

To: Lake County Planning Commissioners

cc: Director Darby, Deputy Director Turner, Andrew Amelung, Jim Feenan, Supervisor Crandell.

Date 8/4/22

Re: Lamperti Farms UP 20-51, Scheduled for 8/11/22

We appreciate the opportunity to comment on the Lamperti Farms cannabis project, UP 20-51. Our issues include plan discrepancies, aesthetics, noise, odor, security, water usage and conformance with area plans.

We have reviewed the currently-available documents and have comments and questions. For brevity, we are making our comments below, and have included the actual citations at the end of the document. (Cit. #)

Project Scope Discrepancies Within and Amongst Documents - (Citations A and Attachment I)

The documents uploaded to CEQANET clearinghouse contain numerous project discrepancies (Citations A). When reviewing the Property Management Plan, Notice of Intent, Initial Study, Staff Report and Site Plans, the locations, number of parcels, size of project vary from:

- Total Acreage: 257 and 340 acres
- Number of licenses: 10 to 11
- 6-8 Parcel APNs for Clustering
- 1-2 Parcels for Cultivation
- Cultivation Area: 433,040 square feet to 476,650 to 14 acres (609,840 square feet)
- Water usage 6,076,480 gallons per year to 8,128,135 gallons per year.

In particular, the project parameters in the Staff Report (received yesterday) have increased from the Initial Study (uploaded to CEQANET) and the Notice of Intent (published 7/25, Attachment I) - from 1 parcel of cultivation (006-520-11) to 2 parcels (006-520-11 and 12), 10 medium outdoor licenses to 11, and the cultivation area has increased from 433,040 sf to 476,650 sf (9.9 acres to 10.9 acres.)

Hydrology, Water Usage and Drought Plan - (Citations B)

According to the documents, groundwater usage at the project site is currently used for livestock at 1.34 acre-feet per year.

The Initial Study Section X(b) for Hydrology/Water states the entire site water usage (cultivation, livestock and employees) would be approximately 24.94 acre-feet/year with a peak demand of 51,594 gallons/day. Yet Section XIX(b) for Utilities/Services cites different figures of 22.12 acre-feet per year with a peak demand of 43,060 gallons/day - this is a discrepancy of roughly 20%, and also an increase of 16 to 18 times water usage for cultivation over livestock.

The Staff Report states the well is (theoretically) "capable of producing 108,641,847 gallons per year. The applicant proposes approximately 6,076,480 gallons to be used on an annual basis for the cultivation season (April – November). This calculates to approximately 5.5% of the wells full capacity."

The Staff Report neglects to mention the portion of the Hurwitz hydrology report/drought management plan

which states that recharge figures during extreme drought are listed as 32.56 acre-feet/year. This would mean the project would be using between 68% to 77% of the available water during drought conditions, as opposed to 4% for grazing/livestock. Please also note that the water availability/usage in the report appears to be based on smaller parameters than mentioned in the Staff Report.

Additionally, since the latest well reports were taken in February 2020 (and showed a decline of 30% since the well was installed), we are not sure why the Water Availability Study of 8/23/21 (updated on 3/31/22) did not include new well figures from the summer of 2021 or spring of 2022.

Proximities to Communities and Growth Boundaries

Article 27, Section 27(at) states "the *minimum* setback from a Community Growth Boundary is 1,000 feet." The cultivation project is located roughly 1250 feet from the south/southeast corner of the Clearlake Oaks Community Growth Boundary. Clearlake Oaks has three major housing neighborhoods near this border-Keys POA, Orchard Shores and Lake Village Estates - with approximately 1000 parcels; while Lake Village Estates is one parcel, it is comprised of 159 spaces. Additionally, the Elem Tribal properties are located 1/2 mile from the project, and contains roughly 20 residences.

The 2020 Census states Clearlake Oaks has a population of 2,194. This comprises a large percentage of Clearlake Oaks residents just over the "minimum" setback.

Cultivation Less than 1000 feet from Clear Lake - (Citations C)

Section X(a) of the Initial Study states the proposed cultivation areas are located over 700 feet east of Clear Lake at full lake level of 7.79 feet on the Rumsey Gauge.

According to Article 27, commercial cannabis cultivation is prohibited within 1,000 feet of public lands. The California State Lands Commission defines public lands as including "submerged lands" such as lakes.

The Staff Report makes no mention of Clear Lake's proximity nor this setback, though does mention it is 500 feet from wetlands.

Scenic Combining District -(Citations D and Attachment H)

The Initial Study (Pg 12 Scenic Combining) states "the project will need to comply with all regulations in the Scenic Combining District (Article 34 of the Lake County Zoning Ordinance) intended to protect and promote the visual quality."

While the cultivation parcel APN 006-530-11 is zoned Scenic Combining, the Initial Study states that SC only pertains to 500+ feet from Sulphur Bank Drive, based on County Records.

The County has not been able to find any legal document that upholds the "penciled-in" unsigned and undated 500 foot Scenic Combining setback on the Assessor's maps. (Citations D and Attachment H), thus the SC designation should apply to the entire parcel.

Additionally, while the Staff Report mentions the cultivation parcel is zoned APZ-WW-SC on page 3, page 10 only lists the Waterway Combining District - there is no mention of Scenic Combining District at all, nor is it mentioned on page 13 on Zoning Ordinance Conformance. It goes further to state that the project parcels are not located in a known scenic area.

Inconsistencies with the Shoreline Area Plan - (Citations E)

The Shoreline Area Plan Committee compiled a number of major planning issues to be used as a guide, specifically noting, "There is inadequate protection of scenic view sheds along scenic highways and roads."

The plan outlines several priorities and goals focused on maintaining aesthetics from both water and land, the importance of the Scenic Combining Designation, and specifically calls out the use of permeable fencing that will not obscure views. (Citations E).

The only consistencies with the Shoreline Area Plan that were stated in the Staff Report (pg 12-13) included off-site drainage, locked gates and no burning of vegetative waste. Please note that the applicant was given two Air Quality Notice of Violations on 1/24/2022 for burning vegetative waste, including cannabis.

Insufficient Mitigations for Aesthetics, Visibility, Noise and Odors

The applicant proposes to plant olive trees to shield the project from view. Olive trees are classified as slow-growing, at most 2 – 4 inches of new growth a year. When the use permit expires in 10 years, the plants will have grown 2-3 feet.

The project sits along the edge of the lake, making it very difficult to shield the view from the surrounding hills. The project can be seen from numerous residential areas such as High Valley Road, Sulphur Bank Drive, North Drive, Widgeon Way, Lakeview, Konocti Drive. The white plastic is visible from our house (nearly 2 miles away) and possibly can be seen from the top of Mt. Konocti.

This setting also compounds Noise and Odor issues, which travel more easily and farther across open space/water. In the past, Keys residents often commented on the ability to hear cowbells from the project parcels.

The Clearlake Oaks Boat Launch is one of the busiest in Lake County due to fishing activities and as one of the few accessible launches during low water levels. At various times of the year, dozens of fishing vessels can be seen between Rattlesnake Island and the proposed project. Additionally, Lake County's Konocti Regional Trail System directs kayakers/paddleboarders around Rattlesnake Snake Island and the perimeter of Clear Lake via the popular Water Trail #1.

Security Issues and Access

The Property Management Plan details the Security Plan in Section G. While it appears there will be security cameras around the perimeter of the cultivation area, and on road gates, it does not address the possibility of access via boat from Clear Lake.

Transportation - (Citations F)

Page 37 of the Transportation states, "There are no known pedestrian or bicycle facilities on Sulphur Bank Drive in the vicinity of the project. Sulphur Bank Drive is a two-lane road with narrow shoulders unsuitable for pedestrian or bicycle traffic."

The County's Konocti Regional Trail System has ten Bike Trails, two are on Sulphur Bank Drive (Bike Trails #1 and 2).

Additionally, the Lake Area Planning Council has listed a Bike Path from Hwy 20 via Sulphur Bank Drive to Clearlake City Limits

Cumulative Impacts and Mandatory Findings of Significance (Citations G)

Section XXIb of the Initial Study addresses Cumulative Impacts. The document states there are two other cannabis proposals within a 1.5-mile radius of this project. No cumulative impacts are expected at this point. ... Incremental impacts, if any, would be very small, and the cumulative impact of the cultivation operation, in combination with other projects in the areas, would be less than significant."

The applicant, Lamperti Farms submitted a second project proposal in late 2021 to be located at 1100 Sulphur Bank Drive on 8 parcels with a clustered area of 315 acres. The project proposes cultivation of 645,520 square feet (nearly 15 acres) on APN 010-002-035 - this project is contiguous to the current project proposal. It is pending a Drought Management Plan and Hydrology Report.

Dependent on which figures are correct in the Initial Study and Staff Report, this project would be from slightly larger to 50% larger than the current project, thus more than doubling potential impacts. The potential combination of both contiguous projects could be more than "no cumulative impacts expected at this point" and "less than significant."

Issues with Mitigations

In Section V: Environmental Review, the Staff Report states there are 12 areas that had potentially significant impacts. It references an Attachment 7 (which we do not have) but we can not find the sections that deal with Wildfire, Hazards and Hazardous Materials, Transportation and Utilities/Service Systems as outlined on pages 15-21 for the other impacts.

How does this impact the Major Use Permit sample motion that the "Use Permit be granted subject to the conditions and findings listed in the Staff Report dated July 28, 2022.

Summary

The staff report recommends a mitigated negative declaration based on the Initial Study, but there are many discrepancies between the two documents and the legal NOI - in fact, we do not have a clear understanding of the project parameters.

This is a highly visible project just over 1000 feet from a Community Boundary where the majority of Clearlake Oaks residents reside.

We feel findings can not be made due to published project inconsistencies, conformance with the Shoreline Area Plan, less than 1000 foot proximity to Clearlake, cumulative impacts and water availability/usage.

We request that the Planning Commission deny Use Permit 20-51 for Lamperti Farms.

Holly Harris/Chuck Lamb - Clearlake Oaks residents

CITATIONS

Citations A: Project Scope Discrepancies

Property Management Plan - CEQANET 5/27/2022 - 7 parcels. canopy area of 432,800 ft²; cultivation 433040 sf. 257 acres total. APNs 006-520-10, 11, & 12, 006-540-02 & 08, and 010-002-37 & 53. Canopy area APN 006-520-11.

Property Management Plan - CEQANET 5/27/2022 Map on pg 7: About 340 acres with 8 parcels, APNs 006-520-10, 11, & 12, 006-540-02 & 08, and 010-002-35, 37 & 53. Canopy area APN 006-520-11.

Notice of Intent: NOI - CEQANET 5/27/2022. Summary - 7 parcels with cultivation on 006-520-11 and 12 under APN in the summary.

Notice of Intent - CEQANET 5/27/2022 Description says project on 006-520-11 (canopy area) with 5 other APNs 006-520-10, 006-540-02 & 08, and 010-002-37 & 53. (6 total).

Notice of Intent - CEQANET 5/27/2022 Map shows 6 parcels (different from the 6 above). APNs 006-520-10, 11, & 12, 006-540-02, and 010-002-37 & 53. Canopy area APN 006-520-11. but shows structures on 006-520-10.

Notice of Intent - Legal 7/25/22 (Attachment I). 7 parcels with bolded parcel 006-520-11. Project description 10 outdoor licenses totaling 432,800 sf.

Initial Study Pg 2: Lists 7 parcel for a total of 256.67 acres :

- 006-520-10: Approximately 24.38 acres in size. (Clustering)
- 006-520-11: Approximately 72.47 acres in size (Cultivation)
- 006-520-12: Approximately 3.54 acres in size. (Clustering)
- 006-540-02: Approximately 40.25 acres in size. (Clustering)
- 006-540-08: Approximately 29.28 acres in size. (Clustering)
- 010-002-37: Approximately 81.29 acres in size. (Clustering)
- 010-002-53: Approximately 5.46 acres in size. (Clustering)

All commercial cannabis cultivation activities would occur at 1111 Sulphur Bank Dr, Clearlake Oaks, further described as Assessor Parcel Number 006-520-11 (Project Parcel).

Initial Study Pg 3: Figure 1 shows proposed cultivation on 006-520-11 and 006-520-12

Initial Study Pg 6: Shows different 6 parcels. APNs 006-520-10, 11, & 12, 006-540-02 and 010-002-37 & 53. Canopy area APN 006-520-11.

Initial Study Section IIa Agriculture and Forestry Resources on pg 13: The Project will utilize approximately 14 acres (5.5%) of the 256.67-acre Project Property. (Please note 14 acres is 609,840 square feet.)

Initial Study Section IIa Agriculture and Forestry Resources on pg 13: Map shows 6 parcels (but mentions 7 parcels). APNs 006-520-10, 11, & 12, 006-540-02 and 010-002-37 & 53. Canopy area APN 006-520-11.

Initial Study Section VIIa Geology and Soils on pg 23: Project Slope. Map shows 6 parcels (but mentions 7 parcels). APNs 006-520-10, 11, & 12, 006-540-02 and 010-002-37 & 53. Canopy area APN 006-520-11.

Initial Study Section XXa Wildfire on pg. 42: Map shows 6 parcels (but mentions 7 parcels). APNs 006-520-10, 11, & 12, 006-540-02 and 010-002-37 & 53. Canopy area APN 006-520-11.

Uploaded Site Plans Titled Attachment B: Map pg 2 shows different 8 parcels for a total of 340 acres. APNs 006-520-10, 11, & 12, 006-540-02 & 08, and 010-002-35, 37 & 53. Canopy area APN 006-520-11.

Uploaded Site Plans Titled Attachment B: Map pg 3 shows different 6 parcels. APNs 006-520-10, 11, & 12, 006-540-02 and 010-002-37 & 53. Canopy area APN 006-520-11.

Uploaded Site Plans Titled Attachment B: Map pg 5 shows different proposed conditions of 7 parcels, APNs 006-520-10, 11, & 12, 006-540-02 & 08, and 010-002-37 & 53. Canopy area APN 006-520-11.

Staff Report: Pg 1 : Cultivation would occur on APNs 006-520-11 and 12. The proposed commercial cannabis cultivation operation would be composed of eleven (11) A -Type 3 "Medium Outdoor" cultivation areas.

Staff Report: Pg 2 depicts 7 parcels totaling 257-acres for the parcel size.

Staff Report: Pg 3 states "The parcels are located approximately 0.55 miles (2,900 feet) southwest of the intersection of Highway 20 and Sulphur Bank Dr. Additionally, the cultivation site is located approximately 1,240 feet from the nearest Community Growth Boundary.

Staff Report: Pg 7 states "The parcel is located approximately 0.72 miles (3,793 feet) southwest of the intersection of Highway 20 and Sulphur Bank Dr. Additionally, the cultivation site is located approximately 1,433 feet from the nearest Community Growth Boundary.

Staff Report: Pg 7. Total acreage of the parcels combined is approximately +416.06 acres.

Citation B: Initial Study Water Usage/Drought

Section X(b): The estimated groundwater usage for the entire project including employees is approximately 24.94 acre-feet/year. Average annual recharge available to the site aquifer is estimated at 122.1 acre-feet/year. Estimated cultivation irrigation water use – 24.87 acre-feet/year; Livestock groundwater use – 1.34 acre-feet/year. Site worker water use – 0.08 acre-feet/year. Total estimated site water use – 26.29 acre-feet/year. Estimated annual recharge – 122.1 acre-feet/year. Estimated recharge including severe drought – 32.56 acre-feet/year. Irrigation well sustainable pumping rate – 172 gallons per minute (gpm). Peak daily water demand for cannabis – 51,594 gallons/day.

Section XIX(b): The estimated groundwater usage for the entire project including employees is approximately 20.7 acre-feet/year. Average annual recharge available to the site aquifer is estimated at 122.1 acre-feet/year. Based on well yield test data collected at the site it appears that the aquifer storage

and recharge area are sufficient to provide for sustainable annual water use at the site and within the area. Additionally, the report identified the following water usage calculations: Estimated cultivation irrigation water use – 20.7 acre-feet/year. Livestock groundwater use – 1.34 acre-feet/year. Site worker water use – 0.08 acre-feet/year. Total estimated site water use – 22.12 acre-feet/year. Estimated annual recharge – 122.1 acre-feet/year. Estimated recharge including severe drought – 32.56 acre-feet/year. Irrigation well sustainable pumping rate – 172 gallons per minute (gpm). Peak daily water demand for cannabis – 43,060 gallons/day.

Staff Report: Pg 8 states, "The existing well has an estimated yield of 172 gallons per minute ... in a pump test dated May 22, 2020. 172 gallons per minute translates to approximately 108,641,847 gallons per year. The applicant proposes approximately 6,076,480 gallons to be used on an annual basis for the cultivation season (April – November). This calculates to approximately 5.5% of the wells full capacity.

Staff Report: Pg 11 states, "Policy WR -1.2: Sustainable Groundwater Withdrawal. The estimated annual water-use for the entire 10.9-acre cultivation project (outdoor cultivation and employees) is 8,128,135 gallons, which is approximately 24.94 acre-feet of groundwater/year.

Hurwitz Drought Management Plan (updated 3/31/2022):

- "We understand that Anthony Lamperti, (the applicant) is applying to Lake County for approval to develop approximately 9.9-acres (432,800 ft² of cannabis canopy) of outdoor cannabis cultivation. (the project) at the property identified as 1111 Sulphur Bank Drive, Clearlake Oaks.(section 1)
- Cultivation activities are only proposed on parcel APN 006-520-11 deeded 72.47 acres (Cultivation Parcel).
- 4.2.1 Drought Conditions: The recharge assessment was based on a recent 5-year average for rainfall in the region (2013- 2017). However, this average, while lower than the 30-year average, did not account for severe drought conditions as we have seen over the past 2 years (2019-2021). **Estimated Severe Drought Value for Groundwater Recharge = 32.56 acre-feet/year**

Citation C: Proximity to Public Lands

Article 27, Pg 27-120. v(c). Commercial cannabis cultivation is prohibited within a 1,000 feet of the following areas or uses: c. Public lands.

California Public Access Guide (pg 7):

<https://www.slc.ca.gov/wp-content/uploads/2018/11/2017-PublicAccessGuide.pdf>

The California State Lands Commission was established in 1938 to manage these trust lands of approximately 4 million acres of ungranted tidelands, submerged lands, and the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, as well as all the state's remaining jurisdiction and authority in lands that have been granted by the state. These lands, often referred to as "sovereign lands" or "public trust lands," stretch from the state's northern border with Oregon to the southern border with Mexico and include the tide and submerged lands on the Pacific Coast as well as world-famous waters, such as Lake Tahoe, Mono Lake, and the Colorado River.

Citations D and Attachment H: Scenic Combining and Photocopy of Assessor's Map

Initial Study, Pg 11: The project site is located in a rural area that is accessed off of Sulphur Bank Drive, which is a designated scenic corridor. According to County Records, the Scenic Corridor expands to approximately 500+ feet from Sulphur Bank Drive. However, the cultivation site is located approximately 910 feet from Sulphur Bank Drive. The proposed project meets the development standards identified in Article 34 (Scenic Combining District) of the Lake County Zoning Ordinance intended to protect scenic corridors and resources.

Initial Study, Pg 12: The project will need to comply with all regulations in the Scenic Combining District (Article 34 of the Lake County Zoning Ordinance) intended to protect and promote the visual quality.

Staff Report, Pg 15: 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.

Please see attachment H for a photocopy of the Assessor's Map.

Citation E: Shoreline Area Plan Excerpts:

Priorities include

- Providing opportunities for bicyclists, pedestrians, automobiles and boaters from both land and water to enjoy scenic resources. (pg 1)
- Preserving views of Clear Lake (and Mt. Konocti) along the Highway 20 corridor and other county roads, as well as from Clear Lake to the ridgetops. (pg 1)
- Maintaining the numerous panoramic views and scenic highway viewsheds within the Shoreline Communities Planning Area, including mountain and hillside vistas as well as lake views, both of the view spots and from the view spots. (pg 1)

Objective 3.4.4 Protect and enhance the recreation-based economy in the Shoreline Communities Planning Area by preserving scenic resources. (pg 5)

- 3.4.4a Scenic viewsheds within the planning area shall be protected to the greatest extent possible. Rezone areas on Scenic Routes to include “SC”, Scenic combining district (pg 5. Priority immediate)

Objective 3.4.5 Provide opportunities for bicyclists, pedestrians, automobiles and boaters from both land and water to enjoy scenic resources. (pg 5)

5.1.3d Provide additional protection aimed at preserving the view-shed along the shoreline of Clear Lake and views of ridgelines. (pg 6. Priority High).

Design Guidelines pg 8: Any fencing across the view corridor shall be visually permeable and any landscaping in this area shall include only low-growing species that will not obscure Clear lake views. Existing natural vegetation may remain.

Citation F: Transportation

Lake Area Planning Council has listed a Bike Path from Hwy 20 via Sulphur Bank Drive to Clearlake City Limits.

<https://www.lakeapc.org/wp-content/uploads/2018/06/Final-ATP-Plan-2016.pdf>)

Lake Active Transportation Plan Bikeway Facilities. Map 1 pg 75 Sulphur Bank Drive is Proposed Class III Bike Route. Map 18 on pg 92 and Map 20 on pg 94.

Konocti Regional Trail System: Bike Routes: <http://konocitrails.com/trails/bike/>

Citation G: Cumulative Impacts and Mandatory Findings of Significance

Initial Study Section XXIa Mandatory Findings of Significance on page 44. "There are currently no approved commercial cannabis projects with a three-mile radius of the project site, however there are two other commercial cannabis project proposals within a 1.5-mile radius of this project. No cumulative impacts are expected at this point."

Initial Study Section XXIb Mandatory Findings of Significance on pg 45. "Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?"

"Incremental impacts, if any, would be very small, and the cumulative impact of the cultivation operation, in combination with other projects in the areas, would be less than significant. The proposed project would not contribute to any significant cumulative impacts which may occur in the area in the foreseeable future."

Attachment H - Assessors Map and Attachment I - Published Notice of Intent

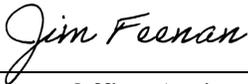
**NOTICE OF INTENT TO ADOPT
A MAJOR USE PERMIT AND
A MITIGATED NEGATIVE DECLARATION
AND NOTICE OF A PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the County of Lake Planning Commission will hold a public hearing on Thursday August 11, 2022, 9:15 a.m. in the Board of Supervisors' Chambers, 255 N. Forbes Street, Lakeport, CA., to consider approving "Lamperti Farms" for a MAJOR USE PERMIT (UP 20-51) and adoption of a Mitigated Negative Declaration (IS 20-75) to satisfy the California Environmental Quality Act (CEQA) requirements related to potential environmental impacts. The project is located at **1111 Sulphur Bank Drive, Clearlake Oaks, CA 95423**; 13405 Jensen Rd, Clearlake Oaks CA 95423; 565 Sulphur Bank Dr, Clearlake Oaks CA 95423; 1070 Sulphur Bank Dr, Clearlake Oaks CA 95423; 14499 E State HWY 20, Clearlake Oaks CA 95423; 1350 Sulphur Bank Dr, Clearlake Oaks CA 95423; 1200 Sulphur Bank Dr, Clearlake Oaks CA 95423; Assessor Parcel Number(s): 006-520-10; **006-520-11**; 006-520-12; -006-540-02; 006-540-08; 010-002-37; 010-002-53.

PROJECT DESCRIPTION: To consider a proposal for a major use permit for **ten (10) A – Type 3 "Outdoor" cultivation licenses** with a total canopy area of 432,800 sq. ft.

ALL INTERESTED PERSONS are invited to be present at the public hearing. All persons may provide public comment at the time and place indicated above. Additional information regarding this project may be obtained from Andrew Amelung, Cannabis Program Manager with the Community Development Department at (707) 263-2221, or andrew.amelung@lakecountyca.gov. A staff report will be available for review on **August 1, 2022**. If you challenge the action of the Planning Commission on any of the above-stated items in court, it may be limited to only those issues raised at the public hearing described in this notice, or written correspondence delivered to the Lake County Planning Commission at, or before, the public hearing. **The following is a link to the Planning Commission Agenda posted 72 hours before the hearing: <https://countyoflake.legistar.com/Calendar.aspx>. Zoom information can be found on the Agenda. A hard copy of the staff report is available upon request.**

Mary Darby, Director
COMMUNITY DEVELOPMENT DEPARTMENT

By: 
Jim Feenan, Office Assistant III