



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
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Item 4
9:20 AM
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STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Interim Community Development Director
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Mark Roberts, Principal Planner
Prepared by: Sateur Ham, Assistant Planner

DATE: November 3, 2020

SUBJECT: **Jerusalem Gold; Major Use Permit (UP 19-34), Categorical Exemption (CE 20-37);** APNs: 013-017-25, 013-017-26, 013-017-27, & 013-017-28

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency/Public Comments
5. Site Visit Photos
6. Proposed Conditions of Approval

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”: The project proposal consist of an expansion of the existing (12,304 square feet) canopy area to areas (42,080 square feet total) that was previously disturbed for fuel management practices.
- Type 13 Self-Transport Distribution License: to transport cannabis goods to entities licensed pursuant to California Code.

Bridget King and Jerusalem Gold (a California corporation) is requesting to obtain an A-Type 3 “outdoor” license on an existing legacy cannabis cultivation operation located primarily on parcel described as 013-017-27. The proposed location is at 25432 Jerusalem Grade, Lower Lake, California and consists of four (4) contiguous parcels, under the same ownership, further described as APNs 013-017-25; 013-017-26; 013-017-27; and 013-017-28.

The property is currently improved with a pre-fabricated single-family dwelling and is generally vacant except for an existing legacy cannabis cultivation operation under the previous local ordinance (Article 72). The nearest creek is approximately 400 square feet from the cultivation area and all required buffers set forth by the County Zoning Ordinance is in conformance. The site is bounded on all sides by vacant rural land and three of the four adjoining properties are owned by the federal Bureau of Land Management ("BLM"). The site is accessed by a dirt driveway off of Jerusalem Grade.

The cannabis cultivation facilities will be developed and continue operating on APN 013-017-27 within a 6-foot fenced enclosure as depicted on the attached site plans (Attachment 2). The existing cannabis operation consists of above-ground smart pots and the proposed expansion will utilize both above ground and previously disturbed holes in ground to limit the amount of disturbances to the ground. The cannabis cultivation facilities will be set back over 1,000 feet from the adjoining property lines. Setbacks from all property lines will be maintained. A 6-foot tall chain-link fence with site obscuring slats will form the cultivation area perimeter enclosure.

Access to the cultivation facilities will be provided on a 12 feet wide base gravel/base rock driveway following the alignment of an existing driveway extending northward from the house area. The driveway will run through existing pasture to the existing pump-house for the well and a new parking area.

Three parking spaces will be provided just outside the fenced area, including two standard parking spaces and one handicapped accessible parking space. Employees parking outside the perimeter fence will access the cultivation facilities enclosure through the keypad controlled, 12-foot wide chain-link gate or the 6-foot wide pedestrian gate.

The project scope will not involve any newly disturbed area and no additional ground disturbances is proposed. The project proposal will include using existing holes for planting and utilizing above ground planter pots for the remaining of the canopy area. The proposed project also include an 80 square foot storage shed for pesticide and fertilizer.

Staff recommends conditional approval of **UP 19-34**.

II. PROJECT DESCRIPTION

<u>Applicant:</u>	Jerusalem Gold /Bridget King
<u>Owner:</u>	Healing Ridge, LLC
<u>Location:</u>	25432 Jerusalem Grade, Lower Lake, CA 95457
<u>A.P.N.:</u>	013-017-25; 013-017-26; 013-017-27; and 013-017-28
<u>Parcel Size:</u>	±40.49 acres total
<u>General Plan:</u>	Rural Lands-Resource Conservation
<u>Zoning:</u>	"RL-WW", Rural Land-Waterway Combining District
<u>Flood Zone:</u>	D-Areas of undetermined, but possible, flood hazard
<u>Date Submitted:</u>	October 01, 2019

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, water tanks and an existing legacy cannabis cultivation operation surrounded by a 6 foot fence enclosure.

Surrounding Uses and Zoning

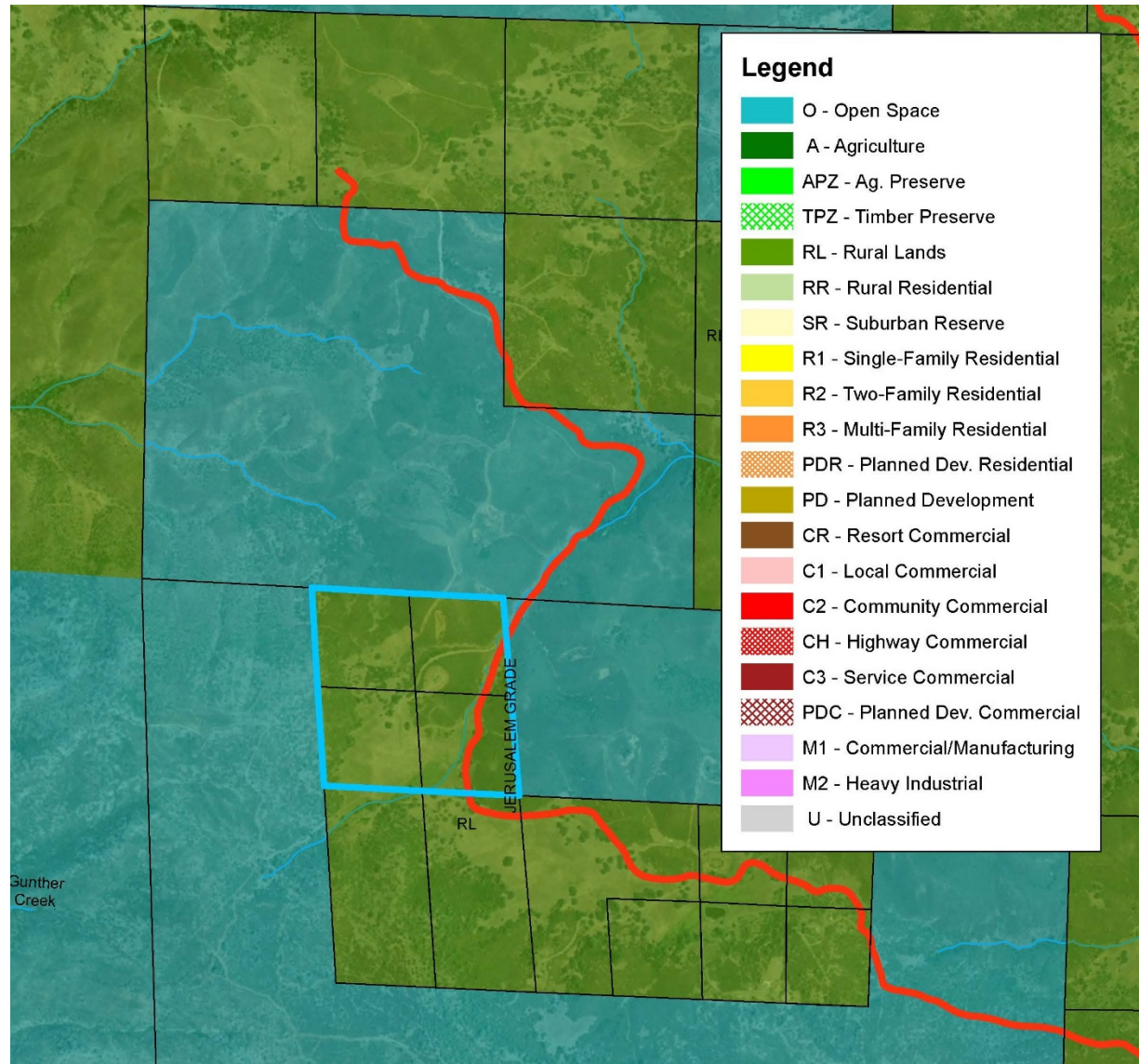


Figure 1. Project parcel boundary outlined in light blue

North: "O" Open Space. Parcel size approximately 200 acres and federally-owned land.

South: "RL" Rural Lands. Parcel size is approximately 20 acres in size.

East: "O" Open Space. Parcel size approximately 200 acres and federally-owned land.

West: "O" Open Space. Parcel size approximately 200 acres and federally-owned land.

<u>Topography:</u>	Varied; the average cross slope range of the overall parcel is from 19.78-35.14%. However, the cultivation site is fairly flat with less than 10 percent slope.
<u>Water Supply:</u>	On-site well.
<u>Sewage Disposal:</u>	On-site septic systems
<u>Fire Protection:</u>	CalFire (South Lake County Fire Protection District)
<u>Vegetation:</u>	The study area contains four terrestrial vegetation communities: blue oak woodland; chemise chaparral; annual grassland; and ruderal developed.

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands and Resource Conservation:

Rural Lands is to allow rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. The 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. 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.

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 is not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. In addition, these lands provide important ground water recharge capability which is critical to the maintenance of the natural ecosystem and to providing a sustainable ground water supply for the County.

The applicant is proposing commercial cannabis cultivation which is applicable to agricultural/ crop production with the Lake County General Plan (2008) for Rural Lands. In addition, the applicant is proposing 1-acre outdoor cannabis cultivation which would not adversely affect the groundwater recharge from precipitation due to the ability to continue to infiltrate water into the basin and eliminate the need for additional impervious surfaces within the project area. The project site is located approximately 400 feet away from the area designated as Resource Conservation and the proposed project is not anticipated to cause additional adverse effect to natural resources.

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

Growth and Development

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

- Policy LU 1.4: “The County shall recognize each community as an important asset to the County and seek to strengthen and revitalize all communities.”

The project site was an existing permitted cannabis cultivation operation under the previous local ordinance. The continuance of the operation would encourage economic growth for the county as well as strengthening the cannabis community while preventing new incompatible land uses. The location of the project site is within a rural and agricultural area of the County with similar uses.

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 such as manufacturing, processing, retail sales, and et cetera.

Middletown Area Plan Conformance

The subject site is within the Middletown Area Plan’s boundary. The Plan does not contain cannabis-specific policies but contains several policies that are subject to consistency review as follows:

“3.2.1b: Encourage groundwater monitoring within the Middletown Planning Area.”

Per the 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 a description of how the project will implement conservation techniques (see Attachment 3).

“3.3.1a: Support protection and restoration of wetland, riparian, and significant natural areas in the Middletown Planning Area.”

“3.3.1b: The County shall coordinate measures to protect and maintain sensitive and unique vegetation and wildlife habitat.”

Per zoning ordinance, it is required that the project site is located in areas that would protect sensitive habitats and all waterways by 100 feet. In addition, a biological survey was conducted on the project and found no evidence of sensitive and unique biological resources.

“3.4.1a: Support the continued use of agricultural lands and discourage conversion of these lands to other uses unless necessary to accommodate an orderly and logical pattern of urban development.”

Cannabis Cultivation is primarily in areas zoned Agricultural Preserve, Agriculture, Timberland Preserve, Rural Lands, Rural Residential and Suburban Reserve. 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. However, the project site is a pre-existing cannabis cultivation operation and the need for the Use Permit would allow the continued use of the operation with an expansion to approximately 1-acreage size. The cultivation of cannabis within this soil designation is permitted for outdoor and indoor cannabis cultivation which is consistent with the project proposal.

“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.”

An archeological study was conducted on the project site and found no evidence of cultural resources. The California Historical Resources Information System (CHRIS) resulted in 100% of the property being surveyed and identified no cultural resources. A request for review with local tribes were sent on October 18, 2019 and no comments were received.

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 37 – Waterway Combining District (WW) 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.

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 district 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 ft² of canopy per license and requires 20 acres. The project is proposing one license type previously mentioned with a total of 43,560 ft² of outdoor canopy area within a total of 65,000 ft² of cultivation area. In addition to the Section of the Lake County Zoning Ordinance and the Article 37, the applicant's project site is located over 400 feet from the nearest waterway. The applicant will incorporate best management practices in protecting natural resources within the waterway combining district as well as compliance with the Lake County Zoning Ordinance for this project.

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 for A-Type 3 cannabis licenses): *Complies; the site is 40.45 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 (43,560 ft²): *Complies, the proposed canopy area is 43,560 ft².*

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 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 Lake County Zoning Ordinance 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. The project was initially submitted as an initial study. Upon staff review, the Major Use Permit submitted by Bridget King 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 (by federal, state, or local government action) 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 project qualifies for the aforementioned CEQA exemption based on the following:

- *The project proposal consists of an existing legacy cannabis cultivation operation under the old county ordinance (Article 72).*
- *The project proposal consist of using existing holes for planting in ground and new expansion of cannabis plants in above-ground planter pots located in a previously disturbed area.*
- *Some minor grading may be required for preparation of the site and planting.*
- *Archeological Survey was conducted by Arrington and Stapleton (2017) 100% of the project site and found no cultural resources.*
- *Biological Resource Assessment was conducted by Nosal and Graening (2017 and 2020). No critical habitat for any federally-listed species occurs within the project area. No terrestrial special-status habitats were detected within the study area (within property boundary). During field survey, no special-status species were detected within the project site. However, special-status species were observed within the study area but not near the project area to impose potential direct or indirect impact on biological resources. In sum, there are no potential impacts to biological resources within the project site and some biological resources can be found within the proximity of the parcel boundaries, however, no adverse impact is expected to occur during the operation of the proposed cultivation operation.*
- *The study area includes several water resources: three seasonal bonds, a freshwater marsh and (5) class III watercourses. The applicant's project site was initially chosen to avoid water resources and was setback to comply with the Lake County Zoning Ordinance Article 27 and 37. To further alleviate any potential impact, the applicant created a buffer of at least 120 feet from all water resources.*
- *The project does not involve removal of healthy, mature scenic trees.*
- *All required setbacks and requirements are implemented to comply with the zoning ordinance, general plan, and area plan.*
- *The cultivation site is located over 400 feet from the nearest waterway. The applicant will incorporate best management practices in protecting natural resources within the*

waterway combining district as well as compliance with the Lake County Zoning Ordinance for this project in order to avoid and protect water resources.

- *Compliance with the zoning ordinance, general plan, and area plan coupled with best management practices would ensure that the project would not potentially have cumulative adverse effect on the environment.*

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 proposed use of Commercial Cannabis Cultivation Operation is a permitted use in the "RL" 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 proposed cultivation area is 42,080 ft²; this represents 3% of the ±40.45 acre site. The proposed project meets all siting and development standards for cannabis, and 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 project proposal will continue cannabis legacy cultivation operation. The circulation system will not cause any additional impact on the roadway to the cultivation site. Per the Public Resource Code 4290 Fire Safe Requirements, the project is exempt from meeting CalFire road standards due to the absence of any structures requiring a building permits.

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 proposal, as conditioned, meets all requirements and development standards of the Zoning Ordinance. The General Plan and the Middletown Plan do not have any provisions for commercial cannabis, but both plans do have provisions for economic development and related policies that the project is consistent with (see Section IV, Project Analysis, above).

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 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, Middletown Area Plan and the Lake County Zoning Ordinance.
 3. The site consists of an existing legacy cannabis cultivation operation under the old county ordinance (Article 72). The project proposal consist of using existing holes for planting in ground and new expansion of cannabis plants in above-ground planter pots located in a previously disturbed area. 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 19-45 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, Middletown 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 Notice of Exemption prepared for Major Use Permit (UP 19-45) applied for by Bridget King on a property located at 25432 Jerusalem Grade, Lower Lake, CA, further described as APN: 013-017-25; 013-017-26; 013-017-27; 013-017-28 is exempt from CEQA because it falls within Categorical Exemption Class 4 (15304), based on the findings set forth in Staff Report dated November 3, 2020.

Major Use Permit (UP 19-39)

I move that the Planning Commission find that the Major Use Permit (UP 19-45) prepared for the project proposed by Bridget King on a property located at 25432 Jerusalem Grade, Lower Lake, CA, further described as APN: 013-017-25; 013-017-26; 013-017-27; 013-017-28 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 November 3, 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.