



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
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Item 6b
9:20 AM
May 22, 2025

STAFF REPORT

TO: Planning Commission

FROM: Mireya G. Turner, Community Development Department
Max Stockton, Assistant Planner II

DATE: May 22, 2025

SUBJECT: Consideration of a proposed Major Use Permit (PL-25-68) for (UP 23-09) Poverty Flats Ranch, for a commercial cannabis cultivation for up to 5.69 acres (247,800 sf), and draft Initial Study/ Mitigated Negative Declaration (IS 23-29); Poverty Flats Ranch / Kurt and Bobby Barthel; location: 10535 High Valley Road, Clearlake Oaks (APN: 006-004-22)

ATTACHMENTS:

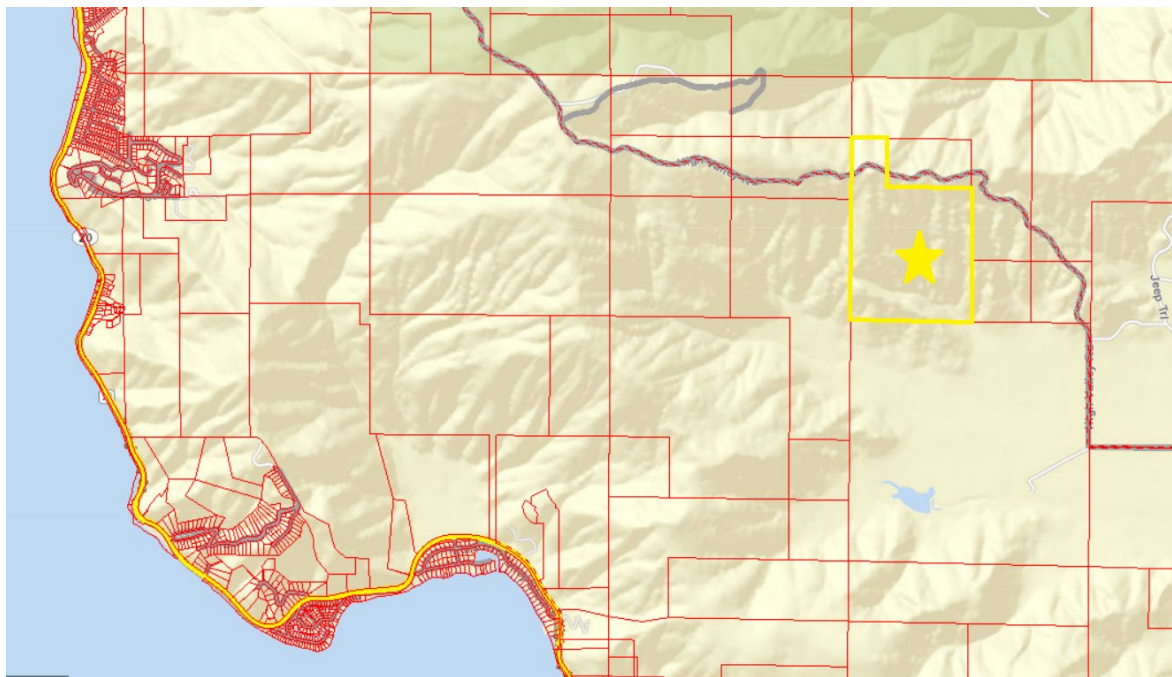
1. Project Site Plans
2. Draft Conditions of Approval
3. Draft Initial Study/ Mitigated Negative Declaration Redlined (IS 23-29)
4. Property Management Plan
5. Hydrology Report and Drought Management Plan
6. Biological Assessment & Botanical Survey (combined)
7. Agency Comments
8. Public Comments

EXECUTIVE SUMMARY

The applicants, Kurt and Bobby Barthel, propose Major Use Permit (PL-25-68) for (UP 23-09), for commercial cannabis cultivation at 10535 High Valley Road, Clearlake Oaks (Lake County APN: 006-004-22). The application, as proposed, would include cultivation of 247,800 sf (5.69 Acres) of outdoor canopy a Type 13 Distribution, Self-transport only license. The zoning is "RL-WW-SC" - Rural Lands, Waterway Combining District, and Scenic Combining District. The total acreage of the parcel is approximately 196.7 acres.

Historic uses of the site and vicinity are undeveloped open space, private estates with gardens and corrals, and grazing and timber land. On July 27, 2018, the Mendocino Complex Fire devastated over 325,000 acres, including this property. In 2022, the property was approved for grading permit (GR22-12) to clear and maintain the existing fire break and maintain the existing access roads. The permit was inspected July 1, 2024, by the grading inspector, with no violations found and notes were made explaining that trenching had been done with an approved well permit for future fire suppression.

FIGURE 2 – VICINITY MAP



Source: ArcGIS Reader

PROJECT DESCRIPTION

<u>Project Title:</u>	Poverty Flats Ranch
<u>Permit Numbers:</u>	Initial Study/ Mitigated Negative Declaration (IS 23-20) Major Use Permit (PL-25-68) for (UP 23-09)
<u>Lead Agency:</u>	County of Lake Community Development Department 255 North Forbes Street Lakeport, CA 95453
<u>Applicant Name & Address:</u>	Rusty Barthel 24760 E. Bright Avenue Welches, OR 97067
<u>Property Owner:</u>	Rusty Barthel
<u>Project Location:</u>	10535 High Valley Road Clearlake Oaks, CA 95423
<u>Parcel Number(s) (APN):</u>	006-004-22
<u>Parcel Size:</u>	±196.7 acres
<u>General Plan Designation:</u>	“RL” – Rural Lands
<u>Zoning District(s):</u>	“RL-WW-SC” - Rural Lands, Waterway Combining District, Scenic Combining District

Flood Zone: "X" - Areas determined to be outside the 0.2% annual chance (500-year) floodplain

Existing Features:

The property is situated in the hilly region of Clearlake Oaks. The parcel was previously used for hunting, with pre-existing groundwater well, and a driveway that is accessible via High Valley Road. The proposed project is situated outside of the Scenic Corridor of High Valley Road.

- Interior driveway
- A permitted groundwater well
- 6' x 6' pump house for the well
- (2) shipping containers for storage
- 8' x 12' tool shed
- 6' x 5' tool shed
- 16' x 24' hunting cabin
- (8) 4,500-gallon water tanks

Proposed Features:

The applicant proposes the following structures, water tanks, and necessary equipment for the cultivation operation.

- Up to 247,800 sf of outdoor canopy area (5.69 acres);
 - Cultivation could also occur in temporary agricultural exempt hoop-houses, if the requirements of Ordinance No. 3132 are met.
- Up to 8,700 sf of ancillary immature plant propagation in greenhouses;
- A 2,400 sf processing building with an ADA restroom;
- New septic system and leach field to repair damages from the Mendo-Complex fire and accommodate the new processing building needs;
- Security fence around the cultivation area, 6 ft. high wire fences, constructed of heavy gauge wire fence (or similar), with steel gates and padlocks, and a security system at each cultivation area;
- Irrigation water sourced from an existing groundwater well;
- Water storage for up to 79,000 gallons for irrigation;
- A minimum of 12,500 gallons of water designated for fire suppression in accordance with National Fire Protection Association (NFPA);
- Drip irrigation system, consisting of a water storage tank, valves and filters, PVC pipe, black polyvinyl flexible tubes, drip emitters;
- Waterproof storage shed/Conex container or similar for storage of fertilizers, agricultural chemicals, and hand tools;
- Electricity supplied by proposed ground and roof mounted solar power system with a generator backup;
- Nine (9) parking spaces, including required ADA-space;
- Three (3) portable restroom facility to service employees prior to construction of the new processing facility.
- Trash enclosures, compost piles, and soil piles located within each fenced cultivation area.

Operation

The project proposes full-sun outdoor cultivation in cultivation beds on existing agricultural fields.

No mixed-light cultivation is proposed. Temporary hoop structures could be utilized and would be permitted under the requirements of Ordinance No. 3132. All cultivation areas would be located outside of watercourse setbacks and away from sensitive areas. Drying and harvest storage would occur within the proposed 2,400 sf processing building. The operation hours would be consistent with the agricultural practices. Once operational, the proposed Project would staff approximately nine employees, March through November, with peak employee usage during peak seasonal events, such as planting and harvesting.

Construction

Construction traffic would occur over approximately one to two months. Equipment would be mobilized at the beginning and the end of the construction season. Equipment would include backhoe, excavator and similar, primarily for grading purposes, for approximately 7,450 cubic yards of earth movement, as proposed in the grading plans provided. During construction, it is expected that there would be approximately three to four construction employees, with up to two round trips per day on average, totaling up to eight trips per day. Dust may be produced, but it proposed that dust will be kept to a minimum by wetting the soil with a mobile water tank and hose, or by delaying ground disturbance activities until site conditions are not windy. Assuming an average of two deliveries per week during construction. Total construction delivery trips would be approximately 16 delivery trips per month, or a maximum of 32 over the two-month construction period. This equals approximately 0.53 delivery trips per day, but for calculation purposes, a value of one delivery trip per day is assumed. Therefore, conservatively, combining employee trips and delivery trips, approximately nine trips per day would occur during construction.

POINTS OF INTEREST

Water Source and Use

Water for cultivation activities will be supplied from an existing groundwater well. The well was drilled August 12, 2022, to a depth of 400 ft below ground surface (bgs). Depth to first water was noted in the geologic log at 200 ft bgs, static water level was not recorded. A two hour well production test (air-lift test) at the time the well was drilled yielded 40 gallons per minute (gpm). The project proposes to use the existing groundwater well to fill multiple water tanks for up to 79,000-gallons of water storage, for irrigation. Water from the storage tanks will be piped to drip irrigation systems at the cultivation areas. Drip lines will be sized to irrigate the cultivation areas at a slow rate to maximize absorption and prevent runoff. Drip irrigation systems, when implemented properly, conserve water compared to other irrigation techniques. Total projected water use for the cultivation operation is 11.2 acre-feet annually or 3,650,000 gallons per year. Additionally, the project includes best management practices and mitigation measures related to water conservation (see Environmental Review section of this staff report for more information). Lastly, a Drought Management Plan is included with the Hydrology Report in Attachment 5 with the following measure outlined in the event of a declared drought emergency:

- No surface water diversion;
- Selection of plant varieties that are suitable for the climate of the region;
- The use of drip irrigation (instead of spray irrigation);
- Cover drip lines with straw mulch or similar to reduce evaporation;
- Water application rates modified from data from soil moisture meters and weather monitoring;
- Shutoff valves on hoses and water pipes;
- Daily visual inspections of irrigation systems;
- Immediate repair of leaking or malfunctioning equipment; and

- Water use metering and budgeting – a water budget will be created every year and water use efficiency from the previous year will be analyzed.

Federal Lands Crossing

A segment of High Valley Road, utilized for access to or from the commercial cannabis site, is owned by the Bureau of Land Management and measures approximately half a mile to the east of the applicant's property entrance. The Bureau of Land Management does not have the authority to permit any activities related to cannabis due to its federal status; therefore, the applicant has signed an indemnification agreement with the county. This agreement notifies applicant and their staff of the federal requirement and releases the county from liability for actions required to operate along this section of High Valley Road.

Previously Issued Permits

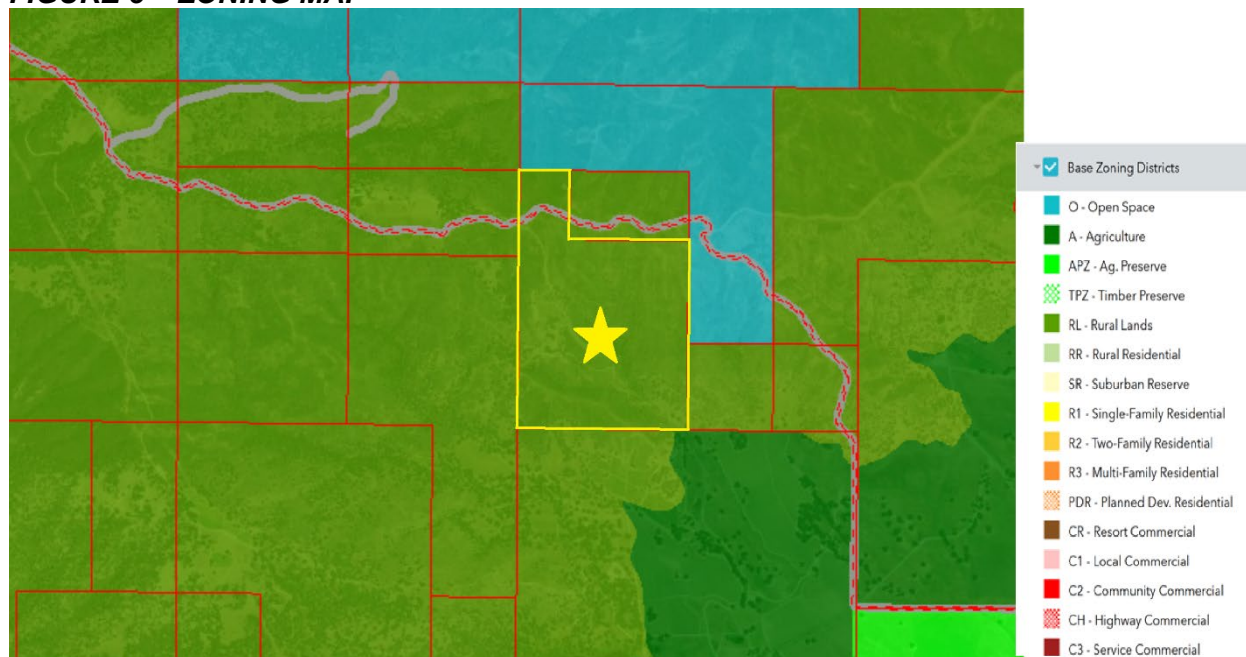
In 2022, following the Mendocino Complex Fire, the applicant submitted a grading permit to facilitate the clearing and maintenance of the existing fire break, along with improvements to the access road to meet 4290 standards. Permit number (GR22-12) was issued on April 18, 2022, and was subsequently inspected by Grading Inspector Tod Elliot in June 2024. The inspection confirmed that the grading was completed in compliance, with minor trenching conducted in accordance with the well permit approved by Environmental Health.

PROJECT SETTING

Surrounding Zoning and Uses

North:	Rural Lands – Open Space District - Waterway Combining District – Scenic Combining District, Undeveloped
East:	Rural Lands – Open Space District - Waterway Combining District – Scenic Combining District, Undeveloped
South:	Rural Lands – Agricultural – Waterway Combining District – Scenic Combining District, farmland
West:	Rural Lands - Waterway Combining District – Scenic Combining District, a cannabis farm, otherwise undeveloped

FIGURE 3 – ZONING MAP



Source: Lake County GIS Portal

PROJECT ANALYSIS

General Plan Conformity

Chapter 3 - Land Use

Goal LU-1: Encourage the overall economic and social growth of the County while maintaining its quality-of-life standards.

- Policy LU-1.3: Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

Response: Pursuant to Article 27, Sec. 21-27.10, Sec. 27.11 Table B of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the “RL” Rural Lands upon securing a Minor/ major Use Permit. The Project parcel is surrounded by large parcels with limited to no development. As described below, the project also meets all development standards related to compatible uses. Therefore, the proposed project would not be an intrusion of a new incompatible land use within the existing zoning and general plan designation of this area as it is an allowable use.

- Policy LU-1.4 Communities: The County shall recognize each community as an important asset to the County and seek to strengthen and revitalize all communities.

Response: The approval of the use permit will allow both the agricultural industry and the cannabis industry to strengthen and revitalize the overall community through promoting economic development. Employment opportunities, as well as tax and other revenues for the County. According to the applicant, the operation will include approximately nine employees throughout the growing season.

Goal LU-2: To clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses (i.e., high density residential, high density commercial and industrial) from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/ Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on the type of operation and chemicals used for spraying.

Response: In reference to the Lake County Zoning Ordinance Article 27, (at), 1.i. the County requires a minimum 100-foot setback from all property lines of the subject property, and minimum of 200-foot setback from all residences. There are currently no off-site within 2,300 feet from the property lines, and 3,000 feet from the cultivation area. Additionally, Article 27, Sec. 21-27.10, (at), 3.iii.v. prohibits Commercial Cannabis Cultivation within 1,000 feet of Community Growth Boundaries, licensed childcare facilities, churches, or youth-oriented facilities. The closest community growth boundary is approximately 2.5 miles away, separated by rugged, mountainous terrain. The project meets these setbacks.

Chapter 7 - Health and Safety

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. The County should consider fire hazards in evaluating development proposals. Within designated areas where population or residential building densities may be inappropriate to the hazards present, measures should be developed and adopted to mitigate risk to life and property loss. Lands designated as having high and extreme wildfire hazards may be developed provided that the guidelines are satisfied.

Response: Developers and/ or subsequent owners 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 Project site is located within a very high-risk fire hazard zone. As part of the proposed project, all water storage tanks will be equipped with 2.5-inch fire equipment hose connectors to ensure efficient and effective fire suppression. Additionally, a 2,500-gallon water tank will be installed solely for the purpose of fire suppression at each cultivation site, together with a minimum of two (2) 3,000-gallon water tanks at the proposed processing building, providing ample water supply for potential fire emergencies. The location of the water tanks are in close proximity to interior roadways for use by the fire district. Lastly, conditions of approval and mitigation measures have been incorporated into the project to reduce the risk of wildfire, including steel, fiberglass or concrete tanks when dedicated to fire suppression. See the Environmental Review section of this staff report for more information.

Chapter 11 - Water Resources

Goal WR-5: Encourage efficient use of water for new and existing land uses.

- Policy WR-5.1: Water Use Efficiency for New Development. The County shall require the use of water conservation techniques appropriate for new development. Such techniques include, but are not limited to, requiring low flow plumbing fixtures on new construction, the use of high efficiency irrigation systems, use of graywater for

landscaping, the integration of storm water runoff into passive groundwater recharge, the use (when feasible) of reclaimed water resources for reasonable and beneficial use and the use of drought-tolerant vegetation.

- Policy WR-5.3: Water Efficiency for Agricultural Uses. The County shall encourage the use of agricultural and forest resources management practices that result in the efficient use of water resources. Those practices include but are not limited to drip and micro drip irrigation systems and appropriate forest thinning. The County will also encourage agricultural and forest resource operators/ managers to participate in watershed management and restoration efforts.

Response: The proposed project has conducted a comprehensive hydrology report that outlines the expected water consumption. As noted above in the Points of Interest section of this staff report, there are adequate water resources available for the project. Moreover, in anticipation of potential droughts, the project has submitted a detailed drought management plan that outlines the measures that will be implemented to reduce water usage. This plan serves as a proactive approach to mitigate the impact of drought emergencies. Additionally, the applicant proposes using drip lines as a means to ensure precise and efficient irrigation, thereby minimizing the risk of overwatering and water wastage.

Shoreline Community Area Plan Conformity

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

- 3.1.1b: Focus development in areas of low to moderate erosion potential where feasible.
- 3.2.1b: Design new developments to conserve water using drought-resistant vegetation, low-flow plumbing fixtures, grey water systems and other conservation measures.
- 3.2.1d: Provide assistance to the local agricultural community and new large agricultural projects to increase water supplies and implement conservation techniques for the use and reuse of irrigation water.
- 3.4.1d: Promote the development and maintenance of buffers between agricultural and non-agricultural lands. Further division of rural residential lands that serve as a buffer shall be discouraged.

Response: The proposed project is consistent with the policies of the Shoreline Communities Area Plan, including the policies cited above. The applicant has provided a Water Availability Analysis, Drought Management Plans, and is required to adhere to the State Water Resources Control Board Cannabis Cultivation Policy, which requires all runoff be retained on-site, mitigating off-site downstream drainage impacts.

Zoning Ordinance Conformity

Article 7 – Rural Lands (RL): In reference to Article 7 of the Lake County Zoning Ordinance, this designation is to provide for resource related and residential uses of the County's undeveloped lands. Typical uses permitted by right include, but are not limited to, Agricultural uses, including crop and tree farming, livestock grazing, animal husbandry, agricultural and residential accessory

uses and accessory structures, agricultural processing such as fruit dehydrators and packing sheds not exceeding a use area of two thousand (2,000) square feet.

Response: Under Article 27, Sec. 21-27.10, Sec. 27.11 Table B of the Lake County Zoning Ordinance, commercial cannabis cultivation is a permitted use within the Rural Lands zoning district.

Article 27 – Uses Permitted: The purpose of Article 27, section 27.13(at) is to evaluate individual requests for use permits related to cannabis cultivation projects for compliance with specific standards and criteria.

Response: 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 each A-Type 3 license): *Complies; The lot is ±196.7 acres in size, and 100 acres are required for the permits requested.*
- Minimum Lot Size (20 acres required for each A-Type 2 license): *Complies; The lot is ±196.7 acres in size, and 40 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 2000 feet to the north of the cultivation area.*
- Minimum and maximum fence height of six (6) to eight (8) feet: *Complies; the proposed fence is six (6) feet tall.*
- Maximum canopy area (43,560 sf for each 20 acres of land for each A-Type 3 license): *Complies; The total proposed outdoor canopy area is 217,800 sf. The ±196.7acre lot size supports the proposed canopy areas.*
- Maximum canopy area (10,000 sf for each 20 acres of land for each A-Type 2 license): *Complies; The total proposed outdoor canopy area is 30,000 sf. The ±196.7acre lot size supports the proposed canopy areas.*
- *The total combined acreage for all parcels included within this project is approximately 196.7 acres. The site is large enough to accommodate up to 9 acres of commercial cannabis cultivation. The applicant is proposing a total of 5.69 acres.*

Article 34 – Scenic Combining District (SC): The purpose of this article is to protect and enhance views of scenic areas from the County's scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation-based economy of the County.

Response: The Scenic Corridor on High Valley Road is 500 feet from the edge of the road. The proposed cultivation site is located over 1,200 feet away from the Scenic Corridor on High Valley Road. It is situated downhill and shielded by trees, making it not visible from the road or viewable

to the public, with the exception of a portion of the fence being potentially visible. Mitigation measures have been included to ensure there are less than significant impacts related to visual resources (see Environmental Review section of this staff report for more information).

Article 37 - Waterway Combining District (WW): The purpose of this Article is to preserve, protect and restore significant riparian systems, streams and their riparian, aquatic and woodland habitats; protect water quality; control erosion, sedimentation, and runoff; and protect the public health and safety by minimizing dangers due to floods and earth slides. These purposes are to be accomplished by setting forth regulations to limit development activities in significant riparian corridors and through the establishment of an administrative procedure for the granting of exceptions from such regulations.

Response: Outdoor cannabis cultivation is a permitted use in the property's zoning district with the issuance of a Major Use Permit. However, no person shall undertake any development activity within a riparian corridor except when exempt or authorized by an exception. As noted in the Initial Study (Attachment 3). Several Class III (ephemeral) drainages drain southeasterly through the property, toward Schindler Creek and eventually drain to Clear Lake, to which the applicant has completed a Lake Streambed agreement with the California Waterboard to access one of the gardens over an 18" HDPE pipe, that already exists to ensure that vehicles are not traveling through the waterway. Furthermore, the cultivation area and all project components would be located a minimum of 100-feet away from these resources.

General Requirements

There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

The applicant will be required to meet the General Requirements outlined in Section 27.11(at) of Chapter 21 Zoning Ordinance and Ordinance 3106; Conditions of Approval (Attachment 2) are proposed to ensure compliance with the Zoning Ordinance.

The applicant has submitted a Property Management Plan (Attachment 4), outlining compliance with all regulations pertaining to cannabis operations including the following: air quality, project grounds, grading and erosion control BMP's, security, stormwater, water use, etc. In addition, the Project complies with the restrictions pertaining to the prohibited activities listed in Article 27, including water use that is illegally diverted.

AGENCY COMMENTS

The following agencies submitted comments on this project. Comments received are included in Attachment 7, and have been incorporated into conditions of approval as applicable (see Attachment 2):

- Lake County Agricultural Commissioner
- Lake County Air Quality Management District.
- Lake County Building Safety Division
- Lake County Environmental Health
- Lake County Public Works (Roads)
- Lake County Special Districts
- Lake County Surveyor

- Lake County Water Resources
- Bureau of Land Management
- CALFIRE
- California Department of Fish and Wildlife
- California Water Quality Control Board
- Department of Cannabis Control
- NWIC (Sonoma State University)
- PG&E
- Redbud Audubon

TRIBAL COMMENTS

Notification 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, Hopland Band of Pomo Indians, Habematolel Pomo of Upper Lake Tribe, and Yocha Dehe Wintun Nation on December 20, 2023. No adverse comments were received. Elem Tribe contacted former staff involved in this project via telephone. Staff coordinated a meeting between the applicant and Tribe, which occurred on January 8, 2024. An agreement was not reached between the two parties. The consultation process concluded on the same day. Implementation of Tribal Cultural Resources Mitigation Measures (TCR-1 through TCR-2) will provide the applicant and employees with proper cultural resource procedures.

ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (Attachment 3) was prepared and circulated for public review in compliance with CEQA from January 31, 2023 to March 2, 2023. Agency Comments received are included in Attachment 7. In the Initial Study, dated July 26, 2023, there is mention of a Nursery, but the applicant will not be pursuing a Type 4 Commercial Nursery License. They will only be engaging in plant propagation. Additionally, on page 6 of the Initial Study, it is mentioned that the solar array will provide power for fans and dehumidifiers; although, the applicant had initially planned to have mixed light, they have now decided to go fully outdoors.

The Initial Study found that the project could have potentially significant impacts.

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Noise
- Transportation
- Tribal Cultural Resources
- Utilities
- Wildfire
- Mandatory Findings of Significance

Aesthetics Impacts relating to Aesthetics have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AES-1:

AES-1: All outdoor lighting shall be shielded and downcast or otherwise positioned in a manner that would not broadcast light or glare beyond the boundaries of the subject property. All lighting equipment shall comply with the recommendations of the International Dark-Sky Association (www.darksky.org) and provisions of Section 21.48 of the Zoning Ordinance. Security lighting shall be shaded, facing downward, and motion activated.

Air Quality Impacts relating to Air Quality have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AQ-1 through AQ-5:

AQ-1: The applicant shall contact the Lake County Air Quality Management District and obtain an Authority to Construct (A/C) Permit, as applicable, prior to commencing construction operations, or demonstrate that a permit is not needed.

AQ-2: All mobile diesel equipment used must be in compliance with state registration requirements. Portable and stationary diesel-powered equipment must meet 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 LCAQMD with such information in order to complete an updated Air Toxic emission Inventory.

AQ-4: Any vegetation removed 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: All driveways and parking areas shall be surfaced with non-white rock gravel, chip seal, asphalt, or other all-weather surfacing to reduce fugitive dust generation. The applicant shall regularly maintain any graveled areas to reduce fugitive dust generations. The use of white rock as a road base or surface material is prohibited.

Biological Resources Impacts relating to Biological Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure BIO-1 through BIO-3:

BIO-1: If Project activities occur during the bird nesting season (February through August), a qualified biologist shall conduct a pre-construction survey for the presence of special-status bird species or any nesting bird species within 500 feet of the proposed construction areas.

If the qualified biologist identifies any active nests within 500 feet of the proposed construction areas, CDFW and/or USFWS, as applicable, shall be consulted to develop appropriate measures to avoid “take” of active nests and establish appropriate avoidance measures.

BIO-2: All work shall incorporate erosion control measures consistent with the Lake County Grading Regulations and the State Water Resources Control Board Order No. WQ 2019-001-DWQ.

Cultural Resources Impacts relating to Cultural Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure CUL-1 through CUL-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.

Geology and Soils Impacts relating to Geology and Soils have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measures BIO-2 and GEO-1 through GEO-4:

GEO-1: Excavation, filling, vegetation clearing, or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Department Director. The actual dates of this defined grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director.

GEO-2: The permit holder shall monitor the site during the rainy season (October 15 – May 15), including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed.

GEO-3: If greater than fifty (50) cubic yards of soils are moved, a Grading Permit shall be required as part of this project. The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce the discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include scheduling of activities, erosion and sediment control, operation and maintenance procedures, and other measures in accordance with Chapters 29 and 30 of the Lake County Code.

GEO-4: If paleontological resources are encountered during implementation of the Project, ground disturbing activities will be temporarily redirected from the vicinity of the find. A qualified paleontologist shall be retained by the developer to make an evaluation of the findings. If a significant paleontological resource(s) is discovered on the property, the qualified paleontologist/archaeologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

Hazards and Hazardous Material Impacts relating to Hazards and Hazardous Material have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure HAZ-1:

HAZ-1: If the storage of hazardous materials is equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.

Hydrology and Water Quality Impacts relating to Hydrology and Water Quality have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure HYD-1 through HYD-3:

HYD-1: The applicant shall conduct seasonal static water level monitoring. The water level in each of the used wells shall be measured and recorded once in the Spring, prior to cultivation activities, and once in the fall, after cultivation is complete for the season. Records shall be kept and reported to the County and state agencies as part of the Project's annual reporting requirements.

HYD-2: The applicant shall have a meter to measure the amount of water pumped on each well. The applicant shall take weekly recordings of the amount of water used during extraction. In addition, water levels of each well shall be monitored weekly during well usage. Records of weekly water levels in each well shall be kept, and elevations shall be reported to the County and state agencies as part of the Project's annual reporting requirements. If water levels are dropping significantly, a revised Water Management Plan, including a revised water budget and water mitigation strategies, shall be prepared and submitted to the County for review and approval prior to continuing operation.

HYD-3: The applicant shall adhere to the measures described in the Drought Management Plan (Hydrology Report, 2023) during periods of a declared drought emergency. In addition, in the event that a well is unable to supply required water for the Project, the applicant shall either (1) reduce the amount of cultivation and/or length of cultivation season, as appropriate, (2) install additional water storage, (3) implement a rainwater catchment system, or (4) develop an alternative, legal water source in coordination with Lake County and Water Resource agencies. In no event shall water be diverted from surface waters.

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

NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00 a.m. and 7:00 p.m., and Saturdays from 12:00 noon to 5:00 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.

Transportation Impacts relating to Utilities have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure WDF-1:

Tribal Cultural Resources Impacts relating to Tribal Cultural Resources have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure 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 a tribal cultural resources plan to allow for identification and further evaluation in determining the tribal cultural resource significance and appropriate treatment or disposition.

Utilities Impacts relating to Utilities have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure HYD-1 through HYD-3:

Wildfire Impacts relating to Wildfire have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure WDF-1:

WDF-1: Prior to operation, the applicant shall improve the interior driveway to meet Public Resource Code 4290 and 4291 commercial driveway standards. The applicant shall arrange a site inspection by the County Building Official (Fire Marshal) to confirm that the interior driveway is Public Resource Code 4290 and 4291 compliant, including gate width.

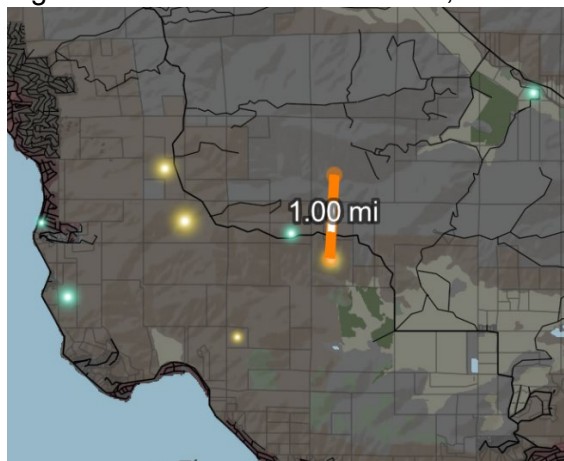
Mandatory Findings of Significance

The discussion within this section is incorporated to mitigate any potential impacts from the implementation of the project. In addition to the mitigation measures above, the applicant will apply for permits from various agencies including the Department of Cannabis Control, the State Water Resources Control Board, and the California Department of Fish and Wildlife, and any other applicable agencies to operate a commercial cannabis cultivation operation. The various agencies include complying with state regulatory setback requirements and restrictions that would then further minimize potential impacts to the environments that address natural resources. Implementation of and compliance with mitigation measures identified in each section as project conditions of approval would avoid or reduce potential impacts to less than significant levels and would not result in any cumulatively considerable environmental impacts.

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Geology & Soils, Hazards & Hazardous Materials, Hydrology, Noise, Tribal Cultural

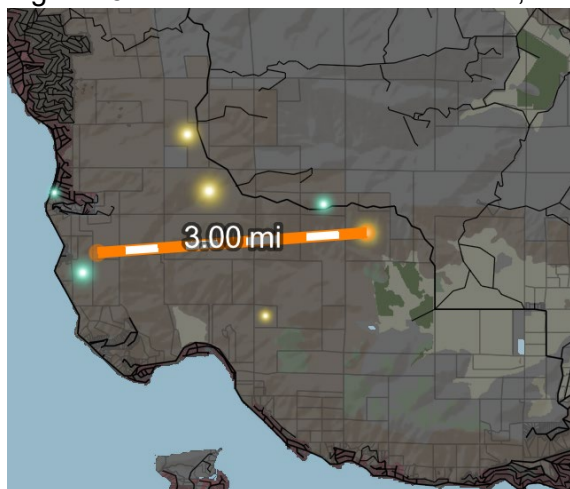
Resources, Utilities, and Wildfire. These impacts in combination with the impacts of other past, present, and reasonably foreseeable future projects could cumulatively contribute to significant effects on the environment. Implementation of and compliance with mitigation measures identified in each section 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.

Figure 4: Within a one-mile radius, there are zero pending and one approved projects



Source: ArcGIS

Figure 5: Within a three-mile radius, there are two pending and two approved projects



Source: ArcGIS

MAJOR USE PERMIT FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Major Use Permit (LCZO Section 51.4, Major Use Permits) if all of the following findings are made:

1. *That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County.*

The proposed use of commercial cannabis cultivation operation is a permitted use in the “RL” Rural Lands zoning upon issuance of a Major Use Permit pursuant to Article 27, Sec. 21-27, Sec. 27.11 Table B of the Lake County Zoning Ordinance. The project scope complies with the minimum regulatory requirements set by the local ordinances to address the health, safety, morals, comforts, and general welfare of those working or residing near the proposed use. The project meets or exceeds all required setbacks for this type of use, including distance to nearby sensitive receptors. Prior to the applicant constructing any type of structure(s), the applicant shall obtain the necessary permits and licenses from the appropriate federal, state, and/or local government agencies. Additionally, the Community Development Department would conduct annual compliance monitoring inspections during the cultivation season to ensure compliance with the County’s ordinances, the approved Property Management Plan, mitigation measures, and conditions of approval.

2. *That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.*

The project proposes 247,800 sf of cannabis cultivation canopy. The location and the size of the project site comply with the local ordinance requirements for use and setbacks. The site is large enough to meet the standards and criteria for commercial cannabis licenses applied for as found in Article 27.11. The Lake County Zoning Ordinance allows Type 3 cultivation operations within “RL” – Rural Lands zoning districts, and the subject site is ± 196.7 acres in size, large enough to accommodate up to 9 acres of commercial cannabis canopy. The applicant proposes a total of 5.69 acres.

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

The proposed cultivation area is accessed from a private driveway, which is accessed from High Valley Road, a county-maintained road. The applicant must comply with all building codes prior to construction of any structures. There is no pedestrian access to the Project Site. The project has adequate access to accommodate the specific 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.*

The project site will utilize one on-site groundwater well and a total of twenty-five 3,000 water storage tanks and one (1) 4,000-gallon tank, totaling 79,000 gallons. Additionally, the project parcel has adequate emergency service protection through the Lake County Sheriff’s Office, California Highway Patrol (CHP), the California Board of Forestry and Fire Protection, (CALFIRE), and the Kelseyville Fire Protection District. The applicant must comply with all relevant local, state, and federal regulations, mitigation measures, and approval conditions to ensure sufficient services and safety at the site. This includes equipping all water tanks with 2.5-inch fire hose connectors and the applicant plans to have 12,500 gallons of water, for fire suppression purposes. This application was routed to all of the affected public and private service providers (including Public Works, Special Districts, Environmental Health, PG&E, and there are adequate public utilities and services available to the site. 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.*

The cultivation of commercial cannabis is a permitted use within the Rural Lands Zoning district upon securing a Major Use Permit according to Article 27.13 of the Lake County Zoning Ordinance. The General Plan and Shoreline Communities Area Plan contain provisions that ensure compatibility between economic, water, and agricultural land use. The subject property satisfactorily meets minimum setbacks and development standards as required by these plans.

6. *That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.*

There are no violations of Chapters 5, 17, 21, 23, or 26 of the Lake County Code on this property.

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

This application and supporting documentation meets the following Development Standards, General Requirements and Restrictions as specified within Article 27.11(at) of the Lake County Zoning Ordinance.

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

The applicant has completed the 'live scan' background check and is qualified to apply for this permit.

RECOMMENDATIONS

Staff recommends the Planning Commission take the following actions:

- A. Adopt Mitigated Negative Declaration (IS 23-20) for Major Use Permit (PL-25-68) for (UP 23-09) with the following findings:
 1. Potential environmental impacts related to Aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1.
 2. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-5.
 3. Potential environmental impacts related to Biological Resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-2.
 4. Potential environmental impacts related to Cultural Resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 through CUL-3.

5. Potential environmental impacts related to Geology and Soils can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-2 and GEO-1 through GEO-4.
6. Potential environmental impacts related to Hydrology and Water Quality can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1.
7. Potential environmental impacts related to Hydrology and Water Quality can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1 through HYD-3.
8. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-2.
9. Potential environmental impacts related to Transportation can be mitigated to less than significant levels with the inclusion of mitigation measures WDF-1.
10. Potential environmental impacts related to Tribal Cultural Resources can be mitigated to less than significant levels with the inclusion of mitigation measures TCR-1 through TCR-2.
11. Potential environmental impacts related to Utilities can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1 through HYD-3.
12. Potential environmental impacts related to Wildfire can be mitigated to less than significant levels with the inclusion of mitigation measures WDF-1.

B. Approve Major Use Permit (PL-25-68) for (UP 23-09) with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.

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

Sample Motions:

Initial Study/ Mitigated Negative Declaration (IS 23-20)

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 23-20) submitted by Rusty and Bobby Barthel for the property located at 10535 High Valley Road, Clearlake Oaks, (APNs: 006-004-22) will not have a significant effect on the environment, and that the Planning Commission adopt Initial Study (IS 23-20) with the findings listed in the staff report dated May 22, 2025.

Major Use Permit (PL-25-68) for (UP 23-09)

I move that the Planning Commission find that the Major Use Permit (PL-25-68) for (UP 23-09) applied for by Rusty and Bobby Barthel on property located at 10535 High Valley Road, Clearlake Oaks (APNs: 006-004-22) 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 22, 2025.

NOTE: *The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh day following the Planning Commission's decision on this matter.*