

RESOLUTION No. PC 2022-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLEARLAKE APPROVING CONDITIONAL USE PERMITS, CUP 2022-03 (PROCESSING – NO CULTIVATION AND/OR NURSERY ACTIVITIES WILL OCCUR ONSITE); CUP 2022-04 (MANUFACTURING), CUP 2022-05 (DISTRIBUTION), CUP 2022-06 (RETAIL DISPENSARY; DELIVERY ONLY) TO ALLOW A COMMERCIAL CANNABIS OPERATIONS ON PROPERTY LOCATED IN THE “I” INDUSTRIAL, “CB” COMMERCIAL RETAIL (MICROBUSINESS), “CB” DELIVERY ONLY AND “CB” COMMERCIAL CANNABIS DISTRICT ZONING DISTRICTS AT 2160 OGULIN CANYON ROAD, CLEARLAKE, CALIFORNIA, APN: 010-044-21-000

WHEREAS, Ogulin Estates Holdings, LLC (Representative Garrett Burdick – Partner) applied for approval of Cannabis Use Permits, CUP 2022-03 (Processing – No Cultivation and/or Nursery Activities will occur onsite); CUP 2022-04 (Manufacturing), CUP 2022-05 (Distribution), CUP 2022-06 (Retail Dispensary – Delivery Only) located at 2160 Ogulin Canyon Road, Clearlake, CA 95422 further described as Assessor Parcel Number (APN) 010-044-21-000 in the I, Industrial, and CB, Commercial Cannabis Business Zoning Districts, and

WHEREAS, Conditional Use Permit Application CUP 2022-03 (Processing – No Cultivation and/or Nursery Activities will occur onsite); CUP 2022-04 (Manufacturing), CUP 2022-05 (Distribution), CUP 2022-06 (Retail Dispensary – Delivery Only) have been made in accordance with Section 18-43, Commercial Cannabis of the Municipal Code, which refers to Commercial Cannabis Uses; and;

WHEREAS, a companion application, Development Agreement DA 2022-02 has been filed for commercial cannabis operations by **Ogulin Estates Holdings, LLC (Representative Garrett Burdick – Partner)**, et al at the same location; and

WHEREAS, the Initial Study, IS 2022-02 identified potentially significant adverse effects in the areas of Aesthetics, Air Quality, Biological Resources, Cultural/Tribal Resources, Hazards & Hazardous Materials; Hydrology and Water/Water Quality and Noise/Vibration; and

WHEREAS, all potential impacts to the listed areas mentioned above have been reduced to less than significant and/or to a point where clearly no significant effects would occur have been identified through the Initial Study, IS 2022-02 (applicant has agreed to all mitigation measures in accordance with CEQA); and

WHEREAS, a Mitigation Monitoring and Reporting Program has been prepared in accordance with City of Clearlake Environmental Review Guidelines and related regulations and is designed to ensure compliance during Project implementation; and

WHEREAS, the City determined that the mitigation proposed in the Mitigation Monitoring and Reporting Program would reduce the impacts to a less than significant level and a Mitigated Negative Declaration (MND) should be prepared; and

WHEREAS, the City distributed a Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration (MND) for the Project on April 4, 2022, which started a 30-day public review period, ending May 13, 2022. The NOI was posted at the Lake County Clerk / Recorder’s office, distributed through the

StateClearinghouse, posted at City offices, and mailed to project stakeholders, property owners, and residents within a 600-foot radius of the Project; and,

WHEREAS, the City responded to all comments by preparing a final initial study and mitigated negative declaration, and the Planning Commission staff report, that adequately address these comments and found these documents adequate to complying with the CEQA, the City's Environmental Review Guidelines and related regulations; and,

WHEREAS adequate public noticing was made for the project in accordance with the Municipal Code; and

WHEREAS, the proposed project is consistent with the General Plan which designates the project site as Industrial; and

WHEREAS, in accordance with Section 18-28.040 of the Zoning Code the use as proposed will not be detrimental to the health, safety or welfare of persons working or living at the site or within the vicinity; and

WHEREAS, with the incorporated conditions of approval and mitigations measure (Exhibit A), the project complies with the Clearlake Zoning Code.

WHEREAS, the Planning Commission has considered this project on this date at a duly noticed public hearing, the staff report, public testimony, and found that the project is compatible with the surrounding area, it will not be detrimental to adjacent property owners or the public at large, and approval is in the public interest.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Clearlake as follows:

A. Recommend Adoption of the Mitigated Negative Declaration

1. The Planning Commission finds that the Mitigated Negative Declaration was presented to the Planning Commission, that the Planning Commission has reviewed the Mitigated Negative Declaration prepared for the 2160 Ogulin Canyon Road Commercial Cannabis Business Use Permit (the "Project"), all staff reports pertaining to the Project and all comments received thereon, and that the Mitigated Negative Declaration has been prepared and completed in compliance with the California Environmental Quality Act (CEQA).
2. The Planning Commission finds that on the basis of the Mitigated Negative Declaration, comments received, and the whole record that there is no substantial evidence that the Project will have a significant adverse impact individually or cumulatively on the environment.
3. The Planning Commission finds that the Mitigated Negative Declaration reflects the City's independent judgment and analysis.

B. Recommend Adoption of the Mitigation Monitoring and Reporting Program

1. The Planning Commission hereby recommends to the City Council adoption of the Mitigation Monitoring and Reporting Program, as attached to the Project staff report.
2. The Planning Commission hereby recommends to the City Council that the proposed mitigation measures described in the Mitigated Negative Declaration (CEQA – Initial Study, IS 2022-02) are feasible and therefore become binding upon the City and its construction contractors.

C. Approval of the Project

Having independently reviewed, analyzed, and recommended approval of the Mitigated Negative Declaration, and mitigation measures as set forth in the Mitigation Monitoring and Reporting Program, the Planning Commission hereby approves the 2160 Ogulin Canyon Road Commercial Cannabis Business Use Permit Project.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Clearlake that the project is hereby approved, subject to approved Conditions of Approval in Exhibit A.

PASSED AND ADOPTED on this 13th day of December 2022 by the following vote:

Voting	Chair Lisa Wilson	Vice Chair Robert Coker	Fawn Williams	Erin McCarrick	Terry Stewart
AYES					
NOES					
ABSTAIN					
ABSENT					

Chairman, Planning Commission

ATTEST: _____
City Clerk, Planning Commission

Exhibit A

CITY OF CLEARLAKE CONDITIONS OF APPROVAL

CUP 2022-03 (Processing)
CUP 2022-04 (Manufacturing)
CUP 2022-05 (Distribution)
CUP 2022-06 (Retail Delivery)
Cannabis Regulatory/Business Permit
Initial Study, IS 2022-02

Ogulin Estates Holdings, LLC
Representative Garrett Burdick – Partner

Pursuant to the approval of the **City of Clearlake’s – Planning Commission on December 13th, 2022**, it is hereby granted **Ogulin Estate Holdings, LLC (Representative Garrett Burdick – Partner)**, with the following conditions of approval **to allow the development and operation of a commercial cannabis operation located at 2160 Ogulin Canyon Road; Clearlake, CA 95422; further described as Assessor Parcel Number (APN) 010-044-21-000** is subject to the following terms and conditions of approval.

A. GENERAL CONDITIONS:

1. The use hereby permitted shall substantially conform to the **Project Description, Site and Architectural Plans** and any conditions of approval imposed by the above **Conditional Use Permits** and Review Authority as shown on the approved site plan for this action **dated December 13th, 2022**.
2. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
3. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Community Development Director, Planning Commission or on appeal, the City Council, may establish a schedule for certain conditions to be met after establishment of the use. Continuance of the use shall then be contingent on complying with the schedule for meeting deferred conditions.
4. This use permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.

5. The California Department of Fish & Wildlife filing fee shall be submitted as required by California Environmental Quality Act (CEQA) statute, Section 21089(b) and Fish and Game Code Section 711.4. **The fee should be paid within five (5) days of approval of the mitigated negative declaration at the Lake County Clerk's Office.** Once fees have been paid, the applicant shall submit a copy of all documentation to the City of Clearlake, verifying the fees have been paid. **Said permit shall not become valid, vested or operative until the fee has been paid, including the issuance of any permits.**
6. **Prior to operation**, the applicant(s) shall obtain and maintain all applicable permits from all Federal, State and local agencies having jurisdiction over this project, including but not limited to:
 - *CDFA - CAL Cannabis California Department of Food and Agriculture: (Cultivation licenses)*
 - *BCC - Bureau of Cannabis Control (Issues Distributor, Retailer, Testing Lab, Microbusiness, and Temporary Event licenses)*
 - *CDPH - MCSB California Department of Public Health's Manufactured Cannabis Safety Branch (Issues Manufacturing licenses)*
 - *California Department of Pesticide Regulation*
 - *California Department of Fish and Wildlife*
 - *California State Water Resources Control Board*
 - *California Central Valley or North Coast Regional Water Quality Control Board*
7. If the subject parcel is on a **septic system and/or well**, the applicant shall bring a minimum of three (3) site plans drawn to scale to the Lake County Environmental Health Department for review and approval **prior to submitting a Building Permit Application** with the City of Clearlake.
8. The use permit may be transferred to new owners subject to obtaining a new commercial cannabis regulatory permit, upon the new owner's written agreement to maintain all conditions of approval.
9. If there is a change in the project manager (permit holder representative), the permit holder shall submit notarized written documentation to the City of Clearlake for review and approval. Said documentation shall include the following:
 - *Name of Individual and Title*
 - *Contact Information (Phone, email and address)*
 - *What that individual is authorized to do.*
10. The developer/operator shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or proceeding (including damage, attorney fees, and court cost awards) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant, business operator, property owner, developer shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant, business operator, property owner, developer of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the developer/operator of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the developer/operator shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the

developer/operator to post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Developer/operator understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.

11. The developer/operator shall be responsible to pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under federal, state and local law and pursuant to the approved Development Agreement for the project.
12. This developer/operator shall cooperate with the City with respect to any reasonable request to audit the business' books and records for the purpose of verifying compliance with the Municipal Code and the Use Permits and related Development Agreement including but not limited to a verification of the amount of taxes required to be paid during any period for the project.
13. The applicant is responsible for ensuring that all project workers are informed of, understand, and agree to abide by the approved plans and project conditions.
14. **Prior to operation**, the applicant shall be enrolled in and comply with the **State of California Track and Trace** program and all requirements, including having all cannabis plants properly tagged.
15. **Prior to Operation**, all personnel listed as owners, managers or supervisors shall under undergo and pass a background check by the City of Clearlake Police Department.
 - Pursuant to California Business and Professions Code, Section 26057, if an individual who has failed a background check becomes involved in any aspect of the cultivation process, or if any employee is involved with the cultivation who has not undergone a background check, the use permit will be brought before the Planning Commission for consideration of revocation.
16. All parking areas, routes of travel, building access and bathrooms shall meet the American with Disabilities Act (ADA) requirements and must be reviewed and approved of a Certified Accessibility Access Specialist (CASP).
17. The applicant(s) shall adhere to the Lake County Division of Environmental Health requirements regarding on-site wastewater treatment and/or potable water requirements. The applicant shall contact the Lake County Division of Environmental Health for details.
18. The use permit approval shall not become effective, operative, vested or final until a Notice of Determination has been filed with the State Clearing House and the Lake County Clerk's Office.
19. The use permit shall not become operational until a Development Agreement has been adopted by the City Council in accordance and a commercial cannabis regulatory permit has been approved and issued by the City Manager, at the recommendation of the Planning Commission, in accordance with the Municipal Code.
20. The permit holder shall operate in full compliance with fire safety rules and regulations of the Lake County Fire District.

21. **Prior to operation and/or development**, the applicant shall secure any required permits from the City of Clearlake (Building Department, Planning and Public Works), Fire District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department and/or all applicable Federal, State and local agency permits.
22. In accordance with the Municipal Code and requirements made by the Lake County Fire Protection Lake County Air Quality Management District and Lake County Health Department, the following detailed plans shall be submitted for review and approval by the Planning, Building, and/or Police Departments and other related agencies as applicable prior to operation/occupancy:
- *Odor Control Plan (compliant with Section 18-43.060)*
 - *Security Plan (compliant with Section 18-43.060).*
 - *Exterior Lighting Plan (compliant with Sections 18-20.120 and 18-43.060 and with the City's Lighting Standards, including design review approval)*
 - *Waste/Recycling and Enclosure Plan (compliant with Section 18-20.070 and with the City's Trash and Recycling Enclosure Requirements and Design Standards, including design review approval).*
 - *Fencing Plan for security of all cannabis businesses activities (compliant with Section and the City's Fence Design Standard including design review approval).*
 - *Hazardous Materials Mitigation Plan if required by the Lake County Fire Protection District and/or the Lake County Environmental Health Department)*
 - *Air Quality Permit if required by Lake County Air Quality Management District.*
 - *If applicable, Civil Site plans identifying existing and proposed storm drains, drainage ditches, curbs, sidewalks, gutters, and striping, as regulated by the City's Design and Construction Standards, Off-Street Parking Regulations, and Parking Design Standards to be found in compliance with all other applicable local/federal/state laws, including ADA and CASP requirements.*
 - *Sign plan that demonstrates compliance with the City's sign regulations. All non-compliant signs shall be immediately removed. Installation of signs without prior City approval may be grounds for revocation of this use permit.*
23. The applicant shall adhere to all applicable requirements in the City of Clearlake Municipal Code.

B. AESTHETICS

1. All outdoor lighting shall be directed downwards and shielded onto the project site and not onto adjacent properties. All lighting shall comply and adhere to all federal, state and local agency requirements, including all requirements in darksky.org. (Refer to the City's Design Standards). *(Initial Study Mitigation Measure AES -1)*

C. AIR QUALITY

1. Construction activities shall be conducted with adequate dust suppression methods, including watering during grading and construction activities to limit the generation of fugitive dust or other methods approved by the Lake County Air Quality Management District. Prior to initiating soil removing activities for construction purposes, the applicant shall pre-wet affected areas with at least 0.5 gallons of water per square yard of ground area to control dust. *(Initial Study Mitigation Measure AIR-1)*

2. Driveways, access roads and parking areas shall be surfaced in a manner so as to minimize dust. The applicant shall obtain all necessary encroachment permits for any work within the right-of-way. All improvement shall adhere to all applicable federal, State and local agency requirements (*Initial Study Mitigation Measure AIR-2*).
3. Any disposal of vegetation removed as a result of lot clearing shall be lawfully disposed of, preferably by chipping and composting, or as authorized by the Lake County Air Quality Management District and the Lake County Fire Protection District. (*Initial Study Mitigation Measure AIR-3*)
4. During construction activities, the applicant shall remove daily accumulation of mud and dirt from any roads adjacent to the site. (*Initial Study Mitigation Measure AIR-4*)
5. Grading permits shall be secured for any applicable activity from the Community Development Department, Building Division. Applicable activities shall adhere to all grading permit conditions, including Best Management Practices. All areas disturbed by grading shall be either surfaced in manner to minimize dust, landscaped or hydro seeded. All BMPs shall be routinely inspected and maintained for life of the project. (*Initial Study Mitigation Measure AIR-5*)
6. All refuse generated by the facility shall be stored in approved disposal/storage containers, and appropriately covered. Removal of waste shall be on a weekly basis so as to avoid excess waste. All trash receptacles/containers shall remain covered at all times to prevent fugitive odors and rodent infestation. An odor control plan shall be submitted for review and approval by the City in accordance with the Zoning Code. Odor control shall be maintained to an acceptable level at all times. (*Initial Study Mitigation Measure AIR-6*)
7. An odor control plan shall be submitted for review and approval by the City that complies with the City's Zoning Code. Odor control shall be maintained at all times so that odor from cannabis operations on the site will not be detected outside structures. This plan shall include enhanced carbon filtering to ensure compliance with the Code. (*Initial Study Mitigation Measure AIR-7*).
8. Any demolition or renovation is subject to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for all major renovations and all demolition. An Asbestos Notification Form with the Asbestos inspection report must be submitted to the district at least 14 days prior to beginning any demolition work. The applicant must contact the district for more details and proper approvals. Regardless of asbestos content or reporting requirements all demolition and renovation activities should use adequate water/ amended water to prevent dust generation and nuisance conditions. (*Initial Study Mitigation Measure AIR-8*).
9. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls. (*Initial Study Mitigation Measure AIR-9*).

10. If construction or site activities are conducted within Serpentine soils, a Serpentine Control Plan may be required. Any parcel with Serpentine soils must obtain proper approvals from LCAQMD prior to beginning any construction activities. Contact LCAQMD for more details. (*Initial Study Mitigation Measure AIR-10*).
11. All engines must notify LCAQMD prior to beginning construction activities and prior to engine Use. Mobile diesel equipment used for construction and/or maintenance must be in compliance with State registration requirements. All equipment units must meet Federal, State and local requirements. All equipment units must meet RICE NESHAP/ NSPS requirements including proper maintenance to minimize airborne emissions and proper record-keeping of all activities, all units must meet the State Air Toxic Control Measures for CI engines and must meet local regulations. (*Initial Study Mitigation Measure AIR-11*).
12. Site development, vegetation disposal, and site operation shall not create nuisance odors or dust. During the site preparation phase, the District recommends that any removed vegetation be chipped and spread for ground cover and erosion control. Burning of debris/construction material is not allowed on commercial property, materials generated from the commercial operation, and waste material from construction debris, must not be burned as a means of disposal. (*Initial Study Mitigation Measure AIR-12*).
13. Significant dust may be generated from increase vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards should be included as a requirement in the use permit to minimize dust impacts to the public, visitors, and road traffic. At a minimum, the district recommends chip seal as a temporary measure for primary access roads and parking. Paving with asphaltic concrete is preferred and should be required for long term occupancy. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to break down and create excessive dust. Grading and re-graveling roads should utilizing water trucks if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits (*Initial Study Mitigation Measure AIR-13*).
14. All mobile diesel equipment used for construction and/or maintenance shall be compliant with State registration requirements. Portable and stationary diesel-powered equipment must meet the requirements of the State Air Toxic Control Measures for CI engines as well as the Lake County Noise Emission Standards.
15. 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.

D. BIOLOGICAL RESOURCES:

1. Prior to development, including any site disturbance, a protocol-level botanical survey shall be completed within the location defined as being feasible for project activities to occur within this Report. The survey shall follow procedures recommended by CDFW and in accordance with the guidelines established by CNPS, from the document "*Protocols for Surveying and Evaluating Impacts to Specie Status Native Plant Populations and Sensitive Natural Communities*". (*Initial Study Mitigation Measure BIO-1*)
2. If project construction occurs between September 1 and January 31, nesting bird survey shall be conducted by a qualified biologist. Additional mitigation measures recommended in the survey report shall be implemented prior to or during project development to avoid disturbance to migratory nesting birds. (*Initial Study Mitigation Measure BIO-2*)
3. Prior to any ground disturbance, the applicant shall conduct a site inspection for Burrowing Owls Presence within the project area. If Burrow Owls are observed, a pre-construction surveys shall be completed by a qualified biologist fourteen (14) days prior to site development. The survey shall be conducted to determine if the project area has active dens and determine if avoidance of these active dens can occur. If active dens are determined to be present, owl relocation shall occur to other onsite suitable habitat prior to development. (*Initial Study Mitigation Measure BIO-3*)
4. If additional activities are proposed that may result in take of a listed species, agency personnel from CDFW and SFWS shall further analyze the potential impacts and provide technical assistance for any listed species. If required, guidelines for these reconnaissance surveys should be followed in accordance to the CDFW Survey and Monitoring Protocols and Guidelines, which can be located here: <https://www.wildlife.ca.gov/conservation/survey-protocols>. (*Initial Study Mitigation Measure BIO-4*)
5. Prior to securing development permits from the City and prior to conducting any site disturbance, clearances shall be obtained as required for work in or near Burns Valley Creek, from the California Department of Fish and Wildlife; such as a Streambed Alteration Permit. Verification of this clearance shall be submitted to the City. (*Initial Study Mitigation Measure BIO-5*)
6. The use of deer fencing shall be restricted to the perimeters of the proposed gardens. No deer fencing or other obstacles to wildlife passage shall be installed that will restrict wildlife movement. (*Initial Study Mitigation Measure BIO-6*)

E. CULTURAL/TRIBAL RESOURCES

1. **During construction activities**, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the applicant shall retain a qualified cultural resources consultant from the City's approved list of consultants to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits. Significant historic cultural materials may include finds from the late 19th and early 20th centuries including structural remains, trash pits, isolated artifacts, etc. (*Initial Study Mitigation Measure CUL-1*)

2. The cultural resource consultant's investigation shall proceed into formal evaluation to determine their eligibility for the California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recordation, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California Register, additional work shall not be required. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it will be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined to be infeasible, pursuant to CEQA Guidelines Section 15126.4(b)(3)(C), a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Regional Information Center. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If an artifact must be removed during Project excavation or testing, curation may be an appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project. *(Initial Study Mitigation Measure CUL-2)*
3. If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (California Health and Safety Code Section 7050.5). Further, pursuant to California Public Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours. The Native American Heritage Commission must then identify the “most likely descendant(s)”, which parties agree will likely be the Koi Nation based upon the Tribe's ancestral ties to the area and previous designation as MLD on projects in the geographic vicinity. The landowner shall engage in consultations with the most likely descendant (MLD). The MLD will make recommendations concerning the treatment of the remains within 48 hours as provided in Public Resources Code 5097.98. *(Initial Study Mitigation Measure CUL-3)*

F. GEOLOGY & SOILS

1. **Prior to any ground disturbance and/or operation**, the applicant shall submit Erosion Control and Sediment Plans to the Community Development Department for review and approval. The project shall incorporate Best Management Practices (BMPs) consistent with the City Code and the State Storm Water Drainage Regulations to the maximum extent practicable to prevent and/or reduce discharge of all construction or post-construction pollutants into the local storm drainage system. *Typical BMPs include the placement of straw, mulch, seeding, straw wattles, silt fencing and the planting of native vegetation on all disturbed areas. No silt, sediment or other materials exceeding natural background levels shall be allowed to flow from the project area. The natural background level is the level of erosion that currently occurs from the area in a natural, undisturbed state. Vegetative cover and water bars shall be used as permanent erosion control after project installation. (Initial Study Mitigation Measure GEO-1)*

2. Prior to any ground disturbance, (if applicable), the applicant shall submit and obtain a Grading Permit from the Community Development in accordance with the City of Clearlake Municipal code(s). *(Initial Study Mitigation Measure GEO-2)*
3. The applicant shall monitor the site during the rainy season including post-installation, application of BMPs, erosion control maintenance, and other improvements as needed. Said measures shall be maintained for life of the project and replace/repared when necessary. *(Initial Study Mitigation Measure GEO-3)*

G. HAZARDS & HAZARDOUS MATERIALS

1. All hazardous waste shall not be disposed of on-site without review or permits from Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material. *(Initial Study Mitigation Measure HAZ-1)*
2. The storage of potentially hazardous materials shall be located at least 100 feet from any existing water well. These materials shall not be allowed to leak into the ground or contaminate surface waters. Collected hazardous or toxic materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such materials. *(Initial Study Mitigation Measure HAZ-2)*
3. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways. *(Initial Study Mitigation Measure HAZ-3)*
4. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site. *(Initial Study Mitigation Measure HAZ-4)*
5. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations. *(Initial Study Mitigation Measure HAZ-5)*
6. Hazardous Waste must be handled according to all Hazardous Waste Control Laws. Any generation of a hazardous waste must be reported to Lake County Environmental Health within thirty days.
7. All employees and/or staff members shall be properly trained in and utilize Personnel Protective Equipment in accordance with all federal, state and local regulations regarding handling any biological and/or chemical agents.

8. Hazardous waste must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of on-site without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.

J. HYDROLOGY AND WATER QUALITY:

1. The project design shall incorporate appropriate BMPs consistent with County and State storm water drainage regulations to prevent or reduce discharge of all construction or post-construction pollutants and hazardous materials offsite or all surface water.
2. The production well shall have a meter to measure the amount of water pumped. The production wells shall have continuous water level monitors. The methodology of the monitoring program shall be described. A monitoring well of equal depth within the cone of influence of the production well may be substituted for the water level monitoring of the production well. The monitoring wells shall be constructed, and monitoring begun at least three months prior to the use of the supply well. An applicant shall maintain a record of all data collected and shall provide a report of the data collected to the County annually.

K. NOISE

1. All construction activities including engine warm-up shall be limited to weekdays and Saturday, between the hours of 7:00am and 7:00pm to minimize noise impacts on nearby residents. (*Initial Study Mitigation Measure NOI-1*)
2. Permanent potential noise sources such as, generators used for power shall be designed and located to minimize noise impacts to surrounding properties. (*Initial Study Mitigation Measure NOI-2*)
3. During construction noise levels shall not exceed 65 decibels within fifty (50) feet of any dwellings or transient accommodations between the hours of 7:00 AM and 6:00 PM. This threshold can be increased by the Building Inspector or City Engineer have approved an exception in accordance with Section 5-4.4(b)(1) of the City Code. An exception of up to 80 decibels may be approved within one hundred (100) feet from the source during daylight hours. Project is expected to result in less than significant impacts with regards to noise and vibration. (*Initial Study Mitigation Measure NOI-3*)

L. TRANSPORTATION & TRAFFIC

1. Improvements shall be made to the project access off of Ogulin Canyon Road as required by the City of Clearlake – Public Works Department. Applicant shall submit plans prepared by a certified Engineer to the City of Clearlake for review and approval. All necessary permits shall be secured from the City of Clearlake prior to development.
2. The applicant shall comply with the State of California Weights and Measures requirements found in the California Food and Agriculture Code, California Code of Regulations, and the California Business and Professions Code.

3. All access roads, yards and parking areas shall be properly maintained for life of the project to prevent a source of contamination where cannabis products are handled or transported.

M. TIMING & MITIGATION MONITORING

1. **Prior to this use permit becoming, valid, effective or operative**, until the Development Agreement has been reviewed and approved by the City Council.
2. If the approved use permit is not established within one (1) year of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.
3. If a structure(s) or associated site development authorized by use permit is not issued building permits (if building permits are required) within three (3) years of the date of approval, the use permit shall expire.
4. **Upon written request received prior to expiration**, the Community Development Director may grant renewals of use permit approval for successive periods of not more than one (1) year each.
 - *Approvals of such renewals shall be in writing and for a specific period.*
 - *Renewals may be approved with new or modified conditions upon a finding that the circumstances under which the use permit was originally approved have substantially changed.*
 - *Renewal of a use permit shall not require public notice or hearing unless the renewal is subject to new or modified conditions. In order to approve a renewal, the Community Development Director must make the findings required for initial approval.*
5. The Planning Commission may revoke or modify the use permit in the future if the Commission finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more the conditions upon which a permit was granted are in noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action taken by the Planning Commission.
6. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
 - a. *Noncompliance with any of the foregoing conditions of approval; or*
 - b. *The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code. 15.*
7. All conditions are necessary to protect the general health, safety and welfare of the public. If any condition of this entitlement is held to be invalid by a court, the whole entitlement shall be invalid. The Planning Commission specifically declares that it would not have approved this entitlement unless all of the conditions herein are held as valid.

To be Complete by Authorized Representative/Applicant

Name: _____

Signature: _____

Date: _____

To Be Completed by Staff Only

Name: _____

Signature: _____

Title: _____

Date: _____