

Lake Vista Farms, LLC

March 17, 2022

Lake County Board of Supervisors
Lake County Courthouse
255 North Forbes Street
Lakeport, CA 95453

Re: Lake Vista Farms, LLC - Major Use Permit (UP 19-36) Appeal Rebuttal

Dear Board Members:

On Thursday November 18, 2021, the Lake County Planning Commission considered and approved the Major Use Permit application for the proposed Lake Vista Farms cannabis facilities at 2050 and 2120 Ogulin Canyon Road, with the following determinations (reformatted):

1. The Planning Commission made findings on the basis of Initial Study No. 19-56, that the Major Use Permit No. UP 19-36 applied for by Lake Vista Farms, LLC on property located at 2050 and 2122 Ogulin Canyon Road, Clearlake, further described as APNs: 010- 053-01 and 02, will not have a significant effect on the environment and therefore a mitigated negative declaration was approved with the findings listed in the staff report dated November 12, 2021.
2. The Planning Commission also made the findings that the Major Use Permit (UP 19-36) applied for by Lake Vista Farms, LLC on property located at 2050 and 2122 Ogulin Canyon Road, Clearlake, further described as APNs: 010-053-01 and 02, meets the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance.
3. The Planning Commission then voted to grant (approve) the Major Use Permit subject to the conditions and with the findings listed in the staff report dated November 12, 2021.

The Lake County Community Development Department Staff Report to the Planning Commission dated 11-18-21 contains the following **Executive Summary**: The applicant is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation located at 2050 and 2122 Ogulin Canyon Road, Clearlake, California, further described as assessor parcel numbers (APNs): 010-053-01 and 02. The combined parcel area is approximately ±302.4 acres and is zoned "RL" for Rural Lands. Located approximately 1.0 mile east of the intersection of State Highway 53 and Ogulin Canyon Road in Clearlake, the project parcel is accessed via a private gravel driveway off of Ogulin Canyon Road. The applicant's proposal includes the clustering of multiple cultivation sites over contiguous parcels as allowed by the County of Lake Zoning Ordinance, Article 27, Section 27.13.(at).1.ii.(j).

Fifteen (15): A – Type 3: "Outdoor" Licenses to allow for a total canopy area of 15 acres located within five (5) areas that total 24.65 acres, labeled as sites: A, B, C, D, and E. The total cultivation area is 18.75 acres.

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Below are the acres and square feet of the proposed canopy areas, hoop houses and cultivation areas for each of the five areas:

Site	Site Acres	Cultivation Area Acres	Cultivation Area Square Feet	Canopy Area Acres	Canopy Area Square Feet	Temporary Hoop Houses # of Units	Temporary Hoop House square Feet
A-Northwestern Hops Field	5.09	5.09	221,795	4.07	177,436	99	178,200
B Southwest Clearing	6.56	6.56	285,865	5.25	228,692	128	230,400
C-Northeast Hops Field	1.45	1.45	63,126	1.16	50,501	29	52,500
D-Central Hops Field	3.72	3.72	162,248	2.98	129,728	73	131,400
E-Chaparral Clearing	7.83	1.92	83,716	1.54	66,973	38	68,400
Total	24.65	18.75	816,750	15.00	653,400	367	660,600

Staff Recommendation: Approval of Major Use Permit UP 19-36, and adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 19-56) with the incorporated Mitigation Measures and Conditions of Approval.

A. Adopt Mitigated Negative Declaration (IS 19-56) for Major Use Permit (UP 19- 36) with the following findings:

1. Potential environmental impacts related to aesthetics can be mitigated to less than significant levels with the implementation of mitigation measure AES-1.
2. Potential air quality impacts can be mitigated to less than significant levels with the implementation of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, and AQ-7.
3. Potential biological impacts can be mitigated to less than significant levels with the implementation of mitigation measures BIO-1, BIO-2, and BIO-3.
4. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the implementation of mitigation measures CUL-1, CUL-2, and CUL-3.

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5. Potential noise impacts can be mitigated to less than significant levels with the implementation of mitigation measures NOI-1 and NOI-2.
6. This project is consistent with land uses in the vicinity.
7. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan and the Lake County Zoning Ordinance.
8. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
9. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts (Attachment 3).

B. Approve Major Use Permit UP 19-36 with the following findings:

1. The establishment, maintenance, or operation of the permitted use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing and working in the neighborhood, or detrimental to property and improvements, and 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)

Appeal Rebuttal: The appellants documentation submitted for the Lake Vista Farms appeal (AB 21-05) does not seem to comply with the provisions of the Lake County Zoning Ordinance Section 21-58.20 (c) which requires a written statement setting forth the grounds upon which the appellant asserts there was an error or abuse of discretion by the Planning Commission , or how the decision of the Planning Commission is inconsistent with the purposes of the Zoning Ordinance.

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The appellant does not describe how the Planning Commission erred or abused their discretion or describe how the project is inconsistent with the Lake County Zoning Ordinance. The Board should deny the appeal on the grounds that it is flawed and does not comply with the Zoning Ordinance.

The appellant states that property owners feel that that many of the wells in the basin have been impacted by the development of the vineyards on both sides of Hwy 53 and several active cannabis grows. The appellant then discusses a number of cannabis projects that have been approved, but that are actually not operating.

The appellant then offers his opinion that due to various projects being proposed in the area he “feels this to be short on focus”. The appellant is of the opinion is that the proposed cannabis grows combined with the previous projects in the area are impacting wells within the basin. He then indicates that he “sees nothing that indicates that cannabis uses are not impacting their wells.”

Response: The appellants have a right to express opinions and feelings, but there has to be a factual basis presented to the Board of Supervisors on the appeal of a Planning Commission decision. Lake Vista Farms, LLC, on the other hand, have prepared and submitted several technical hydrologic documents to the County addressing groundwater matters and cumulative impacts in a quantifiable, scientific way, in accordance with County Ordinance and industry standards. The appellant evidently doesn’t appreciate the expert analysis, findings, and conclusions of the Technical Memorandums, indicating that the ground water impact of the Lake Vista Farms project is negligible and will not cause a cumulative impact, however we trust the Board of Supervisors will.

We have produced quantitative analysis (see 1-4 below) that support the finding that there is no cumulative ground water impact associated with Lake Vista Farms. This is in stark contrast to the “feelings and opinions” of the appellant which are not supported by any factual data.

1. *TECHNICAL MEMORANDUM To: Lake County Community Development Department From: Annjanette Dodd, PhD, CA PE #77756 Exp. 6/30/2023 Date: August 17, 2021, Subject: Ordinance 3106 Hydrology Report – UP 19-36 Lake Vista Farms, LLC 2050 and 2122 Ogulin Canyon Road, Clearlake, (APNs 010-053-01 and 010-053-02)*
2. *Drought Management Plan for UP 19-36 Lake Vista Farms, LLC APN’s 010-053-01 and 02 2050 and 2122 Ogulin Canyon Road, Clearlake by NorthPoint Consulting Group. Inc 1117 Samoa Blvd Arcata, California 95521 (707)798-6438 August 2021*
3. *TECHNICAL MEMORANDUM To: County of Lake, Community Development Department From: Annjanette Dodd, PhD, CA PE #77756 Exp. 6/30/2023 Date: February 3, 2022, Subject: Response to Appeal Comments – UP 19-36 Lake Vista Farms, LLC 2050 and 2122 Ogulin Canyon Road, Clearlake, (APNs 010-053-01 and 010-053-02)*
4. *PowerPoint Presentation – March 22, 2022, Northpoint Consulting Group, Inc. - Water Availability and Cumulative Impact Analysis - UP 19-36 Lake Vista Farms, LLC*

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The Technical Memorandum prepared by Northpoint Consulting Group, Inc. dated February 3, 2022 (appeal response regarding hydrology) concludes that the water demand associated with the Lake Vista Farms project represents only a tiny fraction of the usable groundwater storage capacity and of the total potential future water demand within in the Burns Valley Basin.

The appellant has also brought up another “appeal issue”, regarding the setback from the City of Clearlake Sphere of Influence. Again, it seems as though the appellant is grasping at straws to try and revive an issue that has been handled in accordance with the County Zoning Ordinance, sanctioned by the Clearlake City Council, and approved by the Lake County Planning Commission. The letter from the Clearlake City Manager dated February 24, 2020 indicates that the Clearlake City Council has considered the request for a reduced setback from the City boundary and authorized the City Manager to issue a support letter for the project consistent with City policy. The fact that the appellant objects to what Clearlake and the County have approved isn’t relevant. The County Zoning Ordinance provides a reduced setback procedure, which the applicant has complied with.

Conclusion

There is no evidence presented by the appellant that the cannabis facilities project at 2050 and 2122 Ogulin Canyon Road will impact downstream water wells.

The groundwater hydrology reports prepared for the project prove that there is sufficient groundwater storage capacity to meet existing and proposed demand.

Recharge estimates for the site demonstrate that there is sufficient recharge over the project’s contributing recharge area (a small fraction of the entire Burns Valley Watershed area) to meet the projects’ demands during both average and dry years.

The demand associated with the 2050 and 2122 Ogulin Canyon Road project represents a small fraction of the total potential future demand. Thus, it is unlikely that this project will adversely impact wells in the lower portion of the Burns Valley Groundwater Basin.

We respectfully request that the Board of Supervisors consider the facts and supporting documentation, respect the diligence and work put into this project by County staff and the County Planning Commission, deny the appeal, confirm the staff recommendations to approve the project, and uphold the approval decision of the Planning Commission.

Thank you.

Brian Pensack

Brian Pensack - Managing Partner
Lake Vista Farms, LLC