



**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 1**  
**9:05 AM**  
**July 23, 2020**

## **STAFF REPORT**

**TO:** Planning Commission

**FROM:** Scott DeLeon, Interim Community Development Director  
Tocarra Thomas, Deputy Community Development Director  
Mark Roberts, Principal Planner  
Prepared by: Sateur Ham, Assistant Planner I

**DATE:** July 23, 2020

**SUBJECT:** **Raven Hill's Garden; Major Use Permit (UP 19-39), Initial Study (IS 19-58); Early Activation (EA 19-64); Grading (GR 19-1420); (APN: 010-055-45)**

### **Supervisor District 2**

**ATTACHMENTS:**

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 19-58 and Mitigated Negative Declaration
7. Public Comments

## **I. EXECUTIVE SUMMARY**

The applicant is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation which includes the planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing. The applicant seeks approval of the following licenses:

- A – Type 3: “Outdoor”: Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.
- A – Type 3B: “Mixed-Light”: Cultivation for adult use cannabis in a greenhouse, glasshouse, conservatory, hothouse, or other similar structure 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.

- A – Type 1C: “Specialty Cottage”: Cultivation for adult use cannabis of 2,500 square feet or less of total canopy size for mixed-light cultivation using light deprivation and/or artificial lighting below a rate of 25 watts per square feet, up to 25 mature plants for outdoor cultivation without the use of light deprivation and/or artificial lighting in the canopy are at any point in time.
- Type 13 Self-Transport Distribution License: One who transports cannabis goods that the licensee has cultivated or manufactured to entities licensed pursuant to California Code.

The ±49.5 acre subject site is located at 1020 Junction Plaza, Clearlake, and is known as APN 010-055-45. The parcel is located less than a mile to the East of Highway 53 and north of the City of Clearlake. The subject site contains a single-family dwelling, an on-site septic system and well, which will be used for cannabis irrigation. The 75,360 square feet cultivation area is located as shown on the site plan (attachment 2). There are two unnamed ephemeral Class III watercourses which flow along the northern and southern valleys of the property; the cultivation site meets the minimum 100’ setback from the top of the bank per Lake County Zoning Ordinance (LCZO) setback requirements. There are no additional water bodies on the project property and the ephemeral watercourses will meet the minimum 100 feet setback

The project will be constructed within phases.

- Phase One (1): Construction of a six (6) foot chain link fence, installing security measures/cameras, gravelling the driveway approximately 550 feet in length, and establishing the above ground pots for a two-acre outdoor cannabis cultivation area.
- Phase Two (2), consists of construction of a 5,000 square foot processing facility, 400 square foot storage facility for pesticides/fertilizer; two (2) 5,000 gallon water tanks and three (3) greenhouses. The square footage of each green house is as follows:
  - 9,000 sq. ft.
  - 14,400 sq. ft.
  - 3,000 sq. ft.

Construction would occur for approximately 5-7 weeks and Monday through Friday from 9am to 6pm.

The applicant has indicated that up to a maximum of four employees will be on site during peak cultivation season. Parking is provided to the southwest of the cultivation site.

According to the property management plan, the estimated water usage ranges between 776,475-1,358,831 gallons per year. This amount of proposed water usage is based on environmental conditions and published studies on outdoor grow for one acre in the best and worst case scenario. The proposed project will consist of indoor mixed-light cultivation which is a significantly smaller cultivation grow and in a controlled environment.

Staff recommends conditional approval of **UP 19-39**.

## II. PROJECT DESCRIPTION

Applicant/Owner: Rebecca Hebert

Location: 1020 Junction Plaza, Clearlake, CA 95422

A.P.N.: 010-055-45

Parcel Size: ±49.5 acres

General Plan: Rural Lands

Zoning: “RL”, Rural Land

Flood Zone: None

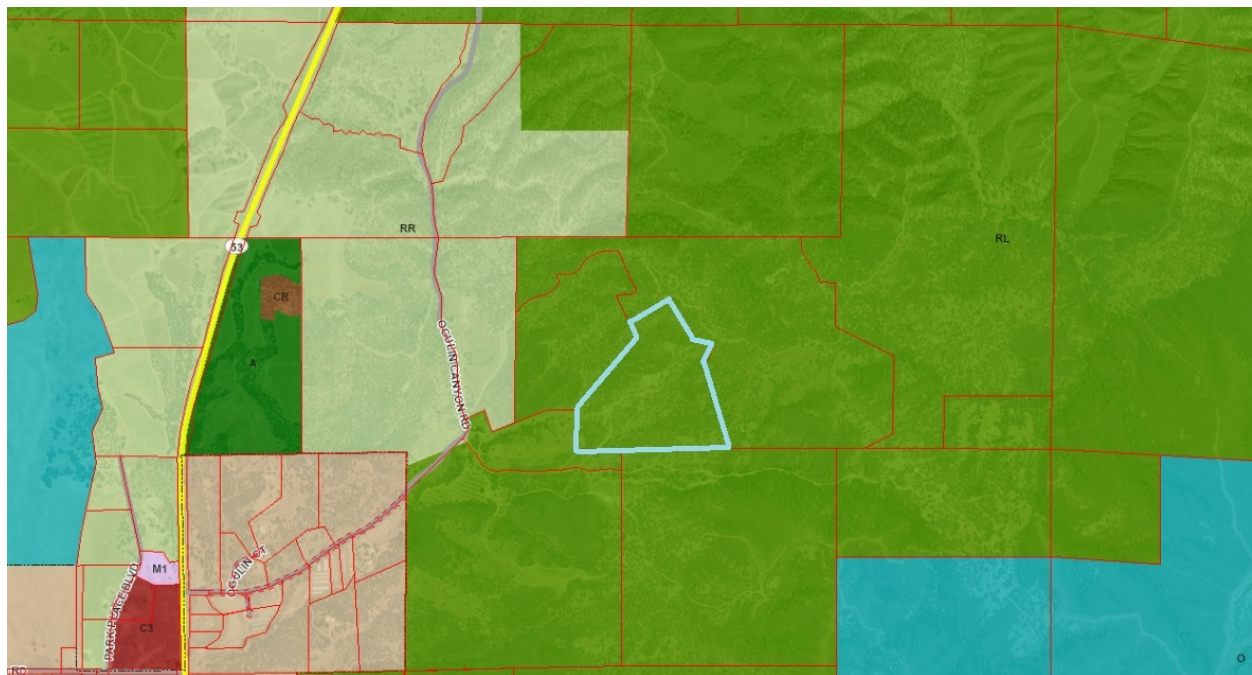
Date Submitted: October 23, 2019 (multiple revisions followed the submittal)

Date of First Cultivation: March 24, 2020 via Early Activation

## III. PROJECT SETTING

Existing Uses and Improvements: The subject site contains a single family dwelling of undetermined size served by septic systems; a domestic well, and an existing gravel driveway.

### ***Surrounding Uses and Zoning***



*Figure 1 Parcel outlined in light blue*

North: “RR” Rural Residential and “RL” Rural Lands. Parcel sizes range from approximately 2 to 150 acres.

South: “RL” Rural Lands. Parcel sizes range from approximately 22 to 160 acres in size.

East: “RL” Rural Lands. Parcel sizes range from approximately 20 to 271 acres in size.

West: “RL” Rural Lands-Rural Residential. Parcel sizes range from approximately 22 to 46 acres in size.

Topography: Varied; ranges from flat (center of the parcel) to over 30% (surround the parcel property line).

Water Supply: On-site well.

Sewage Disposal: On-Site Septic Systems

Fire Protection: CalFire (Lake County Fire Protection District)

Vegetation: The parcel consist of approximately 80% Blue Oak Woodland, 10% Chamise chaparral, and 10% annual grassland.

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

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

The General Plan designation for the subject site is Rural Lands, which includes areas of undeveloped grazing lands, along with areas characterized by steep topography, fire hazards, and limited access. 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 following General Plan policies relate to site development in the context of 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.*

##### ***Shoreline Communities Area Plan Conformance***

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

“3.2.1d Provide assistance to the local agricultural community and new large agricultural projects to increase water supplies and implement conservation techniques for the use and reuse of irrigation water”.

*Per zoning ordinance, it is required that all applicants install a water meter to monitor water usage and provide an estimated water calculation for their particular grow. In addition, the project management plan includes proposed irrigation methods and includes how their project will implement conservation techniques (see Attachment 3).*

“3.4.1c Preserve lands for agricultural production.”

“5.5.3b Preserve areas containing prime agricultural soils or demonstrating unique characteristics that allow for viable economic opportunities for the agricultural industry.”

*Cannabis Cultivation is primarily in areas zoned Agricultural Preserve, Agriculture, Timberland Preserve, Rural Lands, Rural Residential and Suburban Reserve. Additionally, there are some restrictions and cultivation methods based on agricultural soils. The project area is in Rural Lands with soil designation for grazing lands, which is an area with existing vegetation well suited to the grazing of livestock. The cultivation of cannabis within this area is permitted for outdoor and indoor grows consistent with the project proposal.*

### **Zoning Ordinance Conformance**

#### Article 5 – Rural Lands Zoning District

The purpose 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.

#### 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 permit, minor or major use permit; in addition to any required building, grading and/or health permits.

*The cultivation of commercial cannabis is permitted within Rural Lands zoning districts upon issuance of a use permit, pursuant to Section 27.11 (Table B) of the Lake County Zoning Ordinance. A-Type 3 license allows up to 43,560 ft<sup>2</sup> of canopy per license and requires 20 acres; A-Type 3B license allows up to 22,000 ft<sup>2</sup> of canopy per license and requires 20 acres; A-Type 1C license allows up to 2,500 ft<sup>2</sup> of canopy per license and requires 5 acres. The project is proposing one of each license types previously mentioned with a total of 23,400 ft<sup>2</sup> of mixed light canopy area and a total of 43,560 ft<sup>2</sup> of outdoor canopy area within a total of 75,360 ft<sup>2</sup> of cultivation area.*

**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 (45 acres for A-Type 3, A-Type 3B, and A-Type 1C cannabis licenses): *Complies; the site is 49.5 acres in size.*
- Setback from Property Line (100 feet): *Complies, according to the applicants' site plan, the proposed cannabis site is approximately 200 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies, there are no off-site residences within 200 feet of the cultivation site.*
- Minimum Fence Height of Six (6) Feet: *Complies, according to the applicants' information submitted, the proposed fence height is six (6) feet with privacy mesh coverings.*
- Maximum Canopy Area (68,060 ft<sup>2</sup>): *Complies, the proposed canopy area is 66,960 ft<sup>2</sup>*
- Maximum Cultivation Area (113,560 ft<sup>2</sup>): *Complies; the cultivation area would be 75,360 ft<sup>2</sup> in total.*

***General Requirements.*** There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operation and deliveries, access requirements, etc.

*The applicant meets all of the General Requirements outlined in Section (at) of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to assure compliance.*

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

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-58-Attachment 6) was prepared and circulated for public review in compliance with CEQA guidelines section from March 25, 2020 to April 30, 2020. One comment was received during the public review period from a neighbor who objected to the use. Please see Attachment 7.

The Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation, Wildfire, and Cultural Resources/Tribal Cultural Resources. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level.

### ***Aesthetics***

- AES-1: An Outdoor Lighting Plan that meets the [www.darksky.org](http://www.darksky.org) lighting recommendations shall be submitted for review and acceptance, or review and revision prior to cultivation.
- AES-2: All greenhouses incorporating artificial lighting shall be equipped with blackout film/material to be used at night for maximum light blockage to lessen the impact on the surrounding parcels and the dark skies. Applicant shall submit a Blackout Film/Materials Plan to the Community Development Department for review and approval prior to issuance of any permits.

### ***Air Quality***

- AQ-1: Prior to cultivation, the applicant shall submit an Odor Control Plan to the Community Development Department for review and approval, or review and revision.
- AQ-2: All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines.
- AQ-3: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District such information in order to complete an updated Air Toxic emission Inventory.
- AQ-4: 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-5: Water shall be used as dust suppression during all site disturbances.
- AQ-6: Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be managed by use of water or other acceptable dust palliatives to mitigate dust generation during and after site development.

- AQ-7: All areas subject infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

### ***Biological Resources***

- BIO-1: All waste and by-products shall be kept in plastic drums with tight fitting lids so that water is not able to make contact with the contents and potentially leach into the environment.

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

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the local 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 and with California Health and Safety Code section 7050.5.
- CUL-2: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the local overseeing Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

### ***Geology and Soils***

- GEO-1: A Grading Plan is needed to show the footprints of the structures and how the earth will be graded in a manner that will limit or eliminate the potential for landslides and/or storm-related earth movement.
- GEO-2: If greater than fifty (50) cubic yards of soils are moved, a Grading Permit shall be required as part of this project. The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapters 29 and 30 of the Lake County Code.
- GEO-3: Erosion control materials shall be available on site at all times in the form of straw, wattles, sand bags, or other erosion control materials adequate to cover areas of disturbed soils or incipient erosion events. This method will also be used in an event of a forecast storm to prevent any potential runoff to any natural drainages.
- GEO-4: Any soil disturbances shall be avoided between October 15 and April 15 and during times of active precipitation.



## **Noise**

- NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00 a.m. and 7:00 p.m. to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels.
- NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- NOI-3: The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 50 dBA from 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

## **Transportation**

- TRANS-1: Prior to this use permit having any force or effect, the applicant shall be required to submit and have approved a timeline to make all necessary road improvements to comply with Public Resource Code (PRC) section 4290 and 4291. The building official will inspect this road following completion of the improvements to assure PRC compliance.

## **Wildfire**

- WIL-1: All regulations on the State of California's Public Resource Code, Division, and all Sections in 4290 and 4291 (4001-4958) shall apply to this application/construction.
- WIL-2: All regulations of California Code Regulations Title 14, Division 1.5, Chapter 7, Subchapter 2, and Article 1 through 5 shall apply to this application/construction.
- WIL-3: All regulations of California Building Code, Chapter 7A, Section 701A, 701A.3.2.A
- WIL-4: All regulations in the California Government Code, Title 5. Local Agencies [50001- 57550], Part 1. Powers and Duties Common to Cities and Counties [50001 - 51189], Section 51182
- WIL-5: This shall include, but not be limited to property line setbacks for structures that are a minimum of 30 feet, addressing on-site water storage for fire protection, driveway/roadway types and specifications based on designated usage, all weather driveway/roadway surfaces engineered for 75,000 lbs. vehicles, maximum slope of 16%, turnouts, gates (14 foot wide minimum), gate setbacks (minimum of 30 feet from the road), parking, fuels reduction, including a minimum of 100 feet of defensible space. If this property will meet the criteria to be or will be a CUPA reporting facility/entity to Lake County Environmental Health (see hyperlink below),

it shall also comply specifically with PRC4291.3 requiring 300 feet of defensible space and fuels reduction around said structure.

## **VI. 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 immediate area contains rural and semi-rural land with several homes located at least 300 feet away from the cultivation site. As previously discussed, the potential impact resulting from this proposal are Aesthetics, Air Quality, Biological Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation, Wildfire, and Cultural Resources/Tribal Cultural Resources. All potentially significant impacts have been adequately addressed within the applicant's submittal within the Property Management Plan and through the mitigation measures found in the Initial Study and herein.*

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 proposed cultivation area is 75,360 ft<sup>2</sup>; this represents 3% of the ±49.5 acre site. The site is adequate to accommodate the proposed project.*

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

*The site is served by Ogulin Canyon Road, off of CA Highway 53, an unpaved private road that crosses between three parcels. The area is very sparsely populated; the likelihood of pedestrians using the shoulder are minimal. The use will likely generate between two to four average daily trips depending on the number of employees working on certain shifts. There are no known capacity issues associated with Ogulin Canyon Road. In addition, road maintenance is proposed to meet current CalFire commercial road standards. The agency reviews include Department of Public Works, CalTrans, and CalFire. CalTrans suggests no impact to traffic on highway 29 and CalFire provided 4290 commercial road standards for compliance with safety standards. Upon 4290 road standard inspections, it was concluded that some road improvements will be subjected to 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 Tribes. Relevant comments are attached as ‘Attachment 4’. No adverse comments were received. There are adequate public services to accommodate the project.*

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and the Shoreline Communities Area Plan.

*Since commercial cannabis cultivation is named as a permitted use in the Rural Lands zoning district within the Commercial Cannabis ordinance, this proposal is consistent with the governing ordinance for cannabis cultivation in Lake County. The General Plan and the Shoreline Communities Area Plan do not have any provisions for commercial cannabis, but both plans do have provisions for economic development 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 Community Development Department has no record of current violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code for this property.*

## **VII. RECOMMENDATIONS**

### **Staff recommends the Planning Commission:**

#### **A. Adopt Mitigated Negative Declaration (IS 19-58) for Major Use Permit (UP 19-39) with the following findings:**

1. Potential environmental impacts related to aesthetics have been mitigated to less than significant levels by mitigation measures AES-1 and AES-2.
2. Potential environmental impacts related to air quality have been mitigated to less than significant levels by mitigation measures AQ-1 through AQ-7.
3. Potential environmental impacts related to biological resources have been mitigated to less than significant levels by mitigation measure BIO-1.
4. Potential environmental impacts related to cultural / tribal cultural resources have been mitigated to less than significant levels by mitigation measures CUL-1 and CUL-2.
5. Potential environmental impacts related to geology and soils have been mitigated to less than significant levels by mitigation measures GEO-1 through GEO-4.
6. Potential environmental impacts related to hydrology and water quality have been mitigated to less than significant levels by mitigation measure HYD-1.

7. Potential environmental impacts related to noise have been mitigated to less than significant levels by mitigation measures NOI-1 through NOI-3.
8. Potential environmental impacts related to transportation have been mitigated to less than significant levels by mitigation measure TRANS-1.
9. Potential environmental impacts related to wildfire have been mitigated to less than significant levels by mitigation measures WIL-1 through WIL-5.
10. All potential impacts have been reduced to less than significant levels with incorporation of mitigation measures and specific conditions of approval.
11. Any changes to the project will require either an amended Use Permit and/or a new Use Permit unless the Community Development Director determines that any changes have no potential increased environmental impacts.

**B. Approve Major Use Permit UP 19-39 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. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan and Lake County Zoning Ordinance (LCZO).
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property.

**Sample Motions:**

**Mitigated Negative Declaration (IS 19-39)**

I move that the Planning Commission find that that the Initial Study (IS 19-58) prepared for the project proposed by Rebecca Hebert on a property located at 1020 Junction Plaza, Clearlake, CA, further described as APN: 010-055-45 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 June 5, 2020.

**Major Use Permit (UP 19-39)**

I move that the Planning Commission find that the Major Use Permit (UP 19-39) applied for by Rebecca Hebert on a property located at 1020 Junction Plaza, Clearlake, CA further described as APN: 010-055-45 does meet the requirements of Section 51.4 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 June 5, 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.*