



## 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**

Deputy Community Development Director

**Item 1**  
**9:05 AM**  
**May 13, 2021**

### STAFF REPORT

**TO:** Planning Commission

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

**DATE:** April 26, 2021

**RE:** **Ghost Dance, LLC**

- **Major Use Permit (UP 20-36)**
- **Initial Study (IS 20-43)**
- **Early Activation (EA 20-43)**

**ATTACHMENTS:**

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

Supervisor District 1 - Supervisor Simon  
Planning Commissioner – Commissioner Hess

### **I. EXECUTIVE SUMMARY**

The applicant is requesting approval of a Major Use Permit for commercial cannabis cultivation (*the cultivation of commercial cannabis includes the planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing*) located at 20144 Jerusalem Grade Road, Middletown, California, further described as Assessor Parcel Number (APN): 136-031-63. The applicant proposes the cultivation method to be above ground in planter pots or bags with a drip irrigation system. The applicant's proposal will include the following:



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- **One (1) A – Type 3 “Outdoor” license:** Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one premises.
- **Two (2) A – Type 1C “Specialty Cottage” licenses:** Cultivation for adult use cannabis of 2,500 square feet or less of total canopy size for mixed-light cultivation using light deprivation and/or artificial lighting below a rate of 25 watts per square foot, up to 25 mature plants for outdoor cultivation without the use of light deprivation and/or artificial lighting in the canopy area at any point in time, or 500 square feet or less of total canopy size for indoor cultivation within a permanent structure using artificial light at a rate above twenty-five watts per square foot, on one premises.
  - *The total proposed cultivation canopy is approximately 48,464 square feet located within 49,329 square feet of cultivation area.*
- One (1) 225 square foot trash area.
- One (1) 100 square foot portable restroom.
- One (1) 400 square foot compost area.
- One (1) 120 square foot security shed.
- One (1) 120 square foot chemical and pesticide storage shed.
- One (1) 250-gallon mixing tanks.
- Three (3) 5,000-gallon water tanks.
- One (1) 1,600 square foot parking lot for employees.

The total acreage of the parcel is approximately, 30.75± acres and is zoned “RL” for Rural Lands. The parcel is located approximately 2.3 miles northeast of the intersection of Highway 29 and Spruce Grove Road. Additionally, the cultivation site is approximately 1.3 miles from the nearest community growth boundary. The cultivation area has been established within a site previously used for horse pasture and other equestrian purposes. Tree vegetation removal within the property has been recently conducted by PG&E for transmission line maintenance and fire mitigation.

The cultivation operations will be closed to the public and visitations will only be allowed when specific permission is granted. All staff, all supplies, all product transporters, and all visitors will be required to sign a log in/ log out sheet. According to the applicant, personnel will be granted access within the premises to only those areas necessary to compete job duties. Additionally, video surveillance will be equipped on site that will record 24/7 at a minimum of 30 frames per second. The cultivation site will be enclosed with a 6-8 foot high fence. The posts will be set in ground and be made of steel tubing or wood posts. The fenced cultivation compound will have a locking gate with a metal padlock.



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### **Energy Usage**

The proposed project consists of outdoor cultivation. The overall power usage of this facility is minimal. The cultivation site will require power for security systems, water pumps and minor outdoor lighting. According to the applicant's Property Management Plan, the property has electricity provided by a solar power array and supplemented by PG&E. Additionally, the applicant has provided the following Best Management Practices (BMPs) in regards to energy usage:

- Use of solar power where electricity is needed, and use of high-efficiency storage batteries, such as lithium-ion.
- Use of passive solar energy techniques such as proper site selection, overhanging eaves, tree canopy cover, walls with high thermal inertia, etc.
- Use of LED lights or other high-efficiency lighting.
- Use of ambient light whenever possible.
- Use of highly insulative materials to reduce energy needed for structure heating and cooling.
- Use of electric vehicles or bicycles instead of combustion-powered vehicles, whenever possible.
- Use of hand tools instead of power tools.

### **Water Source and Usage**

The cultivation operation will utilize water from an existing groundwater well. According to the application package, the existing well produces approximately 10 gallons per minute which translates to approximately 5,259,492 gallons per year of full capacity. The total proposed water usage on an annual basis is approximately 154,000 gallons. The proposed project would utilize approximately 2.9% percent of the well's full capacity. A condition of approval has been added that requires the applicant to install a meter to the production well(s) that continuously measures the water level. Additionally, the applicant shall maintain a record of all data collected and shall provide a report of the data collected annually.

The applicant proposes a drip irrigation system as part of the commercial cannabis cultivation operation. The onsite well will fill the water storage tanks. Then the water tanks will supply water that will flow to the pump station then to separate zone valves which then the zone valves will supply water going to the drip irrigation system that feeds the canopy.

### **Storm Water**

There is a proposed sediment trap (Straw Wattles) that will be located at the proposed cultivation site. The project will be seeded and equipped with straw wattles in every area that is disturbed. The seed protects and stabilizes the soil, the straw slows the water and the wattles filter out any unwanted contaminants.



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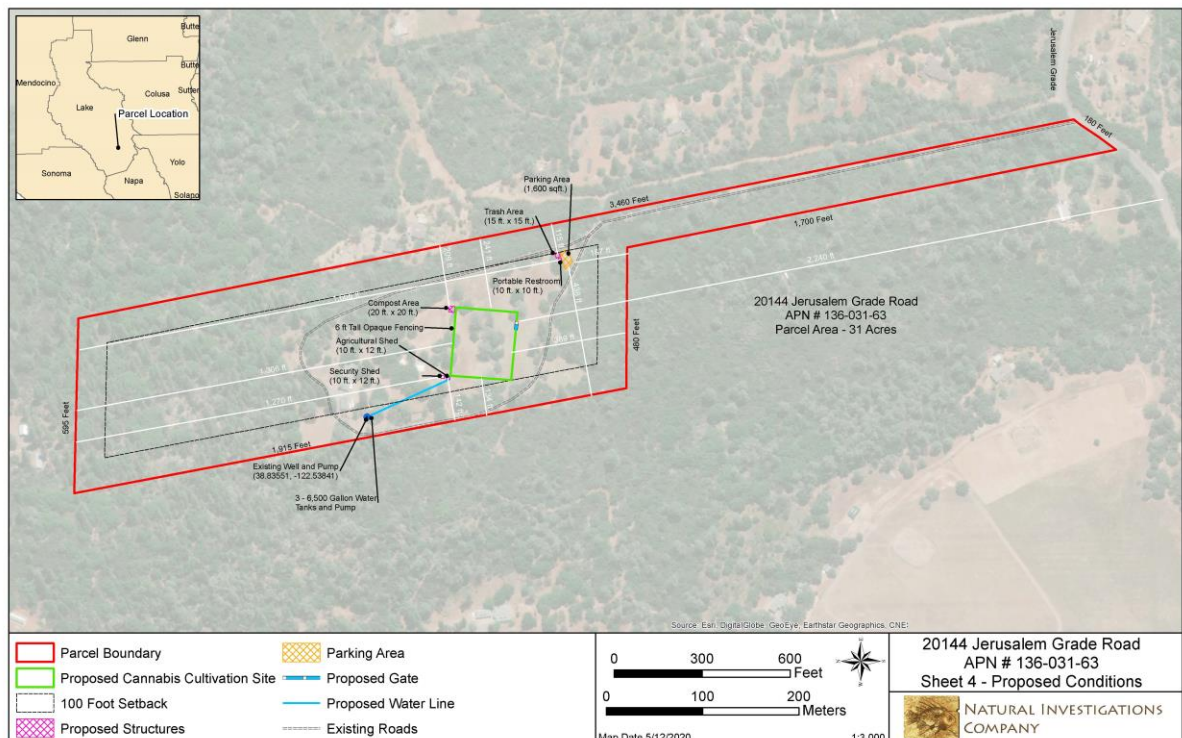
Deputy Community Development Director

All diffused surface water will be slowed by the mulch from the hydroseed and the straw wattles protecting any receiving water bodies.

### Fertilizer and Chemical Usage

The above-ground pots will be filled with topsoil. Approximately 600 cubic yards of topsoil are estimated to be used for one acre of canopy. The applicant proposes a scheduled use of dry and liquid fertilizers typically used to optimize plant macronutrients and micronutrients. Fertilizer inputs consist of a mixture granular products, liquid products, and products generated on site, such as compost tea. Additionally, for this cultivation operation, pests will be controlled by employing approved and organic-certified pesticides. Weeds will be controlled using a line trimmer or mulch; herbicides will not be used. Chemicals and fertilizers will be stored in the chemical storage building near the mixing tanks at the top of the cultivation site and will be within secondary containment.

### Proposed Site Plans and Cultivation Area



Staff is recommending approval of Major Use Permit, UP 20-36 and the adoption of a Mitigated Negative Declaration based on the environmental



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**analysis (Initial Study, IS 20-43) with the incorporated Mitigation Measures and Conditions of Approval.**

## II. PROJECT DESCRIPTION

Applicant: Ghost Dance, LLC  
Owner: Paul Alexander Patrick  
Location: 20144 Jerusalem Grade Road, Middletown, CA  
A.P.N.: 136-031-63  
Parcel Size: ±30.75 acres  
General Plan: Rural Lands  
Zoning: Rural Lands  
Flood Zone: "D": Areas of undetermined, but possible, flood hazard.  
Submittal Date: April 15, 2020  
Farmland Designation: Other Land

## III. PROJECT SETTING

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

North: "RL" Rural Lands, "A" Agriculture, and "RR" Rural Residential. Parcel sizes range from approximately 10 to 500+ acres in size.

South: "RL" Rural Lands, "RL" Rural Lands. Parcel sizes range from approximately 5 to greater than 150 acres in size.

West: "RL" Rural Lands. Parcel sizes range from approximately 13 to greater than 150 acres in size.

East: "RR" Rural Residential and "RL" Rural Lands. Parcel Size range from approximately 5 to greater than 65 acres in size.

The Project parcel is not within a Community Growth Boundary. The proposed cultivation site is approximately 1.3 miles Northeast from the nearest community growth boundary.



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**Scott De Leon**

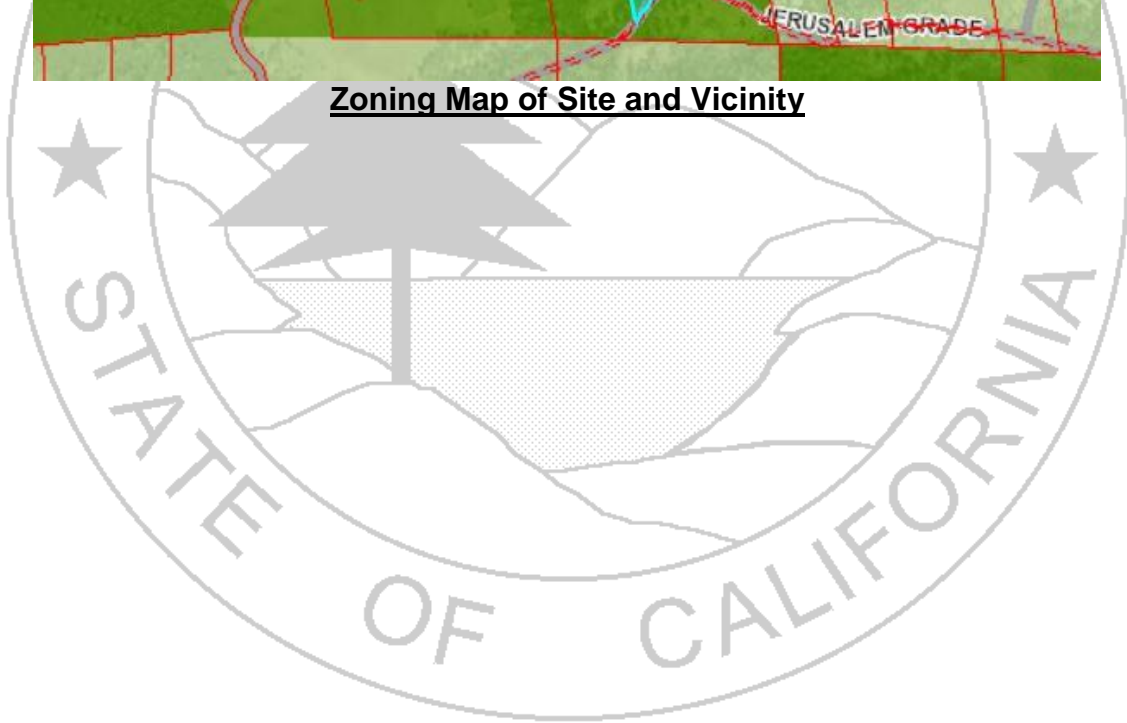
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**Zoning Map of Site and Vicinity**







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**Aerial Photo of Subject Site**

Topography: Cultivation area has a slope of less than 10%.

Soils: The project area contains the following soil types:

- Sobrante-Callayomi-Whispering association (Type 216) and Benridge-Konocti association (Type 112).

Water Supply: Existing Well

Sewage Disposal: On-site septic system.

Fire Protection: South Lake Fire Protection District

Vegetation: Property has woody vegetation and the cultivation area



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### 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, 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.

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

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

#### **Land Use**

Goal LU-1: is to encourage the overall economic and social growth of the County while maintaining its quality of life standards.

- Policy LU-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

*Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands Designation upon securing a Minor/Major Use Permit. On, April 15, 2020, the applicant submitted a Major Use Permit to the Community Development Department for processing.*





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

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

*In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the County requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately ±400 feet from the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest youth-oriented facility is located approximately 5.6 miles southwest from the cultivation site. The project will meet these setback requirements.*

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

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

*The proposed Commercial Cannabis Operation, would create diversity within the local economy, and create future employment opportunities for local residents. According to the applicant's application 10 employees are proposed as part of the project. The number of employees can increase or decrease depending on the stage of the cultivation season.*

### **Lower Lake Area Plan**

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

- **5.1b-1:** A high priority should be given to providing service and employment opportunities locally in the Lower Lake area in order to boost economic development and reduce travel distances.



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*The applicant is proposing Commercial Cannabis Cultivation which is an allowable use in the Rural Lands designation. The project would create diversity within the local economy, and create future employment opportunities for local residents. According to the applicant's application, 10 employees are proposed as part of the project. The number of employees can increase or decrease depending on the stage of the cultivation season.*

### **Zoning Ordinance Conformance**

#### Article 7 – Rural Lands (RL)

*The Cultivation of Commercial Cannabis is permitted in the “RL” Rural Lands Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On April 15, 2020, the applicant submitted an application for a Major Use Permit, UP 20-36 for the Cultivation of Commercial Cannabis to the Community Development Department.*

#### 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 permits in addition to any required building, grading and/or health permits.*

**Development Standards, General Requirements and Restrictions.** This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance.

### **Development Standards**

- Minimum Lot Size (20 acres per A-Type 3 and 5 acres per A – Type 1C): *Complies, the lot is  $\pm$ 30.75 acres in size. The applicant needs 20 acres for an A – Type 3 license and 10 acres for two (2) A – Type 1C licenses.*
- 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 approximately 400 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is a minimum of 6' tall.*



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- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 10,000 sq.ft. for an A – Type 1C): *Complies; the proposed canopy area would be approximately 48,464 sq.ft. of outdoor canopy area for one (1) A – Type 3 license and two (2) A – Type 1C licenses.*

**General Requirements.** There are several general requirements for cannabis cultivation listed in Section 27.11(at) of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

The applicant meets the General Requirements outlined in Section 27 of the Zoning Ordinance. The applicant has provided property owner approval, submitted a background check, complied with the access requirements, provided Articles of Organization for the LLC, qualified for the Major Use Permit, and met the requirements of Collocation of Permits and Clustering. If the requirements have not yet been met, a condition has been added to ensure compliance (*Please refer to Attachment 4 – Proposed Conditions of Approval*).

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 20-43; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **01/25/2021 to 03/01/2021**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated February 29, 2020 which concluded that no cultural resources were within the project boundaries. Additionally, the local tribes were notified of the project and no adverse comments were received.

The Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources/Tribal Cultural Resources, Geology/Soils, Hydrology, Hazardous Material, Noise, and



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

- **AES-1:** An Outdoor Lighting Plan that meets the darkskies.org lighting recommendations shall be submitted for review and acceptance, or review and revision prior to cultivation.

### **Air Quality**

The project has some potential to result in short- and long-term air quality impacts. It is likely that some dust and fumes may be released as a result of site preparation / construction of the building pads and the cultivation area. Some vehicular traffic, including small delivery vehicles would be contributors during and after site preparation / construction; trips generated by the use will be minimal. Odors generated by the plants, particularly during harvest season, will need to be mitigated either through passive means (separation distance), or active means (Odor Control Plan), which is required prior to cultivation occurring. All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **AQ-1:** Prior to cultivation, the applicant shall submit an Odor Control Plan to the Community Development Department for review and approval, or review and revision.
- **AQ-2:** All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.
- **AQ-3:** Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be managed by use of water or other acceptable dust palliatives to mitigate dust generation during and after site development.



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- AQ-4: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet (MSDS) for all volatile organic compounds utilized, including cleaning materials to the Lake County Air Quality Management District.
- AQ-5: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-6: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.
- AQ-7: All areas subject infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

### **Biological Resources**

The applicant provided a Biological Assessment, prepared by Natural Investigations Co., dated March 25, 2020. According to the biological assessment, no special-status habitats were detected within the study area during the field survey. The installation of the cultivation areas will occur on areas that were previously cleared or maintained as pastures. Additionally, trees were recently cleared by PG&E as part of ongoing transmission line maintenance operations. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: If construction activities result in the removal of undisturbed chaparral, woodland or forest vegetation, a pre-construction survey for special-status species shall be performed by a qualified biologist prior to construction to ensure that special-status species are not present. If any listed species detected, construction shall be halted, and the appropriate wildlife agency shall be consulted and project impacts and mitigations reassessed.
- BIO-2: Prior to any ground disturbance, all workers shall be trained by a qualified biologist as to the sensitivity of the special-status species potentially occurring in the project area. No groundbreaking activities will occur during rain events, defined as ¼ inch of rain falling within a 24-hour period. Activities may occur 24 hours after the end of the rain event.





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- **BIO-3:** If the establishment of cultivation operations requires the destruction of undisturbed chaparral, pine-oak forest or gray pine woodland habitat, a botanical survey shall be conducted prior to disturbance to identify if any special-status plant species are present and to delineate sensitive and non-sensitive plant habitat.
- **BIO-4:** If wildlife is encountered during operation, the applicant shall halt all activities so that wildlife may traverse their course.

### **Cultural Resources**

A Cultural Resources Evaluation was conducted for the project parcel by Dr. John Parker dated February 29, 2020. This survey yielded no evidence of historic or prehistoric cultural activity. No artifacts or features were encountered. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **CUL-1:** Boundaries of archaeological sites shall be identified and fenced off to assure the site will not be impacted during ground disturbance.
- **CUL-2:** Ground disturbing development activities within the immediate vicinity of the archaeological sites shall be monitored by a Native American observer and archaeologist.
- **CUL-3:** Should any cultural, archaeological or paleontological materials be discovered during any ground disturbing activities, all activity shall be halted within one hundred (100) feet of the find(s) until further evaluation can be made by the Tribal Cultural Advisor in determining their significance and appropriate treatment or disposition. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Should the find be deemed significant, as defined by CEQA or other applicable law, a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with the Tribal Cultural Advisor, and all subsequent finds shall be subject to this Plan unless otherwise mutually agreed upon in writing between the applicant and the Tribe. No work shall commence within the buffered area until the Monitoring and Treatment Plan, if necessary, has been adopted by the applicant in accordance with applicable law.
- **CUL-4:** The applicant shall halt all work and immediately contact the Lake County Sheriff's Department, Middletown Rancheria, and the Community



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Development Department if any human remains are encountered.

- **CUL-5:** Prior to initial ground disturbance, the applicant and the Tribe shall coordinate and jointly select a Tribal Cultural Advisor designated by the Tribe to facilitate mitigation measures related to tribal cultural resources of the Project in coordination with the applicant.
- **CUL-6:** All ground disturbing activities occurring in conjunction with the project or within the Project Area shall be monitored by qualified tribal monitor(s) approved by the Tribe. The tribal monitoring shall be supervised by the project Tribal Cultural Advisor. Tribal monitoring should be conducted by qualified tribal monitor(s) approved by the Tribe, who is defined as qualified individual(s) who has experience with identification, collection and treatment of tribal cultural resources of value to the Tribe. The duration and timing of the monitoring will be determined with the Tribal Cultural Advisor. If the project Tribal Cultural Advisor advises that full-time monitoring is no longer warranted, he or she may recommend that tribal monitoring be reduced to periodic spot-checking or cease entirely. Tribal monitoring would be reinstated in the event of any new or unforeseen ground disturbances or discoveries as detailed in CUL-3.
- **CUL-7:** All on-site personnel of the project shall receive resource sensitivity training as advised by the project Tribal Cultural Advisor prior to initiation of ground disturbance activities on the project. The training must also address the potential for exposing subsurface resources and procedures if a potential resource is identified.
- **CUL-8:** The Project applicant must meet and confer with the Tribe, at least twenty (20) days prior to commencing ground disturbance activities on the Project to address notification, protection, treatment, care and handling of tribal cultural resources potentially discovered or disturbed during ground disturbance activities of the Project.

### **Geology and Soils**

The activities associated with project development may have the potential result in erosion and loss of top soils. Therefore, with the incorporated mitigation measures below, all potential impacts have been reduced to less than significant.

- **GEO-1:** Prior to any ground disturbance, the 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



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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.

- **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.

### **Hazards and Hazardous Materials**

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

- **HAZ-1:** The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well or feature. These materials shall not be allowed to leak onto the ground or contaminate surface waters or nearby creeks. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials.
- **HAZ-2:** Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.



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- HAZ-3: The storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site.

### Hydrology and Water Quality

The proposed project has the potential to affect the water quality. The project parcel is not near a creek. Additionally the applicant will implement a drip irrigation system pressurized by electric pumps to reduce water use from the well source. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- HYD-1: The project design shall incorporate appropriate BMPs consistent with County and State storm water drainage regulations to prevent or reduce discharge of all construction or post-construction pollutants and hazardous materials offsite or into surface water.
- 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.



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### **Noise**

Short-term increases in ambient noise levels can be expected during project grading and/or construction, although the amount of site preparation for this proposal is minimal at best. The following mitigations have been implemented to reduce the potential impacts to less than significant:

- **NOI-1:** All construction activities including engine warm-up shall be limited to Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels. This mitigation does not apply to night work.
- **NOI-2:** Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- **NOI-3:** The operation of the Air Filtration System shall not exceed levels of 57 dBA between the hours of 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

### **Transportation**

The proposed project will not have a direct significant impact on roadways with the implementation of the project. However, the road must meet minimum standards. The following mitigations have been implemented to reduce the potential impacts to less than significant:

- **TRANS-1:** Prior to this use permit having any force or effect, the applicant shall comply with Public Resources Code 4290 and 4291 Fire Safe Requirements.
- **TRANS-2:** Facilities constructed or utilized for new development shall comply with County standards in order to minimize initial and subsequent maintenance costs.





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### VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Major Use Permit (LCZO Section 51.4, Major Use Permits) if all of the following findings are made:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

*The proposed use of Commercial Cannabis Cultivation Operation is a permitted use in the "RL" Rural Lands zoning upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the subject property complies with the minimum setbacks. Prior to the applicant constructing any type of structure(s), the applicant shall obtain the necessary permits from the appropriate Federal, State and/or Local government agencies. Additionally, the Community Development Department would conduct Annual Compliance Monitoring Inspections during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.*

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

*The proposal consists of 48,464 square feet of above-ground in pots canopy area for outdoor cultivation. The proposed ancillary facilities includes one (1) 225 sq. ft. trash area, one (1) 100 sq. ft. portable restroom, one (1) 400 sq. ft. compost area, one (1) 120 sq. ft. security shed, and one (1) 120 sq. ft. chemicals and pesticides storage shed. The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Lands-zoned land, and the subject site is ±30.75 acres in size, large enough to enable the cultivation area proposed.*

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

*The site is served by a private road off of Jerusalem Grade Road (County Maintained). The Building Division determined that the project is compliant with Public Resources Code 4290/4291 in regards to minimum road*



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*standards. However, the applicant will need to comply with will need to comply with water supply for emergency fire use and fuel modification standards (please refer to Attachment 3 – Agency Comments). The site requires minimal improvements to become compliant with Public Resources Code 4290/4291.*

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

*There are adequate public utilities and services available to the site. This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Environmental Health, and PG&E, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. No adverse comments were received.*

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.

*The cultivation of commercial cannabis is a permitted use within the RL zoning district upon securing a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. Additionally, the Lake County General Plan does not have any provisions specifically for commercial cannabis, but both Plans have provisions for economic development and land use compatibility. Additionally, the subject property complies with the minimum setbacks and development standards.*

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

*There are no violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code on this property.*

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Use Permit:

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



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

### Responses to Article 27, Subsection (at) findings:

1. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance
  - Minimum Lot Size (20 acres per A-Type 3 license, and 5 acres per A-Type 1C license): *Complies, the lot is ±30.75 acres in size. The applicant needs 30 acres for one (1) A – Type 3 license and two (2) A – Type 1C licenses.*
  - 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 approximately 400 feet away from the cultivation area.*
  - Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence will be a minimum of 6 feet tall.*
  - Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 2,500 sq.ft. for an A – Type 1C license): *Complies; the proposed canopy area would be approximately 48,464 sq.ft. of outdoor canopy area for one (1) A – Type 3 license and two (2) A – Type 1C licenses.*
- This report identifies the Application for Background Clearance for a County Permit. The applicant has passed a ‘live scan’ background check, and is qualified to make this application. A condition has been added to the Conditions of Approval that requires all current and/or future employees to undergo and pass a background check through the Lake County Sheriff’s Department.
- This report identifies the Property Owner’s Approval. The applicant is the property owner.



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## **VII. RECOMMENDATION**

### **Staff recommends the Planning Commission take the following actions.**

#### **A. Adopt Mitigated Negative Declaration (IS 20-43) for Major Use Permit (UP 20-36) with the following findings:**

1. Potential environmental impacts related to aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measure AES-1.
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, and AQ-7.
3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3, and BIO-4.
4. 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, CUL-2, CUL-3, CUL-4, CUL-5, CUL-6, CUL-7, and CUL-8.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, and GEO-3.
6. Potential hazards hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1, HAZ-2, and HAZ-3.
7. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1, HYD-2, and HYD-3.
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Lower Lake Area Plan and Zoning Ordinance.



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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 20-36 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).





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### Sample Motions:

#### Mitigated Negative Declaration

I move that the Planning Commission find that the Major Use Permit (UP 20-36) applied for by **Ghost Dance, LLC** on property located at **20144 Jerusalem Grade Road, Middletown**, further described as **APN: 136-031-63** 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 26, 2021**.

#### Major Use Permit (UP 20-36)

I move that the Planning Commission find that the **Major Use Permit (UP 20-36)** applied for by **Ghost Dance, LLC** on property located at **20144 Jerusalem Grade Road, Middletown**, further described as **APN: 136-031-63** does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **April 26, 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.*