



Legislation Details (With Text)

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**On agenda:** 10/28/2021      **Final action:**

**Title:** 9:05 A.M. Public Hearing to consider MAJOR USE PERMIT (UP 19-36). Applicant: Brian D. Pensack and Garrett W. Burdick (Lake Vista Farms, LLC). Owner: Lake Vista Farms, LLC. Proposed Project: Applicant is applying for 15-acres of outdoor commercial cannabis canopy area within five fenced cultivation areas, up to 25.8 acres. Cultivation accessory items include portable toilets, trash enclosures, vegetative waste storage area, 2,500-gallon water storage tanks at each cultivation area, and Conex shipping containers and/or 8’x8’ storage sheds (or similar) for storage of pesticides, fertilizers, and hazardous materials. Onsite nursery within an existing barn. Renovated 10’ x 30’ shipping container to house security equipment and camera monitors, and 6’ tall security fencing, secured by locked gates, to enclose cultivation areas. Address: 2050 and 2122 Ogulin Canyon Road, Clearlake CA. (Michael Taylor)

**Sponsors:** Community Development

**Indexes:**

**Code sections:**

**Attachments:** 1. UP19-36\_Staff\_Report\_10222021, 2. Attachment\_1\_Proposed\_Site\_Plans, 3. Attachment\_2\_Property\_Management\_Plan, 4. Attachment\_3\_Proposed\_Conditions\_Of\_Approval, 5. Attachment\_4\_Hydrology\_Report, 6. Attachment\_5\_Drought\_Management\_Plan, 7. Attachment\_6\_InitialStudy, 8. Attachment\_7\_BiologicalAssessment, 9. Attachment\_8\_Agency\_Response

Date	Ver.	Action By	Action	Result
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**Memorandum**

**STAFF REPORT**

**TO:** Planning Commission

**FROM:** Community Development Department  
Mary Darby, Community Development Director  
Prepared by: Michael Taylor, Assistant Planner

**DATE:** October 28, 2021

**RE: Lake Vista Farms, LLC**

- Major Use Permit (UP 19-36)
- Initial Study (IS 19-56)

District 2 Supervisor - Bruno Sabatier

District 2 Planning Commissioner - Everardo Chavez Perez

- ATTACHMENTS:**
1. Proposed Site Plans
  2. Property Management Plan
  3. Proposed Conditions of Approval
  4. Hydrology Report
  5. Drought Management Plan
  6. Initial Study
  7. Biological Assessment
  8. Agency Comments

I. **EXECUTIVE SUMMARY**

The applicant is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation located at 2050 and 2122 Ogulin Canyon Road, Clearlake, California, further described as assessor parcel numbers (APNs): 010-053-01 and 02. The combined parcel area is approximately ±302.4 acres and is zoned “RL” for Rural Lands. Located approximately 1.0 mile east of the intersection of State Highway 53 and Ogulin Canyon Road in Clearlake, the project parcel is accessed via a private gravel driveway off of Ogulin Canyon Road. The applicant’s proposal includes the clustering of multiple cultivation sites over contiguous parcels as allowed by the County of Lake Zoning Ordinance, Article 27, Section 27.13.(at).1.ii.(j). The proposal includes the following (please see Proposed Site Plans attachment):

- **Fifteen (15): A - Type 3: “Outdoor” Licenses** to allow for a total canopy area of 15-acres located within five (5) individually fenced cultivation areas that total 25.8 acres, labeled in Figure 1 as sites: A, B, C, D, and E.
- The primary cultivation method will be tilled furrows in native soil amended with imported organic materials. Each cultivation area will include temporary hoop-houses. Hoop-house is defined in the County of Lake Zoning Ordinance, Article 68, as an unheated outdoor enclosure used for the purpose of growing and/or for protecting seedlings and plants from cold weather but not containing any mechanical or electrical systems or storage of any items. Typically a hoop-house is of semi-circular design made of, but not limited to, piping or other material covered with translucent material.
- Portable toilets, trash enclosures, vegetative waste storage areas, 2,500-gallon water storage tanks at each cultivation area, and Conex shipping containers and/or 8’x8’ storage sheds (or similar) for storage of pesticides, fertilizers, and hazardous materials.
- A 1.5 acre onsite nursery within an existing barn and shade structures at Site C The nursery would be ancillary to proposed cultivation activities where non-flowering/immature plants would be propagated.
- Renovated 10’ x 30’ shipping container (located at Site A) to house security equipment and camera monitors.
- 6’ tall security wire fencing, secured by locked gates, to enclose cultivation areas.

The applicant proposes the cultivation method to be in ground with amended soils and a drip irrigation system.

**Security**

Access to the cultivation area comes from the existing gravel driveway which will be equipped with a heavy gage chain link security fence and gate with a keypad entry surrounding the cultivation area. Additionally, the cultivation area will have a minimum 6’ fence perimeter that will also require a key pad lock access. The site will be equipped with security cameras that will monitor the cultivation areas, all areas within buildings, areas where vegetative matter is composted, storage rooms, and all entrances and exits. Security cameras will operate 24/7 at a minimum of 30 frames per second (please see the Property Management Plan and Proposed Site Plan attachments for additional information).

**Water Source and Usage**

Five (5) permitted groundwater wells will provide irrigation water to the cultivation area through a drip irrigation system. The yield, in gallons per minute (GPM), for each well is summarized in the Table below. An approximate maximum daily

potential water demand for an acre, is approximately 2.1 GPM for each acre of canopy, or 31.5 GPM for 15 acres. The combined yield of the five (5) wells is 720 GPM. Thus, the maximum potential demand is only 4.4% of the combined well yield.

Well #	Site	Depth (FT)	Yield <sup>1</sup> (GPM)
1	A	240	60
2	C	114	60
3	E	460	100
4	D	358	200
5	B	340	300

<sup>1</sup>Source: Well logs provided by applicant.

The total daily demand is approximately 3,000 gallons per day per acre of canopy. The cultivation period is approximately 120 to 180 days. Therefore, the annual water demand is approximately or 5.4 to 8.1 million gallons per year (16.6 to 24.9 acre-feet). The total annual yield from the five (5) wells is 1,161 acre-feet. The annual demand is only 1.4% to 2.1% of the annual yield. There are five (5) proposed 2,500-gallon water storage tanks, one at each cultivation site, located adjacent to the well to provide additional stored water for irrigation and fire suppression.

Irrigation Best Management Practices (BMPs) will be implemented to minimize water usage. Also, demand estimates are based on each plant requiring 6-gallons per day, which is a conservative (high) estimate. Therefore, water demand would be less than the maximum daily potential and annual yield (please refer to the Hydrology Report and Drought Management Plan attachments for additional information).

### **Fertilizer and Chemical Usage**

The proposed project would use organic pest control and fertilizers and will be stored in Conex shipping containers and 8'x8' storage sheds. Fertilizer products will consist of worm castings, guano, and pelletized/powdered products. Pesticides would include Neem oil and organic pesticides. This will significantly limit potential environmental hazards. Fertilizers on shelves will be properly labeled and open containers will be sealed when stored. Personal protective equipment such as safety glasses, gloves, dust mask or respirator, boots, pants, and long-sleeved shirts will be used by staff when handling fertilizers and chemicals. The shipping containers and sheds will be weather proof which will ensure all chemicals are stored properly and minimize spillage.

### **Site Preparation**

Sites A, C, and D are existing agricultural fields that were formerly used to cultivate hops and require minimal site preparation and no grading. One existing walnut tree will be removed from Site A (please refer to Attachment 5)

Site B was cleared in 2013 to prepare for agriculture activities but has since filled in with grasses and brush. To prepare for cannabis cultivation, this area will be cleared and tilled to plant up to 6.4 acres of cannabis canopy. Approximately 20 poor-quality walnut orchard trees will be removed.

Site E was cleared in 2003 and again in 2009 to prepare for agriculture activities. Since that time, chamise brush has taken over the site. To prepare for cannabis cultivation, the chamise will be cleared and the site will be graded to plant cannabis canopy. The applicant proposes minimal grading. If proposed grading exceeds 50 cubic yards or more than 1-acre of vegetation is cleared, the applicant will obtain a ministerial grading permit from Lake County (Chapter 30 of the Lake County Code).

No native oaks will be removed from any of the sites. Surrounding vegetation will be trimmed and maintained with no additional tree removal. Class II and Class III water courses exist on the project site. Cultivation and site preparation would occur outside of the required water course setbacks of 100 feet for Class II water course and 50 feet for Class III water course. Security cameras would be installed in accordance with County standards. Storm water management improvements including fiber rolls will be installed around the perimeter of the cultivation sites in accordance with the Property Management Plan.

**Operation**

The cultivation site business hours will be 7:00 a.m. to 5:00 p.m. Monday through Saturday. Security Staff and security equipment will operate 24 hours per day, 7 days a week. Deliveries and pick-ups are restricted to Monday through Saturday 9:00 am to 7:00 pm and Sundays 12:00 pm to 5:00 pm. Additionally, the cultivation operation will require up to 8 fulltime employees and 15 to 20 seasonal employees during planting and harvesting.

**Violations and Corrections**

A permit for Early Activation of Use (EA 20-22), of the proposed Major Use Permit (UP19-36), was approved by the Lake County Community Development Department (CDD) on February 28, 2020, with a cultivation date beginning on April 1, 2020. EA20-22 allowed for commercial cannabis outdoor cultivation within a cultivation area of up to 640,332 square feet (14.7 acres) and a maximum canopy area of 479,160 square feet (11 acres).

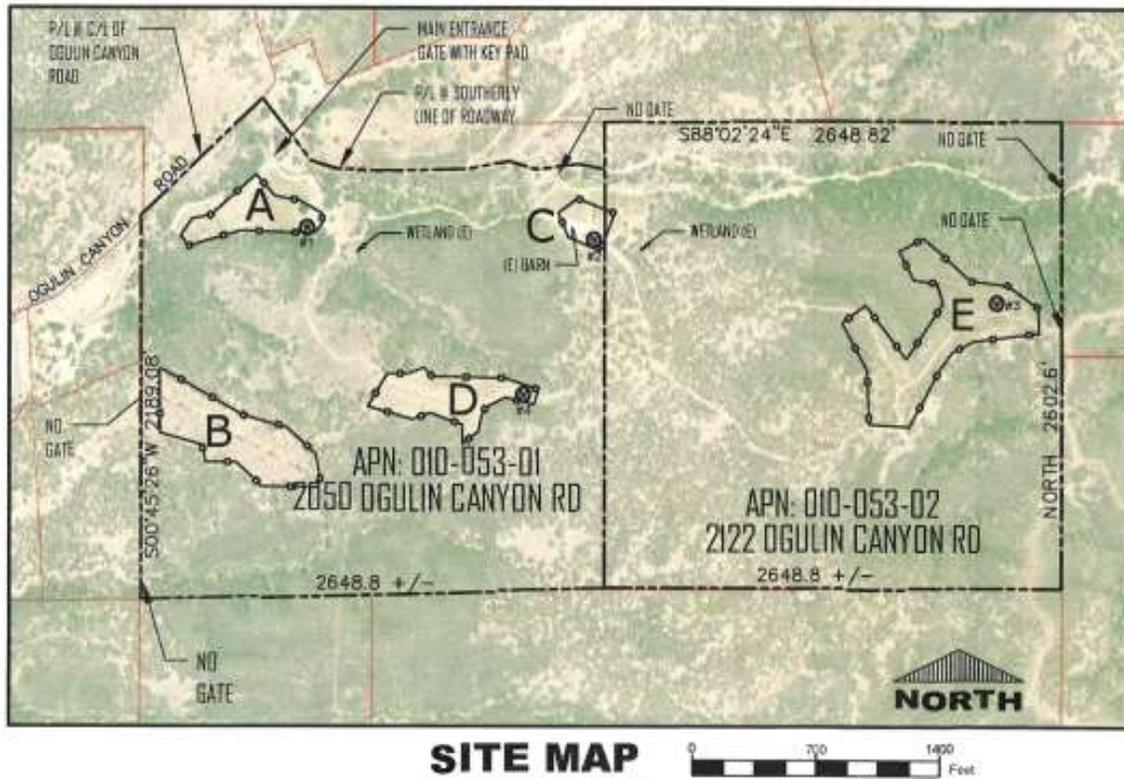
The applicant's lessee subsequently constructed hoop houses on Site A and graded approximately 56,640 square feet of the eastern portion of Site B to create flat areas for cultivation. The Lake County Community Development Department cited the applicant with a Notice of Violation and a Stop Work Order on May 14, 2020, and revoked EA 20-22.

To address the violation, the applicant coordinated with the Community Development Department staff to identify immediate corrective actions, which included removal of the cited hoop houses on Site A, stabilizing earthwork to graded areas of Site B, and installation of storm water management controls to prevent erosion and runoff from the graded areas on Site B. No further cannabis cultivation has occurred at the project site since the revocation of EA20-22.

On September 8, 2021 CDD staff conducted a site inspection to confirm the removal of hoop houses on Site A and that storm water management devices were in place for erosion and sediment control on Site B. The hoop houses had been removed and storm water management controls installed. At the time of the site inspection CDD staff required improvements to the storm water management control devices. A subsequent site inspection on September 28, 2021 confirmed that the improvements had been completed and a Grading Violation Clearance was issued (GR21-40).

**Proposed Site Plan and Cultivation Areas**

*Figure 1*



Staff is recommending approval of Major Use Permit, UP 19-36 and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 19-56) with the incorporated Mitigation Measures and Conditions of Approval.

**I. RECOMMENDATION**

**Staff recommends the Planning Commission take the following actions.**

**A. Adopt Mitigated Negative Declaration (IS 19-56) for Major Use Permit (UP 19-36) with the following findings:**

1. Potential environmental impacts related to aesthetics can be mitigated to less than significant levels with the implementation of mitigation measure AES-1.
2. Potential air quality impacts can be mitigated to less than significant levels with the implementation of mitigation measures AQ-1, AQ-2, AQ-3, AQ-4, AQ-5, AQ-6, and AQ-7 AQ-8.
3. Potential biological impacts can be mitigated to less than significant levels with the implementation of mitigation measures BIO-1, BIO-2, and BIO-3.
4. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the implementation of mitigation measures CUL-1, CUL-2, and CUL-3.
5. Potential geology and soils can be mitigated to less than significant levels with the implementation of mitigation measures GEO-1, GEO-2, GEO-3 and GEO-4.
6. Potential hazards hazardous materials can be mitigated to less than significant levels with the implementation of mitigation measures HAZ-1, HAZ-2, and HAZ-3.
7. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the

implementation of mitigation measures HYD-1, HYD-2, HYD-3, HYD-4, HYD-5, HYD-6, and HYD-7.

8. Potential noise impacts can be mitigated to less than significant levels with the implementation of mitigation measures NOI-1 and NOI-2.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Shoreline Communities Area Plan and the Lake County Zoning Ordinance.
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 (Attachment 5).

**B. Approve Major Use Permit UP 19-36 with the following findings:**

1. The establishment, maintenance, or operation of the permitted use will not be detrimental to the health, safety, morals, comfort and general welfare of the persons residing and working in the neighborhood, or detrimental to property and improvements, and 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, Shoreline Communities 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).

**Sample Motions:**

**Mitigated Negative Declaration**

I move that the Planning Commission find on the basis of **Initial Study No. 19-56**, that the **Major Use Permit No. UP 19-36** applied for by **Lake Vista Farms, LLC** on property located at **2050 and 2122 Ogulin Canyon Road, Clearlake**, further described as **APNs: 010-053-01 and 02**, will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **October 22, 2021**.

**Major Use Permit (UP 19-36)**

I move that the Planning Commission find that the **Major Use Permit (UP 19-36)** applied for by **Lake Vista Farms, LLC** on property located at **2050 and 2122 Ogulin Canyon Road, Clearlake**, further described as **APNs: 010-053-01 and 02**, meets 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 listed in the staff report dated **October 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.*