



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

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Scott De Leon

Community Development Director

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Community Development Deputy Director

STAFF REPORT

TO: Planning Commission

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

Prepared by: Eric Porter, Associate Planner

DATE: April 22, 2021

RE: **WeGrow LLC**

- **Major Use Permit (UP 20-22)**
- **Initial Study (IS 20-25)**
- **Early Activation (EA 20-26)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Conditions of Approval
5. Site Plans
6. Initial Study (CEQA)
7. Biological Assessment
8. Vacant
9. Public Comments

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for commercial cannabis cultivation to allow fifteen (15) A-Type 3B (medium mixed light) commercial cannabis cultivation licenses and one (1) A-Type 1C (specialty cottage) license that would include 400,405 sq. ft. of mixed light cultivation area inside of greenhouses on a property located at 16750 Herrington Road, Hidden Valley Lake, California, APNs 013-060-40, 013-014-03 and 11. The project includes one (1) A-Type 13 'Self Distribution' license to enable legal transportation of cannabis to and from the property.

The applicant's specific project proposal includes the following:

Fifteen (15): A – Type 3B: “Medium Mixed Light” Licenses: Greenhouse cultivation for adult use cannabis using light deprivation and/or artificial lighting in the canopy area of 22,000 square feet of total canopy size on one premises per license.

- *The total proposed cultivation canopy is approximately 400,405 square feet. (roughly 9 acres) and will be cultivated in greenhouses.*

One (1): A-Type 1C: “Specialty Cottage” license: Greenhouse cultivation for adult use cannabis using light deprivation and/or artificial lighting and consisting of up to 2,500 sq. ft. of canopy; and,

One (1): A – Type 13 “Self Distribution License”

Project Details: The applicant is proposing the construction of the following:

1. Thirty (30) 90' x 125' greenhouses
2. One (1) 90' x 112' greenhouse
3. Four (4) 90' x 125' nursery greenhouses
4. Four (4) 50' x 100' drying buildings
5. One (1) 200 sq. ft. shed
6. Four (4) 2,500 gallon water tanks.
7. One (1) 6-foot tall galvanized woven wire fence covered with privacy mesh to screen the greenhouses from public view.
8. Removal of 20 to 30 mature oak trees native to Lake County, all of which are greater than 5" diameter measured at 4.5" measured at breast height

The applicant has submitted a project summary which is paraphrased as follows.

The current owner of the property is Zarina Otchkova who is also the project manager. The total acreage of all of the parcels is 309.06 acres (154.02 + 103.3 + 51.74) and the parcel is split zoned RL/RR-WW; Rural Land/Rural Residential - Waterway. The parcel is located roughly 1.5 miles west of the intersection of Highway 29 and Spruce Grove Rd in Hidden Valley Lake CA. The parcel lies within the 8-digit HU (Sub basin): Kelsey Creek - Clear Lake, and Crazy Creek - Putah Creek Watershed (HUC10). There is an unnamed perennial Class III watercourse indicated on the NHD map layer utilized by California resource agencies via CNDDB and the Federal NWI map layer, which flows across the south eastern corner of the Project property. The Biological Report also identified a creek and a potential wetland on the northeastern corner of the parcel. The cannabis cultivation area will be setback a minimum of 150 feet from the top of the bank of any bodies of water. There are no other surface water bodies on the Project property. There will be no surface water diversions or water crossings with this project.

Commercial cannabis is tightly regulated by CalCannbis in terms of chemicals that are introduced to and through the plants. Consequently, WeGrow has stated that they will be fully organic with their supplements of both dry and liquid fertilizers. The proposed dry fertilizers include dry worm castings as well as Chicken and Bat Guano. As for liquid fertilizers most of it will be coming from MaxSea and organic compost. The pesticides that will be used for this cultivation project include neem oil and capsaicin, both at limited quantities during the growing months and only used when necessary. All of the fertilizers, nutrients, and pesticides will only be purchased and delivered to the property as needed, and will be stored separately in the secure storage shed, in their original containers and

used as impermeable surface with secondary containment, at least 150 feet from surface water bodies. Empty containers will be disposed of by placing them in a separate seal tight bin with a fitted lid and disposed of at the local solid waste facility within the county. At no time will fertilizers/nutrients be applied at a rate greater than 319 pounds of nitrogen per acre per year (requirement of the State Water Resource Control Board's Cannabis General Order). Water soluble fertilizers/nutrients will be delivered via the drip and micro-spray irrigation system(s) of the proposed cultivation operation to promote optimal plant growth and flower formation while using as little product as necessary. Petroleum products will be stored year-round in State of California-approved containers with secondary containment and separate from pesticides and fertilizers, within the processing facilities.

WeGrow has stated that all agricultural chemicals associated with cannabis cultivation (fertilizers, pesticides, and petroleum products) will be stored within the secure proposed 200 sq. ft. storage area. The proposed processing buildings will contain cannabis processing activities such as drying, trimming, curing, and packaging. The nearest offsite residence is over 350 feet away from the proposed cultivation area. All areas of the proposed project will be fully out of view from all public view due to the dense vegetation and slope of the location.

The proposed cultivation operation will utilize drip irrigation systems, to conserve water resources. The well in the center of the property is directly next to the proposed cultivation area. Since the well, storage tanks and cultivation area all within feet of each other above ground water lines will be used which will be a combination of PVC piping and black poly tubing. Water use is projected to be approximately 4,713,000+ gallons per year (please see Water Use Section for methodology). The cultivation area is nearly completely flat with little to no slope, meaning rainwater runoff will not be a huge concern. Straw wattles are proposed around southeastern portion of the cultivation area to filter potential sediment from stormwater as it moves on to the property's seasonal drainages to the east. The natural existing vegetated buffer will be maintained as needed between all project areas and waterways on the property.*

A Biological Assessment for the property was completed on March 1, 2020 and prepared by Pinecrest Environmental Consulting Inc. The results of the Biological Assessment are described as follows:

- *No special status plant species were observed, and no impacts are expected to occur to any based-on lack of sighting and lack of suitable habitat at the cultivation area.*
- *No special status animal species were observed, and no impacts are expected to occur to any. There are several wetlands on the eastern portion of the parcel that may be suitable for sensitive frog species and should not be disturbed.*
- *No impacts are predicted for sediment discharge to watercourses or wetlands due to the absence of the features near the cultivation area.*
- *No impacts are predicted for habitat conservation or with local ordinances and no further mitigations are required.*

A Cultural Resource Evaluation for the parcel was completed on February 28, 2020 prepared by [Wolf Creek Archaeology LLC]. Although 1 historic/prehistoric site was discovered during the field inspection, this resource was recorded south of the proposed project area. No other historic or prehistoric cultural materials were discovered. Based on the field evaluation by [Wolf Creek Archaeology], it was recommended that the proposed project be approved as planned.

WeGrow's site will require a high amount of electricity as they will be cultivating 400,405 sq. ft. of canopy in greenhouses with a maximum of 25 watts per square foot. All electricity needed for the project will be supplied from PG&E through the existing connection but will require an electrical upgrade. The proposed project is proposing a backup generator to be used in emergency situations when electricity cannot be supplied by PG&E. The project does not propose the storage or use of any hazardous materials. All organic waste will be placed in the designated composting area within the cultivation area. All solid waste will be stored in bins with secure fitting lids until being disposed of at a Lake County Integrated Waste Management facility, at least once a week during the cultivation season. The closest Lake County Integrated Waste Management facility to the proposed cultivation operation is the Eastlake Landfill.

The Project Property is currently accessed by a private gravel driveway off Herington Road. The existing access driveway on the property leads to the center of the property where the cultivation area is proposed. At minimum the driveway will be 20 ft wide with 14 ft of unobstructed horizontal clearance and 15 feet of unobstructed vertical clearance. The access driveway will have 6-inch gravel added to the entire length of it and have 6 parking stalls (one ADA) as well as hammerhead turnaround in front of the cultivation area that will be 20' wide and 60' in length. A gate will be installed with an entrance of at least 2 feet wider than the width of the traffic lane with a minimum of 14 feet unobstructed horizontal clearance and 15 feet on unobstructed vertical clearance. The access gate will be located at least 30 feet from the main shared access road and property line. The gate will be locked outside of core operating/business hours (8am to 6pm) and whenever WeGrow personnel are not present. The gate will be secured with a heavy-duty chain, commercial grade padlock and a Knox Box to allow 24/7 access for emergency services. Only approved WeGrow managerial staff and emergency service providers are able to unlock the gates on the Project Property. The cultivation area fence will be a 6 ft tall chain link fence with a privacy mesh screen and mounted with security cameras. Posts will be set into the ground at not more than 10-foot intervals, and terminal posts set into concrete footings.

A site visit by retired Fire Chief and current Code Enforcement Manager Andrew Williams and Associate Planner Eric Porter took place on March 19, 2021. Mr. Williams observed that the existing interior driveway was not adequate to meet Public Resource Codes 4290 and 4291 (CalFire road standards for commercial development), but that the interior road and entry gate could be made to be compliant with appropriate conditions of approval and mitigation measures to this project implemented and verified prior to cultivation.

Water Analysis

A well report was submitted by the applicant; the report was written in September 1997 when the well was drilled. There are no other more recent reports as of March 20, 2021.

In the 1997 report, water was found at a depth of 60 feet, and the well produced 106 gallons of water per minute, which is regarded as a high-producing well. Unknown is the extent or depth of the aquifer in this area, or what the rate of well recharge is once the well is stopped for a period of time.

The Lake County Zoning has no minimum gallons per minute productivity; water depth / recharge rate, or other regulations for what constitutes an adequate water availability analysis. In this case the applicant has verbally consented to having a 5,000 gallon metal water tank adapted with fire department connection hoses, along with four 5,000 gallon plastic tanks to hold irrigation water.

The applicant will use a drip-irrigation system inside the greenhouses, which is more water-efficient than other methods of irrigation. Cannabis plants typically require between 4 and 6 gallons of water per day per plant.

The applicant has provided projected water usage data within the following chart, however this analysis did not include the water needed to irrigate the screening trees recommended as conditions of approval for the removal of existing live oak trees .

The following chart shows the proposed water usage for the cannabis cultivation minus the replacement tree irrigation water that will be needed for the live oak trees.

Total Project Water Use Estimates*		
Inches	Gallons	Acre Feet
20-25 (best case scenario)	3,770,727 --- 4,713,410	11.5 --- 14.4
25-30 (likely scenario)	4,713,410 --- 5,656,089	14.4 --- 17.3
30-35 (worst case scenario)	5,656,089 --- 6,598,772	17.3 --- 20.2
Estimated Water Use Total for Project*		
<i>25 Inches is estimated</i>	<i>4,713,410*</i>	<i>14.4</i>

CONSTRUCTION DETAILS

According to the applicant, the following is in regards to the site preparation and construction:

- Approximately 150 cubic yards of earth will be excavated to accommodate the greenhouse pads and drying building pads. Although the applicant has applied for a grading permit, a building permit required for any building over 200 sq. ft., including greenhouses, allows up to 500 cubic yards of earth to be moved without a grading permit being required. Less than 500 cubic yards of earth will be removed by this proposal, which will occur on flat ground. The road improvements will not require significant grading, nor will the interior road improvements, or the removal of the estimated 20 to 30 native oak trees that are located on the property.
- Construction is anticipated to last between two and four months.
- The interior roadway will be improved with 6" of gravel base to a width of 20' to meet the CalFire Road Standards as provided in the California Public Resource Code Sections (PRC 4290 and 4291). The entry gate will be widened to no less than 22 feet, and a 'knox box' shall be installed on the gatepost to enable emergency vehicle access to the site if needed.
- Materials and equipment will only be staged on areas disturbed prior to the project application completion (existing roads, parking and work areas). No areas undisturbed at the start of the project will be disturbed during the project for the purpose of staging materials or equipment.
- Any drivers will be instructed to drive slowly for safety and keep down dust to mitigate the generation of dust during construction.
- All construction activities, including engine warm-up, will be limited to Monday through Saturday between the hours of 7:00am and 7:00pm.
- All equipment will be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. All equipment will only be refueled in locations more than 100 feet from surface water bodies, and any servicing of equipment will occur on an impermeable surface. In the event of a spill or leak, the contaminated soil will be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
- Estimated daily construction-related trips are up to 10 trips per day during the construction period.

POST CONSTRUCTION (OPERATIONAL) DETAILS. If this project is approved, the following operational characteristics will be met:

- Up to 20 employees per day will work on site
- Between 40 and 80 average daily vehicle trips are anticipated
- An ADA-compliant restroom and hand wash station is required on the property
- A minimum of 20 regular parking spaces and one ADA-compliant parking space is required on site.
- Operational noise levels of greenhouse filtration systems shall not exceed the maximum decibel levels established within the Lake County Zoning Ordinance as measured at the property line(s).

- Generators are only allowed to be used during power outages as a backup power source.
- Water is required to be obtained on-site. No ‘trucked in’ water is permitted.
- Light must be contained within greenhouses. The only outdoor lighting allowed associated with this project is security lighting around the perimeter of the fenced cultivation area that is downcast and is not visible from neighboring properties or public roads.
- The applicant has not provided energy usage calculations. A typical ‘greenhouse cultivation’ activity usually requires no less than 400 amps or more of power. This project will likely require significantly more power than 400 amps. The burden of proof is on the applicant to determine (1) total power needs; (2) who will supply this power (PG&E; on-site solar arrays, et cetera), and (3) how the County can be assured that this power need will be met by the applicant.

II. PROJECT DESCRIPTION

Applicant/Owner: We Grow LLC / Zarina Otchkova

Location: 16750 Herrington Road, Hidden Valley Lake

A.P.N.s: 013-060-40, 013-014-03 and 11

Parcel Size: ±309 acres

General Plan: Rural Lands – Resource Conservation

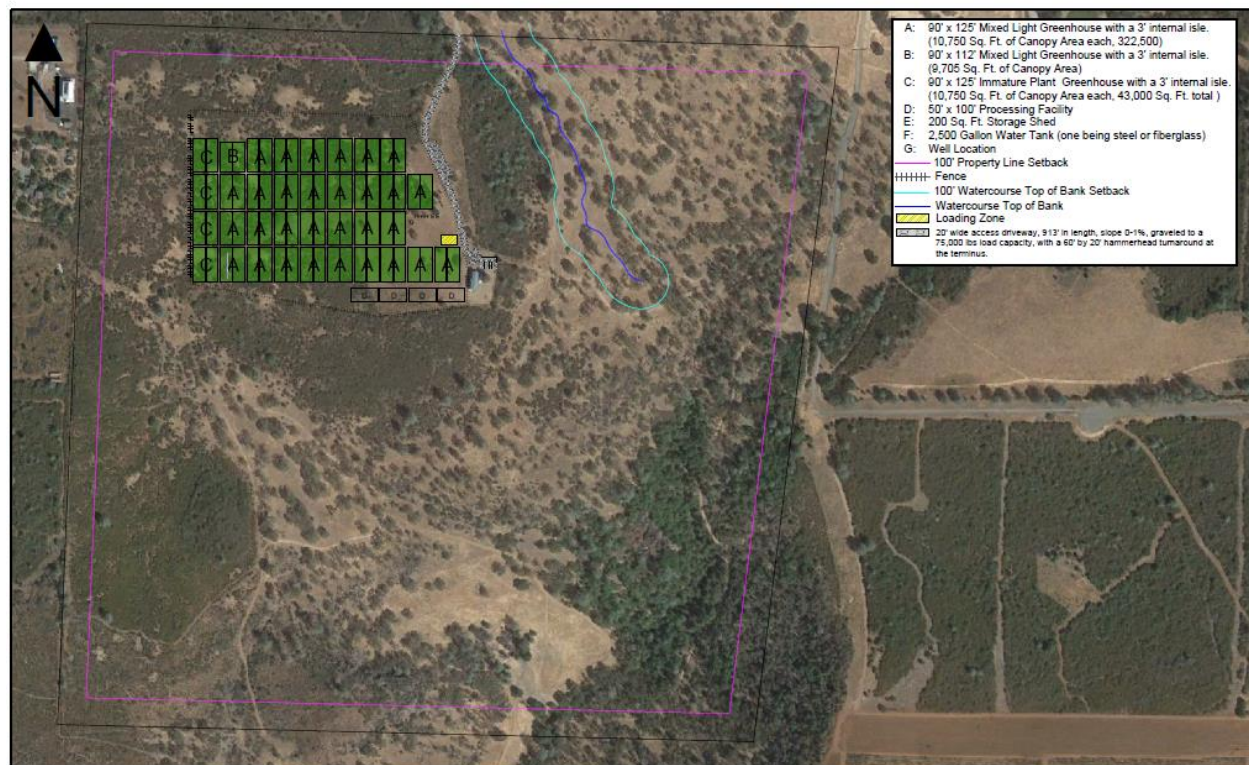
Zoning: “RL-RR-WW”: Split: Rural Lands – Rural Residential - Waterway

Flood Zone: None

Submittal Date: March 5, 2020



VICINITY MAP



PROPOSED SITE PLAN

Surrounding Uses and Zoning

West: “RR” Rural Residential and “R1” Single Family Residential; developed lots including lots within the Hidden Valley Lake development.

The actual cultivation site is not within a Community Growth Boundary, but is about 2,300 feet to the southeast of the Hidden Valley Lake Development. The park shown in blue below is more than 1000 feet from the proposed cultivation site.



Topography: The site is relatively flat with a slope of less than 10%.

Soils: The project area contains the following soil type:

- Type 219, however the soil to be used on site will be in fabric pots located inside of greenhouses, and will be imported onto the site to ensure quality control of soil.

Water Supply: Existing Well

Sewage Disposal: Existing and future on-site septic systems.

Fire Protection: South Lake Protection District

Vegetation: Scattered oaks, manzanita shrubs and grasses

Water Courses: Several unnamed seasonal streams

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands, Rural Residential and Resource Conservation. 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, 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.

Rural Residential

This land use category is designed to provide single-family residential development in a semi-rural setting. Large lot residential development with small-scale agricultural activities is appropriate. These areas are intended to act as a buffer area between the urban residential development and the agricultural areas of the County. Building intensity should be greater where public services such as major roads, community water systems, or public sewerage are available. However, most of the lands designated for this land use category would have wells and septic systems. These lands provide important ground water recharge functions. As watershed lands these lands function to collect precipitation and provide for important filtering of water to improve water quality. They are generally supportive to the management of the natural infrastructure of the watersheds.

Typical uses permitted by right include single family residences; crop production; raising of poultry, rabbits, and other small animals for domestic use; raising of bovine animals, horses, sheep, and goats for domestic use; and sale of crops produced on the premises. Typical uses permitted conditionally include agricultural-related services and recreational facilities. This designation is primarily located outside of Community Growth Boundaries, but some areas will be appropriate inside these boundaries as well. The compliance with the applicable General Plan policies and goals is below.

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 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.

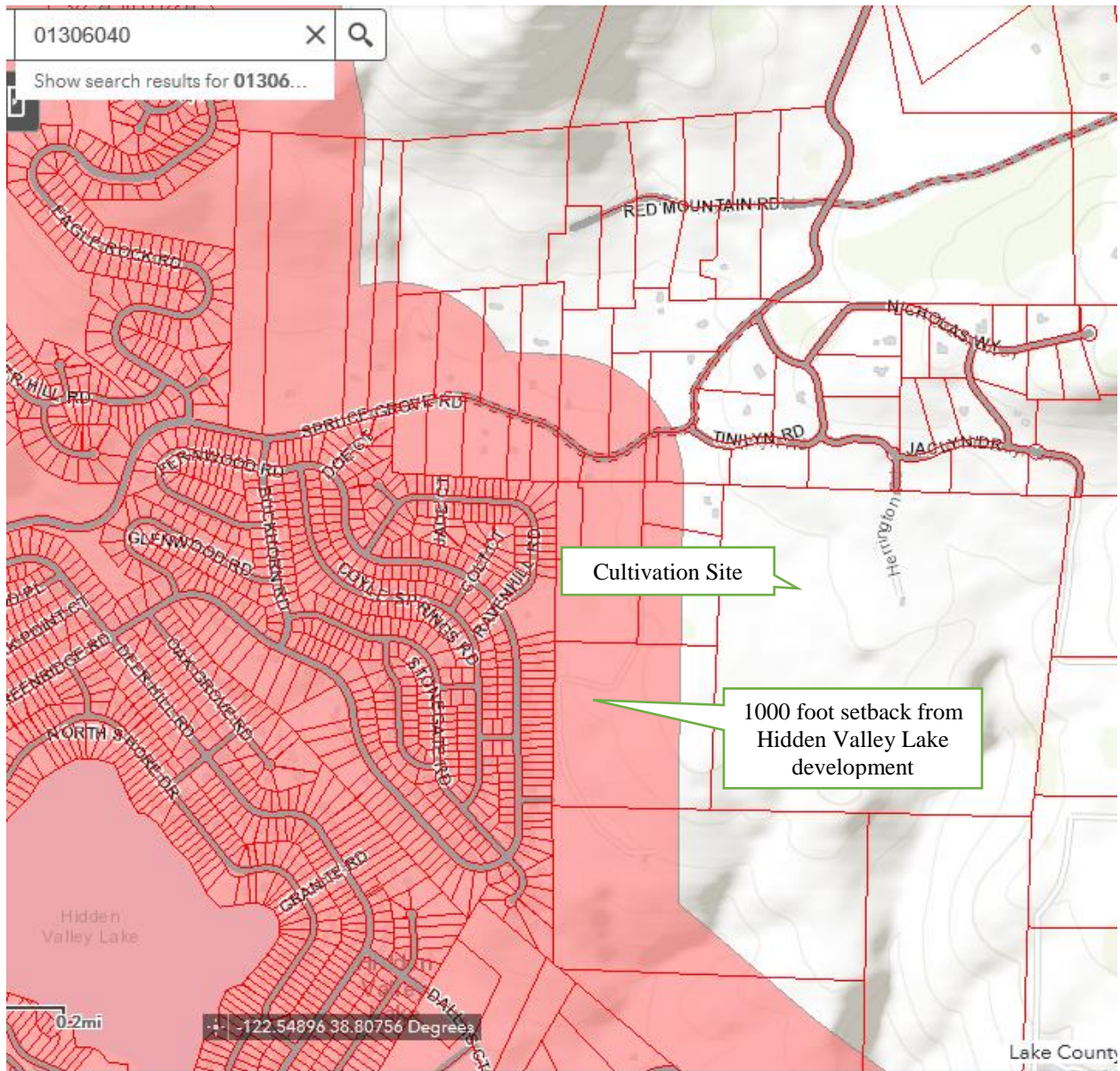
Response: Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands land Use Designation upon securing a Minor/Major Use Permit. However, this particular project is near Hidden Valley Lakes Development, although the cultivation area is outside the 1000 foot setback required under Article 27; see 'Exclusion Area' map below. Staff has received multiple comments for this project; mostly from Hidden Valley Lake residents who are opposed to the project.

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on type of operation and chemicals used for spraying.

Response: In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the County requires a minimum 100 foot setback from all property lines of the subject property, a minimum 100 foot setback from the top of bank of any surface water source, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 1100 feet to the west of 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. This project complies with all of these required setbacks. See Map below.



CANNABIS EXCLUSION AREA MAP

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

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

Response: The proposed Commercial Cannabis Operation would create diversity within the local economy, and create future employment opportunities for local residents. According to the applicant’s application there is total of up to twenty (20) employees

proposed which will add to the economic vitality of south Lake County by employees purchasing gas, food and commodities, which in turn will help local retail stores economically. The number of employees working on site will vary between 10 and 20 depending on the stage of the cultivation season.

Middletown Area Plan Conformance

The subject site is within the Middletown Area Plan's boundary which includes Coyote Valley (located south of the subject site) and Hidden Valley Lake. The Plan contains several policies that are subject to consistency review as follows:

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: Although commercial cannabis cultivation is not a traditional economic development activity, this proposed project will employ between 10 and 20 employees who will spend money in Lake County. This proposal requires public notices to be sent out to neighboring property owners within 725 feet of the outer property line of the subject sites, as well as to any persons who desire to participate in the public hearing process regardless of whether the participants support or oppose this project. In total, over 80 public hearing notices were sent out as of March 26, 2021. Participation in the public hearing process is highly encouraged.

- **Policy 5.1.4b** Make agriculture more economically viable by encouraging the development of value-added agricultural industries that support tourism and maintaining sites in agricultural production, as long as the agricultural tourism uses do not negatively impact on-going agricultural operations on adjacent lands.

Response: The project site is eligible for commercial cannabis cultivation. The site would not be open to the public, so no tourism of the site will occur. The project will however add revenue to local cannabis retailers, and the employees of this project will spend money locally on food, gas and other commodities, further aiding the Lake County economy. There are no agricultural uses within 1000 feet of the proposed cultivation site; See Aerial Photo, next page.

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.

Response: As previously stated, this project will employ between 10 and 20 persons. Those persons will spend money locally, and will likely be hired from local areas. Further,

commercial cannabis will support other primarily local retail outlets that sell commercial cannabis products, further enhancing economic vitality within Lake County.

The Community Development Department has written an Initial Study, on the proposed use and has incorporated mitigation measures to reduce potential environmental impacts identified in the Study to less than significant. These mitigation measures include but are not limited to Erosion Control and Sediment Plans using Best Management Practices, and the protection of Biological, Archaeological, Geological, and Historical Resources and will be discussed in further detail in below.



Aerial Photo of Site and Surrounding Lots

Zoning Ordinance Conformance

Article 37 – Waterway Combining District (WW)

A seasonal stream traverses through the parcel on the northern portion. Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the traditional minimum setback for intermittent waterways is thirty (30) feet from the top of bank, however Article 27(at) requires a greater setback of 100 feet to top of bank. This setback is met with this proposal according to the applicant's Site Plan, aerial photos, and County GIS mapping data.

Article 8 – Rural Residential (RR)

The Cultivation of Commercial Cannabis is permitted in the “RR” Rural Residential 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.

Article 27(at) – Commercial Cannabis Cultivation Regulations

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 permits in addition to any required building, grading and/or health permits. Article 27, Table B, allows the cultivation of commercial cannabis in the RL and RR zoning districts subject to a use permit being issued, and subject to compliance with a variety of Plans, standards, criteria and specific regulations. Compliance with all applicable Plans, standards, criteria and specific regulations is the basis of this staff report.

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 each A-Type 3B license and 5 acres per each A-Type 1C license is required; 15 A-Type 3B licenses and one A-Type 1C license is requested): *Complies; the lot is ±309 acres in combined size. The applicant needs 300 acres for fifteen (15) A – Type 3B licenses and 5 acres for an A-Type 1C specialty cottage license for 305 acres required as a minimum. The project as planned meets the lot size requirement.*
- 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 1100 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6’ tall.*
- Maximum Canopy Area (22,000 sq. ft. maximum for an A – Type 3B “Mixed Light” license). *Complies; the proposed canopy area would be about 329,700 sq. ft. of mixed light (greenhouse) canopy area, and 400,000+ square feet of mixed light cultivation area.*

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 either meets the General Requirements outlined in Section 27 of the Zoning Ordinance or, if the requirements have not yet been met, a condition has been added the permit to ensure compliance. Conditions that have not been met but will be met if this permit is approved include tree replacement for the estimated 20 to 30 mature oak trees that will be removed; on-site water storage for irrigation and fire suppression (there is currently one 5,000 gallon metal tank on site; an additional 20,000 gallons of water storage is proposed); ADA-compliant restrooms and handwash stations for employees; one ADA-compliant parking space and 20 regular dedicated parking spaces, and Public Resource Code (PRC) 4290 and 4291 interior road / gate compliance being among the conditions that are required of this project. Odor and visual control pertaining to the greenhouses is addressed in the conditions of approval as well.

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 20-25; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **February 17, 2021 to March 27, 2021**. All local tribes were notified of this project. Middletown Rancheria indicated that the site was within their tribal land and requested consultation, which took place on March 5, 2021 with Michael Rivera representing the Tribe. Redwood Valley Pomo Tribe voiced objections to this proposal.

The Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural / Geological (historic) / Tribal Resources, Energy Resources, Hydrology Resources, Noise and Transportation. 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 short- and long-term aesthetic impacts if any outdoor lighting is contemplated and due to the potential visibility of the greenhouses and drying buildings from other lots and from public roads. All potential light-related and screening-related impacts have been reduced to less than significant with the incorporated mitigation measure below:

- **AES-1:** Prior to cultivation, the applicant shall provide blackout screening in or on each greenhouse to block light from spilling out beyond each greenhouse.

- AES-2: The applicant shall screen all cultivation activities with a minimum 6' tall fence with screening applied to the entire fence around the perimeter of the cultivation area.
- AES-3: Prior to cultivation, the applicant shall plant screening trees at no more than 20' distance apart from one another around the perimeter of the project area. These trees shall be no less than 5' tall at time of planting, shall be irrigated, and shall be maintained in a healthy state by the applicant for the life of the project. These trees are the replacement trees to be planted at a 3:1 ratio for each oak tree over 5" in diameter measured at 4.5 feet above grade; for each oak tree removed that meets this size limit, three new deciduous trees capable of reaching a height to 20 feet shall be planted.

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, estimated at 4 to 8 average daily trips. 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 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.
- AQ-7: Each greenhouse shall contain an air and odor filtration system. Method of filtration shall be provided to the Lake County Planning Department for review prior to any construction occurring on site.
- AQ-8: The applicant shall apply water to the ground during any and all site preparation work that is required for the greenhouses and drying building, as well as during any interior driveway improvements to mitigate dust migration.

Biological Resources

The applicant provided a Biological Assessment covering the project site, which was prepared by Pinecrest Environmental Group dated March 1, 2020. One mitigation measure was recommended pertaining to reforestation of the parent parcel in the vicinity of the cannabis cultivation area. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: A follow up Biological Assessment (nesting) survey shall be conducted by a licensed and qualified biologist prior to the start of cultivation. The results of this follow up site visit, including recommendations, shall be provided to the Lake County Planning Department prior to a hearing and cultivation. Any recommendations shall be added as conditions of approval for this use permit.

Cultural / Geologic (historic) and Tribal Resources

A Cultural Resources Evaluation was conducted for the subject parcel involved with this proposal by Wolf Creek Archeology dated February 28, 2020. This survey yielded no specific results on the cultivation site 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), the culturally affiliated 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 culturally affiliated 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.

Energy

The power needs of this project may have a significant impact to the power grid in this area. The mitigation measure below is needed to ensure that the site and neighboring properties will be unable to get power due to excessive usage by this project.

- **EN-1:** Prior to building permits being issued, the applicant shall provide energy calculations for the proposed project. These calculations shall be prepared by an energy professional, and the means of providing adequate power shall clearly be identified within the scope of these calculations. PG&E confirmation of being able to provide adequate power to the site may be required at the discretion of the Building Official or designee. If the applicant is unable to obtain 'on grid' power for this project, then an alternative energy source shall be submitted to the Building Official for consideration (i.e. solar). Total amperage needs shall be provided within the energy calculations provided. A description of energy use per building may be necessary, as well as engineered energy calculations at the discretion of the Building Official. *Mitigation measure EN-1*
- **EN-2:** If the applicant is unable to obtain adequate 'on-grid' power, the applicant shall be responsible for finding an alternative energy source(s) for this project. The use of generators is prohibited except during an emergency such as a power failure and is only allowed on a short-time basis.

Hydrology. Fire Protection and Water Quality

The project will have an adverse impact related to hydrology and water quality, including amount used. The following mitigation measure is added to reduce potential impacts to 'less than significant' levels regarding water and hydrology:

- **HYD-1:** The applicant shall maintain on-site water storage of 20,000 gallons for irrigation purposes, and 5,000 gallons in a metal water storage tank with fire department connectivity for fire suppression purposes.

Noise

Although the amount of site preparation for this proposal will be minimal, short-term increases in ambient noise levels can be expected during project grading and construction. The following mitigations will be incorporated in the permit 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.

- 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.

Transportation

This project will have transportation-related impacts on site. The following mitigation measure will reduce potential impact to 'less than significant' levels.

- TRANS-1: Prior to final building inspection, the applicant shall improve the on-site portion of Herrington Road and the interior driveway to comply with PRC 4290 and 4291 road standards. The applicant shall schedule an inspection with the Fire Marshal through the Community Development Department once improvements to the road are completed. A Grading Permit and engineered drawings may be required prior to any work occurring to improve this road. The applicant shall coordinate with the Building Official regarding potential grading plans that might be required prior to any work occurring on Herrington Road or interior driveway improvements.
- TRANS-2: A Grading Permit and engineered drawings may be required prior to any work occurring to improve this road. The applicant shall coordinate with the Building Official regarding potential grading plans that might be required prior to any work occurring on Herrington Road improvements.

Fire

- FIRE-1: Prior to a building permit being issued, the applicant shall improve Herrington Road to comply with PRC 4290 and 4291 road standards. The applicant shall schedule an inspection with the Fire Marshal through the Community Development Department once improvements to the road are completed.

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 use of Commercial Cannabis Cultivation Operation is a permitted use in the "RR" Rural Residential and "RL" Rural Lands zoning districts upon

issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance.

The subject property complies with the minimum setbacks from public lands as the park located within Hidden Valley Lake development is more than 1000 feet from the cultivation site, and is located more than 1000 feet from the nearest traditional Agricultural use to the north of the cultivation site.

Additionally, the Community Development Department (CDD) will conduct Annual Compliance Monitoring Inspections during the cultivation season to ensure ongoing compliance with the approved Property Management Plan, Site 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 site is large enough to allow 15 A-Type 3B and one A-Type 1C commercial cannabis cultivation licenses. The location of the site is about 2,300 feet from the Hidden Valley Lakes (HVL) development (about ½ mile), although it is located more than 1000 feet beyond the HVL boundary line and is outside of an exclusion area. Neighbor objections for this project have been numerous and are included as Attachment 9, 'Public Comments'.

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

Response: The site is served by Herrington Road, a private roadway that terminates onto the subject site. The applicant is proposing improvements to this private road to make it compliant with Public Resources Code (PRC) 4290 / 4291 (CalFire) road standards, which is a requisite whenever a project requires building permits such as this one. The interior access road is also required to meet PRC 4290 and 4291 road standards prior to final building inspection and consequently the start of cultivation under this permit.

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: There are adequate septic, water, road, fire and police protection available to this site. The applicant has not provided estimated power usage data, and the project will require significant power to serve 35 greenhouses and four 5,000 sq. ft. drying buildings according to the applicant's Property Management Plan submitted. The applicant is required to provide engineered energy calculations and demonstrate that they can get adequate power to the site, either by traditional ('on grid') means, or by an alternative power sources such as solar power. In the unlikely event that there is insufficient 'on-grid' power available, a condition of approval has been added that will allow the applicant to use an alternative energy source to meet their power needs.

This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Environmental Health, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. Middletown Rancheria Tribe held consultation with staff on March 23, 2021 and agreed to allow the project to move forward with no objection based on communication and agreement with the cultivator about tribal presence during site disturbance on site. Adverse comments were received from the Redwood Valley Pomo Indian Tribe regarding concerns about water usage and the strength of the watershed. The County does not require aquifer evaluations associated with commercial cannabis cultivation licenses.

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: The cultivation of commercial cannabis is a permitted use within the RL and RR 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 documents have provisions for economic development and land use that are compatible and would allow the use.

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: There are no current 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:

1. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.

Response: The purpose of this report is to evaluate the levels of compliance with the standards and criteria found in Article 27, section 1.i, as well as other portions of the Zoning Ordinance, General Plan and applicable Area Plan.

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

Response: The applicant has passed 'live scan', and is the owner of the property. The applicant 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: With the exception of projected energy usage and supply which can be mitigated through conditions of approval, the application was determined to be complete after a thorough review to verify that all submittal requirements were met.

VII. RECOMMENDATION

Staff recommends that the Planning Commission:

A. Adopt Mitigated Negative Declaration (IS 20-25) for Major Use Permit (UP 20-22) with the following findings:

1. Potential impacts 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 biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measure BIO-1.
4. Potential environmental impacts related to cultural, historic geological and tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
5. Potential energy-related impacts can be mitigated to less than significant levels with the inclusion of mitigation measure EN-1 and EN-2.
6. Potential impacts related to hydrology and water quality can be mitigated to less than significant impacts with the inclusion of mitigation measures HYD-1.
7. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
8. Potential transportation-related impacts can be mitigated to 'less than significant' levels with the inclusion of mitigation measure TRANS-1.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Middletown Area Plan and the applicable Zoning Ordinance standards and criteria for a commercial cannabis cultivation operation.
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 20-22 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, Lower Lake 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).

Mitigated Negative Declaration (IS 20-25)

I move that the Planning Commission find that the Major Use Permit (UP 20-22) applied for by **WeGrow LLC** on property located at **16750 Herrington Road, Hidden Valley Lake**, and further described as **APNs 013-060-40, 013-014-03 and 11** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings for approval listed in the staff report dated **April 22, 2021**.

Major Use Permit (UP 20-22)

I move that the Planning Commission find that the **Major Use Permit (UP 20-22)** applied for by **WeGrow LLC** on property located at **16750 Herrington Road, Hidden Valley Lake**, and further described as **APNs 013-060-40, 013-014-03 and 11** 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 for approval 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 fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*