



## 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

### STAFF REPORT

**TO:** Planning Commission

**FROM:** Scott DeLeon, Interim Community Development Director  
Prepared by: Sateur Ham, Assistant Planner

**DATE:** June 10, 2021

**RE:** Western Mine Farms, LLC

- Major Use Permit (UP 20-39)
- Categorical Exemption (CE 21-24)

Supervisor District Moke Simon  
Planning Commissioner John Hess

**ATTACHMENTS:**

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

### **I. EXECUTIVE SUMMARY**

Western Mine Farms, 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*) located at 14507 Western Mine Road, Middletown, CA on Lake County APN 013-030-29. The applicant's proposal is 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 of one acre in size per licenses located on within the immediate proximity of the residential home and is proposed to be located surrounding an existing tennis court. The proposed project site had been previously graded to test the feasibility for geothermal electrical general but found to be unsuitable and was later sold. The project does 120 square feet security shed to be used in the cultivation area which will not require any building permits. There are existing three (3) 5,000-gallon poly tanks that will be used for water storage for both the home and irrigation. A biological report, archeological report and a water supply assessment was conducted on the project site. The project does not predict to result in significant impact with best management practices, routine maintenance, and regulatory compliance from local, state, and federal is incorporated to operate the cannabis operation.

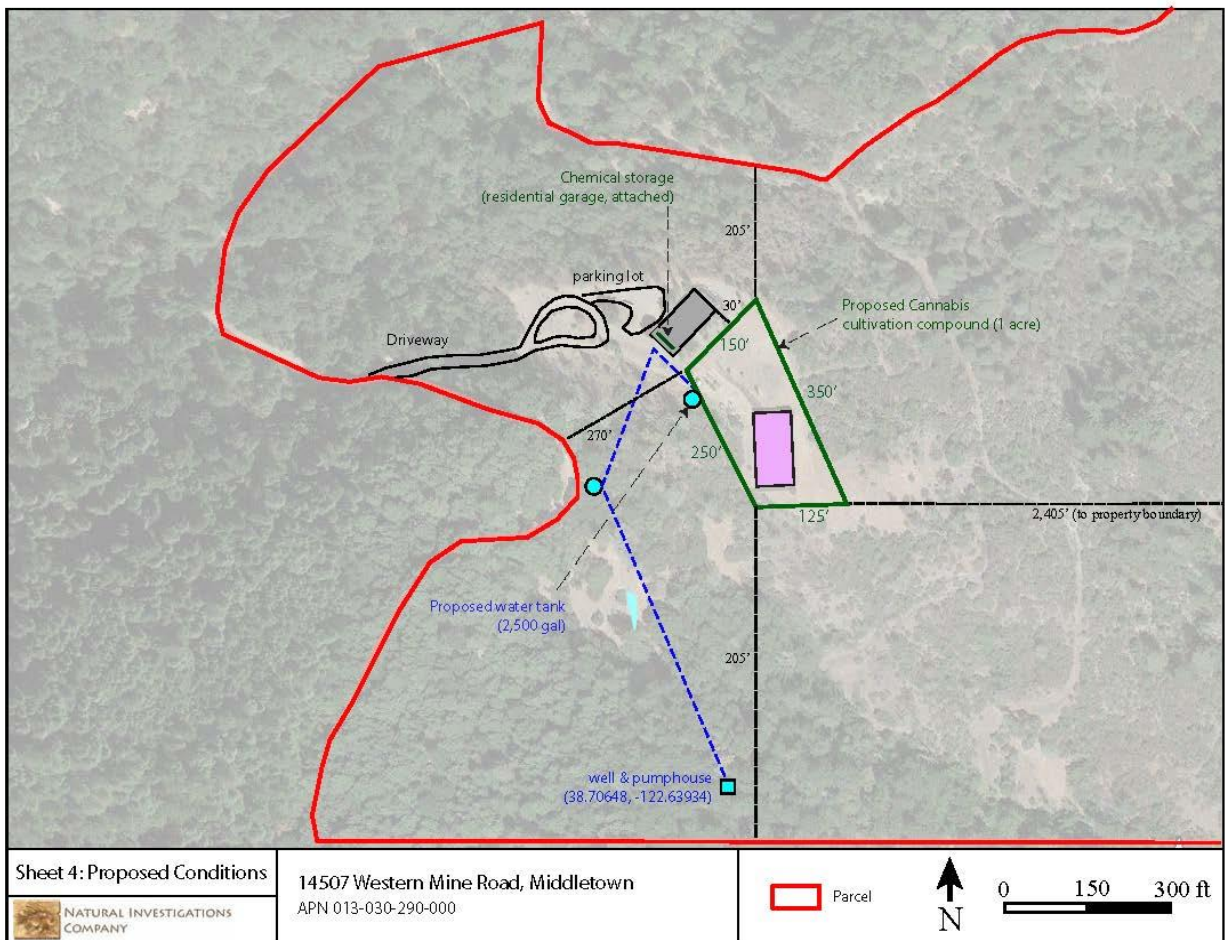


Figure 1. Proposed Site Plan and Cultivation Area

Staff is recommending approval of Major Use Permit, UP 20-39, and the adoption of a Categorical Exemption based on the environmental analysis (Categorical Exemption, CE 21-24).

## II. PROJECT DESCRIPTION

Applicant: Western Mine Farms, LLC (Amy Soderlind)  
Owner: Amy Soderlind  
Location: 14507 Western Mine Road  
Middletown, CA 95461  
A.P.N.: 013-030-29  
Parcel Size: 89 acres  
General Plan: Rural Lands-Resource Conservation  
Zoning: Rural Lands-Waterway Combining-Special Lot Size/  
Density

Flood Zone:

“X”: Areas of minimal flooding-not in a special flood hazard area

Submittal Date:

May 04, 2020

Farmland of Local Importance:

This proposed project is designated as “Other land” and is not located within active agricultural uses

### III. PROJECT SETTING

#### *Surrounding Uses and Zoning*

The surrounding areas are primarily rural lands zoning designation. The surrounding parcel ranges from approximately 20.24 acres to 274.44 acres in size. The parcel is currently being access through an easement from an adjacent parcel off of Western Mine Road. Most of the surrounding areas are mostly vacant with some rural residents. The nearest off-site residence is approximately 1,000 feet.

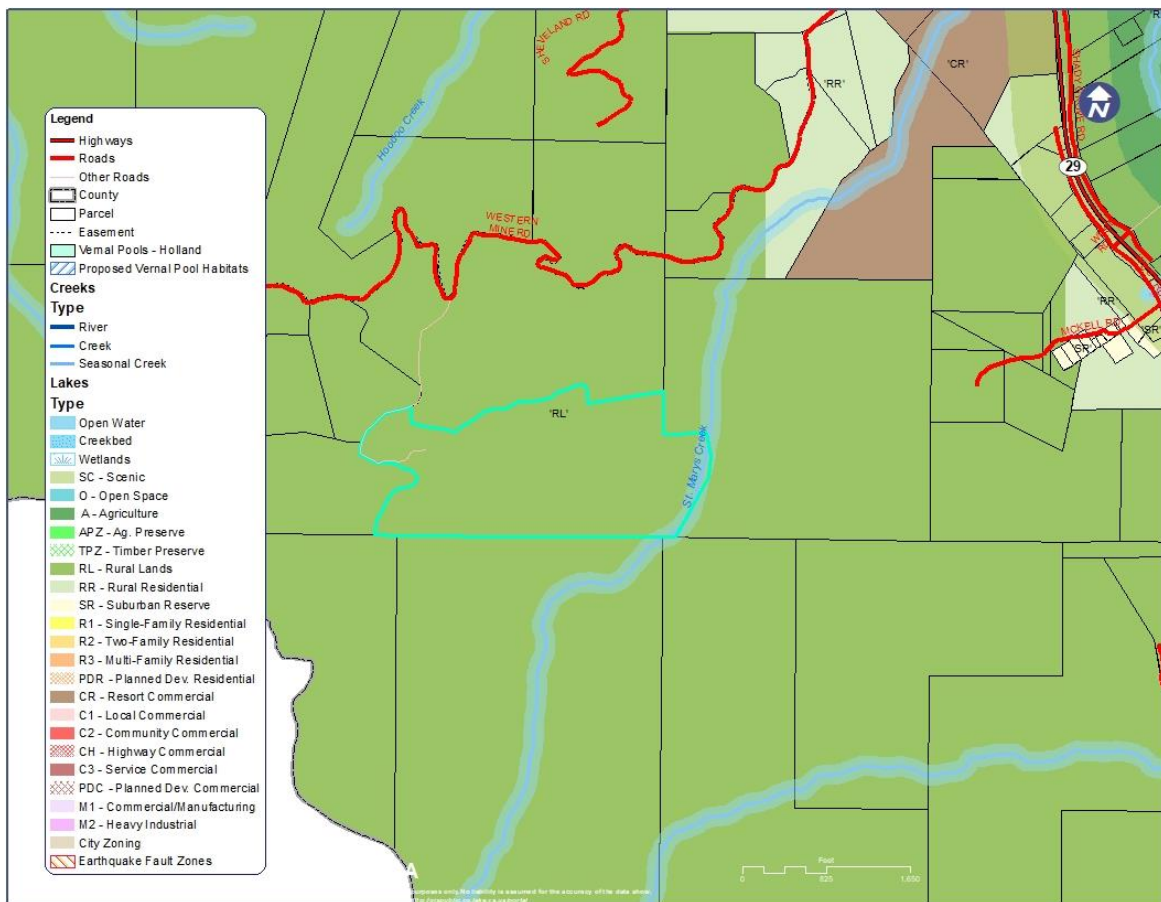


Figure 2. Zoning Map of Site and Vicinity



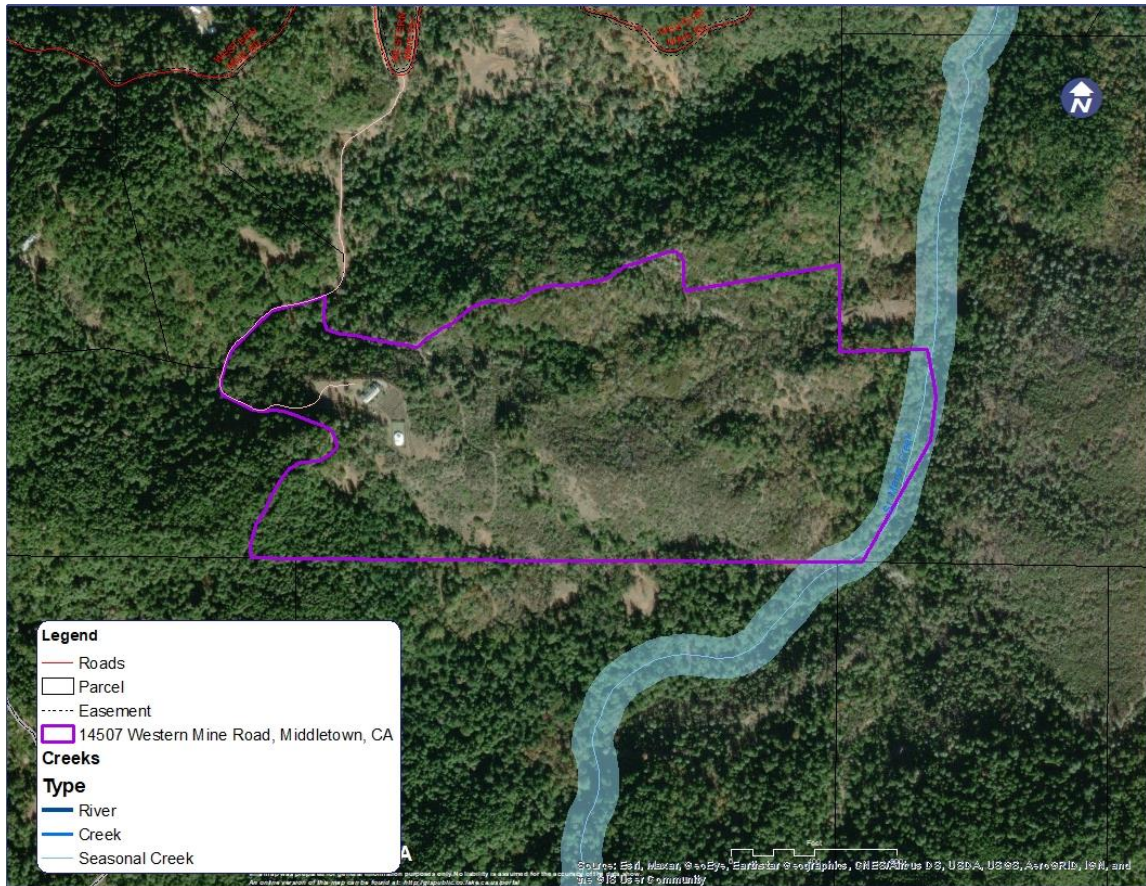


Figure 3. Aerial Photo of Subject Site

Topography: The cultivation area is relatively flat with a slope of less than 5%, however, the average cross-slope of the overall parcel 38.52%.

Soils: The project area contains the following soil type:

- Okiota-Henneke-Dubakella association, 15 to 50 percent slopes (193)

Water Supply: 2-horizontal wells. The minimum combined yield of the horizontal well system measured by the hydrologist was 2.5 gpm. The potential yields are in the range of 7.5 gpm based on historical information, is likely maintenance dependent.

Sewage Disposal: On-site septic system.

Fire Protection: South Lake County Fire Protection District

Vegetation: Non-native grassland field

Water Courses: St. Mary's Creek is 0.47 east of project area and a small wetland 230 feet uphill from the project area

#### IV. PROJECT ANALYSIS

##### *General Plan Conformance*

The General Plan designation for the subject site is Rural Lands. The following General Plan policies related 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.

Resource Conservation is to assure the maintenance or sustained generation of natural resources within the County. The highest priority for these lands is to provide for the management of the County's natural infrastructure. This management should include, but is not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. In addition, these lands provide important ground water recharge capability which is critical to the maintenance of the natural ecosystem and to providing a sustainable ground water supply for the County. This category would include public and private areas of: significant plant or animal habitats; forest lands in Timberland Preserve Zones; agricultural lands within the Williamson Act; grazing; watersheds including waterways and wetlands; outdoor parks and recreation; retreats; mineral deposits and mining areas which require special attention because of hazardous or special conditions; publicly-owned land (e.g., U.S. Forest Service, BLM land, State, and County); and open space activities. Uses allowed in this designation are those related to resource utilization and resource conservation activities. Resource utilization operations and facilities will require a conditional use permit.

*The project parcel is located with the general plan designation for Rural Land and Resource Conservation. The Rural Land designation allows rural development with some crop production with the Lake County General Plan (2008). The project parcel also include Resource Conservation located at the far east corner, the project implementation will not impact this designation area. The project scope meets this designation.*

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

### **Land Use**

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

- Policy LU 1.2: "The County shall actively support the development of mixed-use projects as a means to reduce travel distances and create neighborhood environments that offer a range of residential options."

*The proposed project meets all the minimum requirements per Lake County Zoning Ordinance 27.13 (at) for the proposed use. The project would encourage economic growth for the applicant and the county through tax revenues. The project location is adjacent to a residential home, the proposed project would allow the applicant to provide sufficient income through the mixed-use.*

### ***Middletown Area Plan Conformance***

The subject site is within the Middletown Area Plan’s boundary. The Middletown Area Plan does not contain cannabis-specific policies but contains several policies that are subject to consistency review as follows:

**“3.2.1b:** Encourage groundwater monitoring within the Middletown Planning Area.”

*Per the zoning ordinance, it is required that all applicants install a water meter to monitor water usage and provide an estimated water calculation for their particular canopy area. The estimated monthly water usage for the cannabis cultivation operation will be approximately 90,000 gallons. Also, the project management plan includes proposed irrigation methods and includes a description of how the project will implement conservation techniques (see Attachment 2).*

**“3.3.1a:** Support protection and restoration of wetland, riparian, and significant natural areas in the Middletown Planning Area.”

**“3.3.1b:** The County shall coordinate measures to protect and maintain sensitive and unique vegetation and wildlife habitat.”

*Per zoning ordinance, it is required that the project site is located in areas that would protect sensitive habitats and all waterways by creating a buffer of 100 feet or more. The nearest watercourse is approximately .47 miles and a small wetland area approximately 230 feet uphill. A biological report was conducted on the project site, the biologist concluded that the project area is “completely bare soil and the tennis court is also devoid of plant life—it is unlikely that special-status plant or animal species have been negatively impacted by the proposed project”. The project will take place within a pre-disturbed area vegetated with non-native grassland in between the adjacent residential home extending to the existing tennis court.*

**“3.6.1a:** Prior to approval of discretionary projects within areas of known sensitivity to archaeological resources, local Native American representatives shall be consulted concerning potential impacts to cultural resources.”

*An archeological study was conducted on the project site in November 16, 2019 and concluded in negative findings. Based on the negative findings of the California Historic Resource Information System (CHRIS) and Sacred Lands File (SLF) searches, as well as field survey, there is no indication that the project will impact any historical or archaeological resources as defined under CEQA Section 15064.5 or tribal cultural resources (TCRs) as defined under Public Resources Code Section 21074.*

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

#### Article 5 – Rural Lands Zoning District

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

#### Article 30 - Special Lot Size/ Density

To provide for specified minimum lot sizes, or to promote open space and protect sensitive resources by clustering residential development. “B5” areas: Maximum permitted density

measured by dwelling units per gross acre and minimum lot size shall be as specified on the sectional district map.

**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.

*The complete zoning designation for the property is Rural Lands-Special Lot Size-Waterway combining district. Article 27.13 applies to the proposed project for cannabis cultivation use and it is permitted within the Rural Lands zoning district upon issuance of a use permit, according to Section 27.13 (Table B) of the Lake County Zoning Ordinance. The project meets all the requirements for each zoning designation with the exception of Article 30 and Article 37 because the project do not apply to zoning designation and is located approximately 2,450 feet from the nearest known watercourse, respectively.*

**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 89.32 acres in size. The applicant needs 20 acres for an A – Type 3 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 over 1,000 feet away from the cultivation area.*
- **Minimum Fence Height of Six (6) Feet:** *Complies; the proposed enclosure is a 6 feet tall chain-linked fence.*
- **Maximum Canopy Area (43,560 ft<sup>2</sup> maximum for a (3) A-Type 3 “Outdoor”):** *Complies; the proposed canopy area would allow up to 43,560 ft<sup>2</sup> of total canopy area. The applicant stated that the project is likely to be less than the allowable canopy area but the maximum will be 1-acres surrounding the pre-disturbed 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.*

*The applicant has also submitted a Property Management Plan, outlining compliance with all regulations regarding 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) as the listed activities do not apply to the project scope. The project and the project manager complies with the general requirements listed in Section 27.13.*

## **V. ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. The project was initially submitted as an initial study. Upon staff review, the Major Use Permit submitted by Amy Soderlind has been determined to be Categorical Exempt from CEQA through the California Code of Regulations, Title 14, Division 6, Chapter 3, section 15304(a) which reads as follows:

- Exemption Class 4(15304- Minor Alterations to Land) - This class consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature scenic trees except for forestry or agricultural purposes.
  - (a) Grading on land with a slope of less than 10 percent, except that grading shall not be exempt in a waterway, in any wetland, in an officially designated (by federal, state, or local government action) scenic area, or in officially mapped areas of severe geologic hazard such as an Alquist-Priolo Earthquake Fault Zone or within an official Seismic Hazard Zone, as delineated by the State Geologist.

*The project qualifies for the aforementioned CEQA exemption based on the following:*

*The project proposal consists of above-ground smartpots that may include approximately less than an acre of light vegetation clearing of non-native grassland for the proposed project. The proposed project area had been routinely maintained to reduce fire hazard prior to applying for the use permit. Categorical Exemption (Section 15304(a)) applies to this project as it is grading on land with a slope of less than 10 percent without any potential significant impact to the environment and sensitive resources such as cultural or biological resource as determined by the qualified archeologist or biologist, respectively. Lake County Chapter 30 Grading Ordinance, Article V, vegetation clearing is incorporated as a level of review (in conformance to CEQA) and it is exempt for vegetation clearing of less than 1-acre or importing fill of less than 500 cubic yards. The one acre of cultivation area does not propose any tree removals, however, it may involve some vegetative clearing within the cultivation area for fuel reduction, when necessary. The project does propose a small 120 square feet structure that does not require a building permit and is included as part of the cultivation area to be used as a security area. In addition, the applicant is required to comply with all regulatory agencies regarding water usage, pesticide/fertilizer usage, and sensitive resources from local, state and federal levels that would further minimize potential impact to no potential impact. An archeological, biological, and water supply assessment was conducted on the project site.*

*An archeological survey was prepared by Time Spillane, MA, RPA on December 2019, and found there are no previously recorded cultural resources within the Project Area or the 25-mile record*



*search radius. The California Historical Resource Information System (CHRIS) and Sacred Lands File (SLF) searches resulted in negative findings as well as field survey. Per archeologist comments, there is no indication that the project will impact any historical or archaeological resources as defined under CEQA Section 15064.5 or tribal cultural resources (TCRs) as defined under Public Resources Code Section 21074.*

*According to the Biological Assessment (BA) prepared by G.O Graening, PhD and Ted Hermansen, MS dated December 2019 and a re-evaluation addendum to the Biological Assessment prepared on April 20, 2021 concluded no direct impact to special-status plants is expected. Per biologist, a Botanical protocol survey is not necessary for the project as it is highly unlikely that special-status plant or animal species have been negatively impacted by the proposed project. The wetland and the Class II watercourse are over 100 feet from the project area and will not be negatively impacted by the proposed project.*

## **VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL**

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

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

*Response: The proposed use of commercial cannabis cultivation operation is permitted in the Rural Lands 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. In addition, the nearing persons residing is over 1,000 feet away from the cultivation site and is located in a quiet, secluded area. The project site surrounding consists of heavily densed vegetation. The proposed project will less likely be a detriment to the persons residing or working in the neighborhood of the proposed use. Lastly, the Community Development Department would conduct an annual compliance monitoring inspection during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.*

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

*Response: The proposed cultivation area is 1.5 acres and 1.6% of the 89.32-acre site. The proposed project meets all siting and development standards for cannabis. That is, 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 required in local and state level to lessen potential impacts to natural resources.*

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

*Response: The circulation system is reasonable to accommodate the specific proposed use. The project will consist of 3-10 employees and will less likely result in high traffic from the cultivation site to the Western Mine Road.*

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 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. Agency comments are attached as 'Attachment 6'.*

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

*Response: Since commercial cannabis cultivation is a permitted use for land designation Rural Lands within Article 27 of the local zoning ordinance, this proposal is consistent with the governing ordinance for cannabis cultivation in Lake County. The proposal, as conditioned, meets all requirements and development standards of the Zoning Ordinance. The General Plan and the Middletown 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.

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

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

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

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

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

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

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

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

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

## **VII. RECOMMENDATION**

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

#### **A. Find that this project has been found to be Categorical Exempt from CEQA as a Class 4 Exemption.**

1. The project is consistent with CEQA Categorical Exemption, Class 4 (Minor Alterations to Land), which consists of minor or private alterations in the conditions of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.
2. This project is consistent with land uses in the vicinity.
3. This project is consistent with the Lake County General Plan, Middletown Area Plan, and Zoning Ordinance.
4. 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.
5. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

#### **B. Approve Major Use Permit UP 20-39 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, Middletown 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:**

**Categorical Exemption (CE 21-24)**

I move that the Planning Commission find that the **Major Use Permit (UP 20-39)** applied for by **Western Mine Farms, LLC (Amy Soderlind)** on property located at **14507 Western Mine Road, Middletown, CA**, further described as **APNs: 013-030-29** is exempt from CEQA because it falls within Categorical Exemption Class 4 (15304), based on the findings set forth in Staff Report dated **June 10, 2021**.

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

I move that the Planning Commission find that the **Major Use Permit (UP 20-39)** applied for by **Western Mine Farms, LLC (Amy Soderlind)** on property located at **14507 Western Mine Road, Middletown, CA**, further described as **APNs: 013-030-29** 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 **June 10, 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.*