



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Courthouse - 255 N. Forbes Street Lakeport, California 95453

Telephone 707/263-2221 FAX 707/263-2225

Item 1
9:05 AM
Jul 8, 2021

STAFF REPORT

TO: Planning Commission

FROM: Community Development Department

Prepared by: Kimley Horn

Edited by: KS/EJP

DATE: July 8, 2021

RE: **SourzHVR Inc; Major Use Permit (UP 21-10), Initial Study (IS 21-10), Mitigated Negative Declaration**

Supervisor District 1

- ATTACHMENTS:**
1. Vicinity Map
 2. Property Management Plan
 3. Agency and Public Commentary
 4. Proposed Conditions of Approval
 5. Site Plans
 6. Biological Assessment
 7. Initial Study (IS 21-10)

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Use Permit for commercial cannabis cultivation, distribution, and a nursery located at 11650 High Valley Rd in Clearlake Oaks, CA 95423. The project property includes a total of seven separate parcels, 006-004-07 (649.28 acres), 006-004-24 (429.31 acres), 006-004-25 (10.85), 006-004-06 (39.60 acres), 006-002-04 (321.74 acres), 006-002-09 (103.35 acres), and 006-009-36 (85.83 acres) totaling 1,639.96 acres. The proposed project site is located approximately 7 miles northwest of the City of Clearlake, CA, at 11650 High Valley Road. The proposed cultivation and related activities would occur within APN 006-004-07 (project site).

The proposed project includes (80) A-Type 3 “outdoor” licenses for 80 acres of outdoor cannabis cultivation, (1) Type 11 “distribution” license to transport cannabis goods, and (1) A-Type 4 “nursery” license for the propagation of small plants and to conduct research and development in accordance with California Code of regulations Section 8302. The applicant is also proposing construction of 11 buildings totaling 111,000 ft², including one refrigeration building (*Please refer to Attachment 5 for full building design details*). These buildings will be utilized for the drying and storage of product and materials and to facilitate overall operations. Lastly, the project includes the use of an existing 13,000 sf conference center for packing, distribution (shipping and receiving), and other ancillary uses such as office space. No internal or external improvements to this structure are proposed.

Staff is recommending approval of Major Use Permit UP 21-10, and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study IS 21-10) with the incorporated Mitigation Measure and Conditions of Approval.

II. PROJECT DESCRIPTION

Applicant: SourzHVR Inc / Elli Hagoel / Avi Pollack

Owner: Aviona, LLC

Location/APN: **11650 High Valley Rd, Clearlake Oaks, CA 95423**

APN: 006-004-07 [Project location]

4919 New Long Valley Rd, Clearlake Oaks, CA 95423

APN: 006-002-09 [Clustered parcel]

4963 New Long Valley Rd, Clearlake Oaks, CA 95423

APN: 006-002-04 [Clustered parcel]

10788 High Valley Rd, Clearlake Oaks, CA 95423

APN: 006-004-25 [Clustered parcel]

10750 High Valley Rd, Clearlake Oaks, CA 95423

APN: 006-004-24 [Clustered parcel]

10945 High Valley Rd, Clearlake Oaks, CA 95423

APN: 006-004-06 [Clustered parcel]

4491 New Long Valley Rd, Clearlake Oaks, CA 95423

APN: 006-009-36 [Clustered parcel]

Parcel(s) Size: 1639.96 total combined acreage

General Plan: Agricultural and Rural Lands

Zoning: Split RL "Rural Lands" WW "Waterway Combining"
SC "Scenic Combining" B5 "Special Lot Density
Combining District"

Flood Zone: "D" Areas of undetermined, but possible, flooding

Natural Hazards: SRA Very High Fire Area

Date Submitted: February 7, 2021

III. WATER AVAILABILITY ANALYSIS

- a. **Well #1** – will not be used for cultivation activities.
[Located on APN 006-004-07]
- b. **Well #2** – will not be used for cultivation activities.
[Located on APN 006-004-07]
- c. **Well #3** – will not be used for cultivation activities.
[Located on APN 006-004-24]
- d. **Well #4** – An aquifer performance test was performed on Well #4 on October 27, 2020 to evaluate the yield of the well and hydraulic parameters of the aquifer. A step-drawdown test was performed in which Well #4 was pumped at increasing rates (steps) and the corresponding drawdown of the water level in the well was measured. The well was pumped at 100, 150, 250 and 380 gallons per minute. The maximum drawdown observed in the well was 11.02 feet at 380 gallons per minute.
[Located on APN 006-004-07]
- e. **Well #5** – will not be used for cultivation activities [Located on APN 006-004-07]
- f. **Well #6** – will not be used for cultivation activities
[Located on APN 006-004-07]

- g. **Pond** – will not be used for cultivation activities
[Located on APN 006-004-07]
- h. **On-site water storage** - Five 10,000 gallon water tanks. All water will be pumped directly from Well #4 through to the irrigation mainlines.
- i. **Proposed well** – to be installed approximately 50 feet from proposed nursery [Located on APN 006-004-07] (see *Attachment 5*)

IV. PROJECT DETAILS

a. Early Activation

- i. **Time Frame** – This project was Early Activated on June 7, 2021, as all conditions were met according to Ordinance no. 2021-32. The Community Development Department received notification on Friday, June 18th, that the Department of Fish and Wildlife would be conducting an inspection for possible violations. As of the writing of this Staff Report, details of this visit have not been released. The Community Development Department also received complaints in regards to dust generation, and possible grading violations.

b. **Construction** (for the 11 proposed 50'x100' metal buildings)

- i. **Time Frame** – The applicant estimates the construction at four months. All pre-fabricated buildings are to be delivered to the site by July 1st, 2021. The applicant must procure all approvals (including Use Permit and Building Permits) prior to commencement of construction activities, which are proposed as follows: *First the concrete slabs will be poured then following that process, the buildings will be erected. The concrete slabs will all be poured within a one-week timeframe then the pre-fabricated buildings will be erected one by one.*
- ii. **Equipment to be used** - The equipment used for construction would include a scissor lift, pickup trucks, a backhoe for footing detail, and hand tools.
- iii. **Staging areas** - Materials and equipment needed to prepare the cultivation areas will be staged on previously disturbed areas including existing parking lots and on-site private roadways. The existing paved parking lot that is adjacent to the proposed building site will also be used for staging
- iv. **Earth to be moved** – The applicant is proposing no grading. The elected building site is flat with a ~ 1 % slope. No cut or fill

is proposed.

- v. **Vehicle trips during construction** – Approximately 12 vehicle truck trips daily during construction, with those vehicles consisting of one ton or smaller pick-up trucks for contract workers.
- vi. **Dust mitigation during construction** – The applicant is proposing no dust mitigation measures, arguing that all roads that any construction vehicle or related vehicles would utilize are fully paved.
- vii. **Number of employees** - Approximately 15 employees per day during the construction phase.

c. Post-Construction

- i. **Number of employees** – The applicant is anticipating 30-40 workers daily.
- ii. **Estimated vehicle trips per day** – The applicant is anticipating roughly 20 vehicle trips per day, as many of the workers will live on-site.
- iii. **Break areas** – Please refer to Attachment 5 for location(s).
- iv. **Permanent restrooms** – The applicant is proposing the use of temporary ADA portable restrooms in conjunction with the permanent restrooms of the existing structures.

V. PROJECT SETTING

Existing Uses and Improvements: The project property is primarily accessed via High Valley Road which bounds the project site on the south. Interior access throughout the property and within the area of all cannabis operations, in APN 006-004-07, would use existing paved roads. All existing roads are paved with asphalt and are 20 feet wide. The paved roads traverse all seven parcels of the 1639-acre property. The parcel on which the cannabis operation is located (APN 006-004-07) includes the following existing structures:

- “Mobile Home” 1,534 ft² building
- “Mobile Home” 960 ft² building
- “Office Mobile Home” 1,280 ft² building
- “Caretakers Cottage” 800 ft² building

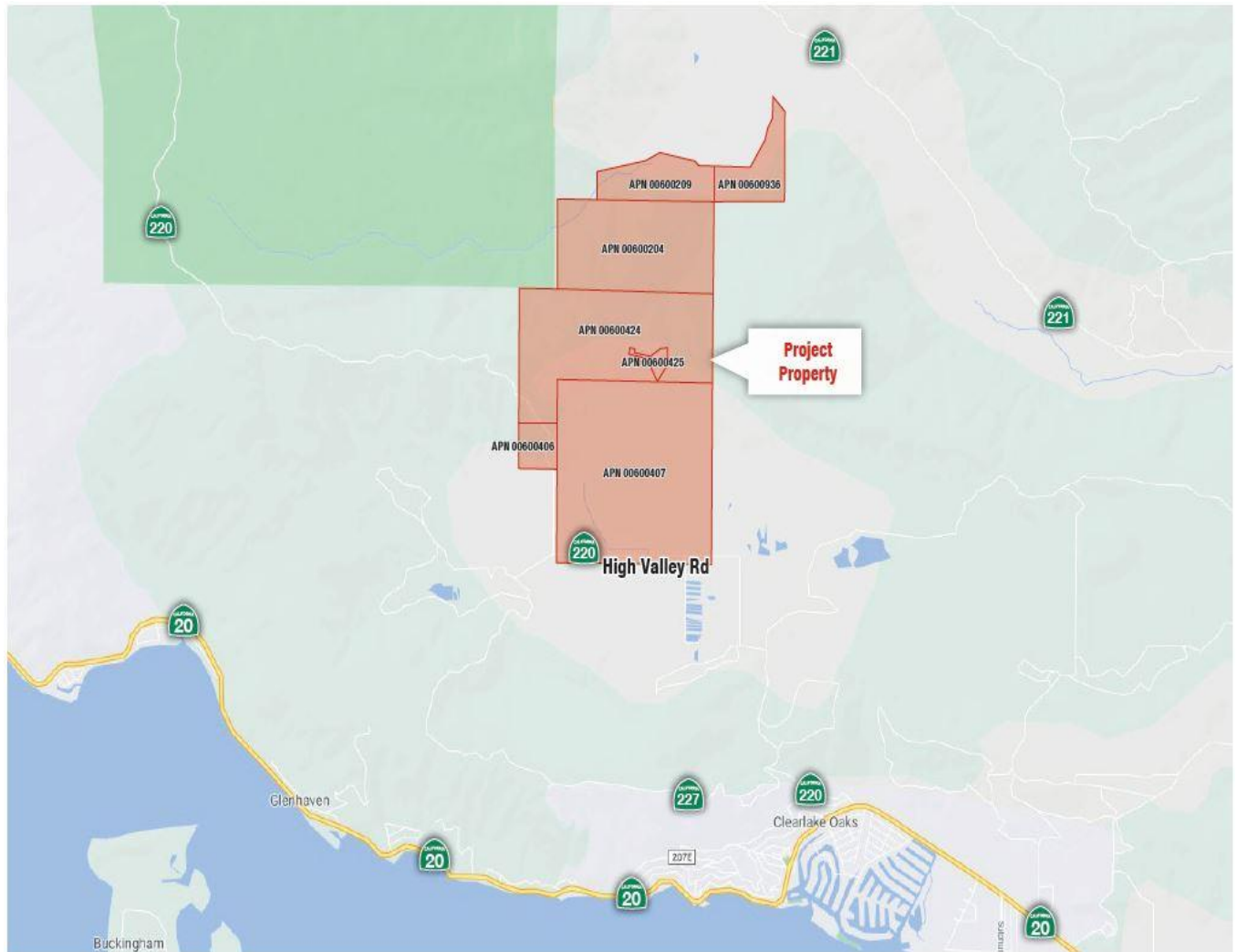
- “Pavilion/Conference Building” 13,096 ft² building
- “Garage Building” 1,440 ft² building
- “Barn” 2,045 ft² building
- “Gift Shop” 4,253 ft² building
- “Hangar” 3,000 ft² building

Only a selection of these existing structures are proposed be used in conjunction with the commercial cannabis project, and are outlined below:

- The (Pavilion/conference building), to be utilized for distribution is a one-story meeting room/theater/commercial kitchen building with a 13,096 ft² slab foundation, and a 1,523 ft² *port cochere*. Built in 2008, the building contains carpeting and tile flooring, forced air heating and cooling, custom lighting, a sprinkler system, fully equipped commercial kitchen with a 4' x 10' hood, a 10' x 24' walk in cooler/freezer, four restrooms, stucco exterior and concrete tile roof.
- The (Garage Building), to be used for Ag/pesticide storage, is a 1,440 ft² one-story building, with wood paneling exterior and a metal roof. Effective year built 1984.
- The (Office Mobile Home) is a 1,280 ft² one-story mobile home with a 504 ft² covered deck. Effective year built 1989.

One other parcel [APN 006-004-25], used for acreage clustering purposes, contains existing structures. None of these following structures are proposed to be used in conjunction with the Commercial Cannabis operation:

- “Main Residence” 11,733 ft² building
- “Garage” 1,400 ft² building
- “Abandoned Pool House” 1,400 ft² building



Surrounding Uses and Zoning

North: “A” Agricultural and “RL” Rural Lands

South: “RL” Rural Lands

East: “A” Agricultural and “RL” Rural Lands

West: Vineyard, “A” Agriculture, and “RL” Rural Lands.

Directly west of the project parcel at 11650 High Valley Rd (APN 006-04-07, there are several adjacent residential structures. 12000 High Valley Rd (APN 060-211-01) contains a residential structure that is 893 ft removed from Field 3, and is zoned as Rural Residential. This parcel includes one dwelling unit on an acre of land. 1325 Valley Oaks Dr (APN 006-011-54) contains a structure located approximately 672 ft away from the project site’s Field 3.

Topography: The proposed cultivation areas would be located on gently sloping and flat terrain. The cultivation site is flat with less than 10 percent slope.

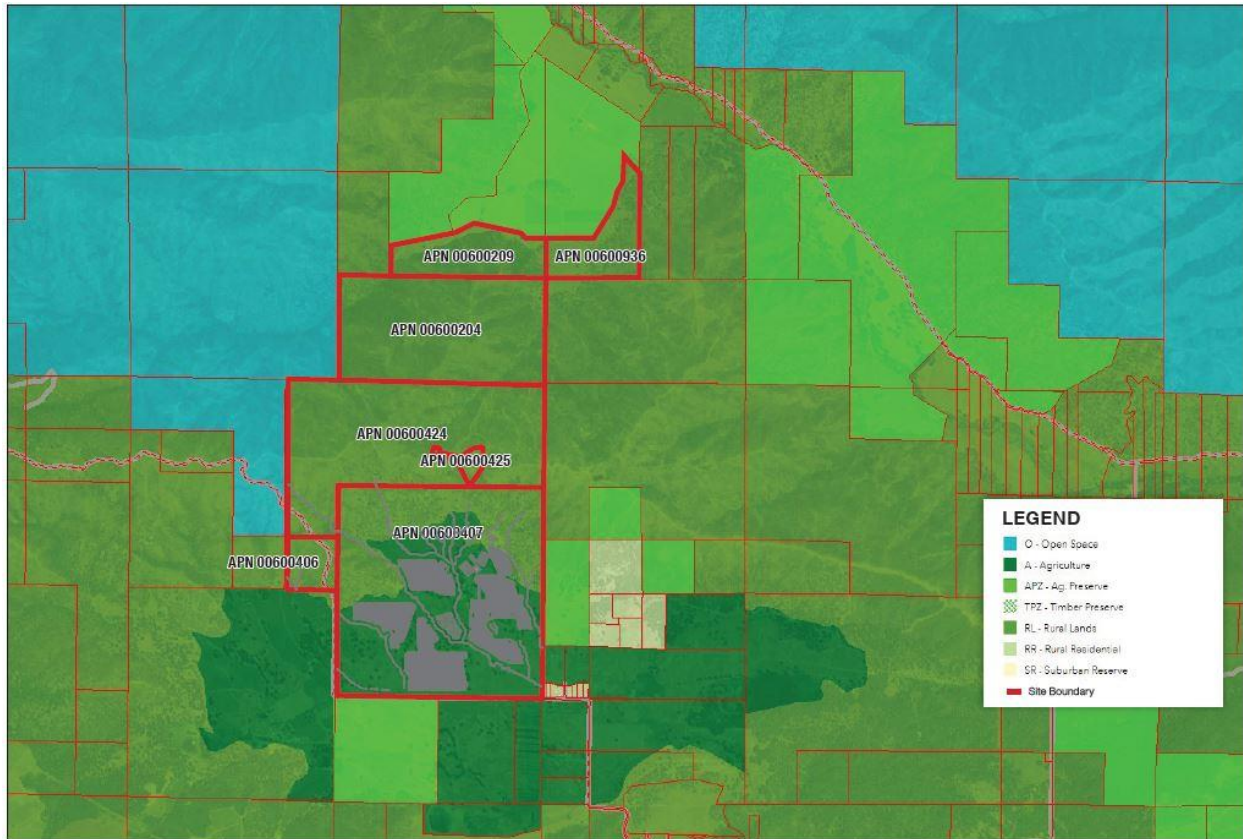
Soils: The soil over the majority of the proposed cultivation area is comprised of Wolfcreek loam (Type 247). Wolfcreek loam generally has 0-2% slopes, is well-drained with a slow runoff, and has moderately slow permeability. The soil consists of alluvium derived from mixed rock sources. A small portion of cultivation area on the westerly side of APN 006-004-07 would occur in an area with Wappo loam (Type 242). Wappo loam occurs in areas with 2-8% slopes, is moderately well-drained, has a high runoff class, with a parent material of alluvium (USDA, 2020).

Water Supply: On-site wells. Only Well #4 will be used for the proposed cultivation. A well availability analysis and data from the draw-down tests may be found within the Property Management Plan (*Attachment 2*). An additional well is proposed to be drilled approximately 50 feet from proposed nursery (see *Attachment 3 Site Plans*).

Sewage Disposal: On-site septic systems and portable toilets. There is one septic system along with pre-existing permanent bathrooms within the structures of the project parcel. Additional details may be found in the Septic Site Plan (*Attachment 5*).

Fire Protection: North Shore Fire Protection District

Vegetation: The study area contains four terrestrial vegetation communities: blue oak woodland; chemise chaparral; annual grassland; and ruderal developed. Cultivation would occur within existing grazing land and no trees are proposed for removal.



VI. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands and Ag Lands:

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. The 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. These lands also provide important groundwater recharge functions. As watershed lands, these lands function to collect precipitation and provide for important filtering of water to improve water quality.

Agriculture Allows all agricultural uses, including one dwelling, processing (wineries, packing sheds, etc.), and labor quarters. Minimum lot size typically 40 acres.

The applicant is proposing commercial cannabis cultivation which is applicable to agricultural/ crop production with the Lake County General Plan (2008) for Rural Lands and Agriculture.

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

Growth and Development

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

- Policy LU 1.4: “The County shall recognize each community as an important asset to the County and seek to strengthen and revitalize all communities.”

Response *The applicant has proposed that the project would generate over \$6,000,000 in annual tax revenue for the county while employing over 20 people and would utilize other existing ancillary businesses within the county such as well drillers, agronomists, engineers, and general contractors.*

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”.

Response: *The proposed commercial cannabis operation would create diversity within the local economy by allowing the expansion of industrial and non-industrial corporate developments such as Cannabis manufacturing, processing, and retail sales. Per California’s Employment Development Department list of major employers for the County of Lake (State of California EDD, (2021) Major Employers in California. <https://www.labormarketinfo.edd.ca.gov/majorer/countymajorer.asp?CountyCode=000033>), employers associated with the Cannabis industry are not found amongst the top 25. By employing not only 30 full time workers, along with an additional 30 part time workers, the applicant is contributing to the development of another sector, thus bringing diversity to the available workforce and to the local economy.*

Open Space

- Goal OSC-1 Biological Resources. *To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County. Commercial cannabis cultivation has a relatively small impact on properties depending on how large the cultivation activity is, and the extent of site preparation needed. The applicant has indicated that no significant grading will occur, although some disking is needed to prepare the ground for the cannabis plants.*

Response: *The applicant has relayed that the areas proposed for cultivation consist of*

previously disturbed and managed grazing land. In addition to being grazed by cattle and horses, the area was disked and plowed periodically in preparation of planting seasonal grasses and legumes. The applicant has related that the proposed project area was plowed in August 2020 and planted with clovers, legumes, and other grasses prior to the applicant having any association to the property. All other existing on-site habitats including areas with trees, drainages, or other vegetation, have been avoided. All cultivation activities and other improvements would not affect any drainages and would be appropriately buffered to include consideration of waterways and oaks. Fences would be installed to enable wildlife movement throughout the property. There are periodic fence breaks to allow for animal movement every 100 yards.

Shoreline Community Area Plan Conformance

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

"3.3.1b: Preserve the natural flow and appearance of creeks. The maintenance and restoration of stream bank vegetation and bank structures along creeks shall be encouraged or required"

Response *The proposed project will not disturb or impede the flow of any stream or creek. All vegetation along the stream bank will be maintained and improved in areas where erosion appears apparent.*

"3.3.1c: Incorporate the preservation of native trees and vegetation into development projects to the extent practical."

Response *The proposed project is preserving all trees on site. All garden, irrigation, and operational plans were designed to preserve all trees and as much existing vegetation as possible. No trees are to be removed for this proposed project.*

"3.4.1c: Preserve lands for Agricultural production

Response *The proposed project is seeking to cultivate 80 acres of cannabis. In the case that the proposed project were to be shut down, closed, or abandoned, the applicant is proposing a vineyard or other agricultural commodity could be grown on the land utilizing the proposed irrigation system and related infrastructure. The applicant has also stated that aside from the proposed drying buildings, all land proposed for cannabis cultivation would be planted in native soils, not requiring paving, excavating, or permanent change to the land.*

Zoning Ordinance Conformance

Article 7 – Rural Lands Zoning District The purpose of the Rural Lands Zoning District is 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.

Response: *The site was evaluated for compliance with the RL zoning district requirements and found to be consistent with all applicable regulations. The commercial cannabis use is allowed in the RL zoning district subject to review and compliance with Article 27, subsection (a) commercial cannabis regulations, and subject to compliance with all sub-zoning districts including the “SC” Scenic Combining and “WW” Waterway combining district.*

Article 34 – Scenic Combining District (SC) The purpose of this article is to protect and enhance views of scenic areas from the County’s scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation based economy of the County.

Response: *The project parcel that will contain all cultivation activities is within the Scenic Combining District. The cultivation site is setback approximately 200 feet from High Valley Road. The applicant proposes an all outdoor grow and will not be proposing structures that violate the height restrictions.*

Article 37 – Waterway Combining District (WW) The purpose of this article is to preserve, protect and restore significant riparian systems, streams, riparian, aquatic and woodland habitats, protecting water quality, erosion control, sedimentation/runoff and protecting the public’s health/ safety by minimizing dangers due to flood and earth slide.

Response: *Pursuant to Article 27 of the Lake County Zoning Ordinance, the proposed use must be a minimum 100 feet away from top of bank of any waterway (seasonal or year-round). According to the applicant’s Property Management Plan and Site Plans, the proposed use has met this requirement. Additionally, the Property Management Plan relays that the cultivation area will not inadvertently have chemical spillage occurring through stormwater runoff or any other obvious means. Conditions of Approval and/or mitigation measures have been incorporated to reduce any potential impact to less than significant.*

Article 5 – Agriculture District The purpose of this article is to protect the County’s agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture.

Response: *The proposed operation would include the annual planting of a legume cover crop, which would add nitrogen to the soil, mitigating the potential for soil depletion of future agricultural uses.*

Article 27 - Use Permits/Commercial Cannabis Cultivation

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

Response: The cultivation of commercial cannabis is permitted within the Rural Lands zoning district upon issuance of a use permit, pursuant to Section 27.11 (Table B) of the Lake County Zoning Ordinance. The project is proposing (80) A-Type 3 “outdoor” licenses for 80 acres of outdoor cannabis cultivation, (1) A-Type 4 “nursery” license, and (1) Type 11 “distribution” license, for a total of 3,484,800 ft² of outdoor canopy area, within a total of 6,098,400 ft² of cultivation area, including the 11 proposed 111,000 ft² each buildings. An A-Type 3 license allows up to 43,560 ft² of canopy per license and requires 20 acres. An A-Type 4 “nursery” license also requires a minimum lot size of 20 acres. The Type 11 “distribution” license does not have an acreage requirement. The (80) A-Type 3 “outdoor” licenses and (1) Type 4 “nursery” license would require 1,620 acres. “Clustering” all 7 proposed parcels, the project contains a total of 1,639.96 acres, and meets the acreage requirement. According to Article 27, section (at), subsection (j) Collocation of Permits and Clustering:

“Clustering a cultivation site across multiple contiguous parcels may be permitted when...All parcels must qualify for a commercial cannabis cultivation permit independently; Title interest on all parcels shall be held under the same identical ownership; All required cultivation setbacks shall be maintained from exterior property lines and the cultivation site may be permitted to cross contiguous property lines; A deed restriction prohibiting commercial cannabis cultivation shall be recorded on each parcel where density has been transferred.”

The application package shows conformance with the above requirements. A deed restriction on each parcel as noted above will be required if the project is approved.

In addition, the applicant’s project site is located over 400 feet from the nearest waterway, as is stipulated in Article 37 WW “Waterway combining district”. The applicant will incorporate best management practices in protecting natural resources within the waterway combining district as well as compliance with the Lake County Zoning Ordinance Article 27 subsection (at) for this project.

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 for A-Type 3 cannabis licenses):* Complies; the site is 1639.96 acres in size and is seeking 80 A-type 3 outdoor cannabis license which is in conformance with the 20 to 1-acre land to canopy ratio.
- *Setback from Property Line (100 feet):* Complies, according to the applicants’ site plan, the proposed cannabis site is approximately 200 feet from the nearest property line. The nearest dwelling to the cultivation area is 672 ft (see Project Management Plan, Appendix F – Distance to Boundary, Vineyard and Structures map)
- *Setback from Off-Site Residence (200 feet):* Complies, there are no off-site

residences within 200 feet of the cultivation site.

- *Minimum Fence Height of Six (6) Feet: Complies, according to the Property Management Plan, the proposed fence height is seven (7) feet with privacy mesh coverings.*
- *Canopy size: The canopy size is 80 acres or 3,484,800 ft²*
- *Cultivation area: The fenced cultivation area is 140 acres or 6,098,400 ft²*
- *Mapped Farmland on Site: Cultivation activities will take place within Farmland of Local Importance. Other Farmland throughout the project and clustered parcels include Grazing Land, and Other Land, The project parcels lie neither within the Farmland Protection Zone nor within the 1,000 ft. buffer.*

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 operation and deliveries, access requirements, etc. The applicant will provide proof of all state and environmental licenses upon request. Pending licenses include: A Letter of “No agreement needed” from the CDFW addressing the LSA requirement, an NOA from the state water resources control board, a sellers permit, 353 CalCannabis licenses (currently under environmental review), surety bonds for all 353 associated state licenses. A CEQA Environmental study was authored and revised by the applicant’s environmental consultant Kimley Horn, and was uploaded by the County of Lake to the California State Clearinghouse CEQAnet on May 10, 2021.

Response: *The applicant meets all of the General Requirements outlined in Section (at) of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to assure compliance.*

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

VII. 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 21-10 (Attachment 7) for the Environmental Analysis of the proposed cannabis cultivation project. 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:

Air Quality. The project is located in a rural area of the County and protected by the natural steep topography; the proposed use of Commercial Cultivation of Cannabis has the potential to result in high air quality impacts to the surrounding area. Additionally, dust and fumes may be released as a result of the proposed cannabis operation, vegetation removal, grading, vehicular traffic, including small delivery vehicles and/or use of construction and routine maintenance equipment. Therefore, the implementation of the mitigation measures below would ensure Air Quality impacts remain less than significant.

MM-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.

MM-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.

MM-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.

MM-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.

MM-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.

MM-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.

MM-AQ-7: All areas subject infrequent use of driveways, overflow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

MM-AQ-8: Prohibition of Open Burning of Cannabis Material. The applicant and individual license holders shall be prohibited from open burning of cannabis materials as part of project operations.

Biological Resources: This project has the potential for adverse impacts to Biological resources. The following mitigation measures are proposed to reduce or eliminate impacts related to Biological resources:

MM-BIO-1: A qualified biologist shall be hired to conduct surveys for special-status bats (Townsend's big-eared bat and pallid bat) no more than two weeks prior to planned commencement of construction activities that have the potential to disturb bat day roosts or maternity roosts through elevated noise levels or removal of trees. If an active maternity roost is detected, a qualified biologist shall determine an appropriate avoidance buffer to be maintained from April 1 until young are flying (typically through August). If an active day roost is detected in a tree or structure planned for removal, or within a zone of influence (i.e., area subject to noise, vibration) that could result in roost abandonment, as determined by a qualified biologist, the bats shall be safely evicted under the

guidance of a qualified biologist. Day roosts shall not be removed unless the daytime temperature is at least 50 °F and there is no precipitation. Mitigation for day roosts impacted by the Project will be achieved through the installation of bat houses on-site to replace lost roosts at a 1:1 ratio. Replacement roosts will be placed at the discretion of the qualified biologist.

MM-BIO-2: Tree and vegetation clearing (removal, pruning, trimming, and mowing) shall be scheduled to occur outside the migratory bird nesting season (February 1 through August 31). However, if clearing and/or construction activities will occur during the migratory bird nesting season, then pre-construction surveys to identify active migratory bird and/or raptor nests shall be conducted by a qualified biologist within 14 days of construction initiation on the Project site and within 300 feet (i.e., zone of influence) of Project-related activities. The zone of influence includes areas outside the Project site where birds could be disturbed by construction-related noise or earth-moving vibrations.

If active nest, roost, or burrow sites are identified within the Project site, a no-disturbance buffer shall be established for all active nest sites prior to commencement of any proposed Project-related activities to avoid construction or access-related disturbances to migratory bird nesting activities. A no-disturbance buffer constitutes a zone in which proposed Project-related activities (e.g., vegetation removal, earth moving, and construction) cannot occur. A minimum buffer size of 50 feet for passerines and 300 feet for raptors will be implemented; sizes of the buffers shall be determined by a qualified biologist based on the species, activities proposed near the nest, and topographic and other visual barriers. Buffers shall remain in place until the young have departed the area or fledged and/or the nest is inactive, as determined by the qualified biologist. If work is required within a buffer zone of an active bird nest, work may occur under the supervision of a qualified avian biologist. The qualified avian biologist monitoring the construction work will have the authority to stop work and adjust buffers if any disturbance to nesting activity is observed.

MM-BIO-3: The project applicant shall avoid impacting or removing protected trees and true oak species when feasible. If any protected or true oak trees are proposed for removal, the applicant shall procure a tree survey and arborist report. Any trees removed shall be mitigated according to Lake County requirements for tree replacement mitigation for the removal of protected trees; typical mitigation is tree replacement at a ratio of 2:1 or 3:1.

Cultural Resources: This project has the potential for adverse impacts to cultural resources. The following mitigation measures are proposed to reduce or eliminate impacts related to cultural resources:

MM-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 overseeing 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.

MM-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 overseeing Tribe shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

MM-CUL-3: If human remains are uncovered during ground disturbing activities, the applicant shall immediately cease all ground disturbance and contact the Lake County Coroner or Lake County Sheriff's Office to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5 (e)(1) of the CEQA Guidelines. The Lake County Planning Division also shall be contacted immediately after contact or attempted contact with the County Coroner and/or Sheriff's Office. If the County Coroner determines that the remains are Native American, the Native American Heritage Commission shall be notified, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). No further subsurface ground disturbing activity shall occur on the site or any nearby area reasonably suspected to overlie adjacent human remains until consultation is complete with the most likely descendent. Authorization to resume construction shall only be given by the County Planning Division and shall include implementation of all appropriate measures to protect any additional possible burial sites or human remains.

Noise: *This project has the potential for adverse impacts to Noise. The following mitigation measures are proposed to reduce or eliminate impacts related to Noise:*

MM -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.

MM-NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00 AM to 10:00 PM and 45 dBA between the hours of 10:00 PM to 7:00 AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.

MM-NOI-3: Generators shall only be used as Emergency Power Backup supply and shall not be used for regular power provision to this facility.

VIII. 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 a permitted use in the "RL" Rural Lands Zoning District as well as the "A" Agricultural district upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. 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.*

The Applicant has submitted an environmental analysis (Initial Study - Attachment 7) and has determined that the proposed use would not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the neighborhood as all potential impacts have been reduced to less than significant with the incorporated mitigation measures and Conditions of Approval. Potential impacts identified are related to air quality, biological resources, cultural/tribal/ geologic resources, noise and wildfire. 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.

Response: *The proposed canopy area is 3,484,800 ft²; this area represents 4.9% of the 1639.96-acre site. The project complies with the 20 acres of land to 1 acre of canopy stipulation 20:1 is 5% thus 4.9% is within that limitation. Additionally, the application package shows conformance with the Clustering requirements of Article 27, section (at), sub-section (j). A deed restriction on each parcel as noted above will be required if the project is approved.*

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

Response: *The proposed project takes access via High Valley Ranch Road to a private drive. The access driveway and interior private drives would be improved to meet all applicable safety standard including Cal Fire and Caltrans as shown on the project site plans.*

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 Public Works, Special Districts, Environmental Health, and PG&E, and to all area Tribes. Relevant comments are attached as 'Attachment 3'. No adverse comments were received. There are adequate public services to accommodate the project.*

During the request for review period of the Initial Study, as part of the CEQA State Clearinghouse public participation process, a letter was received by a neighboring parcel raising concern in regards to odor, security, and water usage. The letter has been provided in Attachment 3, Agency and Public Commentary. A water availability plan and the identification/location of Well #4 as the supplier of this project in the Site Plans and Property Management Plan has been provided by the applicant. The security and odor concerns have been addressed with mitigation measures within the Initial Study document and proposed Conditions of Approval.

During the request for review period of the Initial Study, commentary was also received from the Department of Toxic Substances, and the California Highway Patrol (Attachment 3, Agency and Public Commentary). The concerns have been addressed and mitigated in the Initial Study under section XIII. Noise, and have been included in the Conditions of Approval.

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and the Shoreline Communities Area Plan.

Response: *Since commercial cannabis cultivation is named as a permitted use in the Rural Lands zoning district within the Commercial Cannabis 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 Shoreline Community Area Plan do not have any provisions for commercial cannabis, but both plans do have provisions for economic development and related policies that the project is consistent with (see Section VI, 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 a public health, safety or general welfare basis.

The Community Development Department has no record of current violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code for this property.

IX. APPROVAL CRITERIA – ARTICLE 27(at), Subsections 1, 2 and 3

Section 1:

Section 1.i: The applicant and proposed project complies with Article 27
Section 1i.

- Whereas the minimum lot size for an A-type 3 outdoor cultivation license is 20 acres. The applicant is proposing 80, A-type 3 outdoor cultivation licenses on 1,639 acres, thus there is > 20 acres for each A-type 3 outdoor license. The canopy limit is achieved by having 1 acre for every 20 acres of land, or 43,560 ft² for each A-type 3 license.
 - See Project Management Plan, Section 2: Project Description
 - See Initial Study, (Page 7) Project Overview, paragraph 6
 - See Site Plan, Site Information (Sheet 1.0)
- The application's proposed cultivation site is also over 100 feet from the property line and greater than 200 feet from any offsite residence as articulated on the Site Plan.
 - See Site Plan, Proposed Site Plan (Sheet 3.0)
- The application's proposed cultivation site is greater than 200 feet from any offsite residence.
 - See Project Management Plan, Appendix F.
 - (Map) Distance to Boundary and Vineyard (from Field 1)
 - (Map) Distance to Boundary, Vineyard, and Structures
- Additionally, the fence height is 7 feet meeting the minimum requirement.

- See Initial Study,
 - (Page 12) Site Preparation and Cultivation Plan (third paragraph)
 - Evaluation of Environmental Impacts, Section I.a AESTHETICS

Section 1.ii(g): Whereas each of the owners have completed background checks through the Lake County Sheriff's department and passed all background checks. Per the comments received after the initial 30-day review period, Lake County Sheriff's department had no comments and stated the application met their standards.

- Complies, submitted with application package.

Section 1.ii. (i) Whereas the applicant has obtained all applicable permits/permissions from state and local agencies including, but not limited to:

- California Department of Fish and Wildlife, in process.
- Central Valley Regional Water Quality Control Board, complies.
- Department of Tax and Fee Administration, in process.
- CDFA CalCannabis, in process.

X. RECOMMENDATIONS

Staff recommends that the Planning Commission:

A. Accept the finding of a Mitigated Negative Declaration

1. The project is consistent with CEQA.
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, AQ4, AQ-5, AQ-6, AQ-7 and AQ-8.
3. Potential environmental impacts related to biological resources can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1, BIO-2, and BIO-3.
4. Potential environmental impacts related to cultural resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1, CUL-2, and CUL-3
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. This project remains consistent with the Lake County General Plan, Shoreline Communities Area Plan and the Lake County Zoning Ordinance.
7. This project is consistent with land uses in the vicinity.
8. This project will not result in any significant adverse environmental impacts.

B. Approve Major Use Permit, UP 21-10 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. 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.
3. That the streets, highways and pedestrian facilities are reasonably adequate to safely accommodate the specific 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. This project is consistent with the Lake County General Plan, Shoreline communities Area Plan, and Lake County Zoning Ordinance.
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.
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 Initial study prepared for Major Use Permit (UP 21-10) applied for by SourzHVR Inc on a property located at 11650 High Valley Rd, 4919 New Long Valley Rd, 4963 New Long Valley Rd, 10788 High Valley Rd, 10750 High Valley Rd, 10945 High Valley Rd, 4491 New Long Valley Rd, in Clearlake Oaks, CA 95423, further described as APN: 006-004-06; 006-004-07; 006-004-25; 006-002-04; 006-009-36; 006-004-24; 006-002-09, based on the findings set forth in Staff

Report dated July 8, 2021.

Major Use Permit (UP 21-10)

I move that the Planning Commission find that the Major Use Permit (UP 21-10) prepared for the project proposed by SourzHVR Inc on a property located at 11650 High Valley Rd. Clearlake Oaks, CA, further described as APN: 006-004-06; 006-004-07; 006-004-25; 006-002-04; 006-009-36; 006-004-24; 006-002-09 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 11, 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.