



COUNTY OF LAKE

COMMUNITY DEVELOPMENT DEPARTMENT

Courthouse - 255 N. Forbes Street

Lakeport, California 95453

Planning Department • Building Department • Code Enforcement

707/263-2221 • FAX 707/263-2225

Date: Oct. 28, 2021

Item #4

9:20 a.m.

STAFF REPORT

TO: Planning Commission

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

DATE: October 28, 2021

RE: RESUBMITTAL - WeGrow LLC

- **Major Use Permit Resubmittal (UP 20-22)**
- **Initial Study Addendum (IS 20-25)**

Supervisor District 1

Location: 16750 Herrington Road, Hidden Valley Lake (cultivation site); 17610 Sandy Road and 19678 Stinson Road, Middletown (cluster sites)

Assessor Parcel Numbers (APNs): 013-060-40 (cultivation site); 013-014-03 and 11

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan - Revised
3. Agency Comments
4. Conditions of Approval
5. Current Site Plans
6. Initial Study Addendum (CEQA)
7. Biological Assessments
8. Tree Removal and Revegetation Plan
9. Water Availability Analysis; Hurvitz Env. Services, 8-10-2021
10. Public Comments
11. Traffic Analysis
12. Memo – Power Availability and Analysis
 - a. Attachment 12a – Letter from Applicant re: Power to Site
 - b. Attachment 12b – County Codes related to Power

I. EXECUTIVE SUMMARY

Background

The original application was sent to the Planning Commission at a public hearing that occurred on April 22, 2021. The hearing was a combination of 'in-person' and remote via Zoom due to Covid-19 protocol. There was significant testimony from concerned persons who attended. Ultimately the Planning Commission approved the project on a 4 to 1 vote.

A timely appeal was filed by a neighboring development. The appeal was heard by the Board of Supervisors on June 8, 2021. The Board realized that the site plan reviewed in the CEQA document that was uploaded to the State Clearinghouse was different than the Planning Commission-approved site plan, and denied the use permit without prejudice.

The applicant then re-applied for a use permit and prepared and submitted updated studies, a cumulative water availability analysis (Hurvitz, August 10, 2021), a Tree Removal and Revegetation Plan, two updated well tests, and several other studies that are of record. The CEQA documents were then revised and uploaded to the State Clearinghouse on September 1, 2021 for a 2nd 35 day review period, and a 'Notice of Intent' was sent to each of the people who had submitted testimony during the first hearings before the Planning Commission and the Board of Supervisors.

Project Details

The applicant is requesting approval of a Major Use Permit for fifteen (15) A-Type 3B (medium Mixed light) commercial cannabis cultivation licenses that would include 387,600 sq. ft. of greenhouse cultivation area inside of thirty-two (32) 90' x 120' greenhouses for mature plants; two (2) 90' x 120' greenhouses for immature plants; four (4) 50' x 100' drying buildings, two (2) 200 sq. ft. sheds, and twenty (20) 5,000 gallon water tanks on a 309 acre property located at 16750 Herrington Road (cultivation site); 17610 Sandy Road and 19678 Stinson Road (clustering sites), Hidden Valley Lake / Middletown, California, APNs 013-060-40, 013-014-03 and 11. The project includes one (1) A-Type 13 'Self Distribution' license to enable legal transportation of cannabis to and from the property. According to the Initial Study, the applicant is proposing the removal of 130 blue oak trees, and would if approved be required to replant at a 3:1 ratio using blue oak trees or similar indigenous tree species prior to final occupancy. The applicant's specific project proposal includes the following:

Fifteen (15): A – Type 3B: “Medium Mixed Light” Licenses: Greenhouse cultivation for adult use cannabis using light deprivation and/or artificial lighting in the canopy area of 22,000 square feet of total canopy size on one premises per license.

- *The total proposed cultivation area is 387,600 sq. ft. of taxable area*
- *The total proposed mixed light (greenhouse) canopy is estimated to be 320,000 square feet and will be cultivated in 34 greenhouses.*
- *Thirty-four (34) 2,403 sq. ft. greenhouses*
- *Four (4) 5,000 sq. ft. drying buildings*
- *Two (2) 200 sq. ft. sheds*
- *Twenty (20) 5,000 gallon water tanks*
- *Removal of 130 blue oak trees*

One (1): A – Type 13 “Self Distribution License”

Power

The applicant originally requested a 4000 amp service, which is a large amount of electricity as they will be cultivating 387,600 sq. ft. of canopy in greenhouses with a maximum of 25 watts per square foot. The applicant originally stated that all electricity needed for the project will be supplied from PG&E through the existing connection but that an electrical upgrade would be necessary.

Staff contacted PG&E on August 15, 2021 to find out whether the grid at this location could support a 4000 amp service. PG&E contacts Ivan Castro and Jason Newell stated that the applicant would need to upgrade the grid at this location, and that a grid upgrade could take up to four years. The applicant was made aware of this following the discussion with PG&E.

The proposed project is proposing a backup generator to be used in emergency situations when electricity cannot be supplied by PG&E. CCR Title 4, Division 19, Chapter 9, Subsection 16306, "Generator Requirements", and Article 27(at) of the Lake County Zoning Ordinance list the rules for using backup generators. Article 27(at) states that backup generators are only permitted for use by cannabis cultivators during power outages; this is stated within the Conditions of Approval for this project.

Access

The project site is currently accessed by a private gravel driveway that connects with Herrington Road. The existing gravel driveway on the property leads to the center of the property where the cultivation area is proposed. The applicant states that at minimum the driveway will be 20 ft wide with 14 ft of unobstructed horizontal clearance and 15 feet of unobstructed vertical clearance. The access driveway will have 6-inch gravel added to the entire length of it, and the applicant will provide 31 parking stalls (Two ADA) as well as a hammerhead turnaround in front of the cultivation area that will be 20' wide and 60' in length. These standards are required by the Lake County Building Department and by CalFire

A site visit by the former Lake County Community Development Department Code Enforcement Manager and current Associate Planner Eric Porter took place on March 19, 2021. The Code Enforcement Manager observed that the existing interior driveway was not adequate to meet Public Resource Codes 4290 and 4291 (CalFire road standards for commercial development). At that time the Code Enforcement Manager pointed out that the interior road was not in compliance with CalFire requirements, but said it could be brought into compliance through the appropriate conditions of approval and mitigation measures, to be verified prior to cultivation.

The applicant has provided a Traffic Study, prepared by DTN Engineering, Consulting and Permitting, undated but received on August 21, 2021. The study concluded that the project would generate up to 40 average daily trips during the height of the cultivation season, and that traffic (existing) on Tinilyn and Spruce Grove Roads could accommodate up to 336 cars per day. Current trip counts put the number of trips including the project-related trips well below this number. The study indicated that no additional road improvements to public roads are necessary to accommodate this project. Interior driveway improvements will be required to enable the driveway to meet CalFire Road Standards as described in Public Resource Code (PRC) 4290 and 4291.

Pesticide and Fertilizer Storage

The project does not propose the storage or use of any hazardous materials. All organic waste will be placed in the designated composting area within the cultivation area. All solid waste will be stored in bins with secure fitting lids until being disposed of at a Lake County Integrated Waste Management facility, at least once a week during the cultivation season.

Water Analysis

There are two permitted groundwater wells located on site; one is a permitted domestic groundwater well (referred to as 'Well No. 1' in this report), and the other is a permitted agricultural well (referred to as 'Well No. 2' in this report).

A six hour run test was completed in 2021 which determined the following:

<u>Event:</u>	<u>Well No. 1</u>	<u>Well No. 2</u>
Six hour run test date:	Feb. 17, 2021	April 9, 2021
Productivity (average GPM):	7.76 GPM	40.0 GPM
Water level (start of test):	85 feet below grade	76 feet below grade
Total Drawdown after 6 hours:	193' lower than @ start	250' lower than @ start
Recharge Rate after ½ hr	72%	90%

The applicant has provided a Water Use/Water Availability Study (Study) prepared by Hurvitz Environmental Services, dated August 10, 2021, in addition to submitting three well reports, two of which are referenced above and within the Hurvitz Study. Please see Attachment 9.

The Study reviewed the projects proposal, the well data and location to determine the impacts of the proposed project, the estimated aquifer capacity, the annual stormwater recharge rates (both pre-drought and post-drought), and projected water usage from other off-site water users.

The Study concluded that based on well yield test data collected at the site, and based on the estimated aquifer capacity of 911 acre-feet, or about 297,000,000 gallons of water (or one acre foot = 325,724 gallons of water), it appears that the aquifer storage and recharge area are sufficient to provide for sustainable annual water use at the site and within the area. The study determined that the quantity of groundwater to be used for the project compared to the average quantity of available groundwater and severe drought conditions indicates that pumping for the proposed project is unlikely to result in significant declines in groundwater elevations or depletion of groundwater resources to the project site and to neighboring water users over time.

The Study also took into account pre-drought and post-drought conditions. The typical non-drought year recharge rate in Lake County is estimated to be 15% of total rainfall. Estimated non-drought year total rainfall over the probable aquifer was estimated by Hurvitz to be 488 acre-feet. Fifteen percent of this amount in non-drought years is 73.2 acre feet annually according to the Hurvitz study.

Drought years assume half as much (coefficient of 8% recharge rather than 15% in non-drought years. Projected drought-year recharge rate is 19.52 acre feet per year.

Estimated annual projected water use for this project is 4,713,410 gallons, which is approximately 14.58 acre-feet of groundwater/year. Attachment 9, page 8.

The Lake County Zoning Ordinance has no minimum gallons per minute productivity thresholds; water depth / recharge rate thresholds, or other regulations for what constitutes an adequate water availability analysis. The Hurvitz Study concluded that there would be about 5 acre-feet per year of ‘surplus’ water that would not be used by this cultivator during drought years, which equates to 1,628,000 gallons of surplus recharge (aquifer) groundwater per year.

Regarding this specific project, the applicant indicates that they will use a drip-irrigation system inside the greenhouses which is more water-efficient than other methods of irrigation. Cannabis plants typically require between 4 and 6 gallons of water per day per plant.

The following chart shows the proposed annual water usage provided by the applicant for the cannabis cultivation irrigation minus the replacement tree irrigation water and employee domestic water use that will be needed.

Total Project Water Use Estimates*		
Inches	Gallons	Acre Feet
20-25 (best case scenario)	3,770,727 --- 4,713,410	11.5 --- 14.4
25-30 (likely scenario)	4,713,410 --- 5,656,089	14.4 --- 17.3
30-35 (worst case scenario)	5,656,089 --- 6,598,772	17.3 --- 20.2
Estimated Water Use Total for Project*		
25 Inches is estimated	4,713,410*	14.4

Project Description

Applicant/Owner: We Grow LLC / Zarina Otchkova
Location: 16750 Herrington Road, Hidden Valley Lake (cultivation site)
A.P.N.s: 013-060-40 (cultivation site), 013-014-03 and 11 (clustering sites)
Parcel Size: ±309 acres
General Plan: Rural Lands – Resource Conservation
Zoning: “RL-RR-WW”: Split: Rural Lands – Rural Residential - Waterway

Flood Zone: None

Submittal Date: March 5, 2020

Resubmittal Date: August 16, 2021

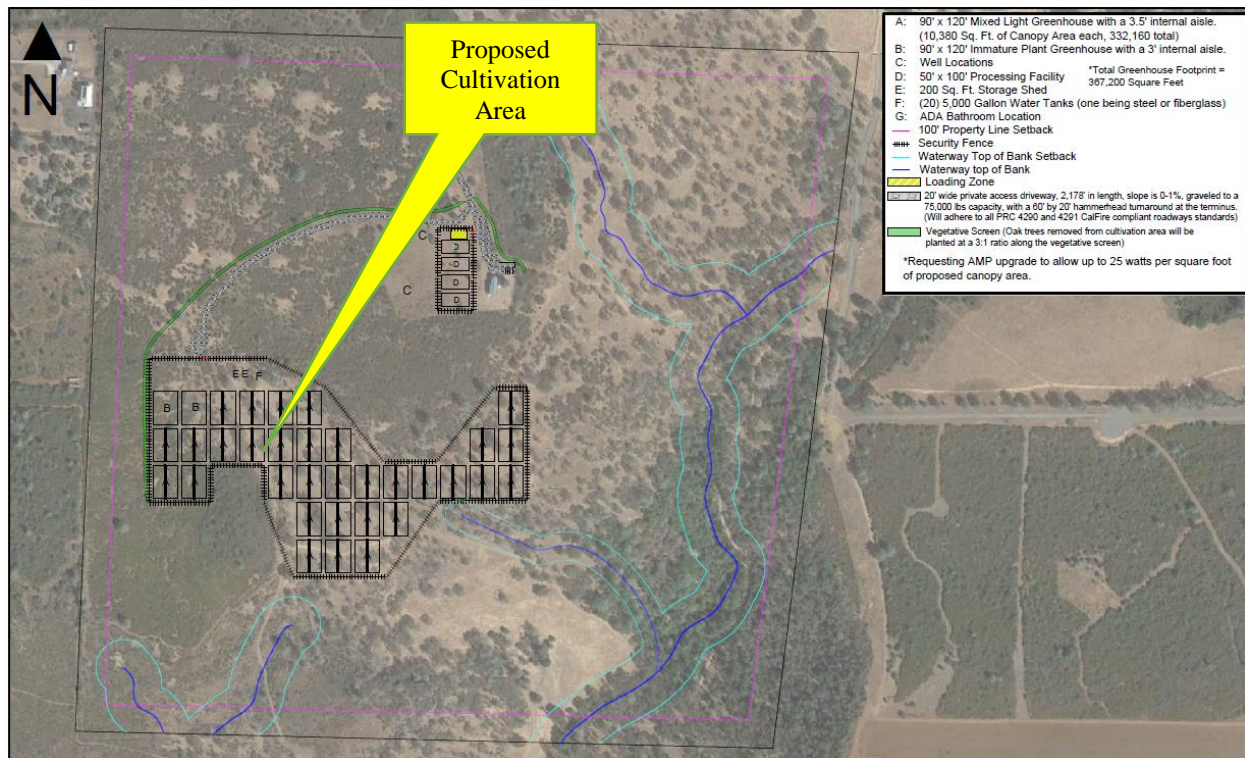
Construction Details

According to the applicant, the following is in regards to the site preparation and construction:

- Approximately 150 cubic yards of earth will be excavated to accommodate the greenhouse pads and drying building pads. Although the applicant has applied for a grading permit, a building permit required for any building over 200 sq. ft., including greenhouses, allows up to 500 cubic yards of earth to be moved without a grading permit being required. Less than 500 cubic yards of earth will be removed by this proposal, which will occur on flat ground. The road improvements will not require significant grading, nor will the interior road improvements, or the removal of the estimated 130 native oak trees that are located on the property according to the Tree Removal and Revegetation Plan received from the Applicant.
- Construction is anticipated to last between two and four months.
- The interior roadway will be improved with 6" of gravel base to a width of 20' to meet the CalFire Road Standards as provided in the California Public Resource Code Sections (PRC 4290 and 4291). The entry gate will be widened to no less than 22 feet, and a 'knox box' shall be installed on the gatepost to enable emergency vehicle access to the site if needed.
- Materials and equipment will only be staged on areas disturbed prior to the project application completion (existing roads, parking and work areas). No areas undisturbed at the start of the project will be disturbed during the project for the purpose of staging materials or equipment.
- Any drivers will be instructed to drive slowly for safety and keep down dust to mitigate the generation of dust during construction. The applicant shall post signs that limit the speed to 15 miles per hour on site; this will be added as a condition of approval.
- All construction activities, including engine warm-up, will be limited to Monday through Saturday between the hours of 7:00 a.m. and 7:00 p.m.
- All equipment will be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. All equipment will only be refueled in locations more than 100 feet from surface water bodies, and any servicing of equipment will occur on an impermeable surface. In the event of a spill or leak, the contaminated soil will be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
- Estimated daily construction-related trips are up to 10 trips per day during the construction period according to the application materials received.

Post-Construction (Operational) Details If this project is approved, the following operational characteristics will be met:

- Up to 20 employees per day will work on site during peak harvest times.
- 40 average daily vehicle trips are anticipated during peak harvest season.
- An ADA-compliant restroom and hand wash station is required on the property
- A minimum of 20 regular parking spaces and one ADA-compliant parking space is required on site.
- Operational noise levels of greenhouse filtration systems cannot exceed the maximum decibel levels established within the Lake County Zoning Ordinance as measured at the property line(s).
- Generators are only allowed to be used during power outages as a backup power source.
- Water is required to be obtained on-site. No 'trucked in' water is permitted.
- Light must be contained within greenhouses. The only outdoor lighting allowed associated with this project is security lighting around the perimeter of the fenced cultivation area that is shielded and downcast, and which is not visible from neighboring properties or public roads.
- The applicant has not provided energy usage calculations. A typical 'greenhouse cultivation' activity usually requires no less than 400 amps or more of power. This project will ultimately require 4000 amps. PG&E has stated that the applicant must upgrade the grid in this location, and that the upgrade could take up to 4 years to complete. The cost of the upgrade is borne by the applicant.



PROPOSED SITE PLAN

II. PROJECT SETTING

Existing Uses and Improvements: Existing development consists of a 4000 sq. ft. barn, two permitted groundwater wells, a septic system, and an existing 12' to 14' wide interior gravel driveway.

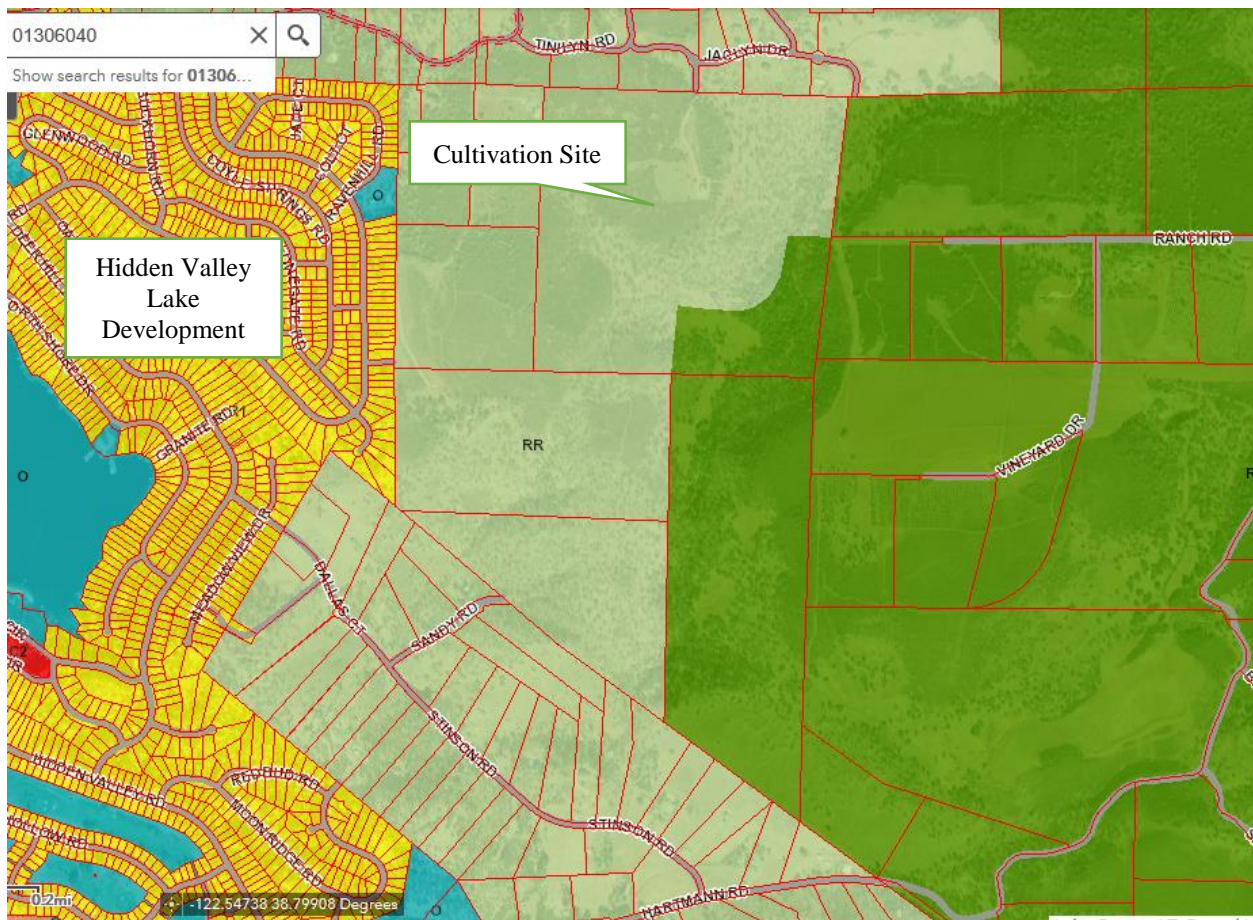
Surrounding Uses and Zoning

North, South: “RR” Rural Residential; parcels range between 5 and over 40 acres in size. Most are developed with dwellings.

West: “RR” Rural Residential and “R1” Single Family Residential; developed lots including lots within the Hidden Valley Lake development.

North-East: “RL” Rural Lands zoning; large undeveloped lots.

The actual cultivation site is not within a Community Growth Boundary, and is located about 2,300 feet southeast of the outer border of the Hidden Valley Lake development. The park shown in blue below is more than 1000 feet from the proposed cultivation site.



ZONING AND VICINITY MAP

Topography: The site is relatively flat with a slope of less than 10% on the cultivation area of the site.

<u>Soils:</u>	The cultivation area contains the following soil type: <ul style="list-style-type: none">• Type 219, however the soil to be used on site will be in fabric pots located inside of greenhouses, and will be imported onto the site to ensure quality control of soil.
<u>Water Supply:</u>	Two Permitted Groundwater Wells; twenty (20) 5,000 gallon water storage tanks
<u>Sewage Disposal:</u>	Existing and future on-site septic systems.
<u>Fire Protection:</u>	South Lake Protection District (CalFire)
<u>Vegetation:</u>	Significant oak coverage; some manzanita shrubs and grasses
<u>Water Courses:</u>	Several unnamed seasonal streams

III. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands, Rural Residential and Resource Conservation. 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, and game preserves and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields.

Rural Residential

This land use category is designed to provide single-family residential development in a semi-rural setting. Large lot residential development with small-scale agricultural activities is appropriate. These areas are intended to act as a buffer area between the urban residential development and the agricultural areas of the County. Building intensity should be greater where public services such as major roads, community water systems, or public sewerage are available. However, most of the lands designated for this land use category would have wells and septic systems. These lands provide important ground water 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.

Typical uses permitted by right include: single family residences; crop production; raising of poultry, rabbits, and other small animals for domestic use; raising of bovine animals, horses, sheep, and goats for domestic use; and sale of crops produced on the premises.

Typical uses permitted conditionally include agricultural-related services and recreational facilities. This designation is primarily located outside of Community Growth Boundaries, but some areas will be appropriate inside these boundaries as well. The compliance with the applicable General Plan policies and goals are below.

Resource Conservation is to assure the maintenance or sustained generation of natural resources within the County. The highest priority for these lands is to provide for the management of the County's natural infrastructure. This management should include, but not limited to, functioning as watershed lands which collect precipitation and provide for the important filtering of water to improve water quality. These lands provide important ground water recharge capability which is critical to the maintenance of the ecosystem.

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

Land Use

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

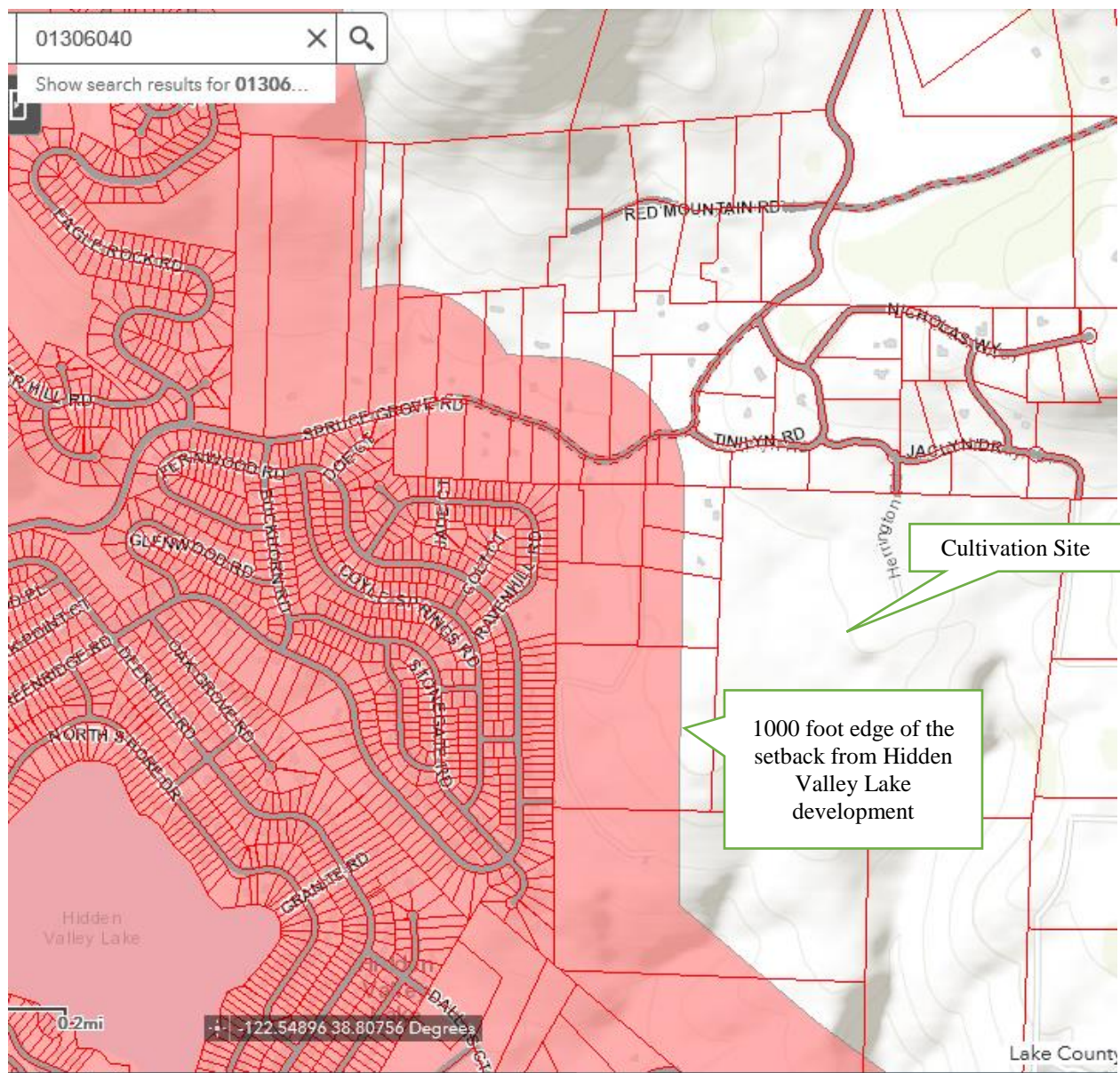
- Policy LU-1.3 Prevent Incompatible Uses. The County shall prevent the intrusion of new incompatible land uses into existing community areas.

Response: Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands land use designation upon securing a Minor/Major Use Permit. However, this particular project is near Hidden Valley Lakes Development, although the cultivation area is outside the 1000 foot setback required under Article 27; see 'Exclusion Area' map below. Staff has received multiple verbal, written and emailed comments for this project; mostly from Hidden Valley Lake residents who are opposed to the project.

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, a minimum 100 foot setback from the top of bank of any surface water source, and a minimum of 200 foot setback from any off-site residences. The nearest off-site residence is located approximately 1100 feet to the west of the cultivation site. Additionally, commercial cannabis cultivation is prohibited within a 1,000 feet of Community Growth Boundaries, licensed child care facilities, churches, or youth-oriented facilities. This project complies with all of these required setbacks. See Map next page.



CANNABIS EXCLUSION AREA MAP

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, and create future employment opportunities for local residents. According to the applicant’s application there is total of up to twenty (20) employees proposed, which will add to the economic vitality of south Lake County by employees purchasing gas, food and commodities, which in turn will help local retail stores economically. The number of*

employees working on site will vary between 10 and 20 depending on the stage of the cultivation season.

Middletown Area Plan Conformance

The subject site is within the Middletown Area Plan's boundary, which includes Coyote Valley (located south of the subject site) and Hidden Valley Lake. The Plan contains several policies that are subject to consistency review as follows:

Objective 5.1.1 Encourage comprehensive economic development that includes a high level of community participation to the long range benefit of the Planning Area with a balanced and diverse mix of: commercial, manufacturing, residential, tourism and agriculture.

- **Policy 5.1.1.a** Economic development proposals should involve a high level of community participation.

Response: *Although commercial cannabis cultivation is not a traditional economic development activity, this proposed project will employ between 10 and 20 employees who will spend money in Lake County. This proposal requires public notices to be sent out to neighboring property owners within 725 feet of the outer property line of the subject sites, as well as to any persons who desire to participate in the public hearing process regardless of whether the participants support or oppose this project. In total, over 80 public hearing notices were sent out as of March 26, 2021, and over 110 public hearing notices were sent out for the October 28, 2021 Planning Commission hearing. Participation in the public hearing process is highly encouraged.*

- **Policy 5.1.4b** Make agriculture more economically viable by encouraging the development of value-added agricultural industries that support tourism and maintaining sites in agricultural production, as long as the agricultural tourism uses do not negatively impact on-going agricultural operations on adjacent lands.

Response: *The project site is eligible for commercial cannabis cultivation. The site would not be open to the public, so no tourism of the site will occur. The project will however add revenue to local cannabis retailers, and the employees of this project will spend money locally on food, gas and other commodities, further aiding the Lake County economy. There are no agricultural uses within 1000 feet of the proposed cultivation site. See Aerial Photo next page.*

Objective 5.1.5 Encourage comprehensive economic development efforts for the long-term benefit of the Planning Area aimed at increasing local employment opportunities

- **Policy 5.1.5b** Priority should be given to providing service and employment opportunities locally.

Response: *As previously stated, this project will employ between 10 and 20 persons. Those persons will spend money locally, and will likely be hired from local areas. Further, commercial cannabis will support other primarily local retail outlets that sell commercial cannabis products, further enhancing economic vitality within Lake County.*

The Community Development Department has written an addendum to the Initial Study and an original Initial Study on the project's potential impacts, and has incorporated mitigation measures to reduce potential environmental impacts to less than significant. These mitigation measures include, but are not limited to, Erosion Control and Sediment Plans using Best Management Practices, tree replacement for the removal of the estimated 130 oak trees proposed, and the protection of Biological, Archaeological, Geological, and Historical Resources, which are discussed in further detail in below.



Aerial Photo of Site and Surrounding Lots

Zoning Ordinance Conformance

Article 8 – Rural Residential (RR)

The cultivation of commercial cannabis is permitted in the “RR” Rural Residential Zoning Districts upon issuance of a Minor/Major Use Permit pursuant to Article 27, Section 27.11 [Table B] of the Lake County Zoning Ordinance. The cultivation area will occur within the RR Rural Residential zoning district. There will be no cultivation occurring within the Rural Lands-zoned portion of the site.

Article 37 – Waterway Combining District (WW)

A seasonal stream traverses through the parcel on the northern portion. Pursuant to Article 37 (Waterway Combining District), Section 37.3(b) the traditional minimum setback for intermittent waterways is thirty (30) feet from the top of bank, however Article 27(at)

requires a greater setback of 100 feet to top of bank from cultivation areas. This setback is met with this proposal according to the applicant's Site Plan, aerial photos, and County GIS mapping data.

Article 27(at) – Commercial Cannabis Cultivation Regulations

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 permit, minor or major use permits in addition to any required building, grading and/or health permits. Article 27, Table B, allows the cultivation of commercial cannabis in the RL and RR zoning districts subject to a use permit being issued, and subject to compliance with a variety of Plans, standards, criteria and specific regulations. Compliance with all applicable Plans, standards, criteria and specific regulations is the basis of this staff report.

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 per each A-Type 3B license is required; 15 A-Type 3B licenses are requested): *Complies; the lot is ±309 acres in combined size. The applicant needs 300 acres for fifteen (15) A – Type 3B licenses for 300 acres, and five acres is required for the A-Type 1C license. The project as planned meets the lot size requirement.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is about 1100 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed fence is 6' tall.*
- Maximum Canopy Area (22,000 sq. ft. maximum for an A – Type 3B “Mixed Light” license): *Complies; the proposed canopy area is estimated to be about 320,000 sq. ft. of canopy area, and 387,600 square feet of mixed light cultivation area.*

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 operations and deliveries, and access requirements.

The applicant either meets the General Requirements outlined in Section 27 of the Zoning Ordinance or, if the requirements have not yet been met, a condition has been added the permit to ensure compliance. Conditions that have not been met, but will be met if this permit is approved include tree replacement for the 130 mature oak trees that will be

removed. Proposed on-site water storage for irrigation and fire suppression would consist of twenty (20) 5,000 gallon water storage tanks, one of which would be metal or fiberglass for fire suppression use if needed. ADA-compliant restrooms and hand-wash stations for employees; one ADA-compliant parking space and 20 regular dedicated parking spaces, and Public Resource Code (PRC) 4290 and 4291 interior road / gate compliance being among the conditions that are required of this project. Odor and visual control pertaining to the greenhouses is addressed in the conditions of approval as well as within the Property Management Plan submitted for this project.

The Property Management Plan describes 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 Article 27, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, and cultivating within a Cannabis Exclusion Area and mapped Farmland Protection Area (not the case with this application).

IV. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 20-25; Attachment 6) was prepared and circulated for public review in compliance with CEQA from February 17, 2021 to March 27, 2021, however the applicant modified the site plan following the CEQA review, which staff had been unaware of. The Board of Supervisors were made aware of this discrepancy and rejected the application requiring a revision to the CEQA documents.

The CEQA documents were then revised following receipt of updated studies, analyses and data, and were resubmitted to CEQA on September 1, 2021 for a new 35 day review. No adverse agency comments were received as of September 11, 2021 by the County as the result of this resubmittal to CEQA.

All local tribes were notified of this project. Middletown Rancheria indicated that the site was within their tribal land and requested consultation, which took place on March 5, 2021 with Michael Rivera representing the Tribe. Redwood Valley Pomo Tribe voiced objections to this proposal due to perceived water depletion; this occurred prior to the Hurvitz Water Analysis being submitted to the County.

The original and revised Initial Study found that the project could cause potentially significant impacts to Aesthetics, Air Quality, Biological Resources, Cultural / Geological (historic) /Tribal Resources, Energy Resources, Hydrology Resources, Noise, Transportation and Wildfire. However, with the incorporation of the mitigation measures below, all impacts can be reduced to a less than significant level.

Aesthetics

The project has some potential to result in short- and long-term aesthetic impacts if any outdoor lighting is contemplated and due to the potential visibility of the greenhouses and drying buildings from other lots and from public roads. All potential light-related and

screening-related impacts have been reduced to less than significant with the incorporated mitigation measure below:

- AES-1: Prior to cultivation, the applicant shall provide blackout screening in or on each greenhouse to block light from spilling out beyond each greenhouse.
- AES-2: The applicant shall screen all cultivation activities with a minimum 6' tall fence with screening applied to the entire fence around the perimeter of the cultivation area.
- AES-3: Prior to cultivation, the applicant shall plant screening trees at no more than 20' distance apart from one another around the perimeter of the project area. These trees shall be no less than 5' tall at time of planting, shall be irrigated, and shall be maintained in a healthy state by the applicant for the life of the project. These trees are the replacement trees to be planted at a 3:1 ratio for each oak tree over 5" in diameter measured at 4.5 feet above grade; for each oak tree removed that meets this size limit, three new deciduous trees capable of reaching a height to 20 feet shall be planted.

Air Quality

The project has some potential to result in short- and long-term air quality impacts. It is likely that some dust and fumes may be released as a result of site preparation / construction of the building pads and the cultivation area. Some vehicular traffic, including small delivery vehicles would be contributors during and after site preparation / construction; trips generated by the use will be minimal, estimated at 4 to 8 average daily trips. Odors generated by the plants, particularly during harvest season, will need to be mitigated either through passive means (separation distance), or active means (Odor Control Plan), which is required prior to cultivation occurring. All potential Air Quality impacts have been reduced to less than significant with the incorporated mitigation measures below:

- 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 (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.

- 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 infrequent use of driveways, over flow parking, etc., shall be surfaced with gravel. Applicant shall regularly use and/or maintain graveled area to reduce fugitive dust generations.
- AQ-7: Each greenhouse shall contain an air and odor filtration system. Method of filtration shall be provided to the Lake County Planning Department for review prior to any construction occurring on site.
- AQ-8: The applicant shall apply water to the ground during any and all site preparation work that is required for the greenhouses and drying building, as well as during any interior driveway improvements to mitigate dust migration.

Biological Resources

The applicant provided a Biological Assessment covering the project site, which was prepared by Pinecrest Environmental Group dated March 1, 2020. One mitigation measure was recommended pertaining to reforestation of the parent parcel in the vicinity of the cannabis cultivation area. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- BIO-1: A follow up Biological Assessment (nesting) survey shall be conducted by a licensed and qualified biologist prior to the start of cultivation. The results of this follow up site visit, including recommendations, shall be provided to the Lake County Planning Department prior to a hearing and cultivation. Any recommendations shall be added as conditions of approval for this use permit.
- BIO-2: Any mature trees greater than 5" DBH that are removed shall be replanted with blue oak saplings (or similar indigenous species) at a 3:1 ratio under the guidance of a qualified biologist. Trees shall be 5' tall at time of planting, and any tree that fails to survive during the duration of the use permit shall be replanted with a healthy tree. All newly planted trees shall be irrigated and shall be maintained in a healthy state for the life of the use permit.

Cultural / Geologic (historic) and Tribal Resources

A Cultural Resources Evaluation was conducted for the subject parcel involved with this proposal by Wolf Creek Archeology dated February 28, 2020. This survey yielded no specific results on the cultivation site that would otherwise indicate that this is a site of tribal

significance. All potential environmental impacts have been reduced to less than significant with the incorporated mitigation measures below:

- **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 culturally affiliated Tribe(s) 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 with California Health and Safety Code section 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(s) shall immediately be notified; a licensed archaeologist shall be notified, and the Lake County Community Development Director shall be notified of such finds.

Energy

The power needs of this project may have a significant impact to the power grid in this area. The mitigation measure below is needed to ensure that the site and neighboring properties will be unable to get power due to excessive usage by this project.

- **EN-1:** The applicant shall demonstrate how they will be able to provide adequate power to this site within 90 days of permit approval. Evidence of adequate power shall be in the form of a contract of agreement with PG&E, or by engineered power calculations showing an alternative energy source, or as a letter stating that no power will be requested other than amperage typically associated with six (6) building permits for new dwellings with each being a 200 amp service. Failure to provide this energy verification will result in revocation of this use permit – this shall apply until the power grid is updated for this site by the applicant.

Geology and Soils

The project will involve removal of approximately 130 blue oak trees that are over 5" diameter measured 4.5 feet above grade. Each tree will require the disturbance of approximately one (1) cubic yard of dirt. The applicant will be moving some additional earth to prepare pads for the 38 buildings proposed. The total estimated amount of earth being moved is 300 cubic yards including disturbance of the soil around the oak trees that will be removed.

- **GEO-1:** Excavation, filling, vegetation clearing or other disturbance of the soil shall not occur between October 15 and April 15 unless authorized by the Community Development Director. The actual dates of this defined grading period may be adjusted according to weather and soil conditions at the discretion of the Community Development Director.

Hydrology, Fire Protection and Water Quality

The project will have an adverse impact related to hydrology and water quality, including amount used. The following mitigation measure is added to reduce potential impacts to 'less than significant' levels regarding water and hydrology:

- HYD-1: The applicant shall maintain on-site water storage of 20,000 gallons for irrigation purposes, and 5,000 gallons in a metal water storage tank with fire department connectivity for fire suppression purposes.

Noise

Although the amount of site preparation for this proposal will be minimal, short-term increases in ambient noise levels can be expected during project grading and construction. The following mitigations will be incorporated in the permit to reduce the potential impacts to less than significant:

- NOI-1: All construction activities including engine warm-up shall be limited to Monday through Friday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. Back-up beepers shall be adjusted to the lowest allowable levels.
- NOI-2: Maximum non-construction related sounds levels shall not exceed levels of 55 dBA between the hours of 7:00AM to 7:00PM and 45 dBA between the hours of 10:00PM to 7:00AM 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 7:00AM to 10:00PM and 50 dBA from 10:00PM to 7:00AM within residential areas as specified within Zoning Ordinance Section 21-41.11 (Table 11.2) measured at the property lines.

Transportation

This project will have transportation-related impacts on site. The following mitigation measure will reduce potential impact to 'less than significant' levels.

- TRANS-1: Prior to final building inspection, the applicant shall improve the on-site portion of the interior driveway to comply with PRC 4290 and 4291 road standards. The applicant shall schedule an inspection with the Fire Marshal through the Community Development Department once improvements to the road are completed. A Grading Permit and engineered drawings may be required prior to any work occurring to improve this road. The applicant shall coordinate with the Building Official regarding potential grading plans that might be required prior to any work occurring on Herrington Road or interior driveway improvements.
- TRANS-2: A Grading Permit and engineered drawings may be required prior to any work occurring to improve this road. The applicant shall coordinate with the

Building Official regarding potential grading plans that might be required prior to any work occurring on the interior driveway.

- TRANS-3: The cultivator shall enter into an extraordinary use agreement with the Department of Public Works for roads within the Dohnary Ridge Estates Subdivision (Tinalyn Road, Jaclyn Drive), along with Spruce Grove Road, which will require the cultivator to be financially responsible for all damages to road surfaces above and beyond normal wear. Photographic and video documentation shall be made on an annual basis to document the condition of these roads for comparison following the growing season.
- TRANS-4: A paved encroachment constructed to County Commercial standards shall be installed at the intersection of Herrington Road and Jaclyn Drive.

Wildfire

- FIRE-1: Prior to a building permit being issued, the applicant shall improve Herrington Road to comply with PRC 4290 and 4291 road standards. The applicant shall schedule an inspection with the Fire Marshal through the Community Development Department once improvements to the road are completed.

Mandatory Findings of Significance. The original and addendum to the IS/MND contained Findings of Significance that identified categories listed above that had some potential for impacts, including: aesthetics, air quality, biological resources, cultural / geologic (historic) and tribal resources, energy, geology and soils, hydrology, fire protection and water quality; noise, and transportation. The IS/MND contained mitigation measures that have been incorporated into conditions of approval for the original and the amended project.

V. MAJOR USE PERMIT 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 “RR” Rural Residential and “RL” Rural Lands zoning districts upon issuance of a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance.*

The subject property complies with the minimum setbacks from public lands as the park located within Hidden Valley Lake development is more than 1000 feet from the cultivation site, and is located more than 1000 feet from the nearest traditional Agricultural use to the north of the cultivation site.

Additionally, the Community Development Department (CDD) will conduct Annual Compliance Monitoring Inspections during the cultivation season to ensure ongoing compliance with the approved Property Management Plan, Site 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 site is large enough to allow fifteen (15) A-Type 3B Mixed-light commercial cannabis cultivation licenses, and the one (1) A-Type 1C commercial cannabis license. The location of the site is about 2,300 feet from the Hidden Valley Lakes (HVL) development (about ½ mile), although it is located more than 1000 feet beyond the HVL boundary line and is outside of an exclusion area. Neighbor objections for the original and resubmitted project have been numerous and are included as Attachment 9, 'Public Comments'.*

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

Response: *The site is served by Herrington Road, a private roadway that terminates onto the subject site. The employees would also access Tinilyn Road and Spruce Grove Road. The applicant is proposing improvements to the private interior driveway to make it compliant with Public Resources Code (PRC) 4290 / 4291 (CalFire) road standards, which is a requisite whenever a project requires building permits such as this one. The interior access road is also required to meet PRC 4290 and 4291 road standards prior to final building inspection and consequently the start of cultivation under this permit.*

The applicant has also submitted a Traffic Study, prepared by DTN Engineering, Consulting and Permitting, undated but received on August 21, 2021 by the County. The study concludes that the road system serving the property has a capacity of 336 daily vehicle trips, and even with this project and its projected 40 average daily trips, the road system will remain well below capacity. The study recommended no additional road improvements as the result of this project.

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: *There are adequate septic, water, road, fire and police protection available to this site. The applicant initially requested a 4,000 amp service. Staff contacted PG&E to find out what their procedure is for services that are significant within areas that have grids that are at or close to being at maximum capacity such as within this area.*

The PG&E Engineer indicated that it is the responsibility of the applicant pay for and schedule upgraded power for any grid that must be upgraded. The cost of the upgrade may be significant, and the time-frame involved will be up to 4 years according to PG&E. The applicant then submitted a letter on October 6, 2021 stating that they would be using

light deprivation for cultivating, and that the plants could be grown using natural lighting until the grid is upgraded at the applicant's expense at a future date.

This application was routed to the appropriate public and private service providers including Public Works, Special Districts, Environmental Health, and to all area Tribal Agencies. Relevant comments are attached as 'Attachment 3'. Middletown Rancheria Tribe held consultation with staff on March 23, 2021, and agreed to allow the project to move forward with no objection based on communication and agreement with the cultivator about tribal presence during site disturbance on site. Adverse comments were received from the County Water Resource Department, who then downgraded their concerns following receipt of the Hurvitz Water Analysis referenced herein. Staff also received concerns the Redwood Valley Pomo Indian Tribe regarding concerns about water usage and the strength of the watershed. The County has since received a Water Analysis that estimates aquifer holding capacity, projected annual water usage by this project, and pre- and post-drought water recharge rates of the aquifer, which according to the study can withstand this 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.

Response: *The cultivation of commercial cannabis is a permitted use within the RL and RR zoning district upon securing a Major Use Permit pursuant to Article 27 of the Lake County Zoning Ordinance. The Lake County General Plan and the Middletown Area Plans do not have any provisions specifically for commercial cannabis, but both documents have provisions for economic development and land use that are compatible and would allow the 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: *There are no current violations of Chapters 5, 17, 21, 23 or 26 of the Lake County Code on this property.*

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Use Permit:

1. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.

Response: *The purpose of this report is to evaluate the levels of compliance with the standards and criteria found in Article 27, section 1.i, as well as other portions of the Zoning Ordinance, General Plan and applicable Area Plan; in this case the Middletown Area Plan.*

2. The applicant is qualified to make the application described in Chapter 21, Article 27, Section 1.ii.(g).

Response: *The applicant has passed a ‘live scan’ background check, and is the owner of the property. Live Scan background checks are routed to the F.B.I. and the U.S. Department of Justice. The applicant is qualified to make this application.*

3. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

Response: *The power deficiency and proposed tree removal and replacement proposed can be mitigated through specific conditions of approval. The application was determined to be complete after a thorough review to verify that all submittal requirements were met.*

VI. RECOMMENDATION

Staff recommends that the Planning Commission:

A. Adopt Mitigated Negative Declaration Addendum (IS 20-25) for resubmitted Major Use Permit (UP 20-22) with the following findings:

1. Potential impacts to aesthetics can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1, AES-2 and AES-3.
2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, AQ-7 and AQ-8.
3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measure BIO-1.
4. Potential environmental impacts related to cultural, historic geological and tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-2.
5. Potential energy-related impacts can be mitigated to less than significant levels with the inclusion of mitigation measure EN-1.
6. Potential impacts related to hydrology and water quality can be mitigated to less than significant impacts with the inclusion of mitigation measures HYD-1.
7. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1, NOI-2, and NOI-3.
8. Potential transportation-related impacts can be mitigated to ‘less than significant’ levels with the inclusion of mitigation measure TRANS-1 and TRANS-2.
9. Potential impacts related to wildfire can be mitigated to ‘less than significant’ levels with the inclusion of mitigation measure WILD-1.
10. This project is consistent with land uses in the vicinity.

11. This project is consistent with the Lake County General Plan, Middletown Area Plan and the applicable Zoning Ordinance standards and criteria for a commercial cannabis cultivation operation.
12. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
13. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve resubmitted Major Use Permit UP 20-22 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 are reasonably adequate to safely accommodate the proposed use.
4. There are or will be adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Lower Lake Area Plan, and Lake County Zoning Ordinance.
6. No violation of Chapter 5, 17, 21, 23 or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
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).

Mitigated Negative Declaration Addendum (IS 20-25)

I move that the Planning Commission find that the Major Use Permit (UP 20-22) applied for by **WeGrow LLC** on property located at **16750 Herrington Road, Hidden Valley Lake**, and further described as **APNs 013-060-40, 013-014-03 and 11** will not have a significant effect on the environment and therefore a mitigated negative declaration addendum shall

be approved with the findings for approval listed in the staff report dated **October 28, 2021**.

Resubmitted Major Use Permit (UP 20-22)

I move that the Planning Commission find that the **resubmitted Major Use Permit (UP 20-22)** applied for by **WeGrow LLC** on property located at **16750 Herrington Road, Hidden Valley Lake**, and further described as **APNs 013-060-40, 013-014-03 and 11** does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings for approval 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, 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.