



**CITY OF CLEARLAKE**  
**Planning Commission**

STAFF REPORT	
<b>SUBJECT:</b> Conditional Use Permits CUP 2021-28 through CUP 2021-32 Mitigated Negative Declaration CEQA- IS 2021-05 Draft Development Agreement DA 2022-01	<b>MEETING DATE (Regular):</b> May 24, 2022  (Continued from May 10, 2022 PC Hearing)
<b>SUBMITTED BY:</b> Mark Roberts and Michael Taylor, Planning Department	
<b>PURPOSE OF REPORT:</b> <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> <b>Action Item</b>	
<b>LOCATION:</b> 2250 Ogulin Canyon Road Clearlake, CA 95422.	<b>APPLICANT/OWNER:</b> Clearlake Harvest Company, LLC (Applicant) Anand Rajendraiah/RSG Clearlake Vista, LLC (Owner)
<b>PARCEL NUMBER(S):</b> 010-044-19	
<b>ZONING:</b> Industrial ("I"); Cannabis Business ("CB")	<b>GENERAL PLAN:</b> Industrial

**WHAT IS BEING ASKED OF THE PLANNING COMMISSION:**

The Planning Commission is being asked to consider *Conditional Use Permit Applications CUP 2021-28, through CUP 2021-32*, corresponding environmental assessment/Mitigated Negative Declaration (IS 2021-05) and Development Agreement, DA 2022-01 to establish and operate a Commercial Cannabis facility located at 2250 Ogulin Canyon Drive, Clearlake, CA 95422 further described as Assessor parcel Number 010-044-19.

**MAY 10, 2022, PC HEARING SUMMARY**

During the Planning Commission Meeting, there was concerns regarding the cumulative impacts on the surrounding groundwater/usage. Upon hearing the concerns, the Planning Commission continued the hearing to May 24, 2022. Clearlake Harvest has been coordinating with their water specialist to help address these concerns and provide additional documentation during and/or prior to the hearing.

**PROJECT SUMMARY**

Specifically, the following use permits are being requested in accordance with Section 18-43 of the Clearlake Zoning Ordinance. [For a full detailed scope of work, please refer to Attachments 2 - *Application Packet and Project Business/Operational Plans* and Attachment 3 (Proposed Site and Grading Plans)].

- **CUP 2021-28 – Cannabis Cultivation/Processing:** germinating, cloning, seed production, planting, growing and harvesting cannabis plants. Also may include on-site drying, curing, grading, or trimming of cannabis plants, as well as the processing of raw cannabis plants for the purpose of manufacturing, distribution and retail delivery.
- **CUP 2021-29 – Manufacturing:** compounding, blending, extracting, infusing or otherwise making or preparing and packaging the cannabis product.
- **CUP 2021-30 – Distribution:** procuring cannabis plants from permitted cannabis cultivation sites

or cannabis manufacturers for sale to permitted cannabis dispensaries and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging, and other processes prior to permitted medical cannabis dispensaries.

- **CUP 2021-31 – Retail Dispensary; Delivery Only:** The commercial transfer of cannabis or cannabis products from a licensed or permitted dispensary to a customer. “Delivery” also includes the use by a licensed or permitted dispensary of any technology platform owned or accessed via software license that enables the consumer to arrange for or facilitate the commercial transfer of cannabis by a licensed dispensary or retailer of cannabis or cannabis products. Note: the facility will not be open to the public.
- **CUP 2021-32 – Nursery:** For the self-propagation of immature cannabis plants.
- **Development Agreement, DA 2022-01:** The project also includes Planning Commission review and recommendation on a Development Agreement (Attachment 3) as required by the Zoning Code.
- **Mitigated Negative Declaration Initial Study IS 2021-05:** Pursuant to California Environmental Quality Act (CEQA) guidelines staff prepared an Initial Study to assess the potential adverse environmental effects of the proposed project, reduced to a level of non-significance subject to a number mitigation measures.

### **Clearlake Harvest Company**

#### **Phased Development of 2250 Ogulin Canyon Rd**

##### **Phase 1**

- Cultivation:
  - 10,000 square foot cultivation in a 10,200 square foot greenhouse(s)
- Nursery
  - Will use existing building for self propagation
- Build out the 60x40 building for either or both:
  - Processing
  - Retail – Delivery Only
- Property Development
  - Grade the area needed to build the greenhouses and 60x40 building
  - Create a gravel roadway and parking spots
- Fire Safety
  - Install fire tank and water storage tank
  - Build out hammerhead for fire department
- Employees
  - Three estimated

##### **Phase 2**

The items pushed off to Phase 2 are the 5,000 square foot and 2,500 square foot cultivation. This is due to drought, economic conditions, and determining the appropriate space on the property.

The initial plans showed a 2,500 square foot cultivation to be on the side part of the property. That is still the plan, but will need to revisit with a new engineer to draw up plans. It was also supposed to be for someone who qualified for the Social Equity Program, but the City did not approve it, so it may be postponed until something can be figured out.

There also may not be room to do the 5,000 square foot cultivation, so that may be scrapped.

We can apply for a modified use permit or development agreement as we go.

- Cultivation
  - 5,000 square foot cultivation in a 6,500 square foot greenhouse
  - 2,500 square foot cultivation in a 3,000 square foot greenhouse.
- Employees
  - Six estimated.

### Examples of the Proposed Greenhouses



### Hydrology Analysis and Usage (For full report - Refer to Attachment 4)

The applicant contracted Chico Environmental to prepare a Hydrology Report dated August 4, 2021, with Findings to determine groundwater availability to the project parcel. The project parcel is approximately 12.95-acre site is situated in Burns Valley Groundwater Basin, a rural portion of southeastern Lake County, California. The report indicates there is one (1) well approximately 200 feet below ground surface (bgs), with 4 ½ inch casing. The well was installed on December 12, 2005. A well test and system equipment evaluation were conducted on March 31, 2021. The purpose of the report is to determine if the aquifer has sufficient quantity to support outdoor cannabis cultivation for 17,500 square-feet of the 12.95-acre property.

### Coast Range Geomorphic Province of California

The subject property is located in the Coast Range Geomorphic Province of California. The Coast Range is comprised largely of the Franciscan Complex which represents an accretionary complex formed by long-term subduction of an oceanic plate under the western margin of the North American craton. The Franciscan complex is composed of three distinguishable belts: the eastern belt, the central belt, and the coastal belt. Formation of the accretionary complex began during the late Jurassic in the eastern belt and has continued into the Miocene along the western coastal belt. The complex trends NNW and is bounded by the San Andreas Fault to the east and by the coastal range fault to the west. The coast range fault separates the Franciscan complex with the partly coeval Great Valley sequence.

The average annual precipitation ranges from 25 inches to 35 inches per year and the average annual air temperature ranges between 55 to 59 °F in the project area. Surface water is limited to ephemeral drainages within the project area.

### Groundwater Hydrogeology

Groundwater typically fluctuates between 2-10 feet below ground surface (bgs) from spring to fall. The DWR estimates the usable storage capacity to be 4,000 acre-feet (DWR 1960). Agricultural demand is typically around 14 acre-feet per year. As of 2006, there were 86 domestic wells and 13 irrigation wells in the Burn Valley Basin, with half of the domestic wells measuring less than 75 feet bgs and half of the irrigation wells measuring less than 250 feet bgs.

### Groundwater Wells

As of March 2006, there are 86 domestic wells and 13 irrigation wells in the Burns Valley Basin. Approximately half of these domestic wells are shallower than 75 feet deep, and approximately half of the irrigation wells are shallower than 250 feet deep.

On December 11, 2005 a domestic well was completed at the subject site. The 200 feet bgs well was drilled with first water encountered at 120 feet bgs and a completed static water level of 125 feet bgs. The estimated yield for the well was 30 gallons per minute.

A well performance report from March 2021 shows the static water level of the well is 113.5 feet bgs. After pumping at a rate of 23 gallons per minute for 1.5 hours, the pumping level decreased from 133.5 feet bgs to 143.2 feet bgs. The well returned to 121 feet bgs after 5 minutes of recovery.

### Report Findings:

According to the report, the 2019 SGMA report rates Burns Valley as a Very Low Priority groundwater basin. Current groundwater data suggests that the Burns Valley Groundwater Basin fully recharges annually.

Section 28.1 of the Lake County, California – Code of Ordinances - Regulation of the Extraction and Exportation of Groundwater from Lake County. Section 1.11 States: “The County seeks to foster prudent water management practices to avoid significant adverse overdraft-related environmental, social, and economic impacts. It is therefore essential for the protection of the County's important groundwater resources that the County requires a Permit to extract or otherwise capture groundwater for any use outside the County. This chapter requires a Permit for the export and use of groundwater outside the County and is not intended to regulate groundwater in any other way.”

Groundwater pumped for irrigation on 2250 Ogulin Canyon will not be used for export out of the County.

The expected annual water use for the cannabis cultivation project would be approximately 511,400 gallons per square foot (gsf) per year with usage including cultivation (455,000 gsf per year), processing (24,000 gsf), and a nursery (32,400 gsf per year).

The well yields 30 gallons per minute (15,768,000 gallons per year) and is monitored by a flow through meter.

According to the report, there will be no additional impacts on the Burns Valley Basin from the project, nor impacts of water use to the surrounding areas and there is a sufficient quantity of groundwater to support the proposed operation.

## **GENERAL PLAN CONSISTENCY, AND ZONING AND DESIGN STANDARDS COMPLIANCE:**

### **General Plan Consistency:**

- The General Plan identifies the project site for industrial land uses. The project involves commercial agriculture, processing and distribution would be consistent with the industrial land use. There are also a number of general plan policies which promote economic and job creation which this project proposes. For example, the Economic Development Element supports the development of diverse businesses in the community. Policy ED 1.1.2 states “Support a healthy mix of local businesses and mid-sized companies. “Policy ED 3.1.1 states “Prioritize economic activities that utilize Clearlake's natural geographic location in the region”. Program ED2.1.1.2 states: “Incorporate light industry and compatible uses along State Route 53”.

### **Zoning Ordinance Regulations:**

- The proposed operations would involve Cannabis Cultivation/Processing, Manufacturing, Distribution Retail Dispensary; *Delivery Only* to permitted dispensaries of cannabis. The project is anticipated to have up to up to twenty (20) employees and up to three (3) managers. The business would operate every day 8 a.m. to 5 p.m.
- The project is located in the Commercial Cannabis Business District and the proposed operations and development is subject to a commercial cannabis business use permit (issued by the Planning Commission) in accordance with Section 18-43.060 of the Zoning Code. Section 18-43.020 (C) of the Code also requires concurrent processing and approval of a Cannabis Regulatory Permit (issued by the City Manager) and a Development Agreement (approved by the City Council).
- In addition to the use permits required for the operation, the project also requires a *Commercial Cannabis Regulatory Permit* per section 5-25 of the Police Code issued by the City Manager. These regulations may seem to be redundant to the use permits because the criteria for review are similar to the use permit considerations of the Planning Commission but provides consistency with State Cannabis regulations and provides the City the ability to more immediately enforce the regulations and cease operations if there is an immediate threat to the public health and safety.

### **Off-Street Parking:**

Per Section 18-20.090 of the City’s Municipal Code, the applicant shall adhere to the following parking requirements.

- Distributor/Manufacturing: 1 space per 800 SQFT of area and 1 space per 20,000 SQFT for loading areas.
  - *Response: The applicant anticipates on adding Distribution/Manufacturing during phase Two of the development. The applicant is currently not proposing any square footage to be used for Distribution/Manufacturing.*
- Cultivation: 1 space per 1,000 SQFT of area and 1 space per 20,000 SQFT for loading areas.
  - *Response: The applicant is proposing a 10,200 SQFT Greenhouse. Therefore, the applicant should provide a minimum of ten (10) parking spaces.*
- Nursery: 1 space per 1,000 SQFT of area and 1 space per 20,000 SQFT for loading areas.
  - *Response: The applicant will be utilizing an existing structure that is approximately 1, 600 SQFT in size. Therefore, the applicant should provide a minimum of two (2) parking spaces.*
- Office Space: 1 space per 300 SQFT of area.

- *Response: The applicant will be utilizing an existing structure that is approximately 1,440 SQFT in size. Therefore, the applicant should provide a minimum of five (5) parking spaces.*

**Parking Analysis/Response:**

Based on the anticipated square footage for Phase 1, the total number of parking spaces the applicant should provide is 17 parking spaces.

However, since the operation is not open to the public and is anticipated on having no more than six (6) employees, Staff believes the eleven (11) proposed parking spaces will adequately support the proposed operation. As the operation increases (*i.e., additional square footage, employee, etc.*), the applicant shall provide additional parking spaces in accordance with the City Municipal Code.

**Exterior Lighting:**

- The applicant has not provided a lighting plan at this time. Any new lighting will be subject to compliance with **Section 18-20.120** of the Zoning Code regarding night sky preservation as well as the City's *Lighting Standards*. Use permit conditions of approval requires submittal and approval by staff of a detailed lighting plan that complies with these standards.

**Trash/Recycling Containment:**

- In accordance with **Section 18-20.070**, a 15' x 15' trash enclosure plan for storage of recycling and trash will provided adjacent to building no. 2. A condition of approval requires that such installation shall be completed, consistent with the City's *Trash/Recycling Enclosure Design Standards* prior to occupancy.

**Signage:**

- The applicant has not indicated any new signage for the facility. As a condition of approval, the applicant will need to submit a sign program (if proposed in the future) for staff review for compliance with the Zoning Code prior to installation of any signs.

**Landscaping:**

- There site plan indicates little to no landscaping from the street view of the property. Application materials did not include any upgrades to landscaping, which would have to be compliant with the City's *Landscaping and Irrigation Standards*. Use permit conditions of approval requires submittal and approval by staff of a detailed landscaping and irrigation plan that complies with these standards (specifically for the parking area).

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**ENVIRONMENTAL REVIEW/CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

**Initial Study, IS 2021-05 and Mitigated Negative Declaration**

- Pursuant to California Environmental Quality Act (CEQA) Guidelines staff prepared an Initial Study to assess the potential adverse environmental effects of the proposed Project. The study concludes that any potentially significant adverse environmental impacts from the project would be reduced to a level of non-significance level with the incorporated Mitigation Measure/Conditions of Approval. (Refer to Attachment 5 for CEQA Analysis).

**Notice of Intent (NOI):**

- A Notice of Intent (NOI) was circulated in accordance with the California Environmental Quality Act (CEQA) to the following:
  - The NOI was circulated to various Federal, State and local agencies informing them of the proposed Mitigated Negative Declaration. The NOI was circulated from October 22, 2021,

to November 26, 2021, and an amended NOI was circulated on 12/23/2021 to 1/24/2022. The amended NOI was for re-assignment of project numbers only, there was no change to the proposed project.

- The following agencies have commented on the project.
  - California Historical Resource Information System dated June 11, 2021
  - California Department of Transportation (Caltrans) dated October 26, 2021
  - Lake County Environmental Health Services Department dated May 28, 2021
  - Central Valley Water Quality Control Board dated
  - CA State Department of Cannabis Control (DCC) January 19<sup>th</sup>, 2022, and November 9, 2021.

*City's Response to Agency Comments:*

*The city responded to the DCC's comments on January 25, 2022, addressing their concerns and/or making clarifying adjustments/statements regarding the initial study. The response to DCC was solely for clarification purposed and did not warrant amending the CEQA document for recirculation. All remaining agencies comments have been incorporated as Mitigation Measures and/or Conditions of Approval.*

- The NOI was mailed to the surrounding property owners within 600 feet of the subject parcel informing property owners of the proposed Mitigated Negative Declaration. The NOI was circulated from October 22, 2021, to November 26, 2021, and amended NOI was circulated on 12/23/2021 to 1/24/2022. Please note: The amended NOI was for re-assignment of project number only, there was no change to the proposed operation. ***The city did not receive any public comment on the project and/or the environmental document.***
- In accordance with CEQA, the Planning Commission will need to concur with the adequacy of the Final Initial Study and proposed mitigated negative declaration before taking action to approve the project and moving this project forward to the City Council for final determination (on the Development Agreement). Because the City Council will be taking the final action on the project, regarding the Development Agreement, in accordance with the City's Environmental Guidelines, the Council will need to make the final action of issuing the mitigated negative declaration. The Council's determination on the adequacy of the mitigated negative declaration will be based on staff/Commission recommendation.

**DEVELOPMENT AGREEMENT:**

- A Development Agreement allows a project sponsor to secure vested rights, and it allows the City to secure certain benefits. Development Agreements are enabled by California Government Code Sections 6584-65869.5. Per state law, the City Council must approve a Development Agreement by Ordinance upon the Planning Commission making a recommendation of support for the requested Agreement. Once approved, development agreements are recorded with the County Clerk. As required per Section 18-43.020(c) for cannabis operations and in compliance with Section 18-30 of the zoning ordinance, Attachment # 7 of this report consists of the draft Development Agreement DA 2022-01.

Section 18-30.070 of the zoning ordinance outlines the following procedures for development agreements:

- a) *The Planning Commission shall consider the proposed Development Agreement and shall make its recommendation to the council. The recommendation shall include whether or not the proposed Development Agreement meets the following findings:*
- b) *The proposed Development Agreement is consistent with the Clearlake General Plan and any applicable Specific Plan;*

- c) *The proposed Development Agreement complies with zoning, subdivision and other applicable ordinances and regulations;*
- d) *The proposed Development Agreement promotes the general welfare, allows more comprehensive land use planning and provides substantial public benefits or necessary public improvements, making it in the City's interest to enter into the Development Agreement with the applicant; and*
  - i. *The proposed project and Development Agreement:*
  - ii. *Will not adversely affect the health, safety or welfare of persons living or working in the surrounding area;*
  - iii. *Will be appropriate at the proposed location and will be compatible with adjacent land uses;*
  - or*
  - iv. *Will not have a significant adverse impact on the environment.*
- o The term of this Agreement will be for three years from the date the owner begins operation with the ability for an extension of seven additional years upon approval by resolution of the City Council with the owner being in full compliance with the conditions of the Agreement. A separate resolution from the Planning Commission recommending approval of the development agreement is included in this report.
- o The applicant has reviewed the Draft. If the Commission recommends approval of the Development Agreement, it will be reviewed by the City Attorney and then formally transmitted to the City Council for adoption.

**MOTION/OPTIONS:**

1. Move to Approve Resolution PC 2022-10, A Resolution of the Planning Commission of the City of Clearlake Approving Conditional Use Permits CUP 2021-28 through CUP 2021-32 for the development of a Commercial Cannabis Operation located at 2250 Ogulin Canyon Road, further described as Assessor Parcel Number 010-044-19 and Move to Adopt Resolution PC 2022-11, A Resolution of the Planning Commission of the City of Clearlake Recommending Approval of a Mitigated Negative Declaration based on Initial Study 2021-05 and Development Agreement DA 2022-01 to the City Council. And
2. Move to Deny Resolutions PC 2022-10, and PC 2022-11 and direct staff to prepare appropriate findings.
3. Move to continue the item and provide alternate direction to staff.

**Attachments:**

- 1) Resolution PC 2022-10 with Conditions of Approval (Exhibit A)
- 2) Application Packet and Project Business/Operational Plan
- 3) Proposed Site and Grading Plans
- 4) Hydrology Report prepared by CHICO Environmental Science and Planning
- 5) Environmental Analysis (CEQA – IS 2021-05)
- 6) Resolution PC 2022-11 recommending Approval of a Mitigated Negative Declaration and Development Agreement to City Council
- 7) Draft Development Agreement
- 8) Agency Comments