



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
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Item 1
9:05 AM
October 14, 2021

STAFF REPORT

TO: Planning Commission

FROM: Mary Darby, Community Development Director
Prepared by: Eric Porter, Associate Planner

DATE: October 14, 2021

RE: **High Caliber Cannabis LLC; Major Use Permit (UP 20-12) and Initial Study (IS 20-12).** APN: 022-010-01

Supervisor District 3

ATTACHMENTS:

1. Vicinity Map
2. Site Plans
3. Property Management Plan
4. Agency Comments
5. Proposed Conditions of Approval
6. Initial Study IS 20-12
7. Cumulative Water Analysis, Chico Environmental Science and Planning; May 21, 2021

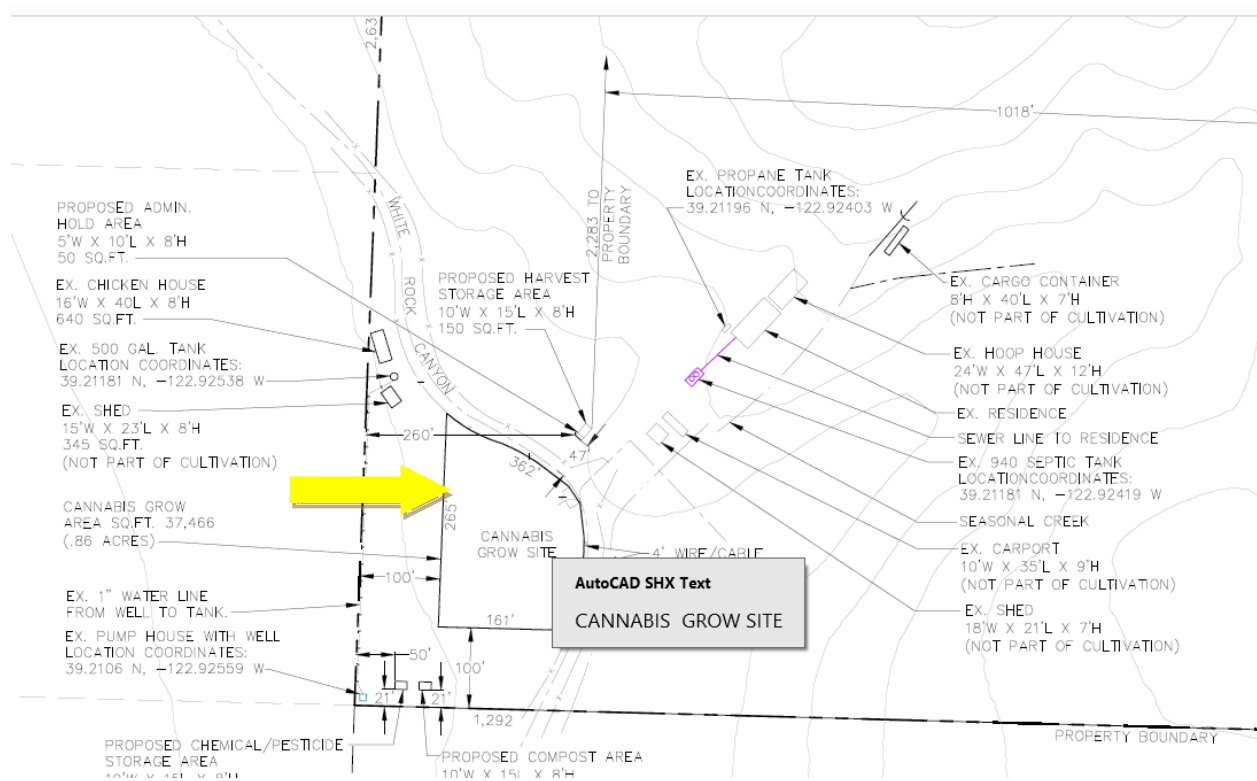
I. EXECUTIVE SUMMARY

The applicant is requesting a major use permit for one **(1) A-Type 3 “medium outdoor” cultivation license** consisting of up to 37,466 square feet (sq. ft.) of cultivation area, and an **A-Type 13 Self Distribution license**. The property is located at 12194 White Rock Canyon Road, Upper Lake, and is Assessor’s Parcel Number (APN): 022-010-01.

Staff is recommending **Approval with Conditions** of **UP 20-12**.

II. PROJECT DESCRIPTION

Applicant: Charles Collins
Owner: High Caliber Cannabis
Location: 12194 White Rock Canyon Road, Upper Lake
A.P.N.: 022-010-01
Parcel Size: 78.84 acres
General Plan: Rural Lands
Zoning: “RL” Rural Lands
Flood Zone: None
Cultivation Area: 37,466 square feet of cultivation area
Canopy Area: Estimated to be 32,000 sq. ft.
Cultivation Start Date: April 2020 via early activation



CANNABIS CULTIVATION AREA

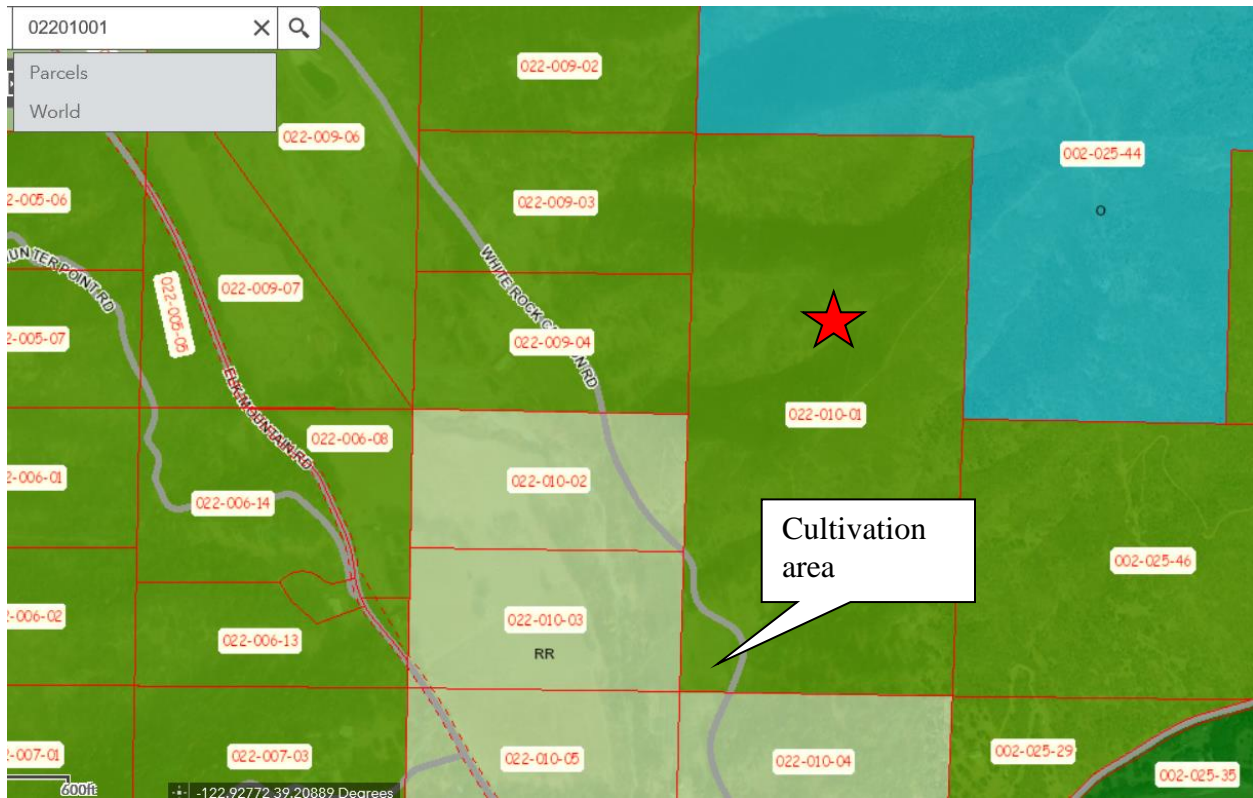
III. PROJECT SETTING

Existing Uses and Improvements: The parcel is about 78+ acres in size, large enough for the proposed one (1) A-Type 3 “medium outdoor” license consisting of 37,466 sq. ft. of cultivation area, and an estimated 32,000 sq. ft. of plant canopy (see Attachment 2, Site Plans). The property contains a pasture, a house, a well, and septic system. The applicant has also applied for an A-Type 13 self-distribution license, which has no

property size requirements associated and allows for legal transportation of cannabis to and from the property.

Surrounding Uses and Zoning (see Attachment 1, Vicinity Map)

- North and North-East: “O” - Open Space and undeveloped. Large federally owned lot.
- South: “RR” - Rural Residential. Lots are mostly developed and are 20 acres in size.
- East: “RL” and “O”; Rural Lands and Open Space. Lots are 50 acres (RL) and over 200 acres (O) and are undeveloped.
- West: “RR” and “RL”; Rural Residential and Rural Lands. Lots are partially developed and are each 20 acres in size.



ZONING OF SITE AND SURROUNDING AREA

Topography: Varied; the cultivation areas are less than 10%; the eastern portion of the lot is very steep (over 30%).

Soils: The cultivation area contains soil type **158, Lupoyoma silt loam, protected**. This very deep, moderately well drained soil is on flood plains. It formed in alluvium derived from mixed rock sources. Slope is 0 to 2 percent. The vegetation in areas not cultivated is mainly annual grasses and scattered oaks.

Water Supply: Permitted Existing Groundwater Well
Sewage Disposal: Existing On-Site Septic
Fire Protection: Northshore Fire Protection District
Vegetation: Several varieties of oak trees, grass and some manzanita brush

- IV. **Water Analysis.** The applicant has provided a water analysis report that shows the productivity of the existing well and surrounding area wells; the impact to the aquifer, and the water demands of the known wells in the area. The applicant has also provided a Groundwater Availability Analysis (Attachment 7) that shows data for the Middle Creek Groundwater Basin, including existing demand from other area wells, total drawdowns that are now and will occur, and a conclusion regarding this project. The Analysis was prepared by a licensed Hydrologist.

The original well on the site was drilled in May 2011. The well was drilled into solid rock at a total depth of 52 feet. Water was discovered at a depth of 23 feet. According to the original well test from 2011, the well had a steady output of 30 gallons per minute (GPM), with little drawdown and a rapid recharge rate.

A more recent well test was conducted on April 27, 2020, near the end of the rainy season. The test showed a starting well depth of 25.08 feet, and a consistent flow of 17.75 gallons per minute throughout the entire four hour test. The total drawdown after the four-hour well test run-time was 1.42 feet, or a depth of 26.5 feet to the top of the aquifer, indicating a strong recharge rate. Following the four hour test, the well was shut off, and the level was again tested after a 10 minute shut-off period. The well had fully recharged within the 10 minute shutoff period.

A Cumulative Water Analysis (Analysis; Attachment 7) was prepared by Chico Environmental Science and Planning and is dated May 21, 2021. The Analysis states that the Middle Creek Watershed is rated as a Very Low-Priority groundwater basin due to its rapid recharge rate (see Analysis, page 5). The Analysis takes into account the impact to the aquifer, including the demand from neighboring wells, and the known data about the aquifer. The Analysis indicates that the total acre-feet water demand for the area is 73 acre feet, or about 23,800,000 gallons per year. The Analysis does not indicate the estimated overall storage capacity of the Middle Creek aquifer, but concludes that the recharge rate and sparse overall usage by other area wells indicate that there is a very strong water table in this location, and the recommendation is for the project to proceed.

The projected water usage for this project is about 309,600 gallons, or 0.96 acre feet per year based on a 120 day growing season and assuming 3,000 gallons per day per acre. This projection is consistent with other estimated water usage for outdoor cultivations – the industry assumes that one plant uses about 6 gallons of water per day, and that each acre contains about 500 plants. This project would have about 0.86 acres of plants in total, so the projected water

usage appears consistent with numerous industry water demands that the County has reviewed.

V. PROJECT ANALYSIS

General Plan Conformance

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

Open Space

- *Goal OSC-1 Biological Resources.* To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County. *The proposed commercial cannabis cultivation activity is set in an area where other traditional crops are grown. The site is not located in a mapped Farmland Protection Area, and the nearest traditional agricultural crops are more than 200 feet from the subject / cultivation site. The applicant has guaranteed that no grading will occur, although some disking is needed to prepare the ground for the cannabis plants.*

Upper Lake - Nice Area Plan Conformance

The subject site is within the Upper Lake - Nice Area Plan's boundary. Chapter 5 of the Upper Lake – Nice Area Plan contains several policies that relate to this proposal, as follows:

- Objective 5.1.1 Encourage comprehensive economic development efforts for the long-term benefit of the Upper Lake - Nice area. Such efforts should involve a high level of community participation and cooperation of local business leaders.
 - Policy 5.1.1e Encourage diversified agricultural enterprises to expand and enhance the agricultural sector of the economy.

Response: *Although commercial cannabis cultivation is not recognized under the 'Right to Farm Act', the process of cultivation involves the same activities as would occur raising traditional crops, including wine grapes and walnuts as examples. Cannabis is a diversified enterprise, and will enhance the agricultural use of the subject site regardless of the categorization of commercial cannabis cultivation by providing employment opportunities to local workers, who in turn will spend money locally on various commodities and goods.*

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

Response: *This project will provide employment for up to four people who will live in the local communities, buy commodities locally, and purchase local services. This in turn will help stimulate the local economy.*

Zoning Ordinance Conformance

Article 7 – Rural Lands (RL). Purpose: to provide for resource related and residential uses of the County’s undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access.

Article 27 - Use Permits

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

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

Development Standards

- Minimum Lot Size (20 acres): *Complies; the subject site is over 78 acres in size. The applicant has applied for (1) A-Type 3 “medium outdoor” cultivation license, as well as for one (1) A-Type 13 self-distribution license.*
- Setback from Property Line (100 feet): *Complies, the cultivation site is 100 feet from the nearest property lines.*
- Setback from Off-Site Residence (200 feet minimum): *Complies, the nearest neighboring residential dwelling is located about 350 feet away from the nearest cannabis cultivation area.*
- Fence Height between Six (6) and Eight (8) Feet: *Complies, the proposed fence height is six (6) feet.*
- Maximum Canopy Area (43,560 sq. ft. per license): *The proposed canopy area is estimated to be 32,000 sq. ft. in size.*
- Mapped Protected Farmland? *The site is not located within a mapped Protected Farmland area.*

General Requirements. The applicant meets all of the General Requirements outlined in Section 27.13(at) of Article 27 of the Lake County Zoning Ordinance. These include, but are not limited to, obtaining a state license; completion of background checks, obtaining property owner approval, complying with hours of operation and deliveries, access requirements, etc. If the requirements have not yet been met, a condition has been added to assure compliance.

The applicant has also submitted a Property Management Plan (Attachment 3), outlining compliance with all regulations pertaining to cannabis operations including: air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in

Subsection (at) of Article 27 of the Zoning Ordinance, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

VI. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Further evidence supporting the Environmental Analysis of the proposed cannabis cultivation project and specific details of the mitigation measures can be found in the *Initial Study IS 19-22* (Attachment 6) and the “Conditions of Approval” (to Attachment 5). Any potential environmental impacts have been reduced to less than significant with the incorporated Mitigation Measures and Conditions of Approval, as discussed below.

Air Quality

- AQ-1: Prior to obtaining the necessary permits and/or approvals for any phase, applicant shall contact the Lake County Air Quality Management District and obtain an Authority to Construct (A/C) Permit for all operations and for any diesel powered equipment and/or other equipment with potential for air emissions.
- AQ-2: All mobile diesel equipment used must be in compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines.
- AQ-3: The applicant shall maintain records of all hazardous or toxic materials used, including a Material Safety Data Sheet for all volatile organic compounds utilized, including cleaning materials. Said information shall be made available upon request and/or the ability to provide the Lake County Air Quality Management District such information in order to complete an updated Air Toxic emission Inventory.
- AQ-4: All vegetation during site development shall be chipped and spread for ground cover and/or erosion control. The burning of vegetation, construction debris, including waste material is prohibited.
- AQ-5: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation. The use of white rock as a road base or surface material for travel routes and/or parking areas is prohibited.
- AQ-6: All areas subject to infrequent use including driveways and over flow parking shall be surfaced with gravel. Applicant shall regularly maintain graveled areas to reduce fugitive dust generations.

Cultural Resources

- 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), and the culturally-affiliated Tribe shall be notified, and a qualified

archaeologist retained 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, they shall be treated in accordance with Public Resources Code Section 5097.98 and Health and Safety Code 7050.5.

Noise

- NOI-1: All construction activities including engine warm-up shall be limited Monday through Friday, between the hours of 7:00 a.m. and 7:00 p.m. 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 7:00 a.m. to 10:00 p.m. and 45 dBA between the hours of 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.1) at the property lines.
- NOI-3: The operation of the air filtration system shall not exceed levels of 57 dBA between the hours of 7:00 a.m. to 10:00 p.m. and 50 dBA from 10:00PM to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at property lines.

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

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

Response: *The immediate area contains rural land with one primary dwelling located about 350 feet away from the nearest cultivation site. As previously discussed, the potential impacts resulting from this proposal are Air Quality, Cultural / Tribal Resources and Noise. All of these potentially significant impacts can be brought to 'less than significant levels', and have been adequately addressed within mitigation measures 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 proposal is for a combined 37,466 sq. ft. of outdoor cultivation area. The Lake County Cannabis Ordinance allows Type 3 cultivation licenses on Rural Lands- zoned property when it meets the size and locational criteria and standards. The applicant seeks two licenses, one of which is an A-Type 3 (medium outdoor) cultivation license which requires a 20 acre minimum lot size. The subject site is over 78 acres in size, large enough to allow the cultivation license that has been applied for.*

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

Response: *The site is served by White Rock Canyon Road, an unpaved but well maintained shared private road with 10' wide travel lanes and 2' wide shoulders on each side leading up to and through the site.*

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 appropriate public and private service providers including: CAL FIRE, Northshore Fire District, Public Works, Special Districts, Environmental Health, and all area Tribes. The Upper Lake Habematolel Tribe requested consultation and a contractual agreement has been reached between the Tribe and the cultivator regarding cultural resources. Relevant agency and Tribal comments are attached as 'Attachment 4'.*

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

Response: *Since commercial cannabis cultivation is named as a permitted use in the Rural Lands zoning district within the Commercial Cannabis Ordinance, this proposal is consistent with the governing ordinance for cannabis growing in the Lake County. The General Plan and the Upper Lake - Nice Area Plan do not have any specific provisions for cannabis, but do have provisions for economic development and land use.*

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

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

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

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

Response: *This report identifies the development standards that apply to cannabis cultivation in Lake County. This project would be fully compliant with the development standards in Section 27.13(at) of the Lake County Zoning Ordinance.*

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

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

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

Response: This application complies with all qualifications for a permit described in Section 3.ii.(f). The applicant is proposing two cannabis licenses; one for the outdoor cultivation site, which requires a 20 acre minimum parcel size (the subject lot is 78 acres in size), and a ‘self-distribution’ license (Type 13). The subject site is large enough to support the A-Type 3 “medium outdoor” cultivation license requested; the applicant also qualifies for the Type 13 ‘Self Distribution’ license.

IX. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt mitigated negative declaration (IS 20-12) for Use Permit (UP 20-12) with the following findings:

1. Potential environmental impacts related to air quality can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5 and AQ-6.
2. Potential environmental impacts related to Cultural Resources can be mitigated to less than significant impacts with the inclusion of mitigation measures CUL-1.
3. Potential environmental impacts related to Noise can be mitigated to less than significant impacts with mitigation measures NOI-1, NOI-2 and NOI-3.
4. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.
5. Any changes to the project will require either an amended Use Permit and/or a new Use Permit unless the Community Development Director determines that any changes have no potential increased environmental impacts.

B. Approve Use Permit UP 20-12 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 can be mitigated to be reasonably adequate to safely accommodate the proposed use.
4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan and any approved zoning or land use plan.
6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis.
7. The proposed use complies with all applicable development standards.
8. The applicant is qualified to make the application.
9. The application complies with the qualifications for a commercial cannabis permit.

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Initial Study (IS 20-12)** applied for by **High Caliber Cannabis** on property located at **12194 White Rock Canyon Road, Upper Lake**, and further described as **APN: 022-010-01** 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 **October 14, 2021**.

Major Use Permit (UP 20-12)

I move that the Planning Commission find that the **Use Permit (UP 20-12)** applied for by **High Caliber Cannabis** on property located at **12194 White Rock Canyon Road, Upper Lake**, and further described as **APN: 022-010-01** 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 **October 14, 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.*