



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 255 N. Forbes Street
Lakeport, California 95453
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Item 7
9:35 AM
May 27, 2021

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director

Prepared by: Eric Porter, Associate Planner

DATE: May 27, 2021

RE: **Stella Green Farms LLC; Major Use Permit (UP 20-01) and Initial Study (IS 20-01)**

Supervisor District 4

ATTACHMENTS:

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 20-26
7. Public Comments

I. EXECUTIVE SUMMARY

The applicant is requesting a major use permit for **one (1) A-Type 3 “medium outdoor” license** consisting of 46,120 square feet (sq. ft.) of cultivation area, and an **A-Type 13 Self Distribution license**, however the property is located less than 1000 feet from an established non-cannabis agricultural use and is within a mapped Farmland Protection Area. The applicant has indicated that she will transition to an **A-Type 3B ‘medium mixed light’ license** inside of greenhouses within two years of the date of this approval. The property is located at 5805 Highland Springs Road, Lakeport, and is APN: 008-044-24. In addition to the A-Type 3/3B and Type 13 licenses, the applicant is proposing:

- (1) 60' x 40' drying building
- (3) 2500 gallon water tanks
- (1) 36' x 90' drying building (existing)
- (1) 200 sq. ft. shed
- Drip irrigation system
- Above-ground fabric pots

The total proposed cultivation area is 46,120 sq. ft., and the proposed canopy area was estimated to be 43,560 sq. ft. in total area, however because the site is located less than 1000 feet from other established non-cannabis agricultural uses and is required to be inside of greenhouses within two (2) years of the date of approval. The applicant has stated that she will transition into greenhouses within two (2) years as required by Ordinance 3103. The total proposed cultivation area under consideration will be about 24,400 sq. ft., and the total canopy area will be 22,000 sq. ft following the two year transition period.

Staff is recommending **Approval with Conditions** of **UP 20-01**.

II. PROJECT DESCRIPTION

<u>Applicant:</u>	Stella Green Farms LLC
<u>Owner:</u>	Michael Rodriguez and Christina Torres
<u>Location:</u>	5805 Highland Springs Drive, Lakeport
<u>A.P.N.s:</u>	008-044-24
<u>Parcel Size:</u>	20 acres
<u>General Plan:</u>	Agriculture
<u>Zoning:</u>	“APZ-WW-SC” – Agricultural Preserve – Waterway – Scenic Combining
<u>Flood Zone:</u>	X
<u>Cultivation Area:</u>	May 27, 2021: 46,200 sq. ft. (outdoor). May 27, 2023 to May 27, 2031: 24,400 sq. ft. (medium mixed light)
<u>Canopy Area:</u>	Estimated at 43,560 sq. ft. May 27, 2021 to May 27, 2023; then up to 22,000 sq. ft. May 27, 2023 to May 27, 2031.

III. PROJECT SETTING

Existing Uses and Improvements: The parcel is 20 acres in size, the minimum required 20 acre size for the proposed cultivation license. The property contains a house, a manufactured home, a 36’ x 90’ barn, a walnut orchard, a well and septic system.

Surrounding Uses and Zoning

North: “A” Agriculture; 20 acres in size and developed with dwellings and small agricultural uses. One house is located 200 feet north of the proposed cultivation site.

West: “A” Agriculture; lots vary in size from 10 to 120 acres and are mostly developed with dwellings and small agricultural uses.

East: “APZ” Agricultural Preserve land and “O” Open Space. Lots are 2+ acres or larger, and most contain dwellings and small agricultural uses. The lot zoned ‘O’ is unimproved County-owned land.

South: “APZ” Agricultural Preserve land with dwellings and no visible agricultural uses. One house is located 206 feet south of the proposed cultivation site.

Topography: Flat

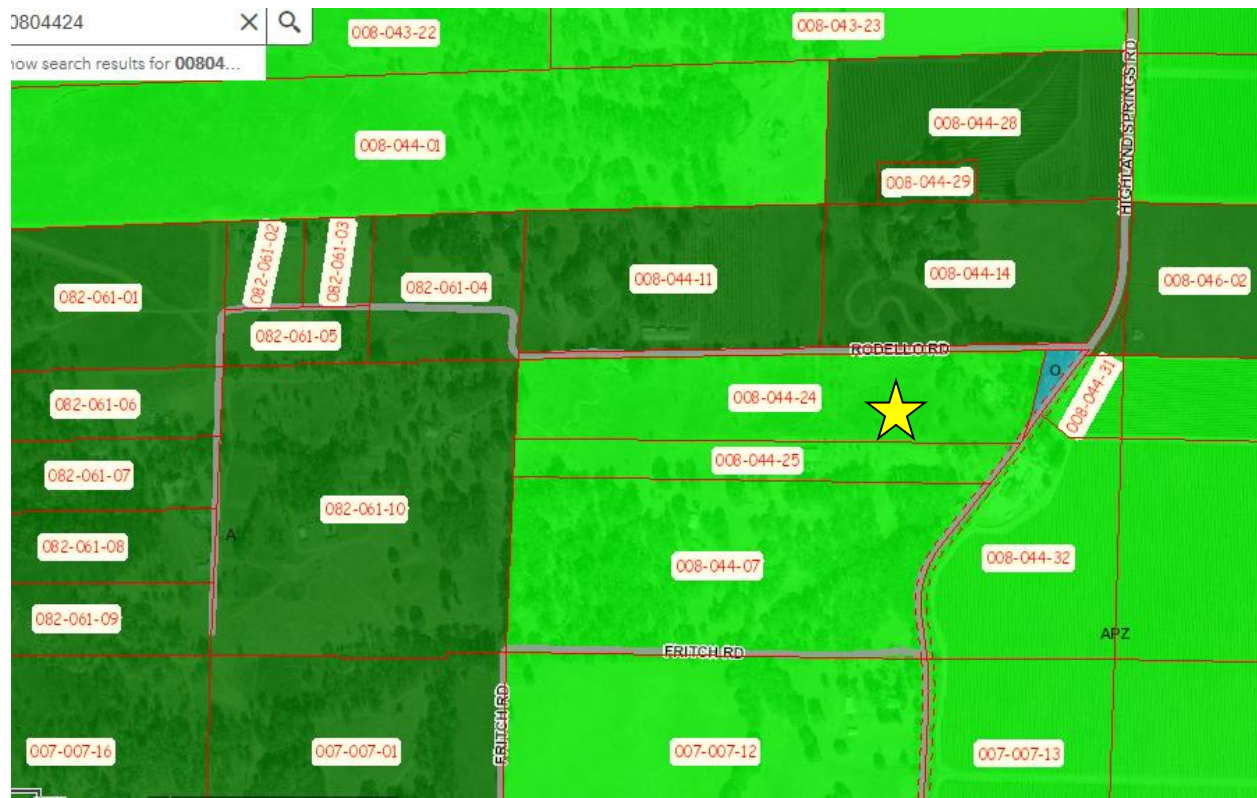
Soils: The soil at the cultivation site is Type **243-Wappo loam, 8 to 15 percent slopes**. Surface runoff is rapid, and the hazard of erosion is moderate. The shrink-swell potential in the subsoil is high. This unit is used mainly for livestock grazing. It is also used for vineyards, hay and pasture, and homesite development.

Water Supply: Existing well

Sewage Disposal: ADA Restroom (to be built)

Fire Protection: Kelseyville Fire Protection District

Vegetation: Mostly introduced vegetation, walnut trees



ZONING MAP OF SITE AND VICINITY

IV. PROJECT ANALYSIS

General Plan Conformance

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

Economic Development

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

- 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, create future employment opportunities for local residents and allow the expansion of industrial and non-industrial corporate developments.

Lakeport Area Plan Conformance

The subject site is within the Lakeport Area Plan's boundary. The Plan contains no policies that are subject to consistency review for commercial cannabis cultivation.

Zoning Ordinance Conformance

Article 4 – Agriculture Preserve (APZ). Purpose: To provide zoning for lands in agriculture preserve and for the conservation and protection of land capable of producing agricultural products. The uses specified in this section have been determined to be compatible uses consistent with the California Land Conservation Act of 1965. Further parcelization of lands under contract shall be discouraged. The following regulations shall apply in all “APZ” districts.

Article 27 - Use Permits

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

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

Development Standards

- Minimum Lot Size (20 acres per license): *Complies; the subject site is at 21 acres in size according to a survey map provided with the cannabis application. The applicant has applied for one A-Type 3 (medium outdoor) cultivation license that will transition to an A Type 3B (medium mixed light) license within two years of the date of this approval. Both licenses require a 20 acre land minimum. The applicant has also applied for a Type 13 ‘Self Distribution license’, which is under consideration herein.*

- Setback from Property Line (100 feet): *Complies, the cultivation site is 100 feet from the nearest (northern) property line.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 206 feet away from the nearest cannabis cultivation area.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies, the proposed fence height is six (6) feet. **Of note: the applicant had placed an 8' tall screened fence around the cultivation area that was not well maintained during the winter months following 'early activation' cultivation in year 2020. The applicant shall be required to maintain the site, including the screening and fencing, in an orderly manner for the duration of the project.***
- Maximum Canopy Area (43,560 sq. ft. for an A-Type 3 license): *The estimated canopy area is 43,560 sq. ft. in size, but is only allowed for two years from the date of this approval (May 27, 2023), assuming this permit is approved. The applicant shall then transition into greenhouses on or before May 27, 2023 and is permitted a maximum of 22,000 sq. ft. of canopy after that transition date.*
- Farmland Protection Zone: *Yes. The applicant understands that outdoor cultivation may convert to greenhouse cultivation within two (2) years of the date of this decision assuming the use permit is approved.*

General Requirements. *The applicant meets all of the General Requirements outlined in Section (at) of Article 27 of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operation and deliveries, access requirements, etc. If the requirements have not yet been met, a condition has been added to assure compliance.*

The applicant has also submitted a Property Management Plan, outlining compliance with all regulations pertaining to cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in Subsection (at) of Article 27 of the Zoning Ordinance, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Please refer to *Initial Study IS 20-01* (Attachment 6) for the Environmental Analysis of the proposed cannabis cultivation action. Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval. The following areas were identified as having potential environmental impacts:

Aesthetics. The project has some potential to have adverse impacts related to aesthetics based on the hoop houses proposed. The following mitigation measure will minimize these impacts.

- AES-1: Blackout film shall be required on each greenhouse used to mitigate any light from spilling out beyond the structures.
- AES-2: Prior to construction of the greenhouses, the applicant shall provide a vegetation screening plan to screen the greenhouses from public to the Lake County Community Development Department for approval. The vegetation screening shall consist of woody vegetation or trees that grow to no less than 20 feet tall. The species of woody vegetation or trees to be used may be chosen by the applicant but should be suited to localized soil and site conditions. Native plant species are encouraged as are plantings which will benefit local fauna. Plantings must be perennial and hardy in the local climate zone as specified in scientific literature or garden catalogs. The plan shall detail the woody vegetation or tree type, quantity, and placement as well as a maintenance and monitoring program to ensure the screen will be maintained through the life of the project.
- AES-3: The applicant shall maintain the screening material on the fence in an orderly manner year-round. Any breaches in the screening material shall be immediately repaired during all four seasons of the year.

Air Quality. The proposed project has some potential for air quality-related impacts during and after construction. The following mitigation measures will reduce impacts to less than significant levels related to air quality.

- 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: All cannabis cultivation shall occur in greenhouses that are equipped with carbon air filtration systems (or similar). If a non-carbon air filtration system is used, it shall be reviewed and approved by Community Development and/or Air Quality (Lake County) prior to any cultivation activity occurring.
- 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.

Cultural / Geological / Tribal Resources. *The project has some potential to have impacts related to Cultural, Geological and Tribal resources due to the site preparation needed for greenhouses / drying building. The following mitigation measures will reduce impacts to less than significant levels.*

- CUL-1: Should any archaeological, paleontological, or cultural materials be discovered during site development, all activity shall be halted in the vicinity of the find(s), the applicant shall notify the culturally affiliated Tribe, and a qualified archaeologist to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, the applicant shall notify the Sheriff's Department, the local overseeing Tribe, and a qualified archaeologist for proper internment and Tribal rituals per Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.
- CUL-2: All employees shall be trained in recognizing potentially significant artifacts that may be discovered during ground disturbance. If any artifacts or remains are found, the culturally affiliated Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

Hydrology and Water Quality. *The project has some potential for stormwater runoff-related impacts to the Thompson Creek watershed. The applicant shall do the following to mitigate stormwater impacts to less than significant levels:*

- HYD-1: Prior to cultivation, the applicant shall install straw wattles around the cultivation site in a manner that retains stormwater within the cultivation area. This shall also be shown on the Stormwater Management and Erosion Control Plan for this property prior to the start of cultivation.

Noise. *This project has some potential for noise during and after construction. The following mitigation measures will reduce noise-related impacts to less than significant levels.*

- NOI-1: All construction activities including engine warm-up shall be limited Monday Through Friday, between the hours of 7:00am and 7:00pm, and Saturdays from 12:00 noon to 5:00 pm 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 10:00PM 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: Generators shall only be used as Emergency Power Backup supply and shall not be used for regular power provision to this facility.

VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL. Article 51, Section 51.4

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

Response: The immediate area contains agricultural lots, several with homes that are located at least 200 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Aesthetics, Agriculture, Air Quality, Cultural / Geological / Tribal Resources and Noise. All of these significant impacts have been adequately addressed, within conditions of approval for the reasons previously stated.

Of note: the applicant had placed an 8' tall screened fence around the cultivation area that was not well maintained during the winter months following 'early activation' cultivation in year 2020. The applicant shall be required to maintain the site, including the screening and fencing, in an orderly manner for the duration of the project.

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

Response: The proposal was for 46,120+ sq. ft. of outdoor cultivation area, however the cultivation area is within 1000 feet of established agricultural uses and must occur inside greenhouses, thus causing the A-Type 3 medium outdoor license to become an A-Type 3B medium mixed light license. The Lake County Cannabis Ordinance allows Type 3 cultivation operations on Agriculture-Preserve zoned property when it meets the

size and locational criteria and standards. The applicant seeks two licenses; one is for cultivation, and one is for an A-Type 13 Self Distribution license. The subject site is 20 acres in size, large enough to allow the cultivation licenses that have been applied for with the change to the Type 3 license described herein.

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

Response: The site is served by Highland Springs Road, a paved County maintained road with 10' wide travel lanes and 2' wide shoulders. The site is also served by a private on-site driveway that is generally flat and well maintained.

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

Response: This application was routed to all of the affected public and private service providers including CAL FIRE, Lakeport Fire District, Public Works, Special Districts, Environmental Health, and all area Tribes. Relevant comments are attached as 'Attachment 4'.

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

Response: Since commercial cannabis cultivation is named as a permitted use in the Agricultural Preserve zoning district within Table B of Article 27, the Commercial Cannabis ordinance, this proposal is consistent with the governing ordinance for cannabis growing in the county. The Lake County General Plan and the Lakeport Area Plan do not have any specific provisions for commercial cannabis, but do have provisions for economic development.

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

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

VII. USE PERMIT FINDINGS FOR APPROVAL Article 27, subsection (at):

- (1) The proposed use complies with all development standards described in Section 1.i

Response: This report identifies the development standards that apply to cannabis cultivation in Lake County. The applicant is compliant with the development standards including CalFire Road Standards (Public Resource Code sections 4290 and 4291).

- (2) The applicant is qualified to make the application described in Section 1.ii.(g)

Response: The applicant and her known employees have passed a 'live scan' background check, and are qualified to undertake a commercial cannabis cultivation activity subject to approval of this use permit.

- (3) The application complies with the qualifications for a permit described in Section 1.ii.(i)

Response: This application complies with all qualifications for a permit described in Section 3.ii.(f) with change to the use type described herein. The applicant is proposing two cannabis-related licenses; one for the cultivation site (an A-Type 3 transitioning to an A-Type 3B within two years of the date of this permit approval), and one for a 'self-distribution' license (Type 13). The subject site is over 20 acres in size based on a survey map provided by the applicant; large enough to support the cultivation license as well as the Type 13 'Self Distribution' license.

VIII. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt mitigated negative declaration (IS 20-01) for Major Use Permit (UP 20-01) 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, AES-2 and AES-3.
2. Potential environmental impacts related to Air Quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, AQ-7 and AQ-8.
3. Potential environmental impacts related to Cultural / Geological / Tribal Resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
4. Potential environmental impacts related to Hydrology and Water Quality Resources can be mitigated to less than significant levels with the inclusion of mitigation measure HYD-1.
5. Potential environmental impacts related to Noise can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2 and NOI-3.
6. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
7. Any changes to the project will require either an amended Use Permit and/or a new Use Permit unless the Community Development Director determines that any changes have no potential increased environmental impacts.

B. Approve Major Use Permit UP 20-01 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for with the change to the license type described herein 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 can be mitigated to be reasonably adequate to safely accommodate the proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.
7. The proposed use complies with all development standards described in Section 1.i
8. The applicant is qualified to make the application described in Section 1.ii.(g)
9. The application complies with the qualifications for a permit described in Section 1.ii.(i)
10. The project can be made to comply with Ordinance No. 3103 by enabling the transition from outdoor to greenhouse cultivation on or before May 27, 2023. Condition no. A19.

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Initial Study (IS 20-01)** applied for by **Stella Green Farms LLC** on property located at **5805 Highland Springs Drive, Lakeport**, and further described as **APN: 008-044-24** 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 27, 2021**.

Major Use Permit (UP 20-01)

I move that the Planning Commission find that the **Major Use Permit (UP 20-01)** applied for by **Stella Green Farms LLC** on property located at **5805 Highland Springs Drive, Lakeport**, and further described as **APN: 008-044-24** does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **May 27, 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's decision, 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 Planning Commission's final determination.