



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

9:10 AM

November 12, 2020

STAFF REPORT

TO: Planning Commission

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

DATE: October 20, 2020

RE: **South Lake Farms (Chris Jennings).**

- **Major Use Permit (UP 19-07)**
- **Initial Study (IS 19-12)**
- **Early Activation (EA 19-58)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Proposed Conditions of Approval
5. Proposed Site Plans
6. Initial Study
7. Biological Assessment

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation (*the cultivation of commercial cannabis includes the planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing*) located at 23492 Jerusalem Grade Road (parcel size ± 181.270 .) Middletown, California, APN 013-013-11. The applicant's proposal will include the following:

- **Eight (8): A – Type 3: “Outdoor” License:** 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.
 - *The total proposed cultivation canopy is approximately 348,480 square feet. (8 acres) and will be cultivated in above ground pots (known as smart pots) located within 360,550 square feet of cultivation area.*
- The cultivation area will be conducted within an enclosed area secured by a fence approximately six (6) feet in height. The fence will be screen with a privacy mesh, which will help reduce visibility within the surrounding area.
- The proposed outdoor cultivation method is via an above ground organic soil mixture in fabric pots (“smart pots”) with drip irrigation systems in full sun.
- One (1) - 10,000 square foot. Agricultural Exempt Drying Storage Facility
- A 5,000 gallon water tank
- Eleven (11) - Employee parking spaces.
- The applicant proposes the hours of operation to be Monday through Sunday, 5:00 AM – 7:00 PM. The max employees on site would be approximately 7 employees.
- Site construction is expected to take approximately three (3) to four (4) months to complete

Water Source and usage

- The operation will be using an existing onsite well, that produces approximately 24 gallons Per Minutes (GPM) according to a well report dated April 29, 2019.
- The water from the well, will be pumped via underground PVC piping to the 5,000 gallon water storage tank. Once the water has reached the water tank, it will then be
- Gravity fed via an underground PVC piping to the cultivation area. Once the water has reached the cultivation area, *black poly tubing and emitters (drip irrigation) will be used to distribute the water to each planting station.*

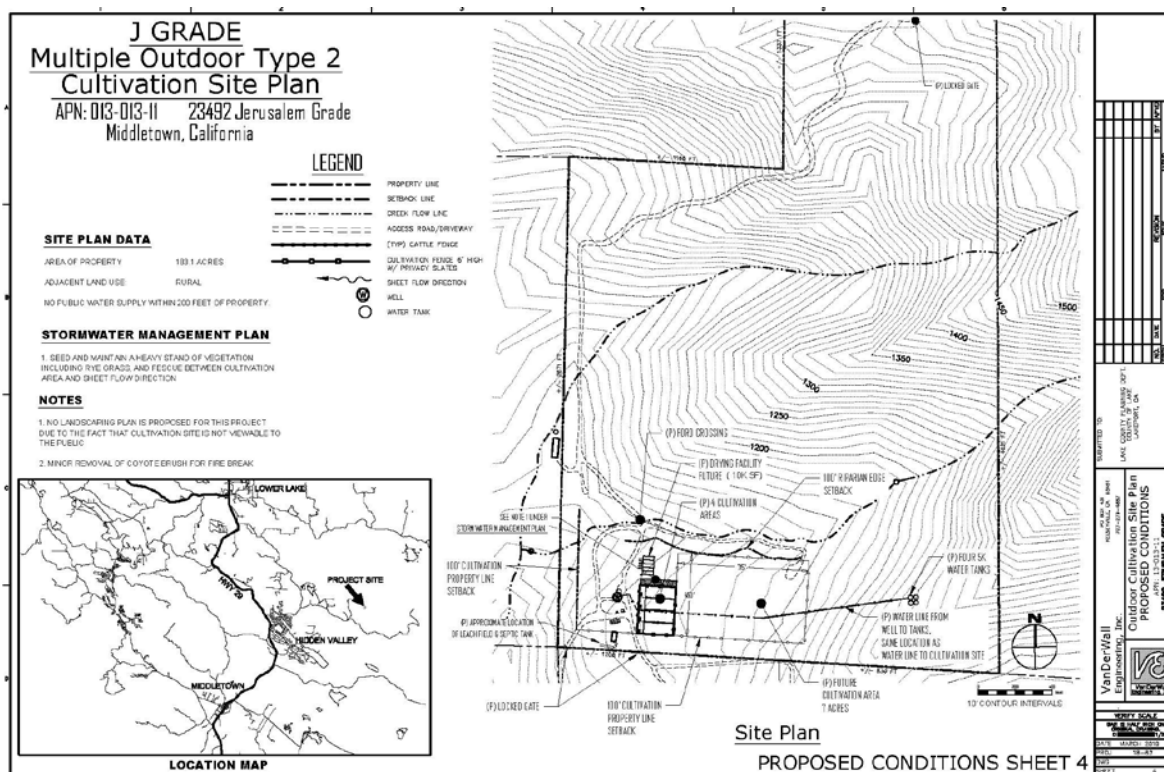
Water usage:

- According to the application package, the applicant proposes to use approximately 949,000 gallons per year. The project site currently has an existing and permitted well that produces approximately 24 gallons per minute. This translates to a full capacity of 15,159,327 gallons per year. The proposed water usage that is required for the cultivation of commercial cannabis, it calculates to approximately 6.2% of water to be used from full capacity.

Access

- The proposed cannabis cultivation operation is accessible from existing shared access way (goes through multiple parcels) located off of Jerusalem Grade Road, an unpaved County road at this location.

Proposed Site Plans and Cultivation Area



Staff is recommending approval of Major Use Permit, UP 19-07 and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 19-12) with the incorporated Mitigation Measures and Conditions of Approval.

II. PROJECT DESCRIPTION

Applicant: South Lake Farms (Chris Jennings)

Owner: Chris Jennings

Location: 23492 Jerusalem Grade Road, Middletown, CA

A.P.N.: 013-013-11

Parcel Size: ±181.27 acres

General Plan: Rural Lands – Resource Conservation

Zoning: “RL-WW”: Rural Lands – Waterway Combining District

Flood Zone: “D”: Areas of undetermined, but possible, flood hazard.

Submittal Date: March 1, 2019

III. **PROJECT SETTING**

Existing Uses and Improvements: Existing development consists of a pre-existing pole-barn that is approximately 3,200 square feet.

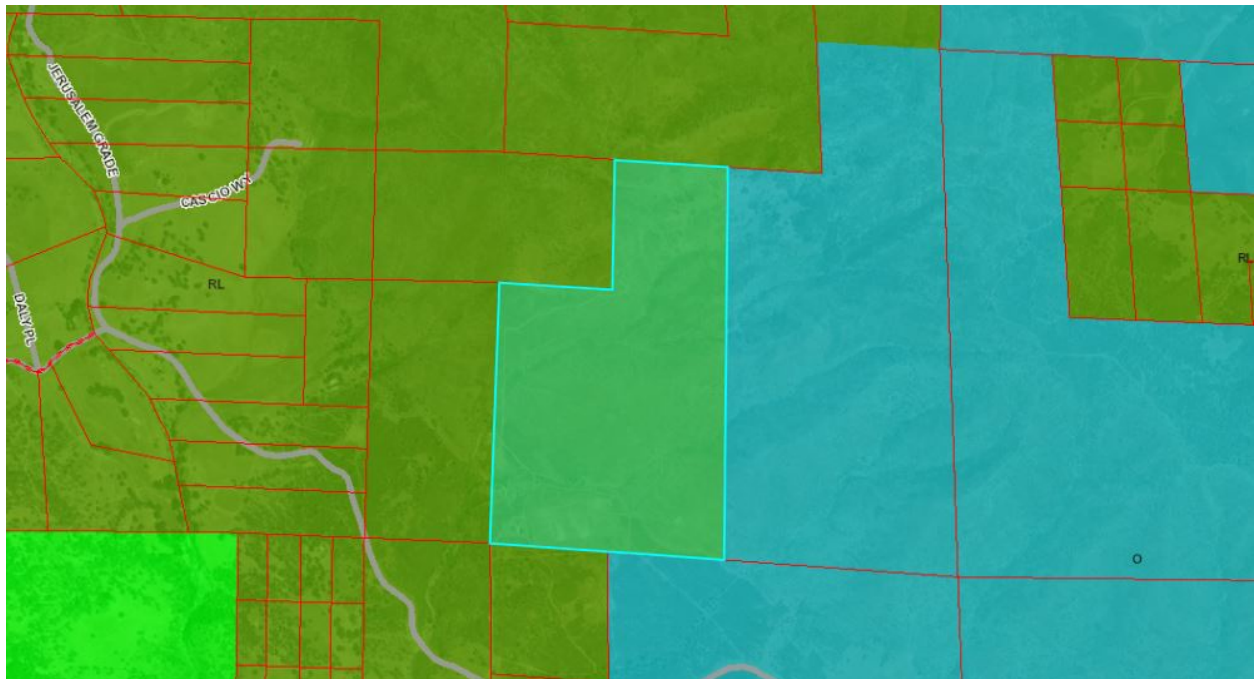
Surrounding Uses and Zoning

North, South, and West: “RL” Rural Lands zoned property. Parcel sizes range approximately 38 acres to approximately 150 acres. Most of the adjacent lands are vacant; the applicant also owns the property located to the immediate north.

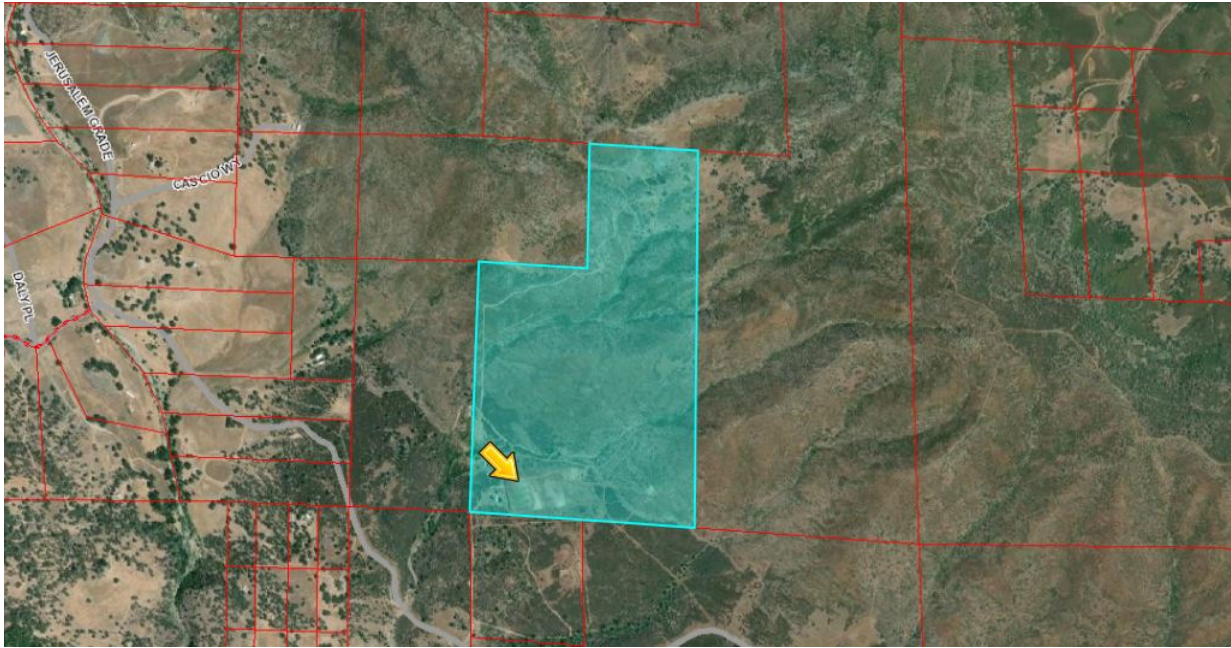
East: Property is BLM land that is publicly owned, zoned ‘O’ Open Space, and is vacant.

- Pursuant to Article 27 of the Lake County Zoning Ordinance, the minimum setback requirement from “O” Open Space Land Use Designation is 1,000 feet. However, on August 4th, 2020, the Board of Supervisors adopted Ordinance 3096 regarding Public Lands and Commercial Cannabis Cultivation. According to the above referenced ordinance, public lands is defined as, “Public Lands, where, because of development or other actions, it is clear that the public is invited to use such locations as places of recreation and other destination activities, and camping. Additionally, all State and County parks are public lands.” The adjacent property is zoned “O” Open Space but does not qualify for the minimum 1,000 foot setback due to the vacancy of the land.

The Project parcel is not within a Community Growth Boundary.



Zoning Map of Site and Vicinity



Aerial Photo of Subject Site

Topography: Cultivation area has a slope of less than 10%, however the remaining area of the parcel has a slope greater than 30%.

Soils: The project area contains the following soil types:

- Henneke-Okiota (Type 143) which is shallow and somewhat excessively drained; Okiota-Henneke Complex (Type 192) 5% to 30% percent slopes, which are shallow and well drained.

Water Supply: Existing Well

Sewage Disposal: On-site septic system.

Fire Protection: South Lake Protection District

Vegetation: Parcel was damaged in 2015 Jerusalem Fire (Vegetation on property has struggled to grow)

Water Courses: Gunther Creek

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands and Resource Conservation. The following General Plan policies relate to site development in the context of this proposal:

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.

Resource Conservation is to assure 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 not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. These lands provide important ground water recharge capability which is critical to the maintenance of the ecosystem.

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

Land Use

Goal LU-1: is to encourage the overall economic and social growth of the County while maintaining its quality of life standards.

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

Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands land Use Designation upon securing a Minor/Major Use Permit. On, February 28, 2019, the applicant submitted a Major Use Permit to the Community Development Department for processing.

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on type of operation and chemicals used for spraying.

In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the County requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 875 feet from south from the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest youth-oriented facility is located approximately five (5) miles southwest from the cultivation site.

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 there is total of seven (7) employees proposed. The number of employees can increase or decrease depending on the stage of the cultivation season.

Middletown Area Plan Conformance

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

- **3.2.1c:** Projects shall implement appropriate erosion control measures that reduce soil stability problems and landslide hazards.
- **3.3.1b:** The County shall coordinate measures to protect and maintain sensitive and unique vegetation and wildlife habitat.
- **3.6.1a:** Prior to approval of discretionary projects within areas of known sensitivity to archaeological resources, local Native American representatives shall be consulted concerning potential impacts to cultural resources. Staff has contacted Tribal Agencies and no adverse comments have been received.
- **3.6.1b:** The County shall assist in efforts to identify and protect historic structures and sites by working with economic development interests, citizens’ groups, the Heritage Commission, local Native American Tribes, archaeologists, and other researchers in preparing plans and grant applications for the protection of historic buildings and cultural sites.

The Community Development Department has performed an environmental analysis (Initial Study) on the proposed use and has incorporated mitigation measures to reduce potential environmental impacts to less than significant. These mitigation measure include but are not limited to Erosion Control and Sediment Plans using Best Management Practices, and the protection of Archaeological and Historical Resources.

Zoning Ordinance Conformance

Article 7 – Rural Lands (RL)

The Cultivation of Commercial Cannabis is permitted in the “RL” Rural Lands Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On March 1, 2019, the applicant

submitted an application for a Major Use Permit, UP 19-07 for the Cultivation of Commercial Cannabis to the Community Development Department.

Article 3 – Waterway Combining District (WW)

A creek traverses through the parcel on the northern portion. Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the minimum setback for intermittent waterways shall be thirty (30) feet from the top of bank. According to the applicant's Site Plans and Property Management Plans all cultivation activities and development shall maintain a minimum of 100 ft. setback from the top of bank.

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, 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): *Complies, the lot is ±181.27 acres in size. The applicant needs 20 acres for an A – Type 3 license.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 875 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 "Outdoor", 10,000 sq.ft.): *Complies; the proposed canopy area would be about 348,480 sq.ft. of outdoor canopy area for eight (8) A – Type 3 licenses.*

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 operations and deliveries, access requirements, etc.

The applicant meets the General Requirements outlined in Section 27 of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to ensure 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 Article 27, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-12; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **03/05/2020 to 04/08/2020**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated August 10, 2017 which concluded that no cultural resources were within the project boundaries. Additionally, the local tribes were notified of the project. Middletown Rancheria conducted a site visit with the applicant and concluded that due to very minimal ground disturbances, the Tribe is comfortable with the project moving forward.

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

Air Quality

The project has some potential to result in short- and long-term air quality impacts. It is likely that some dust and fumes may be released as a result of site preparation / construction of the building pads and the cultivation area. Some vehicular traffic, including small delivery vehicles would be contributors during and after site preparation / construction; trips generated by the use will be minimal, estimated at 4 to 8 average daily trips. Odors generated by the plants, particularly during harvest season, will need to be mitigated either through passive means (separation distance), or active means (Odor Control Plan), which is required prior to cultivation occurring. All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **AQ-1:** Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Community Development Department, and is required to submit an Odor Control Plan for review and approval or revision prior to the public hearing.
- **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: 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-5: 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

The applicant provided a Biological Assessment, prepared by Pinecrest Environmental Consulting, Inc., dated May 17, 2019. The subject site was extensively burned during the 2015 Valley Fire. Mitigation measures were recommended pertaining to reforestation the parent parcel in the vicinity of the cannabis cultivation area. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: Approximately 10,000 acorns be collected from in and around the site, and grown in cone-tainers or similar hardwood propagation containers on benches onsite and watered regularly until ready for transplanting. These can be co-located with the *Cannabis* so as to increase the ease of propagation. The acorns should be grown until they are approximately 12" tall and then transplanted into the perimeter of the site along the fenceline of the proposed cultivation area. These plants should be drip irrigated if possible, and replaced if they die within the first 3 years.
- BIO-2: There are three species observed on the edges of the burn that are CNPS list 1B species: Bicarpellate Western Flax (*Hesperolinon bicarpellatum*), Morrison's jewelflower (*Streptanthus morrisonii*), and Lemmon's needlegrass (*Stipa lemmonii* var. *pubescens*). If any of these plants are seen onsite, they are to be left alone.

Cultural Resources

A Cultural Resources Evaluation was conducted for the subject parcel involved with this proposal by Dr. John Parker dated June 10, 2017. This survey yielded no specific results that would otherwise indicate that this is a site of Tribal significance. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), 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.
- 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

The activities associated with project development may have the potential result in erosion and loss of top soils. Therefore, with the incorporated mitigation measures below, all potential impacts have been reduced to less than significant.

- GEO-1: Prior to any ground disturbance, the permit holder shall submit *Grading, Erosion Control and Sediment Plans* to the Water Resource Department and the Community Development Department for review and approval. Said Erosion Control and Sediment Plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with the Grading Ordinance. Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. No silt, sediment or other materials exceeding natural background levels shall be allowed to flow from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Vegetative cover and water bars shall be used as permanent erosion control after vineyard installation.
- GEO-2: Excavation, filling, vegetation clearing or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Director. The actual dates of this defined grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director.
- GEO-3: The permit holder shall monitor the site during the rainy season (October 15 -May 15), including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed.

Noise

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

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

- NOI-3: The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

Wildfire

The subject site is accessed by Jerusalem Grade Road, a narrow, unpaved County road. The property is located within an SRA (high fire) area. The Valley Fire burned the site in 2015, which removed most of the vegetation and trees that were located on site. The Building Division conducted a site visit on 9/16/2020 and determined that the project was Exempt from Public Resources Code 4290/4291 due to the project being an all outdoor cultivation operation. However, Cal Fire provided comments that recommended the following mitigation measures:

- Wildfire-1: All regulations on the State of California's Public Resource Code, Division 4, and all Sections in 4290 and 4291 shall apply to this application/construction.
- Wildfire-2: All regulations in the California Code of Regulations Title 14, Division 1.5, Chapter 7, Subchapter 2, Article 1 through 5 shall apply to this application/construction.
- Wildfire-3: All regulations in the California Building Code, Chapter 7A, Section 701A, 701A.3.2.A.
- Wildfire-4: All regulations in the California Government Code, TITLE 5. LOCAL AGENCIES [50001 - 57550], DIVISION 1. CITIES AND COUNTIES [50001 - 52203], PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5], CHAPTER 6.8. Very High Fire Hazard Severity Zones [51175 - 51189], Section 51182. 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 75,000lb vehicles, maximum slope of 16%, turnouts, gates (14 foot wide minimum), gate setbacks (minimum of 30 feet from 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. 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 "RL" Rural Lands zoning upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the subject property complies with the minimum setbacks from public lands as the adjacent property does not qualify under the definitions of public lands. Therefore, the project does not need to meet the minimum 1,000 foot setback from public lands. 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 proposal consists of 348,480 square feet of above-ground in pots canopy area for outdoor cultivation. The proposed ancillary facilities include a 10,000 sq.ft. Agricultural Exempt Drying Storage Facility, a 5,000 gallon water tank, and 11 employee parking spaces. (Surfacing unknown at this time). The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Residential-zoned land, and the subject site is ±181.27 acres in size combined, large enough to enable the cultivation area proposed.

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

The site is served by a private roadway off of Jerusalem Grade Road. The Building Division determined that the project is exempt from Public Resources Code 4290/4291 road standards as the operation is an all outdoor operation. Therefore, the access road is adequate to 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.

There are adequate public utilities and services available to the site. This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Environmental Health, and PG&E, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. No adverse comments were received.

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

The cultivation of commercial cannabis is a permitted use within the RL zoning district upon securing a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the Lake County General Plan does not have any provisions specifically for commercial cannabis, but both Plans have provisions for economic development and land use compatibility. Additionally, the subject property complies with the minimum setbacks from public lands as the adjacent property does not qualify under the definitions of public lands. Therefore, the project does not need to meet the minimum 1,000 foot setback from public lands.

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

There are no violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code on this property.

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

7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
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).

Responses to Article 27, Subsection (at) findings:

1. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance
 - Minimum Lot Size (20 acres per A-Type 3): Complies, the lot is +181.27 acres in size. The applicant needs 20 acres for an A – Type 3 license.
 - Setback from Property Line (100 feet): Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.
 - Setback from Off-Site Residence (200 feet): Complies; the nearest dwelling is about 875 feet away from the cultivation area.
 - Minimum Fence Height of Six (6) Feet: Complies; the proposed fence is 6' tall.

- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 10,000 sq.ft.): Complies; the proposed canopy area would be about 348,480 sq.ft. of outdoor canopy area for eight (8) A – Type 3 licenses.
- This report identifies the Application for Background Clearance for a County Permit. The applicant has passed a ‘live scan’ background check, 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.
- This report identifies the Property Owner’s Approval. The applicant is the property owner.

VII. RECOMMENDATION

Staff recommends the Planning Commission take the following actions.

- A. Adopt Mitigated Negative Declaration (IS19-12) for Major Use Permit (UP 19-07) with the following findings:**
1. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, and AQ-5.
 2. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
 3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 and BIO-2.
 4. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, GEO-3.
 5. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
 6. Potential wildfire impacts can be mitigated to less than significant levels with the inclusion of mitigation measures Wildfire-1, Wildfire-2, Wildfire-3, and Wildfire-4.
 7. This project is consistent with land uses in the vicinity.
 8. This project is consistent with the Lake County General Plan, Middletown Area Plan and Zoning Ordinance.
 9. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.

10. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve Major Use Permit UP 19-07 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, Lower Lake Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the Major Use Permit (UP 19-07) applied for by **South Lake Farms** on property located at **23492 Jerusalem Grade Road, Middletown**, and further described as **APN: 013-013-11** 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 **October 20, 2020**

Major Use Permit (UP 19-07)

I move that the Planning Commission find that the **Major Use Permit (UP 19-07)** applied for by **South Lake Farms** on property located at **23492 Jerusalem Grade Road, Middletown**, further described as **APNs: 013-013-11** 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 **October 20, 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.