



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

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Item 1

9:05 a.m.

April 8, 2021

STAFF REPORT

TO: Planning Commission

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

Prepared by: Eric Porter, Associate Planner

DATE: April 8, 2021

RE: **LC Private Reserves; Modification (MMU 20-13) to a Use Permit (UP 18-16) for Commercial Cannabis Cultivation and Categorical Exemption to CEQA (CE 20-67).** APN: 012-006-58

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Conditions of Approval
3. Agency Comments
4. Site Plan

I. EXECUTIVE SUMMARY

On November 8, 2018, the Planning Commission approved Use Permit UP 18-16, also known as "Garden 1" on the subject site. The application was for 10,000 sq. ft. of 'mixed light' (greenhouse) cultivation.

On December 15, 2020, the County received an application for a modification to the cultivation area to enable outdoor cultivation rather than inside of greenhouses; this is to occur inside the original footprint of file no. UP 18-16. The applicant is also proposing a 36.5' x 90' area for immature plants that was not part of the original approval.

The 330 acre subject site takes access from Big Valley Road, a paved, County-maintained road in this location. The site was used for decades as a resort (Howard Hot Springs, then Avalon Hot Springs), and the site has been extensively disturbed over

time. The original project was categorically exempted from CEQA due to the extent of historical disturbance that had occurred on the site.

The applicant had provided a stormwater mitigation plan that shows the method of on-site water retention and channelization. There is a class 1 (perineal) stream on the southern end of the site (Big Canyon Creek); a class 2 unnamed seasonal stream transecting the middle of the site in a north-south direction, and a class 3 unnamed watercourse on the northern portion of the site. Garden 1 is not located within 100 feet of these drainage courses, and will have no impact on them. Garden 1 was originally approved as an indoor grow within a 10,000 sq. ft. covered greenhouse, and is now proposed to be an outdoor cultivation inside the original 10,000 sq. ft. footprint. The parent parcels are 330 acres in size; therefore there will be comparably minimal non-permeable surfaces being added by Garden 1.

Staff is recommending **Approval with Conditions** of **MMU 20-13**.

II. PROJECT DESCRIPTION

Applicant/Owner: LC Private Reserves / Eric Sklar
Location: 13333 Big Valley Road, Lower Lake
A.P.N.: 012-006-58
Parcel Size: 330 acres
General Plan: Resort Commercial and Rural Lands.
Zoning (entire site): “PDC”, Planned Development Commercial; and “RL-B5-SC-WW”, Rural Lands - 5 Acre Minimum - Scenic Corridor – Waterway.
Flood Zone: None
Date Submitted: December 15, 2020

III. PROJECT SETTING

Existing Uses and Improvements: The subject site contains a resort, ‘Kokoro Springs’ that is in the process of rebuilding following the Valley Fire of 2017. There are four approved commercial cannabis cultivation sites on the 330 acre property that were approved through files no. UP 18-16, UP 18-17, UP 18-18 and UP 18-44.

Surrounding Uses and Zoning

- North: Rural residential zoning; mostly vacant large lots.
- East: Rural residential and Planned Development Commercial zoning. Marginally developed with several dwellings.
- West: Rural residential zoning; mostly vacant land.
- South: Rural residential and open space zoning; mostly vacant land.

Topography: Steep, averaging over 30%.

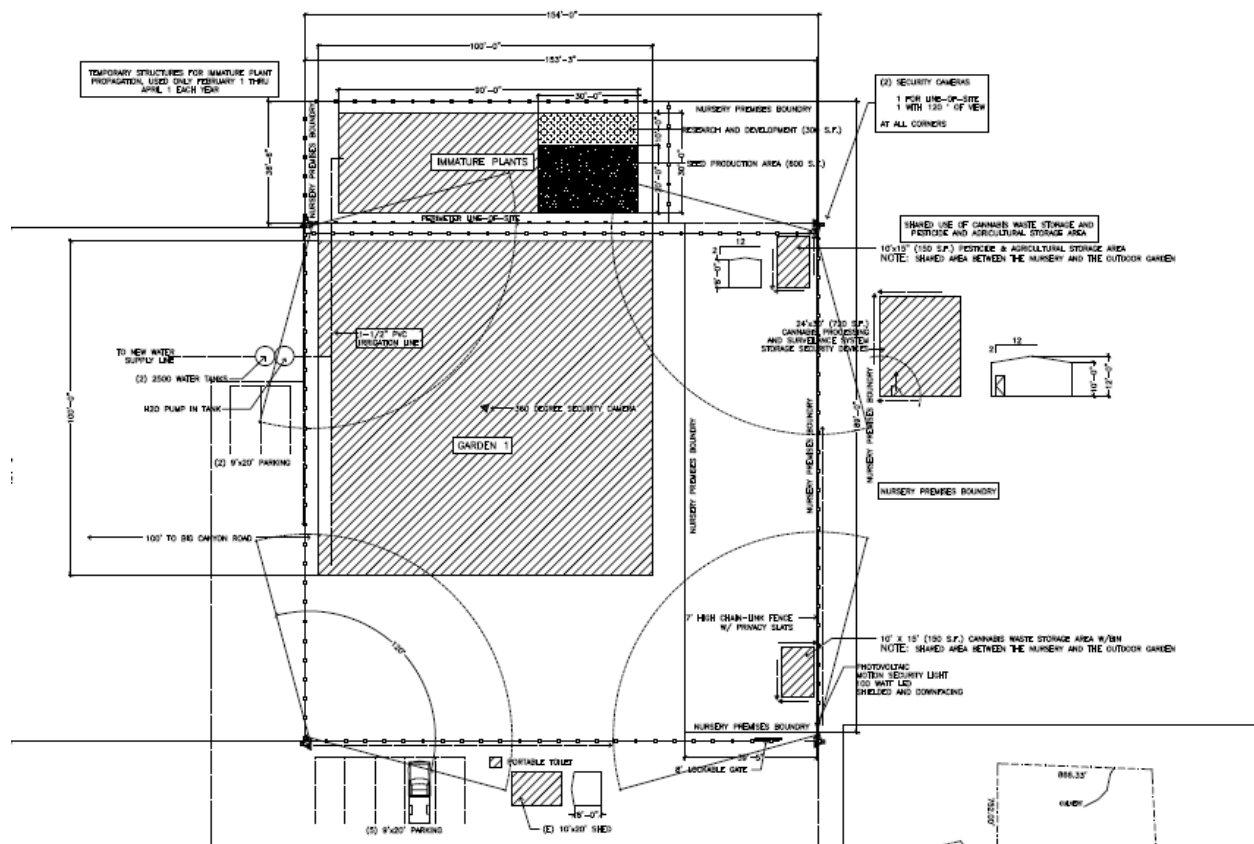
Soils: According to the soil survey of Lake County, prepared by the U.S.D.A, The parcel contains type 142 'Henneke-Montara-Rock Outcrop complex (Henneke), 15 to 50% slope; type 169 'Maymen-Etsel-Snook complex (Snook), 30 to 75% slope; and type 174 'Maymen-Etsel-Mayacama association complex (Mayacama), 50 to 75% slope. These soil types are acceptable for grazing land, but are not regarded as class 1 through 4 soils, nor are they considered as 'Prime Farmland'.

Water Supply: Existing well, cistern, storage tanks and natural springs

Sewage Disposal: Existing On-Site Septic, Porta-Pottys

Fire Protection: South Lake County (CalFire)

Vegetation: Several varieties of Oak Trees, Pine Trees, grass, manzanita brush



SITE PLAN

IV. **PROJECT ANALYSIS**

General Plan Conformance

The General Plan designation for the subject site is a mix of Community Commercial and Rural Lands. The affected portion of the land containing Garden 1 is designated as Community Commercial and zoned Planned Development Commercial (PDC).

The project site was previously disturbed, graded and developed with structures as part of the Avalon Hot Springs Resort as well as for geothermal power facilities. According to the applicant the proposed use will be conducted within the previously disturbed foot print of the resort and will use the existing irrigation system.

The following General Plan policies apply to this proposal:

Economic Development:

Goal LU-6: “To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents”.

- Policy LU 6.1: “The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services and commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments, and the developments of geothermal resources”.

The proposed Commercial Cannabis Operation, would create diversity within the local economy, create future employment opportunities for local residents and allow the expansion of industrial and non-industrial corporate developments.

Land Use

- Policy LU-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.
- Policy LU-5.4 Compatibility with Surrounding Land Use. The County shall ensure that appropriate industrial / heavy commercial sites will not result in harmful impacts to adjacent land uses. In addition, sites should be designed to prevent the intrusion of incompatible uses into industrial areas. Infilling of existing industrial areas is highly desirable where feasible.

Cannabis cultivation is not yet recognized as an agricultural use, although it involves raising a crop. Cannabis cultivation is allowed by major use permit in the PDC zone as is being proposed.

The immediate area is generally vacant. In this case compatibility is determined by the potential impacts that this proposed use could have on the vicinity. The biggest potential compatibility factors appear to be odor, noise and stormwater treatment.

Cobb Area Plan

The subject site is within the Cobb Area Plan's boundary. The Plan does not regulate commercial cannabis growing, nor does it contain objectives or policies that address commercial cannabis cultivation.

Zoning Ordinance Conformance

Article 15 – PDC Planned Development Commercial District. Article 27 of the Lake County Zoning Ordinance, 'Commercial Cannabis Ordinance', allows Type 3 grows as a permitted use in the PDC zoning district subject to the approval of a major use permit.

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.

Article 60 – Expiration, Revocation, or Modification of Permits and Reapplication

Development Standards, General Requirements and Restrictions. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 60 of the Lake County Zoning Ordinance.

MODIFICATION OF PERMITS

(a) In lieu of revocation, the Planning Commission or Board of Supervisors may after public hearing, modify any minor use, **major use**, or variance permit, or specific plan of development if the grounds which would otherwise justify revocation can be corrected or cured by a modification imposing new or additional conditions.

Response: *The applicant has met the terms of the original approval. However, in order to modify an existing and approved use permit, the applicant must apply for a modification pursuant to Lake County Article 60.*

(b) Modifications of permits shall be based on the same grounds, and initiated, heard, noticed and be subject to the same appeal procedures as are provided for revocations in Sections 60.11 to 60.18 of this Article.

Response: *The Planning Commission and Board of Supervisors have the ability to decide whether a modification application meets all standards and criteria applicable to the change sought. The Planning Commission may also require a modification to be decided by the Board of Supervisors if the issues raised by the modification are determined to be significant or have potentially significant impacts on a neighborhood or area. In this case, the applicant was approved for a larger cannabis cultivation area, and no appeals were filed. Because the proposal is reducing in scope, staff's position is that it had originally met all applicable criteria, and the reduction in scope does not add additional impacts.*

The Planning Commission's decision is subject to a 7 day appeal period.

Original Development Standards

- Minimum Lot Size (20 acres for one A-Type 2 cannabis license): *Complies; the site is approximately 330 acres in size.*
- Setback from Property Line (100 feet): *Complies, according to the applicants' site plan, the proposed cannabis site is approximately 800 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies, the nearest residential dwelling is located on a separate parcel and is over 1000 feet away from the proposed outdoor cannabis cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies, according to the applicants' information submitted, the proposed fence height is six (6) feet.*
- Maximum Canopy Area (10,000 s.f.): *Complies, the maximum canopy area is estimated to be 8.000 sq. ft.*
- High Value Farmland: *None mapped on the area of Garden 1.*

General Requirements. *The original Conditions of Approval remain in full force and effect with two specific changes;*

- (1) The approved canopy area is estimated to be **8,000 square feet**; the approved cultivation area is **13,250 square feet** including a 3,200 sq. ft. nursery area; and*
- (2) The applicant is requesting a 'Type 13 Self Distribution' license, which was not available at the time he applied for her original minor use permit.*

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Staff has determined that the minor modification of use permit UP 18-16 is categorically exempt from CEQA review pursuant to CEQA section 15304.

Sample Motions:

Categorical Exemption (CE 20-67)

I move that the Planning Commission find that that Categorical Exemption (CE 20-67) applied for by **Eric Sklar** on a property located at **13333 Big Canyon Road, Middletown**, further described as **APN: 012-006-58** will not have a significant effect on the environment, and this project qualifies for a Categorical Exemption pursuant to CEQA section 15304 with the findings listed in the staff report dated **April 8, 2021**.

Modification (MMU 20-13)

I move that the Planning Commission find that the **Modification (MMU 20-13)** applied for by **Eric Sklar** on a property located at **13333 Big Canyon Road, Middletown**, further described as **APN: 012-006-58** does meet the requirements of Section 60 of the Lake

County Zoning Ordinance and the Modification be granted subject to the conditions and with the findings listed in the staff report dated **April 8, 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's decision, 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.