



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 #3

9:15 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: **Sunny S Ranch; Modification (MMU 21-20) to a Use Permit (UP 18-43) for Commercial Cannabis Cultivation and Categorical Exemption to CEQA (CE 21-32).**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Original Conditions of Approval
3. Modification Conditions of Approval
4. Agency Comments
5. Revised Site Plan

I. EXECUTIVE SUMMARY

On June 27, 2019, the Planning Commission approved Use Permit UP 18-43 on the subject site. The application was for 25,996 sq. ft. of 'mixed light' (greenhouse) cultivation area, and 21,996 sq. ft. of canopy area. The 20-acre site is allowed to have up to 22,000 sq. ft. of mature plant canopy area.

On June 7, 2021, the County received an application for a modification to the cultivation area to enable the applicant to place four (4) 1,960 sq. ft. areas on the site for use as a nursery for immature plants (Attachment 5). The addition of the nursery areas will not increase the measurable canopy area, but it will impact the rate of annual taxation, as nursery area is regarded as 'cultivation area', which is taxable.

The 20 acre subject site takes access from Butts Canyon Road, a paved, County-maintained road in this location. The road is relatively flat at this location, and there is good visibility entering and leaving the site.

The original application, file no. UP 18-43, included a Biological Resources Report and a Cultural Site Assessment Survey, both of which included the 'expansion area' proposed for the new nurseries.

Staff is recommending Approval with Conditions of MMU 21-20.

II. PROJECT DESCRIPTION

Applicant/Owner: Sunny S Ranch / Shannon Sanders
Location: 19424 Butts Canyon Road, Middletown
A.P.N.: 014-004-20
Parcel Size: 20 acres
General Plan: Rural Lands.
Zoning (entire site): "RL-SC", Rural Lands - Scenic Combining
Flood Zone: None
Date Submitted: June 7, 2021

III. PROJECT SETTING

Existing Uses and Improvements: The site presently contains a dwelling, septic system, well and some appurtenant buildings, as well as the commercial cannabis cultivation area consisting of:

- A 40 x 100' metal frame drying building with 16-foot-tall gable height.
- Thirteen (13) – 20' x 98' steel cold frame greenhouses.
- A 20-foot-wide center access corridor.
- Ancillary facilities and storage area.

Surrounding Uses and Zoning (Attachment 1)

- 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 most of the site

- **Soils: 120-Bressa-Milsholm Loam.**

The Bressa-Milsholm Loam 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.

- **116 Bendridge-Variant Loam. to 15 percent slopes.** This moderately deep, well drained soil is on hillslopes at valley sides. Included in this unit are small areas of Guenoc, Hambright, and Stonyford soils. Permeability of the Benridge Variant soil is very slow. Available water capacity is 2.0 to 3.5 inches. Effective rooting depth is 20 to 40 inches. Surface runoff is rapid, and the hazard of erosion is moderate. The shrink-swell potential of the subsoil is high.

- **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

IV. **PROJECT ANALYSIS**

General Plan Conformance

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

Rural Lands allows for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single family residences, game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields. 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, and are located outside of Community Growth Boundaries.

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

Land Use

- *Policy LU-1.3 Prevent Incompatible Uses.* The County shall prevent the intrusion of new incompatible land uses into existing community areas.
- *Goal OSC-1 Biological Resources.* To preserve and protect environmentally sensitive significant habitats, enhance biodiversity, and promote healthy ecosystems throughout the County.
- *Policy OSC-1.5 Creek Management Plans and Mineral Reclamation Plans.* Creek Management Plans and Mineral Reclamation Plans shall include measures to protect and maintain riparian resources and habitats.

Cannabis cultivation is allowed by major or minor use permit depending on its size and characteristics in the Rural Lands zoning district.

In this case compatibility is determined by the potential impacts that this proposed use could have on the vicinity. The immediate area consists of lots that range in size from 1+ to 530 acre lot to the south. Some of which are developed with dwellings. All potentially affected agencies were notified of this action, and their comments are included in Attachment 4.

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”.

The proposed Commercial Cannabis Operation, would create diversity within the local economy, create future employment opportunities for up to 5 local residents.

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

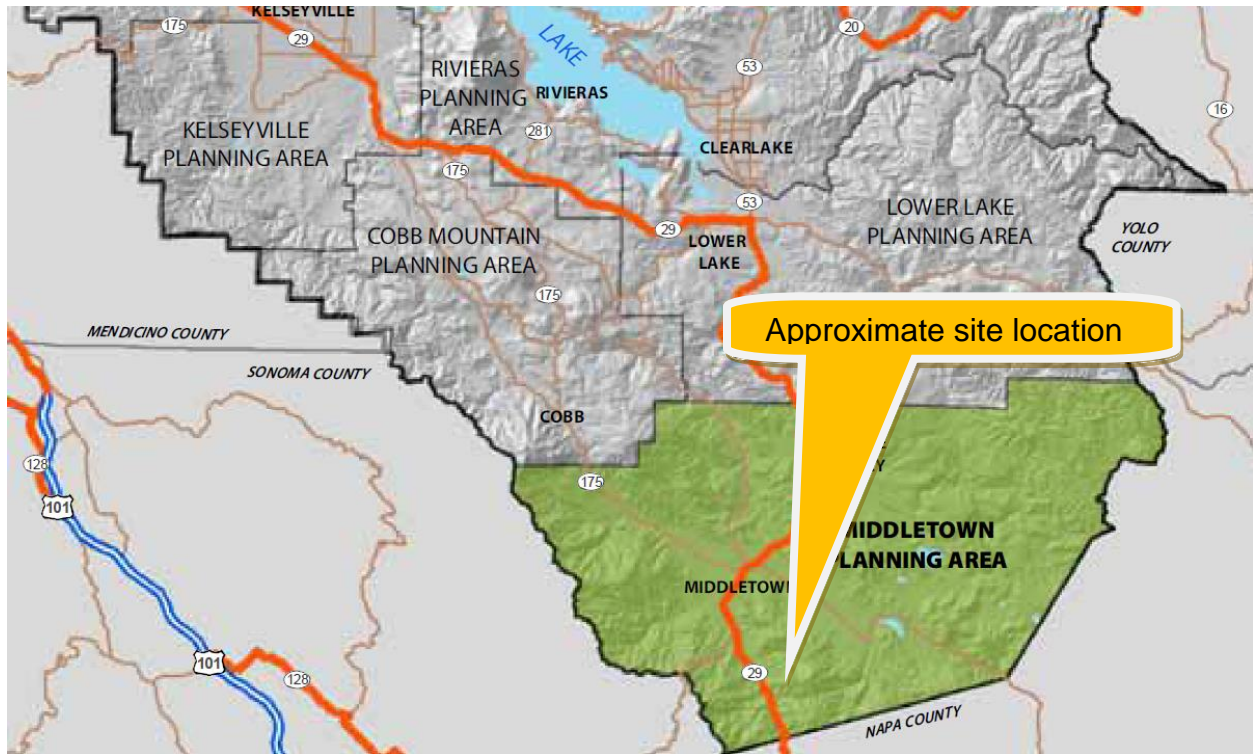
- **5.1.2.d** Support continued enforcement of County Zoning Codes and further refine abatement programs for code violations.
- **5.1.5** Encourage comprehensive economic development efforts for the long-term benefit of the Planning Area aimed at increasing local employment opportunities
- **5.1.5b** Priority should be given to providing service and employment opportunities locally.
- **5.1.5c** Increase local employment opportunities in order to provide an adequate number of jobs to support the local population.
- **5.4.2b** The use of permeable surfaces for driveways and sidewalks shall be encouraged to increase groundwater recharge and reduce runoff.

Zoning Ordinance Conformance

Article 7 – Rural Lands (RL). The purpose of this zoning designation 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.

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.



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

Development Standards, General Requirements and Restrictions. This application meets the following Development Standards, General Requirements and Restrictions as specified within Article 60 of the Lake County Zoning Ordinance.

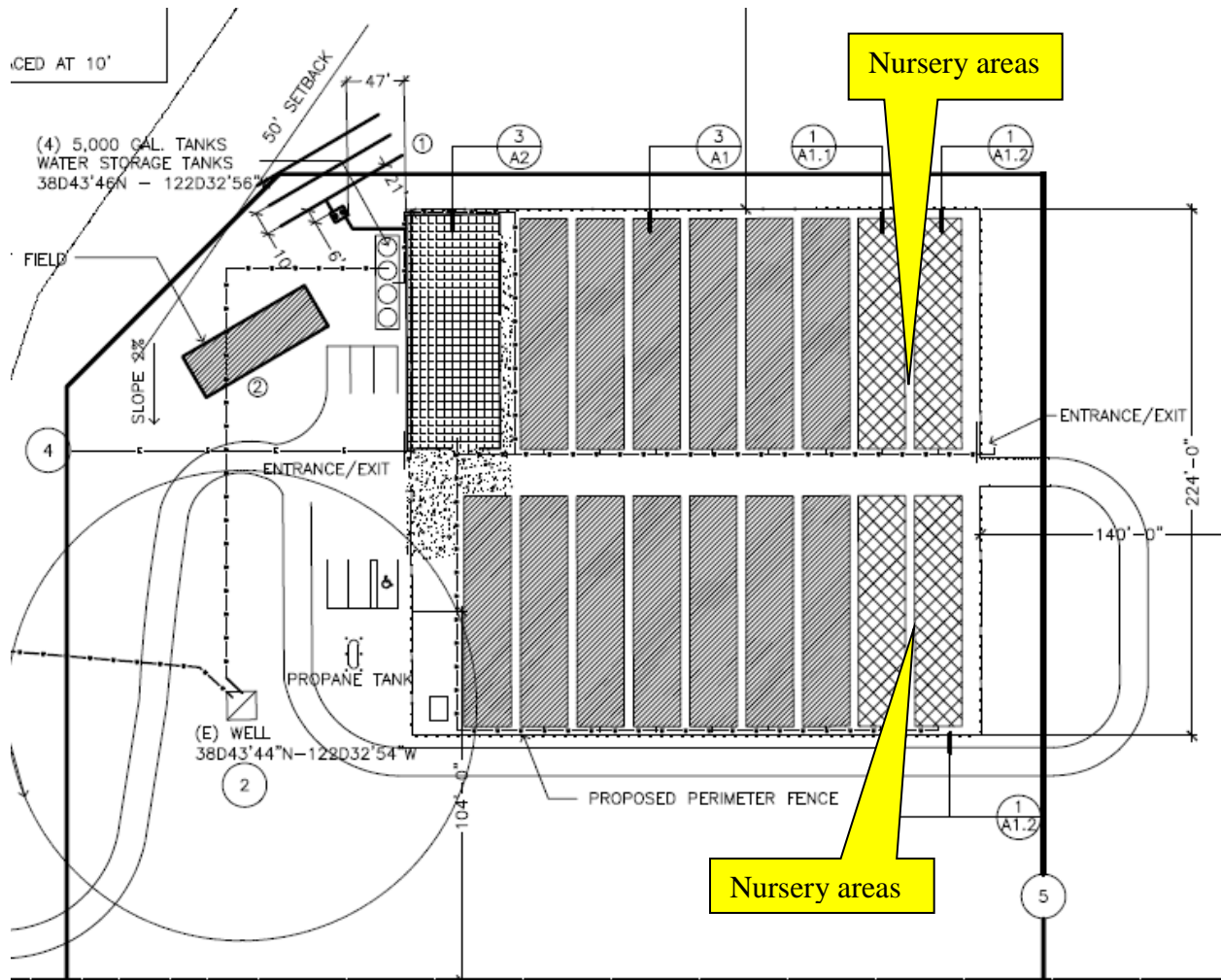
60.33 Reapplication for amendment of permits: Any permit pursuant to this Chapter may be amended by the granting of a new permit of the same type and following the same procedure for adoption of the original permit, except as specifically provided for in this Chapter. Amendments to permits may include 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: *The applicant has met the terms of the original approval (Attachment 2). However, in order to modify an existing and approved use permit, the applicant must apply for an amendment pursuant to Lake County Article 60. 33. (Attachment 3)*

Development Standards

- Minimum Lot Size (20 acres per A-Type 3B license): *Complies, the lot is \pm 20 acres in size. The applicant needs 20 acres for the A-Type 3B license.*
- 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 635 feet away from the cultivation area to the northeast.*



Existing and Proposed Greenhouse Locations (Attachment 5)

- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (22,000 sq. ft. maximum): *Complies; the proposed canopy areas would remain at **21,996 sq. ft.** in total area since nurseries are not regarded as 'canopy area', since they are limited to immature plants.*

General Requirements. The original Conditions of Approval remain in full force and effect with one specific change;

- (1) The approved cultivation area is 25,996 consisting of mature plant canopy, and 7,840 sq. ft. of nursery area / cultivation area consisting of immature plant propagation. Total cultivation area is now 33,836 sq. ft. with no change to the total square footage of mature plant canopy.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. Staff has determined that the minor modification of use permit UP 18-43 is categorically exempt from CEQA review pursuant to CEQA section 15304. No new (un-surveyed) areas are proposed for this expansion; the nursery areas were all surveyed during the original Biological and Archaeological Surveys that occurred for file no. UP 18-43.

Sample Motions:

Categorical Exemption (CE 21-32)

I move that the Planning Commission find that that Categorical Exemption (CE 21-32) applied for by **Sunny S Ranch** on a property located at **19424 Butts Canyon Road, Middletown**, further described as **APN: 014-004-20** will not have a significant effect on the environment, and this project qualifies for a Categorical Exemption pursuant to CEQA section 15304 with the findings listed in the staff report dated **October 28, 2021**.

Modification (MMU 21-20)

I move that the Planning Commission find that the **Modification (MMU 21-20)** applied for by **Sunny S Ranch** on a property located at **19424 Butts Canyon Road, Middletown**, further described as **APN: 014-004-20** does meet the requirements of Section 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.*