



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

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Item 1

9:05 AM

January 14, 2021

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Nicole Thomas, Deputy CDD Director

Prepared by: Eric Porter, Associate Planner

DATE: January 14, 2021

RE: **Golden State Herb / Crystal Keesey; Major Use Permit (UP 19-08) and Initial Study (IS 19-14)**

Supervisor District 4

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Proposed Conditions of Approval
5. Site Plans
6. Initial Study IS 19-14

I. PROJECT DESCRIPTION

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 license(s) and improvements:

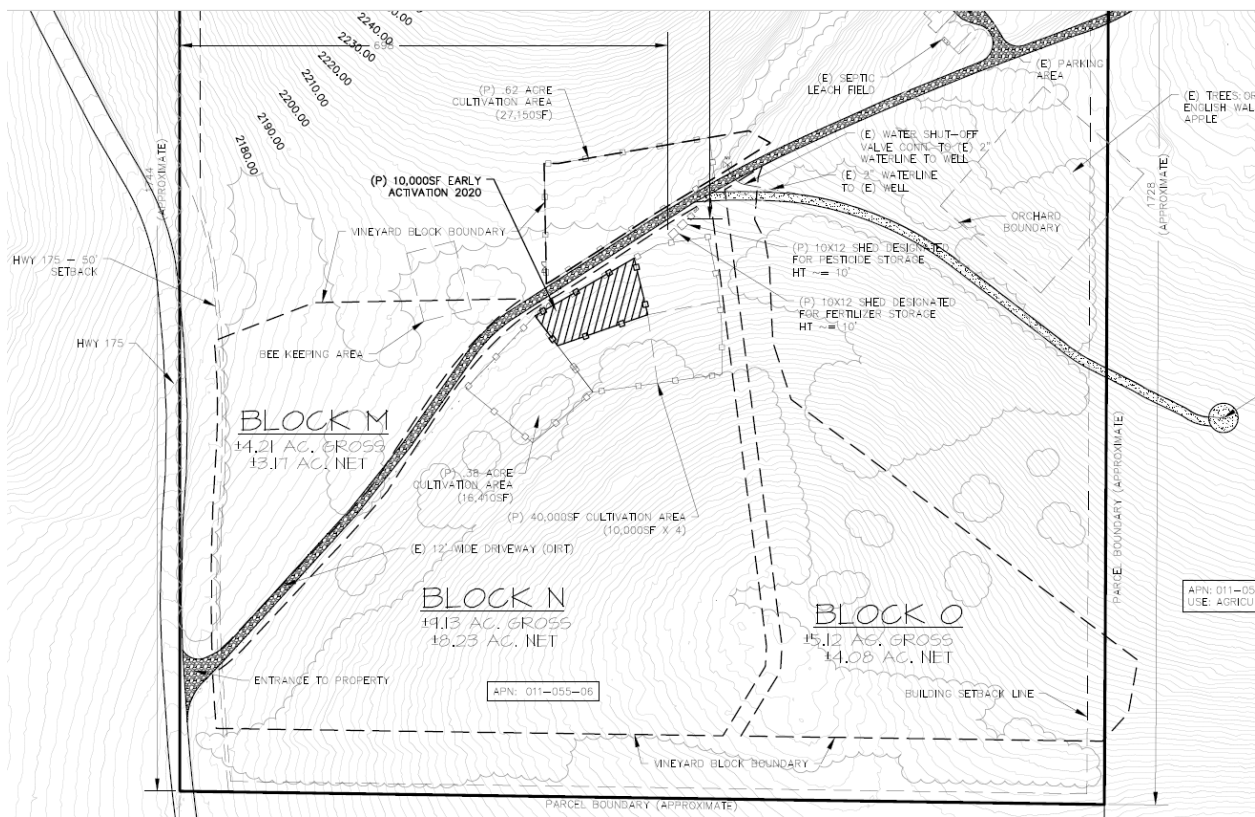
- **(One) A-Type 3 (medium outdoor) cultivation area** consisting of up to 65,000 square feet (sq. ft.) of cultivation area,
- **(Four) A-Type 2 (small outdoor) cultivation areas** consisting of 5,001 to 10,000 sq. ft. of cultivation area per license
- **(One) A-Type 13 Self Distribution license.**
- **(Two)** 120 sq. ft. sheds to be used for chemical / pesticide storage and for security data storage
- **(Four)** 2,500 gallon water storage tanks
- **(One)** 20' wide interior driveway with designated parking spaces

The proposed use is located at 8550 Highway 175, Kelseyville, CA and is APN: 010-055-06. The applicant will use above-ground fabric pots for the cannabis plants. The site contains an active vineyard and walnut orchard.

Water Availability Analysis

- The source of water for Golden State Herb (GSH) commercial cannabis operations is a groundwater well located on an adjacent parcel (APN 01105601) also owned by the Project parcel landowner. Location coordinates of groundwater well are 38°55'19.52"N, -122°46'9.84"W. According to the well driller's log, the well has a **capacity of 90 gallons per minute**. No drawdown or recharge data for this well was submitted with this application. The applicant has provided an official State of CA-filed well log; Water Demand and Water Availability Analysis prepared for the Stocking Vineyard Project, and the well-parcel landowner authorization for commercial cannabis operations.
- All irrigation systems for the commercial cannabis operations are designed to efficiently deliver water via drip tubing and micro-sprinkler materials to minimize water loss due to evaporation. Irrigation water for the proposed commercial cannabis operations will be pumped from the groundwater well to **four 2,500-gallon water storage tanks** positioned above the two proposed canopy areas via an HDPE water supply line. The water storage tanks will be equipped with a float valve to stop the flow of water from the well when the tanks are full. An HDPE water supply line will be run from the water storage tanks to the irrigation system of the proposed cultivation area, to gravity feed irrigation water to the irrigation system. The water supply lines will be equipped with shutoff valves and inline water meters compliant with California Code of Regulations, Title 23, Division 3, Chapter 2.7. The irrigation system of the proposed cultivation area(s) will be composed of PVC piping, black poly tubing, and drip tapes/lines. Supplemental irrigation may be applied by hand using garden hoses.
- GSH's proposed cannabis cultivation operation has a Maximum Applied Water Allowance greater than its Estimated Total Water Use.
- GSH anticipates that the actual water usage of their proposed cultivation operation will be **less than 432,000 gallons per year** (based on water usage data from their existing cultivation operation), which is approximately 21 percent of the MAWA for the proposed cultivation operation and 23 percent of its ETWU.
- As previously stated, the parent parcels contain a vineyard. In 2018, the property owners had a Water Demand and Water Availability Analysis prepared by a civil engineer. This Analysis concluded that the vineyard would use about 49% of the of the subject property's annual recharge.
- The cannabis cultivation areas will cause the removal of approximately one acre of vineyard, and will use approximately the same amount of water that had been used for wine grapes.

Applicant: Golden State Herb / Red Hills
Owner: Porter G3 McIntire LLC
Location: 8550 Highway 175, Kelseyville, CA
A.P.N.s: 011-055-06
Parcel Size: 52.9+ acres
General Plan: Agriculture
Zoning: "A-SC" – Agriculture – Scenic Combining
Flood Zone: X
Cultivation Area: 105,000 square feet of cultivation area in total
Canopy Area: estimated to be 85,000 s.f.
Cultivation Start Date: May 2020 via Early Activation
Submittal Date: March 26, 2019



Staff is recommending **conditional approval** of Major Use Permit (UP 19-08).

II. **PROJECT SETTING**

Existing Uses and Improvements: The parcel is about 52.9+ acres in size, well over the minimum required 40 acre size. The property contains a house, a well and septic system. The parent parcel consists of several other parcels that contain an active vineyard, however they are not under consideration herein.

Access to the property is taken from Highway 175, a paved two-lane State Highway with 12' travel lanes and two to four foot shoulders. The interior of the site is presently served by a 12' wide dirt driveway. Improvements to this driveway will be needed to make it 'CalFire (Public Resource Code [PRC] 4290 and 4291) compliant.

The site consists of land categorized as 'grazing land', which allows outdoor cultivation. The site is also within one mile of active non-cannabis agricultural uses, and is proposing outdoor cultivation of cannabis.

Surrounding Uses and Zoning

North: Agriculturally zoned land; about 60 acres in size, undeveloped.

South: Agricultural Preserve-zoned land, about 30 acres in size; contains a vineyard. The lot to the south beyond the adjacent southern lot contains a dwelling.

East: Agriculturally zoned land; about 100 acres in size, undeveloped.

West: Agricultural Preserve-zoned land, about 100 acres in size; contains an orchard and a dwelling.



VICINITY MAP

Topography: Steep, mostly over 30%.

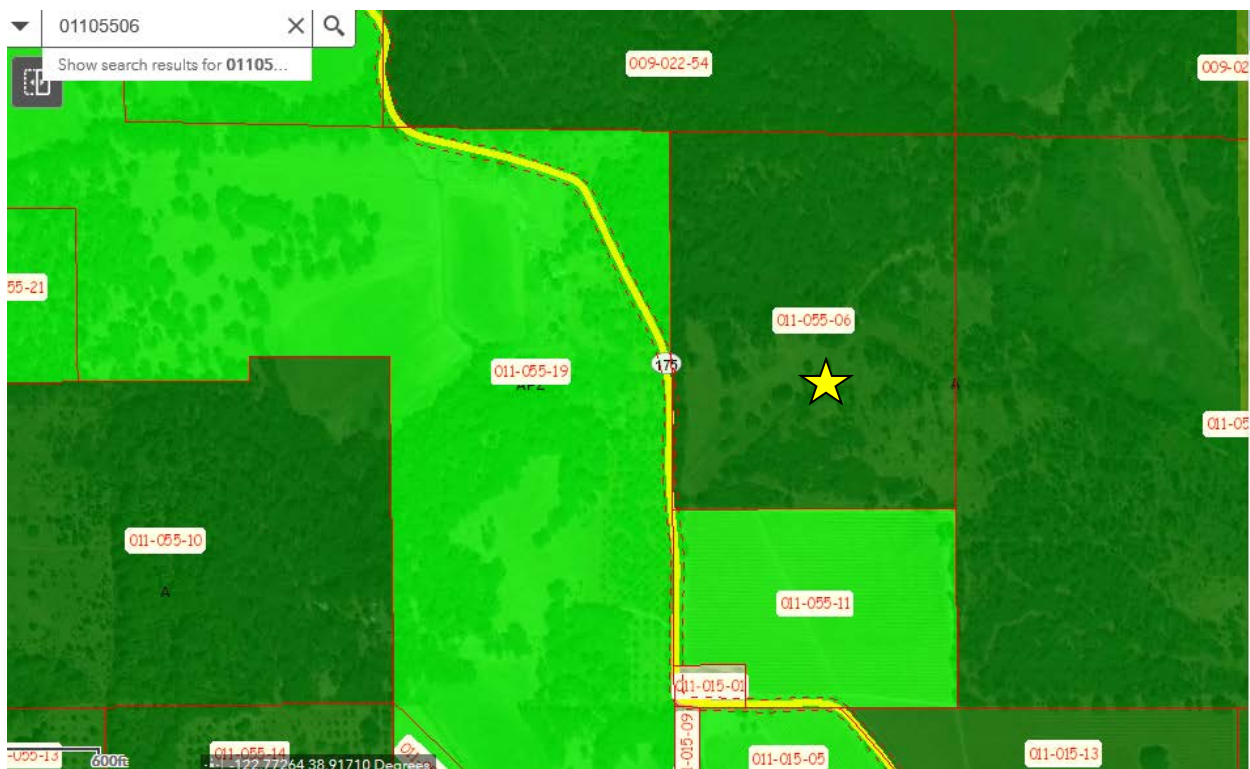
Soils: The cultivation area contains type 101 and 102 Aiken Sobrante association.

Water Supply: Existing well on adjacent lot

Sewage Disposal: Existing On-Site Septic

Fire Protection: Kelseyville Fire Protection District

Vegetation: Several varieties of oak trees, grass and some manzanita brush; existing vineyards and walnut trees



Zoning of Site and Surrounding Lots

III. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Agriculture. The General Plan states the following about Agriculturally zoned land:

Agriculture. This land use category includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in crop production, including horticulture,

tree crops, row and field crops, and related activities. Wineries and the processing of local agricultural products such as pears and walnuts are encouraged within this designation. These lands also provide important groundwater recharge functions. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

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

Chapter 3 - 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.

Response: *Cannabis cultivation is allowed upon issuance of a major or minor use permit depending on its size and characteristics in the Agriculture zoning district.*

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.

Response: *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 1200 feet 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 eight (8) miles southeast 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”.

Response: *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 five (5) employees proposed at peak*

shift. The number of employees can increase or decrease depending on the stage of the cultivation season.

Chapter 9 - Open Space

- Goal OSC-1 Biological Resources. To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County.

Response: *Commercial cannabis cultivation has a relatively small impact on properties depending on how large the cultivation activity is, and the extent of site preparation needed. In this case the footprint of the combined cultivation areas will be 105,000 sq. ft., roughly 2-1/2 acres in size.*

Kelseyville Area Plan Conformance Analysis

The subject site is within the Kelseyville Area Plan's boundary. The Plan contains policies that apply to agricultural uses and economic development as follows:

Policies

Agricultural Uses

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

Response: *The proposal has its own access to Highway 175 and would not directly impact nearby agricultural uses regarding access. The proposal will use organic fertilizers and pesticides in order to meet State quality control standards for cannabis, and has provided engineered erosion control plans to minimize potential stormwater impacts to neighboring lots.*

- **3.5e:** The County should encourage the widespread use of erosion control programs and techniques in erodible agricultural areas, in cooperation with the local Resource Conservation District.

Response: *The applicant has provided engineered erosion control plans to minimize potential stormwater impacts to neighboring lots.*

- **5.1b-1:** A high priority should be given to providing service and employment opportunities locally in the Kelseyville Planning Area in order to boost economic development and reduce travel distances.

Response: This applicant would have up to 5 employees. In addition to the income made by these five employees, the applicant will provide State-controlled product to local cannabis retail stores, further enabling more local employment.

Zoning Ordinance Conformance

Article 5 – Agriculture (A). Purpose: To protect the County’s agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture.

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 (40 acres): *Complies; the subject site is over 52.9 acres in size. The applicant has applied for one A-Type 3 (medium outdoor) cultivation license and four A-Type 2 licenses. The applicant has also applied for a Type 13 ‘Self Distribution License’, which is under consideration herein.*
- Setback from Property Line (100 feet): *Complies, the cultivation site is about 280 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 1200 feet away to the west of the nearest cannabis cultivation area. The nearest dwelling / property also contains a permitted cannabis cultivation site.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies, the proposed fence height is six (6) feet.*
- Maximum Canopy Area (43,560 sq. ft.): *The proposed canopy area is estimated to be 85,000 sq. ft. in size.*

General Requirements. Subsection (at) of the Lake County Zoning Ordinance general requirements and restrictions for cannabis cultivation including, 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 proposed project meets all general requirements outlined in Article 27 of the Lake County 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 listen in Subsection (at) of Article 27 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.

IV. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. The County submitted the Initial Study (IS 19-14) to the State Clearinghouse for state agency comments on August 5, 2020. The 30 day review period ended on September 10, 2020, and no adverse comments were received by the County from notified State agencies. Please refer to *Initial Study IS 19-14* (Attachment 6) for the Environmental Analysis of the proposed cannabis cultivation action. Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval.

The following areas were identified as having potential environmental impacts:

Air Quality

- AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District and obtain an Authority to Construct (A/C) Permit for all operations and for any diesel powered equipment and/or other equipment with potential for air emissions.
- AQ-2: All mobile diesel equipment used 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: 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 to the Lake County Air Quality Management District.
- AQ-5: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-6: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.

- **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:** If project activities occur during the breeding season (February 1 through August 31), a qualified biologist shall conduct a breeding survey no more than 14 days prior to project activities to determine if any birds are nesting in trees on or adjacent to the study area. This shall include areas where water wells and security fencing will be installed.

If active nests are found close enough to affect breeding success, the qualified biologist shall establish an appropriate exclusion zone around the nest. This exclusion zone may be modified depending upon the species, nest location, and existing visual buffers.

- **BIO-2:** If initial ground disturbance occurs during the bat maternity roosting season (April 1 through September 1), a qualified biologist shall conduct a bat roost assessment of trees within 100 feet of the proposed construction. If bat maternity roosts are present, the biologist shall establish an appropriate exclusion zone around the maternity roost.
- **BIO-3:** Prior to any development, the project area shall be surveyed by a qualified biologist to determine if there are any active fisher dens within 250 feet of the project footprint. If an active den is found, California Department of Fish and Wildlife shall be consulted to determine appropriate mitigation measures, which may include relocation of the den or establishing a suitable buffer zone.

V. MAJOR USE PERMIT FINDINGS FOR APPROVAL. Article 51, Section 51.4a

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

The immediate area contains rural land with several homes that are located at least 1200 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Air Quality and Biological Resources. All of these significant impacts have been adequately addressed within conditions of approval for the reasons previously stated.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

The proposal is for combined 105,000 sq. ft. of outdoor cultivation area. The Lake County Cannabis Ordinance allows Type 1, 2, 3 and 4 cultivation operations on Agriculturally

zoned property when it meets the size and locational criteria and standards. The applicant seeks five licenses, which requires a 40 acre minimum. The subject site is over 52 acres in size, large enough to allow the cultivation licenses that has been applied for. The self-distribution license is also included, but has no direct relationship with the property size specifically.

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

The site is served by Highway 175, a paved State scenic highway. There are no known capacity issues associated with Highway 175. The operation of the project will generate up to 20 average daily trips, which is below the threshold for requiring a traffic study. Daily on-site activity will occur Monday through Saturday between 8:00 am and 6:00 pm, likely from April to early November.

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 CAL FIRE, Kelseyville Fire District, Public Works, Special Districts, Environmental Health, and all area Tribes. Relevant comments are attached as 'Attachment 3'. No adverse comments were received. The proposed water source is an existing agricultural well that produces 90 gallons per minute, and water will be stored in four 2,500 gallon water storage tanks. The site is served by an existing septic system and power is supplied by PG&E.

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

Since commercial cannabis cultivation is named as a permitted use in the Agriculture zoning district within the Commercial Cannabis ordinance, this proposal is consistent with the governing ordinance for cannabis growing in the Lake County. The Lake County General Plan and the Kelseyville Area Plan do not have any specific provisions for commercial cannabis, but do have provisions for agriculture uses and economic development.

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 site does not have any violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code.

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

- (1) The proposed use complies with all development standards described in Section 1.i

Response: This report identifies the development standards that apply to cannabis cultivation in Lake County. The applicant is fully compliant with the development standards.

- (2) The applicant is qualified to make the application described in Section 1.ii.(g)

Response: The applicant and her employees have passed a ‘live scan’ background check, and are qualified to undertake a commercial cannabis cultivation activity subject to approval of this use permit.

- (3) The application complies with the qualifications for a permit described in Section 1.ii.(i)

Response: This application complies with all qualifications for a permit described in Section 3.ii.(f). The applicant is proposing six cannabis-related licenses; five for the outdoor cultivation site totaling 105,000 sq. ft., and a ‘self-distribution’ license (Type 13). The subject site is 52.9 acres in size, large enough to support the cultivation license; the applicant also qualifies for the Type 13 ‘Self Distribution’ license.

VII. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt mitigated negative declaration (IS 19-14) for Use Permit (UP 19-08) with the following findings:

1. Potential environmental impacts related to air quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6 and AQ-7.
2. Potential environmental impacts related to Biological Resources can be mitigated to less than significant impacts with the inclusion of mitigation measures BIO-1, BIO-2 and BIO-3.
3. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
4. 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 Use Permit UP 19-08 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 can be mitigated to be reasonably adequate to safely accommodate the proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.
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 **Initial Study (IS 19-14)** applied for by **Golden State Herb** on property located at **8550 Highway 175, Kelseyville**, and further described as **APN: 011-055-06** 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 **January 14, 2021**.

Major Use Permit (UP 19-08)

I move that the Planning Commission find that the **Use Permit (UP 19-08)** applied for by **Golden State Herb** on property located at **8550 Highway 175, Kelseyville**, and further described as **APN: 011-055-06** 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 **January 14, 2021**.

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

Reviewed by:_____