



Legislation Details (With Text)

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On agenda: 4/22/2021 **Final action:**

Title: 9:35 a.m. Public Hearing to take place on Thursday, April 22, 2021 at 9:35 a.m. in the Lake County Courthouse. Applicant/Owner: WeGrow LLC / Zarina Otchkova. Proposed Project: Fifteen (15) A-Type 3B mixed light commercial cannabis cultivation licenses; one (1) A-Type 1C 'specialty cottage' (greenhouse) license, and one A-Type 13 'Self Distribution' license. The applicant is proposing thirty (30) 90' x 125' greenhouses; one (1) 90' x 112' greenhouse; four (4) 90' x 125' nursery greenhouses; four (4) 50' x 100' drying buildings; one (1) 200 sq. ft. shed; four (4) 2,500 gallon water tanks; one (1) 6-foot tall galvanized woven wire fence covered with privacy mesh to screen the greenhouses from public view. Total proposed cultivation area is 400,405 sq. ft. (roughly 9 acres). Location: 16750 Herrington Road, Middletown, CA (cultivation site); 17610 Sandy Road, Middletown, and 19678 Stinson Road, Middletown consisting of 309+ acres. APNs: 013-060-40 (cultivation site); 013-014-03 and 013-014-11. Environmental Evaluation: Mitigated Negative Declaration IS 20-25.

Sponsors: Community Development

Indexes:

Code sections:

Attachments: 1. UP 20-22 Staff Rept FINAL, 2. Attachment 1 vicinity map, 3. Attachment 2 PMP, 4. Attachment 3 Agency Comments, 5. Attachment 4 conditions_1, 6. Attachment 5 site plans, 7. Attachment 6 IS, 8. Attachment 7 Bio Report, 9. Attachment 9a public comments, 10. Attachment 9b public comments, 11. Attachment 9c letters 1, 12. Attachment 9d public comments

Date	Ver.	Action By	Action	Result
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Memorandum

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 CNDDDB 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 CalCannabis 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*		
25 Inches is estimated	4,713,410*	14.4

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.

I. **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.*