



## COUNTY OF LAKE

### COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

Item 6

9:30 AM

November 18, 2021

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Community Development Department  
Mary Darby, Community Development Director  
Prepared by: Michael Taylor, Assistant Planner

**DATE:** November 10, 2021

**RE:** **Lake Vista Farms, LLC**

- **Major Use Permit (UP 19-36)**
- **Initial Study (IS 19-56)**

District 2 Supervisor – Bruno Sabatier

District 2 Planning Commissioner - Everardo Chavez Perez

**ATTACHMENTS:**

1. Proposed Site Plans
2. Property Management Plan
3. Proposed Conditions of Approval
4. Hydrology Report
5. Drought Management Plan
6. Initial Study
7. Biological Assessment
8. Agency Comments

## **I. EXECUTIVE SUMMARY**

The applicant is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation located at 2050 and 2122 Ogulin Canyon Road, Clearlake, California, further described as assessor parcel numbers (APNs): 010-053-01 and 02. The combined parcel area is approximately ±302.4 acres and is zoned “RL” for Rural Lands. Located approximately 1.0 mile east of the intersection of State Highway 53 and Ogulin Canyon Road in Clearlake, the project parcel is accessed via a private gravel driveway off of Ogulin Canyon Road. The applicant’s proposal includes the clustering of multiple cultivation sites over contiguous parcels as allowed by the County of Lake Zoning Ordinance, Article 27, Section 27.13.(at).1.ii.(j). The proposal includes the following (please see Proposed Site Plans attachment):

- **Fifteen (15): A – Type 3: “Outdoor” Licenses** to allow for a total canopy area of 15-acres located within five (5) areas that total 24.65 acres, labeled in Figure 1 as sites: A, B, C, D, and E. The total cultivation area is 18.75 acres.
- The primary cultivation method will be tilled furrows in native soil amended with imported organic materials. Each cultivation area will include temporary, 20’ x 100’ (2,000 square feet) hoop-houses. Below are the acres and square feet of the proposed canopy areas, hoop houses and cultivation areas for each of the five areas:

Site		Site Acres	Cultivation Area		Canopy Area		Temporary Hoop Houses	
			Acres	Sq. Ft.	Acres	Sq. Ft.	Units	Sq. Ft.
A	Northwestern Hops Field	5.09	5.09	221,795	4.07	177,436	99	178,200
B	Southwest Clearing	6.56	6.56	285,865	5.25	228,692	128	230,400
C	Northeast Hops Field	1.45	1.45	63,126	1.16	50,501	29	52,200
D	Central Hops Field	3.72	3.72	162,248	2.98	129,798	73	131,400
E	Chaparral Clearing	7.83	1.92	83,716	1.54	66,973	38	68,400
Total		24.65	18.75	816,750	15.00	653,400	367	660,600

- Portable toilets, trash enclosures, vegetative waste storage areas, 2,500-gallon water storage tanks at each cultivation area, and Conex shipping containers and/or 8’x8’ storage sheds (or similar) for storage of pesticides, fertilizers, and hazardous materials.
- A 1.5 acre onsite nursery within an existing barn and shade structures at Site C The nursery would be ancillary to proposed cultivation activities where non-flowering/immature plants would be propagated.
- Renovated 10’ x 30’ shipping container (located at Site A) to house security equipment and camera monitors.
- 6’ tall security wire fencing, secured by locked gates, to enclose cultivation areas.

The applicant proposes the cultivation method to be in ground with amended soils and a drip irrigation system.

## **Security**

Access to the cultivation area comes from the existing gravel driveway which will be equipped with a heavy gage chain link security fence and gate with a keypad entry surrounding the cultivation area. Additionally, the cultivation area will have a minimum 6’ fence perimeter that will also require a key pad lock access. The site will be equipped with security cameras that will monitor the cultivation areas, all areas within buildings, areas where vegetative matter is composted, storage rooms, and all entrances and exits.

Security cameras will operate 24/7 at a minimum of 30 frames per second (please see the Property Management Plan and Proposed Site Plan attachments for additional information).

### **Water Source and Usage**

Five (5) permitted groundwater wells will provide irrigation water to the cultivation area through a drip irrigation system. The yield, in gallons per minute (GPM), for each well is summarized in the Table below. An approximate maximum daily potential water demand for an acre, is approximately 2.1 GPM for each acre of canopy, or 31.5 GPM for 15 acres. The combined yield of the five (5) wells is 720 GPM. Thus, the maximum potential demand is only 4.4% of the combined well yield.

Well #	Site	Depth (FT)	Yield <sup>1</sup> (GPM)
1	A	240	60
2	C	114	60
3	E	460	100
4	D	358	200
5	B	340	300

<sup>1</sup>Source: Well logs provided by applicant.

The total daily demand is approximately 3,000 gallons per day per acre of canopy. The cultivation period is approximately 120 to 180 days. Therefore, the annual water demand is approximately or 5.4 to 8.1 million gallons per year (16.6 to 24.9 acre-feet). The total annual yield from the five (5) wells is 1,161 acre-feet. The annual demand is only 1.4% to 2.1% of the annual yield. There are five (5) proposed 2,500-gallon water storage tanks, one at each cultivation site, located adjacent to the well to provide additional stored water for irrigation and fire suppression.

Irrigation Best Management Practices (BMPs) will be implemented to minimize water usage. Also, demand estimates are based on each plant requiring 6-gallons per day, which is a conservative (high) estimate. Therefore, water demand would be less than the maximum daily potential and annual yield (please refer to the Hydrology Report and Drought Management Plan attachments for additional information).

### **Fertilizer and Chemical Usage**

The proposed project would use organic pest control and fertilizers and will be stored in Conex shipping containers and 8'x8' storage sheds. Fertilizer products will consist of worm castings, guano, and pelletized/powdered products. Pesticides would include Neem oil and organic pesticides. This will significantly limit potential environmental hazards. Fertilizers on shelves will be properly labeled and open containers will be sealed when stored. Personal protective equipment such as safety glasses, gloves, dust mask or respirator, boots, pants, and long-sleeved shirts will be used by staff when handling fertilizers and chemicals. The shipping containers and sheds will be weather proof which will ensure all chemicals are stored properly and minimize spillage.

### **Site Preparation**

Sites A, C, and D are existing agricultural fields that were formerly used to cultivate hops and require minimal site preparation and no grading. One existing walnut tree will be removed from Site A (please refer to Attachment 5)

Site B was cleared in 2013 to prepare for agriculture activities but has since filled in with grasses and brush. To prepare for cannabis cultivation, this area will be cleared and tilled to plant up to 5.25 acres of cannabis canopy. Approximately 20 poor-quality walnut orchard trees will be removed.

Site E was cleared in 2003 and again in 2009 to prepare for agriculture activities. Since that time, chamise brush has taken over the site. To prepare for cannabis cultivation, the chamise will be cleared and the site will be graded to plant cannabis canopy. The applicant proposes minimal grading. Approximately 1.54 acres of canopy area is proposed. If proposed grading exceeds 50 cubic yards or more than 1-acre of vegetation is cleared, the applicant shall obtain a ministerial grading permit from Lake County (Chapter 30 of the Lake County Code).

No native oaks will be removed from any of the sites. Surrounding vegetation will be trimmed and maintained with no additional tree removal. Class II and Class III water courses exists on the project site. Cultivation and site preparation would occur outside of the required water course setbacks of 100 feet for Class II water course and 50 feet for Class III water course. Security cameras would be installed in accordance with County standards. Storm water management improvements including fiber rolls will be installed around the perimeter of the cultivation sites in accordance with the Property Management Plan.

### **Operation**

The cultivation site business hours will be 7:00 a.m. to 5:00 p.m. Monday through Saturday. Security Staff and security equipment will operate 24 hours per day, 7 days a week. Deliveries and pick-ups are restricted to Monday through Saturday 9:00 am to 7:00 pm and Sundays 12:00 pm to 5:00 pm. Additionally, the cultivation operation will require up to 8 fulltime employees and 15 to 20 seasonal employees during planting and harvesting.

### **Violations and Corrections**

A permit for Early Activation of Use (EA 20-22), of the proposed Major Use Permit (UP19-36), was approved by the Lake County Community Development Department (CDD) on February 28, 2020, with a cultivation date beginning on April 1, 2020. EA20-22 allowed for commercial cannabis outdoor cultivation within a cultivation area of up to 640,332 square feet (14.7 acres) and a maximum canopy area of 479,160 square feet (11 acres).

The applicant's lessee subsequently constructed hoop houses on Site A and graded approximately 56,640 square feet of the eastern portion of Site B to create flat areas for cultivation. The Lake County Community Development Department cited the applicant

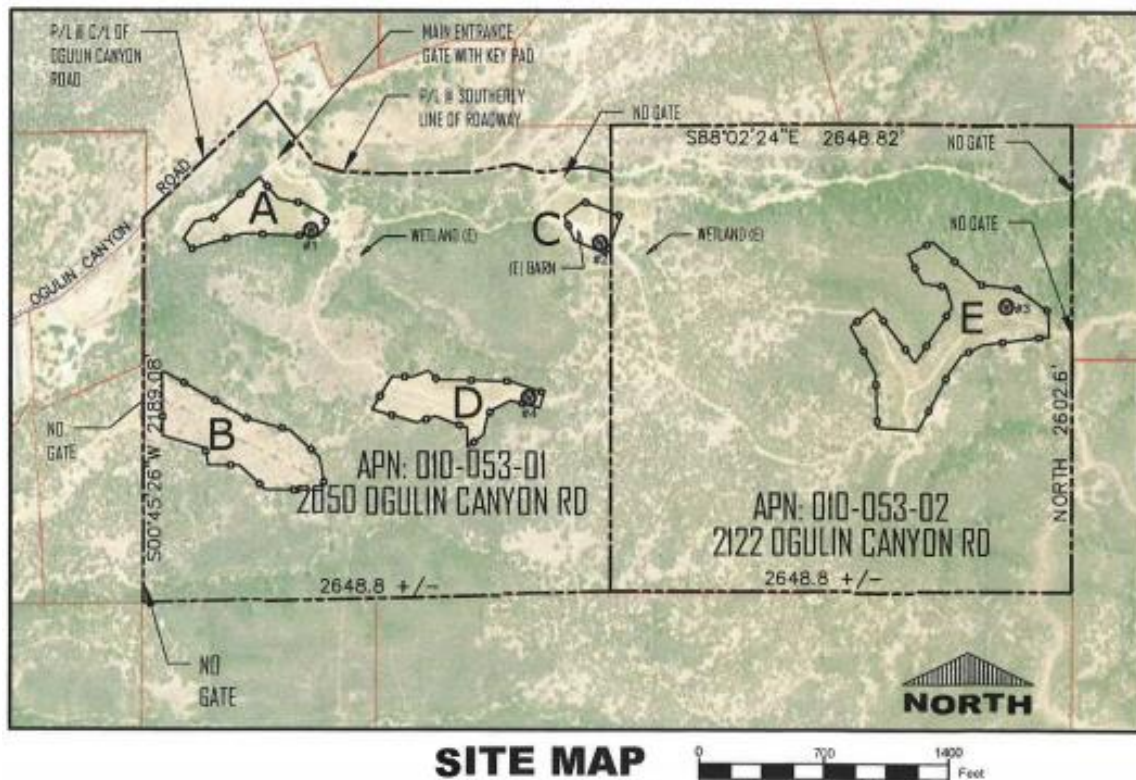
with a Notice of Violation and a Stop Work Order on May 14, 2020, and revoked EA 20-22.

To address the violation, the applicant coordinated with the Community Development Department staff to identify immediate corrective actions, which included removal of the cited hoop houses on Site A, stabilizing earthwork to graded areas of Site B, and installation of storm water management controls to prevent erosion and runoff from the graded areas on Site B. No further cannabis cultivation has occurred at the project site since the revocation of EA20-22.

On September 8, 2021 CDD staff conducted a site inspection to confirm the removal of hoop houses on Site A and that storm water management devices were in place for erosion and sediment control on Site B. The hoop houses had been removed and storm water management controls installed. At the time of the site inspection CDD staff required improvements to the storm water management control devices. A subsequent site inspection on September 28, 2021 confirmed that the improvements had been completed and a Grading Violation Clearance was issued (GR21-40).

### **Proposed Site Plan and Cultivation Areas**

*Figure 1*



Staff is recommending approval of Major Use Permit, UP 19-36 and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 19-56) with the incorporated Mitigation Measures and Conditions of Approval.

## **II. PROJECT DESCRIPTION**

<u>Applicant:</u>	Garrett W. Burdick & Brain D. Pensack (Lake Vista Farms, LLC)
<u>Owner:</u>	Lake Vista Farms, LLC
<u>Location:</u>	2050 and 2122 Ogulin Canyon Road, Clearlake,
<u>A.P.N.:</u>	010-053-01 and 02
<u>Parcel Size:</u>	±302.40 Acres
<u>General Plan:</u>	Rural Lands
<u>Zoning:</u>	“RL” Rural Lands
<u>Flood Zone:</u>	“D”: Areas of undetermined, but possible, flood hazard area.
<u>Submittal Date:</u>	September 2019
<u>Farmland Designation:</u>	Grazing Land
<u>Sphere of Influence:</u>	Within 1,000 feet of the City of Clearlake Sphere of Influence

## **III. PROJECT SETTING**

The project site is part of a former hops farm, operated as Hops-Meister Farms, cultivating approximately 13.6 acres of hops beginning in about 2009. Since then, the site has been developed to include hops farming, orchards, agricultural support facilities, including: a 1,200 square foot single-family residence, septic system, barn, accessory structures, multiple wells, and accessory agricultural facilities (e.g., irrigation facilities). The pre-existing agriculture activities, including hops and walnut trees, covered over 18 acres. Other land uses on the project site included: residential, timberland, grazing land, and open space. There are also remnants of orchards that existed prior to 1993.

### **Surrounding Uses and Zoning**

**North:** Property to the north is zoned Rural Land (RL) and Rural Residential (RR). Land uses are residential and agricultural (cannabis cultivation).

**South:** Property to the south is zoned RL. Land uses are residential and agricultural.

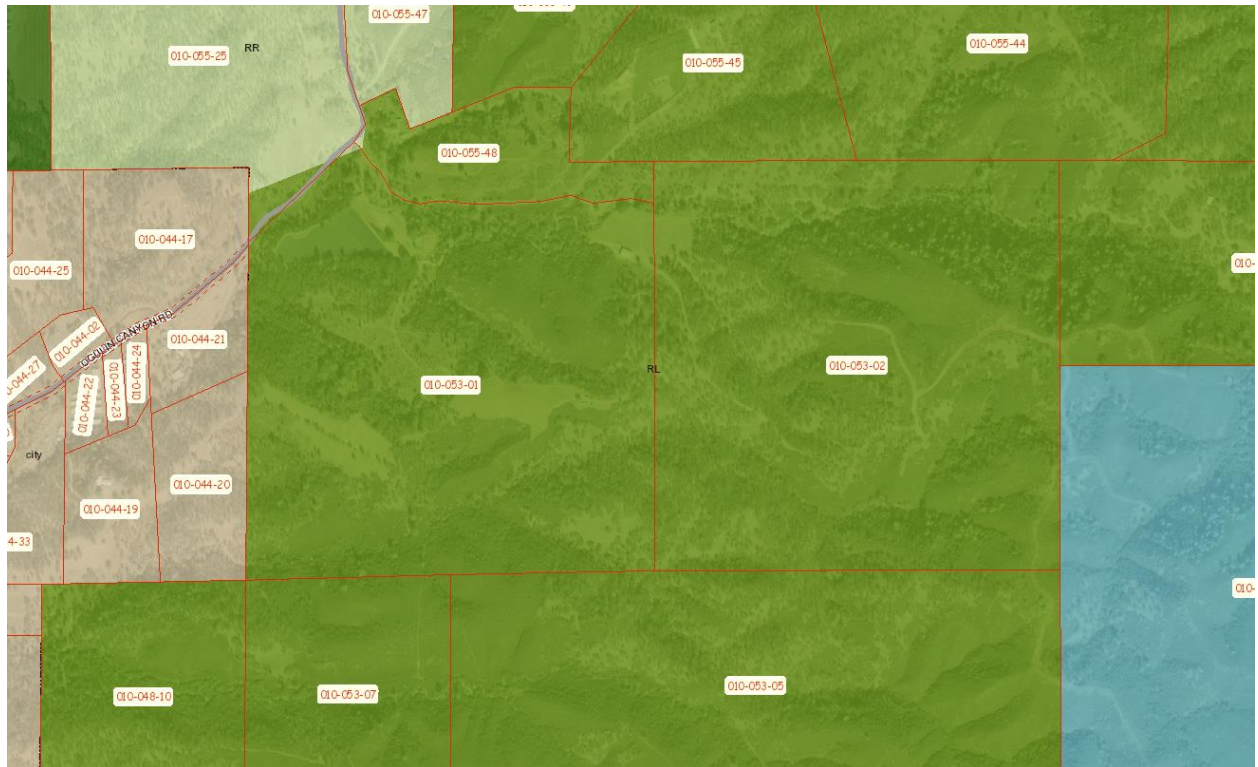
**West:** Property to the west is within City limits of Clearlake and the City’s C-4 Zoning District, defined as “Heavy Service Commercial – Light Industrial”. Land uses are residential, commercial, and light industrial.

**East:** Property to the east is zoned RL and Open Space (O). Land uses are residential and agricultural.

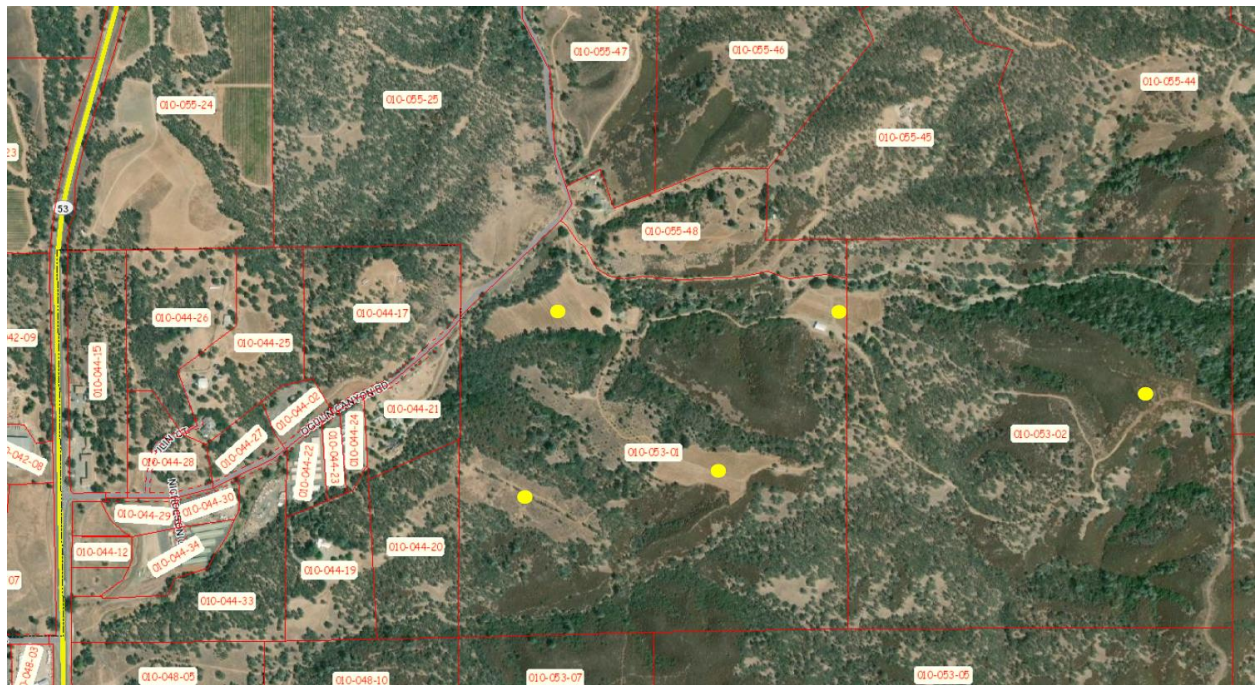
The Project parcel is within 1,000 feet of the City of Clearlake Community Growth Boundary. The proposed cultivation site is approximately 3.5 miles southeast from the nearest community growth boundary.



## **Zoning Map of Site and Vicinity**



## **Aerial Photo of Subject Site (yellow circles are proposed cultivation sites)**



**Topography:** Elevations in the project area range from approximately 1,435 feet to 1,775 feet above mean sea level. The project area drains in various directions, but ultimately

drains into Burns Valley Creek, a perennial creek that runs parallel to Ogulin Canyon Road, flows towards the southwest, and is a tributary to Clear Lake. The average slopes across the sites range from less than 5% to over 30%.

Soils: The project area contains the following soil types:

- Bally-Phipps complex (107): 15 to 30 percent slopes. The soil is moderately deep and well drained. The permeability is low to high. The available water capacity is 4.4 to 7.3 inches. Surface runoff class very high with a severe risk of erosion on steep slopes.
- Bally-Phipps-Haploxeralfs association (108): 30 to 75 percent slopes. The soil is moderately deep and well drained. The permeability is low to high. The available water capacity is 6.1 to 7.3 inches. Surface runoff very high with a severe risk of erosion on steep slopes.
- Manzanita loam (160): 5 to 15 percent slopes. The soil is moderately deep and well drained. The permeability is low to high. The available water capacity is 9.1 inches. Surface runoff class medium with a moderate risk of erosion on steep slopes.
- Manzanita loam (161): 15 to 25 percent slopes. The soil is moderately deep and well drained. The permeability is low to high. The available water capacity is 9.1 inches. Surface runoff class high with a severe risk of erosion on steep slopes.
- Phipps complex (197): 30 to 50 percent slopes. The soil is moderately deep and well drained. The permeability is low to high. The available water capacity is 9.7 inches. Surface runoff class very high with a severe risk of erosion on steep slopes.

Water Supply: Existing Wells

Sewage Disposal: On-site septic system.

Fire Protection: Lake County Fire Protection District #1/CAL FIRE

Water Courses: Class II and Class III Watercourses

#### **IV. PROJECT ANALYSIS**

##### ***General Plan Conformance***

The project site is located within the unincorporated Lake County, within the Shoreline Communities Area Plan boundary. The site carries a general plan and zoning designation of “RL” Rural Lands. The following general plan policies relate to site development in the context of this proposal:

Rural Lands: This land use category allows rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. The category is appropriate for areas that are remote, or characterized by steep topography, fire hazards, and limited access. Uses permitted by right include, but are not limited to: crop production and single family residences. Other



typical uses permitted conditionally include, but are not limited to: manufacturing and processing operations, mining, and cannabis operations.

*The applicant is proposing commercial cannabis cultivation which applies to agricultural/crop production within the Lake County General Plan (2008) for Agriculture and Rural Lands. Commercial cannabis cultivation is an allowable use within these land use designations and is located appropriately to support the use. The project is located in a rural area and the practice of cultivation and crop production is common within the area.*

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

### **Land Use**

Goal LU-1: is 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 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the “RL” Rural Lands, land use designations upon securing a Minor/Major Use Permit. In, September 2019, the applicant submitted a Major Use Permit application to the Community Development Department for processing.*

- Policy LU-1.9: Coordination with Surrounding Jurisdictions. The County shall coordinate growth and development with surrounding jurisdictions, the Local Agency Formation Commission (LAFCO), and other agencies as appropriate to maintain open space between communities and promote common goals.

*The County has coordinated with the City of Clearlake on development of this project and prepared the following condition:*

*Prior to construction and operation, the applicant shall reach an agreement with the City of Clearlake as to the appropriate mitigation to address impacts of this Project on the City of Clearlake’s portion of Ogulin Canyon Road. The amount of any mitigation fees or other mitigation measures shall be determined by the City of Clearlake.*

*If calls for service to the Clearlake Police Department result in more than five call-outs by the City Police to the Project site in a one-year period, the applicant shall supplement its security measures by the addition of hired security personnel on-site twenty-four hours per day. In the alternative to security personnel, the City may instead accept a reasonable mitigation fee to address the additional obligations on City police, or other security measures as acceptable to the City.*

*The applicant understands and agrees that the violation of any federal, state, or local law or regulation or contractual obligation relied upon in the issuance of this Permit may result in the revocation of the Permit.*

Goal LU-2: Is 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.

*In reference to the Lake County Zoning Ordinance Article 27, Section 27.13 (at).1.i: Development Standards, 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. There are no off-site residences within 250 feet of the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed childcare facilities, churches, or youth-oriented facilities. There are no schools, parks, playgrounds, drug rehab facilities, daycares, nursery schools, churches, or youth facilities within 1,000 feet of the cultivation site. The project complies with all required setbacks.*

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

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

*The proposed Commercial Cannabis Operation, would create diversity within the local economy, and create future employment opportunities. According to the applicant's application the project would employ up to 8 fulltime employees and 15 to 20 seasonal employees during planting and harvesting.*

Goal WR-1: To provide for the current and long-range water needs of the County and the protection of the quality and quantity of groundwater resources.

- Policy WR -1.4: Collection of Additional Groundwater Information. The County shall support additional studies focused on furthering the understanding of individual groundwater source areas and basins. Groundwater basins with limited or no information available include the following:
  - **Burns Valley Basin**
  - **Clear Lake Cache Formation Basin**

*On July 27, 2021, the Lake County Board of Supervisors passed Urgency Ordinance 3106 which requires land use applicants to provide a hydrology report and a drought management plan. The applicant submitted a Hydrology Report and a Drought Management Plan (DMP) prepared by Annjanette Dodd, PhD, CA PE #77756, dated*

*August 19, 2021. The Hydrology Report provided groundwater basin information and hydrogeology of the proposed site which is situated in the Burns Valley Basin (Basin #5-17) and Clear Lake Cache Formation Basin (Basin #5-66).*

*According to the Hydrology Report, the estimated storage capacity of the Burns Valley Basin is 4,000 AF, with a usable storage capacity of 1,400 acre feet (AF). The groundwater in the Burns Valley Basin is derived from rain that falls within the 12.5 square mile Burns Valley Watershed drainage area. It takes 2.1-inches of rainfall to infiltrate into the 12.5 square mile watershed to recharge 1,400 AF. The project's demand is only 2.8% of the usable storage capacity of the Burns Valley Groundwater Basin.*

*The Clear Lake Cache Formation Basin shares a boundary with the Burns Valley Groundwater Basin in the southwest. The basin is drained by the North Fork Cache Creek and Cache Creek to the south and east. Agricultural demand during an average year is 100 AF; of this, 85 AF is supplied from groundwater. Per the hydrology report, the basins have not been identified as critically over drafted basins. Critically over drafted is defined by the California Department of Water Resources as a basin subject to critical overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts.*

Goal WR-3: To provide a sustainable, affordable, long-term supply of water resources to meet existing and future domestic, agricultural industrial, environmental and recreational needs within the County, to maintain sustainability between new development and available water supplies.

- Policy WR-3.2: Adequate Water Availability. The County shall review new development proposals to ensure the intensity and timing of growth will be consistent with the availability of adequate water supplies. Projects must provide evidence of water availability prior to breaking ground for construction.

*As reported, the Lake County Groundwater Management Plan (2006), identifies 86 domestic wells and 9 irrigation wells in the Burns Valley Basin and agricultural demand during an average year is 105 AF per year; of this, 14 AF is supplied from groundwater and the rest from surface water. The Groundwater Management dated 2006, does not include the additional demands from current and proposed cannabis cultivation projects within this basin. The project site was previously a hops farm cultivating about 13.6 acres of hops starting in about 2009. According to the hydrology report water use for hops is almost double of the use of water to cultivate cannabis; 43.6 AF per year for hops versus the proposed projects demand of 24.9 AF (please see the Hydrology Report and Drought Management Plan attachments for further information).*

## **Shoreline Communities Area Plan**

The subject site is within the boundary of the Shoreline Communities Area Plan (Plan). The Plan is a guide for long-term growth and development in the planning area and is a complement to the Lake County General Plan. The Plan contains several policies that are subject to consistency review as follows:

Objective 3.2.1: Protect and preserve the quality and quantity of water resources for the long-term development and sustainability of the planning area.

- Policy 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.

*The Lake County Zoning Ordinance Article 27, Section 27.13 (at).3.v.(e) requires wells to have meters to measure the amount of water that is pumped and that the applicant conduct a water use and water availability analysis. The applicant has demonstrated that there is sufficient water, sourced from existing wells, for the proposed project. The total daily groundwater demand is approximately 3,000 gallons per day per acre of canopy. The cultivation period is approximately 120 to 180 days. Therefore, the annual water demand is approximately or 5.4 to 8.1 million gallons per year (16.6 to 24.9 acre-feet). The total annual yield from the five (5) wells is 1,161 acre-feet. The annual demand is only 1.4% to 2.1% of the annual yield. In addition, the Property Management Plan includes proposed irrigation methods and water conservation techniques to minimize the amount of irrigation water used.*

*The Drought Management Plan involves Conservation measures that can also be found in the water usage section of the Project Management Plan submitted on September 12, 2019. Those measures include:*

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

*In addition to the water usage conservation techniques found in the project to include a selection of plant varieties that are suitable for the climate, dripline irrigation water monitoring, and metering.*

*In the Emergency Drought Management Plans, the applicant commits to the installation of additional water storage, moisture meters to monitor how much water is in the soil at the root level and reduction of watering to only what is needed, and irrigation only in the early morning hours or before sunset. The irrigation water will be pumped from each of well, via PVC Piping, to a 2,500-gallon water storage tank, adjacent to each well. In the event that the well cannot supply the water needed for the project, the following measures will be implemented to reduce the cultivation and/or length of the cultivation season; install additional water storage; and/or develop an alternative, legal, water source that meets the requirements of Lake County Codes and Ordinances (please see the Drought Management Plan attachment for further information).*

**Objective 3.4.1:** Promote a mixed land use pattern with adequate acreage that provides for the orderly and efficient development of the community areas, thereby reducing development pressure on prime agricultural areas.

- **Policy 3.4.1c:** Preserve lands for agricultural production.

**Objective 5.5.3:** Promote development of agricultural uses and support the continued viability of Lake County’s agricultural economy.

- **Policy 5.5.3b:** Preserve areas containing prime agricultural soils or demonstrating unique characteristics that allow for viable economic opportunities for the agricultural industry.

*Cannabis Cultivation is primarily permitted in areas zoned Agricultural Preserve, Agriculture, Timberland Preserve, Rural Lands, Rural Residential and Suburban Reserve. This project site is zoned Rural Lands with soil designation as “grazing lands” on the Lake County Farmland Maps. Outdoor cannabis cultivation is permitted on Rural Land uses. It is consistent with other types of agricultural crops, such as the previous agricultural hops and walnut/almond orchards, and with preserving the land for agricultural production and uses.*

### **Zoning Ordinance Conformance**

**Article 7 – Rural Lands (RL):** The Cultivation of Commercial Cannabis is permitted in the “RL” Rural Lands Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. In September 2019, the applicant submitted an application for a Major Use Permit, UP 19-36 for the Cultivation of Commercial Cannabis to the Community Development Department.

**Article 27 – Permits:** the purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of zoning permits, minor or major use permits, or any required building, grading, and 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 Article 7 and 27 are met and any adverse environmental impacts are adequately mitigated.*

*Lake Vista Farms is located in the City of Clearlake sphere of influence. Per Article 27 (at) 1 V. d., of the Lake County Zoning Ordinance commercial cannabis is prohibited within 1,000 feet of an incorporated city sphere of influence, unless the applicant can provide a letter of support from the City.*

*The County has coordinated with the City of Clearlake on development of this project and prepared the following condition of approval:*

*Prior to construction and operation, the applicant shall reach an agreement with the City of Clearlake as to the appropriate mitigation to address impacts of this Project on the City of Clearlake’s portion of Ogulin Canyon Road. The amount of any mitigation fees or other mitigation measures shall be determined by the City of Clearlake.*



*If calls for service to the Clearlake Police Department result in more than five call-outs by the City Police to the Project site in a one-year period, the applicant shall supplement its security measures by the addition of hired security personnel on-site twenty-four hours per day. In the alternative to security personnel, the City may instead accept a reasonable mitigation fee to address the additional obligations on City police, or other security measures as acceptable to the City.*

*The applicant understands and agrees that the violation of any federal, state, or local law or regulation or contractual obligation relied upon in the issuance of this Permit may result in the revocation of the Permit.*

Article 68 – Definitions: the purpose of Article 68 the Zoning Ordinance. The meaning and construction of words and phrases as set forth shall apply throughout the Zoning Ordinance, except where the context of such words and phrases clearly indicates a different meaning or construction. Definitions contained in the Uniform Building Code shall be applicable except when in conflict with definitions contained in the Zoning Ordinance, in which case the Zoning Ordinance definition shall prevail.

*“Hoop-house” is an unheated outdoor enclosure used for the purpose of growing and/or for protecting seedlings and plants from cold weather but not containing any mechanical or electrical systems or storage of any items. Typically a hoop-house is of semi-circular design made of, but not limited to, piping or other material covered with translucent material.*

*The permittee proposes typical temporary hoop houses without mechanical or electrical systems or storage of items.*

*Article 27 and 68, does not outline the maximum number, quantity and square feet for hoop house for commercial cannabis operations.*

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

### ***Development Standards***

- Minimum Lot Size (20 acres per A-Type 3): *The two contiguous parcels are 145.8 acres and 156.6 acres, for a combined parcel acreage is 302.4 acres. The applicant has applied for fifteen (15) A-Type 3 (medium outdoor) cultivation permits and meets the minimum acreage requirements.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest off-site dwelling is approximately 500 feet away from the nearest cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*

- Maximum Canopy Area (43,560 sq. ft. maximum for an A – Type 3 “Outdoor”): *Complies. Article 27, subsection (at) allows for clustering of cultivation across multiple contiguous parcels. The allowed canopy area for contiguous lot size of 302.4 acres is 15 acres. The proposed canopy area would be approximately 15 acres of outdoor canopy area for one (15) A – Type 3 licenses.*

### **General Requirements**

There are several general requirements for cannabis cultivation listed in Section 27.13(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements.

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

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental impacts of land use actions. An Initial Study (IS 19-56) was performed by the Lead Agency after which a Mitigated Negative Declaration was prepared and circulated for public review, from 06/08/2021 to 07/12/2021, in compliance with CEQA. Additionally, the local tribes were sent a notification on October 18, 2019 and through the CEQA noticing. The Middletown Rancheria responded that the project is not within their culturally affiliated territories and declined any comment on the project. The Yocha Dehe Wintun Nation Cultural Resources Department also responded and concluded the project is not within their culturally affiliated territories, declined to comment, and requested correspondence be deferred to Habematelol Pomo of Upper Lake. Notification included Habematelol Pomo of Upper Lake; who did not respond to the notification

The Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources/Tribal Cultural Resources, and Noise. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level (please see the Initial Study and Biological Assessment attachments for further information).

### **Aesthetics**

The project has some potential to create additional light and/or glare through the use of exterior security lighting. Temporary hoop houses are proposed, but would not incorporate any artificial lighting. Lighting associated with the nursery would be enclosed within the existing barn located at Site C and would not impact surrounding parcels. Any lighting associated with the proposed project would comply with recommendations of “darksky.org”

and local ordinances. To ensure that light or glare is not broadcast beyond the property boundaries, the following mitigation measure is recommended:

- 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](http://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**

The project has some potential to result in short- and long-term air quality impacts. It is likely that some dust and fumes may be released as a result of site preparation/construction of the building pads and the cultivation area. Some vehicular traffic, including small delivery vehicles would be contributors during and after site preparation/ construction; trips generated by the use will be minimal. Odors generated by the plants, particularly during harvest season, will be mitigated through passive means (separation distance from residential structures of 200 feet). All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- AQ-1: Prior to cultivation, the applicant shall submit an Odor Control Plan to the Community Development Department for review and approval, or review and revision.
- AQ-2: All Mobile diesel equipment used for construction and/or maintenance shall be in compliance with State registration requirements. Portable and stationary diesel-powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.
- AQ-3: Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be managed by use of water or other acceptable dust palliatives to mitigate dust generation during and after site development.
- AQ-4: 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 to the Lake County Air Quality Management District.
- AQ-5: 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-6: 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, erosion and provide more stable surface. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.

- AQ-7: 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**

This project has potential to impact biological resources. A Biological Site Assessment, prepared by Natural investigations Co., dated August 22, 2019, was completed for the project. The identified potential impacts were special-status plant and animal species, and nesting birds. Those potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below (please see the Biological Assessment report attachment for further information):

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

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

- BIO-2: If initial ground disturbance at Sites B and E occurs during the bat maternity roosting season (April 1 through September 1), a qualified biologist shall conduct a bat roost assessment of trees and poles within 100 feet of the proposed construction at Sites B and E. If bat maternity roosts are present, the biologist shall establish an appropriate exclusion zone around the maternity roost.
- BIO-3: All work should incorporate erosion control measures consistent with Lake County Grading Regulations. Prior to construction, the project shall obtain coverage under State Water Resources Control Board (SWRCB) Construction General Permit (CGP) Order 2009-0009-DWQ and prepare a Storm Water Pollution Prevention Plan (SWPPP) for the project site.

### **Cultural and Tribal Cultural Resources**

A Cultural Resource Assessment was prepared on August 13, 2019 by Natural Investigations Co. According to the assessment, there was no indication that the project will impact any historical or archaeological resources as defined under CEQA Section 15064.5, for these reasons, no further cultural resources work was recommended. Additionally, the local tribes were sent a request for comments on October 17, 2019. The Middletown Rancheria responded that the project is not within their culturally affiliated territories and declined any comment on the project. The Yocha Dehe Wintun Nation Cultural Resources Department also responded and concluded the project is not within their culturally affiliated territories, declined to comment, and requested correspondence be deferred to Habematelol Pomo of Upper Lake. Notification included Habematelol Pomo of Upper Lake; who did not

respond to the notification. Potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the local culturally affiliated Tribe shall be notified, and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Department.
- CUL-2: The applicant shall halt all work and immediately contact the Lake County Sheriff's Department, the local culturally affiliated Tribe shall be notified, and the Community Development Department if any human remains are encountered.
- CUL-3: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the Koi Nation and Elem Rancheria Tribes shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Department shall be notified of such finds.

## **Noise**

Short-term increases in ambient noise levels can be expected during project grading and/or construction, although the amount of site preparation for this proposal is minimal at best. The following mitigations have been implemented to reduce the potential impacts to less than significant:

- NOI-1: All construction activities including engine warm-up shall be limited to Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

## **VI. 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.

*As proposed, the commercial cultivation of cannabis and related operations are a permitted use in the "RL" Rural Lands zoning district upon issuance of a Major Use*



*Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the subject property complies with the minimum setbacks. 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 approved Property Management Plan 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 proposal consists of 15-acres (653,400 square feet) of outdoor canopy within up to 25.8 acres (1,123,848 square feet) of cultivation area. Proposed ancillary facilities temporary hoop houses, portable toilets, a trash enclosure, pesticide and chemical storage facilities (stormproof sheds), vegetative waste storage areas, 2,500-gallon water storage tanks at each cultivation site, and a renovated 10' x 30' shipping container to house the security equipment and camera monitors. The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Lands and the subject site is ±302.4 acres, large enough to enable the cultivation canopy area proposed.*

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

*The site is served by Ogulin Canyon Road, a paved City and County-maintained road, with adequate road width. The project was inspected on December 19, 2019, by the Lake County Enforcement Officer. The project will need to comply Public Resources Code 4290/4291 road standards. The site requires minimal improvements to become compliant with Public Resources Code 4290/4291. There are no pedestrian facilities on Ogulin Canyon Road.*

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 onsite well(s), onsite waste management system (septic), and portable toilets. Additionally, the project parcel has adequate emergency service protection through the Lake County Sheriff's Office, California Highway Patrol and the Lake County Fire Protection District and CAL FIRE. The applicant is required to adhere to all applicable local, state, and federal regulations, mitigation measures and conditions of approval intended to ensure adequate services and maintain safety at the site. There are adequate public utilities and services available to the site. This application was routed to all of the affected public and private service providers including public works, special districts, environmental health, and PG&E, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. No adverse comments were received.*

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

*The cultivation of commercial cannabis is a permitted use within the RL zoning district upon securing a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the Lake County General Plan does not have any provisions specifically for commercial cannabis, but both Plans and Shoreline Communities Area Plan have provisions for economic development and land use compatibility is prohibited within 1,000 feet of an incorporated city sphere of influence unless the applicant can provide a letter of support from the City. A letter of support was obtained from the City of Clearlake in February 2020 and an email followed dated July 15, 2021 with revised condition that supersede conditions in the letter. Additionally, the subject property complies with the minimum setbacks and development standards.*

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.*

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Use Permit:

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

#### **Responses to Article 27, Subsection (at) findings:**

1. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance:
  - Minimum Lot Size (20 acres per A-Type 3): *Complies. The project site consists of two contiguous parcels, APN 010-053-01 (145.8 acres) and 010-053-02 (156.6 acres), totaling approximately 302.4 acres. The applicant needs 20 acres for each A – Type 3 license.*
  - Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
  - Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 500 feet away from the nearest cultivation area.*

- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (43,560 sq. ft. maximum for an A – Type 3 “Outdoor”): *Complies. Article 27, subsection (at) allows for clustering of cultivation across multiple contiguous parcels. The allowed canopy area for contiguous lot size of 302.4-acres is 15-acres. The proposed canopy area would be approximately 15-acres of outdoor canopy area for one (15) A – Type 3 licenses.*
- This report identifies the Application for Background Clearance for a County Permit. The applicant has passed a ‘live scan’ background check, as required by both the County and State for permitting and licensing. A condition has been added to the Conditions of Approval that requires all current and/or future employees to undergo and pass a background check through the Lake County Sheriff’s Department.
- This report identifies the property owner’s approval. The applicant is the property owner.

## **VII. RECOMMENDATION**

### **Staff recommends the Planning Commission take the following actions.**

- A. Adopt Mitigated Negative Declaration (IS 19-56) for Major Use Permit (UP 19-36) with the following findings:**
1. Potential environmental impacts related to aesthetics can be mitigated to less than significant levels with the implementation of mitigation measure AES-1.
  2. Potential air quality impacts can be mitigated to less than significant levels with the implementation of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, and AQ-7.
  3. Potential biological impacts can be mitigated to less than significant levels with the implementation of mitigation measures BIO-1, BIO-2, and BIO-3.
  4. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the implementation of mitigation measures CUL-1, CUL-2, and CUL-3.
  5. Potential noise impacts can be mitigated to less than significant levels with the implementation of mitigation measures NOI-1 and NOI-2.
  6. This project is consistent with land uses in the vicinity.
  7. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan and the Lake County Zoning Ordinance.

8. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
9. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts (Attachment 3).

**B. Approve Major Use Permit UP 19-36 with the following findings:**

1. The establishment, maintenance, or operation of the permitted use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing and working in the neighborhood, or detrimental to property and improvements, and 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:**

**Mitigated Negative Declaration**

I move that the Planning Commission find on the basis of **Initial Study No. 19-56**, that the **Major Use Permit No. UP 19-36** applied for by **Lake Vista Farms, LLC** on property located at **2050 and 2122 Ogulin Canyon Road, Clearlake**, further described as **APNs: 010-053-01 and 02**, will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **November 10, 2021**.

**Major Use Permit (UP 19-36)**

I move that the Planning Commission find that the **Major Use Permit (UP 19-36)** applied for by **Lake Vista Farms, LLC** on property located at **2050 and 2122 Ogulin Canyon Road, Clearlake**, further described as **APNs: 010-053-01 and 02**, meets the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **November 10, 2021**.

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