



**COUNTY OF LAKE**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
Planning Division  
Courthouse - 255 N. Forbes Street  
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## STAFF REPORT

**TO:** Planning Commission

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

**DATE:** May 13, 2021

**RE:** **Lake County Investment Group, LLC**

- **Major Use Permit (UP 19-49)**
- **Initial Study (IS 19-71)**

Supervisor District Bruno Sabatier  
Planning Commissioner Everardo Chavez Perez

**ATTACHMENTS:**

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

### **I. EXECUTIVE SUMMARY**

Lake County Investment Group, LLC 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*) at 1000 & 1270 State Highway 53, Clearlake, CA on Lake County APN 010-055-26 & 010-055-27. The applicant's proposal includes five **(5) A-Type 3 "Outdoor" Licenses** for outdoor cultivation of adult-use cannabis without the use of light deprivation and/or artificial lighting in the canopy area of one acre in size per licenses. The five acre canopy area will be split between two parcels with a total of 20 acres cultivation area. The cultivation areas are as follows and can be found in Attachment 5-Initial Study.

<b>North Parcel Cultivation Area: 010-055-27</b>	<b>South Parcel Cultivation Area: 010-055-26</b>
247,856.40 sf cultivation area	387,684 sf cultivation area
3,071 Smart Pots =49,136 sf canopy area	28 above-ground beds =164,800 sf canopy area
6-foot tall animal fencing	6-foot tall animal fencing

128 sf security trailer for the grow area with 90-days of storage using solar panels as an energy source.	8' x 10' secured storage container used for stored cannabis good when necessary.
400 sf (20' x 20') composting area	400 sf (20' x 20') composting area
(12) 5,000-gallon polyethylene water tank; 56 sf each of surface area.	(4) 4,500-gallon water tanks; 50 sf each of surface area.
(3) 500-gallon polyethylene water tank; 16 sf each of surface area.	11,000-gallon concrete water tank; 350 sf.
8,000-gallon concrete tank; 250 sf	
two existing wells powered by a generator in a 5' x 5' well-house.	

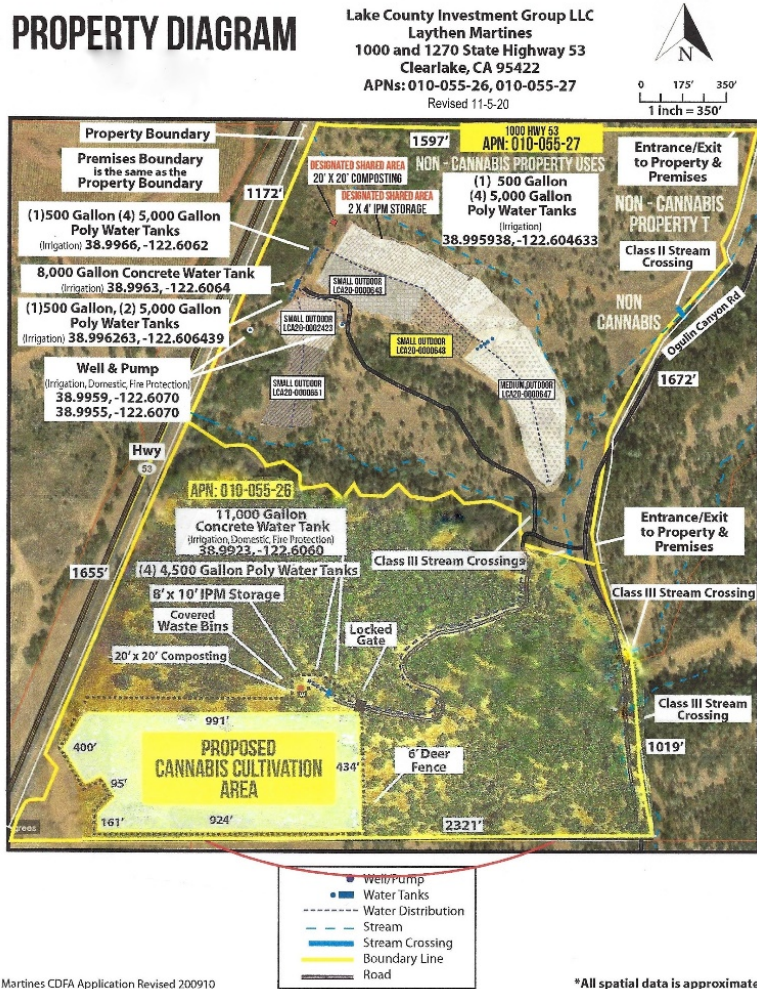


Figure 1. Proposed Site Plan and Cultivation Area

Staff recommends the approval of Major Use Permit, UP 19-49, and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 19-71) with the incorporated Mitigation Measures and Conditions of Approval.

## **II. PROJECT DESCRIPTION**

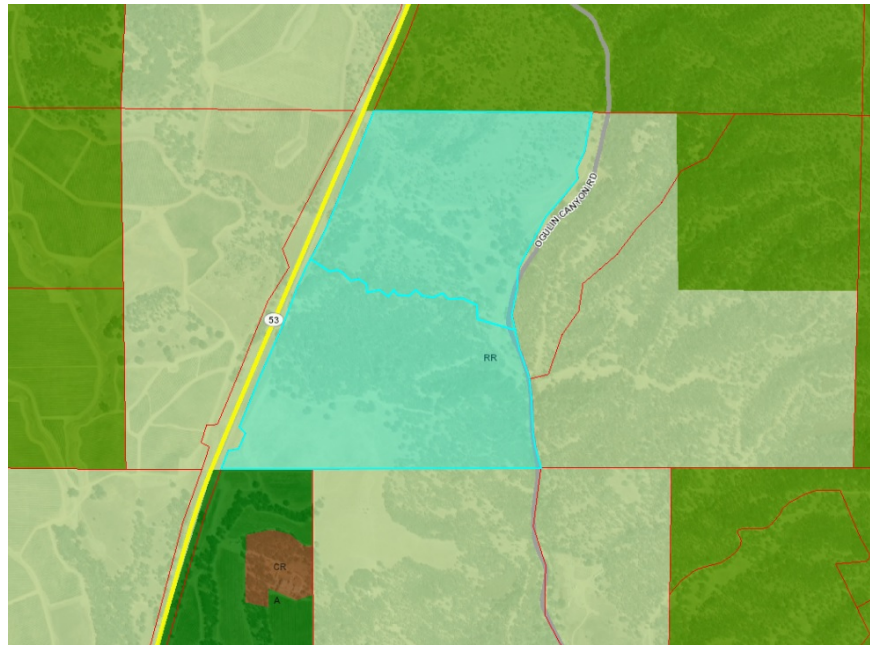
<u>Applicant:</u>	Laythen Martines (Lake County Investment Group, LLC)
<u>Owner:</u>	Roger Wheeler Trust
<u>Location:</u>	1000 & 1270 State Highway 53 Clearlake, CA 95422
<u>A.P.N.:</u>	010-055-27 & 010-055-26
<u>Parcel Size:</u>	105.59 acres
<u>General Plan:</u>	Rural Residential
<u>Zoning:</u>	Rural Residential-Waterway-Scenic Combining District
<u>Flood Zone:</u>	“D”: Areas of undetermined, but possible, flood hazard
<u>Submittal Date:</u>	December 17, 2019
<u>Farmland of Local Importance:</u>	This proposed project is designated as “Grazing land” and is located approximately 500’ away from existing active agricultural uses. It is outside of the farmland protection zone.

## **III. PROJECT SETTING**

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

The surrounding areas are primarily rural lands and rural residential zoning designation. The parcels surrounding the project site range from approximately 27 to 108 acres in sizes. Most of the areas are vacant or do not have an apparent use. However, the south of the parcel is zoned as Agriculture and Commercial Resort. This parcel consists of a residential home and vineyard with a

special event venue. To the west of the parcel across Highway 53 is an existing agricultural use for a vineyard.



*Figure 2. Zoning Map of Site and Vicinity*



*Figure 3. Aerial Photo of Subject Site in the northern parcel*

Topography:

The parts of the cultivation area are fairly flat with a slope of less than 10%, however, the average cross-slope of the parcels within the property boundary is between 17.18-25.42%.

Soils:

The project area contains the following soil type:



- Konocti-Hambright Complex (153)
- Phipps Complex (195)
- Phipps Complex (196)
- Sobrante-Guenoc-Hambright Complex (218)

Water Supply: Existing well & 8,000 gallon concrete cistern (northern parcel)  
Existing well & 11,000 gallon concrete cistern (southern parcel)

Sewage Disposal: Portable toilets

Fire Protection: Lake County Fire Protection District

Vegetation: The cultivation area will be located on undisturbed native vegetation that was occasionally used for grazing

Water Courses: Three (3) Class III watercourses and Class II watercourses

#### **IV. PROJECT ANALYSIS**

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

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

Rural Residential 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; and sale of crops produced on the premises. Typical uses permitted conditionally include agricultural-related services and recreational facilities.

*The applicant is proposing commercial cannabis cultivation which applies to crop production with the Lake County General Plan (2008) for Rural Residential. The applicant is proposing a (5) A-Type 3 outdoor cannabis cultivation per 20-acre minimum lot size on a total 105-acre parcels. This would allow up to 5 acres of canopy area within a 14.59 acres of cultivation area taken place in approximately 20 acres of area space between two parcels. In addition, the proposed outdoor cultivation would eliminate the excess use of structures that would result in impermeable surface. The cultivation method would allow the infiltration of water and groundwater recharge during precipitation.*

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

##### **Land Use**

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

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

*The proposed commercial cannabis operation would create diversity within the local economy, by create future employment opportunities for local residents and allow the expansion of industrial and non-industrial corporate developments. The applicant proposes to employ three to ten employees during peak shifts. The applicant will provide vegetation screening along highway 29 using native trees sourced from a local business as part of the requirement set by the County along the scenic routes.*

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

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

“**3.2.1c** Design new development to reduce off-site runoff to the greatest extent possible.”

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

*Per the zoning ordinance Article 27, it is required that all applicants install a water meter to monitor water usage and provide an estimated water calculation for their particular grow. This requirement will allow the cutlviator to monitor their water useage and ensure that they do not exceed their allotment, and/or allow them to ensure that the cultivation is using conservation techniques as necessary. The project management plan also includes proposed irrigation methods and lists how the project will implement conservation techniques (see Attachment 3) while preserving water quality through the project management plan for potential sediment runoff during earth-movement.*

“**3.3.1c** Incorporate the preservation of native trees and vegetation into development projects to the extent practical.”

“**3.3.1d** The County shall recognize and accept measures to protect and maintain unique vegetation and/or wildlife habitat through conservation easements or similar transferable development rights.”

*The applicant is proposing native vegetation screening along the state highway due to the zoning combining district and being approximately 500 feet from an active agriculture use across the highway per amended local ordinance 3103. The applicant also provided a biological assessment report which did not indicate the presence of any protected species.*

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

#### **Article 8 – Rural Residential Zoning District**

To provide for single-family residential development in a semi-rural setting along

with limited agriculture.

Article 34 – Scenic Combining District

To protect and enhance views of scenic areas from the County’s scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation-based economy of the County.

Article 37- Waterway Combining District

To preserve, protect, and restore significant riparian systems, streams, and their riparian, aquatic, and woodland habitats; protect water quality; control erosion, sedimentation, and runoff; and protect public health and safety by minimizing dangers due to floods and earth slides.

Article 27 - Use Permits

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

*In response to the following zoning designation for the project location, the cultivation of commercial cannabis is permitted within the rural residential zoning district upon issuance of a use permit, according to Section 27.13 (Table B) of the Lake County Zoning Ordinance. Under Article 34, the applicant will protect the scenic area from the County’s scenic highway by providing native tree screening along Highway 53 and it will be sourced from a local business. The waterway combining designation limits the setback requirement for any proposed development, however, Article 27 further limit/increase the setback from all watercourses to protect and preserve significant riparian systems, streams, water quality and runoffs. Article 27 also includes the following:*

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

***Development Standards***

- Minimum Lot Size (20 acres per A-Type 3): *Complies, the lot is 105.5 acres in size. The applicant needs 100 acres total to qualify for five (5) A – Type 3 permit type.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is over 600 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed enclosure is a 6-feet tall chain-linked fence.*
- Maximum Canopy Area (217,800 ft<sup>2</sup> maximum for a (5) A-Type 3 “Outdoor”: *Complies; the proposed canopy area would be 213,936 ft<sup>2</sup> of total canopy area.*

***General Requirements.*** There are several general requirements for cannabis cultivation listed in Section 27.13(at) of the Lake County Zoning Ordinance. These include, but are not limited to,

obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

*The applicant meets the General Requirements outlined in Section 27.13(at) of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to ensure compliance. Under Article 27, the applicant shall provide a written description of the project, site plans, and a project management plan. The applicant has submitted the three following items outlining compliance with all regulations relating to the proposed cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, stormwater management, security, compliance monitoring, etc. Also, the applicant complies with the restrictions regarding the prohibited activities listed in Article 27, subsection 13(at), including but not limited to the removal of commercial trees, illegally diverting water, producing excessive odors, pesticides that has been banned for use in the state, etc. To expand on the removal of commercial trees, the proposed project does consist of the removal of dead or dying trees that was determined by a qualified forester. Under Article 27.13(at.iii.a), states "that for the purposed of developing a cannabis cultivation site should be avoided and minimized. This shall not include the pruning of any such tree species for the health of the tree or the removal of such trees if necessary for safety or disease concerns."*

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 19-49; Attachment 5) was prepared and circulated for public review in compliance with CEQA guidelines from **03/10/2021 to 04/12/2021**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated October 2019 and updated October 2020, which concluded negative findings for cultural resources, however, the potential for the discoveries of buried cultural resources still exist, therefore conditions are added to ensure it will be properly handled if discovered. Additionally, the local tribes were notified of the project and no adverse comments were received. Tribal Consultation per AB52 was formally concluded on December 19, 2019. Per the biological resource assessment, the property has the potential to harbor special status species, and mitigation measures are included in attachment 4 and attachment 5.

The Initial Study found that the project could cause potentially significant impacts:

- Aesthetics: *to address new addition of artificial lighting for security*
- Air Quality: *to address construction for dust fugitives and odor control plan*
- Biological Resources: *to address sensitive species and water resources*
- Cultural Resources/Tribal Cultural Resources: *to address inadvertent discoveries of cultural resources*
- Geology/Soils: *to address erosion control and grading*
- Hazards/Hazardous Materials: *to address potential biological, chemical, and physical hazards during operations.*
- Hydrology/Water Quality: *to address water usage, water quality, and wastewater*
- Wildfire: *to address ingress and egress of emergency access through 4290 fire safety standards*
- Noise: *to address noise during operating hours and construction.*



However, with the incorporation of the mitigation measures in Attachment 5, all impacts can be reduced to a less than significant level.

## **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 permitted in the Rural Residential zoning designation upon issuance of a Major Use Permit according to Article 27 of the Lake County Zoning Ordinance. The zoning ordinance provides specific details to incorporate measures that will alleviate potential detriments to the general welfare of the community such as buffer zones, installing security, road maintenance, and installing a water meter. The general requirement also includes providing specific plans such as security plans, erosion and sediment prevention plans, stormwater plans, water management plans, and other plans to ensure that the proposed use would address various factors that will impact the community. Additionally, the Community Development Department would conduct an annual compliance monitoring inspection during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.*

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

*The proposed cultivation area is approximately 14.59 acres split between two parcels; the size, location and shape limitations can be found in attachment 3. The proposed project meets all siting and development standards for cannabis; the site is adequate to accommodate the proposed project with the incorporation of all buffer zones due to physical characteristics to avoid sensitive biological resources and cultural resources as well as a setback from property lines and nearest off-site dwelling.*

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

*The project site will be off highway 53 through Junction Plaza, a county-maintained road and into the applicant's property. The roads do accommodate to the proposed use and accessway for the ingress and egress of emergency personnel. During the 4290 fire safe inspection, the applicant would need to comply with the driveway standard by gravelling the surface to the cultivation site. This will also be included as part of the conditions of approval.*

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.

*This application was routed to all of the affected public and private service providers including the Department of Public Works, Special Districts, Environmental Health, Lake County Fire*

*Department, Lake County Sheriff Department, and PG&E. 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.

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

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

*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.
8. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii. as outlined in this staff report and Attachments 1 through 6.

## **VII. RECOMMENDATION**

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

- A. **Adopt Mitigated Negative Declaration (IS 19-71) for Major Use Permit (UP 19-49) with the following findings found in Attachment 5:**
  1. Potential aesthetics impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 through AES-4.
  2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-6.
  3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-8.

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 and CUL-4.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1 through GEO-6.
6. Potential hazards and hazardous materials impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1 through HYD-7.
7. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1 through HYD-5.
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-3.
9. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures TRIB-1 through TRIB-2.
10. This project is consistent with land uses in the vicinity.
11. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan, and Zoning Ordinance.
12. 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.
13. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

**B. Approve Major Use Permit UP 19-49 with the following findings:**

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways, and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan, and Lake County Zoning Ordinance.

6. No violation of Chapter 5, 17, 21, 23, or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii and attachments 1 through 6.

**Sample Motions:**

**Mitigated Negative Declaration**

I move that the Planning Commission find that the **Major Use Permit (UP 19-49)** applied for by **Lake County Investment Group, LLC (Laythen Martines)** on property located at **1000 & 1270 State Highway 53, Clearlake, CA**, further described as **APNs: 010-055-27 & 010-055-26** 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 **May 13, 2021**.

**Major Use Permit (UP 20-03)**

I move that the Planning Commission find that the **Major Use Permit (UP 19-49)** applied for by **Lake County Investment Group, LLC (Laythen Martines)** on property located at **1000 & 1270 State Highway 53, Clearlake, CA**, further described as **APNs: 010-055-27 & 010-055-26** does meet the requirements of Section 51.4 and Article 27, Section 1(at) [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 **May 13, 2021**.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fees must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*