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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 #7

9:35 AM

August 25, 2022

STAFF REPORT

TO: Planning Commission

FROM: Mary Darby, Community Development Director
Prepared by: Eric Porter

DATE: August 25, 2022

SUBJECT: **Major Use Permit Application, UP 18-34; Michael Hat Open Air Corn Maze and Pumpkin Patch; Categorical Exemption, CE 18-50.** Location: 4405 and 4410 Thomas Road, Kelseyville. APN: 008-035-58 & 008-033-36

Supervisor District 4

ATTACHMENTS:

1. Vicinity Map
2. Site Plan
3. Agency Comments
4. Proposed Conditions of Approval

I. BACKGROUND

On July 10, 2018, the applicant applied for a major use permit to allow an agricultural commercial use (special event venue) for seasonal operations consisting of a pumpkin patch, a corn maze, and other primarily family-type events. The corn maze and pumpkin patch would be open to the public approximately 35 days annually. Article 27, Table B, allows special events on Agriculture-zoned land subject to a major use permit review and approval.

The sites are next to each other, separated by Thomas Road, and are located at 4405 and 4410 Thomas Road, Kelseyville, and identified as APN 008-035-58 and APN 008-033-36. Thomas Road is a dedicated and paved County maintained road.

In April 2020, the applicant requested that the County put his use permit application on hold and informed staff that more changes may be requested to the project, which affects the site plan. Meanwhile, the corn maze and pumpkin patch were granted annual approvals in three consecutive years (2019 through 2021) and through three separate Zoning Permits, each of which allows up to three special events per year.

On July 8, 2022, the applicant requested that the County re-start the review process on use permit, UP 18-34. On July 15, 2022, the applicant submitted a revised site plan showing five shipping containers, a 100' tall flag pole, and several accessory buildings that the applicant wanted to add to the use permit under consideration.

The days of operation will be the last six weekends before Halloween on Saturday and Sunday between the hours of 10:00 a.m. to 5:00 p.m.; field trips for schools and groups on Fridays during the same six week period from 9:00 a.m. to 3:00 p.m.; and one night time Corn Maze admission the last Saturday before Halloween from 7:00 p.m. to 9:00 p.m. During the days of operation, the applicant plans on having a hayride and barrel train ride for attendees, as well as, an assortment of small games and play equipment.

Traffic on Highway 29 was addressed in 2018 when the applicant received a permit from CalTrans to install a North bound turning lane off Highway 29 onto Thomas Drive. The turning lane was completed prior to opening in 2019. The attendance has averaged about 400 people per day arriving in approximately 200 cars per day, with no more than 100 cars at any one time during any day. Parking has not been a problem over the past three years, and dust was suppressed by watering the parking area with a water truck.

II. PROJECT DESCRIPTION

Applicant/ Owner: Michael and Tanya Hat; 9701 Sedan Avenue, Manteca, CA 95337

Project Location, Parcel Numbers and Parcel Sizes:

4405 Thomas Drive, Kelseyville, CA 95453	008-033-36	±12.2 acres
1580 Argonaut Road, Lakeport, CA 95337	008-035-58	±3.8 acres

General Plan: Agriculture

Zoning: "A-WW-FF-SC-AA-AI"; Agriculture-Waterway Combining-Scenic
Combining-Airport Approach-Agricultural Industry

Flood Zone: "X" –Minimal flooding-not in a special flood hazard area.

Submittal Date: July 10, 2018

Restart Date: July 8, 2022

III. PROJECT SETTING

Existing Uses and Improvements: The property is currently partially developed with shipping containers and sheds. The site was approved for Zoning Permits in 2019, 2020 and 2021 to allow the corn maze and pumpkin patch events to occur.

Direction	Zoning	Lot Size	Developed
North	A-SC-AA-WW-FF	2.45 to 14 acres	Ag, Dwellings
South	A-WW-FF-AA-AI	9 to 41 acres	Ag, Dwellings
West	A-WW-SC-FF-AA-AI	3.7 to 9 acres	Ag, Dwellings
East	A-SC-AA-AI	3.8 to 14 acres	Ag, Dwellings

Topography: Flat (Less than 10% Slope)

Soils: According to the soil survey of Lake County, prepared by the U.S.D.A, the parcel contains Cole clay loam, drained (123) which has a 0 to 2% slope and is generally very deep and poorly drained but has been improved in most

areas. The permeability of this soil is generally slow with a water capacity of approximately 7.5 to 10.5 inches. The surface runoff is slow and the risk of erosion is slight.

Figure 1 - Aerial Photo of Site



Project parcels during the preparation of the cornmaze

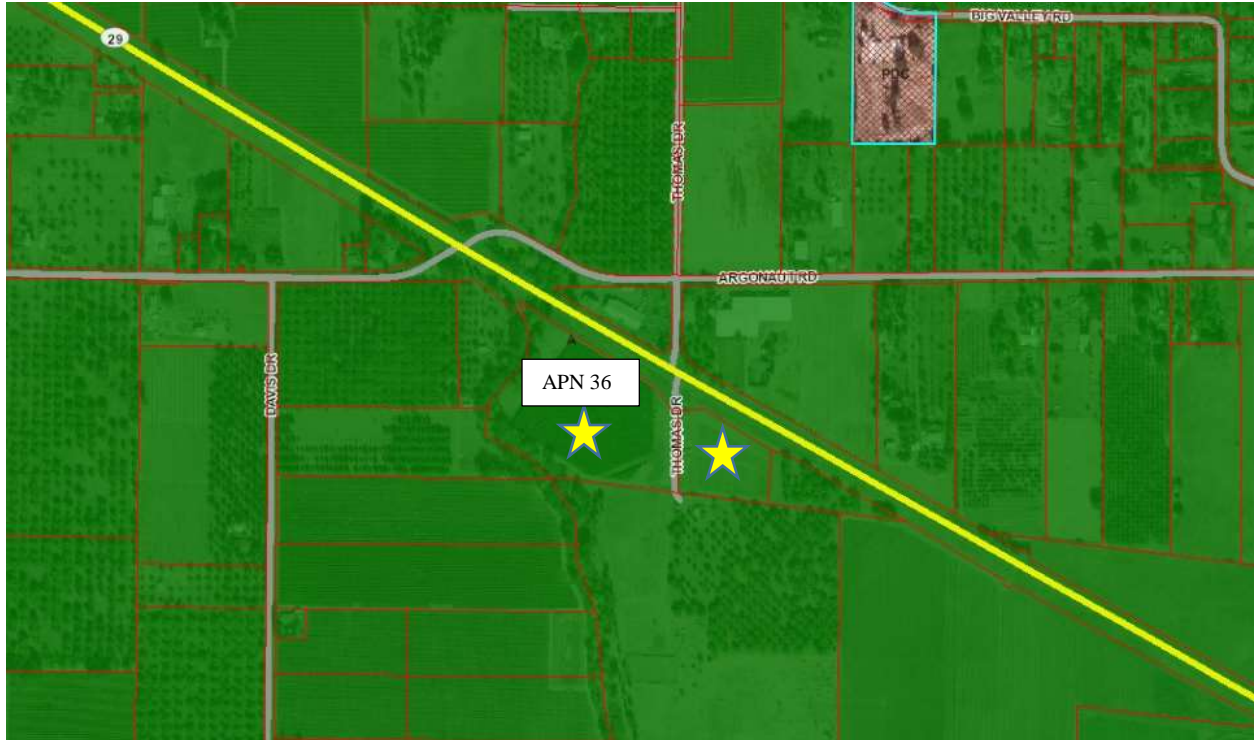
Water Supply: Private well

Sewage Disposal: Portable toilets

Fire Protection: Kelseyville Fire Protection District

Watercourses: Adobe Creek, located about 30 feet from the edge of the corn maze on APN 36.

Figure 2 - Zoning Map



IV. PROJECT ANALYSIS

General Plan Conformance

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

Agriculture includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in crop production, including horticulture, tree crops, row and field crops, and related activities. Wineries and the processing of local agricultural products such as pears and walnuts are encouraged within this designation. These lands also provide important groundwater recharge functions. The applicant's project is in conformance and is appropriate for the agricultural general plan.

General Plan goals, objectives and policies that apply to this proposed project are as follows;

Lake County Land Use

- **Goal LU-4** To maintain economic vitality and promote the development of commercial uses that are compatible with surrounding land uses and meet the present and future needs of Lake County residents, the regional community, and visitors.
- **Policy LU-4.5** Commercial Center Guidelines. The County shall use the following guidelines for the proper development and location of commercial centers: Where the surrounding area is an agricultural area, the center should include goods and services that

serve agricultural needs, and venues for marketing of local, value-added agricultural products should be encouraged. The market area should serve the community and surrounding areas. The center should be located where it can be easily accessed from at least one major local road.

- **Policy LU-4.8** Travel Oriented Visitor Commercial Uses. The County shall require free-standing, travel oriented visitor commercial uses (e.g., entertainment, commercial recreation, lodging, fuel) to be located in areas where traffic patterns are oriented to major arterials and highways.

Response: *The project site is located on State Highway 29, a well-travelled road for residents, regional communities, and visitors to Lake County. The project promotes the aesthetic and cultural values of the county that is visually appealing to traveling visitors occupying the highway. In addition, the proposed project can be considered to be a commercial center that encourages visitors to the area and provides an agriculturally-based commercial use that is compatible with the surrounding area, which is predominately developed with agricultural uses.*

- **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 development, and the development of geothermal resources.
- **Policy LU-6.7** Community Pride and Identification. The County shall encourage community and regional events (e.g., outdoor concerts, art shows, farmer's markets, and festivals) and recreational activities to bolster community pride and identification.
- **Policy LU-6.8** Promote Key Industries. The County shall promote agri-tourism, eco-tourism, and outdoor recreation in Lake County to outside markets.
- **Policy LU-6.9** Image Enhancement. The County shall strive to communicate Lake County's amenities and attributes to those outside the county in order to meet or exceed the potential for tourism and enhance visitor's experience in the county.

Response: *The annual event provides a recreational need for Lake County residents and traveling visitors on a seasonal basis. The project promotes one of the county's economic staples, agriculture. The project provides a positive catalyst and ongoing efforts in promoting key agricultural industries that enhance the overall image of Lake County. This event is also designed to be a family-oriented and family-friendly event.*

- **Goal LU-7** To preserve Lake County communities' character and scale, including their design heritage and historic character.
- **Policy LU-7.4** Contextual and Compatible Design. The County shall ensure that new development respects Lake County's heritage by requiring that development respond to its context, be compatible with the traditions and character of each community, and develop in an orderly fashion which is compatible with the scale of the surrounding structures.
- **Policy LU-7.9** Integrate Natural Features. The County shall emphasize each community's natural features as the visual framework for new development and redevelopment.

- **Policy LU-7.10 Visual Access.** The County shall maintain visual access to views of Clear Lake, hillsides, creeks, and other distinctive natural areas by regulating building orientation, height, and bulk.

Response: *The proposed project is in conformance with the Agriculture zoning district. The proposed project and location is compatible with the surrounding area and complements the nearby surroundings and natural landscape. The structures on site are primarily shipping containers that have false roofs and false siding that are under 15' in height, and that resemble small western structures.*

Lake County Agricultural Resources

- **Goal AR-2** To promote a diverse, healthy, and competitive agricultural industry within the County.
- **Policy AR-2.2 Agricultural Promotion.** The County will support marketing programs designed to promote Lake County agricultural products and agri-tourism venues to markets outside of Lake County.
- **Policy AR-2.8 Agriculturally-Related Commercial Uses.** Within the Primary Agricultural Areas, the County will permit agriculturally-related commercial uses that meet the following criteria: Uses shall be limited to those that promote agricultural production in the County. All agricultural processing and marketing facilities shall be encouraged to utilize products grown or derived from Lake County. The use is compatible with existing agricultural uses in the area and does not adversely impact agricultural operations. The use does not require the extension of urban services. No facilities supporting or offering off-road vehicles.
- **Goal AR-3** To provide opportunities for agri-tourism that is beneficial to the County and its agricultural industry and is compatible with the long-term viability of agriculture.
- **Policy AR-3.1 Visitor-Related Agricultural Uses.** The county should establish criteria for, and amend the zoning ordinance to allow development of agricultural tourism facilities, as long as the facility is secondary and incidental to the commercial agricultural use on that site and the tourism activity does not negatively impact agricultural operations on adjacent lands, based upon parcel size, proposed use and the parcels ability to provide adequate buffer zones. Facilities may be permissible if they meet the following conditions (in addition to a standard site suitability assessment as part of a normal major use permit): The facility is approved subject to maintaining an agriculturally oriented theme. The use is compatible with existing agricultural uses in the area and does not adversely impact neighboring agricultural operations. The site is accessible from a County or State maintained roadway or highway.

Response: *The proposed project promotes and supports the agricultural industry as well as agri-tourism.*

Kelseyville Area Plan Conformance

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

- **5.1a-1:** Existing development patterns consistent with the Lake County General Plan should be recognized to logically provide for future development in the area.

Response: *The area is characterized by agricultural uses, primarily vineyards, and is zoned A-Agriculture. The use of the site for a corn maze and pumpkin patch is consistent with the other uses in this area. The 'development' is limited to annual / seasonal use of the site for agriculturally-related tourism.*

- **5.1b-1:** A high priority should be given to providing service and employment opportunities locally in the Kelseyville Planning Area in order to boost economic development and reduce travel distances.

Response: *The corn maze and pumpkin patch employs several workers each year during site preparation and event operation. All employees reside locally, and volunteers from the Kelseyville High School will be assisting on site.*

- **5.37f:** Efforts to develop private youth-oriented recreation facilities and other commercial recreation and leisure uses in the Kelseyville community shall be supported.

Response: *The use is a private youth- and family-oriented recreational use based on the types of activities that are occurring on site, such as the corn maze, hay rides and the pumpkin patch.*

Zoning Ordinance Conformance

Article 5 "A"-Agriculture District is to protect the County's agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture.

Response: *The applicant meet the minimum development standards outlined in Section 21-5.10 of Article 5 of the Lake County Zoning Ordinance.*

Article 37 "WW"-Waterway Combining District is to preserve, protect and restore significant riparian systems, streams and their riparian, aquatic and woodland habitats; protect water quality; control erosion, sedimentation and runoff; and protect the public health and safety by minimizing dangers due to floods and earth slides.

Response: *The parcel is adjacent to a riparian corridor along the Adobe Creek however the applicant's major use will not adversely affect the preservation of this waterway which is located about 30 feet from the edge of the corn maze.*

Article 36 "FF"-Floodway Fringe Combining District is to provide land use regulations for properties and their improvements situated in the floodplain to ensure protection from hazards and damage which may result from flood waters.

Response: *The parcel is located within an "X"-designated flood plain; this represents an area of minimal flooding and not within a mapped flood hazard area.*

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

Response: *The applicant's use permit will allow features to remain in view of the traveling public for a reasonable length of time for lasting views or impressions in conjunction to enhancing the*

pastoral features of agricultural land. The SC combining district establishes height limits for non-commercial buildings. The 'buildings' to be used are shipping containers that have false roofs, and that do not exceed 15' in height.

Article 39 "AA"-Airport Approach Combining District is to regulate and restrict the height of structures and objects of natural growth in the vicinity of the County's airports, to promote public safety and compatibility of adjacent uses with air navigation, and to establish approach, conical, horizontal and transition zones in the vicinity of County airports.

Response: *The applicant's use permit will not include structures that will exceed any height limitation that might otherwise conflict with the safety of the airport's operations.*

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of their actions. Upon staff review, the project has been determined to be Categorically Exempt from CEQA through the following:

Categorical Exemption Class 4 (CEQA Guidelines Section 15304-Minor Alterations to Land) consist of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes: Minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sale of Christmas trees, etc.

The site has been used for the past three years in the manner that would occur through the use permit, if it is approved. The County allows special events (up to 3 per year) through the zoning permit process. The site had been historically used for crop production, and the corn maze and pumpkin patch continued what had been the established use for the site, with the primary change being that the public was encouraged to visit the site during the fall. The project does not involve the removal of healthy, mature, scenic trees, and has a negligible effect on the environment, thereby qualifying for the categorical exemption under the Class 4 exemption as stated above.

VI. FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Major Use Permit per Lake County Zoning Ordinance, Section 51.4, Major Use Permits, Findings for Approval) if all of the following findings are made:

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

Response: *The proposed use is agriculturally-related and is entirely compatible with this location and the surrounding area given the agricultural uses that are in this vicinity.*

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

Response: *The two sites are ±12 acres and ±3.8 acres in size. The corn maze and pumpkin patch has been used over the past three years through a zoning permit. The County has received no complaints on this use at this location.*

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

Response: *The site is accessed from Thomas Road. The applicant has already installed a turn lane into Highway 29 at this location at CalTrans request to allow traffic to safely enter and exit the site from Thomas Road to the Highway.*

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

Response: *The site is served by public roads / State Highway; a well, a septic system, and on-grid power.*

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

Response: *Compliance with these governing documents is confirmed by the findings within this staff report.*

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

Response: *No violations presently exist on the site.*

VII. **RECOMMENDATION**

Staff recommends that the Planning Commission:

- A. Find that this project has been found to be Categorically Exempt from the California Environmental Quality Act (CEQA) review as a Class 4 exemption per CEQA Section 15304 - Minor Alterations to Land, which consists of minor public or private alterations in the condition of land, water, and/or vegetation and which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. Class 4 exemptions involve minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, sale of Christmas trees, etc. The site will not have an adverse effect from this project as this site was previously disturbed with agricultural uses, and the site has been used in this manner over the past three years through Zoning Permits, which allow limited special events. The corn maze and pumpkin patch will be in open to the public for approximately 45 days each year.
- B. **Approve Major Use Permit, UP 18-34 with the following findings:**
 1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
 2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.
 3. That the streets, highways and pedestrian facilities are reasonably adequate to safely

accommodate the specific proposed use.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.

Sample Motions:

Categorical Exemption

I move that the Planning Commission find that the **Use Permit, UP 18-34** applied by **Michael Hat** on property located at **4405 and 4410 Thomas Drive, Kelseyville, CA 95337, APNs 008-033-36 and 008-035-58** is exempt from CEQA because it falls within Categorical Exemption Class 4 under CEQA section 15304, as listed in the Staff Report dated **August 25, 2022**.

Major Use Permit

I move that the Planning Commission find that the **Use Permit, UP 18-34** applied by **Michael Hat** on property located at **4405 and 4410 Thomas Drive, Kelseyville, CA 95337, APN 008-033-36 and 008-035-58** does meet the requirements of §27.3(o) and §51.4 of the Lake County Zoning Ordinance and grant the Major Use Permit subject to the conditions and with the findings listed in the Staff Report dated **August 25, 2022**.

***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*