



## COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department · Building Department · Code Enforcement

707/263-2221 · FAX 707/263-2225

**Scott De Leon**

Community Development Director

**Tocarra Nicole Thomas**

Community Development Deputy Director

Item 2

9:10 AM

April 22, 2021

### STAFF REPORT

**TO:** Planning Commission

**FROM:** Scott DeLeon, Community Development Director  
Tocarra Thomas, Deputy Director  
Prepared by: Sateur Ham, Assistant Planner  
Edited by: Eric Porter, Associate Planner

**DATE:** April 22, 2021

**RE:** **Frosty Oaks, LLC**

- Major Use Permit (UP 19-46)
- Initial Study (IS 19-65)
- Early Activation (EA 19-70)

Supervisor District Eddie Crandell  
Planning Commissioner Batsulwin Brown

**ATTACHMENTS:**

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

### **I. EXECUTIVE SUMMARY**

Frosty Oaks is requesting approval of a Major Use Permit for commercial cannabis cultivation. Location: 1027 Watertrough Road and 21822 & 21946 Merrian Drive, Clearlake Oaks, CA. APNs: 628-100-10 (cultivation site); 628-080-04 and 628-090-03 (co-location lots / no cultivation).

The applicant's proposal includes one (1) **A-Type 3 "Medium Outdoor" License**, outdoor cultivation for adult-use cannabis without the use of light deprivation and/or artificial lighting in the **28,013** sq. ft. of canopy area and one (1) **Type 13 "Self-Distribution" License**. Also proposed:

- 120 sq. ft. storage shed
- 120 sq. ft. security shed
- Four (4) 5,000 gallons water storage tanks
- Two (2) 2,500 gallons water storage tanks (one will be CalFire compliant steel or fiberglass for use as fire suppression tank)
- 6' tall fence with screening around the cultivation areas

## **Water Analysis**

According to the Project Management Plan (Attachment 2), the existing well produces approximately 10 gallons per minute and will utilize the proposed water tanks for storage during the dry season. The well near the northeast parcel boundary will be pumped underground to the water storage tanks proposed near the cultivation site in the eastern portion of the property. Frosty Oaks will install underground water lines from the well to the storage tanks, which are a combination of PVC piping and black poly tubing. Water use is projected to be approximately 600,247 gallons per year. The proposed outdoor cultivation method is in planting beds with drip irrigation systems served by an existing permitted well.

## **Project Details**

All fertilizer and pest management products will be stored in the storage shed. According to the application, personal protective equipment will be used when handling fertilizers and other chemicals. The chemicals used for the operation will be contained and sealed to prevent spillage per the property management plan submitted by the applicant.

The project's core business hours of operation will take place between 8:00 a.m.-6:00 p.m. with deliveries and pickups restricted to 9:00 a.m.-7:00 p.m. Monday through Saturday and Sunday from 12:00 p.m.-5:00 p.m. According to the application, visitation will only be allowed when specific permission is granted.

## **II. PROJECT DESCRIPTION**

<u>Applicant:</u>	Frosty Oaks, LLC (Stuart Spivack)
<u>Owner:</u>	Frosty Oaks
<u>Location:</u>	1027 Watertrough Rd. and [21822 & 21496 Meriann Dr.] Clearlake Oaks, CA 95423
<u>A.P.N.:</u>	628-100-10 and [628-080-04, 628-090-03]
<u>Parcel Size:</u>	68 acres
<u>General Plan:</u>	Rural Lands
<u>Zoning:</u>	Rural Lands-Waterway District Combining
<u>Flood Zone:</u>	“X”: Areas determined to be outside the 0.2% annual chance (500-year) floodplain
<u>Submittal Date:</u>	November 20, 2019
<u>Farmland of Local Importance:</u>	This proposed project is designated as Grazing land and is not located within 500’ of existing agricultural uses

Staff is recommending **approval of Major Use Permit, UP 19-46**, and the **adoption of a Mitigated Negative Declaration** (IS 19-65).



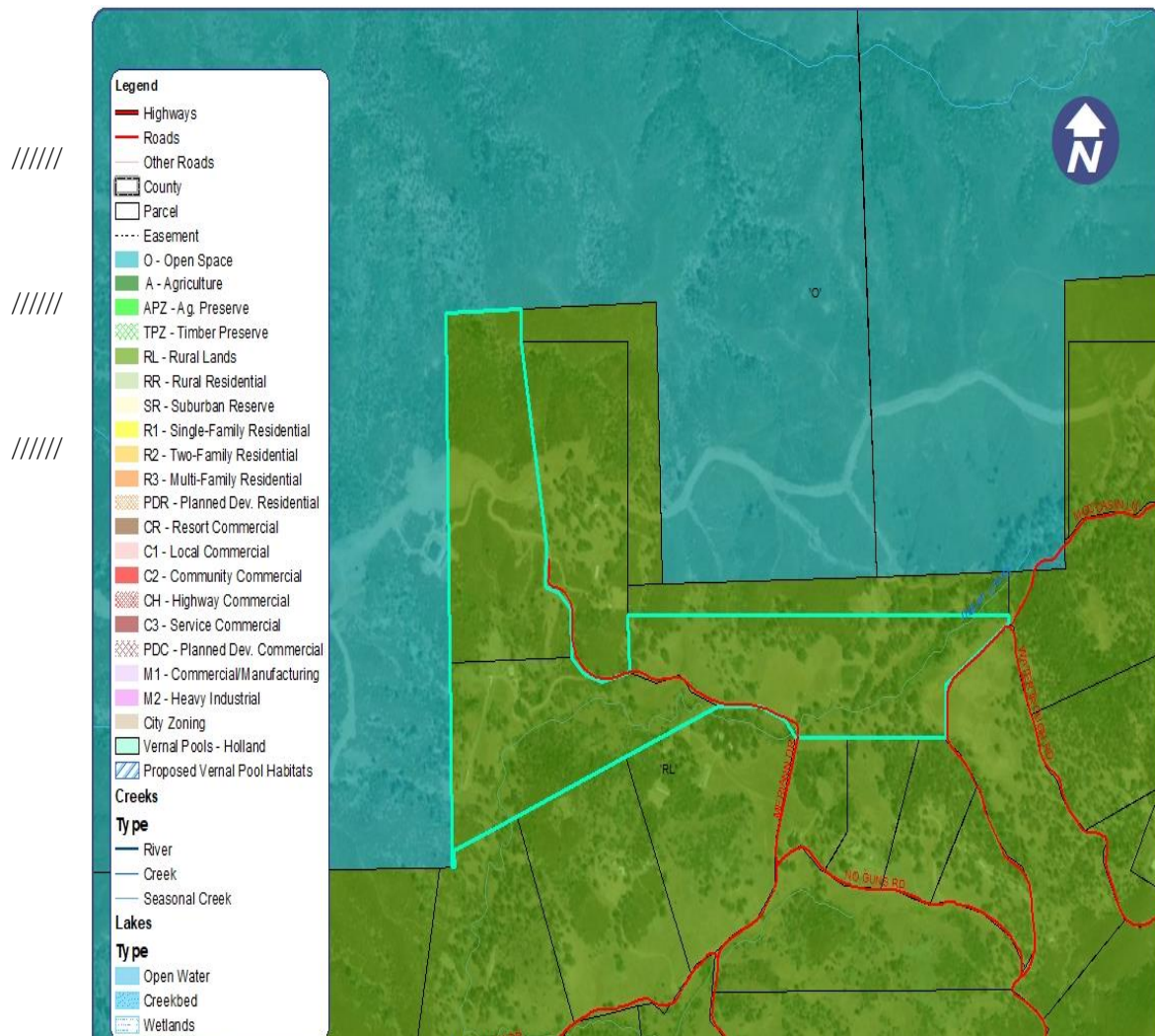
- A: 14,580 Sq. Ft. of Outdoor Canopy Area ((9) 9' wide beds, 180' long, with 2.5' wide aisles)
- B: 5,670 Sq. Ft. of Outdoor Canopy Area ((7) 9' wide beds, 90' long, with 2.5' wide aisles)
- C: 4,050 Sq. Ft. of Outdoor Canopy Area ((5) 9' wide beds, 90' long, with 2.5' wide aisles.)
- D: 1,688 Sq. Ft. of Outdoor Canopy Area ((5) 9' wide beds, 37.5' long, with 2.5' wide aisles)
- E: 2,025 Sq. Ft. of Outdoor Canopy Area ((5) 9' wide beds, 45' long, with 2.5' wide aisles.)
- F: 2,500 Gallon Water Tank (one being steel or fiberglass)
- G: 5,000 Gallon Water Tank
- H: Existing Well Location
- I: Existing 40' x 40' Accessory Structure
- J: Existing 18' x 18' Accessory Structure
- K: Existing 20' x 50' Residence
- L: 120 Sq. Ft. Fertilizer and Pesticide Storage Shed
- M: 120 Sq. Ft. Security Shed
- ++++ Fence
- 100' Property Line Setback
- 100' Creek Top of Bank Setback
- Creek Top of Bank
- Loading Zone
- 20' Graveled Easement Road, less than 16% slope, 75,000lbs capacity.
- 20' Wide Graveled Private Access Driveway, 0-1% slope, 75,000 lbs capacity, 100' in length
- No Development Zone



### III. PROJECT SETTING

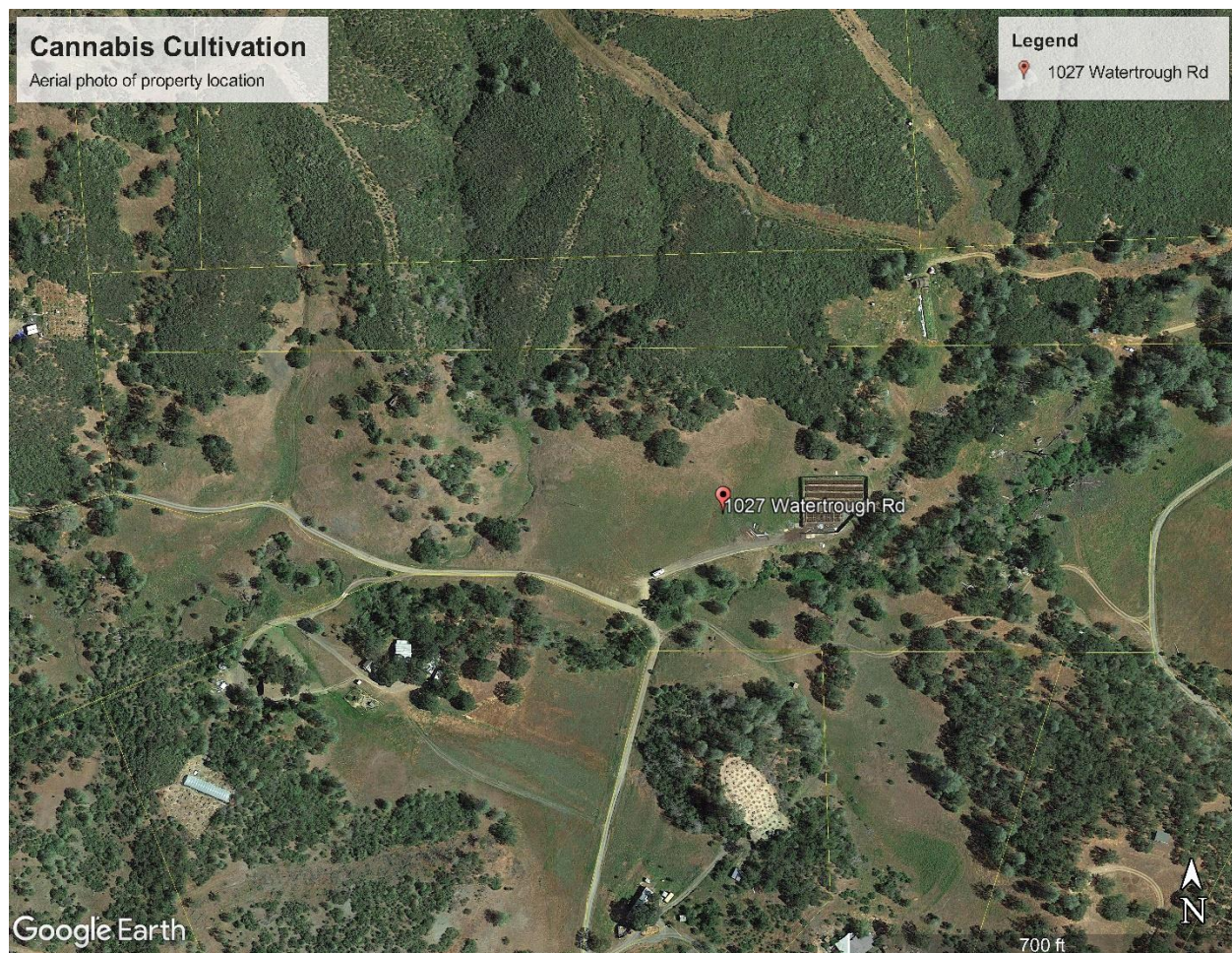
#### *Surrounding Uses and Zoning*

The property is surrounded by “RL” Rural Lands zoned properties, with some “O” Open Space nearby across the north. The sizes of the parcels vary greatly, from just about 5 acres to over 500 acres. About 30% of the nearby properties appear to contain dwellings, while most seem to be currently vacant of use.



*Figure 2. Zoning Map of Site and Vicinity*





*Figure 3. Aerial Photo of Subject Site*

<u>Topography:</u>	The cultivation area is fairly flat with a slope of less than 10%, however, the average cross-slope of the adjoining parcels within the property boundary is between 22-36%.
<u>Soils:</u>	The <u>project area</u> contains Henneke-Montara-Rock (Type 142) soil.
<u>Water Supply:</u>	Existing Well
<u>Sewage Disposal:</u>	On-site septic system
<u>Fire Protection:</u>	Northshore Fire Protection District
<u>Vegetation:</u>	The cultivation area takes place within an area that was previously disturbed
<u>Water Courses:</u>	Indian Creek

#### **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:

*Rural Lands* allows for rural development in areas that are primarily in their natural state, although some agricultural production...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.

*Response: The applicant is proposing commercial cannabis cultivation which is allowed on Rural Lands-zoned property within Lake County per Article 27 of the Lake County Zoning Ordinance but subject to compliance with all applicable standards, criteria and Goals and Policies within the General Plan and The Shoreline Communities Area Plan.*

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

##### **Land Use**

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, create future employment opportunities for residents and allow the expansion of industrial and non-industrial corporate developments. According to the applicant, employees are proposed as part of the project (The number of employees is unknown at this time). The number of employees can increase or decrease depending on the stage of the cultivation season.*

##### ***Shoreline Communities Area Plan Conformance***

The subject site is within the Shoreline Communities Area Plan’s boundary. The Plan contains several policies that are subject to consistency review as follows:

“3.2.1d Assist the local agricultural community and new large agricultural projects to increase water supplies and implement conservation techniques for the use and reuse of irrigation water”.

*Response: Per the zoning ordinance, it is required that all applicants install a water meter to monitor water usage and provide an estimated water calculation based on the canopy size. Also, the project management plan includes proposed irrigation methods and includes how the project will implement water conservation techniques (see Attachment 2).*

“3.4.1c Preserve lands for agricultural production.”

“5.5.3b Preserve areas containing prime agricultural soils or demonstrating unique characteristics that allow for viable economic opportunities for the agricultural industry.”

*Response: The project area is located within Rural Lands with soil designation for grazing lands, which is an area with existing vegetation well suited to the grazing of livestock. The cultivation of cannabis within this area is permitted for outdoor and indoor grows consistent with the project proposal.*

### ***Zoning Ordinance Conformance***

#### **Article 5 – Rural Lands Zoning District**

The purpose to provide for resource-related and residential uses of the County’s undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access.

#### **Article 27 - Use Permits**

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

*The cultivation of commercial cannabis is permitted within the Rural Lands zoning district upon issuance of a use permit, according to Section 27.11 (Table B) of the Lake County Zoning Ordinance. A-Type 3 license allows up to 43,560 sq ft of canopy per license and requires 20 acres. This project, if approved, will consist of 28,013 sq ft of canopy on 68 acres of total combined land area.*

**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 lots are 68 acres in total combined area. 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 over 200 feet away from the cultivation area.*

- Minimum Fence Height of Six (6) Feet: *Complies; the proposed enclosure is a 6 feet tall chain-linked fence.*
- Maximum Canopy Area (43,560 ft<sup>2</sup> maximum for an A-Type 3 “Outdoor”): *Complies; the proposed canopy area would be 28,013 ft<sup>2</sup> of outdoor canopy area.*

**General Requirements.** There are several general requirements for cannabis cultivation listed in Section 27.13(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 27.13(at) of the Zoning Ordinance. Impacts associated with this project can be mitigated to ‘less than significant levels’ through the mitigation measures found within the Conditions of Approval.*

*The applicant has also submitted a Property Management Plan that addresses compliance with specific CEQA-related elements including air quality, biological resources, cultural / tribal resources, energy usage, fertilizer usage, fish and wildlife protection, stormwater management, security, compliance monitoring, etc. Also, the applicant complies with the restrictions regarding the prohibited activities listed in Article 27, subsection 11(at), including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area.*

## **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 19-65; Attachment 5) was prepared and circulated for public review at the State Clearinghouse in compliance with CEQA from **1/21/2021 to 02/19/2021**. The applicant also submitted a Cultural Resource Assessment to the Community Development Department dated April 23, 2019, which concluded that there is a archaeological (prehistoric) site on the property, however, the archaeological site is located outside of the cultivation area and will not be impacted by the project. Avoidance measures will be implemented and included within the conditions of approval (Attachment 4). 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:

- **Air Quality:** This project has some potential to impact air quality. The following mitigation measures are added to reduce potential air quality impacts to ‘less than significant levels’:

AQ-1: Before 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 comply 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: Prior to obtaining the necessary permits and/or approvals for any phase, the 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-5: 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-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 impact biological resources. The following mitigation measures are added to reduce potential biological impacts to ‘less than significant levels’:

BIO-1: All waste and by-products shall be kept in plastic drums with tight fitting lids so that water is not able to make contact with the contents and potentially leach into the environment.

BIO-2: Erosion control and sediment detention devices and materials shall be incorporated into the cleanup/restoration work design and installed prior to the end of project work and before the beginning of the rainy season or any predicted rain events.

BIO-3: Native species appropriate to the local habitat shall be used for all revegetation purposes. Non-invasive, non-persistent grass species (e.g., barley grass) may be used for their temporary erosion control benefits to stabilize disturbed slopes and prevent exposure of disturbed soils to rainfall.

BIO-4: When heavy equipment is used, any woody debris and stream bank or streambed vegetation disturbed shall be replaced to a pre-project density with native species appropriate to the site.

BIO-5: Pesticides and fertilizer storage facilities shall be located outside of the Riparian Corridor setbacks for structures.

BIO-6: Pesticide and fertilizer storage facilities shall not be located within 100 feet of a wellhead, or within 50 feet of identified wetlands.

BIO-7: The use of water provided by a public water supply, unlawful water diversions, transported by a water hauler, bottled water, a water-vending machine, or a retail water facility is prohibited. The utilization of water that has been or is illegally diverted from any

lake, springs, wetland, stream, creek, vernal pool and/or river is prohibited. The applicant shall not engage in unlawful or unpermitted drawing of surface water.

BIO-8: Seek a domestic use registration for ponds from California Water Board, Division of Water Rights for wildlife.

BIO-9: The applicant shall maintain all necessary permits from the Central Valley Regional Water Quality Control Board and submit written verification to the Community Development Department. A copy of all permits shall be included in the Annual Performance Report.

BIO-10: If brush or tree removal work is to be conducted within the breeding season (February 15th-August 15th) a nesting bird survey should take place by a qualified biologist no more than 3 days prior to impact or removal of vegetation. Any active nests should be protected with a 50-100 foot buffer (species dependent) until the nest is found to be no longer active.

BIO-11: If additional project expansion is planned, the new project area should be evaluated for species impacts prior to site grading or vegetation removal.

- Cultural / Tribal Cultural Resources: This project has some potential to impact cultural and tribal 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 local overseeing Tribe(s) 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. Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98 and with California Health and Safety Code section 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 local overseeing Tribe(s) shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

CUL-3: No ground disturbance activity shall take place in the recorded prehistoric area, however if ground disturbance is ever planned, a mitigation plan must be developed to protect or recover the information contained in this resource in accordance with California Environmental Quality Act (CEQA).

CUL-4: The recorded prehistoric site shall be avoided by both construction and equipment staging activities.

- Geology/Soils: This project has some potential to impact geological resources. The following mitigation measures are added to reduce potential geological impacts to 'less than significant' levels:

GEO-1: Prior to any ground disturbance, the permittee shall submit 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 project installation. The applicant shall include a detailed description of the relocation or proper disposal of excess soil of said excavation.

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 Department 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.

GEO-4: The project design shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post-construction pollutants into the County storm drainage system. BMPs typically include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapters 29 and 30 of the Lake County Code.

GEO-5: Divert runoff away from unprotected slopes or loose soils using a combination of mats, geotextiles, silt fencing, straw wattles, check dams, sediment basins, vegetated buffers, or rock armor.

GEO-6: All temporary exposed piles or soil or surface disturbances shall have tarping and sand bags or other stabilization materials deployed in order to prevent discharge of sediments in the event of a rain or wind event.

GEO-7: Avoidance of earthwork on steep slopes and minimization of cut/fill volumes, combined with proper compaction, shall occur to ensure the area is resilient to issues associated with seismic events and mass wasting. If cracks are observed or new construction is anticipated, consultation with a qualified profession is recommended.

- Hydrology / Water Quality: This project has some potential to impact water quality. The following mitigation measures have been added to bring this project to ‘less than significant levels’ regarding potential water-related impacts:



HYD-1: The applicant shall adhere to all Federal, State and Local regulations regarding wastewater treatment and water usage requirements.

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 and/or upon made upon request.

HYD-4: No additional grading should occur without county permits.

HYD-5: A road assessment is recommended for all roads within the Project Area to further identify areas for improvement.

HYD-6: To remediate sediment impacts within and adjacent to project area watercourses, a Lake and Streambed Alteration Agreement is being recommended for submission to the California Department of Fish and Wildlife.

HYD-7: A water quality permit or Cannabis Cultivation General Order Waste Discharge Requirement from the California Water Board is recommended to ensure waste waters discharged from the project area do not adversely affect waters of the State and to ensure appropriate water resource buffer zones are established.

HYD-8: Prior to construction, the applicant shall provide a new site plan for the property to show all dimensions and setbacks to meet all federal, state, and local regulation and conform to all building codes.

- Noise: This project has some potential to generate noise, particularly during construction activities. The following mitigation measures have been added to alleviate potential noise-related impacts:

NOI-1: All construction activities including engine warm-up shall be limited Monday through Friday, between the hours of 7:00 a.m. and 7:00 p.m. to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels.

NOI -2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. 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 7:00 a.m. to 10:00 p.m. and 50 dBA from 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

With the incorporation of the mitigation measures (above) and as found in Attachment 5 (Conditions of Approval), all impacts can be reduced to less than significant levels.

## **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.

*Response: The proposed commercial cannabis cultivation is permitted in the Rural Lands zoning designation upon issuance of a Major Use Permit according to Article 27 of the Lake County Zoning Ordinance, which provides specific measures that will alleviate potential impacts to the general welfare of the community. This staff report evaluates the degree of compliance with the specific regulations, standards, criteria and Plan policies that are applicable to this proposed project. The cultivation application material submitted also includes providing specific plans such as security plans, erosion and sediment prevention plans, stormwater plans, water management plans, and other plans to ensure that the proposed use would not adversely impact the site or surrounding area. Additionally, the Community Development Department would conduct an annual compliance monitoring inspection 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.

*Response: The proposed canopy area is 28,013 ft<sup>2</sup>; this represents 0.9% of the 68-acre site. The proposed project meets all siting and development standards for cannabis. The site is adequately sized to accommodate the proposed project with the incorporation of all buffer zones due to physical characteristics to avoid sensitive biological resources and cultural resources as well as a setback from property lines and nearest off-site dwelling.*

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

*Response: The circulation system will not cause any additional impact on the roadway to the cultivation site. Per the Public Resource Code 4290 Fire Safe Requirements, the project is exempt from meeting CalFire road standards due to the absence of any structures requiring a building permit. The applicant must comply with all building codes once a building is constructed.*

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 Public Works, Special Districts, Environmental Health, and PG&E. No adverse comments were received. The applicant will be subjected to all agency requirements as part of any future developments and will be included as part of the conditions of approval. Also, there are adequate public services to accommodate the proposed project. Relevant comments are attached as 'Attachment 6'.*

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: Commercial cannabis cultivation is a conditionally-permitted use for land designation Rural Lands within Article 27 of the local zoning ordinance subject to compliance with all applicable standards, criteria and Plan policies. This proposal is consistent with the governing ordinance for cannabis cultivation in Lake County. The proposal, as conditioned, meets all requirements and development standards of the Zoning Ordinance. The General Plan and the Shoreline Communities Plan do not have any provisions for commercial cannabis, but both plans include either direct and/or indirect provisions for economic development and related policies that the project such as initiatives for potential economic growth within the county (see Section IV, Project Analysis, above).*

6. That no violation of Chapters 5, 17, 21, 23, or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from public health, safety or general welfare basis.

*Response: 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 approval of a Major Use Permit, the following findings are required for approval of a cannabis-specific Use Permit and are found in Article 27 of the Lake County Zoning Ordinance, subsection (at):

1. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i. as outlined in this staff report.

*Response: The purpose of this staff report is to evaluate compliance with all applicable standards and criteria found within Chapter 21 of the Lake County Code (Zoning Ordinance), as well as the adopted General Plan and Area Plan.*

2. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g) as outlined in this staff report.

*Response: The applicant has undergone and passed the required background check through the Lake County Sheriff's Department, and is qualified to make this application.*



3. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

*Response: This application complies with all submittal requirements for a commercial cannabis cultivation license based on the materials submitted, and based on the Conditions of Approval that were prepared for this license.*

## **VII. RECOMMENDATION**

### **Staff recommends that the Planning Commission take the following actions:**

#### **A. Adopt Mitigated Negative Declaration (IS 19-65) for Major Use Permit (UP 19-46) with the following findings found in Attachment 5:**

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

#### **B. Approve Major Use Permit UP 19-46 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, Shoreline Communities 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 19-46)** applied for by **Frosty Oaks, LLC (Stuart Spivack)** on property located at **1027 Watertrough Road and 21822 & 21946 Merrian Road, Clearlake Oaks, CA**, further described as **APNs: 628-100-10, [628-080-04 & 628-090-03]** 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 22, 2021**.

#### **Major Use Permit (UP 19-46)**

I move that the Planning Commission find that the **Major Use Permit (UP 19-46)** applied for by **Frosty Oaks, LLC (Stuart Spivack)** on property located at **1027 Watertrough Road and 21822 & 21946 Merrian Road Clearlake Oaks, CA**, further described as **APNs: 628-100-10, [628-080-04 & 628-090-03]** does meet the requirements of Section 51.4 and Article 27, Section 1(at) [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 **April 22, 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 fees must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*

