



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 2
May 14, 2020
9:35 AM

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Interim Community Development Director
Tocarra Thomas, Deputy Community Development Director
Mark Roberts, Principal Planner
Prepared by: Victor Fernandez, Assistant Planner

DATE: April 23, 2020

SUBJECT: Benmore South LLC
Major Use Permit Application, UP 19-28; Commercial Cannabis Cultivation; Early Activation, EA 19-57 and Categorical Exemption, CE 19-75. APNs: 007-001-30, 007-001-31, 007-001-39, 007-002-10.

Supervisor District 4

ATTACHMENTS:

1. Vicinity Map
2. Existing and Proposed Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for the Commercial Cannabis Cultivation (A-Type 3 Outdoor License), which includes the planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing. The proposed use will occur within an existing disturb area once used for a vineyard. An A – Type 3 license allows up to 43,560 square feet of Cannabis Canopy which is defined as the designated area(s) at a licensed premises, except nurseries, that will contain mature plants at any point in time.

The applicant proposes the Collocation of Permits and Clustering, which is defined as Multiple Cultivation permits allowed on a single parcel provided that each permit meets the minimum acreage requirement and all other development standards. Clustering a cultivation site across multiple contiguous parcels may be permitted when all of the following criteria are met (Article 27, Section 27.11, subsection (at)):

1. All parcels must qualify for a commercial cannabis cultivation permit independently,

2. Title interest on all parcels shall be held under the same identical ownership.
3. All required cultivation setbacks shall be maintained from exterior property lines and the cultivation site may be permitted to cross contiguous property lines,
4. A deed of restriction prohibiting commercial cannabis cultivation shall be recorded on each parcel where density has been transferred.

The proposed project consists of combining the acreage of parcels: 007-001-30, 007-001-31, 007-001-39 and 007-002-10 which totals approximately 313 acres. However, cultivation will take place on parcels 007-001-31 and 007-001-39.

Benmore Valley Ranch is accessed by a private gravel road, Benmore Valley Road, which spans to approximately 2.2 miles from State Highway 175 to the Ranch entrance. The cannabis cultivation would take place within a fenced in area approximately 21.64 acres (942,638.4 square feet) acres in size, with the proposed canopy area of 15 acres (653,400 square feet). The applicant proposes the following:

- Cannabis cultivation to be in-ground using existing soil with mixed amendments.
- Twenty (20) 2,000 square foot cold frame greenhouses assembled on grade (will be used for immature plants and curing of harvested plants).
- Mixing tanks (plastic totes, 250 gallon) for making compost tea (liquid soil amendment or fertilizers)
- Waterproof storage shed/Conex container or similar for storage of chemicals and hand tools.
- Electricity will be supplied by the existing PG&E service.
- Portable restrooms with hand washing stations, and trash enclosures within fenced cultivation area.

The fence would be approximately six (6) feet height, and constructed with heavy gaged wire with gate access. There would be a minimum of two (2) security cameras (solar powered) at opposite ends of the fence to ensure the Cannabis Cultivation Area would be completely monitored 24 hours a day, 7 days a week. The proposed security system is able to be accessed remotely.

According to the applicant there would be approximately a minimum of eight (8) employees and up to 24 employees at peak shift (*the number of employees and/or shifts may vary depending on time of year, crop production/amount of work*). The hours of operation would be Monday through Saturday from 9:00AM to 7:00PM and Sunday from 12:00pm to 5:00pm. There would be approximately 1-2 deliveries and/or one 1-2 pickups per day (*the numbers of delivers/pickups may vary depending on time of year, materials needed, etc.*). According to the applicant there is approximately 24 parking spaces proposed. The parking spaces are located adjacent and/or in front of the Cannabis Cultivation Area.

The project is using an existing irrigation system (previously used for a vineyard) which uses water from the South Lake Reservoir located on the property. The water is gravity feed from the lake, to storage tanks (5,000 to 10,000 gallon tanks) and then pumped to the site using a horsepower electric pumps and distributed through existing underground irrigation tubing.

On January 10th, 2020, the applicant submitted documentation to the Community Development Department requesting that Major Use Permits (UP 19-02; UP 19-03; UP 19-04) be withdrawn and consolidated with Major Use Permit (UP 19-28).

On February 19, 2020 the applicant was issued Early Activation, **EA 19-57** of the use for Commercial Cannabis Cultivation.

Staff Recommends approval of Major Use Permit, **UP 19-28**.

II. PROJECT DESCRIPTION

Applicant: **Benmore South, LLC**

Owner: Benmore Valley Ranch, LLC.

Location: 3621, 3561, 3470 and 3680 Benmore Valley Road, Lakeport, CA 95453.

A.P.N.: 007-001-30, 007-001-31, 007-001-39 and 007-002-10

Parcel Size: Approximately 313 acres total in size

General Plan: Agriculture – Resource Conservation – Rural Lands
Zoning: “RL - A - WW”; Rural Lands - Agriculture – Waterway

Flood Zone: Not located within a Flood Zone.

III. PROJECT SETTING

Existing Uses and Improvements: There are several parcels within the Benmore Valley Ranch. These parcels are developed with Single-family Residential Dwellings, Accessory Structures, reservoirs/ponds and existing agriculture uses. The project parcel was previous developed with a vineyard (no longer exist) and would be replaced with Commercial Cannabis Cultivation. On February 19, 2020 the applicant was issued Early Activation, **EA 19-57** of the use for Commercial Cannabis Cultivation.

North: Parcels are zoned “RL” Rural Lands, “A” agriculture and “O” Open Space. The parcels range in size from approximately 30 to greater than 500 acres in size.

South: Parcels are zoned “RL” Rural Lands. The parcels range in size from approximately 30 to greater than 200 acres in size. The Mendocino-Lake County Line is South from the subject parcels.

West: Parcels are zoned “RL” Rural Lands and “A” Agriculture range in size from approximately 30 to greater than 100 acres in size.

East: Parcels zoned “RL” Rural Lands, “A” Agriculture and “O” Open Space. The parcels range in size from approximately 25 to greater than 500 acres in size.

Topography: Parcel is moderately steep to steep (Slopes approximately 0 to greater than 30%).

Soils:

According to the soil survey of Lake County, prepared by the U.S.D.A, The parcels contains the following soil types:

- **Manzanita Loam (159) 2 to 5 percent slopes:** This very deep, well-drained soil is on terraces. Permeability of this soil is slow with a water capacity of approximately 7.5 to 10.5 inches. The surface runoff is slow and the hazard of erosion is slight.
- **Maymen-Estel-Mayacama Complex (167) 30 to 75 percent slopes:** This soil is somewhat shallow and excessively well drained. The permeability of this soil is slow with a water capacity of approximately 1 to 3.5 inches. The surface runoff is rapid and the hazard of erosion is severe.
- **Maymen-Etsel-Snook Complex (169) 30 to 75 percent slopes:** This map unit is on hills and mountains. The average annual precipitation is 30 to 50 inches. This soil is shallow and somewhat excessively drained. Permeability is moderate with the water capacity of 1 to 3 inches. Surface runoff is very rapid, and the hazard of erosion is severe.
- **Maymen-Estel Speaker Associate (170) 30 to 50 percent slopes:** This soil is somewhat shallow and excessively well drained. The permeability of this soil is slow with a water capacity of approximately 1 to 3 inches. The surface runoff is rapid and the hazard of erosion is severe.
- **Shortyork Variant-Yorkville-Squawrock Association (206) 15 to 50 percent slopes:** This map unit is on mountains. This soil is moderately deep and well-drained. Permeability of this soil is very slow and water capacity is 1.5 to 4.5 inches. Surface runoff is very rapid, and the hazard of erosion is severe.
- **Wolfcreek Loam (247) 0 to 2 percent slopes:** This very deep, well-drained soils is on flood plains. Permeability of the soil is moderately slow and water capacity is 7.5 to 10 inches. Surface runoff is very slow, and the hazard of erosion is slight.

Water Supply: Existing Onsite Wells and Reservoirs/Ponds

Sewage Disposal: Existing Onsite Waste Disposal System (Septic)

Fire Protection: Department of Forestry and Fire Protection (Cal Fire)

School District: Lakeport Unified School District

IV. PROJECT ANALYSIS

General Plan Conformance

The land use designation on this site is Agriculture, Rural Lands and Resource Conservation.

Agriculture includes areas with prime farmland, vineyards 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.

- The project parcels contains soil known as Prime Farmland. According to Article 27 of the Lake county Zoning Ordinance, Within areas designated as prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance as depicted on the current Lake County Important Farmland prepared by the State of California Department of Conservation Farmland Mapping and Monitoring Program commercial cannabis shall be limited to indoor, mixed-light, and greenhouses that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure. The permitting authority may allow outdoor cultivation outside a greenhouse if the prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance are isolated areas that are not connected to a large system of such lands.

The project site was previously developed with vineyards throughout the Benmore Valley. According to the applicant the proposed use will be conducted within the previous disturbed foot print of the vineyard.

Rural Lands allows for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields. 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, and are located outside of Community Growth Boundaries.

The project parcel is located in a rural area of the county and accessible off of Benmore Valley Road which is located off of State Highway 175. The project parcel, including the area to be developed within the parcel is protected by the natural steep topography of the surrounding landscape and is not visible from a public roadway. The use is permitted upon issuance of a Major use Permit Pursuant to Lake County Zoning Ordinance. On September 05, 2019 the applicant submitted a Major Use Permit for the Cultivation of Commercial Cannabis.

Resource Conservation assures the maintenance or sustained generation of natural resources within the County. The highest priority for these lands is to provide for the

management of the County's natural infrastructure. This management should include, but is not limited to functioning as watershed lands, which collects precipitation and provide for the important filtering of water to improve water quality. Typical uses by right include but are not limited to resource utilization, resource utilization operations and facilities/uses which require a conditional use permit.

The project parcel contains a waterway and/or riparian corridor, known as Benmore Creek. According to the site plan prepared by M.I. Flamer & Associates dated October, 24, 2019 all development would be located in a previously disturb area once used for the cultivation of a vineyard and is approximately 150 feet from the top of bank of Benmore Creek. The applicant would also incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent and/or reduce any potential discharge of all construction, including post construction pollutants into the surrounding waterways/riparian corridor or the County Storm Drainage system and would be maintained for life of the project.

The following General Plan policy applies to this project:

Section 3.9 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 and create future employment opportunities for local residents. According to the applicant's application packet, there is a total of 24 proposed employees at peak shift. The number of employees may increase or decrease depending on the stage of the cultivation season.

Section 9.1 Biological Resources:

Goal OSC-1: "To preserve and protect environmental sensitive significant habitat, enhanced biodiversity, and promote healthy ecosystems throughout the County."

- Policy OSC-1.5 – Protect Riparian Corridors: The County shall require that buildings and other forms of development be set back from riparian corridors to avoid damage to habitat.

The proposed Commercial Cannabis Operation is situated in an area that contains a waterway and/or riparian corridor, known as Benmore Creek. However, according to the site plan prepared by M.I. Flamer & Associates dated October 24, 2019 all development will occur in a previously disturb area once used for a vineyard and is approximately 150 feet from the top of bank of Benmore Creek. The applicant will also be using Best Management Practices (BMPs) to reduce any potential environmental impacts related to erosion.

Zoning Ordinance Conformance

Article 5 - "A" Agriculture

The purpose of "A" Agriculture Zoning 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.

The Cultivation of Commercial Cannabis is permitted in the "A" Agriculture Zoning District upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On September 09, 2019, the applicant submitted an application for a Major Use Permit, UP 19-28 for the Cultivation of Commercial Cannabis to the Community Development Department. The parcels are approximately 313 acres in size (when clustered). The parcels containing "A" Agriculture zoning meet the minimum acreage of 40 acres.

Article 7 – "RL" Rural Lands is to provide for resource related and residential uses of the County's undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access.

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. On September 09, 2019, the applicant submitted an application for a Major Use Permit, UP 19-28 for the Cultivation of Commercial Cannabis to the Community Development Department.

Article 37 "WW" - Waterway Combining District

The purpose of Article 37 is to preserve, protect and restore significant riparian systems, streams, riparian, aquatic and woodland habitats, protecting water quality, erosion control, sedimentation/runoff and protecting the public's health/safety by minimizing dangers due to flood and earth slide.

Benmore Creek traverses through the parcels that have a proposed cultivation site. Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the minimum setback for perennial waterways shall be thirty (30) feet from the top of bank. According to the applicants Site Plans and Property Management Plans, all cultivation activities and development shall maintain a minimum of 150 ft. from the top of bank.

Lakeport Area Plan

One of the major purposes of the Lakeport Area Plan is to promote the County's recreation-based economy and provide a high level of scenic quality to the residence and visitors alike.

Objective 5.5.2: "Designate appropriate amounts of land for uses to accommodate protected growth rates in the Lakeport area for the next 20 years. Designate sufficient lands to accommodate a balance of land uses subject to environmental and public service constraints".

- Policy 5.5.2.a: Give a high priority to providing service and employment opportunities locally as well as coordination with the City of Lakeport to boost economic development and reduce travel distances from home to work.

The project parcel, including the area to be developed within the parcel is protected by the natural steep topography of the surrounding landscape and will not affect the scenic quality of the residents, visitors and/or vehicles passing through on State Highway 175. The proposed Commercial Cannabis Operation, would create not only a service to the residents of Lake County, but it would also help boost the local economics and create employment opportunities.

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 license): *Complies, the project parcels are ±313 acres in size (when clustered). The applicant needs 20 acres for the A-Type 3 license.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a min of 100 feet from the nearest property line. In reference to Article 27, subsection (at(j)), clustering a cultivation site requires that cultivation setbacks shall be maintained from exterior property lines and the cultivation site may be permitted to cross contiguous property lines. According to the applicant's application packet, the cultivation site will cross contiguous property lines, and maintain a minimum 100 foot setback from exterior property lines.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 1.5 miles away from the cultivation area to the southeast.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (1 acre maximum): *Complies; the proposed canopy areas would be **approximately 15 acres** in total area. The applicant is proposing to cluster four (4) parcels to combine the acreage (approximately 313 acres). This would allow up to fifteen (15) A – Type 3 licenses which allow up to one (1) acre of canopy area per license.*

General Requirements. *The applicant meets the following General Requirements. If the requirements have not been met by the time permit approval, conditions have been added to assure compliance.*

- State License and Permits required (ref. Section 27.at.3.ii.a). *Applicant is required to obtain state licenses and permits prior to cultivation; see Section A, Items 2 of Attachment 4.*
- 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. However, a condition has been added to assure compliance in the event of new employees or change of ownership in the future; see Section A, Item 11 of Attachment 4.

- Property Owners Approval. *The applicant has provided a Property Owner Consent Form.*
- Co-location of Permits. *The applicant has applied for (15) A-Type 3 medium outdoor commercial cannabis cultivation license.*
- Operation Hours for Deliveries (Monday through Saturday 7:00AM-7:00PM & Sundays 12:00PM – 5:00PM). *A condition has been added; see Section J, Item 1 of Attachment 4.*
- Duration of Permits cannot exceed ten (10) years. *A condition has been added; see Section K, Item 3 of Attachment 4.*
- Weights and Measures (All permittees shall comply with the state of California weights and Measures requirements found in the California and Agriculture Code, California Code of Regulations, and the California Business and Professions Code). *A condition has been added; see Section J, Item 3 of Attachment 4.*
- Access Adequacy Standards (Any site where a cannabis related activity is permitted shall have adequate access) – *The applicant complies with Public Resources Code 4290/4291. See attachment 4, Section A, Item 3.*

Prohibited Activities

The applicant complies with the restrictions pertaining to the following prohibited activities:

- Tree Removal. *None is proposed.*
- Water use when illegally diverted from any lake, spring, wetland, stream, creek, vernal pool, or river. *The applicant has provided Rights to Divert and Use Water from the State Water Resources Control Board.*
- Odor Control. *An Odor Control Plan is required prior to cultivation; see Section C, Item 1 of Conditions (Attachment 4).*
- Electrical Generators may be used only on an emergency basis. *According to the applicants Property Management Plan, the applicant is proposing to use existing electricity provided by PG&E.*
- Lights must comply with County Dark Skies lighting standards; see Section B, Item 2 of Attachment 4.

- Pesticide Usage is limited to State-approved chemicals. See *Section G, Item 4 of Attachment 4*.
- Protection of Minors. The permittee shall not sell, transfer or give cannabis or cannabis products to persons under 21 years of age; Allow any person under 21 years of age into the cultivation area; employ or retain persons under 21 years of age. *Required by conditions; see Section A, Item 9 of Attachment 4*.
- 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

The **Property Management Plan** submitted by the applicant contains 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

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. The project was initially submitted as an initial study. Upon staff review, the Minor Use Permit submitted by Benmore South LLC has been determined to be Categorical Exempt from CEQA through the following:

- Exemption Class 4 (15304 – Minor Alterations To Land) This class consists 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.
 - a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

The applicant is cultivating within a previous disturbed area once developed with a vineyard for the Cultivation of Commercial Cannabis. The project will not involve the removal of healthy, mature, scenic trees. The proposed project remains consistent with the Lake County General Plan, Lakeport Area Plan, and Lake County Zoning Ordinance. The project parcels are surrounded by topographic barriers, however, the cultivation site(s) are located on lands that are less than 10 percent (10%) slopes where grading where occur. Additionally, grading will not occur within a waterway, wetland, a designated scenic area, or within officially mapped areas of severe geologic hazard such as an Alquist-priolo Earthquake Fault Zone or within an official Seismic Hazard Zone. Therefore a CEQA Categorical Exemption, Class 4 is appropriate for this project. A Categorical Exemption Class 4 (CEQA Guidelines Section 15304 – Minor Alterations to Land) consists of minor public or private alternations in the conditions of land, water, and/or vegetation which do not involve removal of healthy, mature trees except for forestry or agricultural purposes.

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.

The proposed use of Commercial Cannabis Cultivation Operation is a permitted use in the "A-RL" Agriculture and Rural Lands Zoning District upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Prior to the applicant constructing any type of structure(s), the applicant shall obtain the necessary permits 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 project site is approximately 313 acres in size and located in a rural area of the county and is protected by the natural steep topography of the surrounding landscape and is not visible from a public roadway and/or highway. The site is located in an area of the county where parcels are developed with single-family homes and/or agricultural uses. The project parcel is located in close proximity to existing infrastructure and opportunities for employment, services and recreation opportunities.

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

The project is located off of Benmore Valley Road which is accessible off of State Highway 175. State Highway 175 is maintained by the California Department of Transportation (Caltrans). A condition has been added to the Conditions of Approval.

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

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 Indian Tribes. 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.

Since commercial cannabis cultivation is named as a permitted use in the A and RL zoning district within the Commercial Cannabis ordinance, this proposal is consistent with the governing ordinance for cannabis growing in Lake County. The General Plan does not have any provisions specifically for commercial cannabis, but both Plans have provisions for economic development and land use compatibility.

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.

VII. MAJOR USE PERMIT FINDINGS FOR APPROVAL Article 27, subsection (at):

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

Responses to Article 27, Subsection (at) findings:

1. This report identifies the development standards that apply to cannabis cultivation in Lake County. The applicant fully complies with the following development standards as described in Article 27, Subsection (at), Section 1.i:
 - a. Minimum Lot Size (20 acres per A-Type 3 license): *Complies, the project parcels are ±313 acres in size (when clustered). The applicant needs 20 acres for the A-Type 3 license.*
 - b. Setback from Property Line (100 feet): *Complies; the cultivation site is set back a min 100 feet from the nearest property line. In reference to Article 27, subsection (at(j)), clustering a cultivation site requires that cultivation setbacks shall be maintained from exterior property lines and the cultivation site may be permitted to cross contiguous property lines. According to the applicant's application packet, the cultivation site will cross contiguous property lines, and maintain a minimum 100 foot setback from exterior property lines.*
 - c. Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 1.5 miles away from the cultivation area to the southeast.*
 - d. Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
 - e. Maximum Canopy Area (1 acre maximum): *Complies; the proposed canopy areas would be **approximately 15 acres** in total area. The applicant is proposing to cluster four (4) parcels to combine the acreage (approximately 313 acres). This would allow up to fifteen (15) A – Type 3 licenses which allow up to one (1) acre of canopy area per license.*
2. This report identifies the Application for Background Clearance for a County Permit. The applicant has passed a 'live scan' background check, and is qualified to make this application. 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.

3. This report identifies the Property Owner's Approval. The applicant has provided a property owner's consent form with the submitted Minor Use Permit Application.

VIII. RECOMMENDATION

Staff recommends that the Planning Commission:

A. Find that this project has been found to be Categorical Exempt from CEQA as a Class 4 Exemption.

1. The project is consistent with CEQA Categorical Exemption, Class 4 (Minor Alterations to Land), which consists of minor or private alterations in the conditions of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.
2. This project remains consistent with the Lake County General Plan, Lakeport Area Plan and the Lake County Zoning Ordinance.
3. There has been no change in the project which would create new significant environmental impacts.
4. This project is consistent with land uses in the vicinity.
5. This project will not result in any significant adverse environmental impacts.

B. Approve Major Use Permit, UP 19-28 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. This project is consistent with the Lake County General Plan, Lakeport Area Plan, and Lake County Zoning Ordinance.
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.
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:

Categorical Exemption

I move that the Planning Commission find that the **Major Use Permit (UP 19-28)** applied for by **Benmore South LLC** on property located at **3621, 3561, 3470 and 3680 Benmore Valley Road, Lakeport**, further described as **APNs: 007-001-30, 007-001-31, 007-001-39 and 007-002-10** is exempt from CEQA because it falls within Categorical Exemption Class 4 (15304), based on the findings set forth in Staff Report dated **April 23, 2020**.

Major Use Permit (UP 19-28)

I move that the Planning Commission find that the **Major Use Permit (UP 19-28)** applied for by **Benmore South LLC** on property located at **3621, 3561, 3470 and 3680 Benmore Valley Road, Lakeport**, further described as **APNs: 007-001-30, 007-001-31, 007-001-39 and 007-002-10** does meet 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 **April 23, 2020**.

***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:_____