



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
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Item 1
9:05 AM
February 14, 2019

STAFF REPORT

TO: Planning Commission

FROM: Michalyn DelValle, Community Development Director
Prepared by: Eric Porter, Associate Planner

DATE: February 14, 2019

RE: **Konocti Diversified Agriculture LLC; Major Use Permit for Commercial Cannabis Cultivation (UP 18-19); Initial Study (IS 18-23)**

Supervisor District 4

ATTACHMENTS:

1. Vicinity Map
2. Existing and Proposed Site Plans, Elevations, Lighting Plan
3. Property Management Plan (available upon request)
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 18-23
7. Public Comments

I. EXECUTIVE SUMMARY

The applicant proposes a 'mixed light' cannabis cultivation license for cannabis cultivation inside a greenhouse using light deprivation and/or artificial lighting below a rate of 25 watts per square foot between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises via A-Type 3B license. The project site is located on a 20.11 acre parcel (APN 008-027-11) at 3430 Gaddy Lane, Kelseyville. The site is under a Williamson Act contract. The entire site is also located within the AO flood zone. Total proposed **cultivation area is 41,060 s.f.**, and the proposed **canopy area is 17,850 s.f.** Cultivation areas include gardens, soil staging and material storage areas, and ancillary buildings.

The parcel is accessible by Gaddy Lane, an existing paved County maintained road. Gaddy Lane is a scenic road; the building is set back more than 500 feet from the Gaddy Lane right-of-way, so the height restrictions associated with the scenic combining district overlay do not apply to the proposed greenhouse. The actual project includes a proposed greenhouse 41,060 square feet in size and 29 feet tall, which would be enclosed by a fence and situated in the approximate center of the parcel. Within this greenhouse would be 17,850 square feet of canopy area; 3,570 square feet

of cultivation 'bench area' for non-flowering plants, and 8,120 square feet of area to be used as an office.

The applicant can have up to 43,560 s.f. of total cultivation area for an A-Type 3B cultivation license per Article 27 of the Lake County Zoning Ordinance.

The cannabis plants will not be visible from public roads or neighboring lots because they will be located inside the greenhouse. The application indicates up to 10 employees per peak shift. There are presently 5 parking spaces on the site, and the application indicates that an additional 10 to 15 spaces will be added. Accessibility requirements for this commercial use include, but are not limited to, lavatories, parking spaces, and pedestrian pathways within and leading to the greenhouse.

The operation would use 3 fleet vehicles (light duty trucks), a 'scissor lift', and a forklift. The applicant anticipates 4 to 5 flatbed trucks will be used during construction which will according to the application material submitted occur between 7 am and 4 pm Monday through Friday following approval of this use permit. Equipment will be staged and stored adjacent to the construction site and on the subject lot.. It is anticipated that less than 50 cubic yards of soil would be removed during construction. A 6" thick concrete slab will be poured to support the greenhouse structure.

The applicant has indicated that greenhouse and site construction will take between 8 months and 1 year.

The site is outside the Kelseyville Community Growth Boundary. The entire site contains Class 1 through 4 soils that are stable. The soil on the site is categorized as Prime Farmland. On Prime Farmland, all cultivation must take place indoors; thus the applicant has proposed the greenhouse.

Water will be provided via existing on-site wells. The applicant estimates that the plants will require approximately 1800 gallons of water per day; the primary well produces approximately 190 gallons per minute.

Wastewater disposal will occur via a new on-site septic system. There is presently a two bedroom manufactured home on the site, however the applicant proposes new restrooms for employees within the greenhouse, requiring a separate system.

Staff recommends **Approval with Conditions** of Use Permit UP 18-19.

II. PROJECT DESCRIPTION

Applicant: Mike Mitzel

Owner: Konocti Diversified Agriculture LLC

Location: 3430 Gaddy Lane, Kelseyville

A.P.N.: 008-027-11

- Clear Lake Clay (Type 121; 100% of site). This soil type yields 11 tons of pears per year per acre, 0.4 tons of wine grapes per year per acre, and 3 tons of hay per acre per year. This soil type is clayey, and has significant shrink-swell potential and marginal strength.

Water Supply: On-Site Wells

Sewage Disposal: On-Site Septic

Fire Protection: Kelseyville Fire Protection District

Vegetation: Syrah wine grapes, pear trees

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Agriculture.

Agriculture

This land use category 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. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

Agriculture Preserve

Areas protected for agricultural use by either contract (such as a Williamson Act contract), easement (such as a conservation easement), or other mechanism design to protect the agricultural use of land for 10 or more years.

The following General Plan policies apply to this proposal:

Economic Development:

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”.

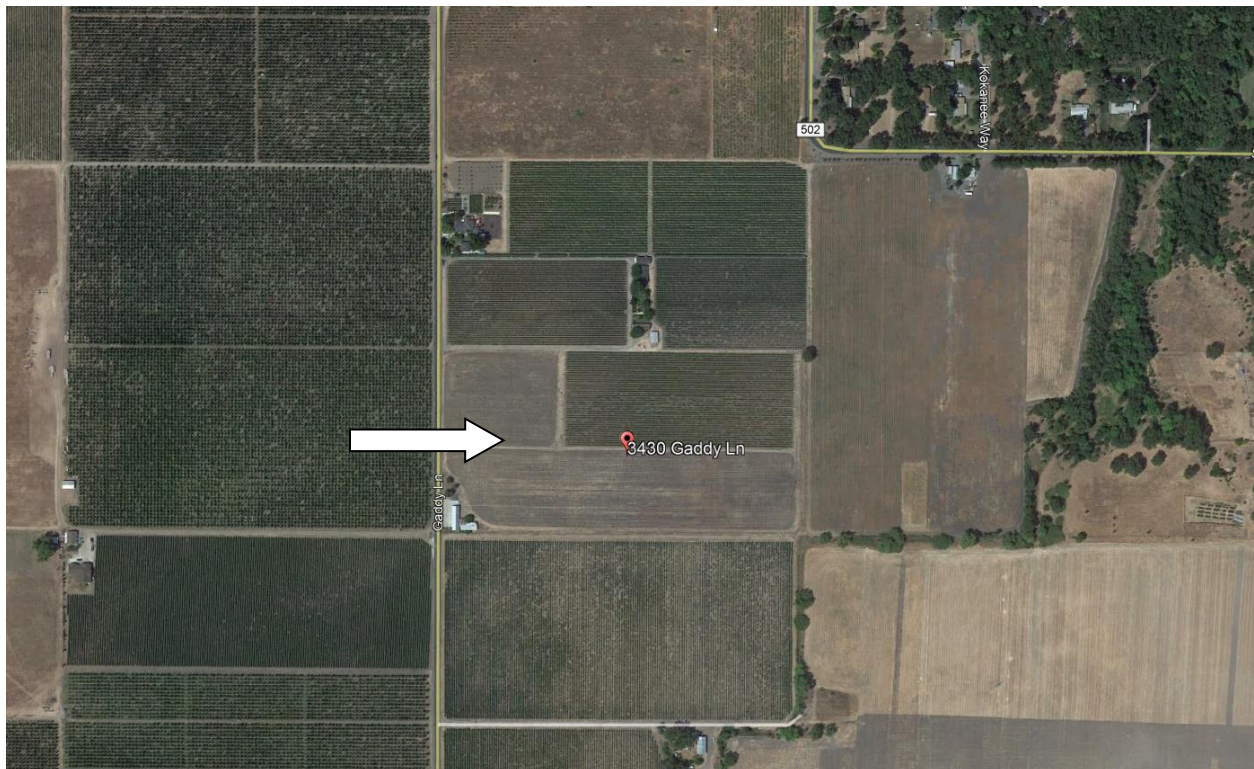
- **Policy LU 6.1:** “The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services and

commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments, and the developments of geothermal resources”.

The proposed Commercial Cannabis Operation, would create diversity within the local economy, create future employment opportunities for local residents and allow the expansion of industrial and non-industrial corporate developments.

Land Use

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



Cannabis cultivation is allowed in the APZ zone as is being proposed; the size of the cultivation area determines whether a major use permit is required. In this case the cultivation area is 41,060 s.f. ('indoor'), large enough to require a major use permit.

The immediate area consists of Agriculturally zoned lots ('A' and 'APZ' zoning designations) that vary in size between 5+ acres to over 80 acres. Most contain agricultural uses and single family dwellings.

In this case compatibility is determined by the potential impacts that this proposed use could have on the vicinity. The biggest compatibility factors appear to be aesthetics, odor, noise and potential groundwater depletion.

Potential compatibility issues are as follows:

Aesthetics: the proposed greenhouse will be about one acre in size (41,060 square feet) and will be 29 feet tall. The building as proposed would be located on the approximate south center of the site.

Odor: Cannabis cultivation produces a strong odor when the flowers are ready to harvest. This grow operation will take place inside a greenhouse; carbon air filters are proposed to minimize odors. The nearest neighboring dwelling, a farm labor quarter, is located approximately 170 feet to the northeast of the property line, and about 470 feet from the greenhouse.



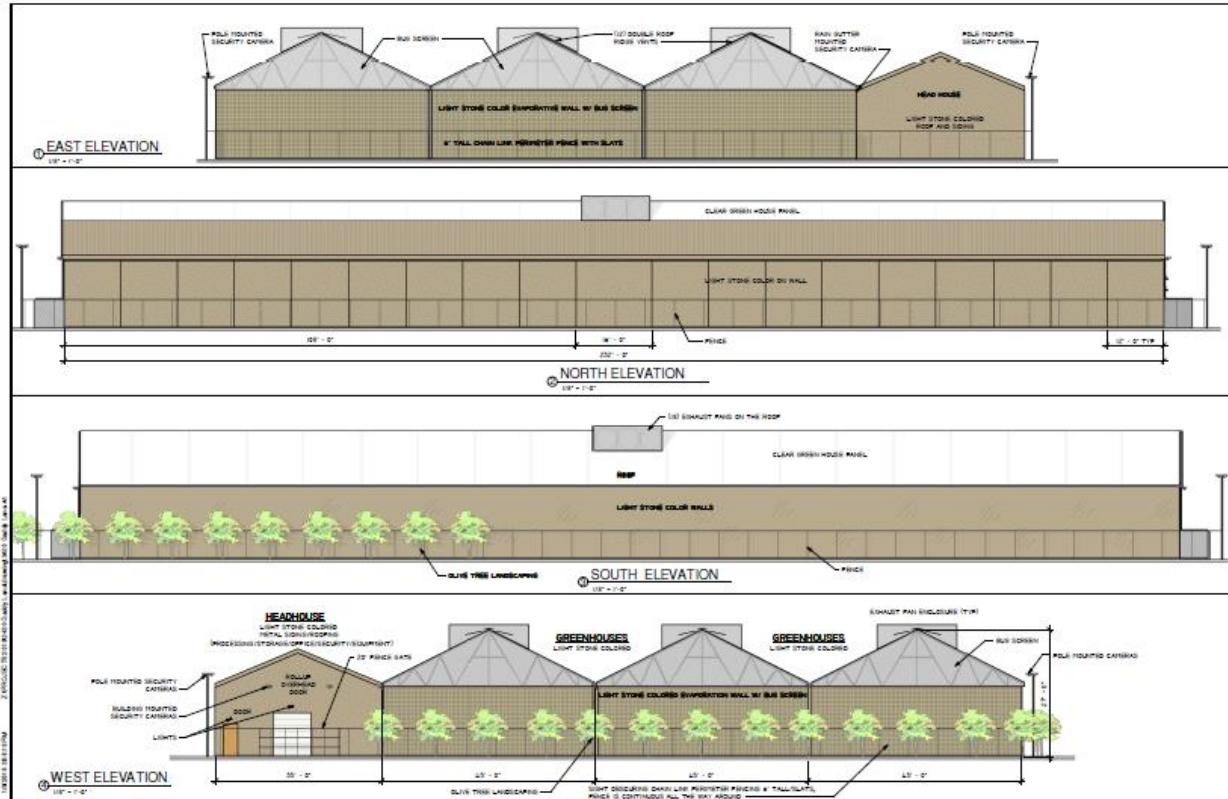
Interior of Greenhouse similar to what would be built

Noise: the Lake County General Plan limits noise generated by uses on properties in Lake County. Typical noise producing activities associated with cannabis cultivation are grading, power tools used for trimming plants, and generators. The actual site construction is scheduled to last 8 to 12 months. A condition of approval is added that restricts construction to certain hours and between Monday and Saturday. Another condition prohibits generator usage except during emergency power outage situations. The interior air circulation fans will need to meet County noise regulations; this will be determined during the building permit review phase of the project.

Agricultural Resources (General Plan Chapter 12)

- **Policy AR-2.7 Agriculturally Intensive Land Uses**

Agriculturally intensive uses shall be reviewed through a conditional use permit (CUP) process to ensure the site is appropriate for the use proposed and to attach conditions needed to make the use compatible with surrounding land uses.



Elevations of the Proposed Greenhouse

- **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.
- Direct-market stands shall be allowed in agricultural areas
- 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 (sewer and/or water service)
- No facilities supporting or offering off-road vehicles.

The adoption of Article 27 of the Lake County Zoning Ordinance included the allowance of the APZ zone as a candidate zone for cannabis cultivation. By adding this zone into the possible candidate zoning districts, a finding was made that the use is compatible

with Williamson Act contracts and agricultural uses, since virtually all APZ zoned properties are under a Williamson Act contract. Therefore policies 2.7 and 2.8 apply.

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:

Agriculture

Objective

- **3.5:** To encourage agricultural activities and development in the Kelseyville Planning Area and limit the intrusion of incompatible development into prime agricultural areas.

Policies

- **3.5a:** Development shall be directed to areas which will minimize impacts to prime farmland.

This project is located on land that is mapped as 'prime farmland'. Article 27 of the Zoning Ordinance allows cannabis cultivation to occur on prime farmland, but only inside greenhouses. The applicant is proposing a 41,060 s.f. greenhouse to be used for 'indoor crop production'. Cannabis cultivation is recognized as being compatible with Williamson Act contract land based on the inclusion of the Agriculture Preserve Zoning District as a potential candidate zone for cannabis cultivation but subject to use permit findings and other factors.

- **3.5f:** The County should provide assistance to the local agricultural community in identifying ways to increase supplies of and implement conservation techniques for quality irrigation water in the Kelseyville Planning Area.

The material provided by the applicant indicates that about 58,000 gallons of water will be used per growing month.

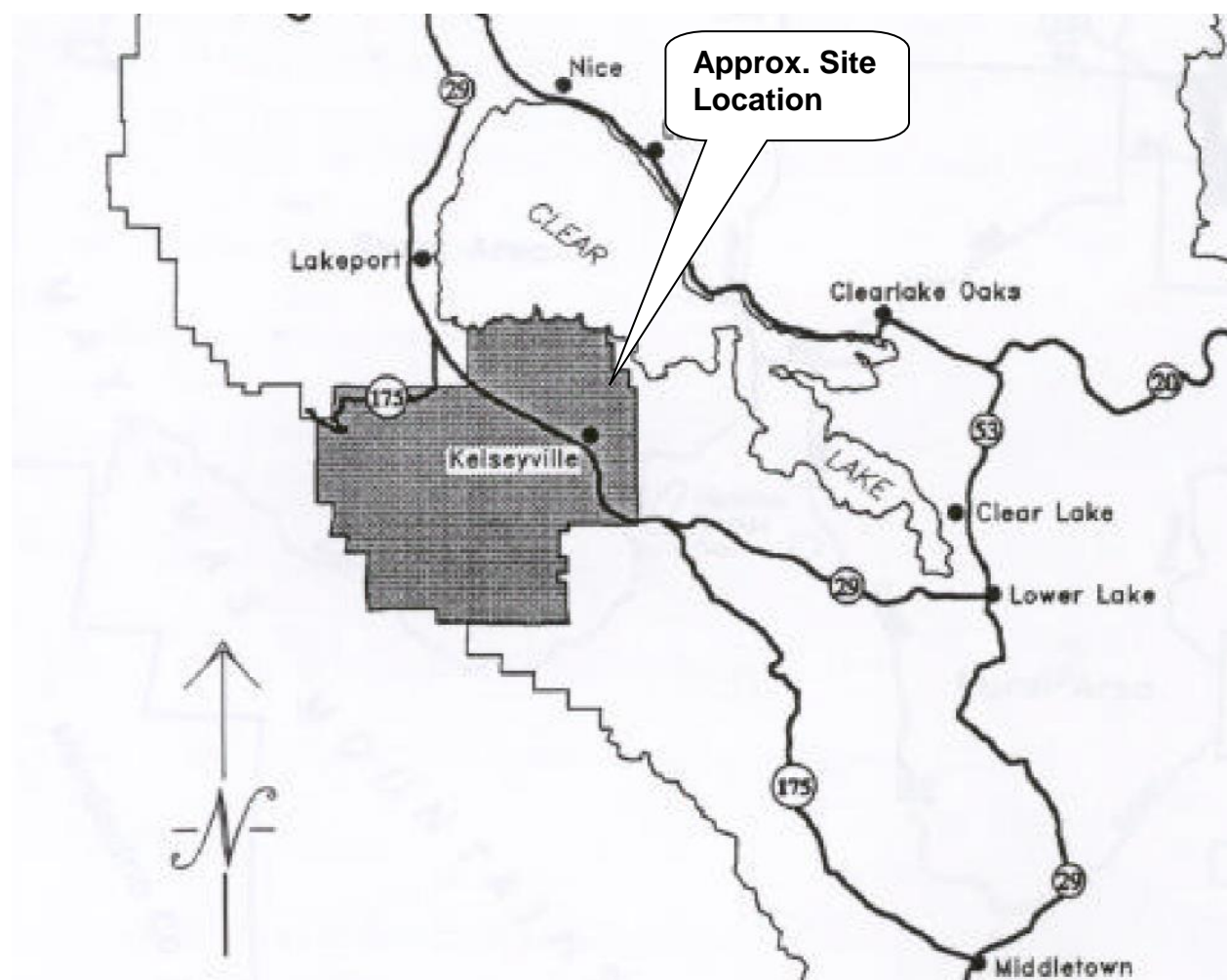
Water Resources and Environmental Health were notified of this action and did not provide any significant concerns or mitigation measures in conjunction with this application.

- **3.5i:** The development of adequate and safe housing for farm labor shall be encouraged in the Kelseyville area.

There is a farm labor quarters located about 170 feet to the north of the subject site. Although it doesn't appear that the presence of this new greenhouse would adversely impact the existing farm labor quarters, it is nevertheless going to have a significant visual impact to these quarters, and it has the potential to have an odor impact as well if the carbon filter system proposed for odor suppression is less than effective at reducing or removing odors.

- **3.5j:** The County should encourage best tillage and composting practices and alternate methods of vegetation disposal in lieu of currently utilized agricultural burning practices to reduce adverse air quality impacts.

The proposal conforms to state regulations regarding the treatment and disposal of cannabis vegetative waste.



Economic Development

Policies

- **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.

The use will have 10 employees which will help the area economy.

Zoning Ordinance Conformance

Article 4 – AGRICULTURAL PRESERVE OR APZ ZONING DISTRICT. Purpose: To provide zoning for lands in agriculture preserve and for the conservation and protection of land capable of producing agricultural products. The uses specified in this section have been determined to be compatible uses consistent with the California Land Conservation Act of 1965. Further parcelization of lands under contract shall be discouraged.

Article 27 – USE PERMITS

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

Development Standards

- Minimum Lot Size (20 acres): *Complies; the parcel is approximately ±20.11 acres in size.*
- Setback from Property Line (100 feet): *Complies; the greenhouse is set back 109.5 feet from the nearest (eastern) property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest residence is located 480 feet away from the edge of the greenhouse, and 170 feet from the property line.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies; the fence will be 6' in height.*
- Maximum Canopy Area (22,000 s.f.): *Complies; the canopy area will be 17,850 square feet in size.*
- Maximum Cultivation Area (43,560 s.f.) *Complies; the cultivation area would be 41,060 square feet in size.*

General Requirements. *The applicant meets or conditions of approval have been added to assure that the applicant meets the following General Requirements:*

- State License and Permits required (ref. Section 27.at.3.ii.a). *Complies; see 'Conditions', attachment 5.*
- Background Checks (ref. Section 27.at.3.ii.e). *The current employees have undergone background checks as required by this subsection of the Zoning Ordinance. A condition has been added to assure compliance in the event of new employees or change of ownership in the future; see Attachment 5.*
- Property Owners Approval. *The applicant is the property owner.*

- Co-location of Permits. *Not applicable.*
- Operation Hours for Deliveries (Monday through Saturday 9:00AM-7:00PM & Sundays 12:00PM – 5:00PM). *A condition has been added; see Attachment 5.*
- Duration of Permits cannot exceed ten (10) years. *A condition has been added; see Attachment 5.*
- Weights and Measures. *A condition has been added; see Attachment 5.*
- Access Adequacy Standards – *The site is accessed from Gaddy Lane, a paved County maintained road.*

Prohibited Activities. *The applicant complies with the restrictions pertaining to the following prohibited activities:*

- Tree Removal. *None is proposed.*
- Water use. *Water sources (3 wells) are all legal.*
- Odor Control. *An Odor Control Plan is required; see Attachment 5.*
- Electrical Generators may be used only on an emergency basis. *See Attachment 5.*
- Lights must comply with County Dark Skies lighting standards; *see Attachment 5.*
- Pesticide Usage is limited to State-approved chemicals. *See Attachment 5, Hazards and Hazardous Materials.*
- Protection of Minors. *Required by conditions; see Attachment 5.*
- Commercial cannabis Cultivation Exclusion Area – *complies. The site is not located within 1000 feet of:*
 - A Community Growth Boundary
 - A school
 - A developed public park
 - A drug or alcohol rehabilitation facility
 - A licensed child care or nursery school
 - A church or other family-oriented facility providing services intended for minors

Permitting Process

The **Property Management Plan** submitted by the applicant contained all of the required Elements as specified within Article 27 of the Lake County Zoning Ordinance:

- Air Quality
- Cultural Resources

- Energy Use
- Fertilizer Usage
- Fish and Wildlife Protection
- Operations Manual
- Grounds
- Pest Management
- Security
- Storm Water Management:
- Waste Management
- Management Plan
 - Cannabis Vegetative Material Waste Management
 - Growing Medium Management
 - Cannabis Vegetative Material Waste Management:
- Water Resources
- Water Use
- Compliance Monitoring
- Annual Reports - Performance Review

Article 34 - SCENIC OR “SC” COMBINING DISTRICT. Purpose: 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.

As previously stated, the building is located approximately 500 feet from the Gaddy Lane right of way, the source of the SC designation on the property. Since the actual building site is beyond the SC boundary, the height limitations normally associated with structures located within the SC combining district and on APZ-zoned land do not apply.

Article 36 - FLOODWAY FRINGE OR “FF” COMBINING DISTRICT. Purpose: 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. Within the “FF” combining district, no development shall take place except in accordance with the regulations of the base zoning district, with the regulations of this Article, and the regulations of Chapter 25, Floodplain Management. Where the “FF” imposes a greater restriction upon the use of buildings, structures or premises than are required by the base zoning district, the provisions of the “FF” district shall control. All uses shall be reviewed by the Director of the Lake County Water Resources Department for compliance with Chapter 25 prior to any development or issuance of any permit pursuant to this Code. Only those uses permitted in both the base zoning district and the “FF” combining district are permitted uses.

A condition has been added that requires the building's footing to be engineered to meet the AO Flood Zone construction requirements.

Conditions of Approval

In addition to the typical conditions that are applied to use permits, there are also several conditions that are specific to regulating cannabis cultivation. The following conditions were abbreviated for this report, and are specific to cannabis cultivation in Lake County: *(Please refer to Attachment 5 for the full Conditions of Approval)*

Condition of Approval A8:

An applicant shall keep accurate records of commercial cannabis activity. All records related to commercial cannabis activity as defined by the State Licensing Authorities shall be maintained for a minimum of seven (7) years.

Condition of Approval A14:

This use permit approval shall not become effective, operative, vested or final until the applicant until the applicant has paid the Cannabis Cultivation Tax through June 30, 2019. Said tax shall be paid within thirty (30) days of permit issuance. Proof of payment is required to be submitted to the Community Development Department. Failure to pay said tax will result in the initiation of permit revocation proceedings.

Condition of Approval A-17:

Prior this use permit becoming effective, operative, vested or final the applicant is required to pay the remaining balance of the Cannabis Program Service Fee to the Community Development Department.

Condition of Approval K2:

On or about one (1) year following use permit approval, the applicant shall submit an Annual Performance Review Report beginning on their initial date of operation for review and approval by the Planning Commission. The Planning Commission may delegate review of the Annual Performance Review Report to the Community Development Director at the time of the initial hearing or at any time thereafter. The Annual Performance Review Report shall identify the effectiveness of the approved Major Use Permit, Operations Manual, Operating Standards, and Conditions of Approval, as well as the identification and implementation of additional procedures deemed necessary. In the event the Planning Commission identifies issues with the Annual Performance Review Report, it may lead to revocation of the approved use and/or the Planning Commission may require the submittal of more frequent Performance Review Reports.

Condition of Approval K-3:

The applicant(s) shall submit an application for **renewal** of the authorized use to the Community Development Department a minimum of 180 days prior to the expiration date of said use. Failure to submit an application for renewal by *(August 14, 2028)* may result in the expiration of the permit.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Please refer to *Initial Study IS 18-23* (Attachment 6) for the Environmental Analysis of the proposed cannabis cultivation action. Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval. The following areas were identified as having potential environmental impacts:

Issue: Air Quality

The project has some potential to result in air quality impacts if not properly mitigated. The applicant indicates that one 18,750 s.f. indoor cultivation area will be planted, and that odors and dust will be mitigated by the use of carbon air filters and an indoor ventilation system that scrubs the air before allowing it beyond the walls of the greenhouse. The nearest house is located about 170 feet to the north of the cultivation area.

Construction of the project would take place over a period of 8 months to 1 year. Dust control will be important during the construction phase of development; accordingly conditions were added that address dust suppression.

Additionally, implementation of the following mitigation measures would further reduce air quality impacts to less than significant:

- AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District and obtain an Authority to Construct (A/C) Permit for all operations and for any diesel powered equipment and/or other equipment with potential for air emissions.
- AQ-2: All Mobile diesel equipment used for construction and/or maintenance must be 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 management by use of water or other acceptable dust palliatives to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.
- AQ -4: The Cultivation of Commercial Cannabis is subject to AB 2588 Air Emission Inventory requirements administrated by the Lake County Air Quality Management District. Therefore, 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-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: Prior to obtaining the necessary permits and/or approvals for any phase, the applicant shall submit an Odor Control Plan to the Lake County Air Quality Management District, apply for and receive a temporary permit.
- AQ – 7: 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.
- AQ – 8: All areas subject to semi-truck/trailer traffic shall be paved with asphaltic concrete or an all-weather surfacing to reduce fugitive dust generation.
- AQ -9: All areas subject to low use (driveways, over flow parking, etc.) shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.
- AQ-10: The use of White Rock is prohibited for any road surfacing, including parking areas as it breaks down and would create excessive dust.

Issue: Cultural and Tribal

An Archeological Research Study was not conducted for this site, which has historically been used for crop production.

In keeping with CEQA Guidelines, if archaeological resources are uncovered during construction, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds [§15064.5(f)]. Further, upon discovery of any ‘significant’ artifacts, the Pomo Tribe shall be contacted, and if the Tribe determines that it is relevant to their cultural heritage, they shall choose the method of involvement in overseeing the construction of the site for the duration of ground disturbance. The following mitigation measure has been added:

- MM CUL-1: Prior to pouring the concrete pad, a pre-construction survey of the to-be-improved area shall be undertaken by a qualified Cultural Specialist. 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 overseeing Tribe shall be notified, and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98.

Potential environmental impacts related to Cultural and Tribal resources can be mitigated to less than significant levels.

Issue: Hazards and Hazardous Waste

One function of the *Property Management Plan – Hazardous Waste Management Plan* is to identify and evaluate hazards associated with cannabis cultivation at the subject site. This includes analysis of cultivation, processing, storing and packaging as well as all other activities associated with the production of cannabis. Hazards include biological, chemical or physical. The plan also indicates all employees are required to follow the procedures outlined in this plan. Any deviations from this plan must be immediately brought to the attention of the property owner or overseeing property manager.

Materials associated with the proposed cultivation of commercial cannabis, such as gasoline, diesel, carbon monoxide, pesticides, fertilizers and the equipment emissions may be considered hazardous if released into the environment.

Routine construction materials and all materials associated with the proposed cultivation of commercial cannabis shall be transported and disposed of properly in accordance with all applicable Federal, State and local regulations.

According to the *Property Management Plan*, all fertilizers would be stored in their original package and may only be used in strict accordance with the product label requirements including, but not limited to directions pertaining to application, storage and disposal of the fertilizer product. The *Property Management Plan* states that during a typical growing season, the cultivation operation will store any chemicals in a storm-proof on-site room located within the greenhouse. No soils are imported or stockpiled. The applicant has not stated which fertilizers will be used, however the fertilizers used will be administered at the direction of a Certified Crop Advisor (CCA). No fertilizer will be used within 100 feet of any spring, stream, lake, vernal pool or wetland.

- Mitigation Measure HHM-1: Storage of potentially hazardous waste shall be in its original package, and shall be clearly labeled to display the volume and type of material stored. These packages will be kept inside a storm-proof shed, a locked storage area that will only be accessible to authorized staff. When removing materials from storage the employee name, the type of material, date, and time will be entered into a hazardous waste manifest located within the secure storage area and will be stored for five years. When returning material into storage, the type of material, volume used, name of employee, date and time will be entered into the manifest. Storage areas containing hazardous waste will be inspected weekly by staff/employees to ensure accurate record keeping and safe storage conditions.

Issue: Hydrology and Water Quality

The project is located within the AO flood plain; this will require special engineering for the footings / connection with the ground, which will be addressed during building permit review. No housing is proposed however; the house on the property is existing. Less than Significant Impact provided footings for the greenhouse are engineered.

- MM HWQ-1: The footings for the greenhouse shall be engineered due to the presence of the AO flood plain. The Engineer shall have a valid California Civil

Engineer or Licensed Professional Surveyor stamp, and all engineered footing drawings shall be wet stamped.

Issue: Noise

Short-term increases in ambient noise levels to uncomfortable levels could be expected during project grading and/or construction. Mitigation measures will decrease these noise levels to an acceptable level. Less Than Significant with Mitigation Incorporation as follows:

- NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- NOI -2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 10:00PM 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. *Article 51, Section 51.4a*

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

The immediate area contains similarly-zoned lots, between 5 and 80 acres in size. The surrounding area contains agriculturally productive properties as evidenced by the aerial photo, next page.

The greenhouse structure will be about a one acre in size and 29' tall, and appears to be appropriate for an agriculturally zoned area. The color of the greenhouse will be earth tone to fit into the surrounding area; this will be a condition 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 is for a cannabis cultivation area to be located on an approximate one-acre portion of the site located in the south-center of the site. The cultivation area represents 5% of the total ± 20.11 acre lot. The general vicinity is sparsely populated, and the proposed use is not inconsistent with the Agriculture, Agricultural Preserve or Rural Residential zoning found in the immediate area, which consists of numerous vineyards and orchards (see aerial photo, next page).



Aerial Photo of Site and Vicinity

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

The site is served by Gaddy Lane, a paved County maintained road.

The applicant has indicated that there will be up to 15 employees per shift, and most days will incorporate one shift. It appears that this use will generate about 4 trips per day per employee (arrival in the a.m., departure for lunch, arrival returning from lunch, and departure at night), or a maximum of 60 average daily trips. Public Works was notified of this action and had no adverse comments. CalTrans was also notified of this proposed use by the State Clearinghouse, and also had no adverse comments.

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.

This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Water Resources, Fish and Wildlife, Environmental Health, 11 local Tribes, the Kelseyville Fire Protection District, and PG&E. No adverse comments were received, and there is no issue with this site being able to be served by well / septic, Fire and Sheriff's departments. No adverse impact to County roads would result.

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.

Commercial cannabis cultivation is named as a permitted use in the Agricultural Preserve (APZ) zoning district within Article 27 of the Lake County Zoning Ordinance, this proposal is consistent with Article 27, subsection (at). The General Plan, Zoning Ordinance and Kelseyville Area Plan do not have any provisions for commercial cannabis, but the General and Kelseyville Area Plans do have provisions for economic development, land use compatibility, agricultural uses and related policies.

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.

The Department has no record of current violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code for this property.

VII. RECOMMENDATION. Staff recommends the Planning Commission:

A. Adopt a mitigated negative declaration for Initial Study (IS 18-23) with the following findings:

1. *Potential environmental impacts related to air quality can be mitigated to less than significant levels. Mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, AQ-7, AQ-8, AQ-9 and AQ-10.*
2. *Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels. Mitigation measure MM CUL-1.*
3. *Potential environmental impacts related to Hazards and Hazardous Waste can be mitigated to less than significant levels by mitigation measure MM HHM-1*
4. *Potential environmental impacts related to Hydrology and Water Quality can be mitigated to less than significant levels by mitigation measure MM HWQ-1.*
5. *Potential environmental impacts related to noise can be mitigated to less than significant levels by mitigation measures NOI-1 and NOI-2.*
6. *As mitigated, this project will not result in any significant adverse environmental impacts.*
7. *This project is consistent with land uses in the vicinity.*
8. *This project is consistent with the Lake County General Plan, the Kelseyville Area Plan, and the Lake County Zoning Ordinance.*

B. Approve Use Permit (UP 18-19) with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.

Sample Motions:

Mitigated Negative Declaration (IS 18-23)

I move that the Planning Commission find on the basis of the **Initial Study (IS 18-23)** prepared by the Planning Division and applied for by **Mike Mitzel representing Konocti Diversified Agriculture LLC** on property located at **3430 Gaddy Lane, Kelseyville** further described as **APN: 008-027-11**, that the use permit 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 **February 14, 2019**.

Major Use Permit (UP 18-19)

I move that the Planning Commission find that the **Use Permit (UP 18-19)** applied for by **Mike Mitzel representing Konocti Diversified Agriculture LLC** on property located at **3430 Gaddy Lane, Kelseyville** further described as **APN: 008-027-11** does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **February 14, 2019**.

***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.*

Reviewed by: _____