



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

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Item 1

9:00 AM

June 10, 2021

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Prepared by: Michael Taylor, Assistant Planner

DATE: June 10, 2021

RE: Ursa Valley, LLC

- Major Use Permit (UP 20-86)
- Initial Study (IS 20-102)
- Early Activation (EA 20-102)

Supervisor District 3 - Supervisor Crandell
Planning Commissioner – Commissioner Brown

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

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 10950 Bachelor Valley Road, Witter Springs, California, further described as Assessor Parcel Numbers (APNs): 002-046-09, 002-046-15, 002-046-16 and 002-046-17. The applicant proposes the Collocation of Permits and Clustering which is permitted through Article 27 Section (at)1.i.ii.(j) of the Lake County Zoning Ordinance. Through this section, multiple cultivation permits may be allowed on a single parcel provided that each permit meets the minimum acreage requirement and all other development standards as provided. The applicant proposes to cluster APNs 002-

046-09, 002-046-15 and 002-046-16, 002-046-17, 002-025-52 and 002-025-53. APNs 002-046-09, 002-046-17, 002-025-52 and 002-025-53 will only be used for the acreage and no cultivation will occur on these parcels. All cultivation activities will occur only on parcels 002-046-15 and 002-046-16. The applicant's proposal will include the following:

- Twelve (12) A-Type 3 "Medium Outdoor" canopy areas located in four (4) associated outdoor cultivation/canopy areas, with a total cultivation/canopy area of 12 acres / 522,720 ft² (see Attachment 5)
- The cultivation areas will be enclosed and secured with a six-foot-tall wire fence with privacy mesh to screen the cultivation/canopy area(s) from public view
- One(1) 120 ft² (10'X 12') Security Shed (item "N" on Site Plans)
- One(1) 160 ft² (8' X 20') Pesticides & Agricultural Chemicals Storage Area (item "M" on Site Plans, as provided in Attachment 5).
- Designated Refuse/Waste Area (item "P" on Site Plans)
- One(1) 500 ft² (20' X 25') Compost Area (item "S" on Site Plans)
- Approximately seven (7) parking spaces, plus one (1) ADA-compliant Parking Space (item "Q" on Site Plans)
- Portable Restrooms, including an ADA-compliant restroom (item "R" on Site Plans)

The cultivation area will be within an enclosed area secured by a fence approximately six (6) feet in height. The fence will be screened with a privacy mesh, which will help reduce visibility within the surrounding area. The proposed outdoor cultivation method is above ground in planters with drip irrigation systems pressurized by electric pumps from the well source.

Security

6-foot woven wire fences will be erected around the proposed cultivation/canopy area(s). Privacy Screen/Cloth will be installed on the fences where necessary to screen the cultivation area from public view. Posts will be set into the ground at not more than 10-foot intervals, and terminal posts will be set into concrete footings. Secured entry and access to the cultivation/canopy area(s) will be controlled via locking gates that will be locked whenever Ursa Valley's managerial personnel are not present. All gates will be secured with heavy duty chains and commercial grade padlocks. Only approved managerial staff will be able to unlock the gates of the cultivation operation.

Water Source and Usage

The cultivation operation will use water from five (5) existing, agricultural groundwater wells. According to the application package, the existing wells produce approximately 61 gallons per minute which would translate to approximately 32,061,600 gallons per year. The total proposed water usage on an annual basis is approximately 5,555,500 gallons which includes water usage for the cultivation operation and domestic use. The proposed project would utilize approximately 17.3% of the well's full capacity. The water use calculations submitted by the applicant are below:

Water Use

May	June	July	Aug	Sept	Oct	Nov
277,000	880,000	977,500	1,075,000	1,303,000	815,000	228,000
0.8	2.7	3.0	3.3	4.0	2.5	0.7

Well Yield

Well ID	Latitude	Longitude	Estimate Yield
“GW-1”	39.193043°	-122.966172°	6 GPM
“GW-2”	39.194465°	-122.963735°	22 GPM
“GW-3”	39.193879°	-122.965919°	14 GPM
“GW-4”	39.194529°	-122.966134°	7 GPM
“GW-5”	39.193254°	-122.964859°	12 GPM

Fertilizer and Chemical Usage

All fertilizer and pest management products will be stored in the 160 square foot hazardous material storage shed. According to the application, personal protective equipment will be used when handling fertilizers and other chemicals, such as safety glasses, gloves, dust masks, etc. The chemicals used for the operation will be contained and sealed to prevent spillage and handles in accordance with State and Federal regulations regarding handling and storage of fertilizers and pest management products. Additionally, the applicant proposes all cannabis vegetative waste to be placed in the cannabis waste storage shed for composting or transportation to an offsite disposal area by a licensed waste handler.

Operation

The facility will be open Monday through Saturday, 8:00 AM to 8:00 PM. Deliveries and pick-ups will occur during this time-frame. According to the application, visitation will only be allowed when specific permission is granted.

Number of Shifts and Employees:

- Cultivation Season (excluding harvest): Two (2) shifts with up to seven (7) employees during peak shift.
- Harvest Season: Three (3) shifts with up to fourteen (14) employees during peak shift.

Unique Farmland

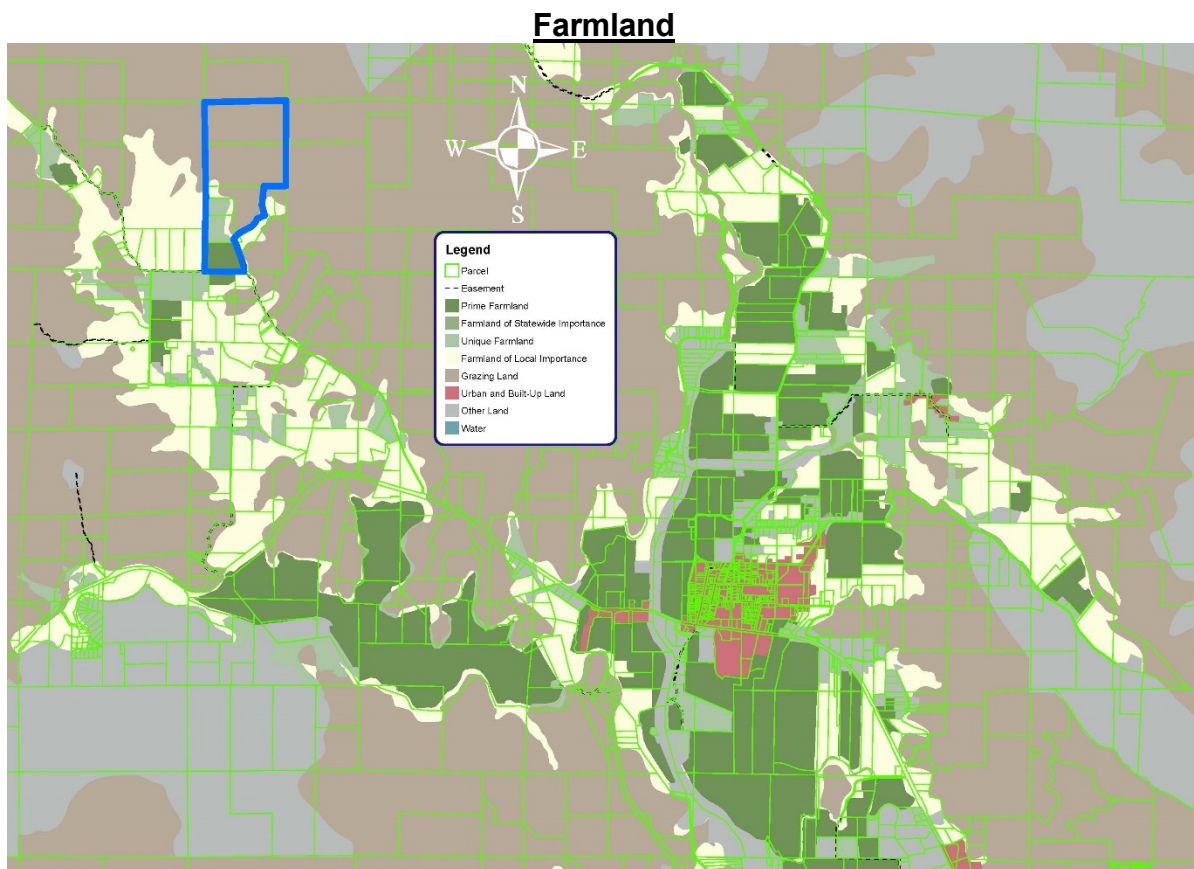
The cultivation site is located in Witter Springs and within Unique Farmland. The cultivation of commercial cannabis will be outdoor.

In accordance with Article 27 Section (at).1.vi. of the Lake County Zoning Ordinance, within areas of unique farmland as depicted on the current Lake County Important Farmland Geographical Information System prepared by the State California Department of Conservation Farmland Mapping and Monitoring Program, commercial cannabis cultivation shall be limited to indoor, mixed-light, and greenhouses that are equipped with

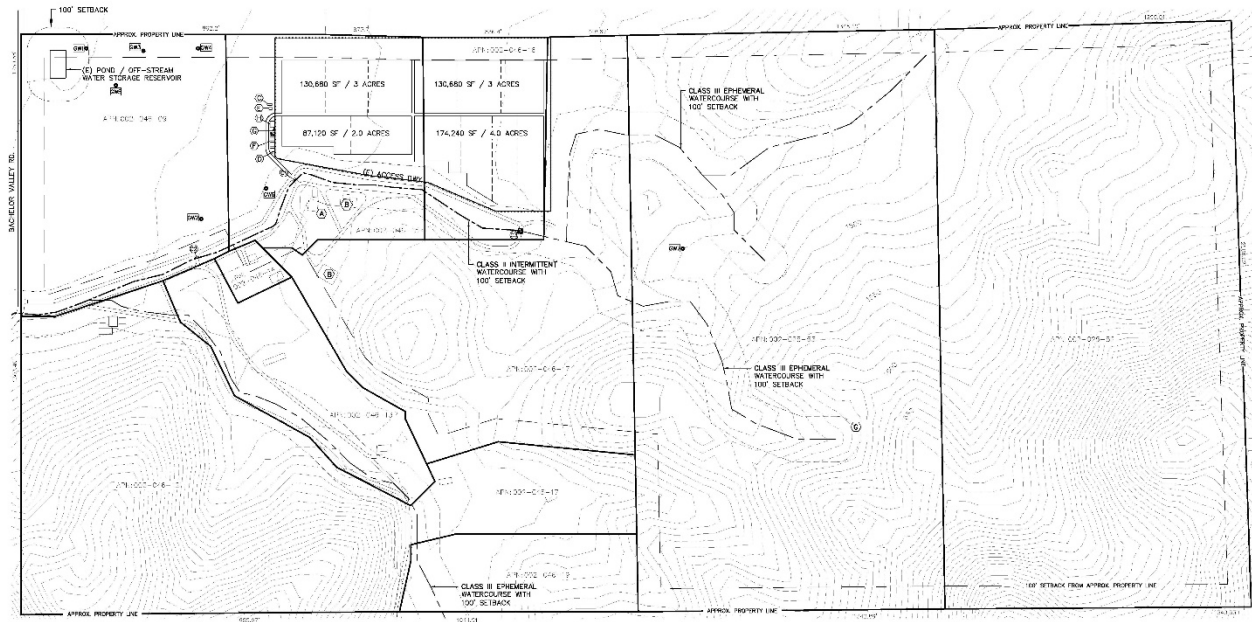
filtration systems that prevent the movement of odors, pesticides, and other air borne contaminants out of or into the structure.

Per Article 27 (at).vi of the County of Lake Zoning Ordinance the permitting authority may allow outdoor cultivation outside a greenhouse if the unique farmland, are isolated areas that are not connected to a large system of such lands. The proposed project is located at the upper end of Witter Springs farmland area and is isolated from the larger system (Please see image below). The project property is not located within the Farmland Protection Zone as defined in Article 27 [As amended through Ordinance 3101, adopted 12/15/2020].

According to the County of Lake GIS data and Google maps the nearest agricultural operation is located approximately 1,000 feet southwest of the Project Site. According the Property Management Plan the agricultural operation is a certified organic walnut orchard that does not utilize pesticides banned for use on commercial cannabis. Additionally, all pesticides used at this agricultural production operation are applied in the spring, before the start of Ursa Valley's proposed cultivation season. Ursa Valley's Site Manager, Jaime Restrepo, met with the owner of this agricultural production operation and the Lake County Agricultural Commissioner in August of 2020, to inform them of Ursa Valley's plans to establish an outdoor commercial cannabis cultivation operation on the Project Parcels. On August 27th, 2020, the Lake County Agricultural Commissioner emailed the Deputy Director of the Lake County Community Development Department, informing the Deputy Director that neither the Lake County Agricultural Commissioner nor the owner of the certified organic walnut orchard oppose Ursa Valley's proposed outdoor commercial cannabis cultivation operation.



Proposed Site Plan and Cultivation Area



Staff is recommending approval of Major Use Permit, UP 20-86 and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 20-102) with the incorporated Mitigation Measures and Conditions of Approval.

II. PROJECT DESCRIPTION

Applicant: Ursa Valley, LLC

Owner: Morongo Equity Partners II, LLC

Location: 10950 Bachelor Valley Road, Witter Springs, CA

A.P.N.: 002-046-15 (**Parcel with proposed cultivation**)
002-046-16 (**Parcel with proposed cultivation**)
002-046-09 (**Parcel used for clustering-No cultivation**)
002-046-17 (**Parcel used for clustering-No cultivation**)
002-025-52 (**Parcel used for clustering-No cultivation**)
002-025-53 (**Parcel used for clustering-No cultivation**)

Parcel Size: ±242 Total Acres Combined

General Plan: Agriculture – Resource Conservation – Rural Lands

Zoning: **002-046-15:** “A-WW”: Agricultural-Waterway Combining
002-046-16: “A-WW”: Agricultural-Waterway Combining
002-046-09: “A-SC-WW-FF”: Agricultural-Scenic Combining-Waterway Combining-Floodway Fringe Combining
002-046-17: “RL”: Rural Lands
002-025-52: “RL-WW”: Rural Lands-Waterway Combining

002-025-53: “RL-WW”: Rural Lands-Waterway Combing

Flood Zone: “X”: Areas of minimal flooding – not in a special flood hazard area.

Submittal Date: October 5, 2020

Farmland Designation: Unique Farmland

III. PROJECT SETTING

Surrounding Uses and Zoning

North: “RL” Rural Lands and “O” Open Space District. Parcel sizes range from approximately 76 to 498 acres in size.

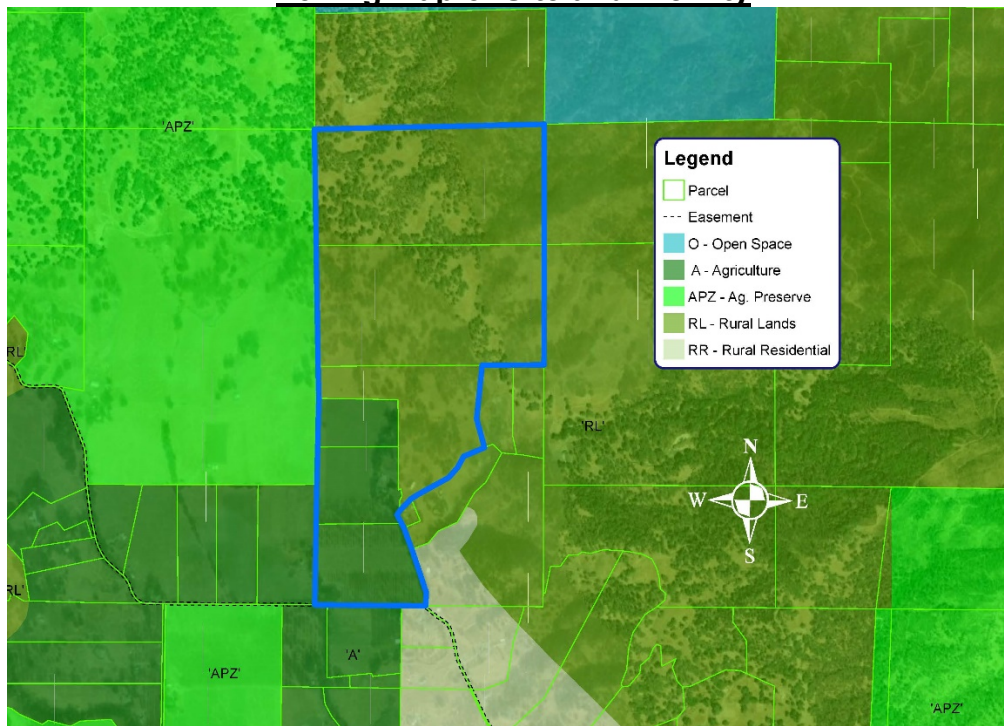
South: “A” Agriculture and “RR” Rural Residential. Parcel sizes range from approximately 4 to greater than 14 acres in size.

East: “RR” Rural Residential and “RL” Rural Lands. Parcel sizes range from approximately 1 to greater than 40 acres in size.

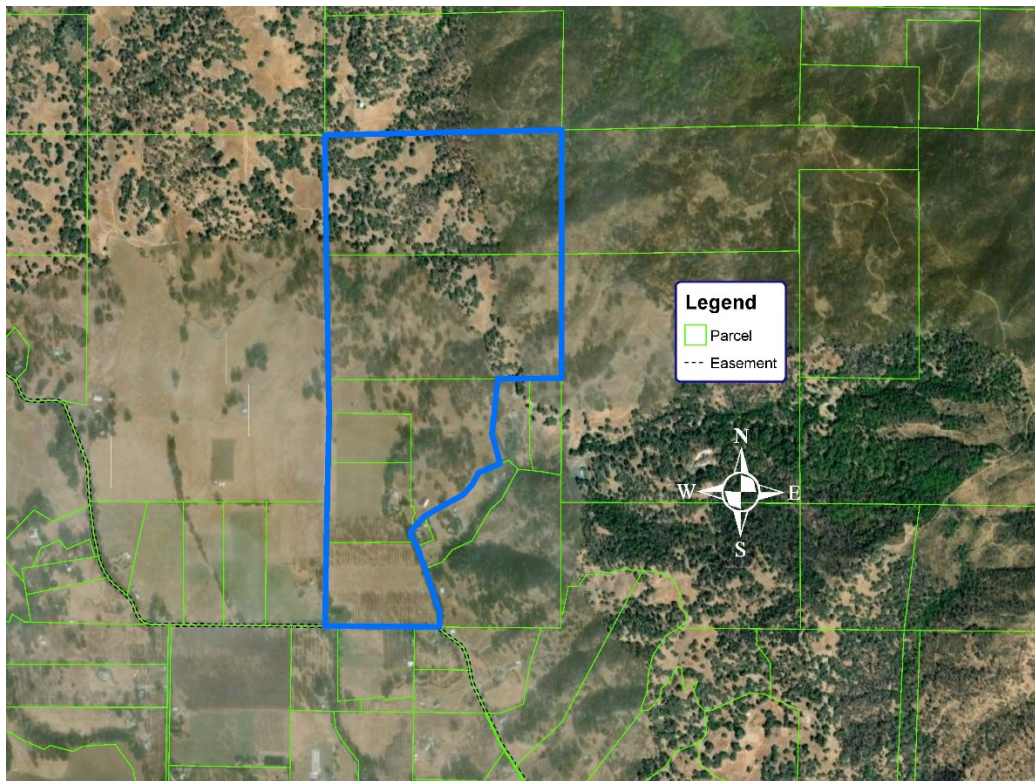
West: “RL” Rural Lands and “RR” Rural Residential. Parcel sizes range from approximately 19 acres to greater than 238 acres in size.

The Project parcel is not within a Community Growth Boundary. The proposed cultivation site is approximately 3 miles northwest from the nearest community growth boundary.

Zoning Map of Site and Vicinity



Aerial Photo of Subject Site



Topography: The cultivation area has a slope of less than 10%, however the parcels used for clustering and not utilized for cultivation. slope ranges from less than 10% to over 30%.

Soils: The project area contains the following soil types:

- Lupoyoma Silt Loams (Type 158), Sleeper Variant-Sleeper Loams (Type 214), Sleeper Variant-Sleeper Loams (Type 215), Still Loam (Type 233), Xerofluvents-Riverwash Complex (Type 249)

Water Supply: Existing Well

Sewage Disposal: On-site septic system.

Fire Protection: Northshore Fire Authority FPD

Vegetation: Cultivation area is previously disturbed.

Water Courses: Seasonal Creek

IV. PROJECT ANALYSIS

General Plan Conformance

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

Agriculture includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. The purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in crop production, including horticulture, tree crops, row and field crops, and related activities.

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 not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. These lands provide important ground water recharge capability which is critical to the maintenance of the ecosystem.

The applicant is proposing commercial cannabis cultivation which is consistent with agricultural/crop production under the Lake County General Plan (2008) for Agriculture and Rural Lands. Commercial cannabis cultivation is an allowable use within the above listed land use designations and the proposed lots are located appropriately to support the use. The project is located in a rural area within Witter Springs., 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 and “A” Agricultural land Use Designations upon securing a Minor/Major Use Permit. On, October 5, 2020, the applicant submitted a Major Use Permit to the Community Development Department for processing.

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 350 feet south from the cultivation site. Additionally, Commercial Cannabis Cultivation is prohibited within 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest community growth boundary is located approximately 3 miles southeast from the cultivation site.

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.. According to the applicant’s application employees are proposed as part of the project. However, the exact number of employees is unknown at this time. The number of employees can increase or decrease depending on the stage of the cultivation season.

Upper Lake/Nice Area Plan

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

- **5.1.1i:** A high priority should be given to providing service and employment opportunities locally.

Zoning Ordinance Conformance

Article 4 – Agricultural District (A)

The Cultivation of Commercial Cannabis is permitted in the “A” Agricultural District upon issuance of a Major/Minor Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. On October 5, 2020, the applicant submitted an application for a Major Use Permit, UP 20-86 for the Cultivation of Commercial Cannabis to the Community Development Department.

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 October 5, 2020, the applicant submitted an application for a Major Use Permit, UP 20-86 for the Cultivation of Commercial Cannabis to the Community Development Department.

Article 34 – Scenic Combining District (SC)

The project parcels on which all cultivation activities will be located is not within the Scenic Combining District. According to County GIS data, the scenic district extends approximately 200 feet from the centerline of Bachelor Valley Road. The cultivation area is more than 1,100 feet from the centerline of Bachelor Valley Road. The cultivation site is setback 100 feet from the property line, however, all structures proposed for the cultivation operation will be more than 1,000 feet setback from Bachelor Valley Road. All proposed structures shall adhere to the development standards defined in Article 34 of the Lake County Zoning Ordinance.

Article 36 – Floodway Fringe Combining District (FF)

Within the “FF” combining district, no development shall take place except in accordance with the regulations of the base zoning district, with the regulations of this Article, and the regulations of Chapter 25, Floodplain Management. The cultivation area is not located within the “FF” combining district per the Lake County GIS data maps.

Article 37 – Waterway Combining District (WW)

Within the “WW” Waterway combining district, all uses of land shall comply with the regulations of the base zoning district and with the additional regulations of the “WW” combining district. There is a Class III Stream which coincides with the Waterway Combining District. The cultivation is setback 100 feet from the stream which adequately meets the 50 foot setback as required in Article 37.

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, or 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): *Complies, the combined acreage of all lots is 242 acres and all lots are over 5 acres in size. The applicant needs 20 acres for an A – Type 3 license.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 310 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 7' tall.*
- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 10,000 sq.ft.): *Complies; the proposed canopy area would be approximately 217,800 sq.ft. of outdoor canopy area for five (5) A – Type 3 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.

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. The property management plan is provided here as Attachment 2.

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 20-32; Attachment 6) was prepared and circulated for public review in compliance with CEQA from **11/12/2020 to 12/17/2020**. The applicant submitted a Cultural Resource Assessment to the Community Development Department (CDD) dated February 23, 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, and Noise. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level.

Aesthetics

The proposed operation will not have a substantial adverse effect on the scenic vista as the project area to be developed is not located within a known “SC” Scenic Combining Districts. Additionally, the project parcels are located in a rural area of Lake County and greater than 3.0 miles away from State Highway 29. The projects parcels are naturally protected by the surrounding landscape along Bachelor Valley Road and the entire cultivation area will be enclosed within a six (6)-foot fence, covered with privacy screen to screen the cultivation area from public view. The Bachelor Valley Road area has been continuously used for agricultural purposes for generations. However, passing motorist may have limited visibility along Bachelor Valley Road and/or may see minimal lighting during evening and/or night operations. All lighting will be directed downwards, shielded and adhere to all Federal, State and local agency requirements, including all dark-sky requirements. To ensure that impacts related to the Aesthetics are minimized, following mitigation measure shall be implemented.

- AES-1: All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply and adhere to all federal, state and local agency requirements, including all requirements in darksky.org. An Outdoor Lighting Plan shall be submitted for review and acceptance, or review and revision prior to cultivation.

Air Quality

The project has potential to result in short-term and long-term air quality impacts by generating fugitive dust emissions through ground-disturbing activities, routine maintenance, uncovered soil or compost piles, and vehicle trips on unpaved roads and during project development.

Cannabis cultivation may generate objectionable odors, particularly when the plants are mature/flowering in the cultivation area(s) or when being processed (drying, curing, trimming, and grading) after harvest. No significant odor impacts are anticipated from the proposed cultivation operation, due to the proposed odor control equipment and practices, and the generous setbacks provided from public roads, property lines, and neighboring residences/outdoor activity areas.

To ensure impacts related to the Air Quality are minimized, the following mitigation measures shall be implemented.

- 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.
- 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

A Biological/Botanical Resource Assessment (dated September 30, 2020) was prepared by Natural Investigations Company, Inc. located in Sacramento, CA. This Biological Resources Assessment was prepared to assist in compliance with the California Environmental Quality Act and the state and federal Endangered Species Acts.

This assessment provides information about the biological resources within the study area, the regulatory environment affecting such resources, any potential project-related impacts upon these resources, and finally, to identify mitigation measures and other recommendations to reduce the significance of these impacts. To ensure impacts related to the Biological Resources are minimized, the following mitigation measures shall be implemented.

- BIO-1 (Nesting Birds): Prior to the commencement of vegetation clearing and/or tree falling during the Nesting Bird Breeding season(s), a survey for nesting birds shall be conducted by a qualified biologist.
- BIO-2 (Erosion Control): All work in or near any waterways shall incorporate extensive Erosion and Sediment Control Plans/Measure consistent with all Federal, State and local agency requirements to avoid erosion and the potential for transport of sediment into the waterways. Additionally, coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharge associated with Construction Activities (General Permit) and a Storm Water Pollution Prevention Plan (SWPPP may be required).
- BIO-3 (Creek Buffer): The applicant shall maintain a minimum of a one-hundred (100) foot setback from the top of bank of any creek (perennial and intermittent), edge of lake, delineated wetland and/or vernal pool on the lot of record of land, for the use and storage of fertilizers and pesticides.
- BIO-4 (Staging Area): The applicant shall ensure to use only previously disturbed areas for staging/storage of materials and/or equipment that is used to maintain the ongoing use. No areas shall be newly developed for the purpose of staging.
- BIO-5: The applicant shall preserve and/or avoid existing vegetation not otherwise specified for removal, including native tree species.
- BIO-6: The use of water provided by a public water supply, unlawful water diversions, transported by a water hauler, bottled water, a water vending machine, or a retail water facility is prohibited. The utilization of water that has been or is illegally diverted from any lake, springs, wetland, stream, creek, vernal pool, and/or river is prohibited. The applicant shall not engage in any unlawful or unpermitted drawing of surface water.
- BIO-7: A formal delineation of jurisdictional waters shall be performed before construction work, or ground disturbance is performed within 50 feet of any wetland or channel.

Cultural Resources

The project is within the boundaries of the Habematolel Pomo of Upper Lake (Historically and Culturally Affiliated Tribe). A consultation between the Habematolel Pomo of Upper Lake representative and County included discussion on the scope of the project, presence of cultural resources, and recommended mitigation measures.

Also, the Habematolel of Upper Lake and Ursa Valley, LLC enter into a Standard Monitoring Agreement. “The purpose of this Agreement is to establish fee schedules and terms for the use of Habematolel Pomo of Upper Lake tribal monitors for the Project; establish protocols for the relationship between Habematolel Pomo of Upper Lake and the Contractor [Ursa Valley, LLC]; formalize procedures for the treatment of Native American human remains,

grave goods, ceremonial items and any cultural artifacts, in the event that any are found in conjunction with the Project's development, including archaeological studies, excavation, geotechnical investigations, grading and any ground disturbing activity". In light of the fact that the local Cultural and Historical Affiliated Tribe and the developer have agreed on mitigation measures, Staff recommends the following additional mitigations be adopted.

- 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 local Historically and 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 Historically and Culturally Affiliated Tribe(s), 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 local Historically and Culturally Affiliated Tribe(s) shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.
- CUL-3: In the event of an unanticipated discovery of cultural resources during the implantation of the project, all work must be halted within 100 feet (30 meters) of the find and qualified archaeologist (36 CFR Part 61) notified so that its potential significance can be assessed.

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 and/or operation, the applicant shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval.
 - Said Erosion Control and Sediment Plans shall protect the local watershed from runoff pollution through the implementation of appropriate Best Management Practices (BMPs) in accordance with Chapters 29 and 30 of the Lake County Code.
 - 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. All BMP's shall be maintained for life of the project.

- GEO-2: Prior to any ground disturbance, (if applicable), the applicant shall submit and obtain a Grading Permit from the Community Development in accordance with Chapters 29 and 30 of the Lake County Code.
- GEO-3: 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 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-4: The applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Said measures shall be maintained for life of the project and replace/repared when necessary.

Hazards and Hazardous Materials

Materials associated with the operation, such as gasoline, diesel, carbon monoxide, pesticides, fertilizers and the equipment emissions may be considered hazardous if released into the environment. All hazards and hazardous materials will be stored in accordance to all Federal, State and local agency requirements. Routine construction materials and all materials associated with the proposed cultivation of commercial cannabis shall be transported and disposed of properly in accordance with all applicable Federal, State and local regulations.

According to the Property Management Plan (Attachment 2), all pesticides and fertilizers will be stored in their original package in the designated structures, and will only be used in strict accordance with the product label requirements including, but not limited to, directions pertaining to application/use, storage and disposal of the fertilizer product. The applicant has not stated which fertilizers will be used, however the fertilizers used will be administered at the direction of a Certified Pest Control Advisor (PCA). No fertilizers or pesticides will be used within 100 feet of any spring, stream, lake, vernal pool or wetland. To ensure impacts related to the Hazards and Hazardous Materials are minimized, the following mitigation measures shall be implemented.

- HAZ-1: All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
- HAZ-2: The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak into the ground or contaminate surface waters. 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-3: 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.
- HAZ- 4: 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.
- HAZ-5: 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 the creek. The site shall be monitored during the rainy season (October 15-April 15) and erosion controls maintained.
- HAZ-6: The project shall comply with Section 41.7 of the Lake County Zoning Ordinance that specifies all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment.
- HAZ-7: All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state and federal regulations

Hydrology and Water Quality

The project parcels are located in the northeastern portion of Bachelor Valley, and within the Lower Scotts Creek Watershed. An unnamed intermittent Class III watercourse flows from north to south, through the eastern third of the project parcels.

There are two (2) ephemeral Class III watercourses in the northern half of the project parcels and flows south into the unnamed intermittent Class III watercourse. All cultivation areas are located greater than 100 feet of any surface waterbody (such as creeks, streams, ponds, etc.)

The project parcels are enrolled in the State Water Resources Control Board's Cannabis General Order (Order No. WQ-2019-0001-DWQ), as a Tier 2 Low Risk Discharger (enrolled on September 9th, 2020).

Site Management and Nitrogen Management Plans will be developed for the operation, and submitted to the Central Valley Regional Water Quality Control Board (CVRWQCB) for review, prior to planting. Each year, prior to March 1st, an Annual Monitoring Report will be

prepared and submitted to the CVRWQCB, demonstrating measures taken over the course of the previous year to comply with the Cannabis General Order. Ursa Valley will maintain compliance with the Cannabis General Order for the protection of water resources for life of the project.

The operation will not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. To ensure any potential impacts related to the Hydrology and Water Quality are minimized, the following mitigation measures shall be implemented, including Mitigation Measures from BIO-1 through BIO- 8; GEO-1 through GEO-3 and HAZ-1 through HAZ 7.

- 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 all 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 wells shall be equipped with meters, to measure the amount of water pumped, as well as continuous water level monitors. The applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually. The methodology of the monitoring program shall be described.

Noise

Short-term increases in ambient noise levels may be expected during project development, and routine maintenance of the project parcels. Mitigation measures will decrease these noise levels to an acceptable level. The proposed use shall adhere to all Federal, State, and local agency noise standards and requirements. Including the Lake County Code Section Article 41.11.

- 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.

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 and “A” Agricultural 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 twelve (12) A-Type 3 “Medium Outdoor” cultivation areas, with a combined cultivation/canopy area of 522,720 ft². The total cultivation area of the proposed cannabis cultivation operation (as defined in Chapter 21, Article 27 of the Lake County Code), including the combined cultivation/canopy area(s), a 120 ft² Security Center/Shed, and a 160 ft² Pesticides & Agricultural Chemicals Storage Area, is 523,000 ft². The Lake County Zoning Ordinance allows type 1, 2, 3, and 4 cultivation operations on Rural Residential and Agricultural-zoned land, and the subject site is ±242 acres in size combined, 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 an existing gravel road via Bachelor Valley Road (a county maintained road). The Building Division determined that the project will need to comply Public Resources Code 4290/4291 road standards (please refer to Attachment 3 – Agency Comments).

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 and A zoning districts 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. The cultivation site is located in Witter Springs and is within Unique Farmland. In accordance with Article 27 of the Lake County Zoning Ordinance, within areas designated as unique farmland, as depicted on the current Lake County Important Farmland prepared by the State California Department of Conservation Farmland Mapping and Monitoring Program, commercial cannabis cultivation shall be limited to indoor, mixed light, and greenhouses that are equipped with filtrations systems that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure. The permitting authority may allow outdoor cultivation outside a greenhouse if the unique farmland are isolated areas that are not connected to a large system of such lands. The project parcel is located at the northern end of important farmland and is considered isolated. Additionally, there are permits within the valley that are actively cultivating commercial cannabis and /or are in the permitting process. 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
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): *Complies, the lot is ± 110.60 acres in size. The applicant needs 20 acres for an A – Type 3 license.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 350 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (43,560 sq.ft. maximum for an A – Type 3 “Outdoor”, 10,000 sq.ft.): *Complies; the proposed canopy area would be approximately 522,720sq.ft. of outdoor cultivation/canopy area for twelve (12) A – Type 3 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 property owner is Morongo Equity Partners II, LLC.

VII. RECOMMENDATION

Staff recommends the Planning Commission take the following actions.

- A. Adopt Mitigated Negative Declaration (IS 20-102) for Major Use Permit (UP 20-86) 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 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, and CUL-3.
 4. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, BIO-3, BIO-4, BIO-5, BIO-6, and BIO-7.

5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1, GEO-2, GEO-3, and GEO-4.
6. Potential hazards hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1, HAZ-2, HAZ-3, HAZ-4, HAZ-5, HAZ-6, and HAZ-7.
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, and NOI-2.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Upper Lake/Nice Area Plan and Zoning Ordinance.
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 20-86 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, Upper Lake/Nice 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).

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the Major Use Permit (UP 20-86) applied for by **Ursa Valley, LLC** on property located at **10950 Bachelor Valley Road, Witter Springs, CA** further described as **APNs: 002-046-09, 002-046-15, 002-046-16, 002-046-17, 002-025-52, and 002-025-53** 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 **June 10, 2021**.

Major Use Permit (UP 20-27)

I move that the Planning Commission find that the **Major Use Permit (UP 20-86)** applied for by **Ursa Valley, LLC** on property located at **10950 Bachelor Valley Road, Witter Springs, CA** further described as **APNs: 002-046-09, 002-046-15, 002-046-16, 002-046-17, 002-025-52, and 002-025-53** 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 **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 fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*