



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
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Planning • Building • Code Enforcement
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Item 6c
9:35 AM
May 9, 2024

STAFF REPORT

TO: Planning Commission

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

DATE: May 9, 2024 (continued from March 28, 2024)

SUBJECT: Consideration of proposed Major Use Permit (UP 20-33), and Mitigated Negative Declaration (IS 20-39), for cultivation of 304,710-sf of outdoor commercial cannabis canopy; Applicant: Meili Liu/ Liu Farms; Located at 8531 High Valley Road, Clearlake Oaks (APN 006-003-34)

ATTACHMENTS:

1. Project Site Plans (updated April 19, 2024)
2. Draft Conditions of Approval
3. Property Management Plan (updated March 29, 2024)
4. Initial Study (July 26, 2023)
5. Hydrology Report (September 27, 2021)
6. Drought Management Plan (December 03, 2021)
7. Wetland Delineation (April 15, 2021)
8. Agency Comments
9. Public Comments (as of March 7, 2024)
10. March 14, 2024, Hearing Public Comments
11. Indemnification Agreement

EXECUTIVE SUMMARY

The applicant, Meili Liu/ Liu Farms, is requesting discretionary approval from the County of Lake for Major Use Permit (UP 20-33), for commercial cannabis cultivation at 8531 High Valley Road, Clearlake Oaks (APN 006-003-34). The application, as proposed, would include cultivation of 304,710-sf (7 Acres) of outdoor canopy with seven (7) A-Type 3 licenses, and one (1) A-Type 13 Self-Distribution License. The zoning is "RL-WW-SC" - Rural Lands, Waterway Combining District, and Scenic Combining District. The total acreage of the parcel is approximately 158.22 acres.

On March 14, 2024, the Planning Commission reviewed the project and moved to continue the item to the March 28 agenda to give Staff and the applicant further time to update the Property Management Plan and Site Plans to reflect the current proposal. Additionally, the Commission recommended that Staff review and address tribal cultural resources, hydrology, and biological

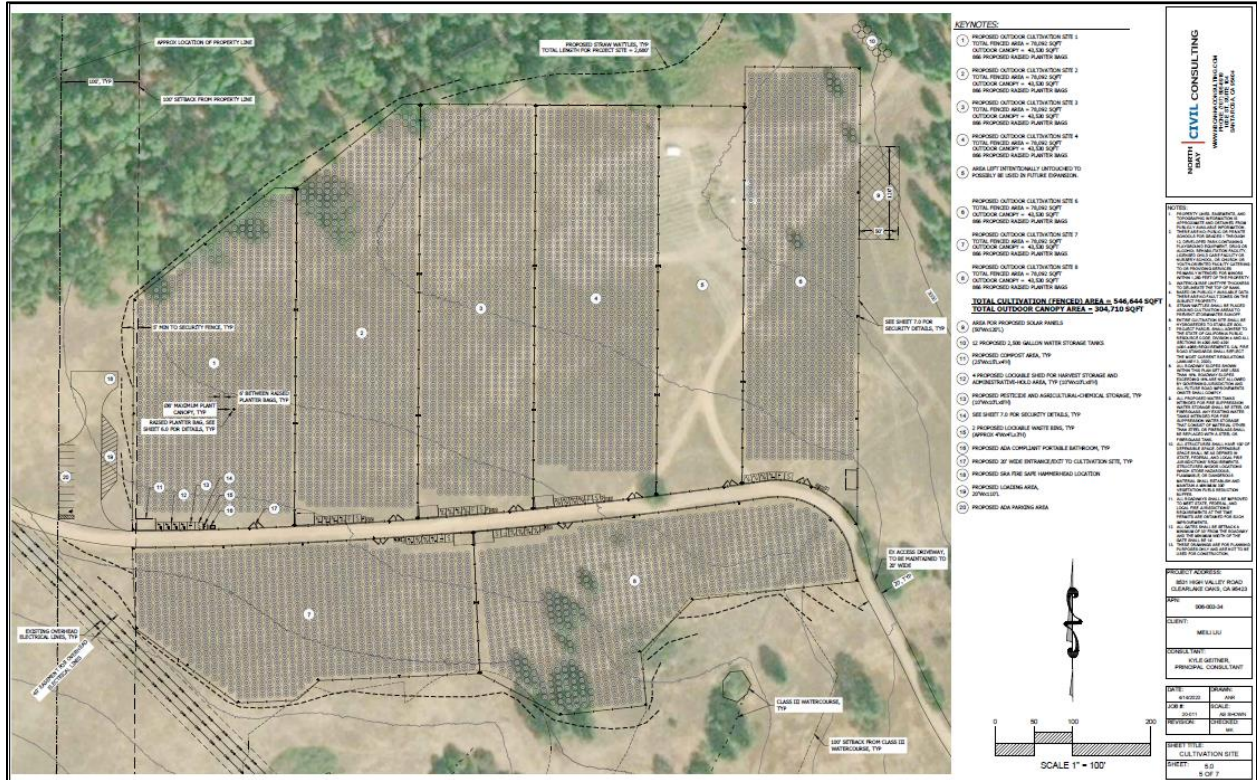
resources further. As a result of these concerns, the public hearing was continued to March 28, 2024, and subsequently continued again to May 9, 2024, to allow additional time to address the Commissioner's concerns.

As summarized below, Staff has worked to address the Commissioners' concerns that were raised on March 14, 2024.

- Tribal Cultural Resources
 - Staff contacted the local Tribe(s) and a Tribal Consultation with took place with Elem Colony on March 19, 2024.
 - The Tribal Historic Preservation Officer conducted a site visit with the applicant on April 1, 2024, and noted they had no concerns with the project moving forward, with the implementation of Tribal Cultural Resources Mitigation Measures (TCR-1 and TCR-2).
 - Tribal Consultation formally concluded on April 10, 2024.
- Property Management Plan and Site Plans
 - Updated site plans (reducing the size of the solar array) are required to be submitted prior to the permit being issued (see Condition of Approval No. 2).
 - On March 29, 2024, the applicant provided an updated Property Management Plan that reflects the applicant removing the nursery, manufacturing facility from the scope and reducing the size of the solar array (see Attachment 3).
- Biological Resources and Hydrology
 - Three (3) reports were prepared for the project: a Biological Resources Assessment (BA) (Natural Investigations Company, 2020); a Plant Survey (Huffman-Broadway Group, 2021); and a Wetland Site Assessment (Huffman-Broadway Group, 2021). Staff conducted site visits on April 1 and April 2, 2024, and noted that environmental site conditions have not changed since the reports were prepared.
 - Specific to wetlands and water resources, the Wetland Site Assessment identified approximately 0.11 acres of palustrine emergent wetlands in two areas within the parcel, and approximately 0.10 acres of riverine/intermittent creeks (south of the proposed cultivation area). The cultivation development would be set back greater than 100 feet from any identified aquatic resource, including intermittent creeks and wetlands. Additionally, the project proponent must file a Notice of Intent and enroll in Cannabis Cultivation Order WQ 2019-0007-DWQ. Compliance with this Order will ensure that cultivation operations will not significantly impact water resources by using a combination of Best Management Practices (BMPs), buffer zones, sediment and erosion controls, site management plans, inspections and reporting, and regulatory oversight.

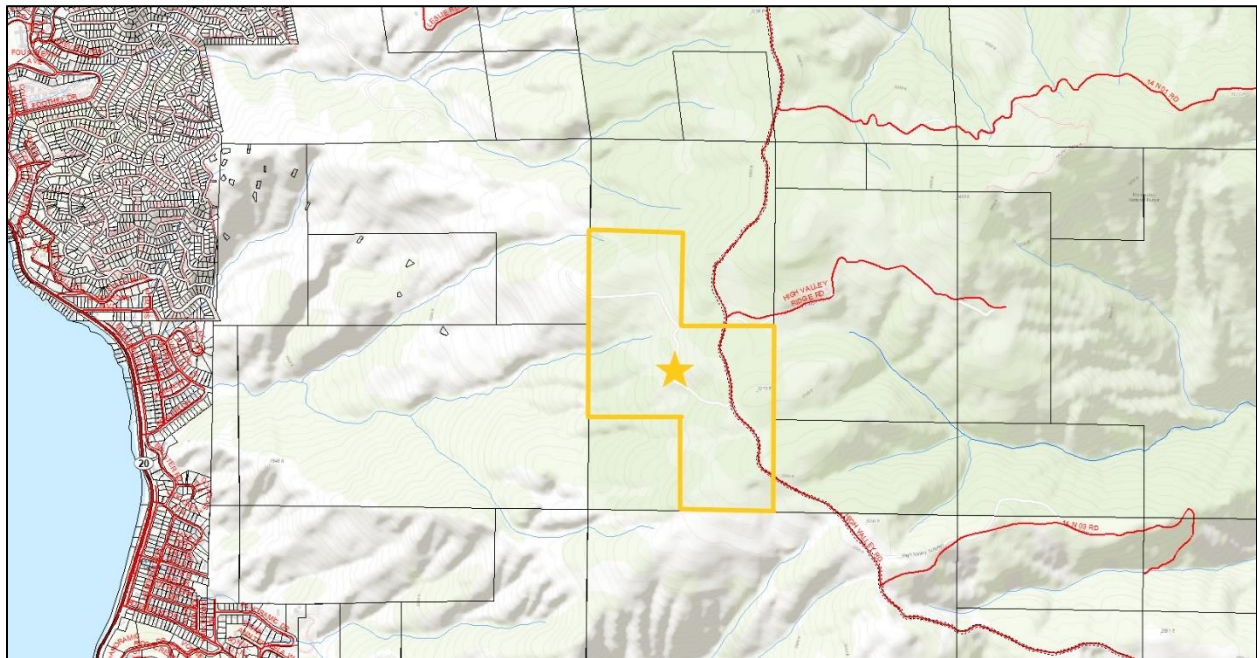
The March 14, 2024 Planning Commission Staff Report and related documents may be accessed online at: <https://countyoflake.legistar.com/View.ashx?M=A&ID=1148456&GUID=C37B066A-5FF7-4550-A1BA-33C27A60FC25>. All public comments received for the March 14 hearing are included in Attachment 10.

FIGURE 1 – SITE PLANS (Updated April 19, 2024)



Source: Provided by Applicant

FIGURE 2 – VICINITY MAP



Source: ArcGIS Reader

PROJECT DESCRIPTION

<u>Project Title:</u>	Liu Farms
<u>Permit Numbers:</u>	Mitigated Negative Declaration (IS 20-39) Major Use Permit (UP 20-33)
<u>Lead Agency:</u>	County of Lake Community Development Department 255 North Forbes Street Lakeport, CA 95453
<u>Applicant Name & Address:</u>	Meili Liu 2014 Central Avenue Alameda, CA 94501
<u>Property Owner:</u>	Meili Liu
<u>Project Location:</u>	8531 High Valley Road Clearlake Oaks, CA 95423
<u>Parcel Number(s) (APN):</u>	006-003-34
<u>Parcel Size:</u>	±158.22 acres
<u>General Plan Designation:</u>	“RL” – Rural Lands
<u>Zoning District(s):</u>	“RL-WW-SC” - Rural Lands, Waterway Combining District, Scenic Combining District
<u>Flood Zone:</u>	"X" - Areas determined to be outside the 0.2% annual chance (500-year) floodplain

Existing Features:

The property is situated in the hilly region of Clearlake Oaks. Currently, the parcel is undeveloped, except for a pre-existing groundwater well, and a driveway that is accessible via High Valley Road. The proposed project is situated outside of the Scenic Corridor High Valley Road.

- Existing driveway
- One existing groundwater well with a maximum yield of approximately 51 gallons per minute, per the Hydrology Study.

Proposed Features:

The applicant proposes the following structures, water tanks, and necessary equipment for the cultivation operation.

- One (1) 100 sf (10' by 10') stormproof shed for chemical, pesticide, and hazardous material storage located near each cultivation area, for a total of seven sheds.
- An irrigation system using water pumps, polyvinyl chloride (PVC) piping, black poly tubing and drip tape.
- Twelve (12) 2,500-gallon capacity plastic water storage tanks for a total of 30,000 gallons of water storage irrigation.
- One (1) 5,000-gallon capacity steel or fiberglass water storage tank for fire protection.
- Sixteen (16) parking spaces, including two ADA-compliant parking spaces.

- One (1) portable gas-powered generator for backup for emergency uses only.
- Twenty-eight (28) 100 sf (10' by 10') lockable sheds for drying, harvest storage, and administrative holding located near each cultivation area (four per area, totaling 28 sheds).
- A site surveillance and security system, including video surveillance system within a 10' by 10' shed, locked gates, and a security fence around the cultivation areas.
- Solar Array area.

Operation

Cannabis would be cultivated using full-sun outdoor methods, which would produce two to three (2-3) flowering harvests per year. Cultivation would occur for approximately 270 days annually. Drying and harvest storage would occur within the four (4) sheds located near each Cultivation area. Further processing would occur offsite. No manufacturing is proposed. Operations would occur up to six days per week from May through November for outdoor cultivation. Nursery operations would occur year-round. The operation hours would be Monday through Saturday during daylight hours from approximately 5:00 a.m. to 4 p.m. The Lake County Zoning Ordinance restricts deliveries and pickups to 9:00 a.m. to 7 p.m., Monday - Saturday, and Sunday from 12 noon to 5:00 p.m. Once operational, the proposed Project would staff approximately sixteen (16) employees, March through November, with peak employee usage during peak seasonal events, such as planting and harvesting.

Construction

No grading is proposed. All cultivation is proposed as full-sun outdoor. Scraping will be required for the preparation of the outdoor beds; but no greenhouses or large buildings are proposed. Site preparation is anticipated to last approximately two (2) to four (4) weeks to prepare the site for outdoor cultivation. No construction or grading is proposed. An estimated five employees per day will be present. Estimated daily trips during construction will be up to 10 for employees, four deliveries per week.

POINTS OF INTEREST

Water Source and Use

Water for cultivation activities will be supplied from an existing groundwater well that was drilled in April 2020. The drilling record had a yield of 80 gallons per minute. A 4-hour well draw down test was performed on May 26, 2021, with the static water level at 120 feet. Water was initially pumped from 127 feet and had a total draw down of 38-feet. Water levels stabilized at 165 feet after two hours of pumping. The water recovered to its original dept within less than five minutes. Total projected water use for the cultivation operation is 7.86 acre-feet annually. According to the Hydrologic Report (Attachment 5), the well could produce a minimum of 9.4 acre-feet per year (assuming pumping on and off for 9 hours at 40 GPM during the three peak use months and 2.9 GPM for the remaining 9 months per year) and a maximum of 25 acre-feet per year (assuming pumping on and off for 9 hours at 40 GPM operating at peak use-year-round). Both of these estimates are larger than the applicant's water use estimation of 7.86 acre-feet. Additionally, the project includes best management practices and mitigation measures related to water conservation (see Environmental Review section of this staff report for more information). Lastly, a Drought Management Plan is included in Attachment 6.

Wetland Delineation

The applicant submitted a Wetland Delineation Report, to determine the presence or absence of aquatic resources under the jurisdiction of the State Water Resources Control Board, the

California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency. The Report identified approximately 0.11 acres of palustrine emergent wetlands in two areas within the parcel, and approximately 0.10 acres of riverine/intermittent creeks. However, the cultivation site would be set back greater than 100 feet from any identified aquatic resource, including intermittent creeks and wetlands.

PROJECT SETTING

Surrounding Zoning and Uses

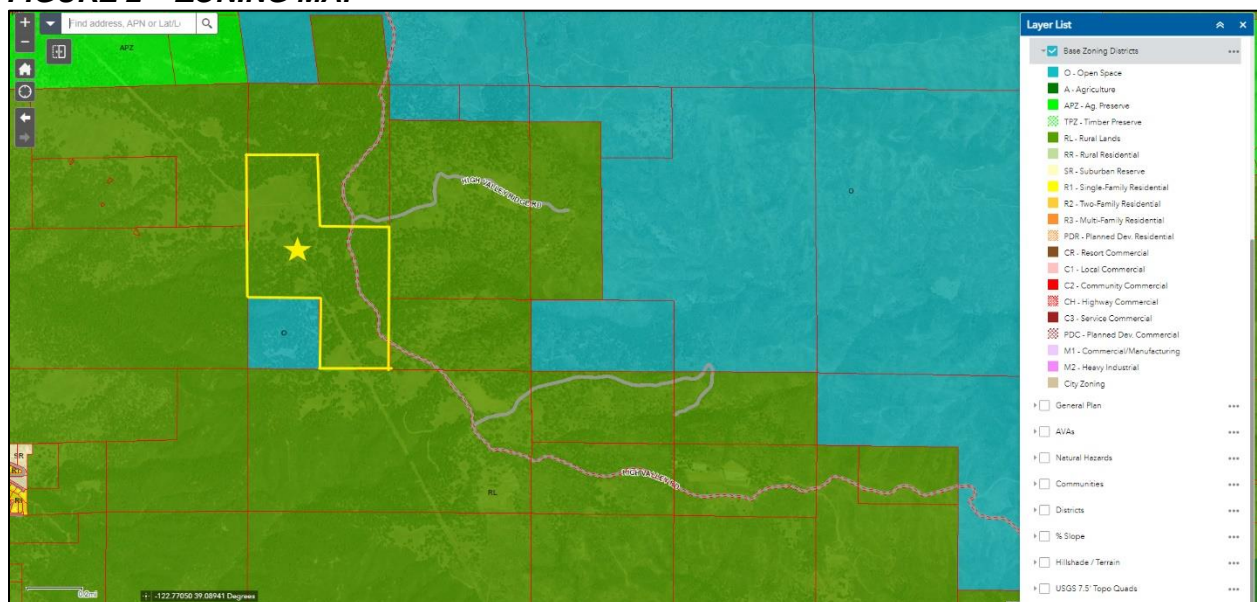
North: Rural Lands - Waterway Combining District – Scenic Combining District, Undeveloped

East: Rural Lands - Waterway Combining District – Scenic Combining District, Numerous vacant parcels, one developed with a residence

South: Rural Lands - Open Space - Waterway Combining District – Scenic Combining District, Undeveloped

West: Rural Lands - Waterway Combining District, Undeveloped

FIGURE 2 – ZONING MAP



Source: Lake County GIS Portal

PROJECT ANALYSIS

General Plan Conformity

Chapter 11 - Water Resources

Goal WR-5: Encourage efficient use of water for new and existing land uses.

- Policy WR-5.1: Water Use Efficiency for New Development. The County shall require the use of water conservation techniques appropriate for new development. Such techniques include, but are not limited to, requiring low flow plumbing fixtures on new construction, the use of high efficiency irrigation systems, use of graywater for

landscaping, the integration of storm water runoff into passive groundwater recharge, the use (when feasible) of reclaimed water resources for reasonable and beneficial use and the use of drought-tolerant vegetation.

- Policy WR-5.3: Water Efficiency for Agricultural Uses. The County shall encourage the use of agricultural and forest resources management practices that result in the efficient use of water resources. Those practices include but are not limited to drip and micro drip irrigation systems and appropriate forest thinning. The County will also encourage agricultural and forest resource operators/ managers to participate in watershed management and restoration efforts.

The proposed project has conducted a comprehensive hydrology report that outlines the expected water consumption. As noted above in the Points of Interest section of this staff report, there are adequate water resources available for the project. Moreover, in anticipation of potential droughts, the project has submitted a detailed drought management plan that outlines the measures that will be implemented to reduce water usage. This plan serves as a proactive approach to mitigate the impact of drought emergencies. Additionally, the applicant proposes using drip lines as a means to ensure precise and efficient irrigation, thereby eliminating the risk of overwatering and water wastage.

Chapter 7 - Health and Safety

Goal HS-7: To minimize the possibility of the loss of life, injury, or damage to property as a result of urban and wildland fire hazards.

- Policy HS-7.6: Development Guidelines. The County should consider fire hazards in evaluating development proposals. Within designated areas where population or residential building densities may be inappropriate to the hazards present, measures should be developed and adopted to mitigate risk to life and property loss. Lands designated as having high and extreme wildfire hazards may be developed provided that the following guidelines are satisfied:
- Developers and/ or subsequent owners assume responsibility for ongoing fire prevention maintenance activities for the project, including abatement of fuel buildup, fire break maintenance, access provision, and provision of adequate water supply to meet fire flow.

The Project site is located within a moderate fire hazard zone and a high-risk fire hazard zone. As part of the proposed project, all water storage tanks will be equipped with 2.5-inch fire equipment hose connectors to ensure efficient and effective fire suppression. Additionally, a 5,000-gallon water tank will be installed solely for the purpose of fire suppression, providing ample water supply for potential fire emergencies. Lastly, conditions of approval and mitigation measures have been incorporated into the project to reduce the risk of wildfire. See the Environmental Review section of this staff report for more information.

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 “RL” Rural Lands upon securing a Minor/major Use Permit. The Project parcel is surrounded by large parcels with limited to no development. As described below, the project also meets all development standards related to compatible uses. 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. Policy LU-1.4 Communities: The County shall recognize each community as an important asset to the County and seek to strengthen and revitalize all communities.

The approval of the use permit will allow both the agricultural industry and the cannabis industry to strengthen and revitalize the overall community through promoting economic development. Employment opportunities, as well as tax and other revenues for the County. According to the applicant, the operation will include approximately 16 employees throughout the growing season. Employees will spend money locally on commodities such as food, gas, rent, and other items, which in turn will benefit local area merchants.

Goal LU-2: To clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses (i.e., high density residential, high density commercial and industrial) from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/ Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on the type of operation and chemicals used for spraying.

In reference to the Lake County Zoning Ordinance Article 27, (at), 1.i. the County requires a minimum 100-foot setback from all property lines of the subject property, and minimum of 200-foot setback from all residences. There are currently no off-site within 2,000 feet from the property lines, and 2,450 feet from the cultivation area. Additionally, Article 27, Sec. 21-27.10, (at), 3.iii.v. prohibits Commercial Cannabis Cultivation within 1,000 feet of Community Growth Boundaries, licensed childcare facilities, churches, or youth-oriented facilities. The closest community growth boundary is approximately 1 mile away, separated by rugged, mountainous terrain. The project meets these setbacks.

Community Area Plan Conformity

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

- 3.1.1b: Focus development in areas of low to moderate erosion potential where feasible.
- 3.2.1b: Design new developments to conserve water using drought-resistant vegetation, low-flow plumbing fixtures, grey water systems and other conservation measures.
- 3.2.1d: Provide assistance to the local agricultural community and new large agricultural projects to increase water supplies and implement conservation techniques for the use and reuse of irrigation water.

- 3.4.1d: Promote the development and maintenance of buffers between agricultural and non-agricultural lands. Further division of rural residential lands that serve as a buffer shall be discouraged.
- 3.4.3b: Certified Local Government status shall be pursued through the State Office of Historic Preservation for the purpose of identifying, preserving, and marking significant historic architectural and archaeological resources.

The proposed project is consistent with the policies of the Shoreline Communities Area Plan, including the policies cited above. The applicant has provided a Water Availability Analysis, Drought Management Plans, and is required to adhere to the State Water Resources Control Board Cannabis Cultivation Policy, which requires all runoff be retained on-site, mitigating off-site downstream drainage impacts.

The applicant has submitted a Cultural Resources Assessment (CRA) for the proposed project prepared by Wolf Creek Archeology in March of 2020. According to the Property Management Plan if any archaeological, paleontological, or cultural materials be discovered during site development, all activity would be halted in the vicinity of the find(s), the applicant will notify the culturally affiliated Tribe(s), and a qualified archaeologist to evaluate the find(s). All employees are to be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance.

Zoning Ordinance Conformity

Article 7 – Rural Lands (RL): In reference to Article 7 of the Lake County Zoning Ordinance, this designation is to provide for resource related and residential uses of the County's undeveloped lands. Typical uses permitted by right include, but are not limited to, Agricultural uses, including crop and tree farming, livestock grazing, animal husbandry, agricultural and residential accessory uses and accessory structures, agricultural processing such as fruit dehydrators and packing sheds not exceeding a use area of two thousand (2,000) square feet.

Under Article 27, Sec. 21-27.10, Sec. 27.11 Table B of the Lake County Zoning Ordinance, commercial cannabis cultivation is a permitted use within the Rural Lands zoning district.

Article 34 – Scenic Combining District (SC): The purpose of this article is to protect and enhance views of scenic areas from the County's scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation-based economy of the County.

The Scenic Corridor on High Valley Road is 500 feet from the edge of the road. The proposed cultivation site is located over 800 feet away from the Scenic Corridor on High Valley Road. It is situated downhill and shielded by trees, making it not visible from the road or viewable to the public, with the exception of a portion of the fence being potentially visible. Mitigation measures have been included to ensure there are less than significant impacts related to visual resources (see Environmental Review section of this staff report for more information).

Article 37 - Waterway Combining District (WW): The purpose of this Article is to preserve, protect and restore significant riparian systems, streams and their riparian, aquatic and woodland habitats; protect water quality; control erosion, sedimentation, and runoff; and protect the public health and safety by minimizing dangers due to floods and earth slides. These purposes are to be accomplished by setting forth regulations to limit development activities in significant riparian corridors and through the establishment of an administrative procedure for the granting of exceptions from such regulations.

Outdoor cannabis cultivation is a permitted use in the property's zoning district with the issuance of a Major Use Permit. However, no person shall undertake any development activity within a riparian corridor except when exempt or authorized by an exception. As noted in the Initial Study (Attachment 4), three Class III streams and two palustrine emergent wetland areas, totaling 0.11-acres, were identified on the parcel (south of the cultivation area). However, the cultivation area and all project components would be located a minimum of 100-feet away from these resources.

Article 27 – Uses Permitted: Pursuant to Article 27 of the Lake County Zoning Ordinance, outdoor commercial cannabis cultivation is permitted in the Rural Lands zoning district with the issuance of a Major Use Permit. Agricultural processing such as fruit dehydrators, packing plants, canneries, polishing, and packaging plants exceeding a use area of ten thousand (10,000) square feet are permitted in the Rural Lands zoning district with the issuance of a Major Use Permit.

Development & Performance Standards

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

- Minimum Lot Size (20 acres per A-Type 3): Complies, the total acreage \pm 158.22 acres.
- Setback from Property Line (100 feet): Complies, the cultivation site is set back a minimum of 100 feet from the nearest property line.
- Setback from Off-Site Residence (200 feet): Complies, there are currently no off-site residences within 2,000 feet from the cultivation sites.
- Minimum Fence Height of (6 Feet): Complies, the proposed security fence will be six feet tall.
- Maximum Canopy Area for an A – Type 3 (43,560 sf): Complies, the proposed canopy areas would be approximately 304,920 sf. for seven (7) A-Type 3 medium outdoor licenses. The total combined acreage for all parcels included within this project is approximately 158.22 acres.

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 and Ordinance 3106; Conditions of Approval (Attachment 2) are proposed to ensure compliance with the Zoning Ordinance.

The applicant has submitted a Property Management Plan (Attachment 3), outlining compliance with all regulations pertaining to cannabis operations including the following: air quality, project grounds, grading and erosion control BMP's, security, stormwater, water use, etc. In addition, the Project complies with the restrictions pertaining to the prohibited activities listed in Article 27, including water use that is illegally diverted.

AGENCY COMMENTS

The following agencies submitted comments on this project. Comments received are included in Attachment 7, and have been incorporated into conditions of approval as applicable (see Attachment 2):

- Lake County Agricultural Commissioner
- Lake County Air Quality Management District.
- Lake County Water Resources
- Lake County Special Districts
- Lake County Surveyor
- Lake County Sheriff's Office
- Cal Fire
- Northshore Fire District
- NWIC (Sonoma State University)

TRIBAL COMMENTS

Notification of the Project was sent to Big Valley Rancheria, Cortina Rancheria, Elem Colony, Koi Nation, Mishewal-Wappo, Middletown Rancheria, Redwood Valley Rancheria, Robinson Rancheria, Scotts Valley Band of Pomo Indians, Habematolel Pomo of Upper Lake Tribe, and Yocha Dehe Wintun Nation on April 9, 2020. No comments for this project were received. At the time of the AB 52 notice, Elem Colony did not have a Tribal Historic Preservation Officer. Following the hearing on March 14th, CDD Staff contacted the THPO for Elem Colony, to inquire about their interest in participating in the Tribal Consultation for Liu Farms, and a site visit was subsequently conducted with Liu Farms on April 1st. After the visit, the THPO noted that the Tribe(s) had no concerns with the project moving forward, with the implementation of Tribal Cultural Resources Mitigation Measures (TCR-1 and TCR-2). The Tribal Consultation process was successfully concluded on April 10, 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 09/29/2022 to 10/28/2022. Comments received are included in Attachment 8. In the Initial Study, dated July 26, 2023, there is mention of a Nursery, but the applicant will not be pursuing a Type 4 Commercial Nursery License. They will only be engaging in plant propagation. Additionally, on page 6 of the Initial Study, it is mentioned that the solar array will provide power for fans and dehumidifiers; although, the applicant had initially planned to have mixed light, they have now decided to go fully outdoors.

The Initial Study found that the project could have potentially significant impacts.

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality

- Noise
- Tribal Cultural Resources
- Utilities
- Wildfire
- Mandatory Findings of Significance

Aesthetics Impacts relating to Aesthetics have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AES-1 through AES-4:

AES-1: The cultivation area shall be screened from the public view by a 6' tall fence. Methods of screening shall be solid (opaque) fencing. Fabric screening is not permitted due to poor durability.

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.

AES-3: All indoor lighting shall be fully contained within structures or otherwise shielded to fully contain any light or glare. Artificial light shall be completely shielded between sunset and sunrise.

AES-4: 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 obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District (LCAQMD) and obtain an Authority to Construct (A/C) permit for all operations and for any diesel-powered equipment and/or other equipment with potential for air emissions. Or provide proof that a permit is not needed.

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, all engines must notify LCAQMD prior to beginning construction activities and prior to 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 LCAQMD with 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-3:

BIO-1: If the establishment of cultivation operations requires the removal of pine forest or the destruction of chaparral habitat, a pre-construction survey for special-status species should be performed by a qualified biologist prior to vegetation clearing or grading to ensure that special-status species are not present. If any listed species or special-status species are detected, construction should be delayed, and the appropriate wildlife agency, either the California Department of Fish and Wildlife or the US Fish and Wildlife Service, should be consulted, and Project impacts and mitigation should be reassessed.

BIO-2: Prior to any removal of trees or shrubs, or disturbance to riparian habitat, and if these activities occur during the nesting season (usually March to September), a pre-construction survey for the presence of special-status bird species or any nesting bird species should be conducted by a qualified biologist within 500 feet of proposed construction areas. If active nests are identified in these areas, the California Department of Fish and Wildlife or the US Fish and Wildlife Service should be consulted to develop measures to avoid a “take” of active nests prior to the initiation of any construction activities. Avoidance measures may include establishment of a buffer zone using construction fencing or the postponement of vegetation removal until after the nesting season, or until after a qualified biologist has determined the young have fledged and are independent of the nest site.

BIO-3: All work shall incorporate erosion control measures consistent with the Lake County Grading Regulations and the State Water Resources Control Board Order No. WQ 2019-001-DWQ.

Cultural Resources Impacts relating to Cultural Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure CUL-1 and CUL-3:

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.

Geology and Soils Impacts relating to Geology and Soils have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure GEO-1 through GEO-7:

GEO-1: If grading is proposed in the future for any of the cultivation activities (including shed placement), prior to any ground disturbance, the permittee shall submit erosion control and sediment plans to the Water Resource Department and the Community Development Department for review and approval. Said erosion control and sediment plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with the Grading Ordinance. Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing, and the planting of native vegetation on all disturbed areas. No silt, sediment, or other materials exceeding natural background levels shall be allowed to flow from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Vegetative cover and water bars shall be used as permanent erosion control after project installation.

GEO-2: Excavation, filling, vegetation clearing, or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Department Director. The actual dates of this defined grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director.

GEO-3: The permit holder shall monitor the site during the rainy season (October 15 – May 15), including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed.

GEO-4: If greater than fifty (50) cubic yards of soils are moved, a Grading Permit shall be required as part of this project. The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce the discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include scheduling of activities, erosion and sediment control, operation and maintenance procedures, and other measures in accordance with Chapters 29 and 30 of the Lake County Code.

GEO-5: Prior to operation, all buildings, accessible compliant parking areas, routes of travel, building access, and/or bathrooms shall meet all California Building Code Requirements.

GEO-6: Prior to operation, all structure(s) used for commercial cultivation shall meet accessibility and CALFIRE standard.

GEO-7: If paleontological resources are encountered during implementation of the Project, ground disturbing activities will be temporarily redirected from the vicinity of the find. A qualified paleontologist shall be retained by the developer to make an evaluation of the findings. If a significant paleontological resource(s) is discovered on the property, the qualified paleontologist/archaeologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

Hazards and Hazardous Material Impacts relating to Hazards and Hazardous Material have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure HAZ-1 through HAZ-7:

HAZ-1: All equipment will be maintained and operated to minimize spillage or leakage of hazardous materials. All equipment will be refueled in locations more than 100 feet from surface water bodies. Servicing of equipment will occur on an impermeable surface. In an event of a spill or leak, the contaminated soil will be stored, transported, and disposed of consistent with applicable local, state, and federal regulations.

HAZ-2: With the storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, a Hazardous Materials Inventory Disclosure Statement and Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.

HAZ-3: Prior to operation, the applicant shall schedule an inspection with the Lake County Code Enforcement Division within the Community Development Department to verify adherence to all requirements of Chapter 13 of the Lake County Code, including but not limited to adherence with the Hazardous Vegetation requirements.

HAZ-4: Prior to operation, all employees shall have access to ADA-accessible restrooms and hand-wash stations. The restrooms and hand wash stations shall meet all accessibility requirements.

HAZ-5: The proper storage of equipment, removal of litter and waste, and cutting of weeds or grass shall not constitute an attractant, breeding place, or harborage for pests.

HAZ-6: All food scraps, wrappers, food containers, cans, bottles, and other trash from the project area should be deposited in trash containers with an adequate lid or cover to contain trash. All food waste should be placed in a securely covered bin and removed from the site weekly to avoid attracting animals.

HAZ-7: 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 with such information to complete an updated Air Toxic Emission Inventory.

Hydrology and Water Quality Impacts relating to Hydrology and Water Quality have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure HYD-1 through HYD-3:

HYD-1: Before this permit shall have any force or effect, the permittee(s) shall adhere to the Lake County Division of Environmental Health requirements regarding on-site potable water requirements. The permittee shall contact the Lake County Division of Environmental Health for details.

HYD-2: The production well shall have a meter to measure the amount of water pumped. The production wells shall have continuous water level monitors. The methodology of the monitoring

program shall be described. A monitoring well of equal depth within the cone of influence of the production well may be substituted for the water level monitoring of the production well. The monitoring wells shall be constructed, and monitoring began at least three months before the use of the supply well. An applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually and/or made upon request.

HYD-3: The applicant will adhere to the measures described in the Drought Management Plan during periods of a declared drought emergency.

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

TCR-1: All on-site personnel of the project shall receive tribal cultural resource sensitivity training prior to initiation of ground disturbance activities on the project. The training must be according to the standards of the NAHC or the culturally affiliated Tribe(s). Training will address the potential for exposing subsurface resources and procedures if a potential resource is identified. The training will also provide a process for notification of discoveries to culturally affiliated Tribe(s), protection, treatment, care and handling of tribal cultural resources discovered or disturbed during ground disturbance activities of the Project. 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-2: If previously unidentified tribal cultural resources are encountered during the project altering the materials and their stratigraphic context shall be avoided and work shall halt immediately. Project personnel shall not collect, move, or disturb cultural resources. A representative from a locally affiliated Tribe(s) shall be contacted to evaluate the resource and prepare a tribal cultural resources plan to allow for identification and further evaluation in determining the tribal cultural resource significance and appropriate treatment or disposition.

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 interment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

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

Wildfire Impacts relating to Wildfire have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure WDF-1 through WDF-5:

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 is not proposed and 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: During construction, a Water tender will be present on-site during earth work to reduce the risk of wildfire and dust.

WDF-4: Prior to cultivation, a minimum of 5,000-gallon water tank made of steel or fiberglass shall be made available to Fire Protection services to use in the event of a wildfire. The tank shall be fitted with connectors that will allow emergency service vehicles to connect to the tank using standard fire-fighting equipment.

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. 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 considerable environmental impacts.

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Geology & Soils, Hazards & Hazardous Materials, Hydrology, Noise, Tribal Cultural Resources, Utilities, 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 “RL” Rural Lands 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. The project meets or exceeds all required setbacks for this type of use, including distance to nearby sensitive receptors. 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. 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 project proposes 304,710 sf of cannabis cultivation canopy. The location and the size of the project site comply with the local ordinance requirements for use and setbacks. The site is large enough to meet the standards and criteria for commercial cannabis licenses applied for as found in Article 27.11. The Lake County Zoning Ordinance allows Type 3 cultivation operations within “RL” – Rural Lands zoning districts, and the subject site is ±158.22 acres in size, large enough to enable the proposed canopy area.

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

The proposed cultivation area is accessed from a private driveway, which is accessed from High Valley 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 on-site groundwater well and a total of twelve 2,500 water storage tanks totaling 30,000 gallons plus a 5,000-gallon steel or fiberglass water storage tank

dedicated to fire suppression. 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 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 Rural Lands Zoning district upon securing a Major Use Permit according to Article 27.13 of the Lake County Zoning Ordinance. The General Plan and Shoreline Communities 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, or 26 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 passed 'live scan' background check and is qualified to apply for this permit.

RECOMMENDATIONS

Staff recommends the Planning Commission take the following actions:

- A. Adopt Mitigated Negative Declaration (IS 20-39) for Major Use Permit (UP 20-33) 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-4.

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-3.
4. Potential environmental impacts related to Cultural Resources 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 Geology and Soils can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-3 and GEO-1 through GEO-7.
6. Potential environmental impacts related to Hydrology and Water Quality can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1 through HAZ-7.
7. Potential environmental impacts related to Hydrology and Water Quality can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1 through HYD-3.
8. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 and NOI-2.
9. Potential environmental impacts related to Tribal Cultural Resources can be mitigated to less than significant levels with the inclusion of mitigation measures TCR-1 and TCR-2.
10. Potential environmental impacts related to Wildfire can be mitigated to less than significant levels with the inclusion of mitigation measures WLD-1 through WLD-4.

B. Approve Major Use Permit UP 20-33 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, Shoreline Communities 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 20-39)

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 20-39) submitted by Liu Farms, Meili Liu for the property located at 8531 High Valley Road, Clearlake Oaks, (APNs: 006-003-34) will not have a significant effect on the environment, and that the Planning Commission adopt Initial Study (IS 20-39) with the findings listed in the staff report dated May 9, 2024.

Major Use Permit (UP 20-33)

I move that the Planning Commission find that the Major Use Permit (UP 20-33) applied for by Liu Farms, Meili Liu on property located at 8531 High Valley Road, Clearlake Oaks (APNs: 006-003-34) does meet the requirements of Section 51.4 and Article 27 of the Lake County Zoning Ordinance and that the Major Use Permit be granted based on the findings and subject to the conditions included in the staff report dated May 9, 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.*