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## STAFF REPORT

**TO:** Planning Commission

**FROM:** Mireya G. Turner, Community Development Department  
Michelle Irace, Principal Planner  
Prepared by Eric Porter, Associate Planner

**DATE:** January 11, 2024

**SUBJECT:** Consideration of proposed Major Use Permit UP 20-71 (Cruz Family Farms) and Mitigated Negative Declaration (IS 20-86) for approval of 130,680 square feet (sf) of outdoor cannabis cultivation area and 36,000 sf of greenhouse cultivation area located at 8300 Old Dirt Road, Kelseyville (APN: 007-023-05)

**ATTACHMENTS:**

1. Project Site Plans
2. Draft Conditions of Approval
3. Property Management Plan
4. Initial Study
5. Hydrology Report and Drought Management Plan
6. Agency Comments
7. Public Comments

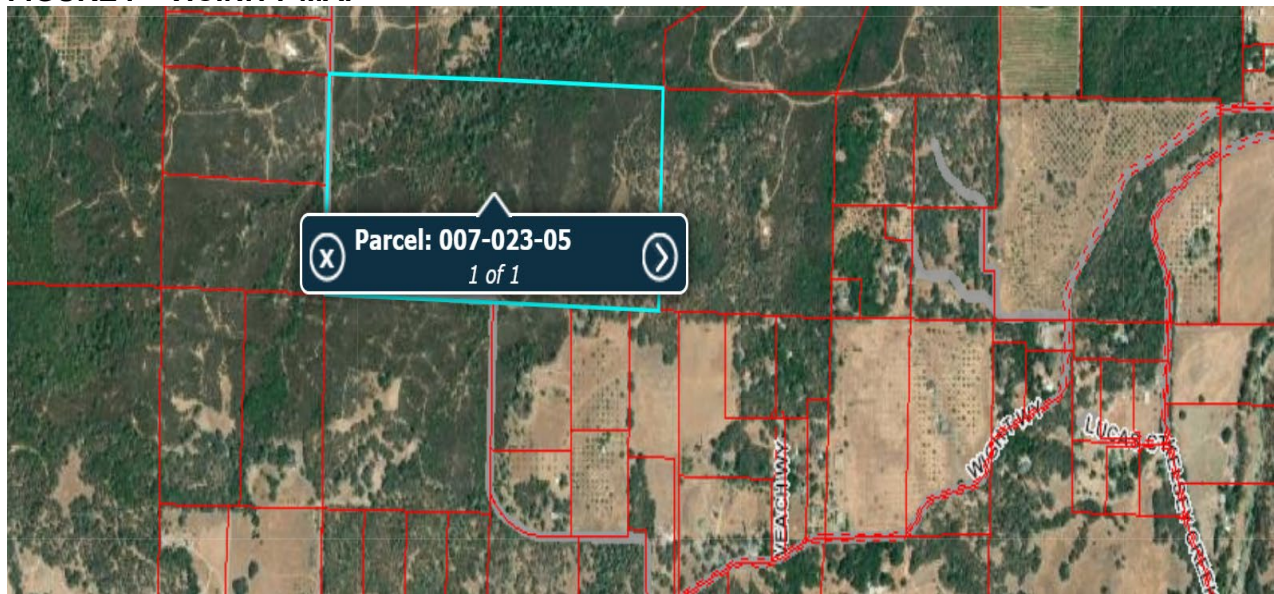
## EXECUTIVE SUMMARY

Cruman Family Limited Partnership, represented by Armando and Vanessa Cruz, requests discretionary approval of a Major Use Permit for a proposed commercial cannabis cultivation operation (Cruz Family Farms) located at 8300 Old Dirt Road, approximately 3 miles southeast of the township of Kelseyville. The project consists of 130,680 sf of outdoor cultivation with an estimated 110,000 sf of canopy; six (6) 30' x 200' greenhouses containing 36,000 sf of cultivation area with 22,000 sf of mixed light canopy, and one (1) A-Type 13 Distributor Transport Only, Self-distribution License to allow legal transportation of cannabis to and from the site.

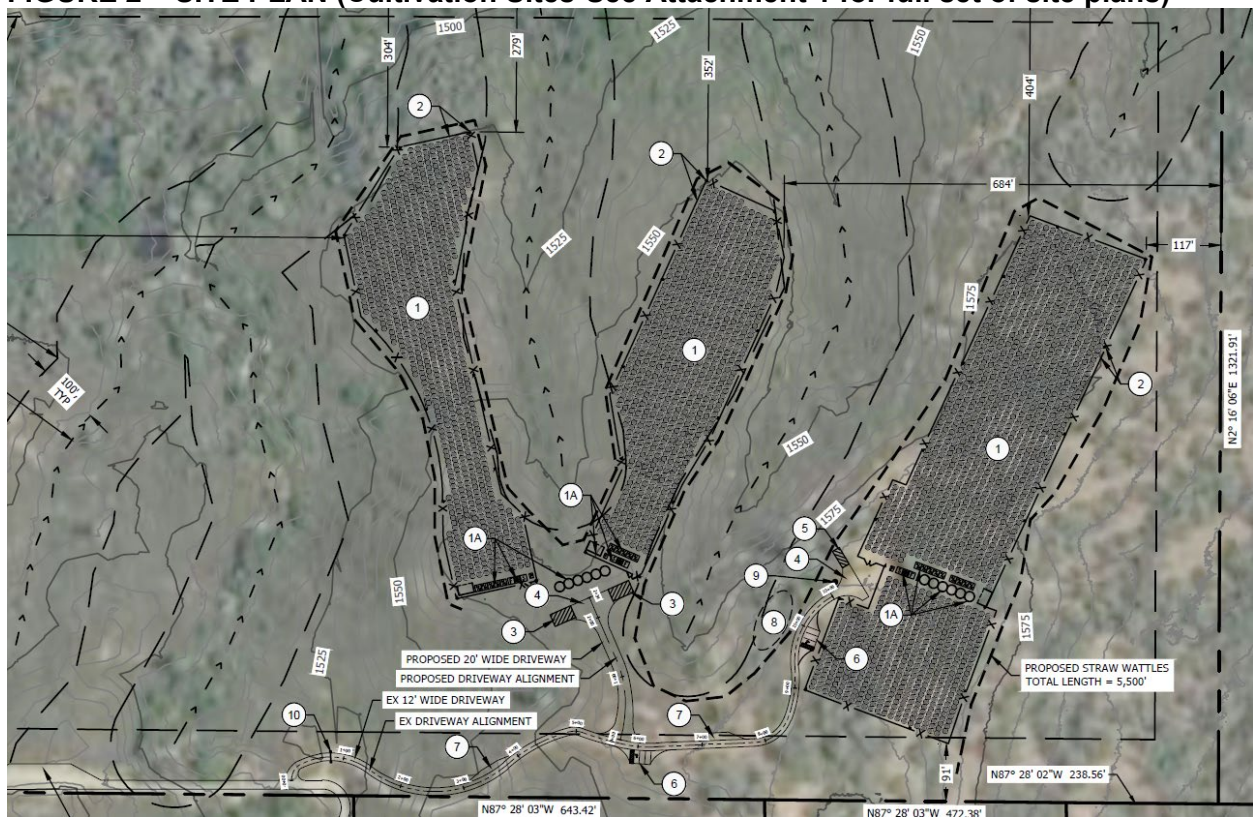
The subject site is accessed by a dirt and gravel shared accessway referred to as "Old Dirt Road," which connects with Wight Way in Kelseyville. The applicant has provided evidence that they have a legal right to use this shared accessway; this was confirmed by the Lake County Surveyor (Attachment 6, "Agency Comments").

The site is presently undeveloped. The project will rely on solar power and backup generators as a power source.

**FIGURE I – VICINITY MAP**



**FIGURE 2 – SITE PLAN (Cultivation Sites-See Attachment 1 for full set of site plans)**



## PROJECT DESCRIPTION

<u>Project Title:</u>	Old Dirt Road, Cruz Family Farms
<u>Permit Numbers:</u>	UP 20-71 and IS 20-86
<u>Lead Agency:</u>	Lake County Planning Division 255 N. Forbes Street, Lakeport
<u>Applicant Name &amp; Address:</u>	Cruz Family Farms 45 NW 125 Ave., Miami, FL 33182
<u>Property Owner:</u>	Cruman Family Limited Partnership
<u>Project Location:</u>	8300 Old Dirt Road, Kelseyville, CA 95451
<u>Parcel Number(s) (APN):</u>	007-023-05
<u>Parcel Size:</u>	±82.44 acres
<u>General Plan Designation:</u>	Agriculture
<u>Zoning District(s):</u>	Agriculture, Waterway (“A-WW”)
<u>Flood Zone:</u>	X, Low Risk of Flooding

Existing features on the property include the following:

- (1) Permitted groundwater well
- 12’ wide interior driveway
- Watercourse (more than 100 feet from the proposed cannabis cultivation area)

Proposed features as a part of the project include the following:

- (6) 30’ x 200’ greenhouses
- (1) 130,360 sf fenced cultivation area (outdoor)
- (8) 2,500 gallon water storage tanks
- (1) portable restroom and handwash station
- (2) 10’ x 10’ waste and fertilizer storage sheds
- (1) 8’ x 40’ shipping container
- (2) 9’ x 20’ parking spaces
- (1) 9’ x 20’ ADA parking space
- Driveway improvements
- Solar Power

## POINTS OF INTEREST

### Access

Access to the site was initially disputed by neighbors for purposes of cultivating cannabis on the site. After researching the parameters of the access easement (Old Dirt Road), the County found Resolution No. 82-42, which validated the 20’ wide recorded easements for the Old Dirt Road. The County then concluded that this applicant has legal access to their site, and that there is no conflict with the recorded access easements that are in place.



**Tree Removal.** The applicant has not stated that any trees will be removed, however the site plans submitted appear to show up to 30 oak trees that would need to be removed for the project. A condition of approval has been added that requires (1) a 3:1 replacement tree requirement using native tree species similar to any trees that would be removed (if oak trees are to be removed, then they must be replaced by native oak trees); trees are to be irrigated and maintained in a healthy state over the life of the project; and (2) prior to any tree removal, a bat and bird nesting survey by a qualified biologist is required; any tree that shows evidence of being used as a roosting site must be avoided.

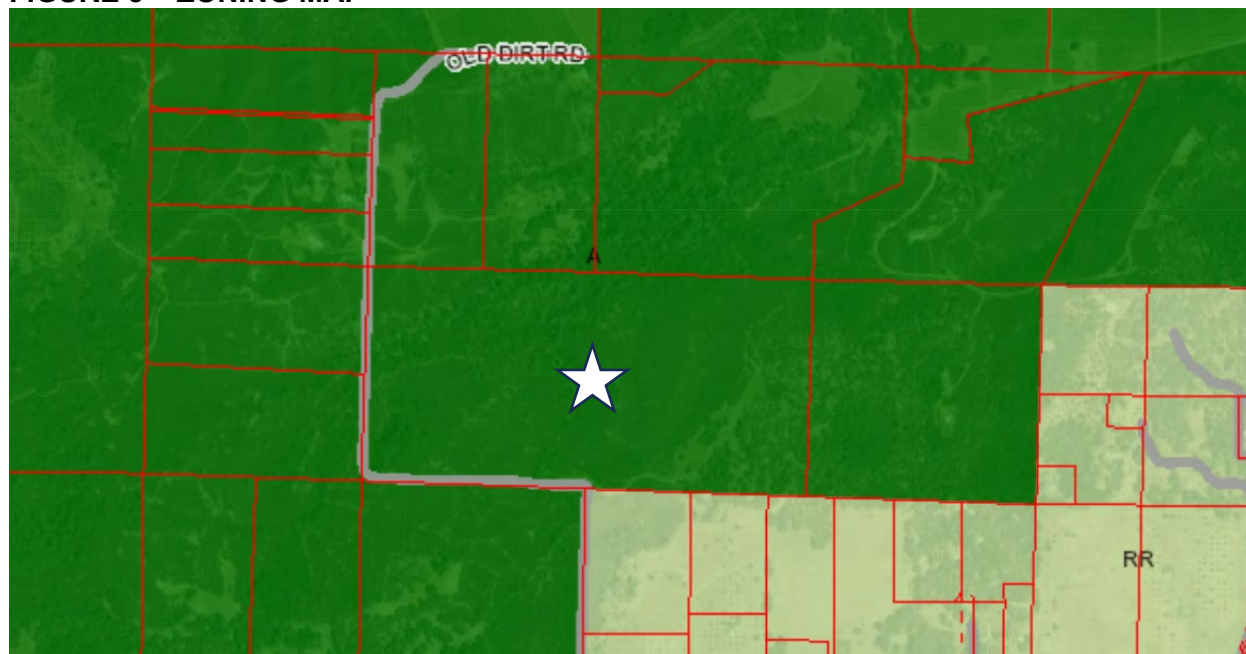
**Power.** In the event that the site will rely on solar power, a Solar Panel Plan shall be submitted to the Community Development Department for review; this will occur prior to or during building permit review. All panels shall be set back at least 30 feet from any property line and top-of-bank of any above ground ephemeral or seasonal water course.

## PROJECT SETTING

### Surrounding Zoning and Uses

- North: Agriculture (A), contains a dwelling and an orchard; approximately 20 acres
- North: Agriculture (A); properties ranging from  $\pm 20.9$  acres to  $\pm 47$  acres; undeveloped
- East: Agriculture (A),  $\pm 42$  acres; contains a dwelling
- Southeast: Rural Residential (RR), 3 lots, ranging in size from  $\pm 7.9$  to  $\pm 12.9$  acres; two lots contain dwellings and small orchards
- Southwest: Agriculture (A),  $\pm 39.8$  acres, contains a dwelling
- West: Agriculture (A), two lots, both  $\pm 20$  acres; both are undeveloped

**FIGURE 3 – ZONING MAP**



Source: Lake County GIS Mapping 2023

## PROJECT ANALYSIS

### General Plan Conformity

The property has a General Plan designation of Agriculture. This land use category includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture.

The following General Plan goals and policies apply to this project:

### Chapter 3-Land Use

Goal LU-1: 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 incompatible uses into existing community areas.

Cannabis cultivation is allowed in certain areas within Lake County upon issuance of a major or minor use permit depending on the project's size and characteristics of the site. In this case, the property is not located within a mapped Farmland Protection Area or within an Exclusion Area, and therefore would not be considered a non-compatible 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 this use permit will provide an opportunity for 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 three employees during 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. Cannabis grown on site will be sold in local retail outlets, further benefitting revenues for cannabis retailers.

Goal LU-2: 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 the type of operation and chemicals used for spraying.

All required setbacks for the project have been met, and there are no residential units within 940 feet of the outdoor cultivation area. The property is approximately ±82.44 acres, portions of which will create a separation buffer from other properties in the vicinity.

## Chapter 7 – Health and Safety

Goal HS-1: To ensure the County is protected from injury and damage resulting from natural catastrophes, man-made events, and hazardous conditions.

- Policy HS-1.3 Building and Fire Codes. The County shall ensure all buildings for human habitation are designed in compliance with the Uniform Building Code and other requirements based on risk (e.g. seismic hazards, flooding), type of occupancy, and location e.g. floodplain, faults).

The applicant is required to improve the interior driveway to meet Public Resource Code (PRC) 4290 and 4291 commercial driveway standards to allow adequate access for wildfire suppression. The applicant will have eight 2,500 gallon water tanks on site; one of these will be required to be fitted with connectors that will enable emergency responders to attach fire hoses to the tank in the event of an on-site fire. The tank shall be made of steel or fiberglass per CAL FIRE suppression tank standards.

Goal HS-5: To protect residents, visitors and property from hazardous materials through their safe use, transport and disposal.

- Policy HS-2.1 Hillside Development. Areas in excess of 30% slope or in a mapped naturally occurring asbestos areas may require submittal of engineered plans for all construction and grading at the discretion of the Community Development Department. These plans shall address roads, utility corridors, and similar off-site improvements as well as erosion and dust control. Development in other areas possessing potential landslide risk, regardless of slope, shall require engineered plans and/or geotechnical study prior to discretionary approval or approval of grading or building permits.

The project parcel has an average slope of about 25%, however the cultivation areas are located on portions of the parcel that are relatively flat. The applicant has provided drawings that show stormwater mitigation measures that adequately address slope and erosion control. There is no mapped asbestos on the project site.

- Policy HS-5.6 Contamination Prevention. The County shall review new development proposals to ensure that the soils, surface water and groundwater are protected from contamination.

The applicant will maintain a hazardous material storage container with the use of secondary containment as required for all commercial cannabis activities. The proposed project also meets the required 100-foot setback from any spring, top-of-bank of any creek or seasonal stream (Class II watercourse), edge of lake, delineated wetland or vernal pool. The project also meets the State required 50' setback from a Class III ephemeral watercourse.

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: Developers and/or subsequent owners must 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 applicant will be required to upgrade the interior driveway to meet PRC 4290 and 4291 commercial driveway standards. The applicant will be required to provide a 100 foot fire break around all structures; this must be maintained by the applicant for the life of the project. The applicant can limb up trees to a height of 8' to reduce the potential for ladder fire spread. Lastly, the applicant will be required to fit one of the 2,500 gallon tanks with connectors that will enable fire protection services to connect to a fire tank; the tank must be made of steel or fiberglass to meet CAL FIRE specifications for a fire suppression tank. This will be added as a condition of approval.

## **Chapter 8 – Noise**

Goal N-1: To protect County residents from harmful exposure of excessive noise and prevent incompatible land uses from encroaching upon existing and planned land uses.

- Policy N-1.4: Site Planning To Reduce Noise Impacts. The County should encourage proper site planning, architectural layout, and use of building materials as methods of noise attenuation. The following techniques should be considered to reduce noise impacts: increase the distance between noise source and receiver through the use of building setbacks and/or dedication of noise easement.

The project is situation in a relatively remote area, and shows setbacks that are no less than 117' from any property line. The nearest dwelling is located about 940 feet to the east of the outdoor cultivation area, and site preparation, which is a potential source of noise, would last approximately six to eight weeks, and would take place between the hours of 7:00 a.m. and 7:00 p.m., which is typically a time when residents are not sleeping.

## **Chapter 11 – Water Resources**

Goal WR-1: 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 ground water 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.

A Technical Memorandum (Memorandum) for this project was prepared by North Bay Civil Consulting and dated November 9, 2021 (Attachment 5). There is one (1) existing, permitted groundwater well that will be used as a water source for the project; according to the well test submitted, the well generates about 40 gallons per minute (GPM). The well was drilled to a depth of 125 feet with water being about 40 feet below grade.

Projected water demand for the project is based on four acres of cultivation area, with about 80% of that area being canopy. The Memorandum estimates 500 plants per acre (2,000 plants in total),

each requiring 6 gallons of water per day (GPD) for a total of 12,000 (GPD), or 4.4 acre-feet per year (about 1,430,000 gallons per year) over a 120-day cultivation season, or 6.7 acre-feet per year (about 2,177,500 gallons per year).

Water would be stored on site in eight 2,500-gallon water tanks. One tank would be reserved for fire suppression.

The site is located in the Big Valley water basin, a basin that is not listed as being 'critically over drafted'. The Memorandum estimates the annual recharge on 5,729 acres above the basin, based on rainfall that varies from 7.47 inches / year during drought years, to 31.4 inches during a non-drought year. The projected filtration rate is 50% of rainfall, which would allow between 1044.46 acre-feet and 1295.37 acre-feet to infiltrate into the aquifer per year. Projected water use would use about 0.42% and 0.64% of the total annual infiltration not taking other wells into consideration.

The Memorandum states that there are 463 domestic wells, 297 irrigation wells, 9 municipal wells, 29 monitoring wells, and 162 'other wells' that draw from the Big Valley aquifer. The estimated annual agricultural demand on this aquifer is 11,454 acre-feet per year. The percentage needed by this project is 0.6% of the total storage capacity, or about 6.7 acre-feet per year.

The Memorandum concludes that the total demand on the aquifer resulting from this project "would have little to no cumulative impact on the agricultural groundwater demand."

#### *Drought Management Plan*

The Urgency Ordinance approved by the Lake County Board of Supervisors on July 27th, 2021 (Ordinance No. 3106), requires applicants to provide a plan depicting how the applicants plan to reduce water use during a declared drought emergency. North Bay Civil Consulting prepared a *Drought Management Plan* for the proposed project by Cruz Family Farms on November 9, 2021 (Attachment 5). The *Drought Management Plan* proposes several water reduction measures, including routine inspections of water lines to ensure there are no leaks present, using drip irrigation as the sole method of watering the cultivation site, watering during cooler parts of the day to reduce evaporation, implementing sensors to measure soil moisture and determine when watering is necessary, implementing compost, mulch, and other organic materials to all cannabis plant soil to increase the soil's water-holding capacity, planting cover crops around cannabis plants to improve the soil's water-holding capacity, and utilizing conservation tillage to help increase water absorption.

#### **Kelseyville Area Plan Conformity**

The project site is located within the Kelseyville Planning Area and is under the jurisdiction of the Kelseyville Area Plan. The following policies within the Plan apply to this application.

#### **Chapter 3 – Natural Resource Policies**

- Objective 3.2: To encourage programs which reduce and limit the potential for soil erosion.

The applicant has provided an erosion control plan (Sheet 4.0 of Site Plans) prepared by North Bay Civil Consulting in order to minimize potential stormwater impacts to neighboring lots. The applicant will need to comply with the Statewide Waste Discharge Order for cannabis cultivators. The Erosion Control Plan shows straw wattles to be used to channel stormwater runoff. There are no creeks or watersheds located within 100 feet of the cultivation area, and the plans appear to



effectively minimize potential stormwater runoff issues that might otherwise be associated with this project.

- Objective 3.3: To protect and preserve the quality and quantity of water resources for the long-term development of the Kelseyville area.

The project has met the requirements of County of Lake Ordinance No. 3106, which requires a hydrological report and drought management plan be completed by a hydrologist, hydrogeologist, geologist or civil engineer, and that impacts from water use on the surrounding area be analyzed. This information was reviewed and incorporated into the initial study, which concluded that there will not be any significant impacts with the described mitigation measures in place.

- Objective 3.5: To encourage agricultural activities and development in Kelseyville Planning Area and limit the intrusion of incompatible development into prime areas.

Ordinance No. 3103 requires lots within Farmland Protection Areas to be cultivating inside greenhouses. However, the project is not located within a mapped Farmland Protection Area and is consistent with all development standards related to land use compatibility.

## **Chapter 5 – Land Use Policies**

- Policy 5.1b-1: A high priority should be given to providing service and employment opportunities locally in the Kelseyville Planning Area in order to boost economic development and reduce travel distances.

This applicant has an estimated three employees during regular operations and construction including during harvest season. In addition to the income made by these employees, the applicant will provide State-controlled product to local cannabis retail stores, further enabling more retail cannabis-related local employment. The project will benefit the County and State tax base by generating cannabis taxes annually.

## **Zoning Ordinance Conformity**

### Article 5 – Agriculture (A).

Purpose: To protect the County's agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture.

The cultivation of commercial cannabis is comparable to an agricultural use and would occur in pots or raised planter boxes. Pursuant to Article 27 of the Lake County Zoning Ordinance, mixed-light and outdoor commercial cannabis cultivation is permitted in the Agriculture zoning district with the issuance of a 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 permit, minor or major use permit in addition to any required building, grading and/or health permits.

Pursuant to Article 27 of the Lake County Zoning Ordinance, mixed-light and outdoor commercial cannabis cultivation is permitted in the Agriculture zoning district with the issuance of a Major Use

Permit. To qualify for a Major Use Permit the project must demonstrate that all regulations within Articles 5, 27, and 37 are met and any adverse environmental impacts are adequately mitigated.

#### 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.

All uses permitted in a property's base zoning district are permitted within the Waterway Combining District; however, no person shall undertake any development activity within a riparian corridor except when exempt or authorized by an exception. Mixed-light and outdoor cannabis cultivation is a permitted use in the property's-based zoning district, Agriculture, with the issuance of a Major Use Permit. Additionally, the project will not include development within 100 feet of a riparian corridor, as all development will be a minimum of 100 feet away from the top of bank of any watercourses.

#### **Development Standards, General Requirements and Restrictions**

This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection 13(at) of the Lake County Zoning Ordinance.

#### **Development Standards**

- Minimum Lot Size (20 acres per license): Complies; the subject site is ±82.44 acres in size. The applicant has applied for three (3) A-Type 3 "Medium Outdoor" cultivation licenses for 130,680 sf of outdoor cultivation area, one (1) A-Type 3B "Medium Mixed-Light" license for 36,000 sf of greenhouse cultivation area with 22,000 sf of canopy, and one (1) A-Type 13 Self-Distribution license. Three (3) A-Type 3 medium outdoor licenses and one (1) A-Type 3B medium mixed-light license requires a land area of 80 or more acres.
- Setback from Property Line (100 feet): Complies; the canopy area is 117 feet from the nearest property line.
- Setback from Off-Site Residence (200 feet minimum): Complies; the nearest neighboring residential dwelling is located about 940 feet away from the cannabis cultivation area.
- Fence Height between Six (6) and Eight (8) Feet: Complies; the proposed fence height is six (6) feet.
- Maximum Canopy Area (A-Type 3: 43,560 sf per license; A Type 3B: 22,000 sf per license): Complies; the proposed outdoor cultivation area is 130,680 sf. Three (3) A-Type 3 licenses at 43,560 sf per license would allow for 130,680 sf of outdoor cultivation area. The proposed mixed-light cultivation area is 36,000 sf, with 22,000 sf of canopy. The ±82 acre property is large enough to support these requested licenses.

## General Requirements

There are several general requirements for cannabis cultivation listed in Section 27.13(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a state license, completing background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements and site monitoring.

The applicant meets the General Requirements outlined in Section 27.13(at) of the Zoning Ordinance from the previous and the amended Ordinance (3101). The applicant has submitted a Property Management Plan (Attachment 3), outlining compliance with all regulations regarding cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, stormwater management, security and compliance monitoring. The applicant complies with the restrictions regarding the prohibited activities listed in Article 27, subsection 13(at). The project will also be setback from the property line and is located over 940 feet away from the nearest off-site residence, which is located northeast of the outdoor cultivation site.

Article 41, Performance Standards. All land use projects in the “A” zoning district requires review under Article 41. The following findings apply to this project.

- ❖ Section 41.2, *Exceptions*. This section only applies if a project:
  - Does not have potential to significantly impact the environment; or,
  - Does not have potential to create substantial public controversy; or,
  - Does not have potential to injure public health, safety or welfare.

The cultivation site is located on a ±82.44 acre property. Cannabis applications have the potential to create public controversy due to the public perceptions of the use combined with concerns about traffic, water, odor and security. The above exceptions do not apply to this project, and no exceptions to the performance standards apply due to the potential for objections to the project.

- ❖ Section 41.4, *Air Quality*. The project has some potential to impact air quality during construction and from operations. The outdoor cultivation area is 110,000 sf, and the greenhouse canopy area is 22,000 sf in size. Ground disturbance will consist of preparing the pad for the drying building and greenhouse pads. The Initial Study for this project has mitigation measures that will help reduce dust and wildfire threats during site disturbance. Odor control will occur inside the greenhouses through required carbon air filtration systems, however odor from the outdoor cultivation will be difficult to control at harvest time. No odor mitigation measures for the outdoor cultivation activity are proposed, however carbon filtration systems are required in all buildings that will contain mature cannabis plants.
- ❖ Section 41.5, *Electromagnetic Interference*. This section is intended to assure that a project will not impact any activity outside of the project area by producing electromagnetic interference. Cannabis cultivation activities do not generate electromagnetic interference, so this section does not apply.
- ❖ Section 41.6, *Erosion Control*. This section is intended to reduce or eliminate potential impacts associated with erosion, which is potentially prevalent during site disturbance. The applicant has submitted Erosion and Drainage Control Plans that show methods of erosion control that will be in place prior to ground disturbance and over the life of the project. The applicant is also required to apply for and receive a grading permit due to the extent of site improvements that will occur.

- ❖ Section 41.7, *Fire and Explosion Hazards*. The project site is located in a moderate and high fire risk area. The County is requiring certain mitigation measures that will reduce potential wildfire-related impacts.
- ❖ Section 41.8, *Glare and Heat*. The proposed structures have some potential for glare, primarily greenhouses and the proposed drying building. The building heights are not shown on the materials submitted. The applicant shall use non-glare materials for all buildings including windows. This is added as a condition of approval.
- ❖ Section 41.9, *Landscaping Standards*. The site has native landscaping that will in part screen the new use from neighboring uses, primarily the sites to the north and east. The applicant is proposing a 6' tall wire mesh screening fence, however the County no longer allows fabric screening material due to poor durability. The screening fence will further screen the cultivation activities from view around the perimeter of the cultivation area.
- ❖ Section 41.10, *Liquid, Solid and Hazardous Wastes*. The section applies to potential discharges of toxic elements. The project must rely on organic fertilizers and pesticides to meet State regulations for impurities. There may be some fuel used during construction for the construction vehicles; mitigation measures and Conditions of Approval require a spill containment kit be kept on site in the event of a fuel spill, and equipment staging will occur on previously disturbed portion of the site, which will minimize the potential for chemical infiltration into the soil in the event of a spill.
- ❖ Section 41.11, *Noise*. The project may generate some noise during construction which is expected to last about five to seven weeks. During operations, air filtration systems required in the greenhouses and processing building have potential to generate noise. Mitigation measures limit noise measured at the property lines during daytime and night-time hours. Violations of noise that are ongoing may cause the County to re-visit the approval of this use permit if it is approved.
- ❖ Section 41.13, *Radioactivity*. Cannabis cultivation projects do not produce radioactivity. This section does not apply.
- ❖ Section 41.15, *Vibrations*. There is some potential for groundbourne vibrations during site disturbance, primarily for building pad preparations. The applicant is limited in permissible noise levels during and after site disturbance activities occur; the type of equipment used in construction does not generate vibrations, and no mining, rock crushing or other activities that might cause vibrations are not permitted for this project.

### **Tribal Involvement**

On March 16, 2020, archaeologist Jay Flaherty conducted a Cultural Resource Reconnaissance (Report) on the project site. The Report summary stated that there were no cultural resources found on the site during the survey and recommended that the project proceed as planned.

On January 28, 2022, the County sent an AB52 notice to all eleven area Tribes. None of the notified tribes responded to the notice that offered consultation.

Notice was provided to Sonoma State's Northwest Information Center to confirm what cultural studies, if any, have been undertaken for this property. On February 10, 2022, Sonoma State

submitted a response letter to staff regarding the project. There have been no recorded surveys undertaken on the project site; Sonoma State recommended that a study by a qualified archaeologist be undertaken prior to commencement of project activities.

### **Agency Comments**

The following agencies provided comments on the project:

- CalCannabis
- CAL FIRE
- County Surveyor
- Lake County Public Works – Road Department
- Lake County Environmental Health Department
- Kelseyville Fire Protection District
- Northwest Information Center (Sonoma State)
- Lake County Special Districts
- North Coast Regional Water Quality Board
- Lake County Water Resources Department

Of the agency comments received, the following comments are of note (*full comments are in Attachment 6*):

- CALFIRE – greenhouse and structures require water on-site; must meet NFPA 1142 requirements and have 100' of defensible space around the buildings; 30' setback to any property lines for buildings
- Lake County Surveyor's Office – confirmed legal access (verified)
- Lake County Environmental Health (EH) – a 2019 site evaluation was conducted (for septic), and a 2018 well permit was issued. EH may require field clearance to validate septic or well locations prior to site plan approval. A written declaration of all chemicals to be used must be provided to EH
- Water Board – requires compliance with Water Control Board's Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities.

### **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 January 31, 2022 to March 3, 2022. Public comments received are included in Attachment 7.

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

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

#### **Aesthetics**

Impacts relating to Aesthetics have been reduced to Less than Significant with mitigation incorporated as follows.

- AES-1: Prior to greenhouse cultivation, the applicant shall use blackout screening in or on all greenhouses to prevent light from being visible from roads and neighboring dwellings.
- AES-2: Prior to greenhouse cultivation, the applicant shall install a 6' (or taller) screening fence around the greenhouse area. Any fence greater than 7' in height shall require a building permit.
- AES-3: Any oak tree with a diameter of 5" or more that is removed shall be replaced at a 3:1 replacement ratio on the property. The replacement trees shall be a similar specie; shall be irrigated, and shall be kept in a healthy state over the duration of the project.

### **Air Quality**

Impacts relating to Air Quality have been reduced to Less than Significant with mitigation incorporated as follows:

- 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 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 LCAQMD 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: Prior to outdoor cultivation commencing, the applicant shall plant fragrant plants along the southern edge of the outdoor cultivation sites. Fragrant plants should bloom at approximately the same time as when the cannabis plants are ready to harvest. Fragrant



plants shall be planted at no more than 2' intervals and shall be maintained in a healthy state for the duration of the project. The site plan shall be revised to show the specific areas where these fragrant plants are to be planted, as well as the irrigation line locations necessary to water these plants.

### **Biological Resources**

Impacts related to Biological Resources can be reduced to 'less than significant levels with the inclusion of mitigation measures as follows:

- **BIO-1:** Prior to tree removal or any ground disturbance, a pre-construction survey for special-status species shall be performed by a qualified biologist to ensure that special-status species are not present. If any listed species are detected, construction should be delayed, and the appropriate wildlife agency (CDFW and/or USFWS) should be consulted and project impacts and mitigation reassessed.  
If construction activities including tree removal or brush clearing occur during the nesting season (typically February through August), a pre-construction survey for the presence of special-status bird species or any nesting bird species shall be conducted by a qualified biologist within 500 feet of 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.
- **BIO-2:** If the total area of ground disturbance from installation of the cultivation operation is 1 acre or more, the Cultivator must enroll for coverage under the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit, 2009-0009-DWQ).

### **Cultural / Tribal Resources**

Impacts relating to Cultural / Tribal resources have been reduced to Less than Significant with mitigation incorporated as follows:

- **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 culturally affiliated Tribe(s) shall be notified, and a qualified archaeologist retained 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, they shall be treated in accordance with 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(s) shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Department shall be notified of such finds.

### **Noise**

There is potential for noise-related impacts associated with this project. The following mitigation measures will reduce potential noise impacts to 'less than significant' levels:

- NOI-1: The 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 at the property lines
- NOI-2: All construction activities including engine warm-up shall be limited Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels.
- NOI-3: The maximum one-hour equivalent sound pressure received by a receiving property or receptor (dwelling, hospital, school, library, or nursing home) shall not exceed levels of 57 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 50 dBA from 10:00 p.m. to 7:00 a.m. within residential areas measured at the property lines.

### **Transportation**

There is some potential for transportation-related impacts associated with this project. The following mitigation measures will reduce these impacts to 'less than significant' levels:

- TRANS-1: Prior to cultivation, the applicant shall improve the interior driveway in a manner that complies with Public Resource Code sections PRC 4290 and 4291. This includes, but is not limited to, surface material, road slope, road width, turnouts, vertical clearance. The applicant shall contact the Lake County Building Department to schedule a 4290 and 4291 inspection prior to any cultivation activity occurring on the site.

### **Wildfire**

There is a potential for increased wildfire risk from the project (related to access). However, adherence to the following mitigation measure would reduce impacts to 'less than significant' levels:

- Adherence to Mitigation Measure TRANS-1 (see above)

### **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.

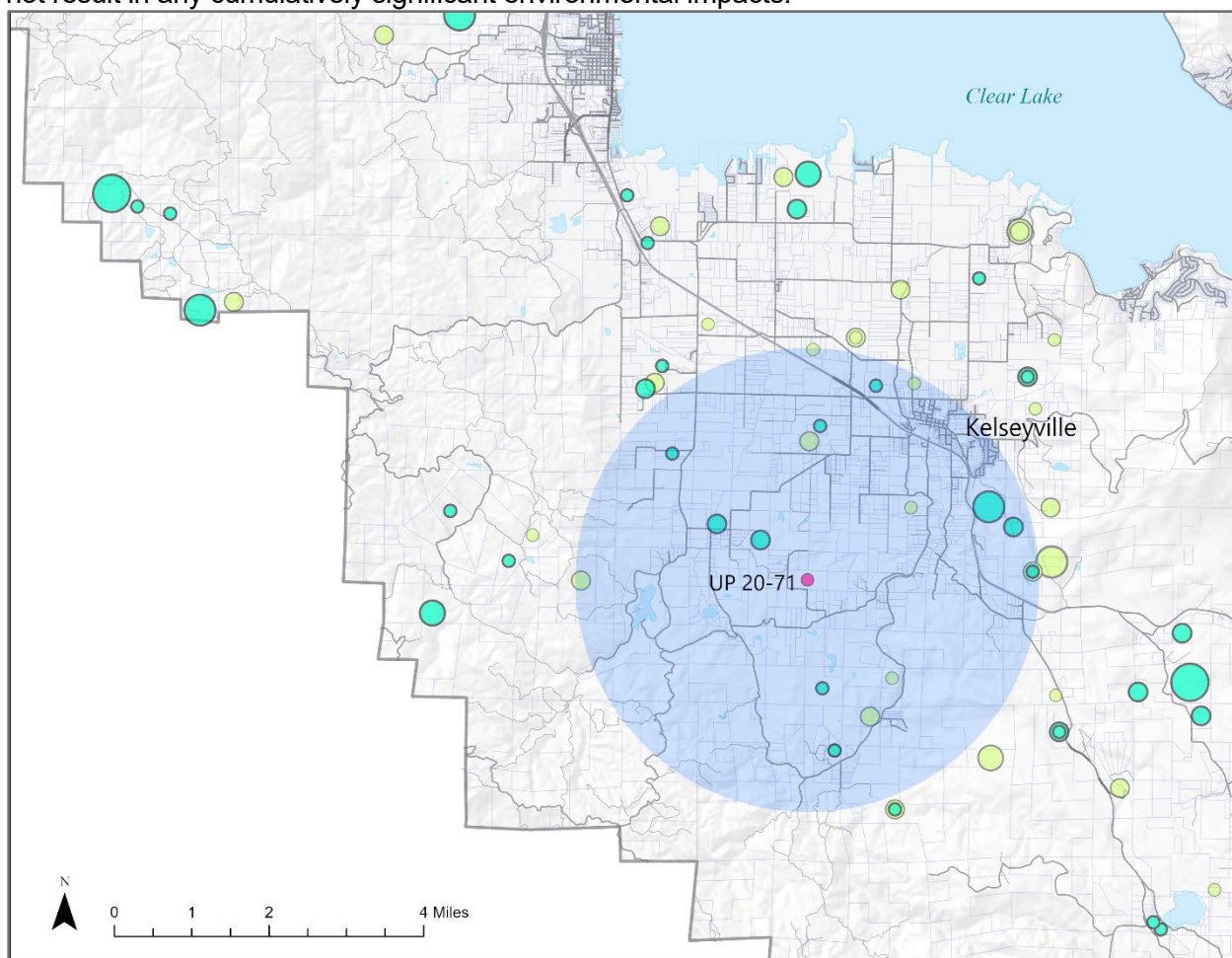
The project is located in a low density area with scattered single family dwellings and small hobby farms on lots that are between 7 and 40 acres in the vicinity. Public comments received have expressed concerns about the impacts associated with traffic on the Old Dirt Road; noise, security and water depletion (see Attachments 3 and 5). These concerns have been addressed through the management plan and technical studies undertaken by professionals as a part of the application/project submittal. Issues raised have also been adequately analyzed within the Initial Study for UP 20-71 (Attachment 4). As noted in the Initial Study, all impacts would be reduced to less than significant levels with incorporation of the mitigation measures identified therein.

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Noise, Transportation, Tribal Cultural Resources and Wildfire. These impacts in combination with the impacts of other past, present, and reasonably foreseeable future projects could cumulatively contribute to significant effects on the environment. However,

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.

## CUMULATIVE IMPACTS

Within a one-mile radius of the project there is one approved cannabis project, and there are ten approved projects and seven pending projects within three miles of the project site. Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Noise, Transportation, Tribal Cultural Resources, and Wildfire. These impacts in combination with the impacts of other past, present, and reasonably foreseeable future projects could cumulatively contribute to significant effects on the environment. However, implementation of and compliance with mitigation measures identified in each section as project conditions of approval for each project would avoid or reduce potential impacts to less than significant levels and would not result in any cumulatively significant environmental impacts.



Source: Community Development Department – Planning Division

## 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 Board of Supervisors have adopted legal cannabis cultivation projects in Lake County per Article 27.13(at) subject to review and approval of a major or minor use permit depending on the scale of the project and the lot size. The applicant's property is ±82.44 acres in size; each 20 acres of land is potentially eligible to apply for one A-Type 3 medium outdoor license, or one A-Type 3B medium mixed-light (greenhouse) license. The applicant has applied for three (3) A-Type 3 medium outdoor licenses and one (1) A-Type 3B medium mixed light license; these licenses require 80 acres of land. The applicant's lot is therefore large enough to qualify for these licenses if all required standards and criteria that apply to commercial cannabis cultivation can be met. Neighbors have raised concerns about this project (Attachment 7). The individual concerns raised are all addressed within the numerous studies, plans and materials submitted by the applicant. Based on the materials submitted, the project will not adversely impact the area or the quality of life to those living in the area.

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 property is ±82.44 acres in size; 80 acres is the minimum land area required for the cannabis cultivation proposed. As stated in the response to "1" above, the site is large enough to accommodate the cannabis permits requested by the applicant while still meeting all required setbacks (four licenses each requiring 20 acres of land).

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

The site is served by the Old Dirt Road, a legally-established shared dirt and gravel access easement that is privately maintained. A question of legal access was raised by a concerned neighbor; the Lake County Surveyor confirmed that the access was a legal access to the property (Attachment 6). The applicant is required to improve the interior driveway to meet Public Resource Code (PRC) 4290 and 4291 commercial driveway standards to allow adequate access.

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 site will be served by the Kelseyville Fire Protection District; the Lake County Sheriff's Department, solar power, on-site septic system and a permitted on-site well.

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 project was reviewed for compliance with the General Plan, the Kelseyville Area Plan and the applicable portions of the Lake County Zoning Ordinance. As discussed within this staff report, the project is consistent with the aforementioned.

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 documented violations on the project site.

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

The purpose of this report is to evaluate the levels of compliance with the standards and criteria found in Article 27, section 1.i., as well as other portions of the Zoning Ordinance, General Plan and Kelseyville Area Plan.

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

The applicant is qualified to make this application as he has passed a 'Live Scan' background check.

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

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

## **RECOMMENDATIONS**

Staff recommends the Planning Commission take the following actions:

- A. Adopt Mitigated Negative Declaration (IS 20-86) for Major Use Permit (UP 20-71) with the following findings:
1. Potential environmental impacts related to Aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measure AES-1 through AES-3.
  2. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-7.
  3. Potential environmental impacts related to Biological Resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 and BIO-2.
  4. Potential environmental impacts related to Cultural / Tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
  5. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-3.
  6. Potential environmental impacts related to Transportation can be mitigated to less than significant levels with the inclusion of mitigation measure TRANS-1.
  7. Potential environmental impacts related to Wildfire can be mitigated to less than significant levels with the inclusion of mitigation measure TRANS-1.

B. Approve Major Use Permit (UP 20-71) 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, Kelseyville 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. 130,680The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

**Sample Motions:**

**Mitigated Negative Declaration (IS 20-86)**

I move that the Planning Commission adopt Mitigated Negative Declaration (IS 20-86) for Cruz Family Farms for the property located at 8300 Old Dirt Road, Kelseyville, (APN: 007-023-05) with the findings listed in the staff report dated January 11, 2024.

**Major Use Permit (UP 20-71)**

I move that the Planning Commission approve Major Use Permit (UP 20-71) for Cruz Family Farms for the property located at 8300 Old Dirt Road, Kelseyville, (APN: 007-023-05) based on the findings and subject to the conditions included in the staff report dated January 11, 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.*