



## 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

February 25, 2021

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Scott DeLeon, Community Development Director  
Tocarra Thomas, Deputy Director  
Prepared by: Victor Fernandez, Assistant Planner

**DATE:** January 14, 2021

**RE:** LC2400

- Major Use Permit (UP 20-27)
- Initial Study (IS 20-32)
- Early Activation (EA 20-31)

Supervisor District 3 - Supervisor Crandell  
Planning Commissioner – Commissioner Brown

**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 2400 Clover Valley Road, Upper Lake, California, further described as Assessor Parcel Number (APN): 004-007-12. The applicant proposes the Collocation of Permits and Clustering which in reference to Article 27 of the Lake County Zoning Ordinance, multiple cultivation permits may be allowed on a single parcel provided that each permit meets the minimum acreage requirement and all other development standards. The applicant proposes to cluster 2405 and 2215 Clover Valley Road, Upper

Lake, California further described as APNs: 004-007-13 and 004-007-23, which will only be used for the acreage and no cultivation will occur on these parcels. All cultivation activities will only occur on parcel 004-007-12. The applicant's proposal will include the following:

- **Five (5): 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 217,800 square feet located within 252,960 square feet of cultivation area.*
- **One (1) Type 13:** “Distributor Transport Only, Self-Distribution” License
- One (1) 2,480 square foot Agricultural Steel Building for harvesting and processing.
- One (1) 288 square foot enclosed Waste and Composting Shed.

Existing ancillary facilities include:

- One (1) 300 square foot break area.
- One (1) 36 square foot pump house.
- One (1) 96 square foot hazardous material storage shed.
- One (1) 1,800 square foot building to be used for drying and curing.
- One (1) 1,440 square foot greenhouse for immature plants.

The cultivation area will be conducted within an enclosed area secured by a fence approximately seven (7) feet in height. The fence will be screened with a privacy mesh, which will help reduce visibility within the surrounding area. The proposed outdoor cultivation method is above ground in planters with drip irrigation systems pressurized by electric pumps from the well source.

### **Security**

The cultivation site will be enclosed by a 7' wooden slat fence. The cultivation site will be equipped with a surveillance system that will continuously monitor the site 24 hours per day at a minimum of 30 frames per second. According to the Property Management Plan, all exterior cameras will be water proof and all cameras will include motion sensors that activates the camera when motion is detected. Access to the facility will only be gained through a security gate with a coded entry. Visitors and deliveries will gain access through arrangement and will be given a temporary code which will expire after they have completed their visit. ~~after xxx amount of time.~~

### **Water Source and Usage**

The cultivation operation will use water from an existing, agricultural groundwater well. According to the application package, the existing well produces approximately 120 gallons per minute which would translate to approximately 75,796,637 gallons per year. The total proposed water usage on an annual basis is approximately 3,677,400 gallons which includes water usage for the cultivation operation and domestic use. The proposed project would utilize approximately 4.8% of the well's full capacity. The water use calculations submitted by the applicant are below:

Location	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	total
5 Acre Outdoor	-	-	-	96,600	210,000	310,800	462,000	588,000	966,000	966,000	-	-	3,599,400
Domestic/ landscaping	6,000	6,000	6,000	6,000	6,000	6,000	7,000	7,000	7,000	7,000	7,000	7,000	78,000
<b>Totals</b>	<b>6,000</b>	<b>6,000</b>	<b>6,000</b>	<b>102,600</b>	<b>216,000</b>	<b>316,800</b>	<b>469,000</b>	<b>595,000</b>	<b>973,000</b>	<b>973,000</b>	<b>7,000</b>	<b>7,000</b>	<b>3,677,400</b>

Note: Only source of Water is a Private Ground water Well

### **Fertilizer and Chemical Usage**

All fertilizer and pest management products will be stored in the hazardous material storage shed. According to the application, personal protective equipment will be used when handling fertilizers and other chemicals, such as safety glasses, gloves, dust masks, etc. The chemicals used for the operation will be contained and sealed to prevent spillage. Additionally, the applicant proposes all cannabis vegetative waste to be placed in the cannabis waste storage shed for composting or transportation to an offsite disposal area by a licensed waste handler.

### **Operation**

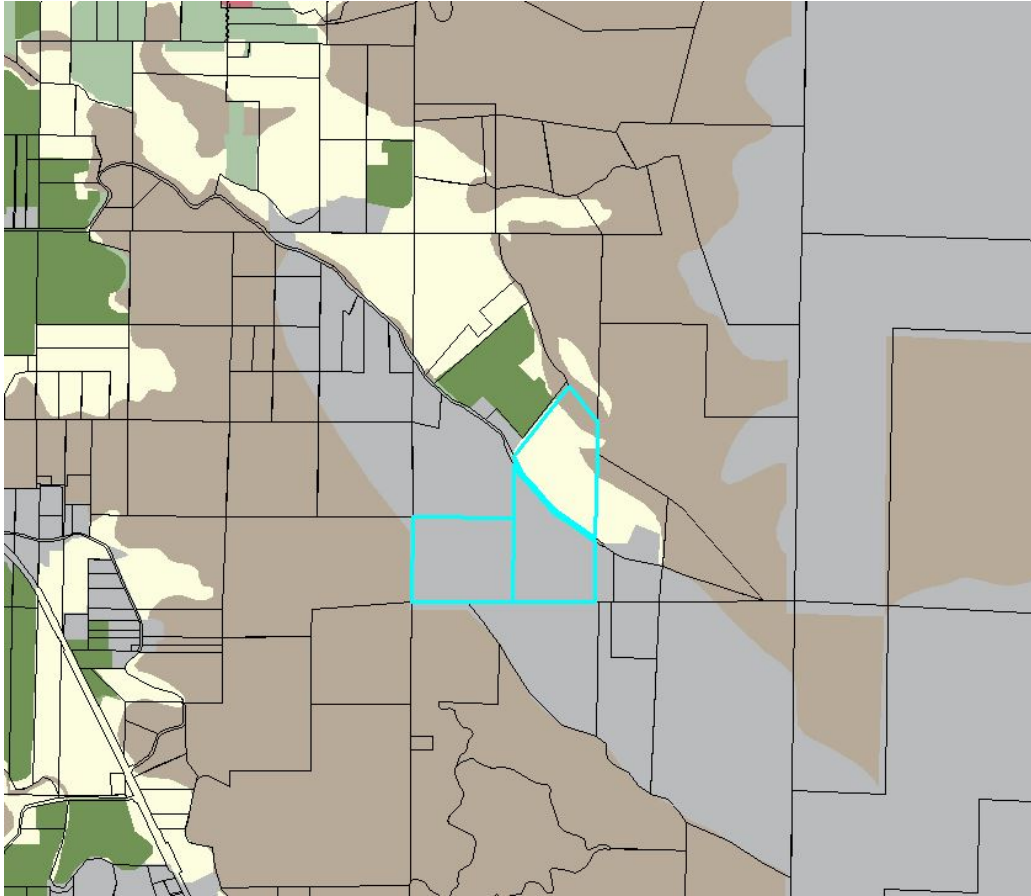
The facility will be open Monday through Saturday, 9:00 AM to 5:00 PM. Deliveries and pick-ups will occur during this time-frame. According to the application, visitation will only be allowed when specific permission is granted.

### **Farmland of Local Importance**

The cultivation site is located in Clover Valley and within Farmland of Local Importance. The cultivation of commercial cannabis will be outdoor in above-ground pots. The cultivation site is located in Clover Valley and is designated as Farmland of Local Importance.

In accordance with Article 27 of the Lake County Zoning Ordinance, within areas designated as prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance as depicted on the current Lake County Important Farmland prepared by the State California Department of Conservation Farmland Mapping and Monitoring Program, commercial cannabis cultivation shall be limited to indoor, mixed-light, and greenhouses that are equipped with filtration systems that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure.

The permitting authority may allow outdoor cultivation outside a greenhouse if the prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance are isolated areas that are not connected to a large system of such lands. The proposed project is located at the end of Clover Valley and is isolated from the larger system (Please see image below). Additionally, there are permits within the valley that are actively cultivating commercial cannabis and/or are in the permitting process. The project property is not located within a Farmland Protection Zone [that has been established as part of an Amendment to Article 27 under Ordinance 3101, dated 12/15/2020]. However the project property has existing vegetation along the front property line and western property line. Additionally, the applicant proposes to install additional vegetation that would serve as a visual and drift screen. A condition of approval has been added (Attachment 4: Section C, Item 11), that requires the applicant to submit a vegetation screening plan prior to operation. Additionally, the project was routed to the Lake County Department of Agriculture and comments were not received for this project.



## PROJECT DESCRIPTION

Owner: Shana Schuette

Location: 2400 Clover Valley Road, Upper Lake, CA (**Cultivation only**)

2215 Clover Valley Road, Upper Lake, CA (Parcel used for clustering-No cultivation)

004-007-13 (Parcel used for clustering-No cultivation)

004-007-23 (Parcel used for clustering-No cultivation)

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General Plan: Agriculture – Resource Conservation – Rural Lands

Zoning: **004-007-12:** “APZ – SC”: Agricultural Preserve – Scenic Combining

**004-007-13:** “APZ – SC”: Agricultural Preserve – Scenic Combining

**004-007-23:** “RL”: Rural Lands

Flood Zone: “X”: Areas of minimal flooding – not in a special flood hazard area.

“AE”: Areas of 100-year flood; base flood elevations and flood hazard factors determined.

Submittal Date: March 13, 2020

**Farmland Designation** **Farmland of Local Importance**

### III. PROJECT SETTING

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

North: “A” Agriculture, “RL” Rural Lands and “APZ” Agricultural Preserve District. Parcel sizes range from approximately 18 to 160 acres in size.

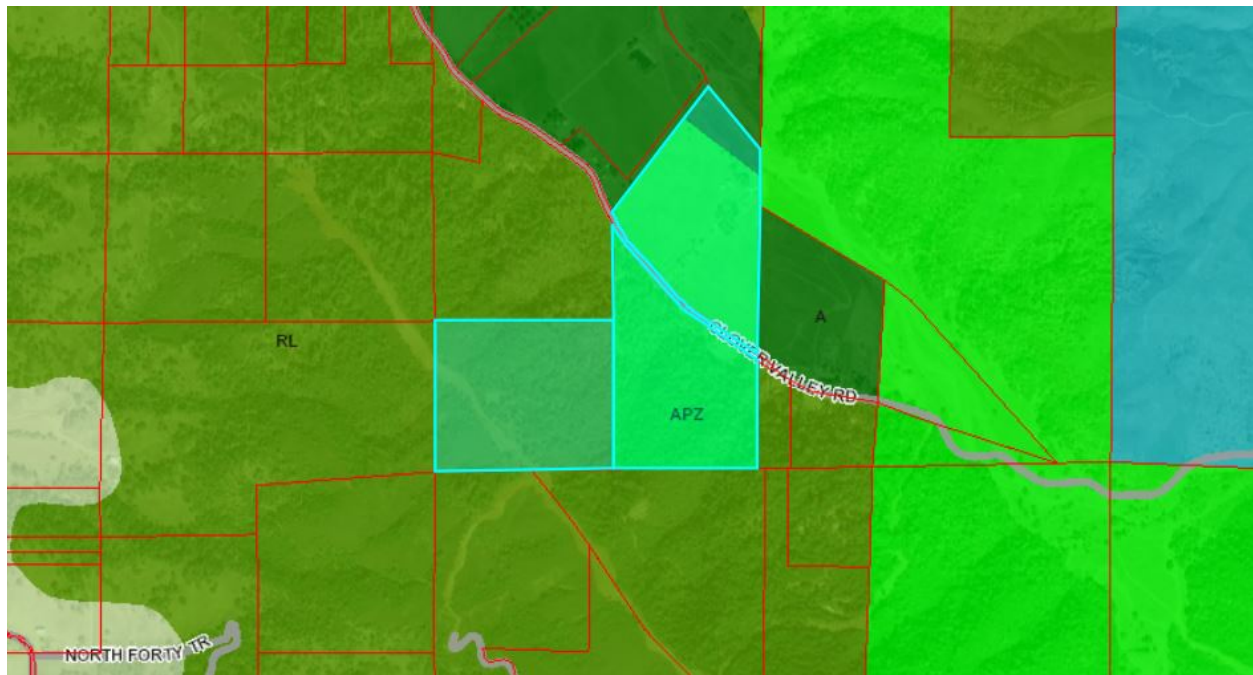
South: “RL” Rural Lands. Parcel sizes range from approximately 11 to greater than 100 acres in size.

East: “A” Agriculture, “O” Open Space, and “APZ” Agricultural Preserve District. Parcel sizes range from approximately 4 to greater than 300 acres in size.

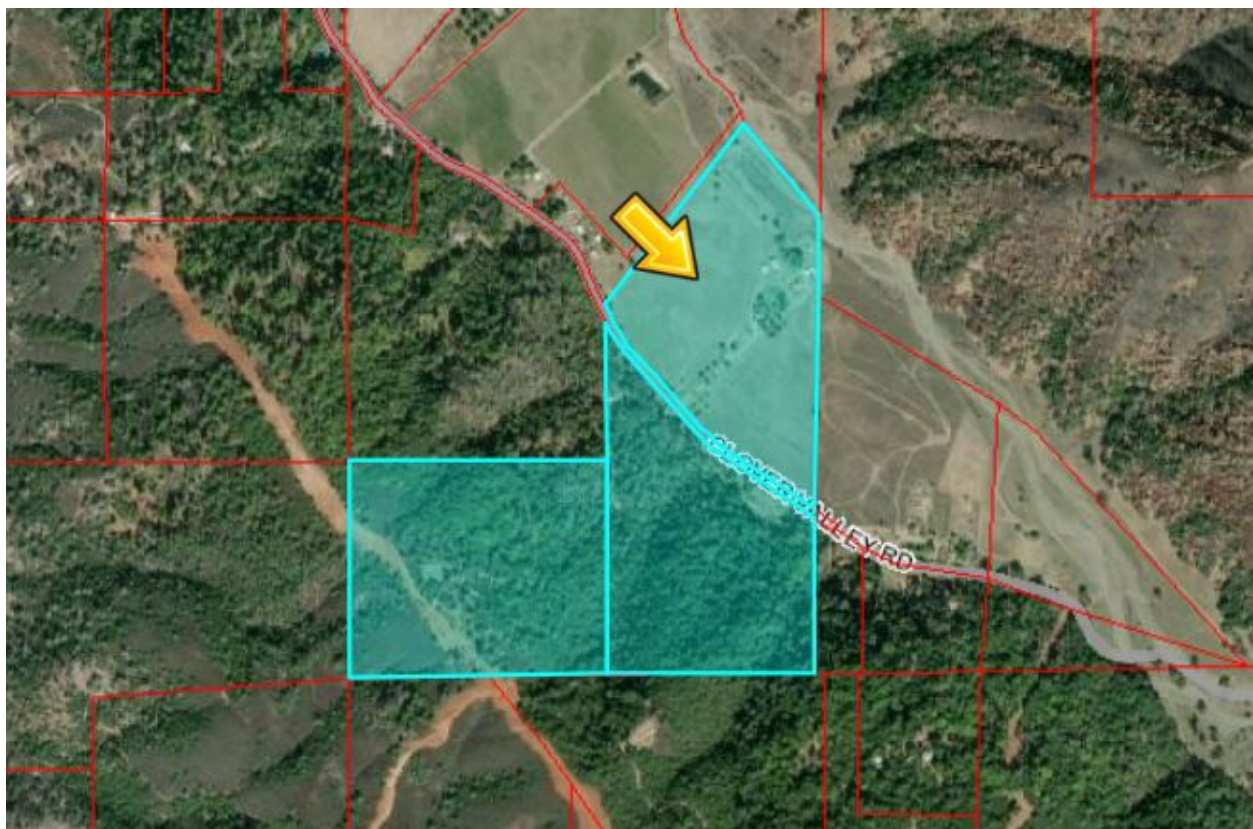
West: “RL” Rural Lands and “RR” Rural Residential. Parcel sizes range from approximately 10 acres to greater than 90 acres in size.

The Project parcel is not within a Community Growth Boundary. The proposed cultivation site is approximately 1.6 miles east from the nearest 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 parcels used for clustering which will not be used for cultivation and/or development are more than 30% slope.

Soils: The project area contains the following soil types:

- Still Gravelly Loam (Type 234), Still Loam (Type 233), Xerofluvents-Riverwash (Type 249), Speaker-Maymen-Marpa (Type 224/226).

Water Supply: Existing Well

Sewage Disposal: On-site septic system.

Fire Protection: Northshore Fire Protection District

Vegetation: Cultivation area contains natural grass vegetation.

Water Courses: Clover 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:

Agriculture includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. The 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.

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 applicant is proposing commercial cannabis cultivation which applies to agricultural/crop production with the Lake County General Plan (2008) for Agriculture and Rural Lands. Commercial cannabis cultivation is an allowable use within these land use designations and is located appropriately to support the use. The project is located in a rural area within Clover Valley, and the practice of cultivation and crop production is common within the area.

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 and “APZ” Agricultural Preserve land Use Designations upon securing a Minor/Major Use Permit. On, March 13, 2020, 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 310 feet 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 1.86 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 employees are proposed as part of the project (Number of employees are unknown at this time). The number of employees can increase or decrease depending on the stage of the cultivation season.*

### **Upper Lake/Nice Area Plan**

The subject site is within the Upper Lake/Nice Area Plan boundary. The Plan contains several policies that are subject to consistency review as follows:

- **5.1.1i:** A high priority should be given to providing service and employment opportunities locally.

### **Zoning Ordinance Conformance**

#### Article 4 – Agricultural Preserve District

The Cultivation of Commercial Cannabis is permitted in the “APZ” Agricultural Preserve Zoning District upon issuance of a Major/Minor Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On March 13, 2020, the applicant submitted an application for a Major Use Permit, UP 20-27 for the Cultivation of Commercial Cannabis to the Community Development Department.

#### 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 13, 2020, the applicant submitted an application for a Major Use Permit, UP 20-27 for the Cultivation of Commercial Cannabis to the Community Development Department.*

#### Article 34 – Scenic Combining District (SC)

The project parcel that will contain all cultivation activities is partially within the Scenic Combining District. According to County GIS data, the scenic layer is approximately  $\pm 180$  feet from Clover Valley Road. The cultivation site is setback 100 feet from the property line, however, all structures proposed for the cultivation operation will be more than 400 feet setback from Clover Valley Road. All proposed structures shall adhere to the development standards defined in Article 34 of the Lake County Zoning Ordinance.

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  $\pm$ 110.60 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 310 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 7' 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 approximately 217,800 sq.ft. of outdoor canopy area for five (5) 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. The applicant has provided property owner approval, submitted a background check, complied with the access requirements, provided Articles of Organization for the LLC, qualified for the Major Use Permit, and met the requirements of Collocation of Permits and Clustering. 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 20-32; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **11/12/2020 to 12/17/2020**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated February 23, 2020 which concluded that no cultural resources were within the project boundaries.

Additionally, the local tribes were notified of the project and no adverse comments were received.

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

### **Aesthetics**

The project has some potential to result in aesthetics impacts. The proposed project has the potential to generate a new source of light and glare from exterior lighting and interior lighting for the proposed greenhouse. All potential Aesthetics impacts have been reduced to less than significant with the incorporated mitigation measures below:

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

### **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. 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 cultivation, the applicant shall submit an Odor Control Plan to the Community Development Department for review and approval, or review and revision.
- AQ-2: All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.
- AQ-3: Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be managed by use of water or other

acceptable dust palliatives to mitigate dust generation during and after site development.

- AQ-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.
- AQ-8: All greenhouses and cannabis processing buildings shall be equipped with filtration systems that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure. Prior to cultivation, the applicant shall submit a Filtration System Plan to the Community Development Department for review of approval.

### **Biological Resources**

The applicant provided a Biological Assessment, prepared by Jennifer Hawley Bio Consulting, dated March 09, 2020. According to the biological assessment, a walnut orchard was removed in the mid 1980's. The proposed site is located on land that possess nesting habitat for bird species, and this habitat is suboptimal at best due to the lack of cover and active grazing by horses. However, no historic nests were identified during the field inspection. Mitigation measures were recommended pertaining to pre-construction surveys for sensitive species and recommended buffers for the cultivation site. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: Prior to construction, two (2) follow-up botany surveys are required to accomplish due diligence regarding the presence of any sensitive plant species in the project areas.
- BIO-2: Pre-construction nesting surveys nesting bird surveys are required seven (7) days prior to initiation of any construction. If nesting birds are detected,



construction should not commence until the young of the nest have fledged successfully.

No significant, adverse impacts will occur if nesting bird breeding surveys are conducted during March through August, or if construction is conducted outside of the breeding season.

- **BIO-3:** Pre-construction bat surveys shall be conducted to ensure that no bats have established roosts in any of the outbuildings or trees 7-14 days prior to the initiation of construction. If roosts are detected, coordination with the California Department of Fish and Wildlife shall occur.
- **BIO-4:** Pre-construction American badger surveys shall be conducted prior to the initiation of construction. A qualified biologist shall survey for burrows 14-30 days prior to any construction activities within the project areas.
- **BIO-5:** A 100-foot buffer shall be placed around the wet area (pool) and no development or habitat modification shall occur inside the buffer.

### **Cultural Resources**

A Cultural Resources Evaluation was conducted for the project parcel by Dr. John Parker dated February 23, 2020. 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.

### **Hazards and Hazardous Materials**

The proposed project has the potential to create a hazard to the environment through routine transport, use or disposal of hazardous materials. According to the Property Management Plan, the proposed project will utilize organic-certified pesticides. Additionally cannabis vegetative waste will be placed inside secure cannabis waste shed for composting and/or transportation to an offsite disposal area by a licensed waste handler. All equipment shall be maintained and operated in a manner that minimizes spill or leak of hazardous materials. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- HAZ-1: The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well or feature. These materials shall not be allowed to leak onto the ground or contaminate surface waters or nearby creeks. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
- HAZ-2: Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
- HAZ-3: The storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.

## **Hydrology and Water Quality**

The proposed project has the potential to affect the water quality of Clover Creek. The project parcel is adjacent to Clover Creek, however, the applicant has provided a minimum 150 foot setback from the top of the bank of the creek. Additionally the applicant will implement a drip irrigation system pressurized by electric pumps to reduce water use from the well source. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- HYD-1: The project design shall incorporate appropriate BMPs consistent with County and State storm water drainage regulations to prevent or reduce discharge of all construction or post-construction pollutants and hazardous materials offsite or into Clover Creek.
- HYD-2: The applicant shall prepare a groundwater management plan to ensure that the groundwater resources of the County are protected used and managed in a sustainable manner. The plan would support the Integrated Regional Water Management Plan and include an inventory of groundwater resources in the County and a management strategy to maintain the resource for the reasonable and beneficial use of the people and agencies of the County.
- HYD-3: The production well shall have a meter to measure the amount of water pumped. The production wells shall have continuous water level monitors. The methodology of the monitoring program shall be described. A monitoring well of equal depth within the cone of influence of the production well may be substituted for the water level monitoring of the production well. The monitoring wells shall be constructed and monitoring begun at least three months prior to the use of the supply well. An applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually.

## **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.

## **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 and "APZ" Agricultural Preserve 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. 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 217,800 square feet of above-ground in pots canopy area for outdoor cultivation. The proposed ancillary facilities includes one (1) 2,480 sq.ft. Agricultural Steel Building used for harvesting and processing, and one (1) 288 sq.ft. Enclosed waste and composting shed. Existing ancillary facilities include: one (1) 300 sq.ft. break area, one (1) 36 sq.ft. pump house, one (1) 96 sq.ft. Hazardous Material Storage Shed, one (1) 1,800 sq.ft. Drying and Curing Building, and one (1) 1,440 sq.ft. Greenhouse for Immature Plants. The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Residential and Agricultural Preserve-zoned land, and the subject site is ±110.60 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 Clover Valley Road (a county maintained road). The Building Division determined that the project will need to comply Public Resources Code 4290/4291 road standards (please refer to Attachment 3 – Agency Comments). The site requires minimal improvements to become compliant with Public Resources Code 4290/4291.*

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 and APZ 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. The cultivation site is located in Clover Valley and is within Farmland of Local Importance. In accordance with Article 27 of the Lake County Zoning Ordinance, within areas designated as prime farmland, and farmland of local importance, unique farmland, and farmland of statewide importance as depicted on the current Lake County Important Farmland prepared by the State California Department of Conservation Farmland Mapping and Monitoring Program, commercial cannabis cultivation shall be limited to indoor, mixed light, and greenhouses that are equipped with filtrations systems that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure. The permitting authority may allow outdoor cultivation outside a greenhouse if the prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance are isolated areas that are not connected to a large system of such lands. The project parcel is located at the end of the valley and is considered isolated. Additionally, there are permits within the valley that are actively cultivating commercial cannabis and /or are in the permitting process. Additionally, the subject property complies with the minimum setbacks and development standards.*

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. as outlined in this staff report



8. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g). as outlined in this staff report
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i). as outlined in this staff report

**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  $\pm 110.60$  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 310 feet away from the cultivation area.*
  - Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 7' 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 approximately 217,800 sq.ft. of outdoor canopy area for five (5) 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 (IS 20-32) for Major Use Permit (UP 20-27) with the following findings:**
  1. Potential environmental impacts related to aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 and AES-2.

2. 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, AQ-5, AQ-6, AQ-7, and AQ-8.
3. 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.
4. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4, and BIO-5.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, GEO-3.
6. Potential hazards hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1, HAZ-2, and HAZ-3.
7. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1, HYD-2, and HYD-3.
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Upper Lake/Nice Area Plan and Zoning Ordinance.
11. 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.
12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

**B. Approve Major Use Permit UP 20-27 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, Upper Lake/Nice 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 20-27) applied for by **LC2400** on property located at **2400, 2405, and 2215 Clover Valley Road, Upper Lake**, further described as **APNs: 004-007-12, 007-004-13, and 004-007-23** 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, 2020**.

**Major Use Permit (UP 20-27)**

I move that the Planning Commission find that the **Major Use Permit (UP 20-27)** applied for by **LC2400** on property located at **2400, 2405, and 2215 Clover Valley Road, Upper Lake**, further described as **APNs: 004-007-12, 007-004-13, and 004-007-23** 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 **January 14, 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.*