



COUNTY OF LAKE

Item #4
9:20 a.m.
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: **Coastal Oak Inc.; Amendment (MMU 21-07) to an approved Major Use Permit (UP 19-25); Commercial Cannabis Cultivation; Categorical Exemption**
Supervisor District 5

ATTACHMENTS:

1. Vicinity Map
2. Existing and Proposed Site Plan
3. Agency Comments
4. Amended Conditions of Approval for MMU 21-07
5. Original Conditions of Approval for UP 19-25
6. Initial Study IS 18-62
7. Hydrology Analysis; prepared by Caitlin Gilmore, P.E., Aug. 25, 2021

I. EXECUTIVE SUMMARY

This is an amendment to an approved A-Type 3B commercial cannabis cultivation decision that would, if approved, allow the conversion of 14,090 square feet (sq. ft.) of “mixed-light” (greenhouse) commercial cannabis canopy area to 15,000 sq. ft. of outdoor cannabis canopy area within the same footprint of the already-approved greenhouse cultivation area. The applicant is proposes to convert from a mixed-light facility to an outdoor facility in order to save on overhead costs associated with the greenhouse purchases. The cultivation site is located on one of three contiguous parcels that are a total of 80 acres in size. Assessor’s Parcel Number (APN) 007-029-12 (cultivation site) and 02 and 10 (clustering sites). The project is located at 7560 State Highway 29, Kelseyville.

Article 60 – Expiration, Revocation, or Modification of Permits and Reapplication

Subsection 60.33 Reapplication for amendment of permits describes the process of amending an approved major use permit. Article 60 of the Lake County Zoning Ordinance allows for changes to previously approved use permits, as is the case here. The change proposed is a cost-saving measure. The site is not within a mapped Farmland Protection Area, and greenhouses are not required for cannabis cultivation on this property. The detailed analysis of compliance is later in this report.

The parcel is accessible through an existing shared driveway that enters and exits from Highway 29 at the intersection of Bottle Rock Road. The project site is currently developed with a graveled access road, a single-family residence served by an existing onsite septic system and existing permitted groundwater well, three existing cannabis cultivation sites, and a drying building. The three cultivation sites were originally approved under UP 19-25 in early 2020.

The proposal as presented to change the site from mixed light to outdoor will not negatively impact the parcel or surrounding areas because as evidenced within the hydrology report. The report lists the on-site water storage capacity of the pond; the recharge rate of the pond, and the annual water usage. The water analysis is as follows:

Water Analysis

The applicant has provided a Technical Memorandum regarding water usage and aquifer data required by Ordinance No. 3106, and dated August 25, 2021. The Memorandum was prepared by Caitlin Gilmore, P.E. Within the Analysis, Ms. Gilmore states:

Surface Water Pond Capacity

The agricultural site water source is an onsite 2.5-acre surface water pond. The site pond is contained by an earthen dam on the west side which has a spillway elevation of approximately 514 (assumed datum). The pond averages 8 feet deep and has an approximate non-drought year starting water surface elevation of 512 feet based on observed levels in spring of 2019 and 2020. It is conservatively assumed for this study that the ponds' capacity is based on a maximum water surface elevation of 512, resulting in a storage volume of 7.7 acre-feet (ac-ft).

Surface Water Usage

The project operations rely solely on on-site surface water. Reported site operations water usage for year 2020 was 400,000 gallons or 1.2 acre-feet, representing approximately 16% of the pond storage capacity. Note that permitted annual water usage for the site is 25 acre-feet.

The pond loses water due to evaporation at a rate of 3.1 acre-feet per year on average based on NOAA monthly evaporation rates in Lake County from 1991-2020.

The pond loses water to seepage at a rate of 0.01 inches per day based on the loamy clay substrate. This equates to an estimated 0.8 acre-feet per year.

The total anticipated annual usage and loss at the site is 5.1 acre-feet.

Surface Water Recharge Rate

The watershed tributary to the pond is approximately 64 acres as determined by USGS stream stat and depicted in Figure 2. The mean annual precipitation of the watershed is 26 inches based on the Lake County Hydrology Standards (1999) Figure 3. Underlying watershed soils are type C and D based on USGS soil survey. For this study type C soils are assumed as they would produce the least runoff to the pond. A modified rational method is utilized to establish the average annual runoff volume based on mean annual precipitation. The equation is based on the Lake County Hydrology Standards. A C-value of 0.32 is calculated for 20% slopes, silty clay loam soil, fair vegetal ground cover and moderate surface storage.

$$\text{Volume (V)} = C * \text{MAP} * A * K$$

$$V = 0.32 * 26 \text{ inches} * 64 \text{ acres} * 26/35$$

$$V = 33 \text{ acre-feet per year}$$

Water recharge during a drought year is assumed to be 33% of an average year. This is based on historical local drought records of 1976-2014. Drought year recharge rate is estimated to be 11 acre-feet per year.

Groundwater Wells

Note that the project utilizes surface water only. However, local water wells exist on adjacent parcels. Based on the California State Department of Water Resources (DWR) well record, as depicted in Figure 5, there are no water wells within 1,500 feet of the onsite pond. The water wells are located outside of the pond watershed, and generally across from Highway 29. Based on the distance from the pond, the water wells and pond zones of influence are anticipated to have no impact on one another.

Cumulative Impacts

The site relies on an onsite surface water source that is solely for the use of the property. There are no other known uses of the runoff from the watershed. Therefore, there is no cumulative impact of water use on the pond.

The pond's capacity and recharge rate exceed demand, even in a dry or very dry year.

Recommendation:

Staff is recommending **Approval with Conditions** of **Amendment MMU 21-07**.

II. PROJECT DESCRIPTION

<u>Applicant:</u>	Carl Tharp
<u>Owner:</u>	Coast Oaks Inc.
<u>Location:</u>	7560 Highway 29, Kelseyville (primary address)
<u>A.P.N.s:</u>	007-029-12 (cultivation site); 007-029-02 and 10 (clustering sites)
<u>Parcel Size:</u>	80 acres

General Plan: Rural Lands

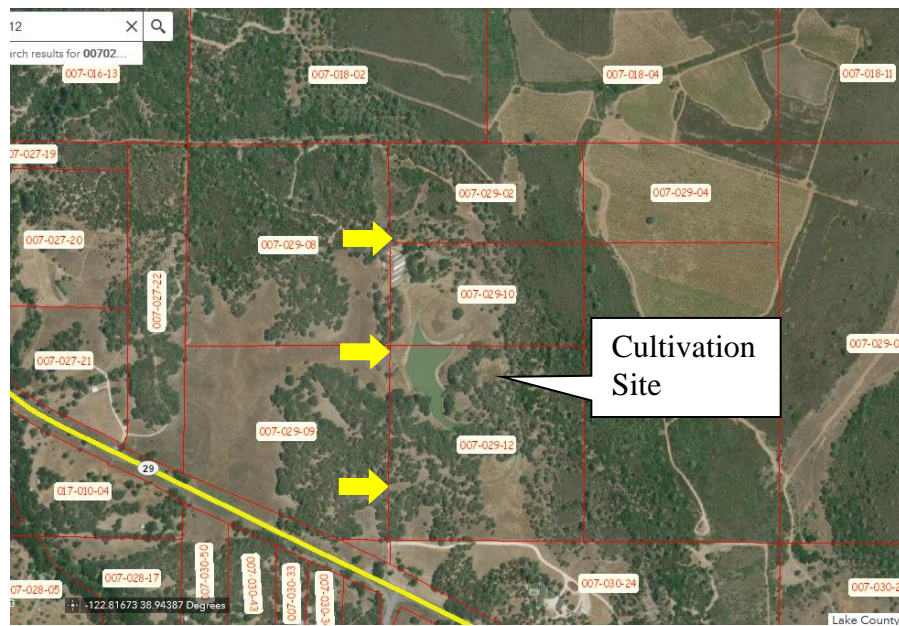
Zoning: “RL – B5 – WW - SC”; Rural Lands – Frozen – Waterway - Scenic

Flood Zone: None

III. **PROJECT SETTING**

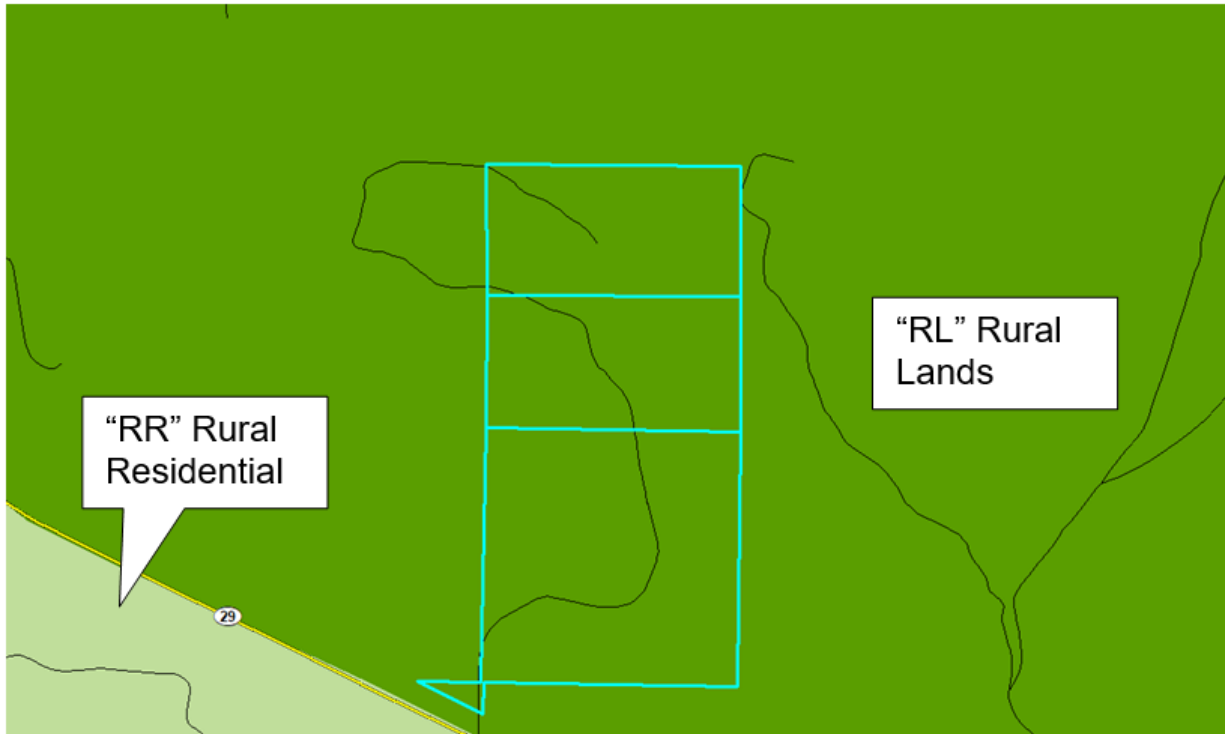
Existing Uses and Improvements: The property currently contains a house, a drying building, several sheds, a pump house, a well, and three approved cannabis cultivation sites. The interior driveway is existing and was determined to be Public Resource Code (PRC) 4290 and 4291 compliant during the review of file no. UP 19-25.

There are no mapped water channels or wetlands in the project area. A man-made pond is partially on APN 007-029-12, and is located well over the required 100 foot setback from the cultivation area as measured to the top-of-bank of the pond.



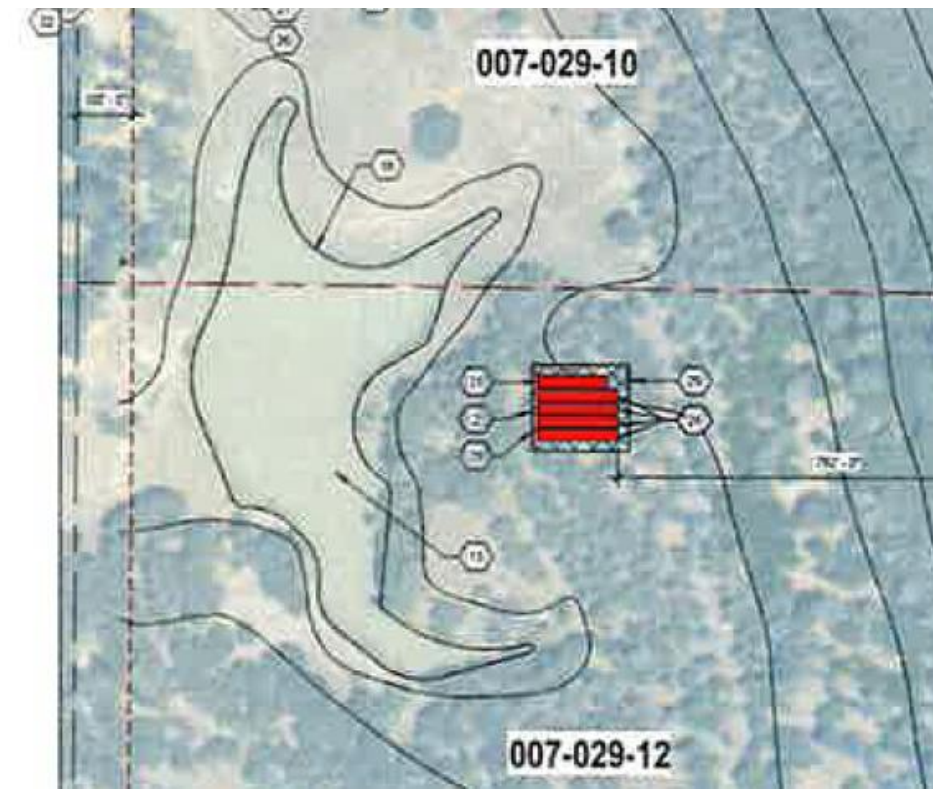
Surrounding Uses and Zoning

- North, West and South: “R” Rural Lands. Parcel sizes generally range from 45 to 160 acres that are primarily undeveloped. A property located northeast of the northern subject lot contains a vineyard.
- West: “RR” Rural Residential; four lots in total. All four lots contain dwellings; three are used for crop production (vineyards and orchards).
- East: “RL” Rural Lands, sparsely populated with dwellings.



Zoning of Site and Surrounding Lots

<u>Topography:</u>	Varied, ranges from flat near the Highway to over 30% on the east and north-east sides of the site.
<u>Soils:</u>	Type 208-Skyhlggh-Asbill complex, 15 to 50 percent slopes. The surface runoff of this soil type is rapid, and the hazard of erosion is severe. The shrink-swell potential is high. This unit responds well to fertilizer, rangeland seeding, and proper grazing use.
<u>Water Supply:</u>	On site pond (rainwater detention); domestic well for drinking water
<u>Sewage Disposal:</u>	Existing On-Site Septic
<u>Fire Protection:</u>	Kelseyville Fire Protection District
<u>Vegetation:</u>	Several varieties of oak trees, grass and some manzanita brush



Originally Approved Greenhouse Cultivation Area



Proposed Amended Outdoor Cultivation Area

IV. PROJECT ANALYSIS

Article 60 – Expiration, Revocation, or Modification of Permits and Reapplication

Subsection 60.33 Reapplication for amendment of permits: Any permit pursuant to this Chapter may be amended by the granting of a new permit of the same type and following the same procedure for adoption of the original permit, except as specifically provided for in this Chapter. Amendments to permits may include extensions of expiration periods as provided for in Section 60.10 and changes in uses, structures, and conditions previously approved; however, any change in conditions must be approved by the Review Authority that originally adopted such conditions.

Response: *This application will be reviewed and decided by the Planning Commission, who reviewed and decided the original use permit for this property.*

Other Applicable Zoning Ordinance Requirements

Article 7 – “RL” Rural Lands 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: *Commercial cannabis cultivation is permitted in the RL zoning district per Table B, Article 27, and as described within ‘uses permitted’ in Article 7. All commercial cannabis applications must be originally approved with a major or minor use permit depending on the license type. In this case the original application was approved through Major Use Permit UP 19-25, and is being amended herein.*

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions for potential impacts.

The applicant is using a portion of the site that has previously been used for cannabis production. An Initial Study was prepared for the 2019 use permit, file no. IS 18-62 (Attachment 6), and was sent to the State Clearinghouse. No adverse comments were received from the submitted Initial Study.

The increased size of the canopy area is relatively small at 910 sq. ft. CEQA allows categorical exemptions for commercial projects that are under 10,000 sq. ft. in area; therefore this proposal meets the qualifications for a Categorical Exemption to CEQA under CEQA section 15303(c).

VI. FINDINGS FOR APPROVAL

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 larger lots (20 acres and larger) that are zoned Rural Lands to the north, east and west, and Rural Residential to the south. There are some traditional agriculturally-productive lots in the vicinity, however all are more than 1000 feet from the cultivation area. The property is not within a mapped Farmland Protection Area.*

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 the conversion of 14,090 sq. ft. of greenhouse “mixed light” cannabis cultivation to 15,000 sq. ft. of outdoor cannabis cultivation. According to Article 27, subsection (at) of the Lake County Zoning Ordinance, the 80 acre property is large enough to have four (4) A-Type 3 medium outdoor licenses with each license allowing up to 43,560 sq. ft. of canopy area, or four (4) A-Type 3B ‘medium mixed-light” licenses with up to 22,000 sq. ft. of canopy per license, or a combination of both license types.*

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

Response: *The site is served by State Highway 29, a paved two-lane highway with 14’ wide travel lanes and a 4’ wide shoulder on both sides of the highway. No new employees are needed for this amendment, so no new vehicle trips would be generated by this proposal during operation, and construction is relatively minimal since the planted area has already been prepared for planting. CalTrans and Public Works were notified of this action and had no adverse 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.

Response: *This application was routed to all of the affected public and private service providers including Public Works, Special Districts, Environmental Health, 11 local Tribes. No adverse comments were received, and there is no issue with this site being able to be served by well / septic, which are existing. Fire and Sheriff’s departments were notified of this amendment and had no adverse comments.*

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: *Commercial cannabis cultivation is named as a permitted use in the Rural Lands zoning district within Commercial Cannabis ordinance #3073 subject to a use permit or the amendment to an approved use permit. This proposal is consistent with the governing ordinance for cannabis growing in Lake County. The General Plan,*

Zoning Ordinance and Kelseyville Area Plan do not have any provisions for commercial cannabis, but both plans do have provisions for economic development and related policies.

6. That no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property.

Response: *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.*

FINDINGS FOR APPROVAL (LCZO, Art. 27, section (au)7.i):

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

Response: *This report identifies the development standards that apply to cannabis cultivation in Lake County. The applicant is fully compliant with the applicable development standards including on-site access driveways and turn-arounds needed in order to comply with Public Resource Codes (PRC) 4290 and 4291. The site was evaluated for compliance with PRC 4290 and 4291, and was found to be in compliance.*

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 amendment to the approved 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 a minor amendment to a previously-approved major use permit to allow outdoor commercial cannabis cultivation within the same footprint that was approved for greenhouse (mixed light) cannabis cultivation.*

VII. RECOMMENDATION

Staff recommends the Planning Commission:

A. Adopt a categorical exemption for this amendment with the following findings:

1. Potential environmental impacts related to the proposed additional 910 sq. ft. of commercial cannabis expansion area and the conversion of 14,090 sq. ft. of greenhouse canopy area to 15,000 sq. ft. of outdoor canopy area qualifies for a categorical exemption to CEQA under section 15303(c).
2. Potential environmental impacts related to this amendment will have a less than

significant impact to the site and neighborhood.

3. This project is consistent with land uses in the vicinity.
4. This project is consistent with the Lake County General Plan, the Kelseyville Area Plan and the applicable sections within the Lake County Zoning Ordinance.

B. Approve Amendment MMU 21-07 with the following findings:

1. This project will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing or working in the area of the 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, Cobb Area Plan and Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property.
7. This project is compatible with surrounding land uses.
8. This project will not result in any significant environmental impacts with the original and amended conditions incorporated.
9. That the applicant is fully qualified to make this application.

Sample Motions:

Categorical Exemption

I move that the Planning Commission finds on the basis of the original **Initial Study (IS 18-62)** and the allowances in CEQA section 15303(c) that allow minor expansions to commercial uses to be exempt from further CEQA review, that the Amendment application applied for by **Carl Tharp representing Coast Oak, Inc.** on a property located at **7560 Highway 20, Kelseyville** further described as **APNs: 007-029-12, 02 and 10**, will not have a significant effect on the environment and therefore a categorical exemption shall be approved with the findings listed in the staff report dated **October 14, 2021**.

Amendment (MMU 21-07) to Use Permit (UP 19-25)

I move that the Planning Commission find that the **Amendment (MMU 21-07) to Use Permit (UP 19-25)** applied for by **Carl Tharp representing Coast Oak, Inc.** on a property located at **7560 Highway 20, Kelseyville** further described as **APNs: 007-029-12, 02 and 10**, does meet the requirements of Section 27(at) and Section 51.4 of the Lake County Zoning Ordinance and the Amendment be granted subject to the revised 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's decision, an appeal to the Lake County Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Planning Commission's final determination.