



COUNTY OF LAKE  
COMMUNITY DEVELOPMENT DEPARTMENT  
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Planning • Building • Code Enforcement  
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Item #6e  
10:10 AM  
May 23, 2024

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Mireya G. Turner, Community Development Department  
Michelle Irace, Principal Planner  
Mary Claybon, Associate Planner

**DATE:** May 23, 2024

**SUBJECT:** Consideration of proposed Major Use Permit (UP 20-60) Lakeport Farm (Ricardo de Mello) and Mitigated Negative Declaration (IS 20-74) for approval of one A-Type 3 “Medium Outdoor” license for 43,000sf outdoor cannabis canopy, two (2) A-Type 3B “mixed-light” licenses for 42,864 sf mixed-light canopy, and one (1) A-Type 13 Self-Distribution, transport only license located at 3681 Benmore Valley Road, Lakeport (APN: 007-002-27)

### ATTACHMENTS:

1. Project Site Plans
2. Draft Conditions of Approval
3. Property Management Plan
4. Draft Initial Study/Mitigated Negative Declaration (Revised 4/2/2024)
5. Hydrology Report
6. Drought Management Plan
7. Agency Comments
8. Biological Reports
9. Public Comment

### EXECUTIVE SUMMARY

The applicant is requesting a major use permit for one (1) A-Type 3 “Medium Outdoor” licenses, two (2) A-Type 3B “mixed-light” licenses, and one (1) A-Type 13 Self-Distribution license. The property is located 3681 Benmore Valley Road, Lakeport (APN 007-002-27) within three cultivation areas. The site is accessed via deeded access driveway that connects with Benmore Valley Road, a private native soil shared-access road. One intermittent channel (Class II watercourse) and three ephemeral channels (Class III watercourses) are located on the property. Historical land uses include animal grazing and legacy cannabis operations. Total acreage is approximately 63.03 acres.

### FIGURE 1 – VICINITY MAP

## PROJECT DESCRIPTION

Project Title: Lakeport Farm

Permit Numbers: UP 20-60; IS 20-74

Lead Agency: County of Lake  
Community Development Department  
Courthouse, 3rd Floor, 255 North Forbes Street  
Lakeport, CA 95453

Applicant Name & Address: Ricardo DeMello  
1400 Barton Road, #1406  
Redlands, CA 92373

Property Owner: Ricardo DeMello and Fernandes Rachek Strachino

Project Location: 3681 Benmore Valley Road, Lakeport

Parcel Number(s) (APN): 007-002-27

Parcel Size: 63.03 acres

General Plan Designation: Rural Lands

Zoning District(s): "RL"; Rural Lands

Flood Zone: "X", Low Risk of Flooding

### Existing conditions:

- One (1) permitted groundwater well
- Three (3) 2,500-gal water tanks
- Interior roadway improvements

### Proposed features:

- Three (3) cultivation areas identified as sites 1, 2, and 3
- Site 1: 43,000 sf outdoor commercial cannabis canopy in above ground beds
- Site 2: 20,304 sf mixed light cannabis canopy within nine (9) 30'x100' greenhouses
- Site 3: 22,560 sf mixed-light cannabis canopy within ten (10) 30'x100' greenhouses
- Portable ADA-compliant restrooms
- 6' tall perimeter fencing with security system
- An 8' x 40' shipping container
- Two (2) 10' x 10' storage sheds for fertilizer and waste storage
- Two (2) standard parking spaces and one (1) ADA-compliant parking space
- Solar array
- Locking 25' wide gate
- Three loading areas; one near each cultivation area
- Roadway improvements including hammerhead turn-arounds

Construction is expected to last for up to two months and would occur Monday through Saturday from 7 a.m. to 6 p.m. and includes construction of nineteen 30' x 100' greenhouses, preparing the outdoor cultivation area, fence installation, two 10' x 10' sheds, installing two additional 2,500 water tanks, and improving the interior driveway to meet PRC 4290 and 4291 commercial

driveway standards. Average vehicle trips during construction would be up to six daily trips (two employees), with 288 total projected construction trips anticipated. Operations would consist of two employees during harvest season with a projected trip count of 24 to 30 weekly trips.

## **POINTS OF INTEREST**

### **Water Use**

A Technical Memorandum (Report) was prepared for this project by North Bay Civil Consulting with a revision date of January 16, 2024 (Attachment 5). The Report evaluates annual water demand for the project, aquifer rate, and provides well data for the on-site well.

There is one (1) existing permitted groundwater well that will be used for all cultivation activities. The well is located approximately (Lat/Long, 39.000543°, -123.008895°). The well has a surface elevation of 2,740-feet and is approximately 136 feet deep. The Well Completion Report was performed in December 2015 by Weeks Drilling & Pump Co. in which the static water level was at 2-feet below the ground surface prior to pumping. The well has initial and static water level elevation of approximately 2,740-feet. At that time, the well was estimated to have a yield of 50 gpm (80.65 acre-feet per year) however the Property Management Plan (Attachment 3) states the well is capable of producing 12 gallons per minute. According to the technical Memorandum, the proposed project's annual water demand could change depending on the length of the cultivation season. Water use is estimated at 4.14 AF per year. The site would need approximately 0.78 inches of rainfall to infiltrate into the recharge area to satisfy its demand. This is approximately 25% of the annual recharge during an average year and 29% annual recharge during a dry year. Thus, there is sufficient recharge, on an annual basis, to meet the project's demand.

Irrigation for the cultivation operation will use water supplied by the existing well. The irrigation water would be pumped from the well via PVC piping to (3) 2,500-gallon water storage tanks, totaling 7,500 gallons of water storage and then delivered to a drip irrigation system. Public Resource Code PRC 4290 and 4291 require water storage dedicated to fire suppression contained within a steel/fiberglass water tank. The applicant is required to provide adequate water storage for fire suppression. This has been added as a Condition of Approval (Attachment 2).

### **Energy Use**

According to the applicant's submitted materials, the proposed project would rely on grid power and would consist of 43,000 sf outdoor canopy area with little power demand from the project, and 42,864 sf of greenhouse canopy that will contain lights and air filtration systems that would have a presumed total demand of up to 1200 amps. The security system, the well pump and any lighting on site would also require power.

PG&E was notified of this project and sent an initial response acknowledging receipt of the Request for Review but did not submit any project-related comments as seen in Attachment 7. According to the applicant, on-grid power will be applied for at the time the project is approved. The applicant proposes outdoor cultivation only using ground mount solar for the well pump and the security system until PG&E connection is established. A solar array installation will occur after PG&E service is established to supplement energy usage based on the needs of the project, as determined by solar provider. California has enacted laws to offset greenhouse gas emissions. The permittee is required to show evidence of carbon offsets. Lakeport Farm will be in compliance

with CCR Title 3, Division 8, Chapter 1, Section 8305 by proposing 50% of energy consumption provided by solar array.

**FIGURE 3 – Estimated Daily and Monthly Energy Consumption**

<b>TOTAL WATTS PER DAY</b>	188790.5
<b>KWh/DAY</b>	188.8
<b>KWh/MONTH</b>	5,664

Source: Applicant submitted Property Management Plan

**FIGURE 4 –Operational Equipment Energy Calculations**

<b>3.2 Energy Calculation</b>				
The following is energy calculation for the proposed (1) A-Type 3 and (2) A-Type 3B:				
<b>Appliance</b>	<b>Number in Use</b>	<b>Watts/Unit</b>	<b>Hrs./Day</b>	<b>Total Watts/day</b>
Dehumidifier	40	400	8	128000
LED Grow Lights	630	8	5	25200
Whole Space AC	0	7125	4	0
Refrigerator	0	77	24	0
Computers	1	120	5	600
Stereo	0	60	4	0
Fans	40	100	4	16000
Vacuum	0	650	.5	0
Wireless Router	1	7	24	168
Coffee Maker	0	1500	.5	0
Phone Charger	0	5	10	0
Printer	1	45	.5	22.5
Security System	1	450	24	10800
Water Pump	2	2000	2	8000

Source: Applicant submitted Property Management Plan

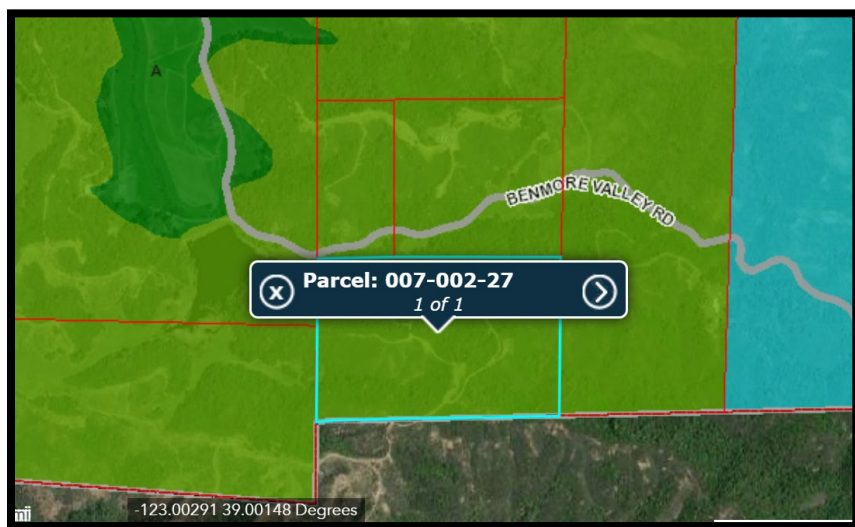
## PROJECT SETTING



### Surrounding Zoning and Uses

- North: “RL”, Rural Lands; parcel is 19.6 acres in size and is undeveloped.
- North: “RL”, Rural Lands; 42.67 acres in size; and developed with a dwelling and greenhouses.
- East: “RL-WW”, Rural Lands – Waterway. Parcel is 172.78 acres in size and are developed with a dwelling.
- South: Mendocino County
- West: “RL”, Rural Lands. Parcel is 83.85 acres in size and is undeveloped.
- West: Split-zoned “RL-WW”, Rural Lands – Waterway, and “A-WW”, Agriculture – Waterway. Property is 157.44 acres in size and contains a dwelling, above-ground pond, agricultural uses and agricultural buildings.

**FIGURE 5 – ZONING MAP**



Source: Lake Couty GIS

### PROJECT ANALYSIS

#### General Plan Conformity

The General Plan Designation for the subject site is Rural Lands. The property is zoned “RL”, Rural Lands, which allows commercial cannabis cultivation subject to compliance with the General Plan, Lakeport Area Plan and various applicable articles within the Lake County Zoning Ordinance. The Rural Lands General Plan designations do not prohibit commercial cannabis cultivation. The lot is not located within a mapped Farmland Protection Area, so there are no restrictions for outdoor cultivation if the project meets all applicable standards and criteria.

### Ch. 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 new incompatible land uses into existing community areas.

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 zoning upon securing a Minor/Major Use Permit. The project parcels are surrounded by large parcels with limited to no development. The approval of the use permit within the Rural Lands General Plan Designation would allow the cannabis industry to strengthen and revitalize the overall Benmore Valley community through promoting economic development, employment opportunities, and various tax revenues for the county. As discussed below in the *Zoning Ordinance Conformity* section, the project meets all required development standards intended to prevent incompatible land 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.

*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.*

While the Lake County General Plan does not have specific policies in regards to commercial cannabis, The State of California recognizes commercial cannabis as an agricultural land use, this project complies with the above policy. The cultivation site is located in a rural portion of Lakeport, on the border of Mendocino County and is characterized by low density rural development primarily on large 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 nearest residence is located about 2,200 feet to the east of the cultivation site. The cultivation site is more than 100 feet away from all property lines and mapped water courses and ponds. The cultivation parcel is not located within 1,000 feet of a licensed childcare facility, a church, or a youth-oriented facility. The parcel is located approximately 5.6 miles Southwest of the Lakeport Community Growth Boundary.

## **Chapter 7 – Health and Safety**

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

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

The applicant is required to improve the interior driveway to meet Public Resource Code (PRC) 4290 and 4291 commercial driveway standards to allow adequate access for wildfire suppression. The applicant proposes three (3) 2,500 gallon water tanks on site. The County will require at least 5,000 gallons to be dedicated to fire suppression and fitted with connectors that will enable emergency responders to attach fire hoses to the tank in the event of an on-site fire. The tank

shall be made of steel or fiberglass per CAL FIRE suppression tank standards. The applicant will also be required to maintain 100' of defensible space around all project-related buildings.

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

The applicant's submitted Property Management Plan (Attachment 3) states that all fertilizers and pesticides used be properly stored and placed within storage sheds with the use of secondary containment as required for all commercial cannabis activities. The proposed project also meets the required 100-foot setback from any spring, top of bank of any creek or seasonal stream (Class II watercourse), edge of lake, delineated wetland or vernal pool, as well as the State required 50-foot setback of Class III ephemeral watercourses.

The project parcel is flat at the cultivation sites. The Property Management Plan discusses erosion control measures that will be used. Tree removal is not proposed by the applicant. There is no mapped asbestos on the project site.

*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.*

Prior to cultivation, the applicant is required to create 100 feet of defensible space around all buildings that will be occupied by humans and / or that require a building permit. As an added Condition of Approval, staff recommends all water tanks be equipped with a 2.5 Fire Department Hose Connection for fire suppression.

## **Chapter 8 – Noise**

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

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

The project is situated in an area characterized by large agriculturally-productive lots, and shows setbacks that are about 150' from the nearest property line. Site preparation, which is a potential source of noise, would last an estimated eight to twelve weeks. The Initial Study/Mitigated Negative Declaration for this project includes Mitigation Measures NOI-1 and NOI-2 including maximum non-construction related sounds levels. All construction activities, including engine warm-up, will be limited to Monday through Saturday, between the hours of



9:00 AM to 6:00 PM. The hours of operation are between 8:00 a.m. and 6:00 p.m. daily, with deliveries and pickups restricted to 9:00 a.m. -7:00 p.m. Monday through Saturday and Sunday from 12:00 p.m. to 5:00 pm.

## **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.*

Under Chapter 21, Article 27.11, the requirements for cannabis cultivation projects submittal include a Water Use Management Plan to be reviewed and approved by the County. The applicant has submitted a Technical Memorandum (Report) was prepared for this project by North Bay Civil Consulting dated July 29, 2022 and revised on January 16, 2024. The Report evaluates annual water demand for the project; aquifer rate; and provides well data for the on-site well.

The project area has average rainfall of 41.38 inches during a non-drought year, and 7.34 inches during a drought year. The Report assumes a recharge percentage of 50% infiltration with the remainder either being evaporated or migrating into a surface water storage area (lake). The Report estimates that the total recharge area is 96.57 acres in size. Taking soil characteristics into account, the Report states that a total of 16.21 acre-feet will recharge during a non-drought year, and 14.16 acre-feet will recharge during a drought year. The Report states that this project will demand between 25% and 29% of the total recharge rate of the 96 acre infiltration area of the site.

### **Lakeport Area Plan Conformity**

The subject site is within the Lakeport Area Plan's boundary. The Plan contains no policies or objectives for commercial cannabis projects, but has objectives and policies that apply to the project as follows:

*Objective 3.3.1 Promote practices that ensure the protection of the Lakeport Planning Area's diverse vegetation and wildlife*

The applicant has provided a biological assessment that recommends Mitigation Measures that have been incorporated into the Draft Initial Study/Mitigated Negative Declaration (Attachment 4). The site plans submitted identify the required 100' setback from the all watercourses.

- *Policy 3.3.1.d Preserve and maintain native trees in new development projects.*

The application materials submitted indicate that no trees will be removed by this project. The cultivation areas are previously disturbed.

- *Policy 3.4.1.g Encourage the widespread use of erosion control programs and techniques in erodible agricultural areas in cooperation with the local Resource Conservation District.*

The applicant has submitted Property Management Plan that describes erosion control measures around the cultivation sites and has enrolled with State Water Resources Control Board's Cannabis General Order (Order No. WQ 2019-001-DWQ) requiring stormwater best practices.

*Objective 3.4.1 Protect and preserve the area's archaeological and historical resources for the long term benefit of residents, tourists, scientists, and future generations.*

The applicant has submitted a Cultural Resource Evaluation of the site prepared by Flaherty Cultural Resource Services and dated July 13, 2020. The on-site survey yielded negative results within the cultivation area.

The County of Lake sent a request for agency review on June 12, 2020. The North West Information Center responded (Attachment 7) suggesting a cultural resource evaluation of the site. County of Lake sent an AB 52 notice 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, Hopland Band of Pomo Indians, and Yocha Dehe Wintun on June 12, 2020, informing tribes of the proposed project and offering consultation under AB 52. No Tribes responded to the AB 52 notice. However, the Draft Initial Study/Mitigated Negative Declaration (Attachment 4) includes Mitigation Measures for Cultural Resources and Tribal Cultural Resources. The Tribes were also included in the notification of this hearing.

## **Zoning Ordinance Conformance**

### Article 7 – “RL” Rural Lands Zoning District

The cultivation of commercial cannabis is permitted in the “RL” Rural Lands Zoning Districts upon issuance of a Major Use Permit pursuant to Article 27, Section 27 [Table B] of the Lake County Zoning Ordinance.

### Article 27 - Use Permits

All uses listed in this Article and all matters related thereto, are declared to be 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, or health permits.

Pursuant to Article 27 of the Lake County Zoning Ordinance, outdoor commercial cannabis cultivation is permitted in the Rural Lands zoning district with the issuance of a Major Use

Permit. To qualify for a Major Use Permit the project must demonstrate that all regulations within Articles 7 and 27 are met and any adverse environmental impacts are adequately mitigated.

#### **Development and Performance Standards**

This application meets the Development Standards, General Requirements, and Restrictions as specified within Article 27.13 (at) of the Lake County Zoning Ordinance. These include:

- Minimum Lot Size (20 acres required for an A-Type 3 license and 20 acres for an A-Type 3B license): *Complies; The lot is ±63 acres in size, and 60 acres is 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 2200 feet to the east 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 outdoor license and 22,000 sf of canopy for each mixed light license): *Complies; The total proposed outdoor canopy area is 43,000 sq. ft., and the proposed greenhouse canopy is 42,864 sf. The ±63-acre lot size supports the proposed canopy areas.*

#### **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. If the requirements have not yet been met, a condition has been added to the Conditions of Approval (Attachment 2) to ensure compliance with the Zoning Ordinance.

The applicant has submitted a Property Management Plan (Attachment 3), 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 healthy tree removal for the purpose of developing a cannabis cultivation site and water use that is illegally diverted.

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 and compliance monitoring.

Article 41, Performance Standards. All land use projects in the "RL" Rural Lands zoning district requires review under Article 41. The following findings apply to this project.

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

An Initial Study has been prepared analyzing the proposed use. Mitigation Measures were identified as a result of the environmental analysis.

- ❖ Section 41.4, *Air Quality*. The project has some potential to impact air quality during construction and during operations. The outdoor cannabis canopy area is 43,000 sf in size, and the total greenhouse canopy area is 42,864 sf in size. Mature plants will be inside greenhouses that are required to have carbon air filtration systems, which will help to minimize odors, particularly during harvest season. Ground disturbance will consist of preparing the pad for the drying building and greenhouse pads. The Initial Study for this project has mitigation measures that will help reduce dust and wildfire threats during site disturbance. Odor control will occur inside the greenhouses through required carbon air filtration systems, however no odor control measures were proposed for the outdoor cultivation area. Carbon filtration systems are required in all buildings that will contain mature cannabis plants.
- ❖ Section 41.5, *Electromagnetic Interference*. This section is intended to assure that a project will not impact any activity outside of the project area by producing electromagnetic interference. Cannabis cultivation activities do not generate electromagnetic interference, so this section does not apply.
- ❖ Section 41.6, *Erosion Control*. This section is intended to reduce or eliminate potential impacts associated with erosion, which is potentially prevalent during site disturbance. The applicant has submitted Erosion and Drainage Control Plans that show methods of erosion control that will be in place prior to ground disturbance and over the life of the project.
- ❖ Section 41.7, *Fire and Explosion Hazards*. The project site is located in an area that has a very high wildfire risk. Mitigation measures including interior driveway improvement, maintaining defensible space around all buildings and storing water dedicated to fire suppression within a steel or fiberglass water tank equipped with 2.5" connections for fire district's use.
- ❖ Section 41.8, *Glare and Heat*. The greenhouses have some potential for glare. The applicant shall use non-glare materials for all buildings including windows. This is added as a condition of approval.
- ❖ Section 41.9, *Landscaping Standards*. The site 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 fence will further screen the cultivation activities from view around the perimeter of the cultivation area.
- ❖ Section 41.10, *Liquid, Solid and Hazardous Wastes*. The section applies to potential discharges of toxic elements. The project must rely on organic fertilizers and pesticides to meet State regulations for impurities. There may be some fuel used during construction for the construction vehicles; mitigation measures and Conditions of Approval require a spill containment kit be kept on site in the event of a fuel spill, and equipment staging will occur on

previously disturbed portion of the site, which will minimize the potential for chemical infiltration into the soil in the event of a spill.

- ❖ Section 41.11, *Noise*. The project may generate some noise during construction which is expected to last about four to six weeks. During operations, air filtration systems required in the greenhouses and processing building have potential to generate noise. Mitigation measures limit noise measured at the property lines during daytime and night-time hours.
- ❖ 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 groundbourne vibrations during site disturbance, primarily for building pad preparations. The applicant is limited in permissible noise levels during and after site disturbance activities occur; the type of equipment used in construction does not generate vibrations, and no mining, rock crushing or other activities that might cause vibrations are not permitted for this project.

## AGENCY COMMENTS

The following agencies submitted comments (Attachment 7) on this project:

- CAL Fire
- CalTrans
- CA. Dept. of Fish and Wildlife
- Bureau of Land Management
- NWIC (Sonoma State University)
- Lake County Special Districts
- California Water Boards
- Department of Cannabis Control

Of the agency comments submitted in response to the June 12, 2020, Request for Review, the following comments are of note. All comments have been resolved or included as Conditions or Approval.

- CAL FIRE – compliance with PRC 4290 and 4291 required; minimum fire safe standards apply to this project
- Caltrans– the applicant submitted Property Management Plan that included documentation for a different project. This has been corrected.
- Caltrans – concerns about Benmore Valley Road; encroachment permit is needed. A private sign on two posts was erected in Caltrans' right-of-way. The location needs to be verified and the sign relocated if located in the state right-of-way. A Condition of Approval has been added.

## TRIBAL COMMENTS

In accordance with AB 52, 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, Habematolel Pomo of Upper Lake Tribe, Hopland Band of Pomo Indians, and Yocha Dehe Wintun Nation on June 12, 2020. No Tribes responded to the AB 52 notice. No tribal comments have been received to date. All aforementioned Tribes were notified of this this public hearing on April 10, 2024.

## 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 09/29/2022 to 10/28/2022. Comments were received from the California State Water Quality Control Board and the Department of Cannabis Control (Attachment 7). Minor revisions to the Initial Study have been made for clarification and to strengthen existing 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).

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

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Noise
- Tribal Cultural Resources
- Wildfire

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

AES-1: The applicant shall install a minimum 6' tall screening fence around the cultivation area. Fabric shall not be used; the screening material shall be chain link with slats, or a solid wood or metal fence. This shall occur prior to any cultivation occurring on site.

AES-2: Prior to greenhouse cultivation, the applicant shall install blackout screening so that light will not be visible outside any greenhouse.

**Air Quality** Impacts relating to (AQ) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure AQ-1 through AQ-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 such information in order to complete an updated Air Toxic emission Inventory.

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

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

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

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

BIO-1: A pre-construction survey for special-status species should be performed by a qualified biologist to ensure that special-status species are not present. If any listed species are detected, construction should be delayed, and the appropriate wildlife agency (CDFW and/or USFWS) should be consulted and project impacts and mitigation reassessed.

- i. If construction activities would occur during the nesting season (typically February 15 through August 31), 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 500 feet of proposed construction areas.
- ii. 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. Avoidance 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.

BIO-2: If any oak trees are to be removed that have a diameter of 5” or greater measured by 4.5’ above grade, the applicant shall replace each qualifying oak tree with three trees of similar species. Replacement trees shall be 5’ tall at time of planting; shall be irrigated and shall be maintained in a healthy state over the life of the project.

BIO-3: The applicant shall be required to maintain 100 feet of defensible space around all new buildings. While tree removal is not required, all trees within 100 feet of any building shall be limbed up to a height of 8’ above the ground to reduce the potential for ladder fuels. Shrubs and grass may be removed without having to be replaced.

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

CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted within 100' of the find(s). A professional Archaeologist certified by the Registry of Professional Archaeologists (RPA) shall be notified 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, the applicant shall 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.

CUL-2: 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.

**Geology and Soils:** Impacts relating to (GEO) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measure GEO-1

GEO-1: Prior to ground disturbance, the applicant shall install straw wattles around the cultivation area. No on-site drainage that originates from the cultivation area shall migrate into the seasonal or year-round water courses, or onto neighboring lots.

**Noise:** Impacts relating to (NOI) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measures NOI-1 and 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.

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

**Wildfire:** Impacts relating to (WDF) have been reduced to Less than Significant with mitigation incorporated as described by Mitigation Measures WDF-1 through WDF-5:

WDF-1: Construction activities are prohibited during a red flag warning (per 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: Prior to cultivation, the applicant shall provide 100' of defensible space around all buildings. This does not require tree removal, but it does require removal of grasses and brush, and limbing trees up to a height of 8'.

WDF-3: Prior to cultivation, the applicant shall schedule a site visit with the Building Official or designee to verify that the roads, gates and site are PRC 4290 and 4291 compliant.

WDF-4: The applicant shall place at least 5,000 gallons of water on site that is designated specifically as for use of fire suppression. Water tanks shall have connectors that are able to be used by Fire Protection Districts, and tanks shall be constructed with steel or fiberglass.

WDF-5: The applicant shall install Knox-Boxes on all locked gates to enable emergency service providers to access the site. The property address shall be clearly posted on the driveway entrance to the site from Benmore Valley Road.

#### **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.

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, 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.

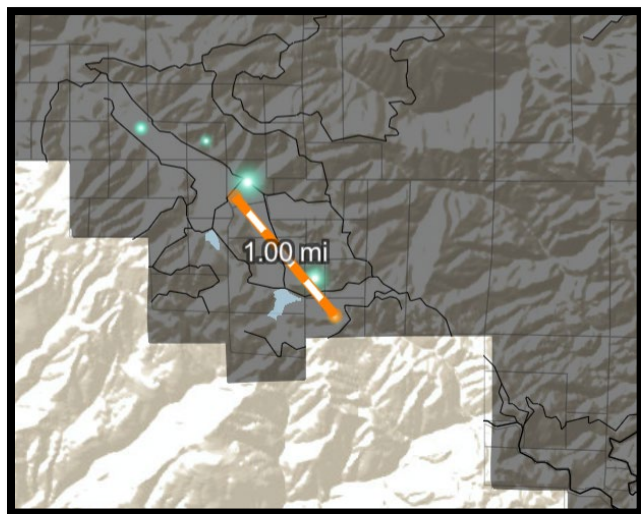
### **CUMULATIVE IMPACTS**

Potentially significant impacts have been identified related to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology, 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. Within one mile of the proposed project are no pending projects and one approved project. Within three miles of the proposed project are no pending projects and four approved projects

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.

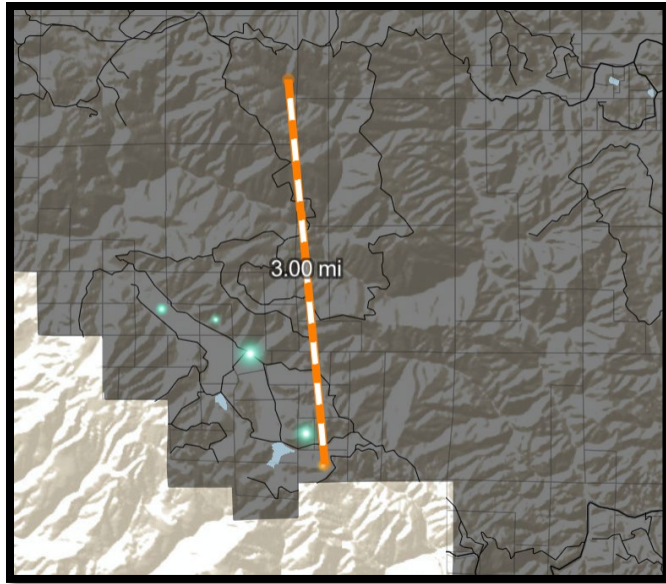
Within a one-mile radius, there are no pending projects and two approved projects. Within a three-mile radius, there are no pending projects and four approved projects.

**FIGURE 6 – One mile radius**



Source: Lake Co. CDD ArcGIS

**FIGURE 7 – Three-mile radius**



Source: Lake Co. CDD 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 is a permitted use in the “RL” Rural Lands Zoning District subject to the review and issuance of a major use permit pursuant to Article 27 of the Lake County Zoning Ordinance. The cultivation of cannabis will occur outdoors and in greenhouses, which is permitted if the property is not within a mapped Farmland Protection Area subject to use permit approval. Additionally, the Community Development Department will require 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 43,000 sf outdoor cannabis canopy and 42,864 sf of mixed light (greenhouse) canopy. The Lake County Zoning Ordinance allows cultivation operations on “RL” Rural Lands-zoned land if the land meets the requirements within Article 27.13(at). The subject site is ±63 acres in size, large enough to enable the cultivation area proposed to occur.

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

The site is accessed via deeded access driveway that connects with Benmore Valley Road, a private native soil shared-access road. The project was circulated for public agency review, including Lakeport Fire District, CAL FIRE and the Lake County Department of Public Works, and Caltrans. A comment was received for the requirement of an encroachment permit and verification of the location of a sign and potential relocation if the sign is within CalTrans' right-of-way. Since greenhouses are proposed, the interior driveway must meet PRC 4290 and 4291 driveway standards for a commercial use. These aspects have been added as a mitigation measure and a condition of approval.

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 Lakeport 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, however the applicant has stated that he will convert to solar power in 2024. The site is served by a private permitted groundwater well. The applicant will use portable ADA-compliant restrooms for the project.

The application was routed to all of the affected public and private service providers, including Public Works, Environmental Health, Specials Districts and Water Resources. 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 has determined that the proposed use for the cultivation of outdoor and greenhouse (mixed light) cannabis is in conformance with the applicable provisions and policies of this Code, the General Plan, the Lakeport Area Plan and the Lake County Zoning Ordinance as the cultivation of cannabis is an allowable use within the "RL" Rural Lands Zoning Designation upon securing a major use permit pursuant to Article 27, (Table B) of the Lake County Zoning Ordinance. The General Plan and Lakeport Area Plan do not have any provisions specifically for commercial cannabis, but both plans have other provisions that apply to this project.

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.

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 Lakeport Area Plan.



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

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

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

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

## **RECOMMENDATIONS**

Staff recommends the Planning Commission take the following actions:

- A. Adopt Mitigated Negative Declaration (IS 20-74) for Major Use Permit (UP 20-60) with the following findings:
1. Potential environmental impacts related to Aesthetics (AES) can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1.
  2. Potential environmental impacts related to Air Quality (AQ) can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-6.
  3. Potential environmental impacts related to Biological Resources (BIO) can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-6.
  4. Potential environmental impacts related to Cultural Resources (CUL) can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 through CUL-2.
  5. Potential environmental impacts related to Geology and Soils (GEO) can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1.
  6. Potential environmental impacts related to Noise (NOI) can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-2.
  7. Potential environmental impacts related to Tribal Cultural Resources (TCR) can be mitigated to less than significant levels with the inclusion of mitigation measures TCR-1 through TCR-2.

8. Potential environmental impacts related to Wildfire (WDF) can be mitigated to less than significant levels with the inclusion of mitigation measures WDF-1 through WDF-5.

B. Approve Major Use Permit UP 20-60 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, Lakeport 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:**

**Mitigated Negative Declaration**

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 20-74) for use permit (UP 20-60) submitted by Lakeport Farm (Ricardo DeMello) for the property located at 3681 Benmore Valley Road, Lakeport (APN: 007-002-27), will not have a significant effect on the environment, and that the Planning Commission adopt Initial Study (IS 20-74) with the findings listed in the staff report dated May 23, 2024.

**Major Use Permit UP 20-60**

I move that the Planning Commission find that the Major Use Permit (UP 20-60) applied for by Lakeport Farm (Ricardo de Mello) for the property located at 3681 Benmore Valley Road, Lakeport (APN: 007-002-27) 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 23, 2024.

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