



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT
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Scott De Leon
Community Development Director

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Item 1
9:05 AM
March 25, 2021

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Nicole Thomas, Community Development Deputy Director

Prepared by: Eric Porter, Associate Planner

DATE: March 25, 2021

RE: **Jinchun Agriculture LLC; Major Use Permit (UP 19-11) and Initial Study (IS 19-22)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 19-22

I. EXECUTIVE SUMMARY

The applicant is requesting a major use permit for **(4) A-Type 3 (medium outdoor) cultivation areas** consisting of up to 260,000 square feet (sq. ft.) of cultivation area, and an **A-Type 13 Self Distribution license**. The property is located at 16740 Daly Place, Middletown, and is APN: 013-013-51. The applicant is also proposing a 4,000 sq. ft. drying building, security fencing.

Staff is recommending **Approval with Conditions** of **UP 19-11**.

II. PROJECT DESCRIPTION

Applicant/Owner: Jinchun Agriculture LLC
Location: 16740 Daly Place, Middletown, CA
A.P.N.s: 013-013-51

Parcel Size: 99+ acres
General Plan: Agriculture
Zoning: “A” – Agriculture
Flood Zone: None
Cultivation Area: 260,000 square feet of cultivation area in total
Canopy Area: estimated to be 220,000 sq. ft.
Cultivation Start Date: April 2020 via early activation

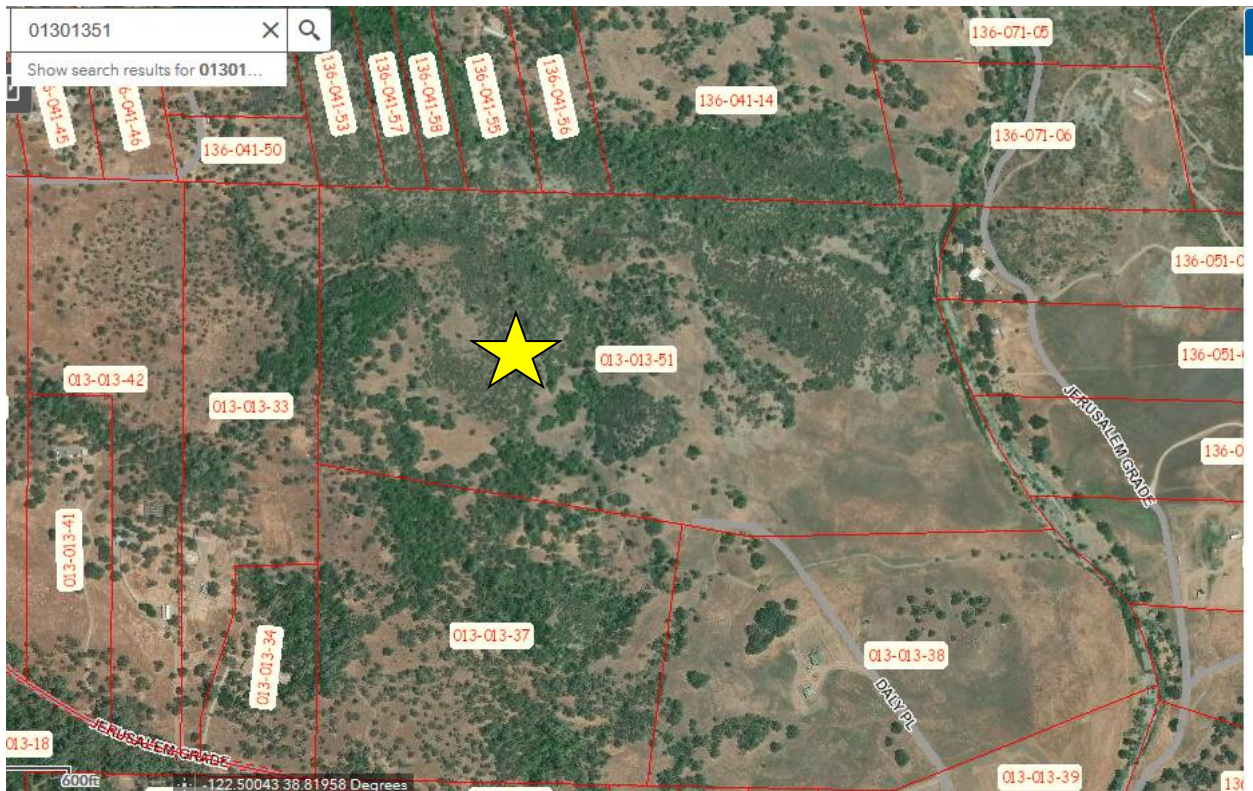
III. PROJECT SETTING

Existing Uses and Improvements: The parcel is about 99+ acres in size. The property contains a house, a well and septic system.

Surrounding Uses and Zoning

North: “RR” Rural Residential and “RL” Rural Lands; lots vary in size from 10 to 100+ acres and are mostly developed with dwellings.

South, East and West: “RL” Rural Lands. Lots are generally large at 40+ acres and are mostly developed with dwellings.



VICINITY MAP

Topography: Relatively flat; less than 10%.

Soils: The cultivation area contains soil type **142 - Henneke-Montara-Rock outcrop complex, 15 to 50 percent slopes**. This map unit is on hills and mountains. The vegetation is mainly brush, scattered conifers, and sparse annual grasses. The Henneke soil is shallow and somewhat excessively drained. It formed in material weathered from serpentinitic rock. Permeability of the Henneke soil is moderately slow. Available water capacity is 1 inch to 2 inches. Effective rooting depth is 10 to 20 inches. Surface runoff is rapid, and the hazard of erosion is severe.

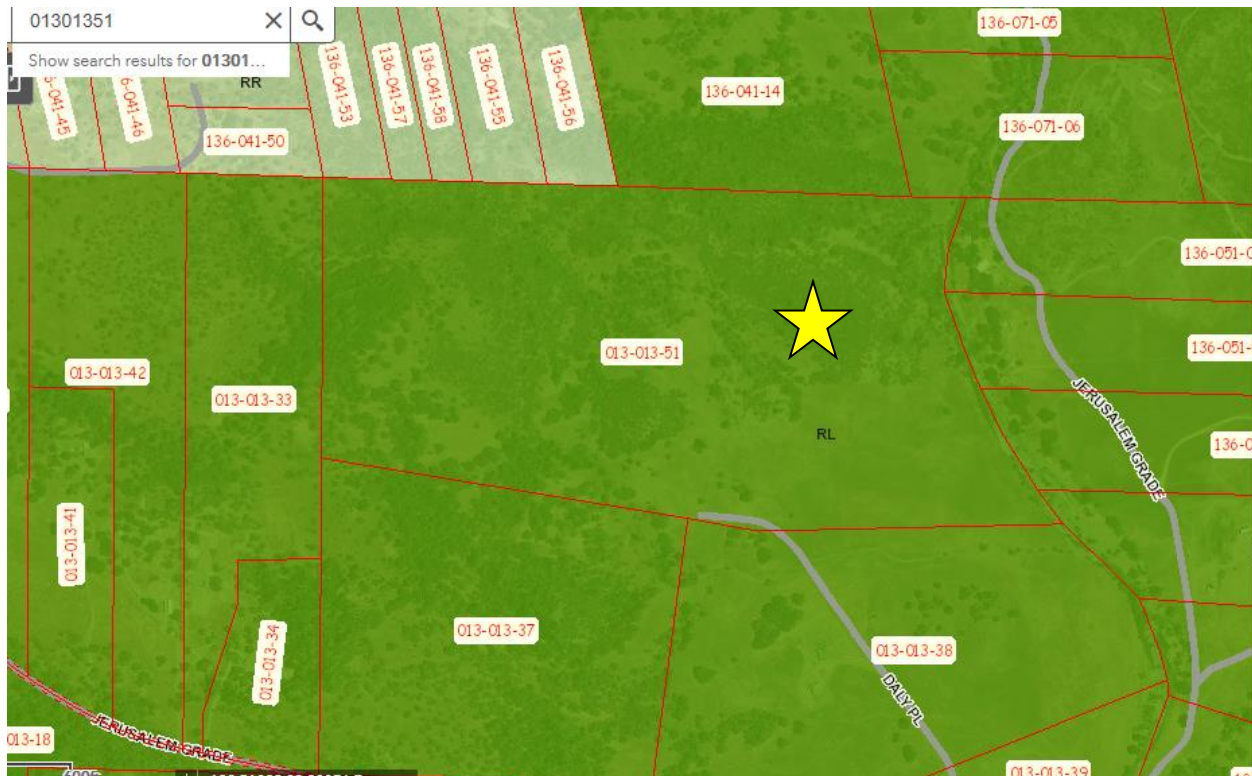
The soil on site contains naturally occurring asbestos (serpentine), and is mapped as non high-value farmland (grazing land).

Water Supply: Existing well

Sewage Disposal: Existing On-Site Septic

Fire Protection: Southshore Fire Protection District

Vegetation: Several varieties of oak trees, grass and some manzanita brush



Zoning of Site and Surrounding Lots

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Agriculture. The following General Plan policies relate to site development in the context of this proposal:

Open Space

- *Goal OSC-1 Biological Resources.* To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County. *Commercial cannabis cultivation has a relatively small impact on properties depending on how large the cultivation activity is, and the extent of site preparation needed. The applicant has indicated that no significant grading will occur, although some disking is needed to prepare the ground for the cannabis plants.*

The immediate area consists of lots that range in size from 10 to 100+ acres, and are primarily zoned “A” Agriculture.

Middletown Area Plan Conformance Analysis

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

- **5.1.2.d** Support continued enforcement of County Zoning Codes and further refine abatement programs for code violations.
- **5.1.5** Encourage comprehensive economic development efforts for the long-term benefit of the Planning Area aimed at increasing local employment opportunities
- **5.1.5b** Priority should be given to providing service and employment opportunities locally.
- **5.1.5c** Increase local employment opportunities in order to provide an adequate number of jobs to support the local population.
- **5.4.2b** The use of permeable surfaces for driveways and sidewalks shall be encouraged to increase groundwater recharge and reduce runoff.

This applicant would have up to 4 employees, mostly during harvest time.

Zoning Ordinance Conformance

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.

Article 27 - Use Permits

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

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

Development Standards

- Minimum Lot Size (80 acres): *Complies; the subject site is over 99 acres in size. The applicant has applied for (4) A-Type 3 (medium outdoor) cultivation licenses. The applicant has also applied for a Type 13 ‘Self Distribution License’, which is under consideration herein.*
- Setback from Property Line (100 feet): *Complies, the cultivation site is about 280 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 1800 feet away from the nearest cannabis cultivation area.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies, the proposed fence height is six (6) feet.*
- Maximum Canopy Area (43,560 sq. ft.): *The proposed canopy area is estimated to be 220,000 s.f. in size.*

General Requirements. *The applicant meets all of the General Requirements outlined in Section (at) of Article 27 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 operation sand deliveries, access requirements, etc. If the requirements have not yet been met, a condition has been added to assure compliance.*

The applicant has also submitted a Property Management Plan, outlining compliance with all regulations pertaining to cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the *applicant complies with the restrictions pertaining to the prohibited activities listen in Subsection (at) of Article 27 of the Zoning Ordinance, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.*

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Please refer to *Initial Study IS 19-22* (Attachment 6) for the Environmental Analysis of the proposed cannabis cultivation action. Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval. The following areas were identified as having potential environmental impacts:

Aesthetics. *This project has the potential for adverse impacts to aesthetic resources. The following mitigation measures are proposed to reduce or eliminate impacts related to aesthetic resources:*

- AES-1: Prior to this use permit becoming effective, the applicant shall screen the sides and roofs of each shipping container using false siding and a false roof on each container. Alternatively, the applicant can use screening fencing at a height of at least 6' around each of the containers. The perimeter fencing shown on the site plan is satisfactory for this purpose provided it incorporates screening around all four sides of each fence.

Air Quality. *This project has the potential for adverse impacts to air quality. The following mitigation measures are proposed to reduce or eliminate impacts related to air quality:*

- AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District and obtain an Authority to Construct (A/C) Permit for all operations and for any diesel powered equipment and/or other equipment with potential for air emissions.
- AQ-2: All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines.
- AQ-3: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District such information in order to complete an updated Air Toxic emission Inventory.
- AQ-4: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-5: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.
- AQ-6: All areas subject infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.
- AQ-7: A Dust Mitigation Plan shall be submitted to Community Development and to Lake County Air Quality Department due to the presence of serpentine soil on a portion of the cultivation site. This plan shall show how fugitive dust will be

mitigated during and after site disturbance, and is subject to review and ultimately approval by both Departments prior to site disturbance.

Biological Resources. *This project has the potential for adverse impacts to biological resources. The following mitigation measures are proposed to reduce or eliminate impacts related to biological resources:*

- **BIO-1:** If project activities occur during the breeding season (February 1 through August 31), a qualified biologist shall conduct a breeding survey no more than 14 days prior to project activities to determine if any birds are nesting in trees on or adjacent to the study area. This shall include areas where water wells and security fencing will be installed.

If active nests are found close enough to affect breeding success, the qualified biologist shall establish an appropriate exclusion zone around the nest. This exclusion zone may be modified depending upon the species, nest location, and existing visual buffers.

- **BIO-2:** If initial ground disturbance occurs during the bat maternity roosting season (April 1 through September 1), a qualified biologist shall conduct a bat roost assessment of trees within 100 feet of the proposed construction. If bat maternity roosts are present, the biologist shall establish an appropriate exclusion zone around the maternity roost.
- **BIO-3:** Prior to any development, the project area shall be surveyed by a qualified biologist to determine if there are any active fisher dens within 250 feet of the project footprint. If an active den is found, California Department of Fish and Wildlife shall be consulted to determine appropriate mitigation measures, which may include relocation of the den or establishing a suitable buffer zone.

Cultural and Tribal Resources. *This project has the potential for adverse impacts to cultural and tribal resources. The following mitigation measures are proposed to reduce or eliminate impacts related to cultural and / or tribal resources:*

- **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 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 with California Health and Safety Code section 7050.5.
- **CUL-2:** All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the culturally affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

- CUL-3: Prior to cultivation under this use permit, the applicant and his employees shall participate in a cultural sensitivity training sponsored or led by the Middletown Rancheria Tribe. Confirmation of the completion of this training shall be provided to the Community Development Department within 90 days of Use Permit issuance.

Noise. *This project has the potential for adverse impacts regarding noise. The following mitigation measures are proposed to reduce or eliminate impacts related to noise:*

- NOI-1: 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. This mitigation does not apply to night work.
- NOI -2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- NOI-3: The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines

VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL. Article 51, Section 51.4a

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.

Response: The immediate area contains rural land with several homes with the closest located at about 1800 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Aesthetics, Air Quality, Biological Resources, Cultural / Tribal Resources, and Noise. All of these potentially significant impacts have been adequately addressed within conditions of approval for the reasons previously stated.

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.

Response: The proposal is for combined 260,000 sq. ft. of outdoor cultivation area. The Lake County Cannabis Ordinance allows Type 3 cultivation operations on Agriculturally zoned property when it meets the size and locational criteria and standards, and if all potential impacts can be mitigated to 'less than significant levels'. The applicant seeks five licenses, which requires an 80 acre minimum parcel. The subject site is over 99 acres in size, large enough to allow the cultivation licenses that has been applied for.

The self-distribution license is also included, but has no direct relationship with the property size.

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

Response: The site is served by Jerusalem Grade Road and Daly Place. Jerusalem Grade Road is a mostly paved County maintained road. Daly Place is a private road that is privately maintained. The site was visited by Andrew Williams and Eric Porter in fall 2019 and meets all CalFire road standards.

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.

Response: This application was routed to all of the affected public and private service providers including CAL FIRE, Southshore Fire District, Public Works, Special Districts, Environmental Health, and all area Tribes. Relevant comments are attached as 'Attachment 3'. 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.

Response: Commercial cannabis cultivation is named as a permitted use in the Agriculture zoning district within the Commercial Cannabis ordinance. This proposal is consistent with the governing ordinance for cannabis growing in the Lake County General Plan and the Middletown Area Plan, which do not have any specific provisions for commercial cannabis, but do have provisions for economic development.

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.

Response: The site does not have any violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code.

VII. USE PERMIT FINDINGS FOR APPROVAL Article 27, subsection (at):

- (1) The proposed use complies with all development standards described in Section 1.i

Response: This proposal meets all requirements for submittal and for placement of the cultivation areas including size, setbacks, and specific characteristics of commercial cannabis cultivation.

- (2) The applicant is qualified to make the application described in Section 1.ii.(g)

Response: The applicant has passed Live Scan background check. The owner is a partner in this submittal, and has also passed Live Scan. The applicant and owner are qualified to make the application as described in Section 1.ii.(g).

- (3) The application complies with the qualifications for a permit described in Section 1.ii.(i)

Response: This application complies with all qualifications for a permit described in Section 3.ii.(f). The applicant is proposing five cannabis-related licenses; four for the outdoor cultivation site totaling 260,000 sq. ft. and a 'self-distribution' license (Type 13). The subject site is 99 acres in size, large enough to support the cultivation license; the applicant also qualifies for the Type 13 'Self Distribution' license.

VIII. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt mitigated negative declaration (IS 19-22) for Use Permit (UP 19-11) 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.
2. Potential environmental impacts related to air quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6 and AQ-7.
3. Potential environmental impacts related to Biological Resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2 and BIO-3.
4. Potential environmental impacts related to Cultural and Tribal Resources can be mitigated to less than significant levels with the 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, NOI-2 and NOI-3.
6. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
7. Any changes to the project will require either an amended Use Permit and/or a new Use Permit unless the Community Development Director determines that any changes have no potential increased environmental impacts.

B. Approve Use Permit UP 19-11 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. 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 can be mitigated to be reasonably adequate to safely accommodate the proposed use.
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 General Plan and any approved zoning or land use plan.
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. That the proposed use complies with all development standards described in Section 1.i
8. That the applicant is qualified to make the application described in Section 1.ii.(g)
9. That the application complies with the qualifications for a permit described in Section 1.ii.(i)

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Initial Study (IS 19-22)** applied for by **Jinchun Agriculture LLC** on property located at **16740 Daly Place, Middletown**, and further described as **APN: 013-013-51** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **March 25, 2021**.

Major Use Permit (UP 19-11)

I move that the Planning Commission find that the **Use Permit (UP 19-11)** applied for by **Jinchun Agriculture LLC** on property located at **16740 Daly Place, Middletown**, and further described as **APN: 013-013-51** does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **March 25, 2021**.

***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 calendar day following the Commission's final determination.