

October 21, 2021

County of Lake Planning Commission
CDD/Planning Commission
255 North Forbes St.
Lakeport, CA 95453

Re: Major Use Permit 20-22 for WeGrow, LLC

Dear Honorable Commissioners Hess, Chavez Perez, Brown, Price and Field:

This law firm represents WeGrow LLC, the applicant (“WeGrow”) for UP 20-22, which seeks a major use permit to develop a commercial cannabis canopy area (the “Project”). The Project is presently scheduled for consideration by the Planning Commission (the “Commission”) at its October 28, 2021 meeting. We submit this letter in support of the Project to help outline how the Project complies with all applicable laws and zoning requirements needed for entitlement to the sought major use permit, and in an effort to concisely respond to certain public comments which have been submitted in opposition to the Project.

To briefly recap, this Commission already unanimously approved this **same exact** Project at its April 22, 2021 meeting. The Commission’s unanimous approval was subsequently appealed to the Board of Supervisors, pursuant to the Lake County Zoning Ordinance. However, prior to the Board of Supervisors’ review, Interim Community Development Director Scott De Leon announced a procedural defect within the Project application—a clerical error which had occurred through no fault of WeGrow but would create issues under CEQA—and thus advised that the use permit should be denied **without prejudice** so a corrected Project application could promptly be submitted to cure the error.

The procedural defect has been remedied, and the Project is therefore now back before the Commission for consideration. It is important to reiterate that the scope and content of the Project has **not changed** in any material respect from what this Commission already reviewed and approved by a 4-0 vote in April of this year. Indeed, the only material change in the Project’s application is that more environmental studies were obtained, expanded, and/or updated to specifically address the prior comments expressing concerns about the Project’s potential impacts.

Perhaps most notably, this includes a full hydrology study, which WeGrow commissioned because concerns were voiced about the adequacy of the Project’s water supply. We are pleased to report that the hydrology study demonstrates that the Project has more than ample water supply to support the intended use, answering concerns raised at the prior Commission meeting. In this sense, the Project application again before the Commission is in fact **stronger** than it was in April, when the Commission approved it 4-0. We respectfully submit that the Commission should again approve the Project.

WeGrow is committed to running its business in a manner that is safe, in compliance with all laws and regulations, and which will ultimately benefit the entire Middletown Area and the larger Lake County community for years to come by upgrading roadways, creating local jobs, contributing significant taxes, and investing its profits back into Lake County. WeGrow's interest and commitment to Lake County is not based on short-term profits, but is the beginning of a long-term investment in the area that will develop currently unused land to the benefit of the entire local economy.

I. Project Background and Procedural History

As this Commission may recall from the original application, the Project will develop a currently unutilized rural area with no unmitigated adverse environmental effect. The Project fully complies with the Lake County Zoning Ordinance, is properly zoned for the intended purpose, and is fully compliant with CEQA and all applicable regulations. The Project is, again, identical to that which was previously approved by this same Commission in April. The staff report submitted by the Community Development Department (the "Department") at that time found that all requisite sections of the Lake County Zoning Ordinance were satisfied and requested that the "Major Use Permit be granted subject to the conditions and with the findings for approval listed in the [report]." See Staff Report, April 22, 2021, Exhibit ("Ex.") A, p. 24. The report also found that upon review of the record, the project would "not have a significant effect on the environment" and that a negative declaration shall be approved. *Id.* The Project was approved by a unanimous 4-0 vote on April 22, 2021.

On June 7, 2021, immediately before the Project came before the Lake County Board of Supervisors ("the Board"), WeGrow was informed by the Department that a procedural error had been committed during its review of the project. One year prior, on July 7, 2020, WeGrow submitted an amended site plan in support of its application for the project. The Department was aware of this new document, but the Department accidentally forwarded the prior outdated site plan to the CEQA clearing house during its review. All other materials were correct and reviewed by the Department and approved by this Commission. Unfortunately, submission of the incorrect site plan created a procedural error in the administrative record of the application that could not be corrected without a resubmission of the Project for review.

Thus, on June 8, 2021, the Board "denied the Use Permit for the project without prejudice," after Interim Community Development Director Scott De Leon "announced the public hearing [on WeGrow's application] would not be heard due to an error in the CEQA process of the application." See County of Lake Board of Supervisors Meeting Minutes (June 8, 2021), Ex. B, at pg. 7, § 6.6. Director De Leon did not state there were any issues with the project other than use of the incorrect site plan, and explained that following reapplication by WeGrow, "[department] staff will make revisions to the environmental analysis to address the modified site plan as well as the concerns raised by the public." See County of Lake Board of Supervisors Meeting (June 8, 2021), Ex. C. As explained at the hearing by County Counsel, this procedural error rendered the CEQA analysis "defective" and that the Board's "only reasonable choice" was to "deny the Use Permit without prejudice" so WeGrow could reapply with a corrected record. *Id.*

The only difference between the Project previously approved by this Commission 4-0, and the Project application now being resubmitted to you for consideration, is that the application now includes **additional** studies and evidence that there be no unmitigated environmental impacts. A newly conducted

Hydrology Study now conclusively shows that there is more than enough water available for this Project's needs. There are now three biological assessments before the Commission for review showing that any potential impact to the environment has already been the subject of study and, if necessary, mitigation measures. WeGrow has also provided additional information, including a new traffic study, to clarify the potential needs of the project and show that any public concerns have already been addressed by the proposed mitigation requirements. In short, the Project is even more exhaustively supported by environmental studies than it was before.

Meanwhile, the Department has again filed a new report echoing its prior recommendation that this Commission again approve the Project, which is now further supported by the even more extensive environmental studies.

II. Summary of the Project

The Project is identical to what was previously approved by this Commission on April 22, 2021. WeGrow is seeking a major use permit to obtain fifteen A-Type 3B "Mixed-Light" Licenses, an A Type 1C Specialty Cottage License and a Type 13 Self-Transport Distribution License from the County of Lake Community Development Department to allow a total of 332,160 s.f. of commercial cannabis canopy area, with a total of 387,600 s.f. of cultivation area at 1670 Herrington Road, Middletown, California. The cultivation site does not fall within an exclusion area as defined by the Lake County Zoning Ordinance.

The Project property comprises 309.06 acres split zoned RL/RR-WW; Rural Land/Rural Residential - Waterway. The current owner of the property is Zarina Otchkova, who also manages WeGrow. Cultivation will take place in the middle of the property and distant from the nearest possible neighbor, making this Project not only legal but also reasonable with minimal impact and visibility.

a. Aesthetics and Community Impact

The parcel on which the Project will be located is located roughly 1.5 miles west of the intersection of Highway 29 and Spruce Grove Rd in Hidden Valley Lake CA, and lies within Crazy Creek-Putah Creek Watershed (HUC10). The cannabis cultivation area will be setback a minimum of 100 feet from the top of the bank of any bodies of water. The nearest offsite residence is over 750 feet away from the proposed cultivation area. All areas of the Project will be fully out of view from all public view due to the dense vegetation, slope, and proposed screening methods, including an 8 foot high privacy fence per AES-2.

The proposed greenhouses will be permanent fully enclosed galvanized steel frame structures with clear polycarbonate coverings. They are equipped with activated carbon filtration systems to capture any odors from the facility (per AQ-7), automated black out shades to block light pollution (per AES-1), and will have a maximum of 25 watts per square foot of artificial lighting, but do not require this much power to operate. Total facilities for this Project include thirty-two 90' x 120' greenhouses, two 90' x 120' immature plant greenhouses, four 50' x 100' processing facilities, two 200 s.f. storage sheds, and twenty 5,000-gallon water storage tanks (one steel or fiber glass for fire suppression).

Agricultural chemicals associated with cannabis cultivation (e.g., fertilizers and pesticides) will be stored within the proposed secure storage area and will not pose a risk to contamination of the ground water. In order to best conserve the use of water, the proposed cultivation operation will utilize drip irrigation

systems. There are two existing wells in the center of the property that will be the only proposed sources of irrigation for the cultivation. As stated below and in the Project application, these wells will produce more than enough water for the needs of this Project.

WeGrow does not currently have employees for the proposed Project, but all future employees will undergo a background check by the Lake County Sheriff's Department before starting employment and be United States citizens or eligible for legal employment within the US. The Project's core business hours of operation will take place between 8am-6pm with deliveries and pickups restricted to 9am-7pm Monday through Saturday and Sunday from 12pm-5pm. Pickups and deliveries are strictly commercially related (soil, equipment/materials, cannabis product, etc.). The cultivation area fence will be a 8 foot tall chain link fence with a privacy mesh screen and mounted with security cameras.

b. Biological Assessments

WeGrow has commissioned multiple biological assessments to ensure protection of local flora and fauna. A Biological Assessment for the property was completed on March 1, 2020, prepared by Pinecrest Environmental Consulting Inc. A second was completed by Emerald Triangle Associates on April 13, 2021, during the flowering season, and an addendum on August 19, 2021. The results of these studies revealed no unmitigated sensitive biological resources to be impacted by the Project. The necessary removal of 130 mature oak trees will be mediated by a replanting of native trees at a ratio of 3:1. Per the Initial Study, this mitigation plan will produce a less than significant impact and no further mitigation is necessary. See California Environmental Quality Act Environmental Checklist Form – Addendum, p. 8.

c. Water Availability

Water will be provided to the Project from two groundwater wells, located at the center of the project property. As part of WeGrow's prior Project application, it provided the Well Completion Report for one of the wells to show that there was sufficient water availability for this Project's needs. Pursuant to HYD-1, WeGrow provided the Department a well performance test for that specific well prior to the hearing before this Commission. Following public comments during the Board of Supervisors hearing, WeGrow understood that water was a key public concern and commissioned a complete hydrology report incorporating review of tests completed on **both** wells earlier in the year.

The first well was tested on February 17, 2021, and provided to the Department prior to the approval of this Project. This test showed the well was pumped for 6 hours, yielded 7.76-GPM with a 72.5% recharge rate within 40 minutes of shutoff. The second well was tested on April 9, 2021, which was pumped for 6 hours, yielded 40-GPM with a 98% recharge rate within 40 minutes of shutoff. The wells located at the center of the property will pump water to the twenty 5,000-gallon (one steel/fiber glass) water tanks. Water will then be delivered to the cannabis plants using highly efficient drip irrigation.

The hydrology report determined the total water needs of the Project and considered the data from the prior studies. It found that these wells are capable of supplying more than enough water for this Project's needs. At the combined pumping rate of 47.76 gpm, it would only require 326 minutes (5.4 hours) pumping a day to produce the average daily demand of cultivation (13,018 gallons/day). At the combined pumping rate of 47.76 gpm, it would only require 403 minutes (6.7 hours) pumping a day to produce the maximum daily demand of cultivation (19,256 gallons/day).

d. Power Sources

Potential power consumption for this project was noted during the previous application, and mitigation required. WeGrow has agreed to EN-1, which will require it to demonstrate adequate power for the Project within 90 days of approval of this permit through a contract of agreement with PG&E or proof of an alternative power source.

WeGrow notes that the A-Type 3B “Mixed-light” license(s) that is being applied for, include cultivation “using light deprivation and/or artificial lighting below a rate of 25 watts per square foot.” Lake County Zoning Ordinance Article 68, Section 21-68, 68.4 (c). As the definition states, the license that is being applied for specifically requires that cultivation occur within a structure with the use of light deprivation and/or lighting below a rate of 25 watts per square foot. As the Project application materials have outlined, WeGrow is applying for the A-Type 3B “Mixed-Light” licenses to allow for cultivation within fully enclosed greenhouses and to have the ability to cultivate up to 25 watts per square foot. Given the definition of the license being applied for, cultivation within a greenhouse does need nor does it require enough power to supply the maximum amount of energy allowed.

The Project property’s current utility connection to PG&E does not allow for the 25 watts per square foot of canopy area at this given moment. As evidenced by EN-1, WeGrow is aware that this means it will need to seek an upgrade to the property, which will be at its sole cost, or demonstrate an alternative power source. WeGrow agreed to the Initial Study Addendum mitigation EN-1, which outlines that an application to upgrade the PG&E connection must be submitted to PG&E within 90 days of approval. A qualified engineer has already been contacted to begin the plans that will be needed to apply for the application with PG&E to upgrade the connection.

To be clear, WeGrow does not need the additional power to begin cultivation due to natural light, and due to the flexibility of the mixed-light license. WeGrow’s discussions with PG&E indicated that the power supply can be upgraded to accommodate additional power as needed. However, the entire proposed canopy area for this project can be cultivated while the upgrades are in process regardless of how long it may take, a risk of delay WeGrow is willing to undertake. Indeed, even in the worst case scenario where the application to the PG&E cannot allow for an upgrade to the connection (very unlikely based on PG&E statements to WeGrow’s consultant), WeGrow would still develop the proposed project, as the amount of power available will only affect the Project’s yield, not its viability. In short, cultivation can and would still occur regardless of how much power is available at the Project’s outset, and WeGrow is willing to wait for the time it takes PG&E to upgrade the available power supply.

III. Response to Opposition Comments

WeGrow continues to listen to the concerns of members of the community, and has worked hard to address them. During the Project application process, both WeGrow and the Department carefully considered these concerns during their review, resulting in a number of important mitigation measures. Although the Project application was denied without prejudice by the Board of Supervisors based on a procedural error through no fault of its own, WeGrow has nonetheless commissioned new expert reports providing additional evidence of its compliance with CEQA, promised to complete additional mitigation measures as a condition of approval, and will continue to listen to the thoughts and opinions of the local community.

Opposition comments reviewed by WeGrow to date on this Project are largely duplicative of those made during the prior application, most of which were already addressed by WeGrow's numerous mitigation agreements and additional expert studies, and some of which are altogether unfounded. No comments submitted to date provide any factual or legal basis to deny this application. In opposing this Project, there must be "substantial evidence" supporting a "fair argument" of an environmental impact. Under CEQA, substantial evidence must consist of actual facts and not "[a]rgument, speculation, unsubstantiated opinion or narrative." Cal. Code Regs. tit. 14, § 15384. This requires **actual facts** of significant environmental impacts **based on evidence** submitted into the administrative record. *Save Our Rural Town v. Cty. of Los Angeles*, No. B294182, 2020 WL 5423079, at *5 (Cal. Ct. App. Sept. 10, 2020), citing *Save the Agoura Cornell Knoll v. City of Agoura Hills*, 46 Cal. App. 5th 665, 674-75 (2020), *reh'g denied* (Apr. 10, 2020), *review denied* (June 24, 2020).

A mitigated negative declaration is proper where there is "no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment." Cal. Code Regs. tit. 14, § 15369.5. Review of an agency's determination of a mitigated negative declaration is completed "by examining the whole record before the lead agency." *Georgetown Pres. Soc'y v. Cty. of El Dorado*, 30 Cal. App. 5th 358, 369 (2018). California courts have specifically found that opposition to a project for the cultivation of cannabis cannot be opposed where the project opponents fail to "demonstrate that the record contains substantial evidence supporting a fair argument . . . notwithstanding the county's conclusion to the contrary." *Rominger v. Cty. of Colusa*, 229 Cal. App. 4th 690, 729 (2014), *disapproved of on other grounds by Union of Med. Marijuana Patients, Inc. v. City of San Diego*, 7 Cal. 5th 1171 (2019).

The opposition comments received to date—other than those which overlooked or misconstrued the proposed mitigations—consist of opinions, unsupported assertions, speculation, innuendo, and opinion-based arguments against the Project. Although WeGrow is sensitive to the voiced concerns, none contain any specific substantiated **facts** indicating there is substantial **evidence** constituting valid grounds to deny the Project.

This is illustrated by a review of the comments, which can be grouped into a few overlapping categories.

a. Water

The most common recurring issue raised in the opposition comments relate to the availability of water, often alluding to the ongoing drought conditions that the State of California is experiencing. These concerns were raised repeatedly during WeGrow's prior application and before the Board of Supervisors during their review. At no point has any evidence been provided to show the Project lacks necessary access to water.

Nonetheless, as referenced above, WeGrow commissioned a full Hydrology Study of the property and the wells it intends to use for the Project at great expense to itself, in an effort to alleviate this concern. The Study found that there is actually far more water available for the project than previously suggested, and no mitigation measures will be needed for this aspect of the Project. The Project is estimated to use roughly 4,751,735 gallons of water per year. The Study found that both wells are collectively capable of safely producing at least 19,256 gallons/day. This would result in the safe use of 7,028,440 gallons of water per year, well beyond the maximum needs of the Project.

Some comments raised concerns that even if the Project has access to water, it will negatively affect their own wells. The Study additionally found that the calculated zone of pumping influence of both wells on the property only extend 130-140 feet in all directions. There are no creeks or neighboring wells within 140 feet of either well. In fact, the nearest residence, let alone well, is over 750 feet away. WeGrow has also agreed to the use of wattles channeling storm runoff so as not to affect other properties. The Project will also use only ingredients approved by CDFA and will not use chemical pesticides, rodenticides, or herbicides that could affect the local water table. Additionally, the fully enclosed greenhouses will have an impermeable flooring which will not allow for any runoff of water from the cultivation.

WeGrow has taken the water concerns very seriously considering the importance of water to both the State and Lake County, and there is no fact-based evidence suggesting that the Project will in fact create a substantial impact.

b. Power

Though much less common, at least one member of the community raised concerns over the burden this Project could potentially place on the regional power grid. As explained above, WeGrow has participated in extensive discussions with the Department and PG&E relating to this concern. The capabilities of the current power connection to the property is not sufficient to provide the maximum possible power required for the Project. However, WeGrow is prepared to limit production to only what the current grid is capable of supporting. WeGrow has further agreed to mediation measure EN-1. This makes the permit conditional on WeGrow's ability to show within 90 days of the permit's issuance that it will be able to upgrade its connection through a contract with PG&E or is able to show proof of alternative power sources so as not to overburden the grid.

c. Noise

At least one member of the community raised concerns over the issue of noise. Again, like the above comments, these concerns are merely theoretical and no individual has submitted any facts supporting these concerns. WeGrow nonetheless wishes to speak to these worries. WeGrow has agreed to three separate mitigation measures (i.e., NOI-1, NOI-2, and NOI-3) to ensure that operation of the Project does not create any ambient noise in excess of that allowed by law. See Lake County Zoning Ordinance Section 21-41.11.

d. Odor

At least one member of the community has voiced concern over the potential odor created by the cultivation of cannabis. WeGrow is sensitive to the concerns of the community, though there is no evidence the Project will result in any potential for odor. WeGrow provided an extensive odor control plan, as required by Lake County, and has agreed to eight separate mitigation measures to ensure that no potential odors created by the Project will create a significant impact to the community (i.e., AQ-1 through AQ-8). For the specific control of odors created by the cultivation of cannabis, each greenhouse shall include an air and odor filtration system (i.e., AQ-7). Some members of the public have noted that this does not include similar systems for the drying buildings, however the projects Odor Control plan does outline including air filtration systems with activated carbon within the processing facilities. Additionally, the processing facilities, similar to the greenhouses, will be fully enclosed structures which in

itself mitigates for nearly all concerns of odor. These facilities will be set off from any residences, and additional replanting of trees will further reduce any potential risk of odor.

e. Biology Reports

Additional issues raised by the community are those regarding the impact of the Project on local flora and fauna, including the replanting of roughly 130 mature Blue Oak trees at a 3:1 ratio. Letters have been submitted by the Redbud Audubon Society of Lake County and a joint letter from the California Wildlife Foundation and California Oaks Coalition. WeGrow takes these issues raised very seriously and has commissioned three separate biology reports explaining the potential impact of the Project to the local environment and the methods WeGrow will employ to mediate any such impact.

WeGrow will do its best to clarify the concerns of the public, but many of them are based on a misreading of WeGrow's biological assessments, or question the outcomes of the assessments without providing substantiated facts in opposition. For example, the letter from the RedBud Audubon Society questions the second biology report's statement that the property contains "50% mixed *Quercus-Pinus* woodland," asking what species to which this refers. This is an incorrect reading of the text, as it refers to a mix of species belonging to the *Quercus* and *Pinus* genera respectively. Species of both are listed throughout the assessment.

The letter also asks why the report states in section 4.3 that WeGrow will plant 90 trees at least 5 feet tall but then state "90 5'" tall trees in section 4.1. The inclusion of "5'" is obviously a typo in the report as the remainder of the report refers to "5 feet." Additionally, WeGrow has already agreed to a mitigation measure specifying the height of replanted trees as "5 feet" (i.e., BIO-1). The letter further points to a claimed inconsistency between the report stating that "any trees that die during the life of the project shall be immediately replanted" and "replanting success rate will be 85% over three years." Actually, these sections appear to be entirely consistent, as any expected trees that die will then be immediately replanted.

The Redbud letter, parroted by the California Wildlife Foundation and California Oaks Coalition, makes reference to a sighting of the Pacific-Slope Flycatcher on the property, noting the rarity of the bird in the area at this time of year. However, neither explain how such a sighting would create the potential for an environmental impact. Certainly none provide fact-based substantial evidence of a significant environmental impact. Indeed, contrary to the vague assertion about its rarity, according to the National Audubon Society's official public website, this species is in fact exceedingly "widespread and common" throughout the Pacific Coast and California.¹ These letters also state the importance of protecting local wildlife but provide no evidence that any endangered species are actually found on the Project property or that the findings of the three biological assessments were incorrect. Some members of the public have also noted that no agreement has currently been entered into with the Middletown Rancheria Tribe, which is irrelevant. Compliance with CEQA requires consultation with the Tribe, which initially took place in March 2021 and is ongoing. See Public Resources Code section 21080.3.1.

The letter also refers to "Saturn Bearded Rye" as a "non-native cereal crop" chosen by WeGrow. This does not appear in any of the biological assessments. The next sentence instead refers to "bearded

¹ Guide to North American Birds, Audubon (<https://www.audubon.org/field-guide/bird/pacific-slope-flycatcher>).

barley” and “golden state native grass erosion control mix,” which are mentioned in the second biological assessment. The letter then cites to a non-specific email with an individual at private company, Lerner Seeds, merely agreeing that these seeds would be drought tolerant when established. These statements appear inconsistent and do not provide any fact-based evidence to conclude that the seeding plan for this Project is somehow deficient or would create a significant environmental impact justifying denial.

Meanwhile, WeGrow takes the community’s concerns over the replanting of mature blue oak trees very seriously and has agreed to a mitigation plan requiring replanting at a 3:1 ratio.² The letter questions whether the blue oak on the property are actually near the end of their lifespan but provides no facts or evidence to suggest that the report is incorrect in this assessment, or that there is any factual basis for its own hypothetical. The letter also intimates that blue oak trees will live for 500 years, but again cites no source for this assertion. The oldest blue oak is 400 years old, and trees in a mature stand, such as this, are generally at least 90-100 years old.³ There are no facts to suggest the assessment was incorrect nor is it unreasonable to assume that these trees are in fact near the end of their lifespan.

In short, while WeGrow is sensitive to the concerns raised by these groups, none of them actually points to any evidence, nor any facts to support, the existence of any significant environmental impact nor any impact on any endangered species. Again, a hypothetical impact cannot support denying the Project under the applicable law, zoning ordinance or CEQA.

f. Transportation and Geography

The California Highway Patrol submitted comments regarding the lack of signage on some of the roadways that will be utilized for this Project. WeGrow has the utmost respect for the role this agency plays in the community and during this process, and its Project will strictly comply with all laws. Respectfully, however, the comments appear to have overlooked that WeGrow has already agreed to multiple mitigation measures, including entering into an agreement with the Department of Public Works to be responsible for all damage to the local roads beyond normal wear and tear (TRANS-1); installing a paved encroachment at the intersection of Herrington Road and Jaclyn Drive (TRANS-2); installing stop signs and pavement markings at Herrington Road and Jaclyn Drive, Jaclyn Drive and Tinalyn, and Tinalyn and Spruce Grove Road (TRANS-3); and making improvements to the interior driveway (TRANS-4). None of those mitigations were acknowledged or referenced in the comments, let alone shown to be insufficient to address any legitimate concerns. While this Project will increase traffic in the area as employees come and go throughout the day, no facts have been submitted showing that this would create a danger to the community. According to the Traffic Study commissioned by WeGrow, total daily trips for this subdivision are estimated to be 290 a day, with the Project adding a mere 40 trips, and the roads being estimated to handle 1,000 trips per day.

Some individuals have opposed the Project due to the prior sighting of stolen property at this location. This was already discussed and addressed at the prior Commission hearing. WeGrow has no knowledge of this stolen property. Nor has Ms. Otchkova or any representative of WeGrow been charged with any

² Lake County does not have any section of its Zoning Ordinance specifically governing replacement of oak trees. This ratio was determined by WeGrow’s experts as sufficient to replace the trees removed and agreed upon by the Department. See California Environmental Quality Act Environmental Checklist Form – Addendum, p. 11.

³ *Quercus Douglasii*, U.S. Department of Agriculture, Forest Service (<https://www.fs.fed.us/database/feis/plants/tree/quedou/all.html>).

crime that would create a violation of Article 27. WeGrow takes the issue of crime very seriously and has cooperated to the extent requested. Over the past year, WeGrow has reached out to the California Highway Patrol several times to ask the status of this investigation, only to be told that there is no record in their systems showing a violation attached to the property or Ms. Otchkova. WeGrow was only told that the investigation of the stolen property was not yet closed.

The Zoning Ordinance only permits this Commission to deny a major use permit where “[t]he applicant, owner, or permittee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the Lake County Sheriff finds that the applicant, owner, or permittee is otherwise suitable to be issued a permit, and granting the permit would not compromise public safety.” Zoning Ordinance Article 27(at)(1)(ii)(h)(3). Ms. Otchkova has never been charged or arrested, let alone convicted, of any crime related to the stolen property. The fact that stolen property was discovered on a large rural property should not foreclose this otherwise proper application. To allow this would mean that the mere suspicion of criminal activity could be used to deny a proper application, which goes against the express language of the Ordinance.

Related to the placement of the project, at least one individual previously voiced concern during review of the Project by the Board concerning proximity to an “exclusion area” as defined by the Zoning Ordinance. The subject lot is comprised of three parcels of land. Per the Zoning Ordinance, the total “lot size” is sufficient for the 15 licenses requested. Zoning Ordinance Article 27(at)(1)(i). As made clear from the site map, two of the parcels that partially overlap with an exclusion area will not be where the proposed cultivation site will be placed. Zoning Ordinance Article 27(at)(1)(v).

IV. Conclusion

The Commission previously approved this Project’s application with a unanimous 4-0 vote. The Project has not changed in any material respect since then. Meanwhile, the Board of Supervisors’ denial was “without prejudice” and based purely on procedural grounds, which occurred through no fault of WeGrow. WeGrow nonetheless used the delay as an opportunity to address the community’s concerns by ensuring that the studies evidencing the Project poses no unmitigated significant environmental impacts were even more robust than the original application materials. In response to this, the opposition comments assert a similar series of attacks on the Project which are largely unfounded, based on speculative and hypothetical impacts, and in any event altogether lack fact-based substantial evidence of significant environmental impacts posed by the Project. Denying the Project on the grounds raised by the opposition would not comport with the applicable legal standard, nor basic notions of fairness. The Project complies with the property’s zoning designation, fully complies with the Lake County Zoning Ordinance, and is compliant with CEQA. WeGrow therefore respectfully asks that you again approve the Project.

We look forward to presenting this Project to you for consideration on October 28, 2021. In the interim, please do not hesitate to contact us if you have any questions at all or would like to discuss.

Very truly yours,



Andrew S. Azarmi

EXHIBIT A



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

Scott De Leon

Community Development Director

Tocarra Nicole Thomas

Community Development Deputy Director

STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Thomas, Community Development Deputy Director

Prepared by: Eric Porter, Associate Planner

DATE: April 22, 2021

RE: **WeGrow LLC**

- **Major Use Permit (UP 20-22)**
- **Initial Study (IS 20-25)**
- **Early Activation (EA 20-26)**

Supervisor District 1

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Agency Comments
4. Conditions of Approval
5. Site Plans
6. Initial Study (CEQA)
7. Biological Assessment
8. Vacant
9. Public Comments

I. EXECUTIVE SUMMARY

The applicant is requesting approval of a Major Use Permit for commercial cannabis cultivation to allow fifteen (15) A-Type 3B (medium mixed light) commercial cannabis cultivation licenses and one (1) A-Type 1C (specialty cottage) license that would include 400,405 sq. ft. of mixed light cultivation area inside of greenhouses on a property located at 16750 Herrington Road, Hidden Valley Lake, 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.

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 canopy is approximately 400,405 square feet. (roughly 9 acres) and will be cultivated in greenhouses.*

One (1): A-Type 1C: “Specialty Cottage” license: Greenhouse cultivation for adult use cannabis using light deprivation and/or artificial lighting and consisting of up to 2,500 sq. ft. of canopy; and,

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

Project Details: The applicant is proposing the construction of the following:

1. Thirty (30) 90' x 125' greenhouses
2. One (1) 90' x 112' greenhouse
3. Four (4) 90' x 125' nursery greenhouses
4. Four (4) 50' x 100' drying buildings
5. One (1) 200 sq. ft. shed
6. Four (4) 2,500 gallon water tanks.
7. One (1) 6-foot tall galvanized woven wire fence covered with privacy mesh to screen the greenhouses from public view.
8. Removal of 20 to 30 mature oak trees native to Lake County, all of which are greater than 5" diameter measured at 4.5" measured at breast height

The applicant has submitted a project summary which is paraphrased as follows.

The current owner of the property is Zarina Otchkova who is also the project manager. The total acreage of all of the parcels is 309.06 acres (154.02 + 103.3 + 51.74) and the parcel is split zoned RL/RR-WW; Rural Land/Rural Residential - Waterway. The parcel is located roughly 1.5 miles west of the intersection of Highway 29 and Spruce Grove Rd in Hidden Valley Lake CA. The parcel lies within the 8-digit HU (Sub basin): Kelsey Creek - Clear Lake, and Crazy Creek - Putah Creek Watershed (HUC10). There is an unnamed perennial Class III watercourse indicated on the NHD map layer utilized by California resource agencies via CNDDB and the Federal NWI map layer, which flows across the south eastern corner of the Project property. The Biological Report also identified a creek and a potential wetland on the northeastern corner of the parcel. The cannabis cultivation area will be setback a minimum of 150 feet from the top of the bank of any bodies of water. There are no other surface water bodies on the Project property. There will be no surface water diversions or water crossings with this project.

Commercial cannabis is tightly regulated by CalCannbis in terms of chemicals that are introduced to and through the plants. Consequently, WeGrow has stated that they will be fully organic with their supplements of both dry and liquid fertilizers. The proposed dry fertilizers include dry worm castings as well as Chicken and Bat Guano. As for liquid fertilizers most of it will be coming from MaxSea and organic compost. The pesticides that will be used for this cultivation project include neem oil and capsaicin, both at limited quantities during the growing months and only used when necessary. All of the fertilizers, nutrients, and pesticides will only be purchased and delivered to the property as needed, and will be stored separately in the secure storage shed, in their original containers and

used as impermeable surface with secondary containment, at least 150 feet from surface water bodies. Empty containers will be disposed of by placing them in a separate seal tight bin with a fitted lid and disposed of at the local solid waste facility within the county. At no time will fertilizers/nutrients be applied at a rate greater than 319 pounds of nitrogen per acre per year (requirement of the State Water Resource Control Board's Cannabis General Order). Water soluble fertilizers/nutrients will be delivered via the drip and micro-spray irrigation system(s) of the proposed cultivation operation to promote optimal plant growth and flower formation while using as little product as necessary. Petroleum products will be stored year-round in State of California-approved containers with secondary containment and separate from pesticides and fertilizers, within the processing facilities.

WeGrow has stated that all agricultural chemicals associated with cannabis cultivation (fertilizers, pesticides, and petroleum products) will be stored within the secure proposed 200 sq. ft. storage area. The proposed processing buildings will contain cannabis processing activities such as drying, trimming, curing, and packaging. The nearest offsite residence is over 350 feet away from the proposed cultivation area. All areas of the proposed project will be fully out of view from all public view due to the dense vegetation and slope of the location.

The proposed cultivation operation will utilize drip irrigation systems, to conserve water resources. The well in the center of the property is directly next to the proposed cultivation area. Since the well, storage tanks and cultivation area all within feet of each other above ground water lines will be used which will be a combination of PVC piping and black poly tubing. Water use is projected to be approximately 4,713,000+ gallons per year (please see Water Use Section for methodology). The cultivation area is nearly completely flat with little to no slope, meaning rainwater runoff will not be a huge concern. Straw wattles are proposed around southeastern portion of the cultivation area to filter potential sediment from stormwater as it moves on to the property's seasonal drainages to the east. The natural existing vegetated buffer will be maintained as needed between all project areas and waterways on the property.*

A Biological Assessment for the property was completed on March 1, 2020 and prepared by Pinecrest Environmental Consulting Inc. The results of the Biological Assessment are described as follows:

- No special status plant species were observed, and no impacts are expected to occur to any based-on lack of sighting and lack of suitable habitat at the cultivation area.
- No special status animal species were observed, and no impacts are expected to occur to any. There are several wetlands on the eastern portion of the parcel that may be suitable for sensitive frog species and should not be disturbed.
- No impacts are predicted for sediment discharge to watercourses or wetlands due to the absence of the features near the cultivation area.
- No impacts are predicted for habitat conservation or with local ordinances and no further mitigations are required.

A Cultural Resource Evaluation for the parcel was completed on February 28, 2020 prepared by [Wolf Creek Archaeology LLC]. Although 1 historic/prehistoric site was discovered during the field inspection, this resource was recorded south of the proposed project area. No other historic or prehistoric cultural materials were discovered. Based on the field evaluation by [Wolf Creek Archaeology], it was recommended that the proposed project be approved as planned.

WeGrow's site will require a high amount of electricity as they will be cultivating 400,405 sq. ft. of canopy in greenhouses with a maximum of 25 watts per square foot. All electricity needed for the project will be supplied from PG&E through the existing connection but will require an electrical upgrade. The proposed project is proposing a backup generator to be used in emergency situations when electricity cannot be supplied by PG&E. 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. The closest Lake County Integrated Waste Management facility to the proposed cultivation operation is the Eastlake Landfill.

The Project Property is currently accessed by a private gravel driveway off Herington Road. The existing access driveway on the property leads to the center of the property where the cultivation area is proposed. 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 have 6 parking stalls (one ADA) as well as hammerhead turnaround in front of the cultivation area that will be 20' wide and 60' in length. A gate will be installed with an entrance of at least 2 feet wider than the width of the traffic lane with a minimum of 14 feet unobstructed horizontal clearance and 15 feet on unobstructed vertical clearance. The access gate will be located at least 30 feet from the main shared access road and property line. The gate will be locked outside of core operating/business hours (8am to 6pm) and whenever WeGrow personnel are not present. The gate will be secured with a heavy-duty chain, commercial grade padlock and a Knox Box to allow 24/7 access for emergency services. Only approved WeGrow managerial staff and emergency service providers are able to unlock the gates on the Project Property. The cultivation area fence will be a 6 ft tall chain link fence with a privacy mesh screen and mounted with security cameras. Posts will be set into the ground at not more than 10-foot intervals, and terminal posts set into concrete footings.

A site visit by retired Fire Chief and current Code Enforcement Manager Andrew Williams and Associate Planner Eric Porter took place on March 19, 2021. Mr. Williams observed that the existing interior driveway was not adequate to meet Public Resource Codes 4290 and 4291 (CalFire road standards for commercial development), but that the interior road and entry gate could be made to be compliant with appropriate conditions of approval and mitigation measures to this project implemented and verified prior to cultivation.

Water Analysis

A well report was submitted by the applicant; the report was written in September 1997 when the well was drilled. There are no other more recent reports as of March 20, 2021.

In the 1997 report, water was found at a depth of 60 feet, and the well produced 106 gallons of water per minute, which is regarded as a high-producing well. Unknown is the extent or depth of the aquifer in this area, or what the rate of well recharge is once the well is stopped for a period of time.

The Lake County Zoning has no minimum gallons per minute productivity; water depth / recharge rate, or other regulations for what constitutes an adequate water availability analysis. In this case the applicant has verbally consented to having a 5,000 gallon metal water tank adapted with fire department connection hoses, along with four 5,000 gallon plastic tanks to hold irrigation water.

The applicant 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 applicant has provided projected water usage data within the following chart, however this analysis did not include the water needed to irrigate the screening trees recommended as conditions of approval for the removal of existing live oak trees .

The following chart shows the proposed water usage for the cannabis cultivation minus the replacement tree irrigation water that will be needed for the live oak trees.

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*		
<i>25 Inches is estimated</i>	<i>4,713,410*</i>	<i>14.4</i>

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 20 to 30 native oak trees that are located on the property.
- 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.
- All construction activities, including engine warm-up, will be limited to Monday through Saturday between the hours of 7:00am and 7:00pm.
- 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.

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
- Between 40 and 80 average daily vehicle trips are anticipated
- 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 shall not 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 downcast and 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 likely require significantly more power than 400 amps. The burden of proof is on the applicant to determine (1) total power needs; (2) who will supply this power (PG&E; on-site solar arrays, et cetera), and (3) how the County can be assured that this power need will be met by the applicant.

II. PROJECT DESCRIPTION

Applicant/Owner: We Grow LLC / Zarina Otchkova

Location: 16750 Herrington Road, Hidden Valley Lake

A.P.N.s: 013-060-40, 013-014-03 and 11

Parcel Size: ±309 acres

General Plan: Rural Lands – Resource Conservation

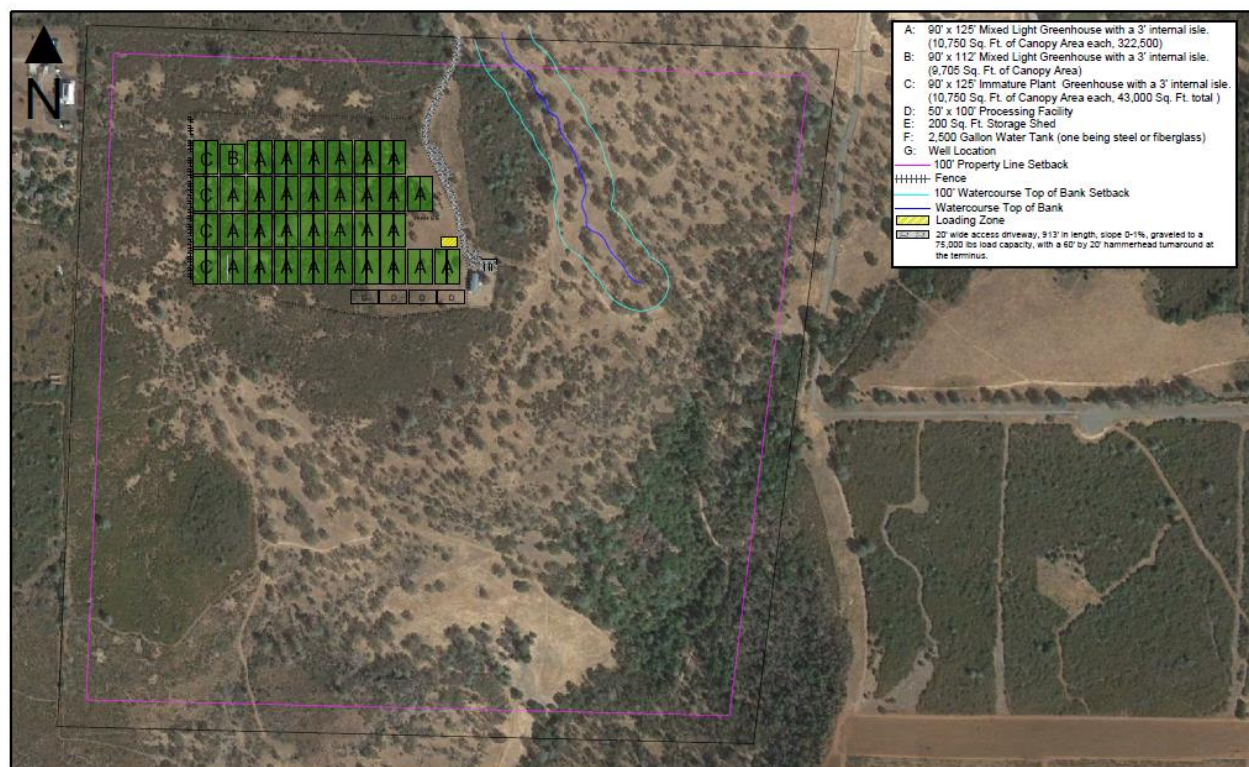
Zoning: “RL-RR-WW”: Split: Rural Lands – Rural Residential - Waterway

Flood Zone: None

Submittal Date: March 5, 2020



VICINITY MAP



PROPOSED SITE PLAN

III. **PROJECT SETTING**

Existing Uses and Improvements: Existing development consists of a house, a well and a septic system served by a 12' wide interior driveway.

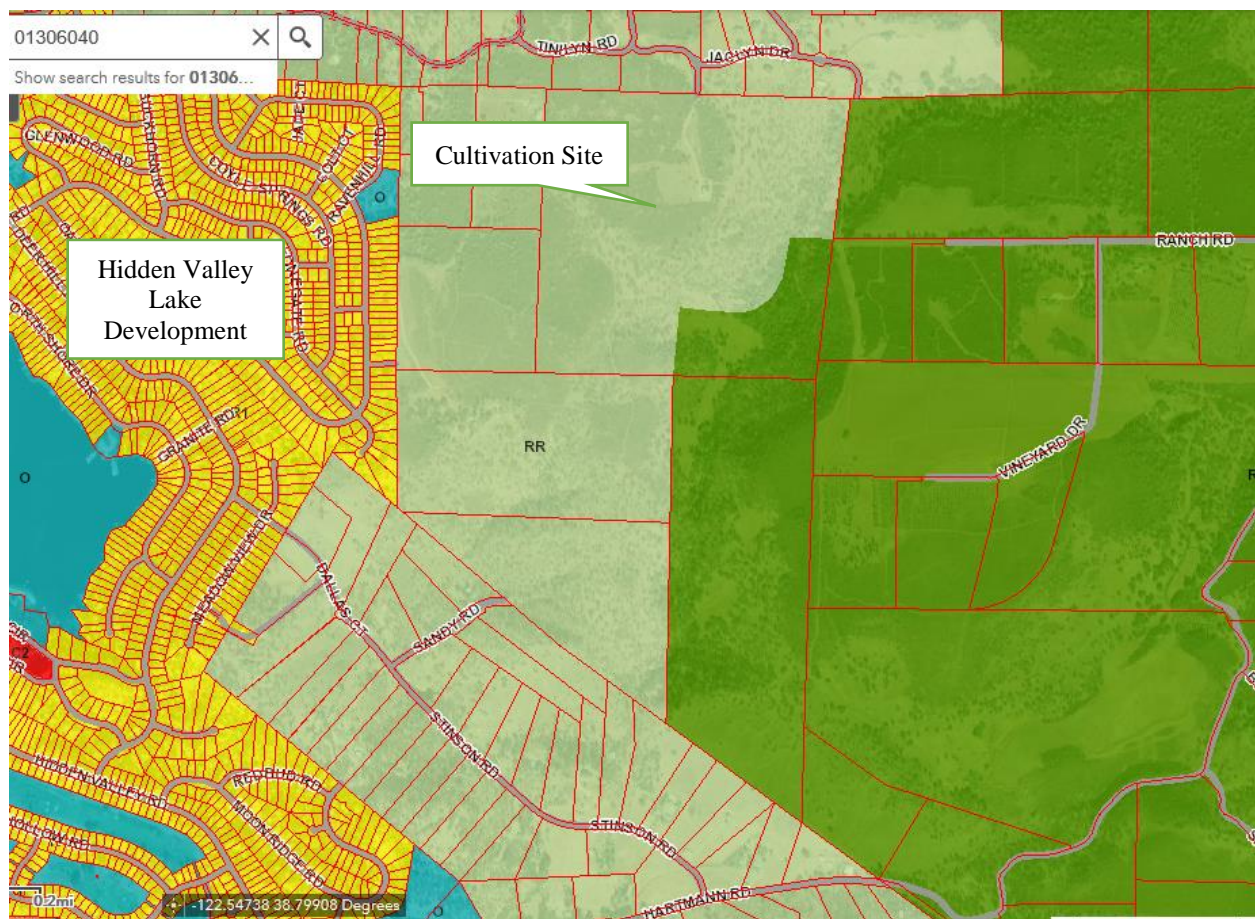
Surrounding Uses and Zoning

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, but is about 2,300 feet to the southeast 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%.

Soils: The project area contains the following soil type:

- 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.

Water Supply: Existing Well

Sewage Disposal: Existing and future on-site septic systems.

Fire Protection: South Lake Protection District

Vegetation: Scattered oaks, manzanita shrubs and grasses

Water Courses: Several unnamed seasonal streams

IV. 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, 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 is 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.

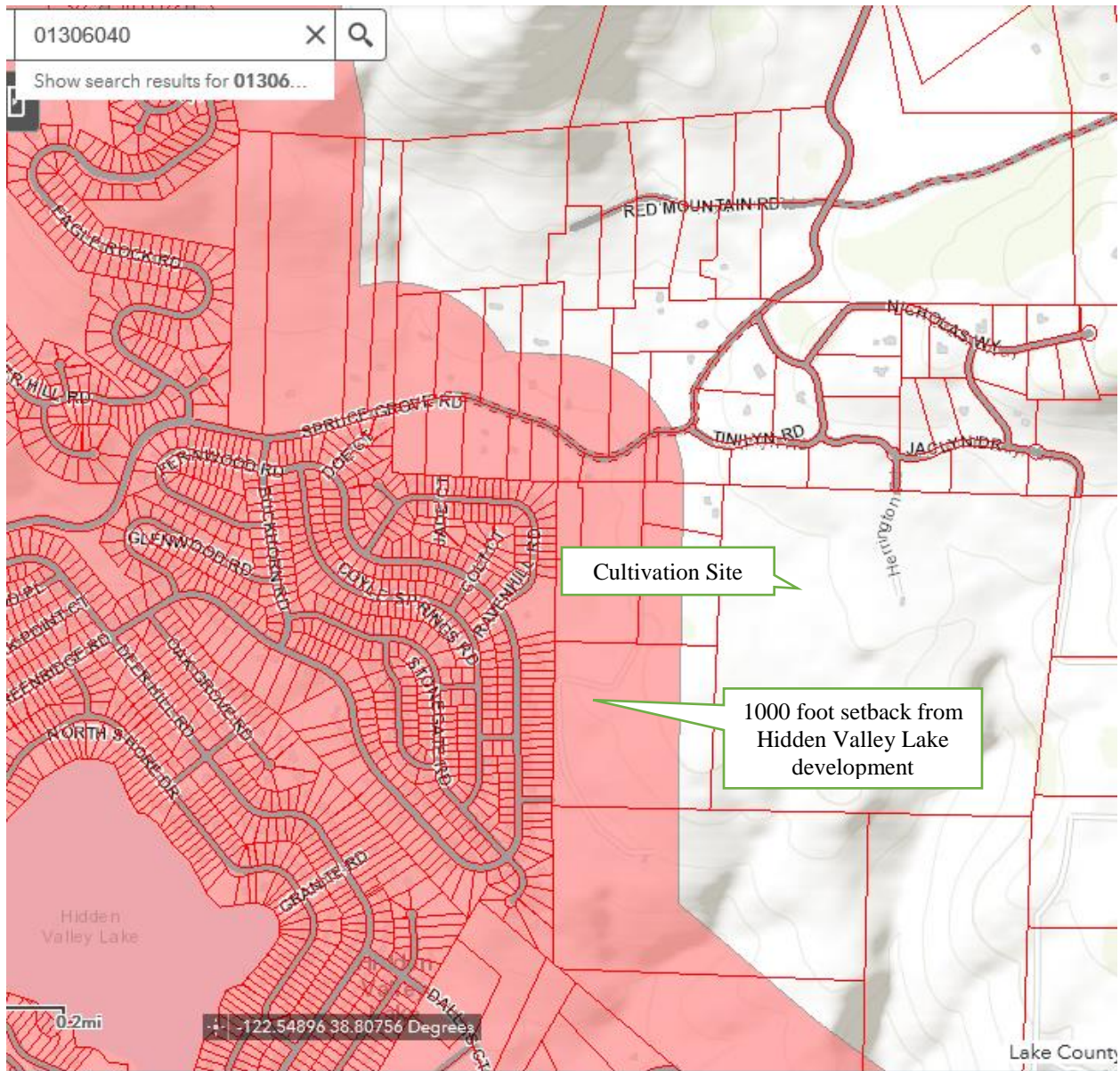
Response: Pursuant to Article 27 (Table B) of the Lake County Zoning Ordinance, the cultivation of cannabis is an allowable use within the "RL" Rural Lands land Use Designation upon securing a Minor/Major Use Permit. However, this particular project is near Hidden Valley Lakes Development, although the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



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. 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 Initial Study, on the proposed use and has incorporated mitigation measures to reduce potential environmental impacts identified in the Study to less than significant. These mitigation measures include but are not limited to Erosion Control and Sediment Plans using Best Management Practices, and the protection of Biological, Archaeological, Geological, and Historical Resources and will be discussed in further detail in below.



Aerial Photo of Site and Surrounding Lots

Zoning Ordinance Conformance

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. This setback is met with this proposal according to the applicant's Site Plan, aerial photos, and County GIS mapping data.

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.

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 and 5 acres per each A-Type 1C license is required; 15 A-Type 3B licenses and one A-Type 1C license is requested): *Complies; the lot is ±309 acres in combined size. The applicant needs 300 acres for fifteen (15) A – Type 3B licenses and 5 acres for an A-Type 1C specialty cottage license for 305 acres required as a minimum. 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 would be about 329,700 sq. ft. of mixed light (greenhouse) canopy area, and 400,000+ 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, access requirements, etc.

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 estimated 20 to 30 mature oak trees that will be removed; on-site water storage for irrigation and fire suppression (there is currently one 5,000 gallon metal tank on site; an additional 20,000 gallons of water storage is proposed); ADA-compliant restrooms and handwash 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.

The applicant has also submitted a Property Management Plan, outlining compliance with all regulations pertaining to cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, storm water management, security, compliance monitoring, etc. In addition, the applicant complies with the restrictions pertaining to the prohibited activities listed in Article 27, including but not limited to the removal of trees, illegally diverting water, producing excessive odors, cultivating within a Cannabis Exclusion Area, etc.

V. 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**. 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.

The 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 and Transportation. 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.

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:** Prior to building permits being issued, the applicant shall provide energy calculations for the proposed project. These calculations shall be prepared by an energy professional, and the means of providing adequate power shall clearly be identified within the scope of these calculations. PG&E confirmation of being able to provide adequate power to the site may be required at the discretion of the Building Official or designee. If the applicant is unable to obtain 'on grid' power for this project, then an alternative energy source shall be submitted to the Building Official for consideration (i.e. solar). Total amperage needs shall be provided within the energy calculations provided. A description of energy use per building may be necessary, as well as engineered energy calculations at the discretion of the Building Official. *Mitigation measure EN-1*
- **EN-2:** If the applicant is unable to obtain adequate 'on-grid' power, the applicant shall be responsible for finding an alternative energy source(s) for this project. The use of generators is prohibited except during an emergency such as a power failure and is only allowed on a short-time basis.

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 Herrington Road and 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 Herrington Road improvements.

Fire

- 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.

VI. 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 15 A-Type 3B and one A-Type 1C commercial cannabis cultivation licenses. 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 this 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 applicant is proposing improvements to this private road 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.

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 has not provided estimated power usage data, and the project will require significant power to serve 35 greenhouses and four 5,000 sq. ft. drying buildings according to the applicant's Property Management Plan submitted. The applicant is required to provide engineered energy calculations and demonstrate that they can get adequate power to the site, either by traditional ('on grid') means, or by an alternative power sources such as solar power. In the unlikely event that there is insufficient 'on-grid' power available, a condition of approval has been added that will allow the applicant to use an alternative energy source to meet their power needs.

This application was routed to all of the affected 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 Redwood Valley Pomo Indian Tribe regarding concerns about water usage and the strength of the watershed. The County does not require aquifer evaluations associated with commercial cannabis cultivation licenses.

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. Additionally, the Lake County General Plan does 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.

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

Response: The applicant has passed 'live scan', and is the owner of the property. 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: With the exception of projected energy usage and supply which can be mitigated through conditions of approval, the application was determined to be complete after a thorough review to verify that all submittal requirements were met.

VII. RECOMMENDATION

Staff recommends that the Planning Commission:

A. Adopt Mitigated Negative Declaration (IS 20-25) for 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 and AES-2.
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 and EN-2.
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.
9. This project is consistent with land uses in the vicinity.
10. 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.
11. 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.

12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve 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 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 (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 shall be approved with the findings for approval listed in the staff report dated **April 22, 2021**.

Major Use Permit (UP 20-22)

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** 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 **April 22, 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.*

EXHIBIT B



COUNTY OF LAKE

255 North Forbes Street
Lakeport, CA 95453

Meeting Minutes - Final BOARD OF SUPERVISORS

Tuesday, June 8, 2021

9:00 AM

Board Chambers

Please see agenda for public participation information and eComment submission on any agenda item.

1. Call to Order

The meeting was called to order at 9:00 a.m. by Chair Sabatier. County Administrative Officer Carol Huchingson, County Counsel Anita Grant, and Assistant Clerk of the Board Johanna DeLong were present, along with the following Supervisors:

Present: Supervisor Simon, Supervisor Crandell, Supervisor Scott, Supervisor Pyska and Chair Sabatier

2. Moment of Silence

A moment of silence was dedicated to Webster Medley III and Novia Walton.

3. Pledge of Allegiance

Led by Supervisor Crandell.

4. Consideration of Extra Items Not Appearing on the Posted Agenda

There were no Extra Items to consider.

5. Approval of the Consent Agenda

- 5.1 Adopt Resolution Amending Resolution No. 2020-151 Establishing Salaries And Benefits For Management Employees For The Period November 1, 2020 To October 31, 2021

Enactment No: Resolution No. 2021-65

- 5.2** Approve Revised Letter of Support to Yolo County Flood Control and Water Conservation District revising the date of water diversion to June and July 2021 and authorize the Chair to sign

Supervisor Sabatier introduced the item to the Board. County Administrative Officer Carol Huchingson and County Counsel Anita Grant spoke.

Chair Sabatier asked if anyone present wished to speak and the following person spoke via Zoom: Bart Levenson. No one else wished to speak and the public input portion of this item was closed.

On motion of Supervisor Simon, and by vote of the Board, Approved Revised Letter of Support to Yolo County Flood Control and Water Conservation District revising the date of water diversion to June and July 2021 and authorized the Chair to sign. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

- 5.3** Approve Addition of Special Meeting Dates to the Board's Annual Meeting Calendar for 2021
- 5.4** Appoint Temporary Representatives to meet for Unrepresented Management Employees regarding Salary and Benefits
- 5.5** Sitting as LCAQMD BOD - Authorize the APCO to sign the grant agreement with the Kelseyville Unified School District for a School Bus Replacement Grant .
- 5.6** Authorize the Closure of Behavioral Health Services offices from noon-5:00pm Friday, June 18, 2021 for Summer All Staff Training Meeting
- 5.7** Approve Amendment to Lease Agreement between the County of Lake and DFM Associates, for a five (5) year extension or until June 30, 2026 for Election Information Management System (EIMS), in the amount of \$29,214.72 annually and Authorize the Chair to sign.
- 5.8** Approve Request to waive 900-hour limit for Extra-Help Facilities Maintenance Worker Lawrence Platz

- 5.9** (a) Approve Rental Agreement between the County of Lake and Paul E. Lowen and Kevin Soto for Storage Hangar #1 at Lampson Field for the monthly amount of \$300, and authorize the Chair to sign; and (b) Approve Rental Agreement between the County of Lake and Paul E. Lowen and Kevin Soto for Storage Hangar #2 at Lampson Field for the monthly amount of \$500, and authorize the Chair to sign.

This item was pulled to correct an error made in the agreement.

Public Works Director Scott De Leon presented the item to the Board.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

On motion of Supervisor Scott, and by vote of the Board, Approved Rental Agreement between the County of Lake and Paul E. Lowen and Kevin Soto for Storage Hangar #1 at Lampson Field for the monthly amount of \$300, and authorized the Chair to sign; and (b) Approved Rental Agreement between the County of Lake and Paul E. Lowen and Kevin Soto for Storage Hangar #2 at Lampson Field for the monthly amount of \$500, and authorized the Chair to sign. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

- 5.10** Approve an Amendment to the Agreement between the County of Lake and Pavement Recycling Systems, Inc. for the rehabilitation of Big Canyon Road in the Amount of \$109,200 for a Total Contract Amount of \$252,000, and authorize the Public Works Director to sign the Amended Agreement
- 5.11** Adopt Resolution Authorizing the Special Districts Administrator to Sign the Notice of Completion for Work Performed under Agreement 19-18, Dated June 9, 2020, for the Construction of the Soda Bay CSA-20 Redwood Tank Replacement Project
- Enactment No: Resolution No. 2021-66
- 5.12** Approve Agreement Between the County of Lake and CivicSpark in the Amount of \$29,000 for One Civic Spark Fellows to Develop and Implement an ArcGIS Based Asset Management Program and Authorize the Special Districts Administrator to Sign.
- 5.13** Approve Third Amendment to the Lease Agreement Between the County of Lake and Lyon Real Estate LLC (Formerly Margaret E. Lyon Survivors Trust) for the Premises located at 8555 Hwy 53 in Lower Lake, and Authorize the Chair to Sign.
- 5.14** Approve First Amendment to the Lease Agreement Between the County of Lake and Pauline Usher Revocable Trust for the Premises Located at 9245 Hwy 53 in Lower Lake, in the Amount of \$6,078.12 per Fiscal Year, from July 1, 2018 to June 30, 2024, and Authorize the Chair to Sign.

- 5.15** Approve First Amendment to the Lease Agreement Between County of Lake and Charles Sawyer and Nancy Sawyer (Formerly with Lower Lake JBRE, LLC), for the Property Located at 9055 Hwy 53, Suites A, B, and C in Lower Lake, in the Amount of \$134,926.47 per Fiscal Year, From July 1, 2021 to June 30, 2023, and Authorize the Chair to Sign.

- 5.16** Approve the Distribution of Excess Proceeds in the amount of \$331,723.02 from Tax Defaulted Land Sale #156 held on June 9, 2018 (per R&T §4675).

This item was pulled to correct an error in the spreadsheet.

Treasurer-Tax Collector Barbara Ringen presented the item to the Board.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

On motion of Supervisor Crandell, and by vote of the Board, approved the Distribution of Excess Proceeds in the amount of \$331,723.02 from Tax Defaulted Land Sale #156 held on June 9, 2018 (per R&T §4675) Amending spreadsheet to unclaimed \$184,644.86, pending \$163.98, and claim for \$331,723.02. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

- 5.17** Approve Agreement between the County of Lake and Megabyte Systems Inc., for FY 2021-22 MPTS property tax system maintenance, Online Business Property Filing Licensing/Support and the Transient Occupancy Tax Licensing/Support in the amount of \$197,368.13 and authorize the Chair to sign; and (b) Approve Web Services Addendum to the Agreement between the County of Lake and Megabyte Systems Inc. for FY 2021-22 online tax bills and e-payment processing services, in the amount of \$4,601.14, and authorize the Chair to sign.

On motion of Supervisor Simon, and by vote of the Board, approved Consent Agenda Items 5.1 through 5.17 with the exception of items 5.2, 5.9, and 5.16 which were pulled for further discussion. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

6. Timed Items

6.1 9:05 A.M. - PUBLIC INPUT

Public Members Cynthia Field, Latisha Phillips, Suzette Miller, Ceva Giumeli, Shira Overvech, Vivian Dennison, and Erin McCarrick spoke.

6.2 9:06 A.M. - Consideration of Update on COVID-19

Interim Public Health Officer Dr. Evan Bloom presented the item to the Board. Sarah Marikos presented a PowerPoint Presentation to the Board.

Chair Sabatier asked if anyone present wished to speak and the following people spoke via Zoom: Tom Slate, Will Tuttle, Madeline Tuttle, and Bart Levenson. No one else wished to speak and the public input portion of this item was closed.

Report Only.

6.3 9:30 A.M. - (a) Consideration to Waive the formal bidding process, pursuant to the Lake County Code Section 2-38.2, as it is not in the public interest due to the unique nature of goods or services; and (b) Consideration of Agreement for Consulting Services for Lake County Community Development for the amount of \$100,000.00; and (c) Consideration to Appoint the County Administrative Officer, or her designee, as Interim Community Development Director

Supervisor Simon presented the item to the Board. County Administrative Officer Carol Huchingson, Jan Perkins, David Boesch, Sheriff Brian Martin, and Community Development Administrative Assistant Ledah Duncan spoke.

Chair Sabatier asked if anyone present wished to speak and the following people spoke via Zoom: Bart Levenson, Melissa Fulton, Alicia Russell, and Jennifer Smith. The following person present in the Board of Supervisors Chambers spoke: Justin Quayle. No one else wished to speak and the public input portion of this item was closed.

a) On motion of Supervisor Simon, and by vote of the Board, waived the formal bidding process, pursuant to the Lake County Code Section 2-38.2, as it is not in the public interest due to the unique nature of goods or services. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

b) On motion of Supervisor Simon, and by vote of the Board, approved Agreement for Consulting Services for Lake County Community Development for the amount of \$100,000.00. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

c) On motion of Supervisor Simon, and by vote of the Board, Appointed the County Administrative Officer, or her designee, as Interim Community Development Director effective June 14, 2021. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

- 6.4** 9:45 A.M. - (a) Consideration of Budget Transfer in the Amount of \$120,000.00 from BU 1781 - Special Projects Account 717.55-07 to BU 1122 - Treasurer-Tax Collector Account 711.23-80 for Services Related to a Second Tax Sale for FY 20-21 and Authorize the Chair to Sign; and (b) Consideration of Budget Transfer in the Amount of \$50,000 from BU 1781 - Special Projects Account 717.55-07 to BU 1231 - County Counsel Account 712.01-11 to Cover Permanent Salaries Through the End of the Fiscal Year and Authorize the Chair to Sign

County Administrative Officer Carol Huchingson introduced the item to the Board. Deputy County Administrative Officer Stephen Carter presented the item to the Board.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

a) On motion of Supervisor Crandell, and by vote of the Board, approved Budget Transfer in the Amount of \$120,000.00 from BU 1781 - Special Projects Account 717.55-07 to BU 1122 - Treasurer-Tax Collector Account 711.23-80 for Services Related to a Second Tax Sale for FY 20-21 and Authorized the Chair to Sign the Action Item was Adopted. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

b) On motion of Supervisor Crandell, and by vote of the Board, approved Budget Transfer in the Amount of \$50,000 from BU 1781 - Special Projects Account 717.55-07 to BU 1231 - County Counsel Account 712.01-11 to Cover Permanent Salaries Through the End of the Fiscal Year and Authorized the Chair to Sign. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

- 6.5** 9:50 A.M. - Consideration of Budget Transfer from BU 1781 - Special Projects Account 717.55-07 to BU 1671 - Buildings and Grounds Account 716.61-60 and New Capital Asset in the amount of \$60,000 to Correct Deterioration to the Pedestrian Bridgeway and Stairs on the South Side of the Courthouse and Authorize the Chair to Sign

County Administrative Officer Carol Huchingson introduced the item to the Board. Deputy County Administrative Officer Stephen Carter presented the item to the Board. Public Services Director Lars Ewing spoke.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

On motion of Supervisor Simon, and by vote of the Board, approved Budget Transfer from BU 1781 - Special Projects Account 717.55-07 to BU 1671 - Buildings and Grounds Account 716.61-60 and New Capital Asset in the amount of \$85,000 to Correct Deterioration to the Pedestrian Bridgeway and Stairs on the South Side of the Courthouse and Authorized the Chair to Sign. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

6.6 10:00 A.M. - PUBLIC HEARING - Discussion and Consideration of Appeal to Board of Supervisors, AB 21-01 for Major Use Permit, UP 20-22 and IS / MND 20-25, "We Grow LLC"

Interim Community Development Director Scott De Leon announced the public hearing would not be heard due to an error in the CEQA process of the application. County Counsel Anita Grant, Jim Ryan, Dan Levine, Scott Nagelson, Sean Millerick, Carly Sherman, Jesse Cude, Debra Bainbridge, Sufyan Hamouda, Eric Hoberg, Kenny Sherman, and Randy Fletcher spoke.

Chair Sabatier asked if anyone present wished to speak and the following people spoke via Zoom: Bart Levensen, Donna Mackiewicz, and Shannon Williams. No one else wished to speak and the public input portion of this item was closed.

On motion of Supervisor Simon, and by vote of the Board, approved the appeal on the basis that the CEQA analysis was defective and denied the Use Permit for the project without prejudice. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

6.7 11:00 A.M. - PUBLIC HEARING - Consideration of Resolution Approving Resolutions and Capital Fire Facility and Equipment Plans Submitted by Lake County Fire Agencies and Updating the Lake County Capital Fire Facility and Equipment Plan.

County Administrative Officer Carol Huchingson presented the item to the Board.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item were closed.

Supervisor Simon offered the resolution and it was passed by roll call vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

Enactment No: Resolution No. 2021-67

6.8 1:30 P.M. - PUBLIC HEARING - Appeal of Vicious Animal Abatement Case Number #859, located at 21852 Jerusalem Grade Lower Lake (Brandon Strausser)

Animal Control Director Jonathan Armas presented the item to the Board. Tyra Matthews and County Counsel Anita Grant spoke.

Chair Sabatier asked if anyone present wished to speak and the following people present in the Board of Supervisors Chambers spoke: Edward Sabin and Joan Moss. The following people spoke via Zoom: Glo Anderson and Gabrielle O'Neill. No one else wished to speak and the public input portion of this item was closed.

On motion of Supervisor Simon, and by vote of the Board, Continued the Public Hearing to August 10, 2021 at 1:30 p.m. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

6.9 2:30 P.M. - Discussion on drought related issues: a) How to handle future ag projects b) How to handle water trucks c) How to deal with illegal cannabis

Chair Sabatier presented the item to the Board. County Counsel Anita Grant and Sheriff Brian Martin spoke.

Chair Sabatier asked if anyone present wished to speak and the following people spoke via Zoom: Shannon Zoller, Betsy Cawn, Brenna Sullivan, Sara Pistone, Will Weiss, Justin Quayle, Bart Levenson, Sean Connell, and Cody Leck. The following people present in the Board of Supervisors Chambers spoke: Mike Mitzel, and Brock Euell. No one else wished to speak and the public input portion of this item was closed.

There was Board Consensus to bring the discussion to the Agriculture Advisory Committee and look to revise the cannabis ordinance.

7. Non-Timed Items

7.1 Supervisors' weekly calendar, travel and reports

7.2 Consideration of (a) Waiving the formal bidding process, pursuant to Lake County Code Section 38.2, as it is not in the public interest due to the unique nature of goods or services; and (b) Approval of the Agreement between the County of Lake and Crestwood Behavioral Health for Adult Residential Support and Specialty Mental Health Services for Fiscal Year 2021-22 for a contract maximum of \$1,400,000.00 and authorize the Board Chair to sign the Agreement.

Behavioral Health Director Todd Metcalf presented the item to the Board County Counsel Anita Grant.

Chair Sabatier asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

a) On motion of Supervisor Scott, and by vote of the Board, Waived the formal bidding process, pursuant to Lake County Code Section 38.2, as it is not in the public interest due to the unique nature of goods or services. The motion carried by the following vote:

Ayes- Supervisors: 4 - Simon, Crandell, Scott, and Pyska

Nays- Supervisor: 1 - Sabatier

b) On motion of Supervisor Scott, and by vote of the Board, approved Agreement between the County of Lake and Crestwood Behavioral Health for Adult Residential Support and Specialty Mental Health Services for Fiscal Year 2021-22 for a contract maximum of \$1,400,000.00 and authorized the Board Chair to sign the Agreement. The motion carried by the following vote:

Ayes- Supervisors: 5 - Simon, Crandell, Scott, Pyska, and Sabatier

8. Closed Session

Chair Sabatier announced that the Board would now go into Closed Session at 4:44 p.m. for the reasons stated on the agenda.

The Board came out of closed session at 5:30 p.m. having taken no action.

- 8.1 Conference with Labor Negotiator: (a) Chief Negotiator: M. Long; County Negotiators: C. Huchingson and P. Samac; and (b) Employee Organizations: LCDDAA, LCDSA, LCCOA, LCEA, LCSEA and LCSMA
- 8.2 Conference with (a) Temporary Representatives designated to meet with County Department Heads regarding salary and benefits and (b) Unrepresented management employees
- 8.3 Conference with Legal Counsel: Existing Litigation pursuant to Gov. Code section 54956.9 (d)(1): City of Clearlake v. County of Lake, et al.

9. Adjournment

There being no further business the Board of Supervisors adjourned at 5:30 p.m.

CAROL J. HUCHINGSON
Clerk of the Board

By: 
Johanna DeLong (Jul 28, 2021 09:18 PDT)

Johanna DeLong
Assistant Clerk of the Board


Bruno Sabatier (Jul 28, 2021 09:53 PDT)

Chair-Lake County Board of Supervisors



EXHIBIT C

1 LAKE COUNTY BOARD OF SUPERVISORS

2 Hybrid Zoom Meeting

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4
5 Tuesday, June 8, 2021

6 9:00 a.m.

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9 6.6 21-469 10:00 A.M. - PUBLIC HEARING - Discussion
10 and Consideration of Appeal to Board of Supervisors,
11 AB 21-01 for Major Use Permit, UP 20-22 and
12 IS/MND 20-25, "We Grow LLC"13
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19 Dentons U.S., LLP

20 One Market Plaza

21 Spear Tower, 24th Floor

22 San Francisco, California 94105-2708

1 MS. DELONG: Okay. Do you solemnly swear that the
2 testimony you are about to give will be the truth, the
3 whole truth, and nothing but the truth, so help you
4 God?

5 (Response.)

6 CHAIR SABATIER: All right. Thank you very much.

7 MS. DELONG: And please say "I do" so I can hear
8 it.

9 CHAIR SABATIER: Everybody said "I do."

10 MS. DELONG: Okay, thank you.

11 CHAIR SABATIER: Except for I didn't see the lips
12 moving, but I heard it. We're going to go with the
13 honor system on that one.

14 And let's go ahead and open this up, and we're
15 going to start with staff. And so Director De Leon,
16 would you like to introduce this, and then we'll move
17 on.

18 DIRECTOR DE LEON: Yes, good morning. Let me get
19 to the correct screen here. Thank you.

20 Thank you, Chairman Sabatier, and good morning to
21 you and the members of the Board, everyone in the Board
22 Chambers. I have some brief comments about the item.

1 As you're aware, this is a very large project, and
2 it's certainly the subject of a great deal of public
3 interest, as evidenced this morning by the attendance
4 at today's hearing. We've been diligent in our
5 evaluation of the appeal and the questions raised about
6 the environmental analysis for this project, and as a
7 result of our review, we have made some modifications
8 to our recommendations for this item.

9 As a result of our review, we've discovered some
10 procedural errors that have rendered the initial study
11 to be defective, and this project cannot move forward
12 as presented. Changes were made to the project during
13 the review process, and the potential impacts to the
14 environment that could result from those changes were
15 not adequately considered.

16 Due to these factors, we are recommending granting
17 of the appeal and denying the project without
18 prejudice.

19 (Applause.)

20 DIRECTOR DE LEON: We are expecting the applicant
21 will reapply, which is their right to do so.

22 CHAIR SABATIER: Hold on. Director De Leon, would

1 you please restart your last sentence? There was an
2 outburst in the room.

3 DIRECTOR DE LEON: Okay. We are expecting the
4 applicant will reapply, which is their right to do so,
5 and staff will make revisions to the environmental
6 analysis to address the modified site plan as well as
7 the concerns raised by the public.

8 In conclusion, again, we are recommending that the
9 Board grant Appeal AB 21-01 and deny Major Use Permit
10 UP 20-22 without prejudice.

11 Thank you.

12 CHAIR SABATIER: Thank you very much.

13 Any further comment from staff before we move on?
14 I would like to get some comments from Ms. Grant just
15 to kind of explain the -- the denial without prejudice,
16 as to what that -- what that does.

17 MS. GRANT: The denial without prejudice under
18 this case allows under Zoning Ordinance 60.32 for your
19 Board to deny a Use Permit without prejudice. And that
20 would allow for the reapplication without waiting what
21 would otherwise be a standard 6 months.

22 The important thing to understand here is that

1 your Board would be effectively foreclosed from making
2 findings that you are required to make in a de novo
3 proceeding in order to grant or deny a Use Permit
4 because the CEQA analysis that you have before you is
5 defective, and you cannot rely upon it in order to make
6 the decisions that you have to make. So it is not just
7 a choice, it is effectively the only reasonable choice
8 you can make, which is to grant the appeal and deny the
9 Use Permit without prejudice.

10 That will allow the applicant to reapply, but it
11 will also allow the Department to take the necessary
12 corrective action as to the CEQA analysis, which must
13 be done before either the Planning Commission, which
14 will have to hear the matter again once all is
15 corrected, and/or your Board can move forward.

16 CHAIR SABATIER: Okay. Thank you very much for
17 those details.

18 Any further comments from staff before we open it
19 up for the appellant?

20 (No response.)

21 CHAIR SABATIER: Okay. Let's go ahead and open it
22 up for the appellants, if they wish to speak in light

CERTIFICATE OF TRANSCRIBER

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I, STEPHANIE A. JOHNS, hereby certify that I
am the transcriber who transcribed the audio recording
provided to Alderson Reporting Company to the best of
my ability and reduced to typewriting the indicated
portions of provided audio tapes in this matter.

Stephanie A. Johns