



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 255 N. Forbes Street
Lakeport, California 95453
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Item 4
9:20 AM
June 23, 2022

STAFF REPORT

TO: Planning Commission

FROM: Mary Darby, Community Development Director
Prepared by: LACO Associates
Assigned Planner: Andrew Amelung, Cannabis Program Manager

DATE: June 23, 2022

RE: Monte Cristo Vineyards, LLC

- Major Use Permit (UP 21-14)
- Initial Study (IS 21-15)

Supervisor District 3 – Eddie “EJ” Crandell
Planning Commission – Batsulwin Brown

ATTACHMENTS:

1. Property Management Plan
2. Proposed Site Plans
3. Conditions of Approval
4. Initial Study
5. Hydrology Report
6. Biological Assessment
7. Mitigation Monitoring Reporting Program

I. EXECUTIVE SUMMARY

The proposed cultivation project will take place on 452.5-acre parcels located at 11250 Cerrito Drive, Clearlake Oaks, California, further described as Assessor’s Parcel Number 006-007-17, 23, & 30. The total proposed project premise includes approximately 970,680 square feet (sq. ft.) of cultivation area and 958,320 sq. ft. of cannabis canopy. The cannabis plants will be grown in the existing native soil and cultivated under direct sunlight. The proposed cultivation canopy area will be located within three fenced-in cultivation areas, and improvements with the cultivation area include an 120 sq. ft. security center/shed; a 6,000 sq. ft. processing and harvesting storage facility on a concrete slab; two (2) 3,000 sq. ft. immature plant area/greenhouses; two (2) 120 sq. ft. pesticides and

agriculture chemical storage; five (5) existing groundwater wells; one (1) 20 acre off stream water storage reservoir; an irrigation system using water pumps, polyvinyl chloride (PVC) piping, black poly tubing and drip tape; an existing residence; and an existing metal barn.

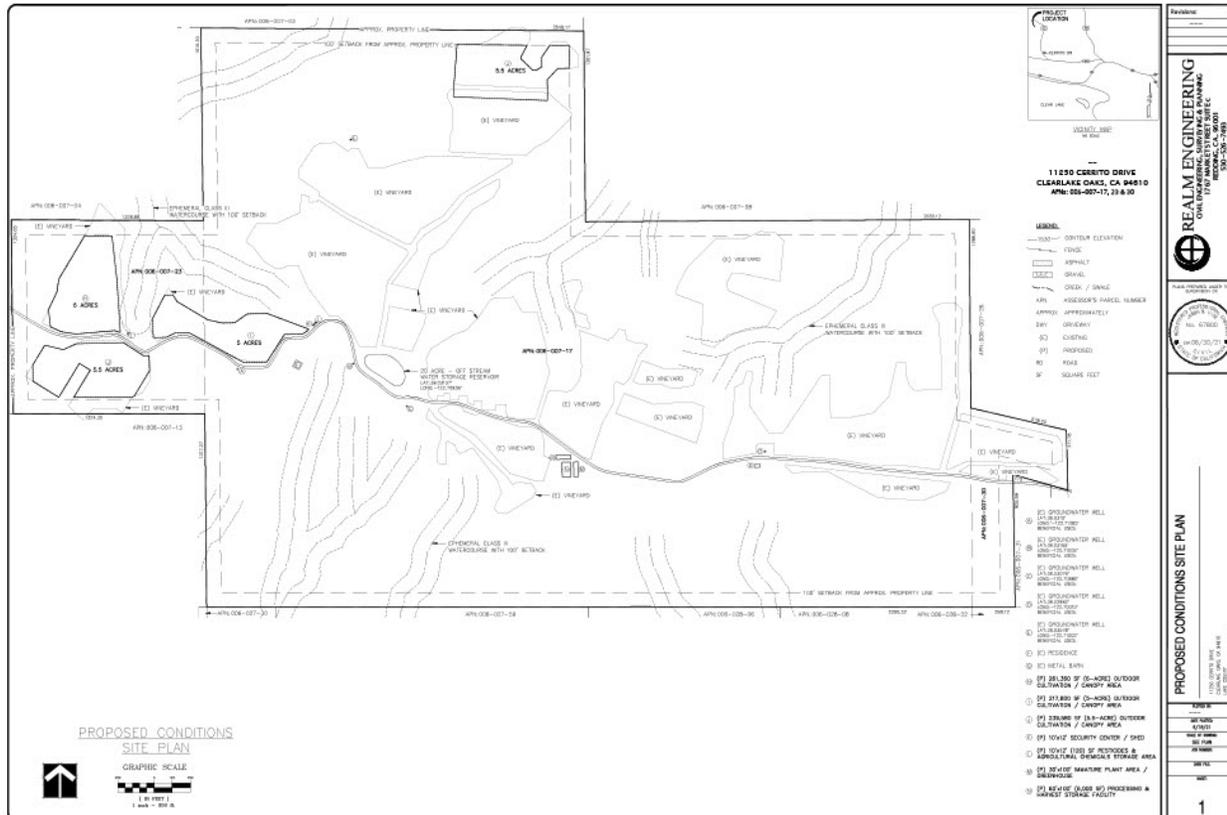


Figure 1. Monte Cristo Proposed Conditions Site Plan

II. PROJECT DESCRIPTION

<u>Applicant:</u>	Monte Cristo Vineyards, LLC., Oakland, CA 94610
<u>Owner:</u>	Monte Cristo Vineyards, LLC, Oakland, CA 94610
<u>Location:</u>	11250 Cerrito Drive, Clearlake Oaks, CA 95423
<u>A.P.N.:</u>	006-007-17, 23, & 30
<u>Parcel Size:</u>	<u>+452.5 Acres</u>
<u>General Plan:</u>	Rural Lands
<u>Zoning:</u>	“RL” - “WW”: Rural Lands – Waterway Combining District
<u>Flood Zone:</u>	Not located within a known flood zone.

Farmland Designation: Other Land

SCH Number: 2022030675

Monte Cristo Vineyards, LLC, is seeking approval for a Major Use Permit (UP 21-14) to cultivate commercial cannabis that includes 958,320 sq. ft. of outdoor canopy located within 970,680 sq. ft. of cultivation area (Figure 1). The project site is located at 11250 Cerrito Drive, Clearlake Oaks, CA 95423, further described as assessor's parcel number (APN) 006-007-17, 23, & 30 (Figure 1).

Early activation (EA 21-14) of the proposed use permit (UP 21-14) to allow for commercial outdoor cultivation of one cultivation area containing up to 108,900 sq. ft. of cultivation area

The Project will include the following:

- **Twenty Two (22) A-Type 3: “Outdoor” licenses:** Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.

The applicant, Monte Cristo Vineyards, LLC, is requesting approval of a Major Use Permit for commercial cannabis cultivation, to allow up to twenty-two (22) A-Type 3 “Medium Outdoor” licenses, with a combined outdoor canopy area of 958,320 sq. ft. Proposed ancillary facilities include a 120 ft² Security Center/Shed, a 6,000 sq. ft. Processing & Harvest Storage Facility, two 3,000 ft² Immature Plant Areas/Greenhouses, and two 120 sq. ft. Pesticides & Agricultural Chemicals Storage Areas. The cultivation operation will be established within an existing vineyard in the western half of the Project Property. Cultivation areas will be secured with six (6) foot tall wire fences with privacy mesh where necessary to screen the cultivation/canopy area(s) from public view. All water for the cultivation operation will come from five existing onsite groundwater wells and an existing onsite 20-acre-foot off-stream water storage reservoir. Lake County Zoning Ordinance, Article 27, subsections (at) in part regulates cannabis cultivation in the County. The 452-acre property is large enough to support the proposed cannabis licenses; 20 acres per license is required (minimum lot size requirement of 440-acres). The property is pre-enrolled with the Regional Water Quality Control Board. The applicant must meet all applicable local, state, and federal requirements for cannabis cultivation. The Project proposes the following:

- A 261,360 sq. ft. outdoor canopy area
- A 217,800 sq. ft. outdoor canopy area
- A 239,580 sq. ft. outdoor canopy area
- 6,000 sq. ft. Processing & Harvest Storage Facility
- Two (2) 3,000 sq. ft. Immature Plant Areas/ Greenhouses
- Two (2) 120 sq. ft. Pesticides & Agriculture Chemicals Storage Areas
- 20-acre-foot off-stream water storage reservoir

- A 120 sq. ft. Security Shed
- Two (2) 3,000 sq. ft. Immature Plant Area/ Greenhouse

Existing development at the site that will support the Project includes the following:

- Five existing onsite groundwater wells
- An existing residence
- An existing metal barn

Staff is recommending approval of Major Use Permit UP 21-14 and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study IS 21-15) with the incorporated Mitigation Measures and Conditions of Approval.

III. PROJECT SETTING

Project Location

The proposed Monte Cristo Vineyards Project is located at 11250 Cerrito Drive (APN 006-007-17, 23, & 30), approximately five (5) miles of the City of Clearlake, CA, and situated along an east-west trending ridgeline between Clear Lake and High Valley in the central portion of Lake County. Topography of the Project Property is hilly, with elevations ranging from 1,670 and 2,405 feet above mean sea level. The Project Property is within the Schindler Creek – Frontal Clear Lake Watershed (HUC 12). The proposed Project is located in the Shoreline Communities Planning Area.

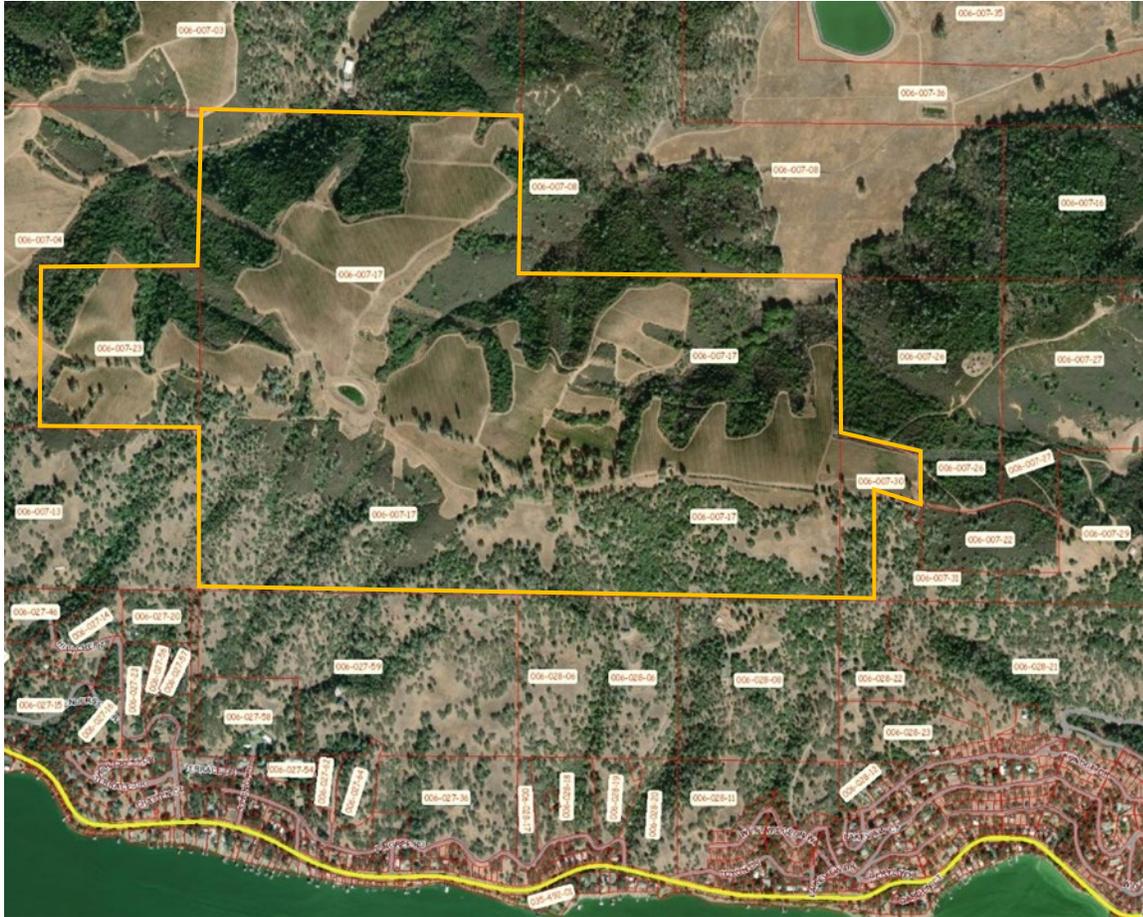


Figure 2. Vicinity Map

Surrounding Uses and Zoning

The surrounding land uses are largely rural residential land.

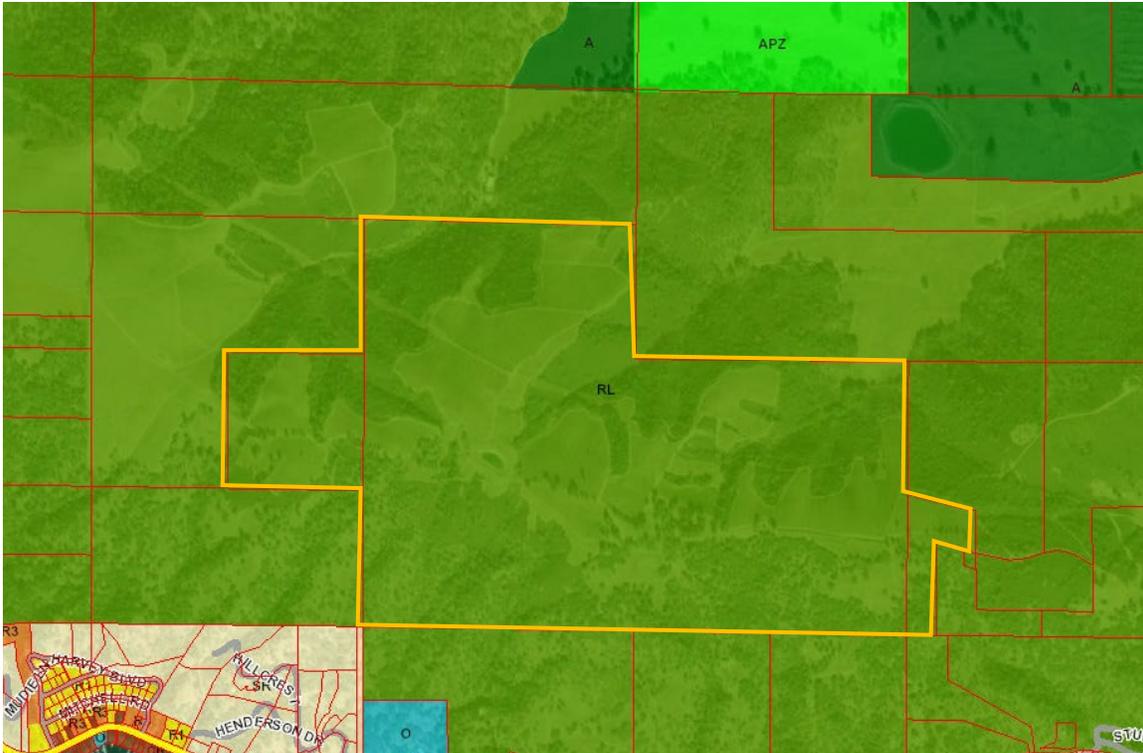


Figure 3. Vicinity Zoning Map

As the parcel for the proposed Project is over five (5) acres in size, neighboring parcels that fall within a 725-foot buffer will be notified of the Project. These parcels include:

- North: 10680 Cerrito Drive; Parcel Number 006-007-03; Zoned Rural Land
- Northeast: 11350 High Valley Road; Parcel Number 006-007-08; Zoned Rural Land
- East: 11680 Cerrito Road; Parcel Number 006-007-26; Zoned Rural Land
- Southeast: 11651 Cerrito Road; Parcel Number 006-007-31; Zoned Rural Land

- Southeast: 11420 Pinegree Road; Parcel Number 006-028-08; Zoned Rural Land
- South: 11120 Pinegree Road; Parcel Number 006-028-06; Zoned Rural Land
- South: 10750 Pinegree Road; Parcel Number 006-027-59; Zoned Rural Land
- Southwest: 116 Henderson Drive; Parcel Number 006-027; Zoned Suburban Reserve
- West: 10490 Terrace Drive; Parcel Number 006-007-13; Zoned Rural Land
- Northwest: 10200 Cerrito Drive; Parcel Number 006-007-04; Zoned Rural Land

Access

The cultivation site is accessed from Cerrito Drive, a paved and dirt road maintained by the County of Lake which is classified as a local road in the Lake County General Plan.

The access driveway from Cerrito Drive is approximately 15-20 feet wide, meeting California Public Resource Code 4290 (PRC 4290) road standards for fire equipment access, including two access points for emergency vehicles. (Attachment 3)

Security

The 6-foot woven wire fences will be erected around the proposed cultivation/canopy area. Privacy screen/cloth will be installed on the fences necessary to screen the cultivation area from public view. The entry and access points to the cultivation areas will be controlled by locking gates that will be locked by MCV's managerial personnel. Only approved project managerial staff and emergency service providers will be able to have access to the gate(s) on the project property. Post will be set into the ground at no more than 10-foot intervals, and terminal posts will be set into concrete footings. All gates will be secured with heavy duty chains and commercial grade padlocks.

A 100-foot setback of defensible space (vegetation management) will be established and maintained around the proposed cultivation areas and associate facilities for fire protection, and for visibility and security monitoring. Motion sensing alarms and security lighting will be installed at metal gates to control entry access from the property. Additionally, motion sensing security lighting will be installed on all external corners of the proposed cultivation areas which will be fully shielded, downward casting and not spill over into other properties or the night sky. Additionally, a theft prevention program has been implemented by the applicant (Attachment 1).

Operations

Approximately two (2) shifts with up to eight (8) employees during peak shift and three (3) shifts with up to twenty-four (24) employees during peak shift. The estimated trips per day for the proposed project are between 48 to 72 trips during harvest season, 16 to 24 trips during non-harvest season, and 150-200 trips during construction/development of the project. Operating hours are proposed to be Monday through Saturday during daylight hours from approximately 8:00 a.m. to 6:00 p.m.

A community liaison/emergency contact will be made available to Lake County Officials/ Staff and the Lake County Sheriff's Office at all times to address any needs or issues that may arise, will be responsible for responding to odor complaints 24 hours a day/ seven days a week, including holidays, and when an odor complaint is received, the community liaison/ emergency contact will immediately take action to determine the source of the odor.

Hydrology and Water Use

The County's Cannabis Ordinance requires that all cultivation operations be located at least 100-feet away from all waterbodies (i.e. spring, top of bank of any creek or seasonal stream, edge of lake, wetland or vernal pool). Additionally, cultivators who enroll in the State Water Board's Waste Discharge Requirements for Cannabis Cultivation Order WQ 2019-001-DWQ must comply with the Minimum Riparian Setbacks. Cannabis cultivators must comply with these setbacks for all land disturbances, cannabis cultivation activities, and facilities

(e.g., material or vehicle storage, diesel powered pump locations, water storage areas, and chemical toilet placement).

The Project areas are setback as follows:

- Over 500 feet from the nearest Class I watercourse
- Over 300 feet from the nearest Class II watercourse
- 120 feet from the nearest Class III watercourse
- Over 500 feet from the nearest wetland

The project parcels have enrolled for coverage under the State Water Resources Control Board's Cannabis General Order as a Tier 2 Low Risk Discharger on October 23rd, 2020 and will continue to comply with all requirements of the Cannabis General Order to protect water resources. The Water Use Management Plan (WUMP) focuses on designing a water efficient delivery system and irrigation practices, and the appropriate and accurate monitoring and reporting of water use practices (Attachment 1). Additionally, the applicant submitted a Hydrology Report, from REALM Engineering, on August 18th, 2021 per Lake County Urgency Ordinance 3106 (Attachment 6).

The project property is located approximately 5 miles northwest of the City of Clearlake, CA with an elevation ranging between 1,670 and 2,405 feet above mean sea level. The Site is within the Schindler Creek – Frontal Clear Lake Watershed (HUC 12), with multiple ephemeral Class III watercourses flowing off the Site towards Schindler Creek to the north and Clear Lake to the South. The existing 20-acrefoot off stream water storage reservoir, is situated spine of the east-west trending ridgeline. There are no watercourse crossings on the project property. The project will utilize the existing buried water supply lines of the existing vineyard blocks, to deliver irrigation water from the off stream water storage reservoir to the proposed cultivation area. All areas of the proposed cultivation operation will be located more than 120 feet from any surface waterbody.

All water proposed cultivation will come from five existing onsite groundwater wells with water stored in the reservoir. The 20-acrefoot water storage reservoir will be filled each year by May 1st, so that cultivation starts with +6.5 million gallons of stored water for irrigation purposes. Prior to cultivation, inline water meters compliant with California Code of Regulations, Title 23, Division 3, Chapter 2.7 will be installed on the main irrigation water supply lines running between the off stream water storage reservoir and the proposed cultivation areas. The irrigation systems of the proposed cultivation areas will be composed of PVC lay flat hoses and drip tapes/lines.

The five existing onsite groundwater wells were evaluated by Power Services, Inc. on February 2021 to determine the production capacity of the wells with current/existing equipment. The results showed that well production of the five wells range from 15 gallons per minute to 48 gallons per minute with an average of 31 gallons per minute. Collectively, the five wells produce 155 gallons per minute or 223, 200 gallons per day, and as much as 81 million gallons per year. The project is expected to use a total of approximately 15 million

gallons per year or approximately 18.5 percent of the water that the five wells could produce in a given year.

Potential adverse impacts to water resources could occur during construction by modification or destruction of stream banks or by increased erosion and sedimentation in receiving water bodies due to soil disturbance. Project implementation will not directly impact any channels or wetlands. Soil disturbance from project implementation could increase erosion and sedimentation. Regulations at both the County and State levels require the creation and implementation of an erosion control and stormwater management plan. Furthermore, as the total area of ground disturbance from project implementation is greater than one (1) acre, the Project proponent will need to enroll for coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ).

Due to the existing exceptional drought conditions, on July 27, 2021, the Lake County Board of Supervisors passed Ordinance 3106, requiring land use applicants to provide enhanced water analysis during a declared drought emergency. Ordinance 3106 requires that all project that require a CEQA analysis of water use include the following items in a Hydrology Report prepared by a licensed professional experienced in water resources:

- Approximate amount of water available for the project's identified water source,
- Approximate recharge rate for the project's identified water source, and
- Cumulative impact of water use to surrounding areas due to the project

The Project has adopted a Drought Management Plan (DMP) as part of the requirements of Lake County Ordinance 3106, passed by the Board of Supervisors on July 27, 2021, which depicts how the applicant proposes to reduce water use during a declared drought emergency and ensures both the success and decreased impacts to surrounding areas (Attachment 6).

Fertilizer and Chemical Usage

Materials associated with the proposed cultivation of commercial cannabis, such as gasoline, pesticides, fertilizers, and equipment emissions may be considered hazardous if unintentionally released and could create a significant hazard to the public or the environment if done so without intent and mitigation. All potentially harmful chemicals will be stored and locked in a secured building on site. Measures will be taken to avoid any accidental release and environmental exposure to hazardous materials. Bulk fertilizers will be incorporated into the soil shortly after delivery and will not typically be stockpiled or stored on site.

The project shall comply with Section 41.7 of the Lake County Zoning Ordinance that specifies that all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and

explosion, and adequate firefighting and fire suppression equipment. Agricultural chemicals and petroleum products will be stored in secondary containment, within separate storage structures alongside compatible chemicals. The pesticide, fertilizer, chemical, and petroleum product storage buildings will have impermeable floors. The storage building will be located over 120 feet from any watercourses.

Any petroleum products brought to the site, such as gasoline or diesel to fuel construction equipment, will be stored and covered in containers deemed appropriate by the Certified Unified Program Agency. All pesticides and fertilizers products will be stored a minimum of 120 feet from all potentially sensitive areas and watercourses. All employees would be trained to properly use all cultivation equipment, including pesticides. Proposed site activities would not generate any additional hazardous waste. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of in accordance with applicable local, state, and federal regulations.

Cannabis and Solid Waste

The types of solid waste that will be generated from the proposed cultivation operation include gardening materials and wastes (such as used fertilizer/pesticide containers) and general litter from staff/personnel. All solid waste will be stored in bins with secure fitting lids, located directly adjacent to the proposed cultivation/canopy areas. At no time will the bins be filled to a point that their lids cannot fit securely. Solid waste from the bins will be deposited into a trailer (“dump trailer”) and hauled away to a Lake County Integrated Waste Management facility, at least every seven (7) days/weekly. The closest Lake County Integrated Waste Management facility to the proposed cultivation operation is the Eastlake Landfill. Most, if not all, of the solid waste and recyclables generated by proposed commercial cannabis cultivation operation can and will be deposited there.

The Waterway Combining District

The General Plan Land Use Zone and Zoning District designation currently assigned to the Project parcel is Rural Land (RL) – Waterway Combining (WW). The Lake County Zoning Ordinance allows for commercial outdoor cannabis cultivation in the RL land use zone with a major use permit.

The “WW” Zoning District, as described in the Lake County Zoning Ordinance Article 37.1, sets forth 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.” According to Article 37.2, waterway criteria that applies to the project parcel include intermittent streams that normally flow only direct response to rainfall and are dry for large parts of the year.

As described in Article 37.4, “all uses are permitted in the base zoning district; however, no person shall undertake any development activity within a riparian corridor except when: 1) the development activity is exempt from the provisions of this Article pursuant to Section

37.5; or 2) the development activity has been authorized by an exception or conditional exception pursuant to Section 37.6 of this Article.” The proposed project does not plan to develop cannabis cultivation in areas with Class III watercourses. Additionally, the proposed project meets all the required setbacks from watercourses as shown in Site Plans, Attachment 2.

IV. Project Analysis

General Plan Conformance

The General Plan designation for the subject site is Rural Lands. In reference to the Lake County General Plan (2008), Chapter 3 – *Land Use*, rural lands provides for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands (Figure 3). This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields.

The applicant is proposing commercial cannabis cultivation which applies to agricultural/crop production with the Lake County General Plan (2008) for Rural Lands. The proposed project is consistent with the general plan in the following ways, (1) crop production within the Rural Lands and, (2) reducing odors by implementing measures to reduce air contaminants and odors for the outdoor cultivation are, which includes wetting soils and, delaying ground disturbance activities until site conditions are not wind. Additionally, the Property Management Plan (Attachment 1) has identified an odor response program for when odor complaints are received.

The following General Plan policies relate to site development in the context of this proposal:

Water Resource

Goal WR-1: is to provide for the current and long-range water needs of the County and for the protection of the quality and 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.

Under Chapter 21, Article 27.11, the requirements for cannabis cultivation projects submittal include a Water Use Management Plan to be reviewed and approved by the County. The proposed project plans to utilize a drip irrigation system and practices, use the five existing groundwater wells, and store water in the 20-acre-foot off-stream reservoir. Prior to cultivation, inline meters compliant with California Code of Regulations, Title 23, Division 3, Chapter 2.7 will be installed on the main irrigation water supply lines running between the off stream water storage reservoir and the proposed cultivation areas. Water level meters equipped with data logging capabilities, will be installed to the five existing wells for monitoring and reporting water use to the County and State.

On July 27, 2021, the Lake County Board of Supervisors declared a local emergency due to the drought conditions and required land-use applicants to provide enhanced water analysis under Ordinance 3106. The local emergency ordinance reinforces the policies under this plan to manage and evaluate the most vital resources in Lake County. The applicant submitted a hydrology report (Water availability) that was prepared by a certified hydrogeologist with REALM Engineering. The report consisted of evaluating the following: the approximate amount water available for the project's identified water source, the approximate recharge rate of the water source, and the cumulative impact of water use to the surrounding area. The hydrology report identified that the approximate amount of water produced by the five wells was 155 gallons per minute. The report concluded that the amount of water available would be sufficient for the required water per year. Additionally, the report identified that no impacts would result to the surrounding area due to the distance between the project well and neighboring off-site wells. (Attachment 6)

Land Use

Goal LU-1: is to 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 Designation upon securing a Minor/Major Use Permit. On, February 2, 2020, the applicant submitted a Major Use Permit to the Community Development Department (CDD) for processing. 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.

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses 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 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 a minimum of 200 foot setback from any off-site residences. There are currently no off-site residences within 1,000 feet from the cultivation site. Additionally, Article 27, Sec. 21-27.10,(at),3.iii.v. prohibits Commercial Cannabis Cultivation within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The closest community growth boundary accessible by road is Clearlake Oaks, which is approximately 1.5 miles away, while the Lucerne community growth boundary is approximately 4.25 miles away, separated by rugged, mountainous terrain. The project meets these setbacks.

Shoreline Communities Area Plan

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

- **4.2.1d:** Proposed developments shall mitigate off-site, downstream drainage impacts that would result from the development. Engineered drainage plans and erosion control plans shall be required where appropriate.
- **4.3.1c:** Require that locked gates on private roads be accessible to emergency personnel.
- **4.4.1c:** Promote alternatives to open burning and disposal of vegetative waste, including chipping, mulching and composting.

Zoning Ordinance Conformance

Article 7 – Rural Lands (RL)

In reference to Article 7 of the Lake County Zoning Ordinance, this designation is to allow rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves, and fisheries.

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 Rural Lands zoning district.

Article 37 – Waterway Combining District

In reference to Article 37 of the Lake County Zoning Ordinance, this designation 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.

The proposed project site is in the Waterway Combining District. The property contains several intermittent watercourses; however, no development is planned to occur within 120 feet of any watercourse. While these limitations and restrictions identified in Article 37 do apply to the proposed project, the project is in compliance and meets the established with an approved Major Use Permit.

Article 27 - Use Permits

The purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of a zoning permits, minor or major use permits in addition to any required building, grading and/or health permits.

The Cultivation of Commercial Cannabis is permitted in the “RL” Rural Lands Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On February 26, 2020, the applicant submitted an application for a Major Use Permit, UP 20-21 for the Cultivation of Commercial Cannabis to the CDD.

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

Development Standards

- Minimum Lot Size (20 acres per A-Type 3): *Complies, the lot is +452 acres in size. The applicant needs 442 acres for twenty-two (22) A – Type 3 licenses.*
- 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; the nearest dwelling is over 1,000 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed security fence will be 6 ft. tall.*
- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”): *Complies; the proposed canopy area would be approximately 958,320 sq.ft. of outdoor canopy area for twenty-two (22) A – Type 3 licenses.*

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.

The applicant has also submitted a Property Management Plan (Attachment 1), outlining compliance with all regulations pertaining to cannabis operations including the following: air quality, cultural resources, 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.,

V. 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 3) was prepared and circulated for public review in compliance with CEQA from 03/24/2022 to 4/22/2022.

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

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources/Tribal Cultural Resources
- Hydrology/Water Quality
- Noise
- Tribal Cultural Resources
- Wildfire

However, with the incorporation of the mitigation measures in Attachment 7, all impacts can be reduced to a less than significant level.

Aesthetics

The proposed cannabis operation will not have a substantial adverse effect on the scenic vista as the project parcels are not located in a within a known scenic area. The proposed project has the potential to create additional light and/or glare through the use of exterior security lighting, processing and drying building, and greenhouses. Any lighting associated with the proposed project would comply with the recommendations of “darksky.org” and local ordinances. Impacts relating to Aesthetics have been reduced to less than significant with the incorporated mitigation measures below:

- AES-1: All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply and adhere to all

Federal, State and local agency requirements, including all requirements in darksky.org.

- AES-2: All cannabis-related buildings shall be screened from view from neighboring lots and public roads by minimum 6' tall screening fence.

Air Quality

The proposed project has the potential to create short-term construction and long-term operational impacts on air quality. During construction and site preparation, potential short-term impacts might include fugitive dust from earthmoving activities, and fume emissions from heavy equipment and generators, however, these are short-term impacts. Long-term operational activities often include terpene odors from cannabis activities during the harvest season. No significant odor impacts are anticipated from the proposed cultivation operation, due to the proposed odor control equipment and practices, and the generous setbacks provided from public roads, property lines, and neighboring residences/outdoor activity areas. All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District 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.
- 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 CI engines.
- 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 infrequent use of driveways, overflow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.
- AQ-7: The applicant shall apply water to the ground during any and all site preparation work that is required for the greenhouses and drying building, as well as during any interior driveway improvements to mitigate dust migration.

Biological Resources

A Biological Resources Assessment (BA) was prepared by G.O. Graening, Ph.D. and Tim Nosal, M.S. of Natural Investigations Compay on January 13, 2021. The field survey for the BA was conducted on December 29, 2020. The purpose of the BA was to provide information as to whether the proposed cultivation area contains sensitive plants or potentially contains sensitive wildlife requiring mitigation under CEQA. The BA refers to the Project parcel as the Study Area. All development would occur over 100 feet from any surface waters. The proposed operation does not conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance. All vegetation will be routinely maintained in accordance with all Federal, State, and local agency requirements, including Chapter 13 of the Lake County Code. All potential biological impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: Any project activities that would result in the fill of any waters may be required to obtain the following permits.
 - US Army Corps of Engineers Nationwide Permit
 - Regional Water Control Board – 401 Water Quality Certification
 - California Department of Fish and Wildlife 1601 Stream Bed Alternation Agreement
- BIO-2: All work in or near any waterways shall incorporate extensive Erosion and Sediment Control Plans/ Measure consistent with all Federal, State, and local agency requirements to avoid erosion and the potential for transport of sediment into the waterways. Additionally, coverage under the National Pollutant Discharge Elimination System (NPDES), General Permit for Storm Water Discharge associated with a Construction Activity (General Permit) and a Storm Water Pollution Plan (SWPP may be required).
- BIO-3: The applicant shall maintain a minimum setback of a one-hundred (100) foot from the top of the bank of any creek (perennial and intermittent), edge of lake, delineated wetland and/or vernal pool on the lot of record of land.
- BIO-4: The applicant shall ensure to use only previously distributed areas for staging/storage of materials and/or equipment that is used to maintain the ongoing use. No areas shall be newly developed for the purpose of staging.
- BIO-5: Prior to any ground disturbance and/or vegetation removal, the applicant shall have a pre-construction survey conducted by a qualified biologist for special-status plant and animal species to ensure that special-status species are not present.

- If any listed species are detected, construction shall be delayed, and the appropriate resource agency (CDFW and/or USFWS) shall be consulted with and project impacts and mitigation reassessed.
- BIO-6: Within seven days prior to the commencement of ground disturbing activities, the applicant shall have a pre-construction survey for the presence of special-status bird species and/or any nesting bird species to be conducted by a qualified biologist within 500 feet of the proposed construction areas.
 - If active nests are identified in these areas, CDFW and/or USFWS should be consulted to develop measures to avoid “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. With the implementation of this mitigation measure, adverse impacts would be reduced to less-than-significant.

Cultural Resources

An Archeological Resource Assessment (Assessment) for the proposed cultivation Project was completed by Jay M. Flaherty of Flaherty Cultural Resource Services to identify potentially significant cultural resources. Thirty-three acres were surveyed and the cultural resources investigation consisted of two steps.

The Historical Resources Information System Northwest Information Center determined that no archaeological or ethnographic sites have been recorded within the project boundaries. The record search did show that the project had been previously surveyed for cultural resources in 1992 and majority of the site(s) were for vineyard cultivation projects. In November 2020, the Native American Heritage Commission (NAHC) was contacted to request a search of the Native Americana Heritage Commission sacred lands file. A response was received in November 2020 which stated the search was negative in the project vicinity. The NAHC requested that nine other local Native American groups be contacted. The project received one response from the Habematoleo Pomo of Upper Lake requested a survey map. They determined that the project area was not within their aboriginal territories. No other responses were received.

The second part of the investigation consisted of a complete survey of the project area using approximate north/south transects approximately 20 to 40m apart. Ground visibility at the time of the survey was poor due to grass, duff, and brush cover. The Assessment concluded that no cultural resources were discovered within the project boundaries. However, it is recommended that work in the immediate vicinity of a find be suspended and a Registered Professional Archaeologist called to evaluate the find according to California Environmental Quality Act (CEQA) Guildlines. Therefore, to ensure impacts related to the Cultural Resources are minimized, the following mitigation measures have been implemented.

- CUL-1: Should any archaeological, paleontological, or cultural materials be

discovered during site development, all activity shall be halted in the vicinity of the find(s), the applicant shall notify the culturally affiliated Tribe, and a qualified archaeologist to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, the applicant shall notify the Sheriff's Department, the culturally affiliated Tribe, and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

- CUL-2: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the culturally affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such findings.

Hydrology and Water Quality

The proposed project design meets all setbacks from waterways in compliance with the State Water Resources Control Board and Lake County regulations. The project will utilize an existing 20-acre feet off stream water storage reservoir, filled with water from five existing on-site groundwater wells. Potential hydrology/water quality impacts from project implementation include sediment and erosion runoffs, nitrogen runoffs, groundwater supplies, and drainage patterns. However, the applicant incorporates proper Best Management Practices accordingly during and after construction to reduce impacts associated with water quality. The applicant submitted hydrology report that was prepared by a certified hydrogeologist with REALM Engineering. (See *Attachment 6*). All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- HYD-1: Before this permit having any force or effect, the permittee(s) shall adhere to the Lake County Division of Environmental Health requirements regarding on-site wastewater treatment and/or potable water requirements. The permittee shall contact the Lake County Division of Environmental Health for details.
- HYD-2: The applicant shall prepare a groundwater management plan to ensure that the groundwater resources of the County are protected used and managed sustainably. The plan would support the Integrated Regional Water Management Plan and include an inventory of groundwater resources in the County and a management strategy to maintain the resource for the reasonable and beneficial use of the people and agencies of the County.

Noise

Potential impact to Noise related to the proposed project can occur either during construction or as the result of machinery related to post-construction equipment such as well pumps or emergency backup generators during emergency power outages. However, the proposed use shall adhere to all Federal, State, and local agency noise standards and requirements.

All potential Noise has been reduced to less than significant with the incorporated mitigation measures below:

- NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00am and 7:00pm, and Saturdays from 12:00 noon to 5:00 pm 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 7:00AM to 10:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

Tribal Cultural Resources

The project is not listed as a historical site and is not identified as a resource pursuant to the Public Sources Code section 5024.1. One response from the Habematolel Pomo of Upper Lake was received requesting for a map of the project area. As a result, they determined that the project area was not within their aboriginal territories. To date no other responses have been received.

- Mitigation Measures CULT-1 through Cult-5.

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 and Tribal Resources, Hydrology, and Noise. 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 considerable environmental impacts.

VI. 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. 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 CDD 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 proposed canopy area would be approximately 958,320 sq.ft. of outdoor canopy area for twenty-two (22) A – Type 3 licenses. The location and size of the project site comply with the local ordinance requirements for use and setbacks. The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Lands-zoned land, and the subject site is +452 acres in size, large enough to enable the cultivation area proposed.

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 Cerrito Drive. 29. Per the Public Resources Code (PRA) 4290/4291 Fire Safe Requirements, the project will need to meet the CALFIRE road standards outlined in Public Resources Code 4290/4291. The applicant must comply with all building codes prior to construction of any structures. Therefore, the project has adequate access to accommodate the specific use and will be required to maintain and improve the access to be compliant with Public Resources Code 4290/429.

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 five onsite groundwater wells, a water storage reservoir, and the established onsite wastewater disposal system. 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 Northshore Fire Protection District. The applicant is required to adhere to all applicable local, state, and federal regulations, mitigation measures, and conditions of approval intended to ensure adequate services and maintain safety at the site. 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. Relevant comments are attached as Attachment 4.

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 of the Lake County Zoning Ordinance. Additionally, the Lake County General Plan does not have any provisions specifically for commercial cannabis, but both the General Plan and the Shoreline Communities Area Plan have provisions for economic development, water resources, and agricultural resources land use compatibility. Additionally, the subject property complies with the minimum setbacks and development standards.

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.

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Major Use Permit:

7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i. as outlined in this staff report
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g). as outlined in this staff report
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i). as outlined in this staff report

Responses to Article 27, Subsection (at) findings:

1. 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): *Complies, the lot is +452 acres in size. The applicant needs 440 acres for twenty-two (22) an A – Type 3 license.*
 - 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; the nearest dwelling is over 1,000 feet away from the cultivation area.*
 - Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence will be 6 foot tall.*
 - Maximum Canopy Area (43,560 for one (1) A – Type 3 “Outdoor”: *Complies; the proposed canopy area would be approximately 958,320 sq.ft. of outdoor canopy area for twenty-two (22) A – Type 3 licenses.*

VII. RECOMMENDATION

Staff recommends the Planning Commission take the following actions.

- A. Adopt Mitigated Negative Declaration (IS 21-15) for Major Use Permit (UP 21-14) 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, and AES-2.
 2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6 and AQ-7.
 3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measure BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, and BIO-6.
 4. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
 5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.

6. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-6, HAZ-1 through HAZ-8, and HYD-1, and HYD-2.
7. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 and NOI-2.
8. Potential tribal cultural resources impacts can be mitigated to less than significant levels with inclusion of mitigation measures CULT-1 through CULT-5.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Lakeshore Communities Area Plan, and Zoning Ordinance.
11. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve Major Use Permit UP 21-14 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

I move that the Planning Commission find that the **Major Use Permit (UP 21-14)** applied for by **Monte Cristo Vineyards, LLC** on property located at **12250 Cerrito Drive, Clearlake Oaks**, further described as **APN: 006-007-17, -23, and -30** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **June 23, 2022**.

Major Use Permit (UP 21-14)

I move that the Planning Commission find that the **Major Use Permit (UP 21-14)** applied for by **Monte Cristo Vineyards, LLC** on property located at **11250 Cerrito Drive, Clearlake Oaks**, further described as **APN: 006-007-17, -23, and -30** does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **June 23, 2022**.

***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*