



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department · Building Department · Code Enforcement

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Item #1
9:10 a.m.
October 28, 2021

STAFF REPORT

TO: Planning Commission

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

DATE: October 28, 2021

RE: **Green Bear Cali LLC; Amendment (MMU 21-22) to an approved Use Permit (UP 18-35) for Commercial Cannabis Cultivation and Initial Study (IS 18-43).**

Supervisor District 5

ATTACHMENTS:

1. Vicinity Map
2. Conditions of Approval – Original
3. Conditions of Approval - Modification
4. Agency Comments
5. Revised Site Plan
6. Initial Study (IS 18-43) Addendum
7. Water Availability Analysis

I. EXECUTIVE SUMMARY

On March 28, 2019, the Planning Commission approved Use Permit UP 18-35 on the subject site (Attachment 2). The original use permit approval was for 49,728 square feet of Mixed-light cultivation area comprised of 46,080 square feet of canopy area within (20) 2,304 sq. ft. greenhouses; a 3,000 sq. ft. metal processing building, two existing 330 sq. ft. covered workstations, and a 1,460 sq. ft. greenhouse for immature canopy. The site uses an existing permitted groundwater well, and a drip-micro spray irrigation system for water conservation. Please see Attachment 7.

On July 9, 2021, the County received an application for an Amendment to Major Use Permit, (file no. MMU 21-22, amending file no. UP 18-35; please see Attachment 3) that shows an amended canopy area of 27,900 sq. ft. of total canopy area within the twenty

existing flowering greenhouses. The Minor Modification application adds an additional thirteen (13) 2,304 sq. ft. flowering greenhouses, each with 1,395 sq. ft. of canopy, plus three additional immature plant greenhouses. The thirteen flowering greenhouses would add an additional 18,135 sq. ft. of canopy area, **bringing the total proposed canopy area to 46,035 sq. ft.** The original cultivation area would remain at 49,728 sq. ft. of taxable Mixed-light area. The proposed Mixed-light canopy area of 46,035 sq. ft. is allowed on the 54.6 acre property per Article 27(at) subject to a use permit modification.

The 54.6 acre subject site takes access from Clark Drive, a paved, County-maintained road. The road is relatively flat at this location, and there is good visibility entering and leaving the site.

The original application included a Biological Assessment and a Cultural Resource Evaluation, both of which included the 'expansion area' proposed for the new nurseries, and addendums for each Survey was provided with this modification application. Staff has received comments from notified agencies (Attachment 4); no adverse comments were received for this amendment to UP 18-35.

Staff is recommending Approval with Conditions of MMU 21-22.

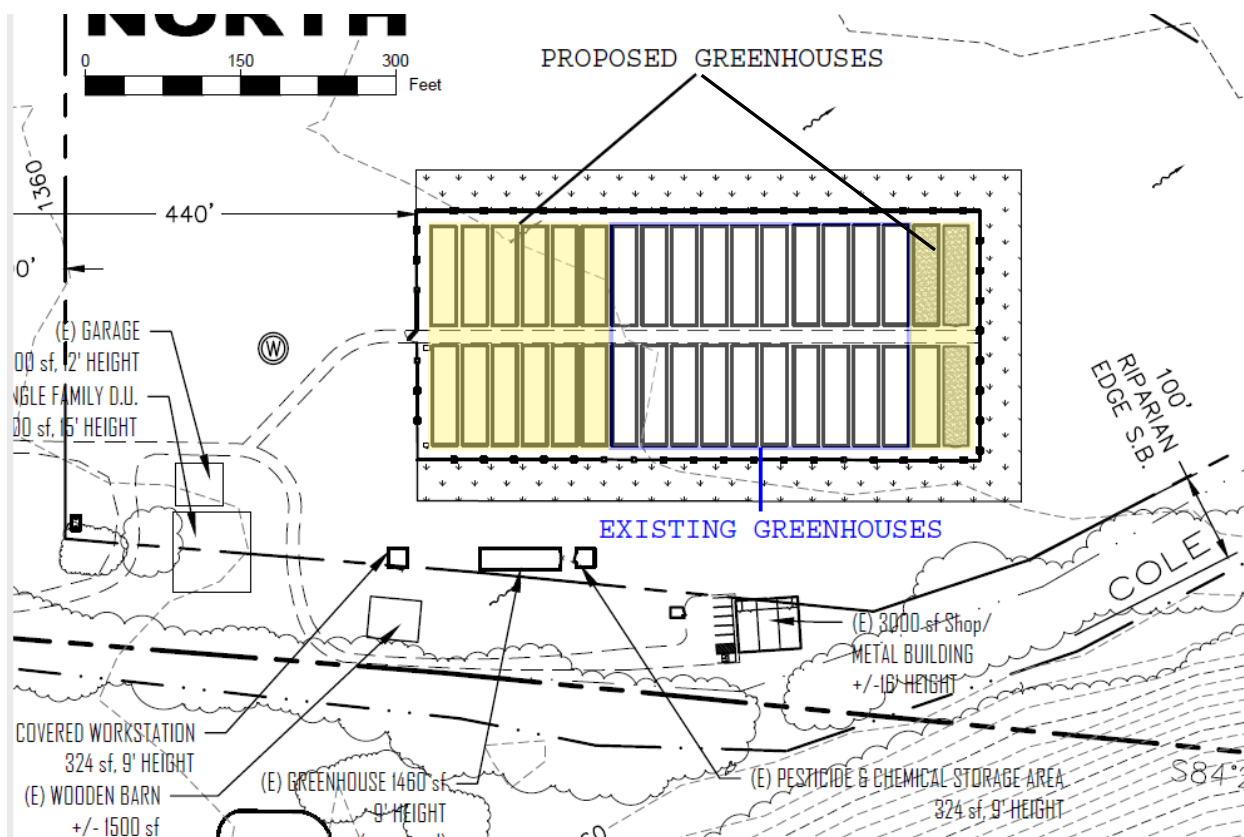
II. PROJECT DESCRIPTION

Applicant/Owner: Green Bear Cali LLC / Wais Amin
Location: 4680 Clark Drive, Kelseyville (Attachment 1)
A.P.N.: 008-042-04
Parcel Size: 54.6± acres
General Plan: Agriculture
Zoning (entire site): "A-FF", Rural Lands - Scenic Combining
Flood Zone: AO (westernmost portion); AE (creek in center of site); 2%, X; see Flood Plain map, next page.

III. PROJECT SETTING

The original cannabis cultivation project was approved through Use Permit UP 18-35, and was for 49,728 square feet of mixed light cultivation area comprised of 46,080 square feet of canopy area within (20) 2,304 sq. ft. greenhouses.

On July 9, 2021, the County received an application for a modification to the cultivation area to enable the applicant to place sixteen (16) additional 96' x 32' greenhouses on the site for cultivation (12 greenhouses) and for use as nurseries for immature plants (4 greenhouses).



Plan View of Greenhouses and Cultivation Area

Water Analysis

According to the Property Management Plan – Water Usage, the annual water usage is projected to be less than 2.2 acre-feet or 716,872 gallons; this is based on a projected ‘per plant’ use demand of 5 to 6.2 gallons per day on average.

Irrigation water for the proposed cultivation operation, will be pumped from and onsite groundwater well to four 2,500-gallon water storage tanks located adjacent to the proposed cultivation area, via an HDPE water supply line.

The water storage tanks will be equipped with float valves to shut off the flow of water from the well and prevent the overflow and runoff of irrigation water when full. An HDPE water supply line will be run from the water storage tanks to the irrigation systems of each greenhouse within the proposed cultivation area.

Water supply lines will be equipped with redundant safety valves, capable of shutting off the flow of water so that waste of water and runoff is prevented/minimized when leaks occur and the system needs repair.

The irrigation system of the proposed cultivation area(s) will be composed of PVC piping, black poly tubing, drip tapes/lines, and micro-spray emitters. Supplemental irrigation may be applied when needed by hand using garden hoses.

On September 25th, 2018, a cumulative Water Analysis was prepared by Richard Stevenson (License #1025430; Attachment 7). Mr. Stevenson conducted a thorough pump test of the onsite groundwater well. The results and conclusions of this test indicate that GBFC's existing onsite groundwater well can produce more than 60 gallons per minute with a Specific Capacity of 11.787 gallons per minute per foot of drawdown. At 60 gallons per minute, the onsite groundwater well can produce the maximum anticipated daily water demand for the existing/proposed cultivation operation in less than one hour. Additionally, continuous water level and water use monitoring conducted of the onsite groundwater well indicate that existing cultivation operation has had no identifiable impact on the aquifer from which the onsite groundwater well receives water.

Surrounding Uses and Zoning

- North: "RL" Rural Lands-zoned properties, several of which have hobby farms (small scale agricultural uses) on them. There is a dwelling located on the northern neighboring lot approximately 680 feet away from the proposed cultivation area.
- East: "RL" Rural Lands-zoned lots containing agricultural uses. There are two small reservoirs on lots immediately east of the proposed cannabis cultivation property.
- South: "RL" Rural Lands-zoned lots; about half of the southern neighboring lots contain dwellings.
- West: "RL" Rural Lands-zoned lots; about half of the western neighboring lots contain dwellings

Topography: Flat; less than 10% for 95% of the site

- **Soils: 120-Bressa-Milsholm Loam.** This map unit is on hills. The vegetation is mainly annual grasses and oaks. This unit is used for livestock grazing, wildlife habitat, and watershed. It is also used for homesite development and firewood production. The production of forage is limited by a dense canopy cover in some areas and the restricted available water capacity and shallow depth of the Millsholm soil. Where blue oak exists, forage production can be increased by managed harvesting of the trees. Vegetation in drainageways should be left for erosion control, wildlife habitat, and esthetic purposes. Volumes of 13 to 36 cords of wood per acre have been measured on the Bressa soil. The Bressa soil responds well to fertilization and rangeland seeding. The main limitation for seeding is the woody canopy cover. Among the common understory plants are soft chess, wild oat, and filaree. If this unit is used for homesite development, the main limitations are steepness of slope, the hazard of erosion, and the depth to bedrock.
- **159-Manzanita loam, 2 to 5 percent slopes.** This very deep, well drained soil is on terraces. It formed in alluvium derived from mixed rock sources. The vegetation in areas not cultivated is oaks, manzanita, and annual grasses. water capacity is 7.5 to 10.5 inches. Effective rooting depth is 60 inches or more. Surface runoff is slow, and the hazard of erosion is slight. This unit is used

mainly for orchards, hay and pasture, livestock grazing, and homesite development. It is also used for firewood production. The main crop grown on this unit is walnuts. Where water is available, irrigation is used for maximum production of this crop. The unit has potential for vineyards. The main limitation is the slow permeability. Because of this limitation, irrigation water needs to be applied slowly to minimize runoff.

Water Supply: Permitted groundwater well

Sewage Disposal: On-site septic system

Fire Protection: South Lake County Fire Protection District (CalFire)

Vegetation: Several varieties of oak trees along creek; native grasses, walnut trees

Water Courses: None within 100 feet of the cultivation area. Cole Creek, a year-round creek, is located about 168 feet south of the edge of the cultivation area.

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Agriculture. The General Plan states the following about Agriculturally-zoned land:

Agriculture. This land use category includes areas with prime farmland, vineyard soils and grazing lands, along with areas characterized by steep slopes and limited services. One purpose of this land use category is to protect the County's valuable agricultural resources and to prevent development that would preclude its future use in agriculture. These lands are actively or potentially engaged in the following: crop production, including horticulture, tree crops, row and field crops, and related activities. Wineries and the processing of local agricultural products such as pears and walnuts are encouraged within this designation. 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. They are generally supportive to the management of the natural infrastructure of the watersheds.

General Plan goals, objectives and policies that apply to this proposed project are as follows;

Chapter 3 - Land Use

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

- Policy LU-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

Response: *Cannabis cultivation is allowed upon issuance of a Major or Minor Use Permit depending on its size and characteristics in the Agriculture zoning district.*

Goal LU-2: is to clearly differentiate between areas within Lake County appropriate for higher intensity urban services and land uses from areas where rural or resource use should be emphasized.

- Policy LU-2.4 Agricultural/Residential Buffer. The County shall require adequate setbacks between agricultural and non-agricultural uses. Setbacks shall vary depending on type of operation and chemicals used for spraying.

Response: *In reference to the Lake County Zoning Ordinance Article 27, Section 27.11 (at), the County requires a minimum 100 foot setback from all property lines of the subject property, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 1200 feet from the cultivation site. The site is located within a mapped Farmland Protection Area, which requires greenhouse cultivation as is proposed by the cultivator. Additionally, Commercial Cannabis Cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. The nearest youth-oriented facility is located more than one mile from the cultivation site. There are no public parks within 1000 feet of the cultivation site, and all other uses that have separation requirements are located more than 1000 feet from the cultivation site.*

The cultivation site is about 650 feet from the nearest dwelling, which is located south of the cultivation site. This cultivator is required to grow inside greenhouses because of the mapped Farmland Protection Area designated for his property.

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 providing employment to up to five persons according to the applicant’s application, and by providing cannabis products to local retailers who will also have employees. Persons directly and indirectly employed by this cultivator will spend money locally on food, gas, rent and other commodities. The number of employees can increase or decrease depending on the stage of the cultivation season.*

Chapter 9 - Open Space

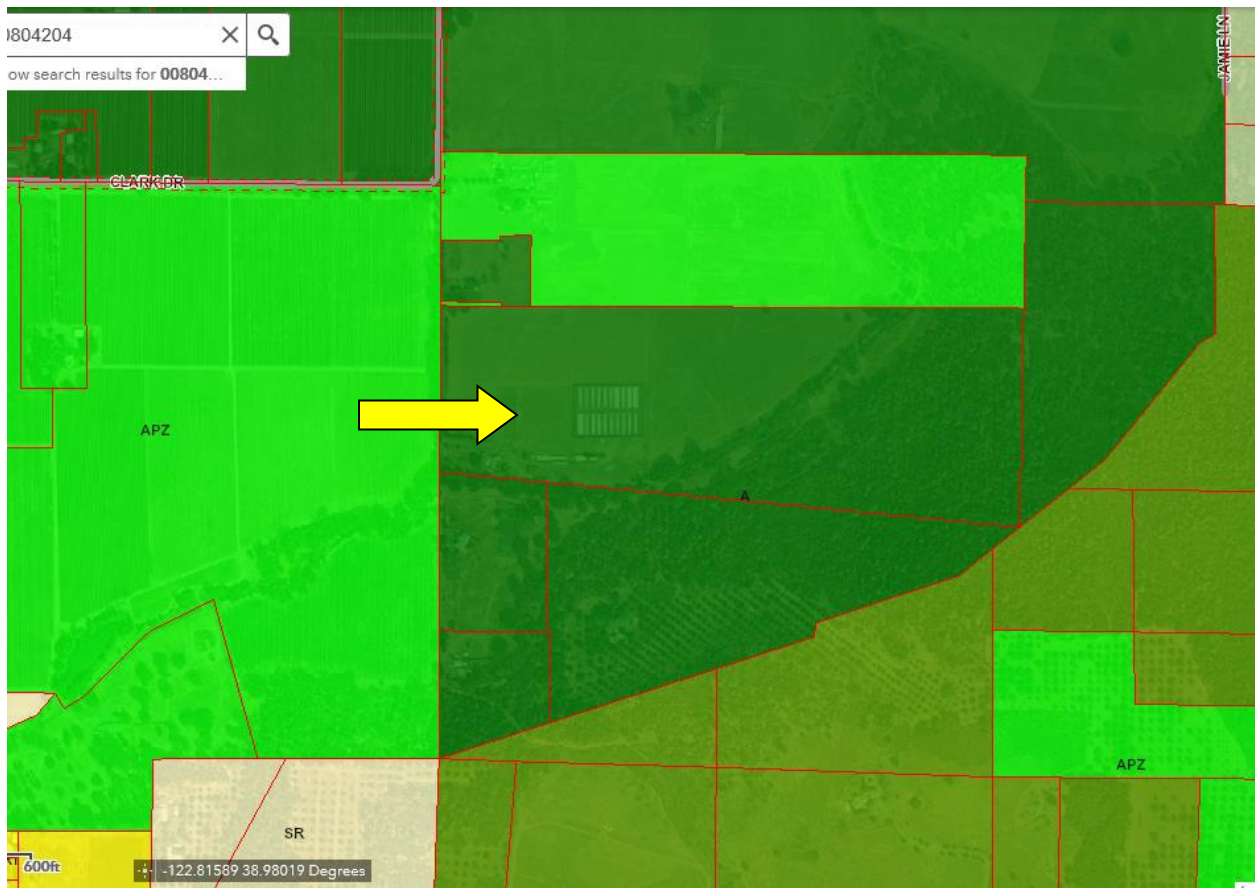
- Goal OSC-1 Biological Resources. To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County.

Response: *The applicant had a Biological Assessment and a Biological Addendum done for this property. The Biological Assessment submitted did not identify any specific threatened or endangered species within the study area, however the Study provided several mitigation measures to protect any species that might be present but were not observed.*

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, create future employment opportunities for up to 5 local residents.*



Kelseyville Area Plan Conformance. The subject site is within the Kelseyville Area Plan's boundary. The Plan contains several policies that are subject to consistency review as follows:

Policies

Agricultural Uses

- **3.5a:** Development shall be directed to areas which will minimize impacts to prime farmland.

Response: *The project is accessed from Clark Drive, a paved County-maintained road (see Attachment 1). The relatively close proximity of established/traditional agricultural uses may affect the cannabis cultivation through the use of pesticides and fertilizers on the adjacent vineyards. The proposed cannabis cultivation is set back about 650 feet from the neighboring vineyard to the west. The proposal will use organic fertilizers and pesticides in order to meet State quality control standards for cannabis, and has provided engineered erosion control plans to minimize potential stormwater impacts to neighboring lots.*

- **3.5e:** The County should encourage the widespread use of erosion control programs and techniques in erodible agricultural areas, in cooperation with the local Resource Conservation District.

Response: *The applicant has provided engineered erosion control plans that require Best Management Practices that will minimize potential stormwater impacts to neighboring lots. The Erosion Control Plan requires straw wattles to be used to channel stormwater runoff, and there are no creeks or watersheds located within 100 feet of the cultivation area that might otherwise be impacted by stormwater runoff. The subject property contains Cole Creek, a year-round stream, located 168 feet from the edge of the cultivation area. Lake County Zoning Ordinance, Article 27, subsection (at) requires 100 feet of separation from any cultivation area to the top of a bank of any surface waters including creeks. The plans submitted appear to effectively minimize potential stormwater runoff issues that might otherwise be associated with this project.*

- **5.1b-1:** A high priority should be given to providing service and employment opportunities locally in the Kelseyville Planning Area in order to boost economic development and reduce travel distances.

Response: *This applicant will employ up to 5 employees who reside locally. In addition to the income made by these five employees, the applicant will sell State-controlled cannabis retail stores, which will further add to the employment base in this County. The employees will spend earned income in the Kelseyville area on food, gas and rent, further aiding the local economy.*

Zoning Ordinance Conformance

Article 5 – Agriculture (A). Purpose: To protect the County’s agricultural soils, provide areas suitable for agriculture, and prevent development that would preclude their future use in agriculture.

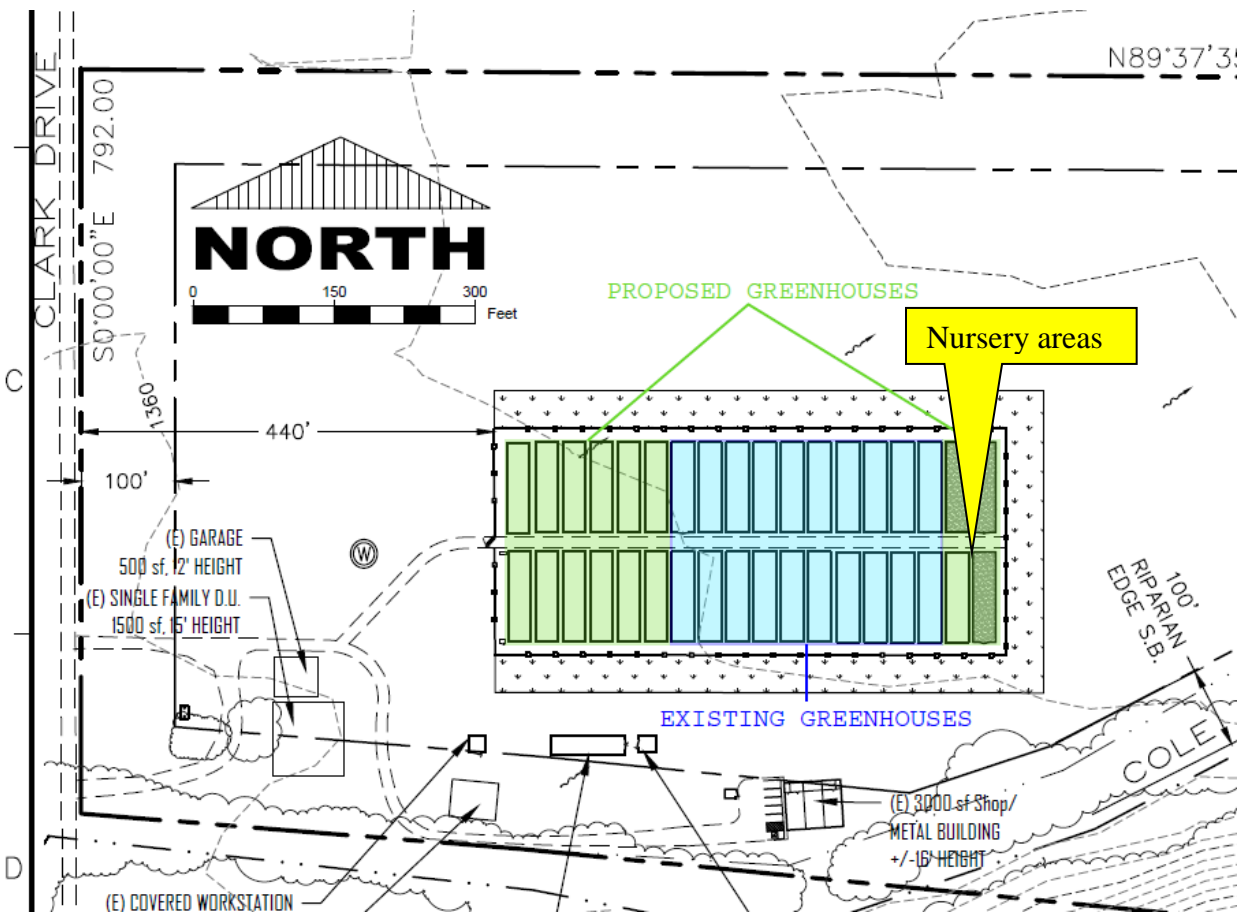
Article 27 - Use Permits

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

- Minimum Lot Size (20 acres per A-Type 3B license): *Complies, the lot is ±54.6 acres in size. The applicant needs 40 acres for the A-Type 3B licenses.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back 100 feet from the nearest property line located to the south-west.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 650 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the relocated fence is 6’ tall.*
- Maximum Canopy Area (22,000 sq. ft. maximum per license): *Complies; The original cannabis cultivation project was approved through Use Permit UP 18-35, and was for 49,728 square feet of mixed light cultivation area comprised of 46,080 square feet of canopy area within (20) 2,304 sq. ft. greenhouses; a 3,000 sq. ft. metal processing building, two existing 330 sq. ft. covered workstations, and a 1,460 sq. ft. greenhouse for new plant starts. The site uses an existing well, and a drip-micro spray irrigation system for water conservation. In addition to the greenhouses and drying building, the site contains a 2,700 sq. ft. dwelling on an existing septic and well, and a 500 sq. ft. garage.*

On July 9, 2021, the County received an application for a modification to the cultivation area to enable the applicant to place sixteen (16) additional 96’ x 32’ greenhouses on the site for cultivation (12 greenhouses) and for use as nurseries for immature plants (4 greenhouses).



Existing and Proposed Greenhouse Locations (Attachment 5)

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions; these agencies include, but are not limited to: CalFire; Air Quality; Environmental Health; Building Department; Road Department for any work that occurs in the County right-of-way, and the Planning Department. Staff has prepared an addendum for file no. IS 18-43 and has uploaded the CEQA documents to the State Clearinghouse as of September 8, 2021. (Attachment 6). The potential categories for impacts are Aesthetics, Air Quality, Tribal/Cultural and Noise. Mitigation measures have been prepared and are conditions of approval for this action. The mitigation measures that apply to this action are as follows:

Aesthetics

AES-1: Prior to cultivation, the applicant shall use blackout screening in or on all greenhouses to prevent light from being visible from roads and neighboring dwellings.

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 for construction and/or maintenance must be compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air toxic Control Measures for CI engines as well as Lake County Noise Emission Standards.

AQ-3: Construction and/or work practices that involve masonry, gravel, grading activities, vehicular and fugitive dust shall be management by use of water or other acceptable dust palliatives to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.

AQ-4: The Cultivation of Commercial Cannabis is subject to AB 2588 Air Emission Inventory requirements administrated by the Lake County Air Quality Management District. Therefore, 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-5: All vegetation during site development and ongoing operation shall be chipped and spread for ground cover and/or erosion control. The burning of cannabis waste material is prohibited.

AQ-6: The applicant shall have the primary access and parking areas surfaced with chip seal, asphalt or an equivalent all weather surfacing to reduce fugitive dust generation.

AQ-7: All areas subject to semi-truck/trailer traffic shall be paved with asphaltic concrete or an all-weather surfacing to reduce fugitive dust generation.

AQ-8: All areas subject to low use (driveways, over flow parking, etc.) shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.

Cultural / Tribal

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 culturally affiliated Tribe, and a qualified archaeologist to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director. Should any human remains be encountered, the applicant shall notify the Sheriff's Department, the culturally affiliated 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.

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

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

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 10:00 p.m. to 7:00 a.m. within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

Findings of Significance. The IS/MND contained Findings of Significance that identified categories listed above that had some potential for impacts. The IS/MND contained mitigation measures that have been translated into conditions of approval for the original and the amended project.

Sample Motions:

Initial Study Addendum (IS 18-43)

I move that the Planning Commission find that that the addendum to the Initial Study IS 18-43 applied for by **Green Bear Cali LLC** on a property located at **4680 Clark Drive, Kelseyville**, further described as **APN: 008-042-04** will not have a significant effect on the environment, and impacts resulting from this project can be mitigated with specific mitigation measures being added as conditions of approval, and with the findings listed in the staff report dated **October 28, 2021**.

Modification (MMU 21-22)

I move that the Planning Commission find that the **Modification (MMU 21-22)** applied for by **Green Bear Cali LLC** on a property located at **4680 Clark Drive, Kelseyville**, further described as **APN: 008-042-04** does meet the requirements of Sections 5, 51.4 and 60 of the Lake County Zoning Ordinance and the Modification be granted subject to the conditions and with the findings listed in the staff report dated **October 28, 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 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.

