



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
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Item 6e
10:05 AM
May 9, 2024

STAFF REPORT

TO: Planning Commission

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

DATE: May 9, 2024

SUBJECT: Consideration of proposed Major Use Permit UP 22-14, Blackwell Property Management LLC, and Mitigated Negative Declaration (IS 22-13) for one (1) A-Type 3 “Medium Outdoor” cultivation license, three (3) A-Type 1C “Specialty Cottage” licenses and one (1) A-Type 13 “Self-Distribution” for up to 51,060 sq. ft. of cannabis canopy project located at 22004 Morgan Valley Road, Lower Lake (APN: 012-069-25)

ATTACHMENTS:

1. Project Site Plans (Realm Engineering, August 10, 2021)
2. Draft Conditions of Approval
3. Property Management Plan (March 15, 2022)
4. Draft Initial Study/ Mitigated Negative Declaration (July 18, 2023)
5. Hydrology Report and Drought Management Plan (Marh 24, 2022)
6. Agency Comments
7. Tribal Comments
8. Public Comments

EXECUTIVE SUMMARY

The applicant, Blackwell Property Management LLC, is requesting discretionary approval from the County of Lake, for Major Use Permit (UP 22-14), for commercial cannabis cultivation at 22004 Morgan Valley Road, Lower Lake (Lake County APN: 012-069-25). The application, as proposed, would include 43,560 sq. ft. (1 acre) of outdoor cannabis cultivation with one (1) A-type 3 license, 7,500 sq. ft. of outdoor cannabis cultivation with three (3) A-Type 1C licenses, and a Type-13 self-distribution license. There are three unnamed watercourses near the proposed cannabis cultivation site. One Class II watercourse is located more than 100 feet to the west, another Class III watercourse is situated over 100 feet to the north, and there is an unnamed Class III watercourse over 100 feet to the south of the site. The property previously had a single-family home, and the land was used for cattle grazing, but the structure was destroyed in the 2015 Rocky Fire.

PROJECT DESCRIPTION

Project Title: Blackwell Management Company LLC

Permit Numbers: UP 22-14, IS 22-13

Lead Agency: Lake County Planning, 255 N. Forbes St., Lakeport

Applicant Name & Address: Blackwell Capital Management LLC

	371 Lakeport Boulevard, #400 Lakeport CA 95453
<u>Property Owner:</u>	Same as Applicant
<u>Project Location:</u>	22004 Morgan Valley Road, Lower Lake
<u>Parcel Number(s) (APN):</u>	012-069-25
<u>Parcel Size:</u>	±37.81 acres
<u>General Plan Designation:</u>	Rural Lands
<u>Zoning District(s):</u>	“APZ”, Agricultural Preserve
<u>Flood Zone:</u>	“D”, Not within a mapped flood zone

Existing Features on Site:

- (1) Septic system
- (1) Groundwater well with a solar pump
- (2) Shipping containers
- (1) Gravel interior driveway
- (1) Security Gate
- (1) Portable bathroom

Proposed Features on Site:

- (3) Outdoor cultivation / canopy areas with a total of 51,060 sf of canopy
- (1) 120 sf chemical and fertilizer storage shed
- (1) 120 sf security shack
- (6) 5,000-gallon water storage tanks
- 6-foot galvanized woven wire fencing

The cultivation site is accessed by a private dirt road off of Morgan Valley Road, a paved road maintained by the County of Lake. An onsite gravel private driveway averaging 10 feet in width provides access to the cultivation site.

Cultivation would occur in ground, using amended native soil mixture at or below grade, composed of native soil and compost. The grow cycle will be from May 15th through November 15th of each year. All cannabis waste generated from the proposed cultivation operation would be chipped and composted on site. Compost cannabis waste would be stored in a designated composting area, until it is incorporated into the growing medium of the cultivation areas, as organic soil amendment. All agricultural chemicals (fertilizers, amendments, pesticides, and petroleum products) will be stored within a proposed 120 sq. ft. wooden shed.

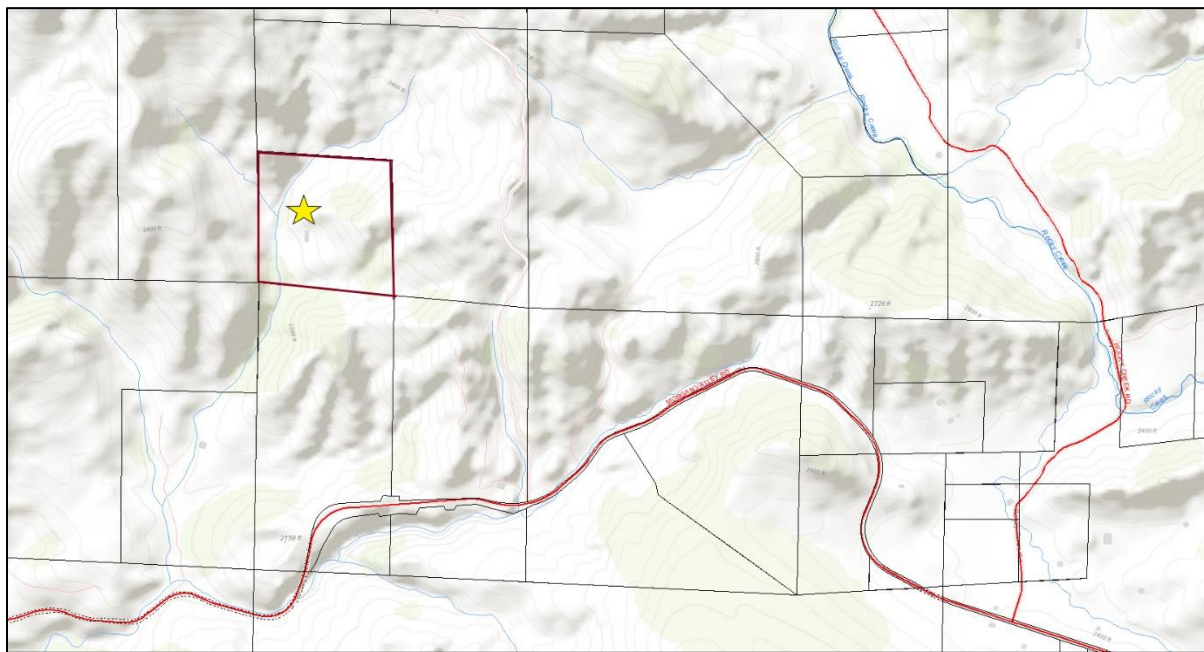
The applicant is proposing a total combined of 51,060 sf of outdoor canopy within three gardens on the site plans (Attachment 1); Area D consists of 9,350 sf of canopy, Area E consists of 11,050 sf of canopy, and Area F consists of 30,660 sf of canopy. Two 120 sf sheds are proposed for fertilizers / pesticide storage, and two 8' x 40' shipping containers are proposed for cannabis drying. Blackwell Management Company LLC is also seeking to obtain a Type 13 Cannabis Distributor Transport Only, Self-Distribution license, with registered and insured, unmarked

vehicle to transport cannabis to other licensed cannabis processing, distribution, packaging and labeling, and manufacturing facilities.

Construction would occur Monday through Friday from 9 A.M.to 5 P.M. and includes preparing the cultivation areas, shed installation, fence installation and improving the interior driveway. Average vehicle trips during construction would be two to four daily trips over a three-week period, with 30 - 60 total projected construction trips anticipated. Operations would consist of up to two employees during regular operations and up to six employees during harvest season.

No grading or tree removal is proposed for the development of the project. The area proposed for cultivation development is a field that is relatively flat. Minor scrapping for the cultivation area, with minor digging for fence installation is required.

Figure 1 - Vicinity Map



Source: Lake County ArcReader 10.7.1

25 feet bgs prior to the start of the test. During the test the well dropped to 103 bgs, where it stabilized for the last 4.5 hours of the 6-hour test. The water level recovered to 31 bgs within 40 minutes after pumping ceased. The well is powered by an existing solar power pump.

The annual water usage proposed will run from May 15th to November 15th of each year (seven months annually). The Report projects varied monthly water usage ranging between 33,000 gallons (May) to 196,000 gallons (August), and annual demand of 815,000 gallons, or about 2.5 acre-feet per year. According to the Drought Management Plan prepared by Realm Engineering, dated March 24, 2022 (Attachment 5) the project will use a drip irrigation system, which uses less water than other types of irrigation systems.

The Report states that the project site will capture about 3 acre-feet of water per year that will infiltrate into the aquifer; this projection is made assuming 9.5 inches of precipitation during a severe drought year. The total annual demand is 2.5 acre-feet per year for operations; the total recharge during a severe drought year is 3.0 acre-feet per year. The total recharge rate of the aquifer during a severe drought year is greater than the annual projected water demand for this project, thus the site has adequate water supply of water for the project demand.

Potential Impacts to Neighboring Wells. The Report estimates impacts to area wells by making several assumptions. First, the aquifer is assumed to be unconfined. The zone of pumping influence is projected to be 200 feet from the on-site well. There are no other wells within the 200-foot 'area of pumping influence', and the Report concludes that there will be no impact to neighboring wells or properties.

According to the site plans submitted for this project, the applicants are proposing five (5) 5,000-gallon water tanks for irrigation purposes with one 5,000-gallon steel or fiberglass tank dedicated to fire suppression. In high fire severity areas, the County requires a minimum of 5,000 gallons steel or fiberglass water tank for fire suppression equipped with connectors that can be utilized by emergency service providers as needed for fire suppression.

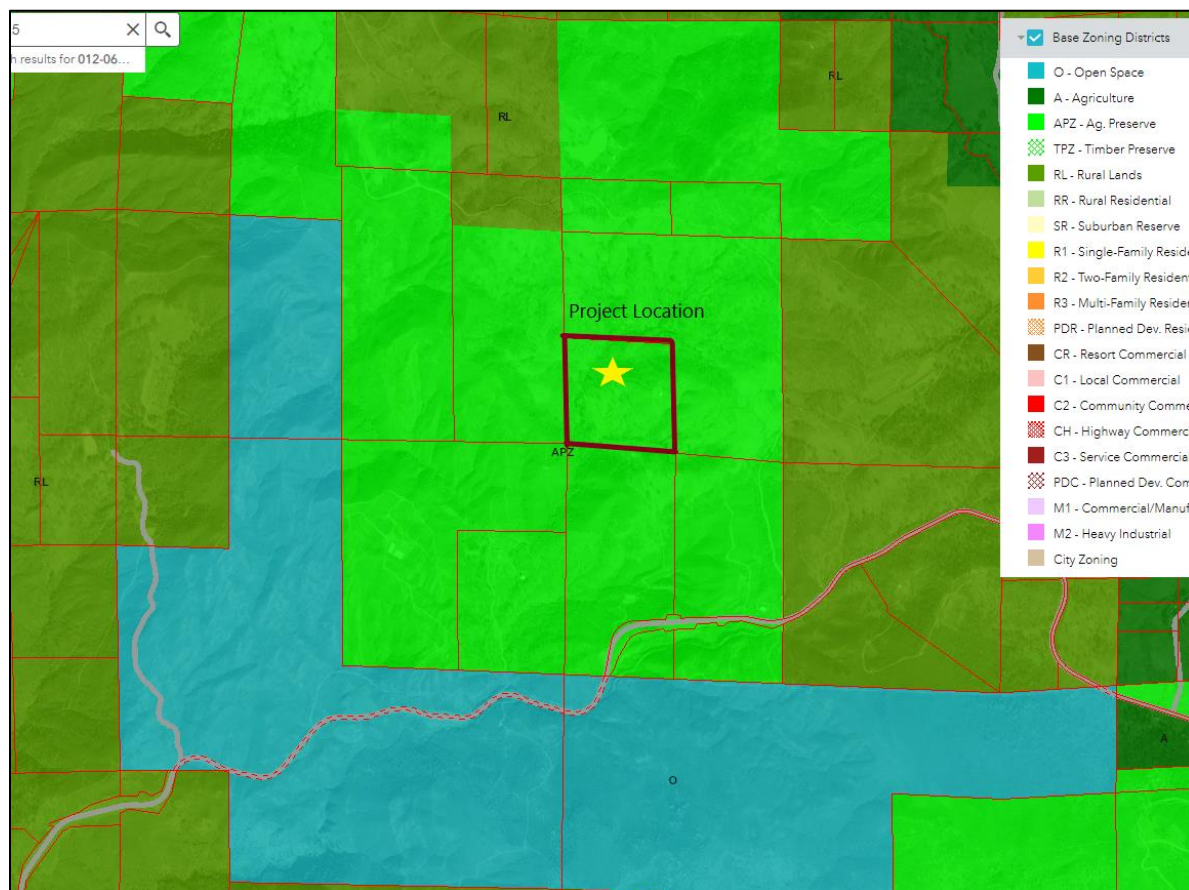
PROJECT SETTING

Surrounding Zoning and Uses

Since the Project Parcel 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 and East: 22014 Morgan Valley Road; Zoned Agricultural Preserve, undeveloped
- South and Southeast: 22100 and 22433 Morgan Valley Road; Zoned Agricultural Preserve; developed with a dwelling.
- Southwest: 21700 Morgan Valley Road; Zoned Agricultural Preserve; developed with a dwelling and agricultural uses.
- West: 21500 Morgan Valley Road; Zoned Agricultural Preserve and Rural Lands; vacant land

Figure 3: Zoning Map



Source: Lake County GIS portal 2024

PROJECT ANALYSIS

General Plan Conformity

The General Plan designation for the subject site is Rural Land. In reference to the Lake County General Plan (2008), Chapter 3 – *Land Use*, rural lands provide for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. The following policies from the General Plan can be applied to the proposed project:

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

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.

Pursuant to Article 27, Sec. 21-27.10, Sec. 27.11(at) Table B of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the “APZ” Agriculture Preserve Zoning upon securing a Minor/Major Use Permit; 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. The Project Parcel is surrounded by large parcels with limited development and agricultural uses. The Lower Lake Community Growth Boundary is approximately 4.7 miles West of the Project parcel, so the project would not impact primary residential areas.

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 type of operation and chemicals used for spraying.

The cultivation site is located in a rural portion of Lower Lake that is characterized by low density rural development primarily on large undeveloped lots. Pursuant to the Lake County Zoning Ordinance; Article 27, Section 27.13(at), 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. The cultivation site is more than 273 feet away from the nearest (southern) property line and is approximately 1,725 feet from the nearest dwelling located to the south of the cultivation site. The cultivation site is not located within 1,000 feet of a Community Growth Boundary, a licensed childcare facility, a church, or a youth-oriented facility.

Economic Development

Goal LU-6: “To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents”.

- Policy LU 6.1: “The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services and commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments, and the developments of geothermal resources”.

The proposed commercial cannabis operation would create diversity within the local economy and create future employment opportunities for residents. According to the applicant’s application there are up to two employees during regular operations and a total of six employees proposed at peak shift. The development of this project would continue to promote agricultural uses.

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 will have six (6) 5,000-gallon water tanks on site, one of which will be dedicated to fire suppression. This tank will be fitted with connectors that will enable emergency responders to attach fire hoses to the tank in the event of an on-site fire and will be made of steel or fiberglass per NFPA suppression tank standards. The applicant will also be required to maintain 100' of defensible space around all project-related buildings.

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

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

The applicant will maintain hazardous material storage containers 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 ephemeral creek or seasonal stream, edge of lake or pond and delineated wetland or vernal pool. There are several mapped watercourses on site shown on the plans submitted that meet the required 100' setback.

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 use one 5,000-gallon water tank for fire suppression. This tank must be fitted with connectors that can be used by the local fire service providers. The applicant will be required to provide a 100-foot fire break around all project-related structures; this must be maintained by the applicant for the life of the project. Lastly, the applicant will be required to maintain a 100' defensible space around all project-related buildings. A mitigation measure, WLD-4, has been identified within the draft Mitigated Negative Declaration (Attachment 4).

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.

The applicant has provided a comprehensive Hydrology Report (Attachment 5) that evaluates various aspects of adequacy of water for the site and surrounding area. The applicant has also submitted a Drought Management Plan (Attachment 5) listing water conservation methods during a declared drought. Additionally, water monitoring is a requirement listed within the Conditions of Approval.

Lower Lake Area Plan Conformity

The subject site is within the Lower Lake Area Plan's boundary. The Plan contains several objectives that are subject to consistency review as follows:

Objective 5.1a: Orderly growth and development shall be encouraged within the Lower Lake area by focusing higher intensity development within the community of Lower Lake. Low intensity land use patterns are encouraged in the remainder of the planning area.

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

Objective 5.3: Balanced development shall be encouraged which coordinates improvements in public service capabilities to maximize community and economic development within Lower Lake.

Objective 5.5: Comprehensive economic development efforts to the benefit of the community of Lower Lake shall be encouraged. Such efforts should involve a high level of community participation and input.

The area around this project is rural; the project would not increase housing density in an area that has large lots and limited development. This applicant would have up to six employees, at peak operations during harvest. These employees spend money on local commodities and rent, which will benefit the greater Lower Lake area's economy. The major use permit application for commercial cannabis cultivation is discretionary and is determined by a hearing body at public hearing. All public hearings are noticed to owners of surrounding parcels within 700 feet of the project site, providing an opportunity for community participation and input.

Zoning Ordinance Conformity

Article 4 – “APZ” Agriculture Preserve Zoning District

Article 4 allows agricultural uses; Article 27.11(at) and Table B list commercial cannabis cultivation as a conditionally permitted use in the “RL” zoning district subject to approval of a minor or major use permit. The property is not enrolled in the Williamson Act.

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.

Development & Performance Standards

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

- Minimum Lot Size (20 acres required for an A-Type 3 license): Complies; The lot is ±37.81 acres in size, and 35 acres are required for the permits requested.
- Setback from property line (100 feet): Complies; the cultivation sites are set back more than 100 feet from all property lines.
- Setback from off-site residence (200 feet): Complies; the nearest dwelling is more than 750 feet to the south of the cultivation area.
- Minimum and maximum fence height of six (6) to eight (8) feet: Complies; the proposed perimeter fence is six (6) feet tall.
- Maximum canopy area (43,560 sf for each 20 acres of land for outdoor, and five acres for each A-Type 1C “Specialty Cottage” license): Complies; The total proposed outdoor canopy area is 51,060 sf. The ±37.81-acre lot size supports the proposed canopy areas.

General Requirements

There are 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, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, and other applicable standards and criteria found in Article 27, subsection 27.13(at), as well as in Article 51, subsection 4, Major Use Permit Findings for Approval.

The applicant has submitted a Property Management Plan (Attachment 3) outlining compliance with all regulations pertaining to cannabis operations including Air Quality, Biological Resources, Cultural and Tribal Resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security and annual compliance monitoring. The Property Management Plan (Attachment 3), Site Plans (Attachment 1), and the various studies submitted for this project demonstrate compliance with the various Plans, ordinances and regulations that are required for this type of cannabis project.

Article 41, Performance Standards All land use projects in the “APZ-WW” Agriculture Preserve - Waterway zoning district require review under Article 41. The following findings apply to this project.

- Section 41.4, *Air Quality*. The project has some potential to impact air quality during construction and to a lesser extent during operations. The three cannabis cultivation gardens, Area D consists of 9,350 sf of canopy, Area E consists of 11,050 sf of canopy, and Area F consists of 30,660 sf. Ground disturbance will consist of preparing the outdoor cultivation areas, improvements to the interior driveway, digging post-holes for fencing, and trenching for power for the security system. The Mitigated Negative Declaration (Attachment 4) for this project has Mitigation Measures that will help reduce dust and wildfire threats during site disturbance.
- 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 high severity fire risk area and had burned in the 2015 Rocky Fire. Mitigation Measures including interior driveway improvements, keeping no less than 5,000 gallons of water on site that is reserved for fire protection, and maintaining defensible space around all buildings is required for this project.
- Section 41.8, *Glare and Heat*. The project is for outdoor cultivation and is not proposing any buildings other than storage sheds and shipping containers. No limited heat and glare is anticipated from this project.
- Section 41.9, *Landscaping Standards*. The site is flat and has little native landscaping that would otherwise screen the new use from neighboring uses. The applicant is proposing a 6' tall wire mesh screening fence. The topography of this site creates natural visual barriers.
- 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. Fuel will be 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. Equipment staging will occur on the 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 two to three weeks. Mitigation Measures, NOI-1 and NOI-2 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 41.12, *Open and Outdoor Storage and Display*. The applicant has not indicated that any outdoor storage or display will occur, nor is any authorized under this use permit.
- 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 ground borne 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 Comments

An AB 52 notice of the Project was sent to Big Valley Rancheria, Cortina Rancheria, Elem Colony, Koi Nation, Mishewal-Wappo, Middletown Rancheria, Redwood Valley Rancheria, Robinson Rancheria, Scotts Valley Band of Pomo Indians, Habematolel Pomo of Upper Lake Tribe, and Yocha Dehe Wintun Nation on April 5, 2023, informing Tribes of the proposed project and offering consultation under AB-52. On April 20, 2023, the Habematolel Pomo of Upper Lake responded

and deferred to the Middletown Rancheria Tribe. No other Tribal comments have been received, to date.

Agency Comments

Agency Review was requested on April 05, 2023. Comments were received from the agencies listed below (Attachment 6) and have been incorporated into conditions of approval (Attachment 2), as appropriate.

- Audubon Society
- Lake County Building Division
- Lake County Resource Planner
- Lake County Environmental Health
- Lake County Grading
- Lake County Sheriff's Office
- Department of Cannabis Control
- PG&E
- California Department of Fish and Wildlife
- California Historical Resources Information System
- California State Water Boards

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 July 21, 2023, to August 20, 2023. Minor modifications to the Mitigated Negative Declaration were made by staff for clarification and in order to strengthen existing analysis and mitigation measures. These changes do not trigger recirculation of the Initial Study because they are minor in nature and do not result in new impacts or mitigation measures that were not previously analyzed (in accordance with CEQA Guidelines 15073.5). No adverse comments were received regarding this project from any notified State agency. However, minor modifications to the mitigation measures were suggested by CDFW and have been incorporated into the Mitigated Negative Declaration.

All potential environmental impacts have been reduced to Less than Significant with the incorporated Mitigation Measures described in the Initial Study (Attachment 4) and draft Conditions of Approval (Attachment 2). The following categories were identified as having potential environmental impacts:

- Air Quality
- Biological Resources
- Cultural
- Noise
- Tribal Cultural Resources
- Wildfire

The following impacts have been identified and the following mitigation measures are added into the Conditions of Approval to mitigate those impacts:

Air Quality Impacts relating to (AQ) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AQ 1-6:

AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District (LCAQMD) and obtain an Authority to Construct (A/C) permit for all operations and for any diesel-powered equipment and/or other equipment with potential for air emissions.

AQ-2: All mobile diesel equipment used must be in compliance with state registration requirements. Portable and stationary diesel-powered equipment must meet all federal, state, and local requirements, including the requirements of the State Air Toxic Control Measures for compression ignition engines. Additionally, all engines must notify LCAQMD prior to beginning construction activities and prior to engine use.

AQ-3: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District with such information in order to complete an updated Air Toxic emission Inventory.

AQ-4: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.

AQ-5: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all-weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.

AQ-6: All areas subject to infrequent use of driveways, overflow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

Biological Resources Impacts relating to (BIO) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure BIO 1-6:

BIO-1: All work should incorporate erosion control measures consistent with the engineered Erosion and Sediment Control Plans submitted, Lake County Grading Regulations, and the State Water Resources Control Board's Cannabis General Order (Order No. WQ 2019-001-DWQ).

BIO-2: Pesticides and fertilizer storage facilities will utilize proper best management practices and shall not be located within riparian setbacks or where they may pass into a lake or stream.

BIO-3: The applicant shall maintain a minimum of a 150-foot setback from perennial watercourses, a 100-foot setback from intermittent watercourses, and a 50-foot setback from the top of bank of any watercourse, wetland, and/or vernal pool.

BIO-4: Prior to commencement of activities within the bed or bank of a creek, a Streambed Alteration Agreement shall be obtained from the California Department of Fish and Wildlife. All the conditions of such permit shall be adhered to throughout the course of the project to reduce the impacts to a less than significant level.

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: If construction activities occur during the nesting season (February 15-September 1), a pre-construction survey for the presence of special-status bird species or any nesting bird species should be conducted by a qualified biologist within seven days prior to the commencement of ground disturbing activities. 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. Biologist 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.

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

CUL-1: All employees shall be trained in recognizing potentially significant archaeological, paleontological, or cultural materials that may be discovered during ground disturbance. Prior to ground disturbing activities, the Permittee shall submit a Cultural Resources Plan, identifying methods of sensitivity training for site workers, procedures in the event of an accidental discovery, and documentation and reporting procedures. Prior to ground disturbing activities, the Permittee shall submit verification that all site workers have reviewed the Cultural Resources Plan and received sensitivity training.

CUL-2: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted within 100 feet of the find(s). A professional archaeologist certified by the Registry of Professional Archeologists (RPA) shall be notified and shall evaluate the find(s) and recommend mitigation procedures, if necessary. The findings and mitigation measures shall be reviewed and approved by the Lake County Community Development Director prior to commencing work.

CUL-3: Should any human remains be encountered, the applicant shall halt all work within 100 feet, notify the Sheriff's Department, the culturally affiliated Tribe(s), and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

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

NOI-1: All construction activities including engine warm-up shall be limited Monday through Saturday, between the hours of 7:00 A.M. and 6:00 P.M. to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.

NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

Tribal Cultural Resources Impacts relating to (TCR) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measures TCR-1 through TCR-2.

TCR-1: All on-site personnel of the project shall receive Tribal Cultural Resource sensitivity training prior to initiation of ground disturbance activities on the project. The training must be according to the standards of the NAHC or the culturally affiliated tribe(s). Training will address the potential for exposing subsurface resources and procedures if a potential resource is identified. The training will also provide a process for notification of discoveries to culturally affiliated tribes, protection, treatment, care and handling of Tribal Cultural Resources discovered or disturbed during ground disturbance activities of the Project. Tribal monitors will be required to participate in any necessary environmental and/or safety awareness training prior to engaging in any tribal monitoring activities for the project.

TCR-2: If previously unidentified tribal cultural resources are encountered during the project altering the materials and their stratigraphic context shall be avoided and work shall halt immediately. Project personnel shall not collect, move, or disturb cultural resources. A representative from a locally affiliated tribe(s) shall be contacted to evaluate the resource and prepare tribal cultural resources plan to allow for identification and further evaluation in determining the tribal cultural resource significance and appropriate treatment or disposition.

Wildfire The project is within a moderate risk fire hazard area. The following mitigation measures will help to reduce the potential impacts to fire risk to Less than Significant levels.

WDF-1: Construction activities are prohibited during a red flag warning predetermined by the local fire department and/or national weather service) and wind, temperature and relative humidity will be monitored in order to minimize the risk of wildfire. Grading will not occur on windy days that could increase the risk of wildfire spread should the equipment create a spark.

WDF-2: A water tender shall be present on-site during earthwork to reduce the risk of wildfire and dust.

WDF-3: The applicant shall re-install the erosion and sediment control measures identified in the engineered Erosion and Sediment Control Plan for the project, as soon as possible following a wildfire emergency affecting the Project Parcel.

WDF-4: The applicant shall install a 5,000- gallon water tank made of steel or fiberglass that is intended for exclusive use of fire suppression. The tank shall be equipped with connectors that will enable an emergency service provider to connect fire hoses to the water tank.

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 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.

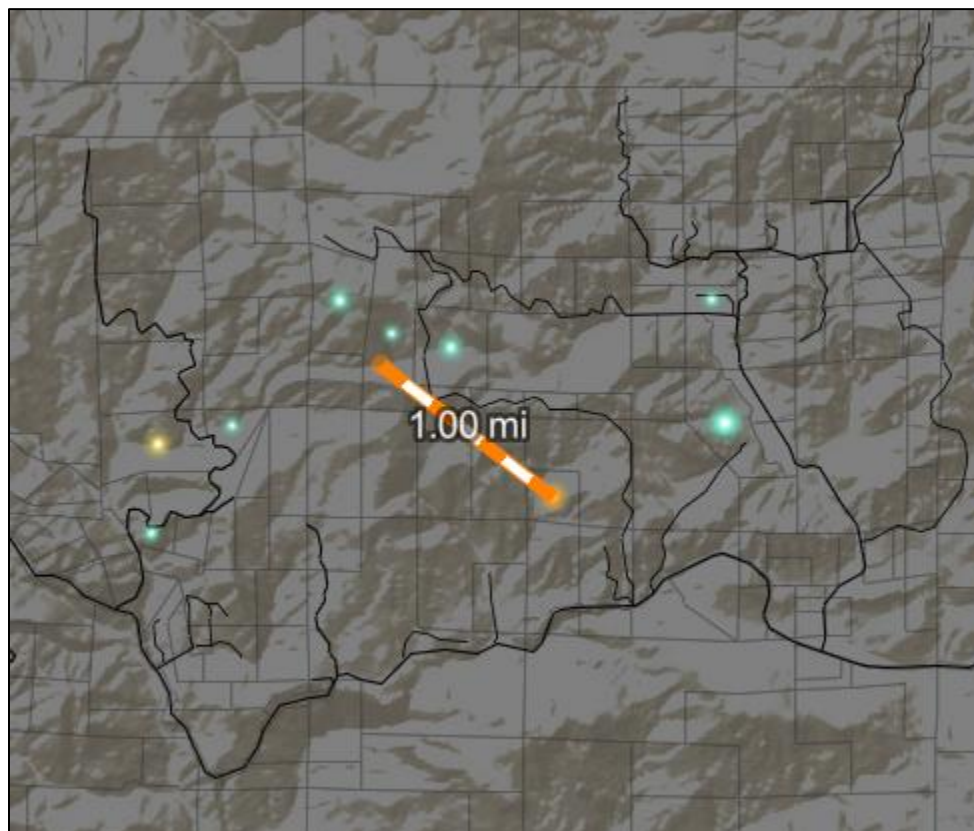
Potentially significant impacts have been identified related to Air Quality, Biological Resources, Cultural Resources, Noise, Tribal Cultural Resources, and Wildfire. These impacts in combination with the impacts of other past, present, and reasonably foreseeable future projects could

cumulatively contribute to significant effects on the environment. 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 MAP

There are 0 pending projects and 2 approved projects within one (1) mile of the proposed project.

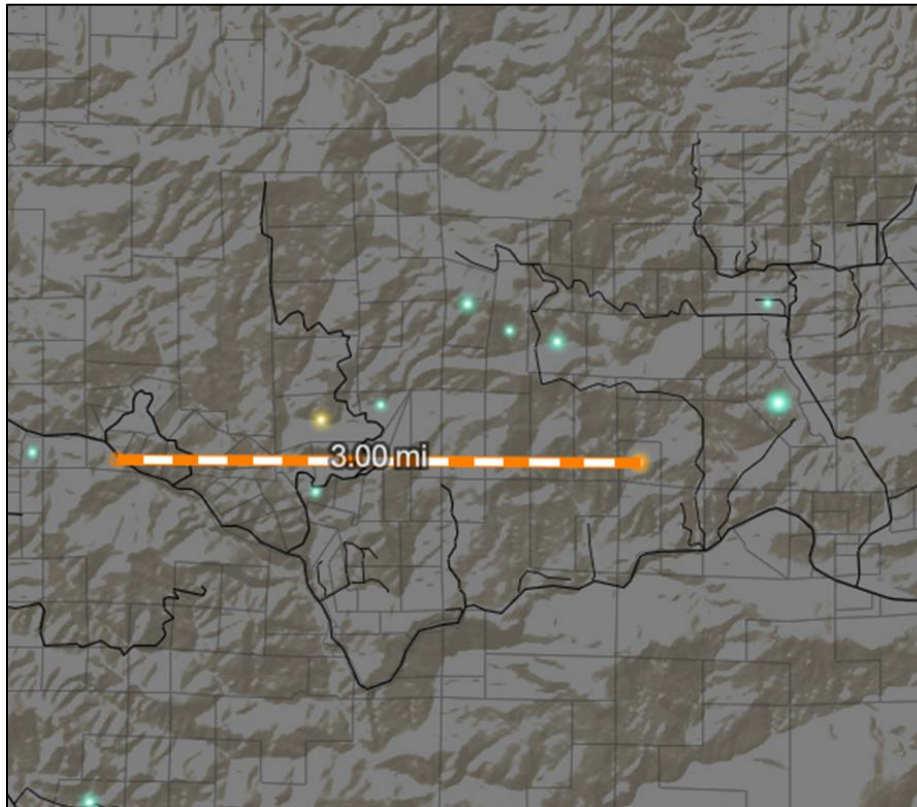
Figure 4 – Projects within 1 Mile



Source: Lake County GIS website 2024

There is one (1) proposed project and seven (7) approved projects within three (3) miles.

Figure 5 - Projects within Three Miles



Source: Lake County GIS website 2024

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 – Findings for Approval) 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 is a permitted use in the “APZ” Agricultural Preserve Zoning District with an approved major use permit, pursuant to Article 27.13(at) of the Lake County Zoning Ordinance. The cultivation of cannabis will occur outdoors, which is permitted if the property is not within a mapped Farmland Protection Area. Additionally, the Community Development Department requires annual compliance monitoring reports and will conduct annual inspections during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval. To date, no adverse comments have been received from neighboring property owners.

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 proposal consists of 51,060 total sf of outdoor cannabis canopy. The Lake County Zoning Ordinance allows cultivation operations on “APZ” Agricultural Preserve-zoned land if the land meets the requirements within Article 27.13(at), Article 41 and Article 51.4. The subject site is ±37.81 acres in size, large enough to enable the cultivation areas proposed.

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

The site is accessed via an interior driveway that connects with Morgan Valley Road, a paved, County-maintained Road at this location. The project was circulated for public agency review, including Lake County Fire District, CAL FIRE, and the Lake County Department of Public Works and no adverse comments were received.

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.*

There are adequate public utilities and services available to the site. The Lake County Fire Protection District and CAL FIRE provide fire-related emergency services to the site. The Lake County Sheriff’s Department provides police protection. The site is served by PG&E on-grid power, and the site will use a private permitted groundwater well, and portable ADA-compliant restrooms.

The application was routed to all of the affected public and private service providers, including Public Works, Environmental Health, Specials Districts, Water Resources and PG&E. All agency comments are attached (Attachment 6). No adverse comments were received.

5. *That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.*

Upon review, the Community Development Department recommends that the Planning Commission make a determination that the proposed use for the cultivation of outdoor cannabis is in conformance with the applicable provisions and policies of this Code, the General Plan, the Lower Lake Area Plan and the Lake County Zoning Ordinance as the cultivation of cannabis is an allowable use within the “APZ” Agricultural Preserve Zoning District upon securing a major use permit pursuant to Article 27, (Table B); Article 27.13(at), Article 41 and Article 51.4 of the Lake County Zoning Ordinance. The General Plan and Lower Lake Area Plan do not have any provisions specifically for commercial cannabis, but both plans have provisions for economic development and land use compatibility.

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 of Chapters 5, 17, 21, 23 or 26 of the Lake County Code on the subject properties.

Further, Article 27.13(at) has three findings that must be met for commercial cannabis:

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 Lower Lake 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 Initial Study (IS 22-13) for Major Use Permit (UP 22-14) with the following findings:
1. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the incorporated of Mitigation Measures AQ-1 through AQ-6.
 2. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the incorporated of Mitigation Measures BIO-1 through BIO-6.
 3. Potential environmental impacts related to Cultural can be mitigated to less than significant levels with the incorporated of Mitigation Measures CUL-1 through CUL-3.
 4. Potential environmental impacts related to noise can be mitigated to less than significant levels with the incorporated of Mitigation Measures NOI-1 and NOI-2.
 5. Potential environmental impacts related to Tribal Cultural Resources can be mitigated to less than significant levels with the incorporated of Mitigation Measures TCR-1 and TCR-2.
 6. Potential environmental impacts related to Wildfire can be mitigated to less than significant levels with the incorporated of Mitigation Measures WLD-1 through WLD-4.
 7. This project is consistent with land uses in the vicinity.
 8. This project is consistent with the Lake County General Plan, Lower Lake Area Plan and Lake County Zoning Ordinance.
- B. Approve Major Use Permit (UP 22-14) with the following findings:

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.
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.
3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use with mitigation measure added.
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.
5. That the project is in conformance with the applicable provisions and policies of this Code, the Lake County General Plan, the Lower Lake Area Plan and the Lake County Zoning Ordinance.
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.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Sample Motions :

Mitigated Negative Declaration (IS 22-13)

I move that the Planning Commission find that potential impacts associated with this project can be mitigated to 'less than significant' through the implementation of the Mitigated Negative Declaration (IS 22-13) submitted by Blackwell Capital Management LLC for the property located at 22004 Morgan Valley Road, Lower Lake (APN 012-069-25), will not have a significant effect on the environment, and that the Planning Commission adopt Initial Study (IS 22-13) with the findings listed in the staff report, dated May 9, 2024.

Major Use Permit (UP 22-14)

I move that that the Planning Commission approve Major Use Permit (UP 22-14) applied for by Blackwell Capital Management LLC for the property located at 22004 Morgan Valley Road, located at 22004 Morgan Valley Road, Lower Lake (APN 012-069-25), does meet the

requirements of Section 51.4 and Article 27 of the Lake County Zoning Ordinance and that the Major Use Permit be granted based on the findings and subject to the conditions included in the staff report dated May 9, 2024.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission's decision, 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 calendar day following the Planning Commission's final determination.