



**COUNTY OF LAKE**  
COMMUNITY DEVELOPMENT DEPARTMENT  
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**Scott De Leon**  
Community Development Director

**Tocarra Nicole Thomas**  
Community Development Deputy Director

Item 4  
9:20 AM  
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:** **Three Bees / Damien Ramirez; Major Use Permit (UP 19-33) and Initial Study (IS 19-51)**

Supervisor District 1

**ATTACHMENTS:**

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 19-51
7. Public Comments

### **I. EXECUTIVE SUMMARY**

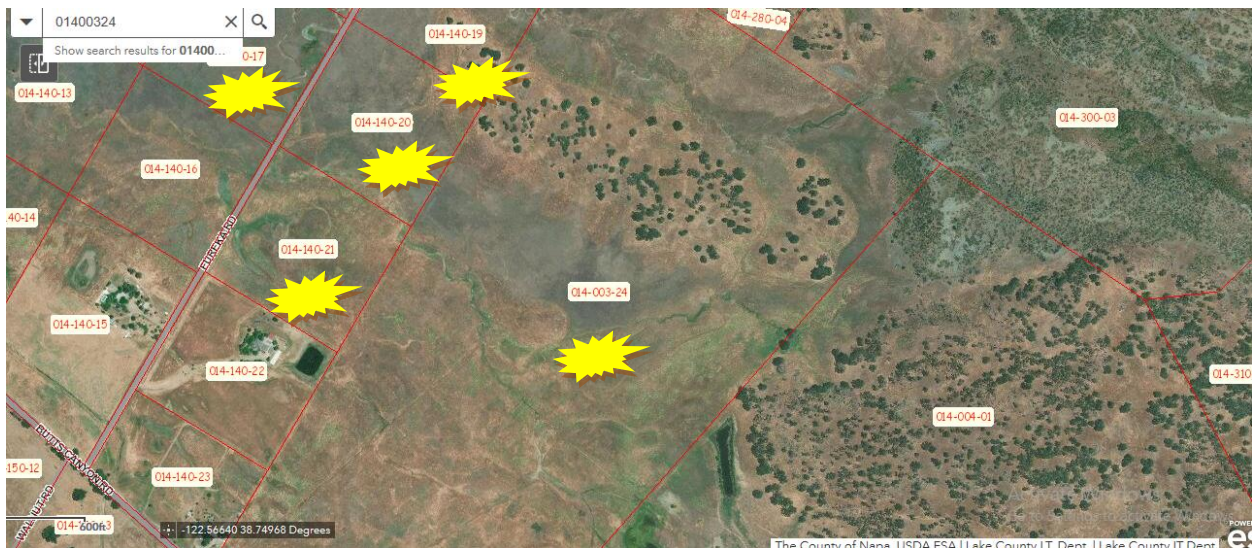
The applicant is requesting a major use permit for **(16) A-Type 3 (medium outdoor) cultivation areas** consisting of up to 696,960 square feet (sq. ft.) of cultivation area, and an **A-Type 13 Self Distribution license**. The property is located at 21340 Eureka Road, Middletown, and is APNs: 014-003-24; 014-140-17, 19, 20 and 21. The applicant is also proposing four 200 s.f. 'storage buildings' to use as drying buildings; four small sheds, portable bathrooms and 6' tall security fencing.

Staff is recommending **Approval with Conditions** of **UP 19-33**.

### **II. PROJECT DESCRIPTION**

**Applicant:** Damien Ramirez

Owner: Three Bees LLC  
Location: 21340 Eureka Road, Middletown  
A.P.N.s: 014-003-24; 014-140-17, 19, 20 and 21  
Parcel Size: 335 acres  
General Plan: Rural Lands  
Zoning: “RL-SC-WW-W”; Rural Lands – Scenic Combining, Waterway - Wetlands  
Flood Zone: X  
Cultivation Area: 16 acres  
Canopy Area: estimated to be 14 acres (about 690,000 sq. ft.)



**Aerial View of 335 acre Properties**

### **III. PROJECT SETTING**

Existing Uses and Improvements: The parcels are about 335+ acres in size, just over the minimum required 320 acre size required for (16) A-Type 3 licenses. The site is undeveloped. No structures requiring building permits are proposed, however four 10' x 20' storage containers are proposed, as well as four small 10' x 10' sheds and a portable bathroom and hand-wash station.

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

- North: “RL” Rural Lands, marginally developed, mostly over 100 acres
- South: “RL” Rural Lands and “O” Open Space; mostly undeveloped and range in size from 40 to over 100 acres
- East: “RL” and “O” Rural Lands and Open Space; marginally developed larger lots are mostly over 100 acres in size

- West: “RL” and “RR” Rural Lands and Rural Residential; marginally developed and are primarily 20 acres in size

Topography: Very Steep, greater than 30%.



### Zoning of Site and Surrounding Lots

Soils: The cultivation areas contain predominantly type **180-Mocho Variant loam**. This very deep, well drained soil is on alluvial plains. Slope is 0 to 2 percent. The vegetation in areas not cultivated is mainly annual grasses and forbs with scattered oaks. Permeability of this Macho Variant soil is moderately slow. The hazard of erosion is slight. This unit is used mainly for livestock grazing. It is also used for orchards, vineyards, hay and pasture, and homesite development. The characteristic plant community on this unit is mainly soft chess, annual clover, and wild oat. This unit is well suited to hay and pasture. The main crops grown on this unit are walnuts, pears, and wine grapes.

Water Supply: Existing well

Sewage Disposal: None (portable restrooms)

Fire Protection: South Shore Fire Protection District (CalFire)

Vegetation: Some oak trees, grass

## **IV. PROJECT ANALYSIS**

### ***General Plan Conformance***

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

## *Chapter 3 – Land Use*

### Section 3.4 – 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-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

*Response: The immediate area consists of lots that range in size from 20 acres to over 100 acres. The lots in this vicinity are generally large and marginally developed with several dwellings within 2000 feet of the cultivation site. The general area has some traditional agricultural uses, however those uses are well over 1000 feet from the proposed commercial cannabis cultivation site and are not immediately in conflict with this proposed project.*

### Section 3.7 – Commercial Development

Goal LU 4: To maintain economic vitality and promote the development of commercial uses that are compatible with surrounding land uses and meet the present and future needs of Lake County residents, the regional community, and visitors.

*Response: This project will employ up to 12 persons during harvest time and will not conflict with other neighboring commercial uses. The area consists of large lots that mostly range between 40 and 100 acres in size. The proposed cannabis cultivation area will consist of 16 acres of cannabis located generally in the central portion of the 335 acre properties.*

### Section 3.9 – 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.

*Response: This project will employ up to 12 persons who will spend their earnings locally purchasing gas, food, paying for rent, and spending money on local commodities. The product once harvested will be sold in area cannabis retail outlets which will further enhance the local economy by employing other local persons who will be spending their money in local retail outlets.*

## **Middletown Area Plan Conformance Analysis**

The subject site is within the Middletown Area Plan's boundary. The following objectives and policies related directly and indirectly to this proposal:

### Chapter 5 – Land Use

Objective 5.1.1 Encourage comprehensive economic development that includes a high level of community participation to the long range benefit of the Planning Area with a

balanced and diverse mix of commercial, manufacturing, residential, tourism and agriculture.

- Policy 5.1.1.a Economic development proposals should involve a high level of community participation.

*Response: Every major use permit requires a public hearing; the public is encouraged to attend and participate whether they support the proposal or oppose it. The changes to the Lake County Zoning Ordinance allowing commercial cannabis cultivation were done through a public hearing process involving the Planning Commission, and ultimately the Board of Supervisors, also through a public hearing process. Commercial cannabis projects must meet all applicable standards and criteria found in the General Plan, the applicable Area Plan, and the applicable portions of the Zoning Ordinance, particularly Articles 27(at) and 51.4, 'Major Use Permit' approval criteria.*

Objective 5.1.5 Encourage comprehensive economic development efforts for the long-term benefit of the Planning Area aimed at increasing local employment opportunities

- Policy 5.1.5b Priority should be given to providing service and employment opportunities locally.
- Policy 5.1.5c Increase local employment opportunities in order to provide an adequate number of jobs to support the local population.

*Response: This project is projected to bring up to 12 jobs to the area using local persons. These employees will spend money locally purchasing gas, food and other local commodities. The product that will result from this cultivation activity will be sold in local retail outlets, which will further enhance the local economic viability within and around the Middletown area through retail employees and tax revenue generated from the product once it is harvested.*

### **Zoning Ordinance Conformance**

Article 7 – Rural Lands (RL). 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 27 - Use Permits**

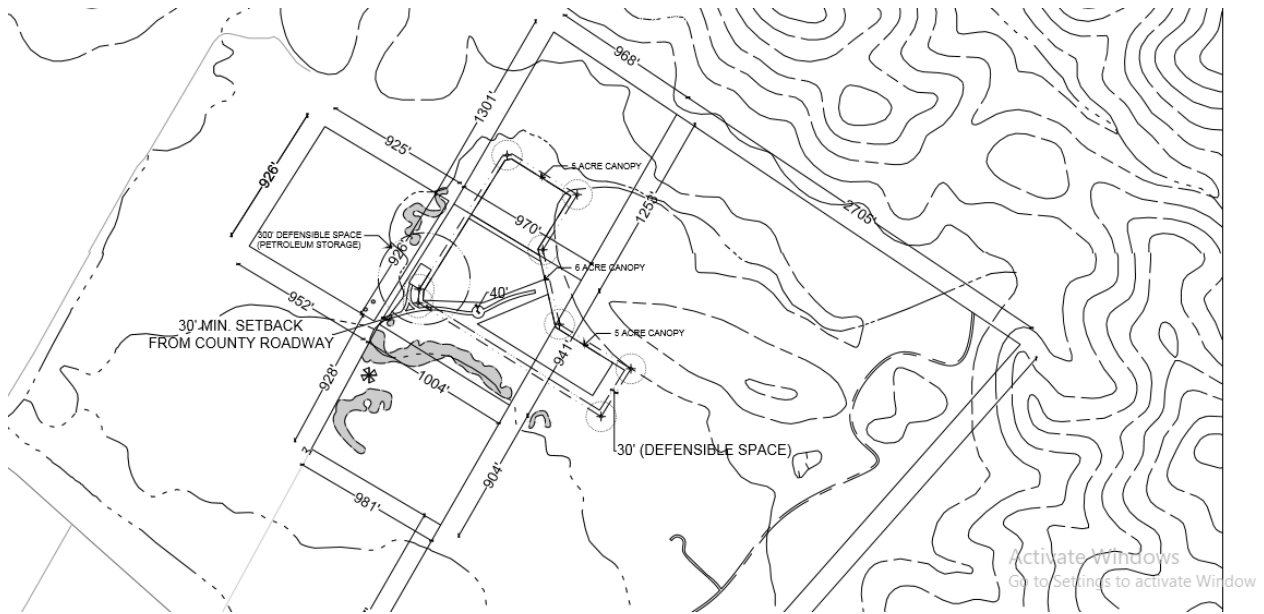
The purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of a zoning permits, minor or major use permits in addition to any required building, grading and/or health permits.

**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 (160 acres): *Complies; the subject site is 335 acres in size. The applicant has applied for (16) A-Type 3 (medium outdoor) cultivation 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 appears to be about 100 feet from the nearest (southern) property line, however no dimensions are given on the site plans showing actual separation distances.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 2000 feet (about ½ mile) away from the nearest cannabis cultivation area.*
- 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. per license): *The proposed canopy area is estimated to be 650,000 sq. ft. in size, and the cultivation area proposed is 696,960 sq. ft.*



### **PROPOSED SITE PLAN**

**General Requirements for Commercial Cannabis Cultivation.** *The applicant meets all of the General Requirements outlined in Section (at) of Article 27 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. 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 listed 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.*

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Please refer to *Initial Study IS 19-51* (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.*** *This project has some potential to have impacts to air quality during and after construction. The following mitigation measures are added to reduce potential impacts to air quality to ‘less than significant’ levels:*

- **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:** All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- **AQ-5:** 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-6: 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.** *This project has some potential to have impacts to the biota found on the site. The following mitigation measures have been added that will reduce impacts to biological resources to 'less than significant':*

- 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.

**Cultural, Geologic and Tribal Resources.** *This project has some potential to have impacts to cultural and tribal resources, as well has to historic geological resources. The following mitigation measures are added to reduce potential impacts to 'less than significant' levels:*

- 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), the applicant shall notify the culturally affiliated Tribe, and a qualified archaeologist to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, the applicant shall notify the Sheriff's Department, the local overseeing Tribe, and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.
- 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 culturally affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.



**VI. 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.

*Response: The immediate area contains rural land with homes that are located at least 2000 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Air Quality, Biological Resources and Cultural / Tribal / Geological Resources. All of these significant impacts have been adequately addressed within mitigation measures and within conditions of approval for this project.*

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.

*Response: The proposal is for combined 696,960 sq. ft. of outdoor cultivation area. The Lake County Cannabis Ordinance allows Type 3 cultivation operations on Rural Lands-zoned property when it meets the size and locational criteria and standards. The applicant seeks seventeen licenses, sixteen of which are A-Type 3 medium outdoor cultivation licenses, which requires a 320 acre minimum. The subject site is over 335 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.

*Response: The site is served by Eureka Road, a paved County road. The road is 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.

*Response: This application was routed to all of the affected public and private service providers including CAL FIRE, South Shore Fire District (CalFire), Public Works, Special Districts, Environmental Health, and all area Tribes. 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.

*Response: 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 growing in the Lake County. General Plan and the Middletown Area Plan do not have any specific provisions for*

*commercial cannabis, although there are goals, objectives and policies related to economic development and compatibility of uses, both of which appear to be met by this proposed project.*

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.

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

**VII. 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 has undergone and passed a background check and is over 21 years of age, allowing him to make this application.*

- (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 seventeen cannabis-related licenses; sixteen for the outdoor cultivation sites and one for a 'self-distribution' license (Type 13). The subject site is 335 acres in size, large enough to support the cultivation licenses; the applicant also qualifies for the Type 13 'Self Distribution' license which has no direct relation to the size of the property.*

**VIII. RECOMMENDATION**

**Staff recommends the Planning Commission:**

**A. Adopt mitigated negative declaration (IS 19-51) for Use Permit (UP 19-33) 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, and AQ-6.

2. Potential environmental impacts related to Biological Resources can be mitigated to less than significant impacts with the inclusion of mitigation measures BIO-1 and BIO-2.
3. Proposed impacts to Cultural / Geological / Tribal Resources can be mitigated to 'less than significant' levels through the inclusion of mitigation measures CUL-1 and CUL-2.
4. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
5. 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 19-33 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. 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. That this project complies with all applicable development standards found within Lake County Zoning Ordinance Article 27(at).
8. That the applicant is qualified to apply for these commercial cannabis licenses.
9. That the application submitted meets the qualifications for a commercial cannabis use permit.

**Sample Motions:**

**Mitigated Negative Declaration**

I move that the Planning Commission find that the **Initial Study (IS 19-51)** applied for by **Three Bees LLC** on property located at **21340 Eureka Road, Middletown**, and is **APNs: 014-003-24; 014-140-17, 19, 20 and 21** 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 **April 8, 2021**.

**Major Use Permit (UP 19-33)**

I move that the Planning Commission find that the **Use Permit (UP 19-33)** applied for by **Three Bees LLC** on property located at **21340 Eureka Road, Middletown**, and is **APNs: 014-003-24; 014-140-17, 19, 20 and 21** 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 **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, 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.*