increase the risk of wildfire spread should the equipment create a spark.

WDF-2: Any vegetation removal or manipulation will take place in the early morning hours before relative humidity drops below 30 percent.

WDF-3: A Water tender will be present on-site during earthwork to reduce the risk of wildfire and dust.

WDF-4: All water storage tanks used for cultivation shall be equipped with one (1) 2.5-inch diameter fire department hose connection for fire suppression.

### **Mandatory Findings of Significance**

The discussion within this section is incorporated to mitigate any potential impacts from the implementation of the project. In addition to the mitigation measures above, the applicant will apply for permits from various agencies including the Department of Cannabis Control, the State Water Resources Control Board, and the California Department of Fish and Wildlife, and any other applicable agencies to operate a commercial cannabis cultivation operation. The various agencies include complying with state regulatory setback requirements and restrictions that would then further minimize potential impacts to the environments that address natural resources.

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Noise, Tribal Cultural Resources, and Wildfire. These impacts in combination with the impacts of other past, present, and reasonably foreseeable future projects could cumulatively contribute to significant effects on the environment. Implementation of and compliance with mitigation measures identified in each section as project conditions of approval would avoid or reduce potential impacts to less than significant levels and would not result in any cumulatively significant environmental impacts.

### **MAJOR USE PERMIT FINDINGS FOR APPROVAL**

The Review Authority shall only approve or conditionally approve a Major Use Permit (LCZO Section 51.4, Major Use Permits) if all of the following findings are made:

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.*

The proposed use of commercial cannabis cultivation operation is a permitted use in the “TPZ” Timberland Protection Zoning upon issuance of a Major Use Permit pursuant to Article 27, Sec. 21-27, Sec. 27.11 Table B of the Lake County Zoning Ordinance. The project scope complies with the minimum regulatory requirements set by the local ordinances to address the health, safety, morals, comforts, and general welfare of those working or residing near the proposed use. Prior to the applicant constructing any type of structure(s), the applicant shall obtain the necessary permits and licenses from the appropriate federal, state, and/or local government agencies. The temporary hoopouses will be required to have an Ag Exempt Hoopouse permit, that includes a demolition permit. Additionally, the Community Development Department would conduct annual compliance monitoring inspections during

the cultivation season to ensure compliance with the County's ordinances, the approved Property Management Plan, mitigation measures, and conditions of approval.

2. *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.*

The outdoor Commercial Cannabis Cultivation licenses would cover an area of approximately four acres under the proposed canopy. The project site's location and size meet the local ordinance requirements for use and setbacks. As per the Lake County Zoning Ordinance, the subject site's +84.55 acres of Timberland Protection zoned land allows type 1, 2, 3, and 4 cultivation operations, making it adequate for the proposed cultivation area.

3. *That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.*

The site is served by a private driveway, which is accessed from Seigler Springs North Road, a county-maintained road. The applicant must comply with all building codes prior to construction of any structures. There is no pedestrian access to the Project Site. The project has adequate access to accommodate the specific use.

4. *That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.*

The project site will utilize one onsite groundwater well (Latitude 38°52'58.31" N and Longitude -122°42'21.92" W) and five 2,500-gallon water storage tanks totaling 12,500 gallons. Additionally, the project parcel has adequate emergency service protection through the Lake County Sheriff's Office, California Highway Patrol (CHP), the California Board of Forestry and Fire Protection, (CALFIRE), and the Kelseyville Fire Protection District. The applicant must comply with all relevant local, state, and federal regulations, mitigation measures, and approval conditions to ensure sufficient services and safety at the site. This includes equipping all water tanks with 2.5-inch fire hose connectors. This application was routed to all of the affected public and private service providers (including Public Works, Special Districts, Environmental Health, PG&E, and all area Tribal Agencies), and there are adequate public utilities and services available to the site. No adverse comments were received.

5. *That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.*

The cultivation of commercial cannabis is a permitted use within the Timberland Protection Zoning district upon securing a Major Use Permit according to Article 27.13 of the Lake County Zoning Ordinance. The General Plan and Cobb Mountain Area Plan contain provisions that ensure compatibility between economic, water, and agricultural land use. The subject property satisfactorily meets minimum setbacks and development standards as required by these plans.

6. *That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.*



There are no violations of Chapters 5, 17, 21, 23, 26, 34, 36, or 37 of the Lake County Code on this property.

7. *The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.*

This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27.11(at) of the Lake County Zoning Ordinance.

8. *The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).*

The applicant has provided their proof of Live Scan with the Lake County Sheriff's Department that was submitted to the Department of Justice on September 12, 2019.

9. *The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).*

If the individual applying for the property is not the owner, they are required to provide a notarized written approval. The applicant, in this case, is the managing member of Seigler Springs Holdings LLC, which is the rightful owner of the property.

10. *The application complies with the Access Standards as described in Chapter 21, Article 27, Section 1.ii.(p).*

The applicant has provided a deed for the parcel that includes a recorded easement for access.

## **RECOMMENDATIONS**

Staff recommends the Planning Commission take the following actions:

- A. Adopt Mitigated Negative Declaration (IS 21-18) for Major Use Permit (UP 21-17) with the following findings:
  1. Potential environmental impacts related to Aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 through AES-3.
  2. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-6.
  3. Potential environmental impacts related to Biological Resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-6.
  4. Potential environmental impacts related to Cultural and can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 through CUL-3.

5. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-2.
6. Potential environmental impacts related to Tribal Cultural Resources can be mitigated to less than significant levels with the inclusion of mitigation measures TCR-1 through TCR-6.
7. Potential environmental impacts related to Wildfire can be mitigated to less than significant levels with the inclusion of mitigation measures WDF-1 through WDF-4.

B. Approve Major Use Permit UP 21-17 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances, 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, Middletown 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**

I move that the Planning Commission find that potential impacts associated with this project can be mitigated to 'less than significant' through the implementation of the Mitigated Negative Declaration (IS 21-18) submitted by Seigler Springs Holdings, LLC for the property located at 11615 and 11625

Seigler Springs North, Kelseyville, (APNs:115-005-03 and 115-005-06), will not have a significant effect on the environment, and that the Planning Commission adopt Initial Study (IS 21-18) based on the findings listed in the staff report dated May 09, 2024.

**Major Use Permit (UP 20-32)**

I move that the Planning Commission approve Major Use Permit (UP 21-17) for Seigler Springs Holdings, LLC on property located at 11615 and 11625 Seigler Springs North, Kelseyville, (APNs:115-005-03 and 115-005-06), based on the findings and subject to the conditions included in the staff report dated May 09, 2024.

*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 day following the Planning Commission's decision on this matter.*