



STAFF REPORT	
<b>SUBJECT:</b> 2160 Ogulin Canyon Road - Commercial Cannabis Operation	<b>MEETING DATE:</b> 12/13/2022
<b>SUBMITTED BY:</b> Mark Roberts, Senior Planner	
<b>PURPOSE OF REPORT:</b> <input type="checkbox"/> Information only <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

**WHAT IS BEING ASKED OF THE CITY COUNCIL/BOARD:**

The Planning Commission is being asked to consider Conditional Use Permit Applications 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); Development Agreement (DA 2022-02) and corresponding environmental assessment/Mitigated Negative Declaration (CEQA IS 2022-02) to establish and operate a Commercial Cannabis Operation located at 2160 Ogulin Canyon Road, Clearlake, CA 95422 further described as Assessor Parcel Number 010-044-21.



*Aerial Project Location Map*

## **BACKGROUND/DISCUSSION:**

Specifically, the following conditional use permits are being requested in accordance with Section 18-43 of the Clearlake Zoning Ordinance:

- **CUP 2022-03 Processing Only (no cultivation or nursery activities will occur):** Processing includes but is not limited to the drying, curing, trimming, and packaging of cannabis products.
- **CUP 2022-04 - Manufacturing:** Compounding, blending, extracting, infusing, or otherwise making or preparing and packaging the cannabis product.
- **CUP 2022-05 Distribution:** Procuring cannabis 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 to permitted medical cannabis dispensaries.
- **CUP 2022-06 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 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.
- **Development Agreement, DA 2022-02:** The project also includes the Planning Commission review and recommendation on a Development Agreement to the City Council as required by the Zoning Code.

In 2019, Ogulin Estates Holdings, LLC applied to the City of Clearlake for Use Permit(s) involving a 33,600 ft.<sup>2</sup> building, a 5,000 ft.<sup>2</sup> office building, (5) five - 75' x 25' greenhouses and a 22,660 square foot parking lot for cannabis facilities. The Use Permit application(s) were put on hold in June of 2022 with the understanding that a revised/updated project plans were being considered/prepared.

In August 2022, the applicant submitted a revised/updated project description. Based on the information submitted, the project has been reduced/scaled down in size. **The proposed revised/updated project does not include cannabis cultivation or nursery activities.** The project includes but is not limited to:

- Phase One (1): The remodel of an existing 960 square foot metal building.
- Phase Two (2): The development of a new 5,000 square foot metal building to be used for cannabis facilities, including but not limited to. Specific uses proposed for the project include:
  - Cannabis Distribution/ Cannabis Retail Delivery Only
  - Cannabis Processing
  - Cannabis Manufacturing (Phase 2 – non-volatile extraction)

### **Anticipated Hours of Operation:**

- Harvest season - Monday through Saturday - 6 am to 8 pm.
- Non-harvest seasons - Monday through Saturday - 7am to 6 pm.

### **Access to Site:**

- The project site is accessed by an existing driveway (*to be improved to current standards and/or requirements*) that will lead into the eight (8) car parking lot with ADA accessible parking.
- Security fencing and digital security cameras will be placed around the perimeter of the operation, and at strategic locations in the parking lot.

### **Water Availability Analysis/Usage:**

As described above, in 2019, *Ogulin Estates Holdings, LLC* applied to the City of Clearlake for Conditional Use Permit(s) involving a 33,600 ft.<sup>2</sup> building, a 5,000 ft.<sup>2</sup> office building, (5) five - 75' x 25' greenhouses and a 22,660 square foot parking lot for cannabis facilities. In June 2022, the applications were put on hold with the understanding that a revised/updated project was underway.

In August 2022, the applicant submitted a revised/scaled down project proposal, including removing the cultivation of cannabis. Due to the water concerns, the applicant submitted a revised Technical Memorandum prepared by Northpoint Consulting Group, Inc (Anjanette Dodd, Ph.D) dated September 7, 2022. The following statement is from the September 7, 2022, Technical Memorandum.

- *“It is my understanding that the project description associated with Ogulin Estates Holdings at 2160 Ogulin Canyon Road has been reduced in size from approximately 35 employees to 8 employees and no longer includes cultivation or nursery activities. This reduces the projected water demand from 561,000 gallons per year (1.7-acre feet per year) to 102,200 gallons per year (0.31-acre feet per year); based on 8 employees at 35 gallons per day for 365 days”. “This is about an 80% reduction in proposed water demand compared to the originally proposed project. The conclusions in the attached hydrology report were based on a higher projected demand and do not change” (email dated September 7, 2022)*

### **General Plan Consistency, and Zoning and Design Standards**

#### **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 several 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, manufacturing, distribution, processing and Retail Dispensary, Delivery only to dispensaries of cannabis. The project is in the Commercial Cannabis Business District and the proposed operations and development is subject to a commercial cannabis business conditional use permits (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 conditional 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.

Off Street parking (Onsite) and Determination: As indicated in the Project Description Packet with Plans (*Attachment # 1*), the operation is proposing a minimum of eight (8) parking spaces. For distribution/manufacturing the applicant is required to have one (1) space per 800 square feet of processing area and one (1) space per 300 square feet of area for office space. The applicant will be utilizing all uses within the 5,960 square feet. Based on the proposed square footage, the applicant complies with the number of required spaces per the City's Off-Street Parking Code requirements.

Trash/Recycling Containment: In accordance with **Section 18-20.070**, a condition of approval requires that such installation shall be completed, consistent with the City's Trash/Recycling Enclosure Design Standards prior to occupancy.

Exterior Lighting: The applicant has provided a Preliminary Lighting Plan for review. As a condition of approval, the applicant will need to submit a Final Lighting Plan for staff to review for compliance with the Municipal Codes/Zoning Codes, including dark sky preservation.

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 plan (if proposed in the future) for staff to review for compliance with the Zoning Code prior to installation of any signs.

Landscaping: 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 (if applicable)

**Environmental Review (CEQA):**

Mitigated Negative Declaration based on Initial Study, IS 2022-02.

Pursuant to California Environmental Quality Act (CEQA) Guidelines, staff prepared an Initial Study to assess the potential adverse environmental effects of the initial project. The study concludes that any potentially significant adverse environmental impacts from the project would be reduced to a level of non-significance with the incorporated Mitigation Measures and Conditions of Approval.

In August 2022, the applicant submitted an updated/revised project description. Based on the submitted material, the project has been reduced/scaled down from the original proposal, including removing the cultivation of cannabis. Based on the revised material, the original environmental analysis (Initial Study) adequately addresses and reduces all potential environmental impacts to less than significant. Therefore, Staff believe it is not necessary to update and/or re-circulate the environmental analysis.



Notice of Intent (NOI) Noticing:

The Mitigated Negative Declaration (MND) based on Initial Study, IS 2022-02, were properly noticed and circulated in accordance with CEQA of 1970, and in compliance with Section 15070-15075 of the CEQA State Guidelines, by:

- *Circulation of the Notice of Intent (NOI) for the environmental analysis/proposed Mitigated Negative Declaration (CEQA Initial Study, IS 2022-02) was published in the Lake County Record Bee, uploaded onto the Governor’s Office of Planning and Research (State Clearing House), sent/emailed to various Federal, State, and local agencies/organizations for the minimum of a 30-day commenting period from April 4, 2022, through May 13, 2022. Additionally, all documentation is available upon request.*

The following agencies commented on the project during the appropriate review period.

- *Lake County Environmental Health Department*
- *California Department of Cannabis Control*
- *Lake County Special Districts*
- *California State Water Board*

*NOTE: The City responded to the comments received as indicated on pages three (3) through six (6) of the CEQA Analysis, IS 2022-02 (Attachment # 5). Comments and/or concerns received, have been incorporated into Mitigations Measures and/or Conditions of Approval.*

- *A Notice of Intent (NOI) was mailed (via USPS) to the surrounding parcels owners within 600 feet of the subject property informing them of the City’s decision to adopt a Mitigated Negative Declaration for the proposed use and that there is a 30-day commenting period on the environmental document from April 4, 2022, through May 13, 2022.*
  - ***The city did not receive comments from the public.***

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 portions of the project forward to the City Council for final determination. 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 staffs and the Planning Commission’s recommendation(s).

**PUBLIC HEARING LEGAL NOTICE**

The public hearing was noticed at least ten (10) days in advance in an electronic publication with the Lake County Record Bee on **Saturday, December 3<sup>rd</sup>, 2022**; and mailed (via USPS) to all surrounding property owners within 600 feet of the subject parcel(s) as required pursuant to the Clearlake Municipal Code.

- *All mailing address are drawn from the electronic database supplied by the Lake County Assessor/Recorders Office Database.*

## **Development Agreement (DA 2021-02):**

A Development Agreement (*Attachment # 6*) 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.

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 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.*

- 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.
- 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.

## **OPTIONS:**

1. Move to Adopt Resolution PC 2022-22, A Resolution of the Planning Commission of the City of Clearlake Approving Conditional Use Permits CUP 2021-03 through CUP 2021-06 and recommending approval of a Mitigated Negative Declaration based on Initial Study, IS 2021-02 and Development Agreement, DA 2021-02 to the City Council for the Commercial Cannabis Operation located at 2160 Ogulin Canyon Road, Clearlake, CA 95422, further described as Assessor Parcel Number 010-044-21.

2. Move to Deny Resolution PC 2022-22 and direct Staff to Prepare the Appropriate Findings.
3. Move to continue the items and provide alternate direction to staff.

**Attachments:**

1. **Project Description Packet with Plans**
2. **CUP Resolution PC 2022-22 with Conditions of Approval**
3. **Final CEQA, IS 2022-02 Analysis Document**
4. **Groundwater Technical Memorandum with updated Email Statement**
5. **Agency Comments**
6. **Draft DA Agreement Resolution**
7. **Copy of Public Notices**

# Attachment # 1

August 23, 2022

Mark Roberts – Senior Planner  
City of Clearlake Community Development Department  
Clearlake City Hall  
14050 Olympic Drive  
Clearlake, CA 95422

Re: Revised/Updated Plans for 2160 Ogulin Canyon Road

Dear Mr. Roberts:

In 2019, Ogulin Estates Holdings, LLC applied to the City of Clearlake for Use Permit(s) involving a 33,600 ft.<sup>2</sup> building, a 5,000 ft.<sup>2</sup> office building, (5) five - 75' x 25' greenhouses and a 22,660 square foot parking lot for cannabis facilities. The Use Permit application(s) were put on hold in June of 2022 by our consultant with the understanding that a revised/updated project plans were being considered and prepared.

The revised/updated project plans have now been developed (attached) and includes: Phase 1 - the remodel of an existing 960 square foot metal building; and Phase 2 – the development of a new 5,000 square foot metal building to be used for cannabis facilities. Specific uses proposed for the project include:

- Cannabis Distribution/ Cannabis Retail Delivery Only
- Cannabis Processing
- Cannabis Manufacturing (Phase 2 – non-volatile extraction)

The proposed revised/updated project does not include cannabis cultivation or nursery activities.

Included with the submission of the revised /updated project are:

- Project description and suggested findings
- Site plan
- Existing 960 Square foot building photos and proposed floor plan
- Proposed 5,000 square foot building elevations and floor plans

The technical reports and studies that were prepared in conjunction with the 2019 Use Permit application are still on file with the City of Clearlake and it is our understanding that they remain valid and applicable to this scaled back, revised/updated proposal.

The proposed revised plan will provide a development that is compatible with the neighborhood, as there are conventional industrial uses and existing cannabis operations and/or businesses in the near vicinity, including at the La Rosa Plaza site just to the west, and several existing and proposed cannabis cultivation projects to the east and north. The proposed

project is in a well-planned and secure location, which in and of itself creates a compatible land use setting.

The 2160 Ogulin Canyon Road development concept is fairly straight forward and provides a well-planned and designed project that will encourage good site circulation, efficient operations, and economic performance.

This project complies with City standards, has the potential to enhance job opportunities, and generate economic development benefits.

Approval of this project will provide for numerous public benefits, enhance the Ogulin Canyon Road area, provide for the cleanup and redevelopment of the subject property, and comply with the City Zoning standards.

It is respectfully requested that the City of Clearlake Planning Commission and City Council approve the revised/updated Use Permit application and the associated Development Agreement.

Thank you.

*Garrett Burdick*

Garrett Burdick – Partner

Ogulin Estates Holdings, LLC  
637 Lindaro Street - Suite 201  
San Rafael, CA 94901

**Revised/Updated August 2022**

**Project Description and Information  
Ogulin Estates Holdings, LLC  
Cannabis Processing, Distribution/Retail Delivery, and Manufacturing Facilities  
2160 Ogulin Canyon Road – APN 010-044-21  
Clearlake, California**

**Project Location and Description**

In 2019, the property owner submitted Use Permit application(s) to the City of Clearlake for proposed cannabis facilities including a 33,600 ft.<sup>2</sup> building, a 5,000 ft.<sup>2</sup> office building, (5) five - 75' x 25' greenhouses for indoor cannabis cultivation, and related site improvements. These Use Permit application(s) were put on hold by the owner in June of 2022 with an understanding that revised/updated plans were being considered and prepared.

A scaled back, revised/updated project proposal has been prepared for consideration by the City. The project now only involves Phase 1 - the remodel/use of an existing 960 (24' x 40') square foot metal building to be used for storage, offices, and cannabis distribution/retail delivery. Phase 2 involves future development of a new 5,000 (50' x 100') square foot metal building to be used for cannabis processing/storage, manufacturing (nonvolatile extraction), and support facilities.

The revised/updated project will no longer include cannabis cultivation or nursery activities.

The subject property is a 9.56-acre parcel located at 2160 Ogulin Canyon Road within the City of Clearlake and is further described as APN 010-044-21. This land is also known as Parcel B as shown on a parcel map filed in the Office of the County Recorder in Lake County on July 17, 1987, in Book 29 of Parcel Maps at pages 30 and 31.

The project operational days/hours will be - Monday through Saturday from 6 am to 8 pm.

Phase 1, the existing 960 square foot metal building was permitted by the City and built in 2020. It is a single-story structure on a concrete slab. A roll up garage door is located on the north side and there is a pedestrian access door and a couple of windows on the south and west sides. This existing building will be remodeled to include a small office, bathroom, vehicle parking, and secure storage areas for the processing and distribution uses. An existing gravel driveway from Ogulin Canyon Road will be improved with a dustless surface and will lead into a new 8-car parking lot to the north and east of the existing building. The parking area will be developed to Clearlake City standards with spaces developed at 90-degree angles. ADA accessible parking and a loading zone will be developed near the facilities. Security cameras and lighting will be placed around the perimeter of the building and in the parking lot.

Phase 2, the 5,000 square foot building will be an engineered metal structure, to be built just to the west of the existing building. Preliminary floor plans indicate that the processing building will include intake, processing, packaging, restrooms and offices, break room, shipping and receiving, storage areas, distribution areas, nonvolatile extraction areas, and related activities. A rollup door will provide entry into secure parking areas for loading and unloading. The project area will be situated about 150' south of Ogulin Canyon Road, in the center of the parcel. Minimal grading will be necessary to facilitate construction.

## **Background Information and Existing Site Conditions**

Technical Documents, Reports, and Studies prepared and submitted to and/or by the City of Clearlake for the 2160 Ogulin Canyon Road Use Permit Project include:

- December 21, 2020 – City of Clearlake Use Permit application
- December 23, 2020 – original Project Description
- Original site plans and preliminary grading plans
- May 23, 2022 – Site Management Plan prepared by Natural Investigations Company, Inc.
- 2160 Ogulin Canyon Rd. Business Plan
- 2160 Ogulin Canyon Rd. Biological Constraints Technical Memorandum prepared by Natural Investigations Company, Inc.
- June 25, 2021 – Biological Resource Assessment with Botanical Survey prepared by Lawrence Ray, Scotts Valley, California
- December 23, 2021 – Ground Water Hydrology Report prepared by Northpoint Consulting Group, Inc.
- October 15, 2021 – Water Availability Report prepared by Richard Knoll Consulting
- March 7, 2022 – Ground Water Hydrology Addendum Report by Northpoint Consulting Group, Inc.
- September 29, 2021 – Well Completion Report by Will Peterson Well Drilling
- 2160 Ogulin Canyon Rd. – Odor Control Plan
- March 2022 – 2160 Ogulin Canyon Rd. - Energy Information
- April 12, 2021 - Cultural Resources Investigation by Gregory G. White, PhD
- September 23, 2021 - Traffic Impact Study by W Trans Traffic Engineering and Transportation Planning
- June 2021 - Security and Worker Safety Plan
- City of Clearlake CEQA Initial Study prepared by the City of Clearlake

The subject property is currently developed with several small structures including former animal shelter kennels, the 960 square foot metal building, a SFD, equipment, pole barns, and several related structures and facilities.

Access to the site is from Ogulin Canyon Road with two driveways located on the northern property line, south of Ogulin Canyon Road about a ½ mile east of Hwy 53. The existing driveways extend into the property and loop around to provide access to the existing site improvements. The existing driveways are in moderate condition.

Burns Valley Creek, a seasonal surface water drainage course extends through the northeasterly quadrant of the parcel in an open channel from the east to the northwest where it runs through existing culverts under Ogulin Canyon Road. There is a flood zone designation associated with the Creek, as noted on the site plan. Proposed site improvements for the most part are located outside of the flood zone.



Nearby land in the vicinity is used mainly for watershed, wildlife habitat, livestock grazing, cannabis cultivation, storage businesses, and home site development.

The project site is located in Ogulin Canyon, east of Burns Valley, and is bordered by Ogulin Canyon Road to the north, Burns Valley to the south, Blackeye Canyon to the east, and storage/light industrial uses to the west.

The Soil Survey Geographic Database (SSURGO) maintained by the United States Department of Agriculture (USDA) and National Resource Conservation Service (NRCS) indicates that the project site is underlain primarily by soils of the Manzanita Series which consist of very deep, well drained loam formed in alluvium from mixed rock sources. They occur on terraces with slopes of 2 to 25 percent. Manzanita Series soils are used for a wide variety of purposes, mostly agricultural, including walnut orchards, wine grape vineyards, hay, and livestock grazing, and also for home site developments (USDA-NRCS 2003).

### **Compliance with City of Clearlake Zoning Ordinance**

The subject parcel is in the Clearlake City Limits (NW corner) and is zoned I – Industrial District. The City of Clearlake Zoning Ordinance provides detailed zoning requirements and standards regarding minimum parking requirements, street improvements, parking design standards, driveway approach standards, landscaping development standards, environmental review procedures, storm drainage provisions, and a number of other sections dealing with trash receptacles slopes and soils, outdoor lighting, addressing, tree protection regulations, and other requirements.

The subject property also has a CB – Commercial Cannabis Zoning District designation which provides standards and criteria addressing commercial cannabis permits and requires among other things issuance of permits for processing and distribution activities with an approved use permit.

The City requires use permit approval for the proposed development and operation of commercial cannabis businesses and also requires operators to enter into a Development Agreement.

The Clearlake Zoning Ordinance establishes procedures for accommodating uses that may have the potential to cause adverse effects on surrounding properties. The City procedures apply to all proposals for which a conditional use permit is required. A use permit can be approved or approved with conditions by the Planning Commission, if, based upon information provided by the applicant, all of the following findings are made:

**1. That the proposed use at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.**

### **Applicants Response and Suggested Findings:**

- The project at the 2160 Ogulin Canyon Road site is proposed/designed at a size and intensity that is reasonable for a 9.56-acre parcel. The site plan details a proposed layout that fits the site and illustrates that the required improvements are consistent with the City Zoning Ordinance.
- The City of Clearlake has updated the Zoning Ordinance with respect to the permit requirements and locations for cannabis businesses and through that action has confirmed and verified public policy in support of cannabis processing and distribution at this location.

- In keeping with this adopted public policy, the proposed project will provide a development that is necessary, desirable, and compatible with the community wide sentiments.
- The proposed project will provide a development that is compatible with the neighborhood, as there are existing cannabis operations and/or businesses in the near vicinity, including at the La Rosa Plaza site just to the west, and several existing and proposed cannabis cultivation project to the east and north. The proposed project is in a well-planned and secure location, which in and of itself creates a compatible land use situation.

**2. That such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements, or potential development in the vicinity with respect to aspects including, but not limited to, the following:**

**(a) The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures,**

**(b) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading,**

**(c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust, and odor,**

**(d) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking areas, loading areas, service areas, lighting, and signs.**

Applicants Response and Suggested Findings:

- The proposed uses at the 2160 Ogulin Canyon Road Site will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements, or potential development in the vicinity. The proposed site improvements have been well planned to minimize detrimental impacts and conflicts with people residing and working in the area, property and improvements in the neighborhood or the general welfare of the City.
- The site improvements will be built to California Building Code standards and will provide for a high level of security and safety consistent with the City regulations.
- The site improvements will be situated in the west center of the parcel and will comply with property line setbacks from adjoining properties and structures in order to minimize perceived detrimental health, safety, morals, comfort, and general welfare impacts to people in the neighborhood and the region.
- The cannabis cultivation laws of the State of California and the City of Clearlake have been approved by the voters/elected officials and thus reflects the current attitudes of residents. The intent with regard to development of the cannabis project is to be sensitive to the comfort and general welfare of the Ogulin Canyon Road area by installing and operating state-of-the-art cannabis facilities and equipment in order to minimize detrimental impacts.
- The subject property is an existing developed site that has seen better days. The proposed project involves the Phase 1 remodel of an existing metal building and the Phase 2 construction of a new 5,000 square foot building which is proportionate in size and scale with land use activities on other properties in the vicinity.
- The nature of the proposed site, including the 9.56-acre size and its wide shape are conducive with the proposed size, shape, and arrangement of both the new and existing structures. The

proposed site improvements are designed in areas that are level and situated in the center of the site. The accessibility of the property is good, an improved entry and driveway approach will be developed on Ogulin Canyon Road. Traffic patterns for persons and vehicles that will be using the site are good. The type and volume of traffic on Ogulin Canyon Road is relatively low when compared to other streets and roads in Clearlake. The pattern of land development to the east, north and south is rural in nature and as such the areas generate a small amount of traffic that passes by the 2160 Ogulin Canyon Road site.

- The proposed off-street parking and loading areas have been incorporated into the project design with 8 standard spaces east of the buildings.
- Although, not specifically called out on the site plan, there are many options for implementing safeguards to prevent noxious or offensive emissions such as noise, glare, dust and odor. The placement of the processing building in the center of the site, with adequate setback distances from property lines and nearby structures is a key safeguard for reducing noise, odor, dust, and lighting concerns. There are many other conditions or mitigation measures that can be implemented including: the use of shielded and downlit lighting; A.C. Paving of the parking lot and driveways; installation of building mounted air filtration exhaust systems; and installation of landscaping or fencing to minimize noise. The project Odor Control Plan provides details regarding air filtration and odor complaint protocol.
- The project will provide landscaping as mandated by the City of Clearlake. Screening of site improvements or facilities such as the trash enclosures will be done to City standard.
- There will be open space preservation particularly around the east and northeast sides of the site and the management of trees to help increase security and visibility of the improvements,
- Proposed parking, loading, and service areas are depicted on the site plan and are adequate to serve the intended uses. Proposed lighting and signage will be commensurate with other industrial projects in the City of Clearlake.

**3. That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the Clearlake General Plan. (Ord. #2010-146, S2).**

Applicants Response and Suggested Findings:

- The proposed uses at the 2160 Ogulin Canyon Road are consistent with the applicable provisions of the City of Clearlake Zoning Ordinance and with the policies and standards of the Clearlake General Plan.
- East of Hwy 53, the initial portion of Ogulin Canyon Road (1/2 mile) is within the City of Clearlake. The City of Clearlake General Plan Circulation Element Figure 4.1 - Circulation Map identifies Ogulin Canyon Road as a basic street. The Clearlake General Plan Circulation Element contains a number of Goals and Policies regarding the City street system, however, there does not appear to be any policy applying specifically to Ogulin Canyon Road.
- The Ogulin Canyon Road surface is in moderate condition, it is paved for about 2/3 miles east of Hwy 53 and transitions to gravel beyond the City limits.

**Conclusion:**

This Project Description and application plans/documentation provides support for the approval of this Use Permit application to allow cannabis processing, nonvolatile, and distribution/retail delivery

activities at 2160 Ogulin Canyon Road. The project intent has been significantly reduced in scope and size from the original 2019 application/plan.

The 2160 Ogulin Canyon Road development concept is fairly straight forward and provides a well-planned and designed project that will encourage good site circulation, efficient operations, and economic performance.

The City of Clearlake is supportive of cannabis related land-use projects which conform to City regulations. This application describes a project that complies with City standards, has the potential to enhance job opportunities, and generate economic development benefits.

Approval of this project will provide for numerous public benefits, enhance the Ogulin Canyon Road area, provide for the cleanup and redevelopment of the subject property, and comply with the City Zoning standards.

It is respectfully requested that the City of Clearlake Planning Commission and City Council approve the Use Permit application and the associated Development Agreement.

Thank you.

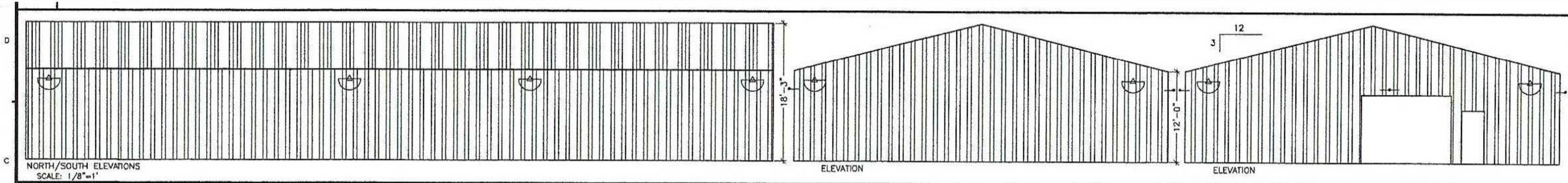
Garrett Burdick – Partner

Ogulin Estates Holdings, LLC  
637 Lindaro Street - Suite 201  
San Rafael, CA 94901





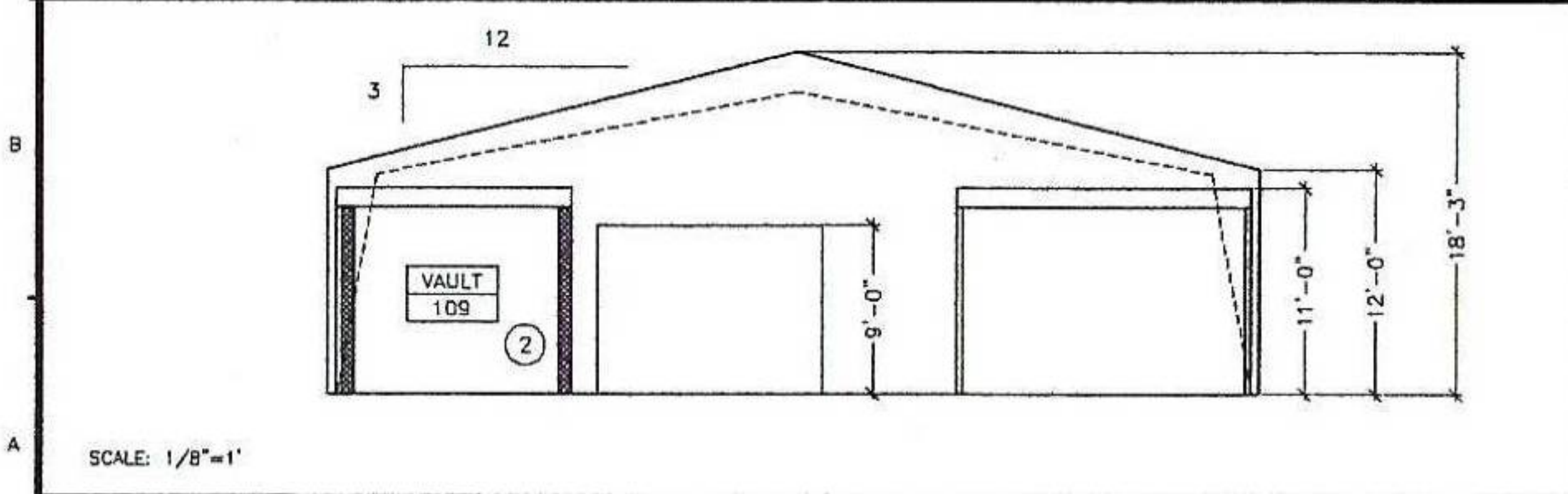




2 ELEVATIONS

## Phase 2

# 2160 Ogulin Canyon Road - Elevations and Section



3 SECTION A-A

### SYMBOLS

- |  |                            |  |                 |  |  |  |                           |  |  |
|--|----------------------------|--|-----------------|--|--|--|---------------------------|--|--|
|  | WALL MOUNTED FAN           |  | DISCONNECT      |  | SURFACE MOUNTED CEILING FIXTURE  |  | WINDOWS                   |  | HVAC HEATING/COOLING   |
|  | GENERAL NOTES              |  | SINGLE PULL     |  | DEFIANT MOTION SECURITY LIGHT (DOWN CASTING)<br>MODEL DFI-5985-WH<br>LED 28 WATTS<br>2350 LUMENS |  | CCTV CAMERAS<br>CAMERA ID |  | SMOKE-FIRE DETECTOR<br>CONNECTED TO CENTRAL PANEL<br>AND MONITORED |
|  | EMERGENCY EXIT SIGN/LIGHT  |  | GFI 110V OUTLET |  | FIRE EXTINGUISHER  |  | ROOM ID<br>ROOM USAGE     |  | DOOR SENSOR  |
|  | 4 TUBE LED CEILING MOUNTED |  | 110V OUTLET     |  | DOORS - SEE SCHEDULE   |  | NVR LOCATION              |  | CHARCOAL AIR FILTER<br>EXHAUST TO OUTSIDE                          |
|  | EXHAUST FAN                |  | 220V OUTLET     |  |  |  |                           |  |  |



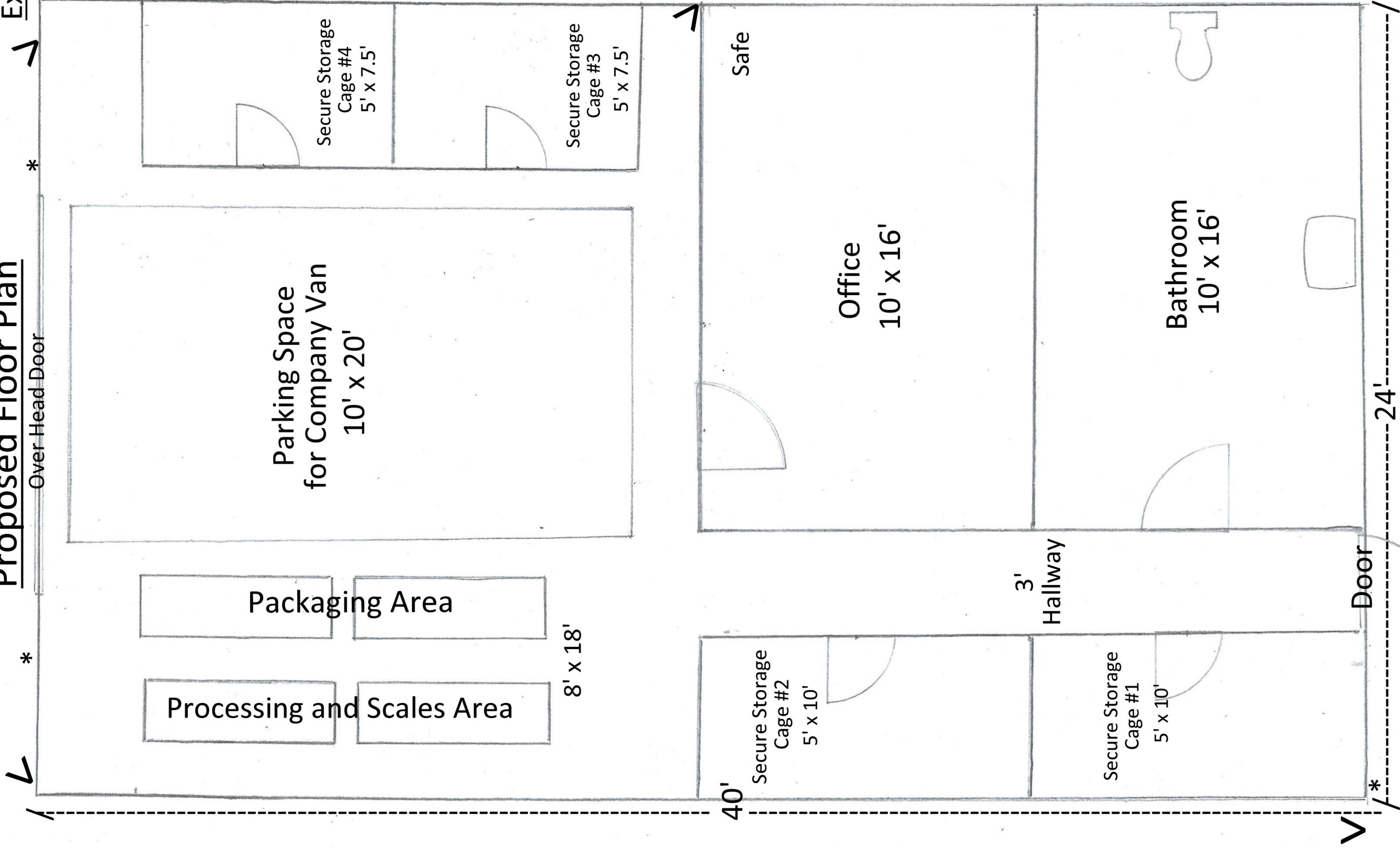
# Proposed Floor Plan

Existing Metal Building

2160 Ogulin Canyon Road  
Clearlake, California

APN 010-044-21

Cannabis Processing and Retail/Delivery



\* Light  
> Security Camera

^ North  
1" = 4'



## 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 13<sup>th</sup>, 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:** \_\_\_\_\_

**For Environmental Analysis, please refer to  
Attachment # 3 of Current Staff Report.**

# Attachment # 4

**From:** [Annje Dodd, PhD P.E.](#)  
**To:** [Mark Roberts](#)  
**Cc:** [Brian Pensack](#); [Richard Knoll](#)  
**Subject:** Updated Hydro information- 2160 Ogulin Canyon  
**Date:** Wednesday, September 7, 2022 11:34:09 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[Ogulin Estate Holdings Hydrology UP with Attachments.pdf](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mark,

It is my understanding that the project description associated with Ogulin Estates Holdings at 2160 Ogulin Canyon Road has been reduced in size from approximately 35 employees to 8 employees and no longer includes cultivation or nursery activities. This reduces the projected water demand from 561,000 gallons per year (1.7 acre feet per year) to 102,200 gallons per year (0.31 acre feet per year); based on 8 employees at 35 gallons per day for 365 days.

This is about an 80% reduction in proposed water demand compared to the originally proposed project. The conclusions in the attached hydrology report were based on a higher projected demand and do not change.

Please let me know if you have any questions or need additional information.

**Annje Dodd, PhD, P.E.**

Principal Engineer



**NORTHPOINT**

CONSULTING GROUP, INC

1117 Samoa Blvd. Arcata, CA 95521

P:  [\(707\) 798-6438 EXT. 703](tel:(707)798-6438) C:  [\(707\) 845-1340](tel:(707)845-1340)

[Annje@northpointeureka.com](mailto:Annje@northpointeureka.com)



[www.northpointeureka.com](http://www.northpointeureka.com)



## TECHNICAL MEMORANDUM

To: Mr. Brian Pensack

From: Annjanette Dodd, PhD, CA PE #77756

Date: December 23, 2021

Subject: Groundwater Hydrology – 2160 Ogulin Canyon Road, Clearlake, CA, APN 010-044-21

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### PURPOSE AND BACKGROUND

The purpose of this Technical Memorandum is to provide an evaluation of the potential impacts the proposed project would have on the surrounding groundwater resources. The project is located at 2160 Ogulin Canyon Road, Clearlake, Lake County, California. The project includes the development of industrial style structures to be used for cannabis related facilities, including a 33,600 square-foot (sq ft) single story building for processing, manufacturing, and distribution, a 5,000 sq ft office building, five (5) 75 x 25 ft greenhouses for indoor cannabis cultivation, and a 22,600 sq ft, 46-car parking lot (Figure 1). A Water Availability Analysis (WAA) was prepared for the project in June 2021 by Richard Knoll Consulting and submitted to the City of Clearlake.

Irrigation Demand: The estimated project water demand for cultivation (300-day cultivation period) was estimated in the WAA using standard industry values for cultivation (3,000 gallons per acre per day, or 2.1 gallons per minute, per acre; CDFA, 2017). The maximum potential canopy area for five (5) 25 ft x 75 ft greenhouses is 9,375 sq ft, resulting in a daily demand of approximately 645 gallons (0.5 gpm) and annual irrigation demand of approximately 194,000 gallons per year over the course of a 300-day growing season. This cultivation demand estimate is less than presented in the WAA, which was based on 0.5 acres of canopy which is more than double the canopy proposed.

Employee Demand: The project proposes 35 employees. Water demand based on the number of employees is assumed to be equivalent to sanitary sewer generation for factories with shower facilities, which, according to the Lake County Rules and Regulations for On-Site Sewage Disposal (Lake County, 2010), would be 35 gallons per day, per person. The employee demand estimate is less than presented in the WAA, which was not based on standard values for Lake County. At 35 gallons per employee per day, the proposed project employee demand would be 1,225 gallons per day or 367,500 gallons per year based on a 300-day work season.

Total Demand: The total estimated water demand for the proposed project using the numbers provided herein is 1,875 gallons per day (1.3 gpm) and 561,500 gallons per year or 1.7 acre-feet per year.



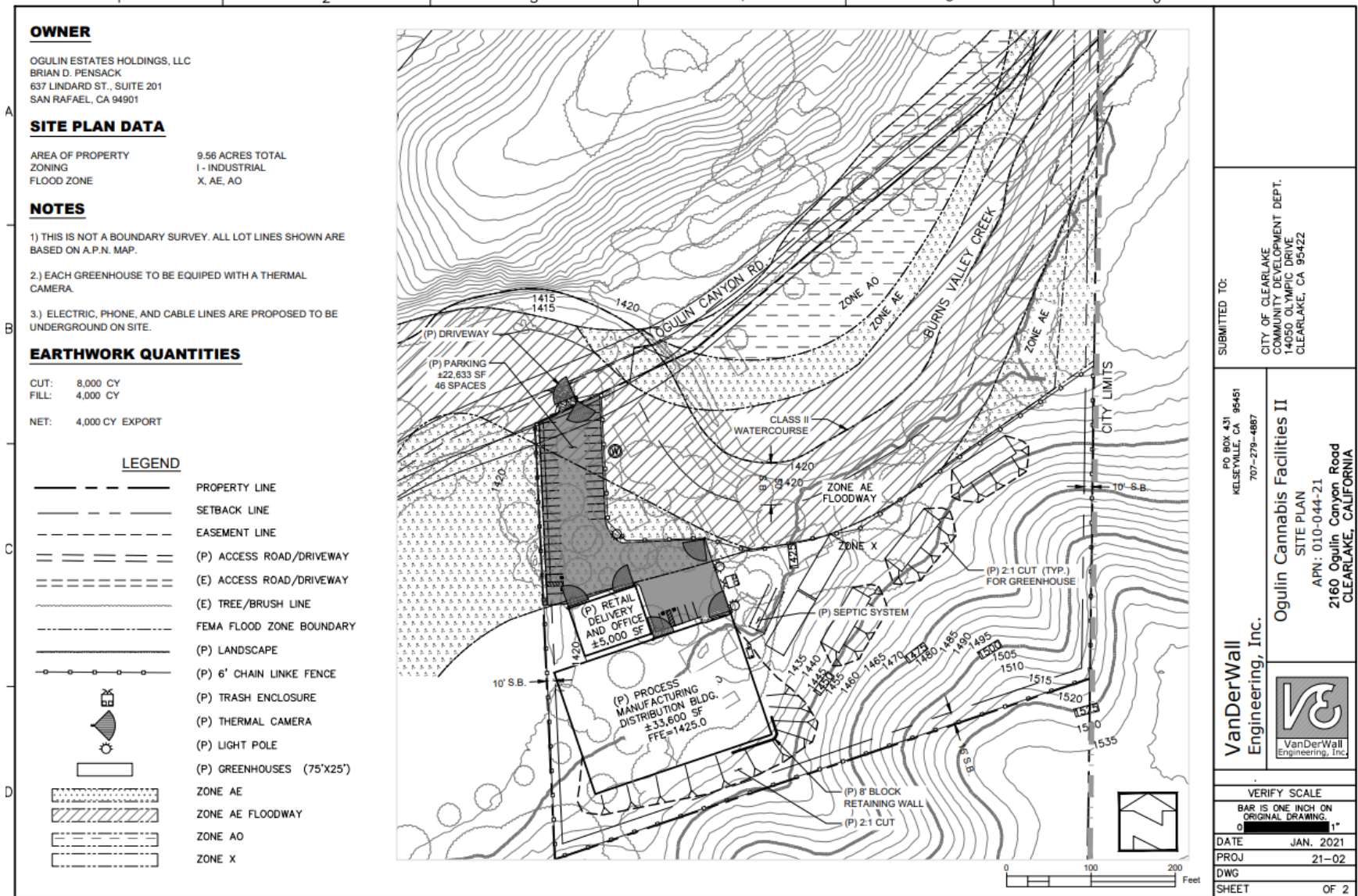


Figure 1: Site Plan for the proposed project at APN 010-044-21.

## **WATER SOURCE, SUPPLY, AND STORAGE**

There is one (1) existing, permitted groundwater well (Permit Number: WE 5718AG) that will be used for cultivation (Lat/Long: 38.98068, -122.60521). The well is approximately 300-feet deep and was drilled in September 2021, during a drought period. The well casing is screened at two intervals with 0.32-inch perforated PVC casing - between 80- and 100-feet and between 240- and 300-feet below the ground surface (bgs). During the drilling of the well, the depth of first water was at 80-feet bgs and the static water level was estimated to be 30-feet bgs (Attachment 1 – Well Log).

The well was estimated to have a yield of 100 gpm (161.0 AF per year). The project's demand of 1.7 AF represents 1.1% of the annual well yield in AF.

The project proposes one (1) 50,000-gallon water tank for water storage or approximately 26 days of storage based on the average total daily demand of approximately 1,875 gallons. At 100 gpm, the tank would fill in about 8.3 hours

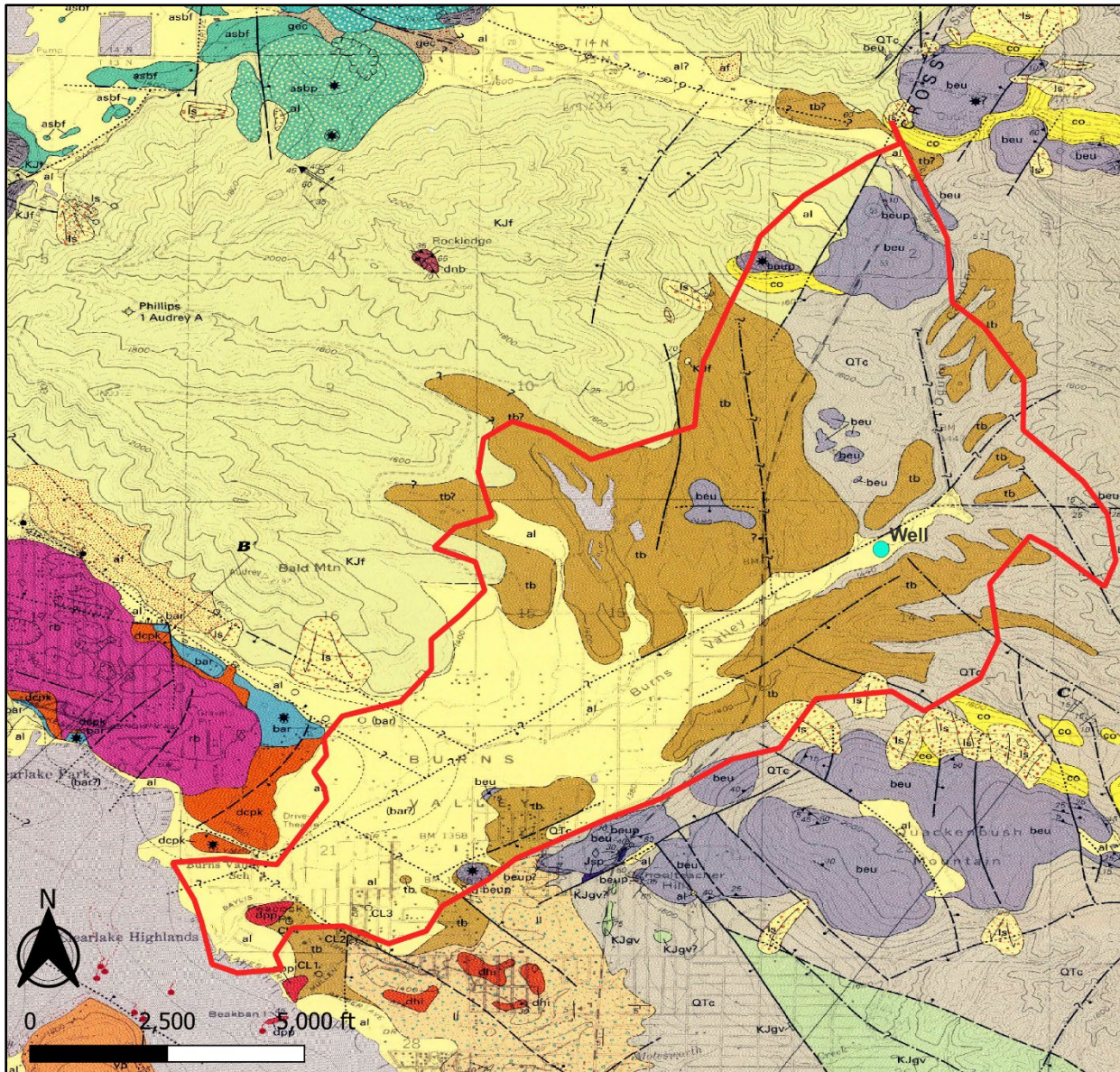
## **GROUNDWATER BASIN INFORMATION AND HYDROGEOLOGY**

The well site is in the Burns Valley Groundwater Basin (Basin #5-17). According to the California Department of Water Resources (DWR), almost all the groundwater in the 4 square mile Burns Valley Groundwater Basin is derived from rain that falls within the 12.5 square mile Burns Valley Watershed (DWR Bulletin 118).

The Burns Valley Groundwater Basin is within the Burns Valley Watershed. Franciscan Formation borders the Burns Valley Groundwater Basin on the north, Clear Lake borders the basin on the west, and Clear Lake Cache Formation borders the basin on the south and east. The valley is drained by Burns Valley Creek, flowing southwest, and eventually into Clearlake. There are three primary water bearing formations in the Burns Valley Groundwater Basin - Quaternary Alluvium, Quaternary Terrace Deposits, and the Lower Lake Formation (CDM, 2006). The *Quaternary Alluvium* aquifer is in the valley lowlands in the southern end of the valley and is composed of silt, sand, and gravel with a thickness up to 50 feet. Groundwater in this formation is unconfined and typically provides water for domestic use. *Quaternary Terrace Deposits* have been deposited on the sides of the alluvial plain in the Burns Valley Groundwater Basin. The terrace deposits are approximately 15 feet above the valley floor and slope up the valley to a similar elevation as the foothill exposures of the Clear Lake Cache Formation. Groundwater in this formation is not well understood. The *Lower Lake Formation*, consisting of lake deposits, underlies the alluvial and terrace deposits in the basin. This formation consists of fine sands, silts, and thick interbeds of marl and limestone, and has a maximum thickness of 200 feet. The formation has low permeability and provides water to wells at up to a few hundred gallons per minute. Based on the Well Completion Report (WCR) Geologic Log and the depths of the screened intervals of the well (80-100 and 240-300 ft bgs), the well draws water from both the shallower, Quaternary alluvium aquifer system, and the deeper water-bearing formation that corresponds with the described greenstone geologic unit, likely Franciscan Formation. The California Department of Water Resources (DWR) estimated the storage capacity of the Burns Valley Groundwater Basin to be 4,000 AF with a usable storage capacity of 1,400 AF. Well depths in the basin mostly range between 25- and 425-feet (CDM 2006; California DWR 2003, 2021).







*Figure 2: The project well location (blue dot) plotted on the Hearn et al. (1995) geologic map. The project well is in an area mapped as Quaternary Alluvium in the upper Burns Valley Creek. The boundary for the California Bulletin 118 Burns Valley Groundwater Basin is shown in red.*

The Burns Valley Groundwater Basin has not been identified by the California Department of Water Resources (DWR) as a critically overdrafted basin. Critically overdrafted is defined by DWR as, "A basin subject to critical overdraft when continuation of present water management practices would probably result in significant adverse overdraft-related environmental, social, or economic impacts." In addition, as part of the California Statewide Groundwater Elevation Monitoring (CASGEM) Program, DWR created the CASGEM Groundwater Basin Prioritization statewide ranking system to prioritize California groundwater basins in order to help identify, evaluate, and determine the need for additional groundwater level monitoring. California's groundwater basins were classified into one of four categories high-, medium-, low-, or very low-priority. The Burns Valley Groundwater Basin is ranked as very low-priority basins by the CASGEM ranking system (DWR, 2021).





## RECHARGE RATE

The annual recharge can be estimated using a water balance equation, where recharge is equal to precipitation (P) less runoff (Q) and abstractions that do not contribute to infiltration (e.g., evapotranspiration). A simple tool that can be used to estimate runoff and abstractions, which uses readily available data, is the Natural Resources Conservation Service (NRCS) Curve Number (CN) Method (NRCS, 1986). Determination of the CN depends on the watershed's soil and cover conditions, cover type, treatment, and hydrologic condition. The CN Method runoff equation is

$$Q = \frac{(P - I_a)^2}{(P - I_a) + S}$$

Where,

$Q$  = runoff (inches)

$P$  = rainfall (inches)

$S$  = potential maximum retention after runoff begins (inches) and

$I_a$  = initial abstraction (inches)

The initial abstraction ( $I_a$ ) represents all losses before runoff begins, including initial infiltration, surface depression storage, evapotranspiration, and other factors. The initial abstraction is estimated as  $I_a = 0.2S$ .  $S$  is related to soil and cover conditions of the watershed through the CN, determined as  $S = 1000/CN - 10$ . Using these relations, the runoff equation becomes:

$$Q = \frac{(P - 0.2S)^2}{(P + 0.8S)}$$

The CN is estimated based on hydrologic soil group (HSG), cover type, condition, and land use over the area of recharge, which is estimated as the area of the Burns Valley Watershed. However, to be conservative, a small unnamed 23.1-acre tributary draining to the project parcel and eventually into Burns Valley Creek was used as the recharge area (Figure 2).

Soils are classified into four HSGs (A, B, C, and D) according to the ability of the soil to infiltrate water; where HSG A has the highest infiltration potential and HSG D has the lowest infiltration potential. HSGs are based on soil type and can be determined from the NRCS Web Soil Survey. 100% of the recharge area is comprised of HSG C. Approximately 70% of the recharge area is undeveloped with a cover type of 'Woods' in fair condition (wooded area may be grazed but not burnt, with some leaf litter on ground) with a CN of 73 for HSG C. The remaining recharge area is classified as 'Woods-grass combination' in fair condition due to sparse rows of trees with annual grassland in aerial imagery, represented with a CN of 76. The weighted CN for the recharge area is 74.





Figure 3: The recharge area for the proposed project is a 23.1-acre subbasin that drains to the project parcel and Burns Valley Creek.

The PRISM Climate Group gathers climate observations from a wide range of monitoring networks and provides time series values of precipitation for individual locations (<https://prism.oregonstate.edu/explorer/>). Using the annual precipitation from 1895 to 2020, as predicted by PRISM, the annual average precipitation over this period is 27.6 inches and the minimum precipitation over this period is 6.5 inches.

Using the above information, and assuming that 50% of the initial abstraction infiltrates and the remainder is evapotranspiration (0.35 inches or 0.7 AF), the estimated annual recharge over the recharge area of 23.1 acres is 6.7 AF during an average year and 4.9 AF during a dry year (Table 1).

Table 1. Estimated annual recharge over the recharge area of the project's well.

Recharge Area (acres)	P (inches)	CN	S (inches)	I <sub>a</sub> (inches)	Q (inches)	Recharge = $P - Q - 0.5 * I_a$ (inches)	Recharge (AF)
23.1	6.5	74	3.5	0.70	3.6	2.5	4.9
23.1	27.6	74	3.5	0.70	23.8	3.5	6.7



## **CUMULATIVE IMPACT TO SURROUNDING AREAS**

Annual water demand of the proposed project is approximately 1.7 AF per year. The demand represents approximately 25% and 35% of the annual recharge during an average and dry year, respectively. Recharge in the Burns Valley Groundwater Basin is derived from rain that falls within the 12.5 square mile Burns Valley Watershed, which drains to the Burns Valley Groundwater Basin, delineated as 4 square miles of area (CDM, 2006). The area used to estimate the recharge for the proposed project is only 0.3% of the Burns Valley Watershed that drains to and recharges the Burns Valley Groundwater Basin. The area used to estimate the recharge did not include the project parcel, which would provide additional recharge. Thus, the recharge estimate is a conservative (low) estimate of the available recharge over the entire recharge area. Overall, the project would need only 0.9-inches of rainfall to infiltrate over the recharge area to meet the project's demand. Thus, there is sufficient recharge, on an annual basis, to meet the project's demand during both average and dry years.

The estimated storage capacity of the Burns Valley Groundwater Basin is 4,000 AF, with a usable storage capacity of 1,400 AF. According to DWR, groundwater in the Burns Valley Groundwater Basin is derived from rain that falls within the 12.5 square mile Burns Valley Watershed drainage area. It takes 2.1-inches of rainfall to infiltrate into the 12.5 square mile watershed to recharge 1,400 AF. The project's demand is only 0.12% of the usable storage capacity of the Burns Valley Groundwater Basin.

According to the Lake County Groundwater Management Plan, there are 86 domestic wells and 9 irrigation wells in the Burns Valley Groundwater Basin and agricultural demand during an average year is 105 AF per year; of this, 14 AF is supplied from groundwater. The Groundwater Management Plan is dated 2006 and does not include the demand from additional proposed/potential cannabis cultivation projects in the Burns Valley Groundwater Basin. The Lake County Zoning Ordinance allows 1-acre of outdoor canopy for each 20 acres of parcel size for specific zones. Within the Burns Valley Groundwater Basin, there are 57 parcels with total area of 1,124 acres with zoning that would allow for outdoor cultivation with a County Use Permit, of this area, approximately 11 parcels or 741 acres, are existing vineyards/hops/agriculture. Excluding these 11 parcels, there are 46 parcels with 383 acres eligible for cannabis cultivation in areas without pre-existing agriculture activities, or up to 19 acres of potentially new cultivation/agriculture (the County allows only 1-acre of cultivation for each 20 acres of parcel area). The increased irrigation demand could be up to approximately 31.5 AF assuming 3,000 gallons per day per acre for 180 days. The City of Clearlake Zoning Ordinance allows for mixed-light/indoor cultivation in the Burns Valley Groundwater Basin, with a City Cannabis Permit, on 23 parcels with a total area of 242 acres. Accounting for existing development, steep topography, waterbody setbacks, and flood zones only approximately 20 to 25 acres of this area could have the potential for mixed-light/indoor cultivation. The increased irrigation demand could be up to approximately 69 AF assuming 3,000 gallons per day per acre for 300 days. The total potential new demand from both the County and City for cannabis cultivation could be up to 89 AF per year, which includes the proposed project at 2160 Ogulin Canyon Road.

Cumulatively, the existing (CDM, 2006) and potential new agricultural groundwater demand could be up to 103 AF per year or up to 7.4% of the usable storage capacity in the Burns Valley Groundwater Basin. The demand of the proposed project, 1.7 AF, is only 1.7% of the potential future demand.

Since project's well has sufficient yield to meet the project's demand; the project proposes 26 days of water storage; there is sufficient recharge and supply to meet the project's demand during average and dry years; the project's demand is only 0.12% of the usable storage capacity of the Burns Valley



Groundwater Basin; and the potential future cannabis demand in the basin is a fraction of the usable storage capacity, the proposed project water use would have little to no cumulative impact on the surrounding area.

Additionally, if needed in the future to create water redundancy for the project, the project could install a rainwater catchment system. The project proposes 47,975 sq. ft. of footprint that could be utilized as rainwater catchment. The rainwater catchment potential is approximately 0.60 acre-feet (195,500 gallons) during a dry year and up to 2.5 acre-feet (814,600 gallons) during a wet year.

### **QUALIFICATIONS OF AUTHOR**

I have a PhD in Water Resources Engineering. In addition, I am a registered Professional Engineer with the State of California with 30-years of experience practicing and teaching Water Resources Engineering, including over 15 years of teaching, practicing, and modeling surface and groundwater hydrology.

### **LIMITATIONS**

The study of groundwater hydrology is very complex and often relies on limited data, especially in rural areas. Recommendations and conclusions provided herein are based on professional judgment made using information of the groundwater systems and geology in Lake County, which is limited and allows only for a general assessment of groundwater aquifer conditions and recharge. NorthPoint Consulting Group, Inc. is making analyses, recommendations, and conclusions based on readily available data, including studies and reports conducted by other professionals, Lake County, the State of California, and other consultants hired by the project proponent to prepare technical studies for the proposed project. If additional information or data becomes available for the project area, the recommendations and conclusions presented herein may be subject to change.

### **ATTACHMENTS**

1. Well Completion Report
2. NRCS Soil Survey Results
3. PRISM Climate Precipitation 1895-2020

### **REFERENCES**

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# ATTACHMENT 1: WELL COMPLETION REPORT







**COUNTY OF LAKE**  
**HEALTH SERVICES DEPARTMENT**  
 Division of Environmental Health  
 922 Bevins Court, Lakeport, CA 95453-9739  
 Telephone 707/ 263-1164 FAX: 263-1681

**Denise Pomeroy**  
 Health Services Director

**Erin Gustafson**  
 Public Health Officer

**Jasjit Kang**  
 Environmental Health Director

**SEAL WITHOUT WITNESS**

Permit Number: WE 5718-AG  
 Site Address: 2160 Ogulin Canyon RD Clarklake CA. 95422  
 Assessor's Parcel No: 010 - 044 - 21  
 Owner Name: Ogulin Hills Holdings LLC  
 Date: 10/1/21

**REASON FOR SEAL WITHOUT WITNESS:**

- Emergency Seal – Explain: \_\_\_\_\_
- Inspector unable to witness
- Other: \_\_\_\_\_

**IMPERMEABLE LAYER in which annular space terminates:**

2" at a depth of 20' feet.

SEALANT USED: Bentonite clay & concrete  
 METHOD OF PLACEMENT: Pour down Hole and mix and pour concrete cap

*I hereby certify that I have installed the annular seal in accordance with the provisions of the Lake County Well Ordinance and unless otherwise specified in the Lake County Well Ordinance, with the California Department of Water Resources Bulletin 74-81 or as modified by subsequent revisions or supplements.*

DRILLING CONTRACTOR SIGNATURE: [Signature]  
 COMPANY: Will Peterson Well Drilling LICENSE NO: 1009053



State of California  
**Well Completion Report**

Refer to Instruction Pamphlet  
 No. XXXXXX

Page 1 of 1  
 Owner's Well Number 2  
 Date Work Began 9-29-21 Date Work Ended 10-1-21  
 Local Permit Agency Lake County Environmental Health  
 Permit Number WE-57184C Permit Date 9-28-21

DWR Use Only - Do Not Fill In

State Well Number	Size Number
Latitude	Longitude
APN/TRS/Other	

**Geologic Log**

Orientation  Vertical  Horizontal  Angle Specify \_\_\_\_\_  
 Drilling Method Air Rotary Drilling Fluid NA

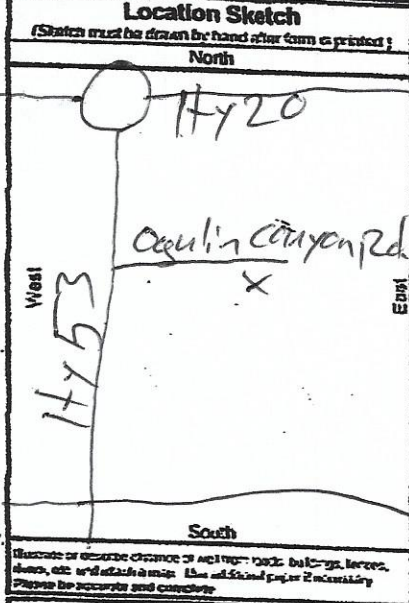
Depth from Surface Feet to Feet	Description Describe material, grain size, color, etc.
0 20	gravel and Brown clay
20 70	gravel & tan clay
70 220	fractured gravel trace of sandstone
220 240	fractured gravel
240 300	green stone

**Well Owner**

Name Dawlin Hills Holdings  
 Mailing Address 637 Lindero St. Suite 201  
 City San Rafael State CA Zip 94901

**Well Location**

Address 2160 Ogulin Canyon Rd  
 City Clearlake CA County Lake  
 Latitude \_\_\_\_\_ N Longitude \_\_\_\_\_  
 Datum \_\_\_\_\_ Dec. Lat. \_\_\_\_\_ Dec. Long. \_\_\_\_\_  
 APN Book 010 Page 044 Parcel 21  
 Township \_\_\_\_\_ Range \_\_\_\_\_ Section \_\_\_\_\_



**Activity**

New Well  
 Modification/Repair  
 Deepen  
 Other  
 Destroy  
Describe size, casing and methods under "CFR 0261.02"

**Planned Uses**

Water Supply  
 Domestic  Public  
 Irrigation  Industrial

Cathodic Protection  
 Dewatering  
 Heat Exchange  
 Injection  
 Monitoring  
 Remediation  
 Sparging  
 Test Well  
 Vapor Extraction  
 Other \_\_\_\_\_

**Water Level and Yield of Completed Well**

Depth to first water 80' (Feet below surface)  
 Depth to Static 30'  
 Water Level 30' (Feet) Data Measured 9-30-21  
 Estimated Yield 100+ (GPM) Test Type Air Lift  
 Test Length 2 hrs (Hours) Total Drawdown \_\_\_\_\_ (Feet)  
 \*May not be representative of a well's long term yield.

Total Depth of Boring 305 Feet  
 Total Depth of Completed Well 300 Feet

**Casings**

Depth from Surface Feet ± Feet	Borehole Diameter (Inches)	Type	Material	Wall Thickness (Inches)	Outside Diameter (Inches)	Screen Type	Slot Size if Any (Inches)
0 80	9"	PVC	PVC	1/2"	4 1/2"	None	None
80 100	9"	F480	PVC	1/2"	4 1/2"	PCSS	.032
100 240	9"	F480	PVC	1/2"	4 1/2"	Blanks	N/A
240 300	9"	E480	PVC	1/2"	4 1/2"	Perfs	.032

**Annular Material**

Depth from Surface Feet to Feet	Fill	Description
0 20	Concrete	SEAL
21 300	2 1/2" Gravel	Gravel Pack

**Attachments**

Geologic Log  
 Well Construction Diagram  
 Geophysical Log(s)  
 Soil/Water Chemical Analyses  
 Other \_\_\_\_\_

**Certification Statement**

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief

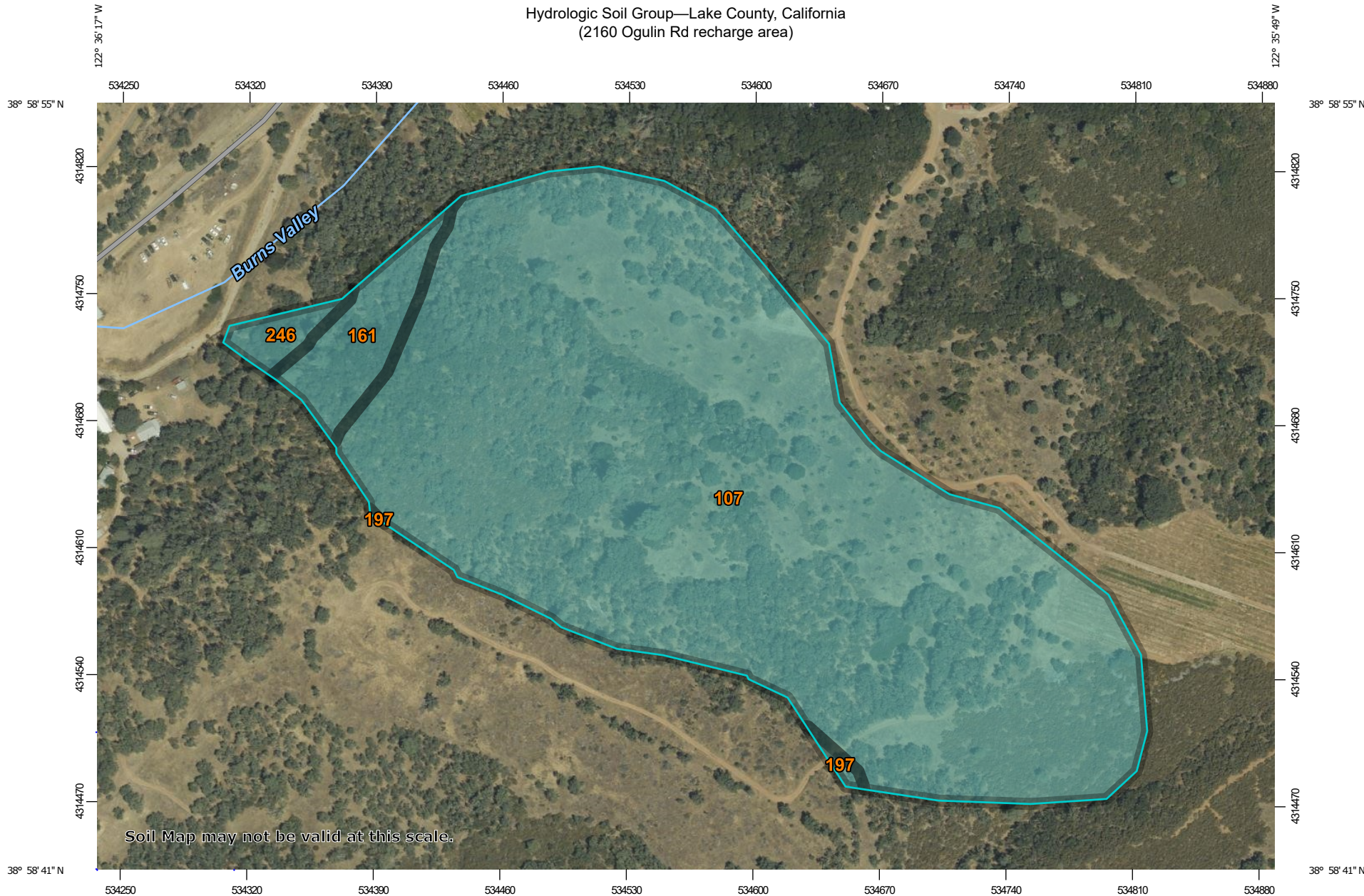
Name Will Peterson Well Drilling  
 P.O. Box 6254  
 Kelseyville CA 95451  
 Signed [Signature] City \_\_\_\_\_ State \_\_\_\_\_  
 Date Signed 10-1-21 License Number 7009053  
 C-57 Licensed Water Well Contractor



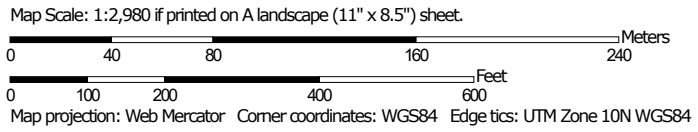
# ATTACHMENT 2: NRCS SOIL SURVEY RESULTS



Hydrologic Soil Group—Lake County, California  
(2160 Ogulin Rd recharge area)



Soil Map may not be valid at this scale.



## MAP LEGEND

### Area of Interest (AOI)









 Area of Interest (AOI)

### Soils

#### Soil Rating Polygons





 A  
 A/D  
 B  
 B/D  
 C  
 C/D  
 D  
 Not rated or not available

#### Soil Rating Lines


 A  
 A/D  
 B  
 B/D  
 C  
 C/D  
 D  
 Not rated or not available

#### Soil Rating Points






 A  
 A/D  
 B  
 B/D

 C  
 C/D  
 D  
 Not rated or not available

### Water Features

 Streams and Canals

### Transportation

 Rails  
 Interstate Highways  
 US Routes  
 Major Roads  
 Local Roads

### Background

 Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

**Warning:** Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Lake County, California  
 Survey Area Data: Version 18, Sep 6, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 2, 2019—Jul 5, 2019

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
107	Bally-Phipps complex, 15 to 30 percent slopes	C	20.8	93.4%
161	Manzanita loam, 15 to 25 percent slopes	C	1.1	4.8%
197	Phipps complex, 30 to 50 percent slopes	C	0.1	0.3%
246	Wolfcreek gravelly loam	C	0.3	1.5%
<b>Totals for Area of Interest</b>			<b>22.3</b>	<b>100.0%</b>

## Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

## Rating Options

*Aggregation Method:* Dominant Condition

*Component Percent Cutoff:* None Specified

*Tie-break Rule:* Higher

**ATTACHMENT 3:  
PRISM CLIMATE PRECIPITATION  
1985-2020**





PRISM Time Series Data

Location: Lat: 38.9801 Lon: -122.6001 Elev: 1637ft

Climate variable: ppt

Spatial resolution: 4km

Period: 1895 - 2020

Dataset: AN81m

PRISM day definition: 24 hours ending at 1200 UTC on the day shown

Grid Cell Interpolation: On

Time series generated: 2021-Dec-15

Details: [http://www.prism.oregonstate.edu/documents/PRISM\\_datasets.pdf](http://www.prism.oregonstate.edu/documents/PRISM_datasets.pdf)

Date	ppt (inches)		
1895	33.65	average	27.64
1896	39.54	minimum	6.47
1897	26.51		
1898	15.11		
1899	36.11		
1900	24.89		
1901	26.3		
1902	34.57		
1903	26.85		
1904	43.01		
1905	23.19		
1906	43.23		
1907	35.8		
1908	18.8		
1909	45.52		
1910	17.49		
1911	33.98		
1912	20.54		
1913	26.32		
1914	31.28		
1915	35.75		
1916	30.09		
1917	13.05		
1918	20.66		
1919	23.08		
1920	29.95		
1921	24.21		
1922	27.56		
1923	14.72		
1924	21.12		
1925	26.24		
1926	34.62		
1927	28.56		
1928	20.66		
1929	15.35		
1930	17.43		

1931	25.08
1932	12.81
1933	20.93
1934	18.96
1935	25.57
1936	25.58
1937	34.51
1938	31.94
1939	12.69
1940	46.18
1941	45.3
1942	32.4
1943	21.32
1944	26.56
1945	29.34
1946	14.25
1947	16.85
1948	23.47
1949	16.87
1950	34.45
1951	29.85
1952	34.57
1953	21.29
1954	29.51
1955	25.11
1956	21.24
1957	30.94
1958	35.76
1959	20.72
1960	27.18
1961	20.09
1962	27.14
1963	28.56
1964	23.1
1965	26.03
1966	22.74
1967	27.62
1968	30.57
1969	34.17
1970	35.46
1971	17.75
1972	19.43
1973	41.75
1974	24.09
1975	24.4
1976	8.68
1977	19.26

1978	30.31
1979	35.13
1980	24.72
1981	31.37
1982	33.72
1983	62.59
1984	21.31
1985	16.74
1986	38.77
1987	27.96
1988	17.68
1989	21.03
1990	16.85
1991	24.17
1992	30.03
1993	36.44
1994	21.37
1995	55.6
1996	37.2
1997	30.3
1998	52.65
1999	23.63
2000	27.59
2001	36.25
2002	28.89
2003	33.03
2004	33.67
2005	39.24
2006	34.9
2007	13.72
2008	19.47
2009	17.74
2010	34.12
2011	23.3
2012	30.68
2013	6.47
2014	31.45
2015	18.12
2016	35.83
2017	43.81
2018	23.64
2019	43.4
2020	9.97



## City of Clearlake

14050 Olympic Drive, Clearlake, California 95422  
(707) 994-8201 Fax (707) 995-2653



DISTRIBUTION DATE: April 20, 2020

# REQUEST FOR REVIEW (RFR)

	CITY DEPARTMENTS		LOCAL AGENCIES		STATE/FEDERAL AGENCIES
@	<i>Building Dept</i>	@	<i>Air Quality Management</i>	@	<i>CalTrans</i>
@	<i>Code Enforcement</i>	@	<i>Assessor's/Recorders Office</i>		<i>BLM</i>
@	<i>Police Department</i>	@	<i>Environmental Health Dept.</i>		<i>CA Dept. of Fish &amp; Wildlife</i>
@	<i>Public Works/Engineering.</i>		<i>Lakebed Management</i>		<i>Army Core of Eng.</i>
		@	<i>Lake County Special Districts</i>		<i>U.S Fish &amp; Wildlife Serv.</i>
			<i>Lake County Water Resources</i>	@	<i>Sonoma State (NWIC)</i>
			<i>Lake County Tax Collector</i>		<i>CHP</i>
@	<i>PG&amp;E</i>		<i>Lake Transit</i>	@	<i>CA Dept. of Drinking Water</i>
			<i>Lake Area Planning Council</i>		<i>Cal Fire</i>
					<i>ABC</i>
			<b>WATER DISTRICT</b>		
			<i>Golden State Water</i>		<b>CANNABIS PROJECTS</b>
		@	<i>Konocti Water Co,</i>	@	<i>Cal Cannabis</i>
			<i>Highlands Water Co.</i>	@	<i>CA Dept. Public Health (Manufacturing)</i>
				@	<i>Bureau of Cannabis Control (retailers, distributors, 3<sup>rd</sup> party testing laboratories and microbusinesses)</i>

**REQUEST: REQUEST:** Please review and comment on the enclosed application packet material for the proposed project below. Please return all comments by May 7, 2020. Please email your comments to [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us) or mail them to the address listed in the letterhead above.

**APPLICATIONS:**

- UP 2021-23 – Cultivation
- UP 2021-24 – Manufacturing
- UP 2021-25 – Distribution
- UP 2021-26 – Processing
- UP 2021-27 – Retail Delivery
- UP 2021-28 – Nursery

**LOCATION(S):** 2160 Ogulin Canyon Road; Clearlake, CA 95422

**APPLICANT:** Ogulin Hills Holdings, LLC c/o Brian Pensack

**APN(s):** 010-044-210-000

**LAND USE DESIGNATION(S):** Commercial

**GENERAL PLAN DESIGNATION(S):** Commercial

**PROPOSAL:** The applicant is requesting approval of the above use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for further details.**

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers
  
- Proposed Structures:
  - 33,600 SQFT cannabis processing, manufacturing, and distribution building
  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

See attached memorandum

NAME:           Tina Rubin          

DATE:           5/28/21



**COUNTY OF LAKE**  
Health Services Department  
Environmental Health Division  
922 Bevins Court  
Lakeport, California 95453-9739  
Telephone 707/263-1164  
FAX 707/263-1681

Denise Pomeroy  
Health Services Director

Gary Pace, MD, MPH  
Health Officer

Craig Wetherbee  
Environmental Health Director

#### MEMORANDUM

DATE: May 28, 2021  
TO: Mark Roberts, Planner  
FROM: Tina Dawn-Rubin, Environmental Health Aide  
RE: Multiple Use Permits  
Commercial Cannabis  
APN: 010-044-21 2160 Ogulin Canyon Rd, Clearlake

Lake County Division of Environmental Health (EH) has on file for the subject parcel:

**APN: 010-044-21** – a 1974 septic permit 3402-S designed to service a 3 bedroom residence. The permit also indicates there is a well on the property.

The applicant must meet the EH requirements regarding Onsite Wastewater Treatment System (OWTS) and potable water.

For any proposed building permits or projects where the parcel is serviced by an OWTS or well, the applicant may need to demonstrate the location of any proposed or existing structures including residential or commercial dwellings, garages, driveways, shed, barns, green houses, non-perimeter fences, well houses, etc., *and* the location of the proposed project on a to-scale site plan prior to building permit issuance and/or project approval.

Due to the limited documentation on file for this parcel, a field clearance will be required to validate septic or well locations prior to site plan approval.

If the applicant is proposing a commercial cannabis operation and the operation will be constructing or utilizing an existing structure (i.e., processing facility) that will have plumbing for a restroom, sink, etc, that structure will be required to have its own OWTS, separate from any existing or new OWTS designed to service a residential structure.

If the applicant is proposing an OWTS, then applicant must apply for a site evaluation and, if the site is acceptable to support an OWTS, apply for a permit.

EH requires all applicants to provide a written declaration of the chemical names and quantities of any hazardous material to be used on site. As a general rule, if a material has a Safety Data Sheet, that material may be considered as part of the facilities hazardous materials declaration.

*Promoting an Optimal State of Wellness in Lake County*



CALIFORNIA  
HISTORICAL  
RESOURCES  
INFORMATION  
SYSTEM



ALAMEDA  
COLUSA  
CONTRA COSTA  
DEL NORTE  
HUMBOLDT  
LAKE  
MARIN  
MENDOCINO  
MONTEREY  
NAPA  
SAN BENITO  
SAN FRANCISCO  
SAN MATEO  
SANTA CLARA  
SANTA CRUZ  
SOLANO  
SONOMA  
YOLO

**Northwest Information Center**  
Sonoma State University  
150 Professional Center Drive, Suite E  
Rohnert Park, California 94928-3609  
Tel: 707.588.8455  
nwic@sonoma.edu  
<http://www.sonoma.edu/nwic>

May 6, 2021

File No.: 20-2099

Mark Roberts, Senior Planner  
City of Clearlake  
14050 Olympic Drive  
Clearlake, California 95422

re: UP 2021-23, UP 2021-24, UP 2021-25, UP 2021-26, UP 2021-27, UP 2021-28 / APN 010-044-210, 2160 Ogulin Canyon Road / Ogulin Hills Holdings, LLC c/o Brian Pensack

Dear Mark Roberts,

Records at this office were reviewed to determine if this project could adversely affect cultural resources. **Please note that use of the term cultural resources includes both archaeological sites and historical buildings and/or structures. The review for possible historic-era building/structures, however, was limited to references currently in our office and should not be considered comprehensive.**

**Project Description:** The applicant is requesting approval of the above use permits to allow the development of a commercial cannabis operation. Hours of Operation: Monday Through Saturday: 8:00AM to 5:00PM. Up to 35 employees. Up to +/- 4 managers. Proposed Structures: 33,600 SQFT cannabis processing, manufacturing, and distribution building. 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space. Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each) Proposed Parking: +/- 46 Parking Spaces.

**Previous Studies:**

XX This office has no record of any previous cultural resource field survey for the proposed project area conducted by a professional archaeologist or architectural historian (*see recommendation below*).

**Archaeological and Native American Resources Recommendations:**

XX The proposed project area has the possibility of containing unrecorded archaeological site(s). A study by a qualified professional archaeologist is recommended prior to commencement of project activities.

XX We recommend that the lead agency contact the local Native American tribe(s) regarding traditional, cultural, and religious heritage values. For a complete listing of tribes in the vicinity of the project, please contact the Native American Heritage Commission at (916) 373-3710.

     The proposed project area has a low possibility of containing unrecorded archaeological site(s). Therefore, no further study for archaeological resources is recommended.

**Built Environment Recommendations:**

XX Since the Office of Historic Preservation has determined that any building or structure 45 years or older may be of historical value, if the project area contains such properties, it is recommended that prior to commencement of project activities, a qualified professional familiar with the architecture and history of Lake County conduct a formal CEQA evaluation.

Due to processing delays and other factors, not all of the historical resource reports and resource records that have been submitted to the Office of Historic Preservation are available via this records search. Additional information may be available through the federal, state, and local agencies that produced or paid for historical resource management work in the search area. Additionally, Native American tribes have historical resource information not in the California Historical Resources Information System (CHRIS) Inventory, and you should contact the California Native American Heritage Commission for information on local/regional tribal contacts.

The California Office of Historic Preservation (OHP) contracts with the California Historical Resources Information System's (CHRIS) regional Information Centers (ICs) to maintain information in the CHRIS inventory and make it available to local, state, and federal agencies, cultural resource professionals, Native American tribes, researchers, and the public. Recommendations made by IC coordinators or their staff regarding the interpretation and application of this information are advisory only. Such recommendations do not necessarily represent the evaluation or opinion of the State Historic Preservation Officer in carrying out the OHP's regulatory authority under federal and state law.

For your reference, a list of qualified professionals in California that meet the Secretary of the Interior's Standards can be found at <http://www.chrisinfo.org>. If archaeological resources are encountered during the project, work in the immediate vicinity of the finds should be halted until a qualified archaeologist has evaluated the situation. If you have any questions please give us a call (707) 588-8455.

Sincerely,  
  
Bryan Much  
Coordinator

**From:** [Fahmy Attar](#)  
**To:** [Mark Roberts](#)  
**Cc:** [Doug Gearhart](#)  
**Subject:** Re: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Monday, June 7, 2021 11:42:19 AM  
**Importance:** High

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mark,

For a Cannabis operation site, here is a list of Air Quality requirements that may be applicable to the site:

1. Off-site odor impacts should be mitigated to minimize nuisance to nearby residences, property, and public roads.
2. Any manufacturing or delivery Cannabis operations must comply with LCAQMD rules and regulations. An application must be submitted. Contact LCAQMD for more details.
3. 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.
4. 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.
5. 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.
6. 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. Contact LCAQMD for more details.
7. 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 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.

8. 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.

Best Regards,

**Fahmy Attar**

Air Quality Engineer

Lake County Air Quality Management District

2617 S. Main Street, Lakeport, CA, 95453

[fahmya@lcaqmd.net](mailto:fahmya@lcaqmd.net)

On Apr 20, 2021, at 10:44 AM, Mark Roberts <[mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us)> wrote:

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for further details.** If you have any concerns and/or comments on the project, please submit them **no later than May 7<sup>th</sup>, 2021.** –

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers

**From:** [Andrew White](#)  
**To:** [Mark Roberts](#)  
**Subject:** RE: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Wednesday, April 28, 2021 10:05:04 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Good Morning,

The Police Department opposes the application as presented for failing to demonstrate compliance with City Ordinances related to the proposed operation. Additionally, although the application seems to represent that a criminal history check has been completed and approved by me. I have not reviewed or approved any criminal history check with regards to this applicant.

The security plan, consisting of one sentence, is wholly inadequate and requires further review in the interest of public safety, health and welfare.

We look forward to the applicant submitting a complete application that sufficiently demonstrates compliance with the City Code. We are also open to meeting with the applicant to address any questions or concerns as they revise their submittal.

Thank you



**Andrew White** | *Chief of Police*  
Clearlake Police Department  
14050 Olympic Dr | Clearlake, CA 95422  
(O) 707 994-8251 x301 | (C) 707 681-5688 | Dispatch: 707 994-8251



---

**From:** Mark Roberts <mroberts@clearlake.ca.us>  
**Sent:** Tuesday, April 20, 2021 10:45 AM  
**Subject:** RFR - 2160 Ogulin Canyon road Cannabis Project  
**Importance:** High

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following:



**Please refer to attached packet, site plans and architectural plans for further details. If you have any concerns and/or comments on the project, please submit them **no later than May 7<sup>th</sup>, 2021.** –**

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers
  
- Proposed Structures:
  - 33,600 SQFT cannabis processing, manufacturing, and distribution building
  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,



**Mark Roberts | Senior Planner**

**City of Clearlake**

14050 Olympic Drive | Clearlake, CA 95422

707-994-8201

**From:** [Lori Baca](#)  
**To:** [Mark Roberts](#)  
**Subject:** RE: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Wednesday, April 28, 2021 9:49:25 AM  
**Attachments:** [image003.png](#)  
[image001.png](#)

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mark,

Parcel 010-044-210 is outside of any Special Districts service area, no impact.

Have a wonderful day!

**Lori A. Baca**

**Customer Service Coordinator**

[Lori.Baca@lakecountyca.gov](mailto:Lori.Baca@lakecountyca.gov)

Office Number (707) 263-0119

Fax (707) 263-3836



---

**From:** Mark Roberts [mailto:mroberts@clearlake.ca.us]  
**Sent:** Tuesday, April 20, 2021 10:45 AM  
**Subject:** [SUSPICIOUS MESSAGE] RFR - 2160 Ogulin Canyon road Cannabis Project  
**Importance:** High

**This Message contains suspicious characteristics and has originated outside your organization. This message appears to be from an individual who works for the County, but does not come from a County address.**

---

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for**

**From:** [kcwd@mchsi.com](mailto:kcwd@mchsi.com)  
**To:** [Mark Roberts](#)  
**Subject:** Re: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Friday, April 23, 2021 9:48:03 AM

---

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Konocti County Water District has no comments. This area is not in our district. Thank you, Frank.

----- Original Message -----

From: "Mark Roberts" <mroberts@clearlake.ca.us>  
Sent: Tuesday, April 20, 2021 10:44:30 AM  
Subject: RFR - 2160 Ogulin Canyon road Cannabis Project

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: Please refer to attached packet, site plans and architectural plans for further details. If you have any concerns and/or comments on the project, please submit them no later than May 7th, 2021.

· Hours of Operation:

- o Monday Through Saturday: 8:00AM to 5:00PM.
- o Up to 35 employees
- o Up to +/- 4 managers

· Proposed Structures:

- o 33,600 SQFT cannabis processing, manufacturing, and distribution building
- o 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
- o Five (5) Greenhouse - Each greenhouse will be 75' X 25' (1,875 SQFT Each)

· Proposed Parking:

- o +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

**From:** [Mark Roberts](#)  
**To:** [Gary Price](#)  
**Subject:** FW: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Tuesday, April 12, 2022 9:24:00 AM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[image006.png](#)

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Bureau of Cannabis Control Comments for 2160 Ogulin Canyon RD

---

**From:** BCCLocalGov@DCA <BCCLocalGov@dca.ca.gov>  
**Sent:** Tuesday, April 20, 2021 11:45 AM  
**To:** Mark Roberts <mroberts@clearlake.ca.us>  
**Subject:** RE: RFR - 2160 Ogulin Canyon road Cannabis Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

This appears to be information related to an internal local process. The Bureau has no information to add to this.

Thank you,



**Janet Zimmer**  
Local Liaison/Equity Manager  
(916) 465-9057  
[www.bcc.ca.gov](http://www.bcc.ca.gov)  
<https://cannabis.ca.gov>



---

**From:** Mark Roberts <[mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us)>  
**Sent:** Tuesday, April 20, 2021 10:45 AM  
**Subject:** RFR - 2160 Ogulin Canyon road Cannabis Project  
**Importance:** High

[EXTERNAL]: [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us)

**CAUTION:** THIS EMAIL ORIGINATED OUTSIDE THE DEPARTMENT OF CONSUMER AFFAIRS!

**DO NOT:** click links or open attachments unless you know the content is safe.

**NEVER:** provide credentials on websites via a clicked link in an Email.

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Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for further details.** If you have any concerns and/or comments on the project, please submit them **no later than May 7<sup>th</sup>, 2021.** –

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers
  
- Proposed Structures:
  - 33,600 SQFT cannabis processing, manufacturing, and distribution building
  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,



**Mark Roberts** | *Senior Planner*

**City of Clearlake**

14050 Olympic Drive | Clearlake, CA 95422

707-994-8201



---

## Central Valley Regional Water Quality Control Board

13 May 2022

Mark Roberts  
City of Clearlake  
14050 Olympic Drive  
Clearlake, CA 95422  
[mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us)

### **COMMENTS TO REQUEST FOR REVIEW FOR THE MITIGATED NEGATIVE DECLARATION, OGULIN HILLS HOLDINGS, LLC - COMMERCIAL CANNABIS OPERATION PROJECT, SCH#2022040072, LAKE COUNTY**

Pursuant to the State Clearinghouse's 4 April 2022 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Mitigated Negative Declaration* for the Ogulin Hills Holdings, LLC - Commercial Cannabis Operation Project, located in Lake County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

#### **I. Regulatory Setting**

##### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of

Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

### **Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr\\_2018\\_05.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf)

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

*This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.*

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

## **II. Permitting Requirements**

### **Cannabis General Order**

Cannabis cultivation operations are required to obtain coverage under the State Water Resources Control Board's *General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities Order No. WQ 2017-0023-DWQ* (the Cannabis General Order). Cultivators that divert and store surface water (stream, lake, subterranean stream, etc.) to irrigate cannabis also need a valid water right.

The Water Boards Cannabis Cultivation Programs offer an easy-to-use online Portal for cultivators to apply for both Cannabis General Order coverage and a Cannabis Small Irrigation Use Registration (SIUR) water right, if needed. Visit the Water Boards Cannabis Cultivation Programs Portal at:

<https://public2.waterboards.ca.gov/CGO>

Additional information about the Cannabis General Order, Cannabis SIUR Program, and Portal can be found at: [www.waterboards.ca.gov/cannabis](http://www.waterboards.ca.gov/cannabis)

For questions about the Cannabis General Order, please contact the Central Valley Water Board's Cannabis Permitting and Compliance Unit at: [centralvalleysacramento@waterboards.ca.gov](mailto:centralvalleysacramento@waterboards.ca.gov) or (916) 464-3291. For questions about Water Rights (Cannabis SIUR), please contact the State Water Board's Division of Water Rights at: [CannabisReg@waterboards.ca.gov](mailto:CannabisReg@waterboards.ca.gov) or (916) 319-9427.

### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

### **Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/)

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

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<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml)

#### **Industrial Storm Water General Permit**

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 2014-0057-DWQ. For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml)

#### **Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

#### **Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality/certification/](https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality/certification/)

#### **Waste Discharge Requirements – Discharges to Waters of the State**

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at:[https://www.waterboards.ca.gov/centralvalley/water\\_issues/waste\\_to\\_surface\\_water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

### **Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board's Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0003.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf)

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/waivers/r5-2018-0085.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf)

### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2016-0076-01.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf)

### **NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project

will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

*Peter Minkel*

Peter Minkel  
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,  
Sacramento



May 12, 2022

Clearlake, City of  
Attn: Mark Roberts  
14050 Olympic Drive  
Clearlake, CA 95422

CITY OF CLEARLAKE (CITY), MITIGATED NEGATIVE DECLARATION (MND) FOR THE OGULIN HILLS HOLDINGS, LLC- COMMERCIAL CANNABIS OPERATION PROJECT (PROJECT); SCH # 2022040072

Dear Mr. Mark Roberts:

Thank you for the opportunity to review the Mitigated Negative Declaration for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. A project requires a permit if it includes water system consolidation or changes to a water supply source, storage, or treatment or a waiver or alternative from Waterworks Standards (California Code of Regulations (CCR) title 22, chapter 16 et. seq). The above referenced Project will require a new water supply permit.

The State Water Board, DDW, as a responsible agency under CEQA, has the following comments on the City's draft MND:

- The State Water Board regulates public water systems in Lake County. The Project will create a new public water system. On PDF page 5 under "23. Federal and State Agencies:" please list "State Water Resources Control Board, Division of Drinking Water".
- The Project will use an existing well that was drilled in late September/early October 2021 for domestic and irrigation water (PDF page 28). The water will be pumped from a 400+ gallon per minute well into a new 50,000-gallon elevated water tank for distribution (PDF page 28 & Appendix E). Will the water require treatment? Further describe any new water system infrastructure that will be installed as part of the Project.
- The document states on PDF page 38, that, "The project area to be developed is not located within the vicinity of known waterways nor is it located within a designated flood zone. Therefore, the risk of flooding/runoff, landslides, slope instability, or drainage changes would not be increased due to this project" (PDF page 38). However, there are several contradictory statements in the document:
  - "The report notes that a small riparian area is present on the subject parcel. Since Burns Valley Creek travels through the site and the creek will be impacted by the project, such as erosion, sedimentation, changes in drainage patterns." (PDF page 20)
  - "However, since improvements are being constructed within the creek wetlands located down-stream will be impacted." (PDF page 21)
  - "There will be modifications to the drainage pattern of Burns Valley Creek due to grading and introduction of parking improvements withing the Burns Valley

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Creek. These proposed improvements within the Burns Valley Creek area could impact and alter the existing drainage pattern of the site or the area, including the alteration of the course of a stream.” (PDF page 30)

- Project designs also show Burns Valley Creek runs through the Project site and the proposed driveway and parking area occur within Zone AE, a flood zone. (PDF page 4)

Please resolve the discrepancies in the document relating to potential impacts to waters of the state and discuss possible flooding impacts related to domestic water quality. Include best management practices and/or mitigation measures to reduce impacts to waters of the state as needed.

- The Project appears to have other water quality concerns that should be addressed. Please coordinate with the following contacts to address waste discharge water quality issues and the Project permitting requirements, before going to construction:

Division / Unit	Project Issues/ Concerns	Permit	Contact	Phone Number	Email
State Water Board, Division of Water Quality (DWQ), NPDES Industrial and Construction Stormwater Unit	Stormwater Construction Impacts for construction that disturbs greater than one acre of soil	General Stormwater NPDES permit	Brandon Roosenboom	(916) 341-5566	<a href="mailto:Brandon.Roosenboom@waterboards.ca.gov">Brandon.Roosenboom@waterboards.ca.gov</a> & <a href="mailto:stormwater@waterboards.ca.gov">stormwater@waterboards.ca.gov</a>
Central Valley Regional Water Quality Control Board (Central Valley Water Board, Redding), Cannabis Regulation and State Water Board, DWQ	Discharge impacts for cannabis operations	Cannabis Cultivation Waste Discharge Permit	Janae Fried	(530) 224-3291	<a href="mailto:Janae.Fried@waterboards.ca.gov">Janae.Fried@waterboards.ca.gov</a> & <a href="mailto:CannabisWR@waterboards.ca.gov">CannabisWR@waterboards.ca.gov</a>
Central Valley Water Board, Sacramento, Non-15 Permitting	Small domestic wastewater treatment systems over 10,000 gallons per day	General Waste Discharge Requirements for Small Domestic Wastewater Treatment Systems, WQO 2014-0153-DWQ	Lani Andam	(916) 464-4723	<a href="mailto:Lani.Andam@waterboards.ca.gov">Lani.Andam@waterboards.ca.gov</a>

Once the MND is adopted, please forward the following items in support of the new water system's permit application to the State Water Board, DDW Mendocino District Office at [DWPDIST03@waterboards.ca.gov](mailto:DWPDIST03@waterboards.ca.gov):

- Copy of the draft and final MND and Mitigation Monitoring and Reporting Plan (MMRP);
- Copy of any comment letters received and the lead agency responses as appropriate;
- Copy of the Resolution or Board Minutes adopting the MND and MMRP; and
- Copy of the stamped Notice of Determination filed at the Lake County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or [Lori.Schmitz@waterboards.ca.gov](mailto:Lori.Schmitz@waterboards.ca.gov), if you have any questions regarding State Water Board CEQA comments.

Sincerely,

*Lori Schmitz*

Lori Schmitz  
Environmental Scientist  
Division of Financial Assistance  
Special Project Review Unit  
1001 I Street, 16<sup>th</sup> floor  
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Zachary Rounds  
State Water Board, DDW  
Mendocino District  
District Engineer

Brandon Roosenboom  
State Water Board, DWQ  
NPDES Industrial and Construction Stormwater Unit  
Water Resources Control Engineer

Landi Andam  
Central Valley Regional Board, Sacramento  
Non 15 Permitting  
Water Resources Control Engineer

Janae Fried  
Central Valley Regional Board, Redding  
Cannabis Regulation  
Engineering Geologist



**COUNTY OF LAKE**  
Health Services Department  
Environmental Health Division  
922 Bevins Court  
Lakeport, California 95453-9739  
Telephone 707/263-1164  
FAX 707/263-1681

Jonathan Portney  
Health Services Director

Jennifer Baker  
Deputy Health Services Director

Erik McLaughlin, MD, MPH  
Public Health Officer

Craig Wetherbee  
Environmental Health Director

#### MEMORANDUM

DATE: April 12, 2022  
TO: Mark Roberts, Planner  
FROM: Tina Dawn-Rubin, Environmental Health Aide  
RE: Multiple Use Permits  
Commercial Cannabis  
APN: 010-044-21 2160 Ogulin Canyon Rd, Clearlake

Since the initial review completed on May 28, 2021 (see below) a field clearance was performed on September 9, 2021 and it was determined that a minor repair would be required to ensure the existing septic tank is water and vapor proof; septic abandonment permits (19157 D and 19158 D) was issued and final via photos completed on September 22, 2021 for buildings being removed and to abandon gray water system; a well permit (WE 5718 AG) for an AG well was issued September 28, 2021.

#### **Initial Review dated May 28, 2021**

Lake County Division of Environmental Health (EH) has on file for the subject parcel:  
**APN: 010-044-21** – a 1974 septic permit 3402-S designed to service a 3 bedroom residence. The permit also indicates there is a well on the property.

The applicant must meet the EH requirements regarding Onsite Wastewater Treatment System (OWTS) and potable water.

For any proposed building permits or projects where the parcel is serviced by an OWTS or well, the applicant may need to demonstrate the location of any proposed or existing structures including residential or commercial dwellings, garages, driveways, shed, barns, green houses, non-perimeter fences, well houses, etc., *and* the location of the proposed project on a to-scale site plan prior to building permit issuance and/or project approval.

Due to the limited documentation on file for this parcel, a field clearance will be required to validate septic or well locations prior to site plan approval.

If the applicant is proposing a commercial cannabis operation and the operation will be constructing or utilizing an existing structure (i.e., processing facility) that will have plumbing for a restroom, sink, etc, that structure will be required to have its own OWTS, separate from any existing or new OWTS designed to service a residential structure.

*Promoting an Optimal State of Wellness in Lake County*

If the applicant is proposing an OWTS, then applicant must apply for a site evaluation and, if the site is acceptable to support an OWTS, apply for a permit.

EH requires all applicants to provide a written declaration of the chemical names and quantities of any hazardous material to be used on site. As a general rule, if a material has a Safety Data Sheet, that material may be considered as part of the facilities hazardous materials declaration.



## Tina Rubin

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**From:** Mark Roberts <mroberts@clearlake.ca.us>  
**Sent:** Monday, April 4, 2022 2:14 PM  
**Subject:** [SUSPICIOUS MESSAGE] Notice of Intent - 2160 Ogulin Canyon Rd (Cannabis Operation)  
**Attachments:** image001\_png was removed from this message; Final Draft CEQA for 2160 Ogulin Canyon -NOI Circulation\_pdf was removed from this message; Attachment A - Project Description\_pdf was removed from this message; Attachment B - Proposed Grading and Site Plans\_pdf was removed from this message; Attachment C – Biological AssessmentReport\_pdf was removed from this message; Attachment D - Agency Comments\_pdf was removed from this message; Attachment E - Water Availability Report\_pdf was removed from this message; Attachment F - Traffic Impact Report\_pdf was removed from this message; Attachment G - Technical Memorandum – Ground Water Hydrology\_pdf was removed from this message

**Importance:** High

Received  
APR 04 2022  
Environmental Health

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This Message contains suspicious characteristics and has originated outside your organization. This message appears to be from an individual who works for the County, but does not come from a County address.

Good Afternoon,

Notice is hereby given that the City of Clearlake has tentatively determined that the project described below will not result in a significant adverse impact on the environment and that, in accordance with the California Environmental Quality Act, the City is prepared to issue a “mitigated negative declaration” in accordance with the California Environmental Quality Act (CEQA).

**Project Summary:** The proposed project includes development of industrial style structures to be used for cannabis related facilities including a 33,600 ft.<sup>2</sup> single story building and a 5,000 ft.<sup>2</sup> office building that will also serve as the administrative center/cannabis delivery and storage space. Five - 75’ x 25’ greenhouses for indoor cannabis cultivation will be developed. The amount of paved surface area will include 22,660 square feet of parking lot. Specific project uses are to include: 1. Cannabis cultivation/processing; 2. Cannabis manufacturing; 3. Cannabis distribution; 4. Cannabis nursery. For a detailed description of the project, please refer to the link below.

**Project Location:** 2160 Ogulin Canyon Road, Clearlake, CA 95422, Assessor Parcel Number (APN): 010-044-21.

This tentative determination is based on an environmental study that assesses the project’s potential environmental impacts and those potential impacts have been reduced to less than significant levels with the incorporated mitigation measures. Anyone can review this study at Clearlake City Hall, 14050 Olympic Drive, Clearlake, CA 95901, during normal business hours or by downloading from the State Clearinghouse Website at: (I have also attached a Complete Initial Packet above for your convenience.

- <https://ceqanet.opr.ca.gov/>

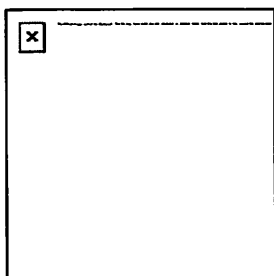
Final environmental determinations are made by the decision-making body, which, in this case would be the City of Clearlake, Planning Commission. The public review period for this notice will remain open for a period of at least 30 days from the publication of this **Notice (04/07/2022), until (05/13/2022)**. For more information, please call (707) 994-8201 during normal business hours of City Hall (Monday through Thursday – 8am to 5pm). During



this period written comments on the project and the proposed mitigated negative declaration may be addressed. You may also submit comments via email at [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us) (**Please Note: All comments must be received no later than May 13, 2022 by 5pm**).

City of Clearlake  
Planning Department  
Attn: Mark Roberts  
14050 Olympic Drive  
Clearlake, CA 95422

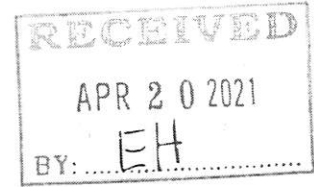
Published Date: April 4, 2022



**Mark Roberts** | *Senior Planner*  
**City of Clearlake**  
14050 Olympic Drive | Clearlake, CA 95422  
707-994-8201



**City of Clearlake**  
14050 Olympic Drive, Clearlake, California 95422  
(707) 994-8201 Fax (707) 995-2653



DISTRIBUTION DATE: April 20, 2020

## REQUEST FOR REVIEW (RFR)

	CITY DEPARTMENTS		LOCAL AGENCIES		STATE/FEDERAL AGENCIES
@	Building Dept	@	Air Quality Management	@	CalTrans
@	Code Enforcement	@	Assessor's/Recorders Office		BLM
@	Police Department	@	Environmental Health Dept.		CA Dept. of Fish & Wildlife
@	Public Works/Engineering.		Lakebed Management		Army Core of Eng.
		@	Lake County Special Districts		U.S Fish & Wildlife Serv.
			Lake County Water Resources	@	Sonoma State (NWIC)
	<b>OTHER AGENCIES</b>		Lake County Tax Collector		CHP
@	PG&E		Lake Transit	@	CA Dept. of Drinking Water
			Lake Area Planning Council		Cal Fire
					ABC
			<b>WATER DISTRICT</b>		
			Golden State Water		<b>CANNABIS PROJECTS</b>
		@	Konocti Water Co.	@	Cal Cannabis
			Highlands Water Co.	@	CA Dept. Public Health (Manufacturing)
				@	Bureau of Cannabis Control (retailers, distributors, 3 <sup>rd</sup> party testing laboratories and microbusinesses)

**REQUEST: REQUEST:** Please review and comment on the enclosed application packet material for the proposed project below. Please return all comments by May 7, 2020. Please email your comments to [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us) or mail them to the address listed in the letterhead above.

**APPLICATIONS:**

- UP 2021-23 – Cultivation
- UP 2021-24 – Manufacturing
- UP 2021-25 – Distribution
- UP 2021-26 – Processing
- UP 2021-27 – Retail Delivery
- UP 2021-28 – Nursery

**LOCATION(S):** 2160 Ogulin Canyon Road; Clearlake, CA 95422

**APPLICANT:** Ogulin Hills Holdings, LLC c/o Brian Pensack

**APN(s):** 010-044-210-000

**LAND USE DESIGNATION(S):** Commercial

**GENERAL PLAN DESIGNATION(S):** Commercial

**PROPOSAL:** The applicant is requesting approval of the above use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for further details.**

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers
  
- Proposed Structures:
  - 33,600 SQFT cannabis processing, manufacturing, and distribution building
  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

**COMMENTS:**

\_\_\_\_\_  
*See attached memorandum*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NAME:** *Lina Rubin*

**DATE:** *5/28/21*



**COUNTY OF LAKE**  
Health Services Department  
Environmental Health Division  
922 Bevins Court  
Lakeport, California 95453-9739  
Telephone 707/263-1164  
FAX 707/263-1681

Denise Pomeroy  
Health Services Director

Gary Pace, MD, MPH  
Health Officer

Craig Wetherbee  
Environmental Health Director

#### MEMORANDUM

DATE: May 28, 2021  
TO: Mark Roberts, Planner  
FROM: Tina Dawn-Rubin, Environmental Health Aide  
RE: Multiple Use Permits  
Commercial Cannabis  
APN: 010-044-21 2160 Ogulin Canyon Rd, Clearlake

Lake County Division of Environmental Health (EH) has on file for the subject parcel:  
**APN: 010-044-21** – a 1974 septic permit 3402-S designed to service a 3 bedroom residence. The permit also indicates there is a well on the property.

The applicant must meet the EH requirements regarding Onsite Wastewater Treatment System (OWTS) and potable water.

For any proposed building permits or projects where the parcel is serviced by an OWTS or well, the applicant may need to demonstrate the location of any proposed or existing structures including residential or commercial dwellings, garages, driveways, shed, barns, green houses, non-perimeter fences, well houses, etc., *and* the location of the proposed project on a to-scale site plan prior to building permit issuance and/or project approval.

Due to the limited documentation on file for this parcel, a field clearance will be required to validate septic or well locations prior to site plan approval.

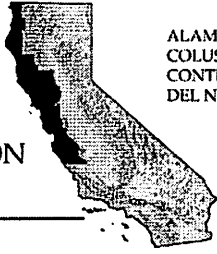
If the applicant is proposing a commercial cannabis operation and the operation will be constructing or utilizing an existing structure (i.e., processing facility) that will have plumbing for a restroom, sink, etc, that structure will be required to have its own OWTS, separate from any existing or new OWTS designed to service a residential structure.

If the applicant is proposing an OWTS, then applicant must apply for a site evaluation and, if the site is acceptable to support an OWTS, apply for a permit.

EH requires all applicants to provide a written declaration of the chemical names and quantities of any hazardous material to be used on site. As a general rule, if a material has a Safety Data Sheet, that material may be considered as part of the facilities hazardous materials declaration.

*Promoting an Optimal State of Wellness in Lake County*

CALIFORNIA  
HISTORICAL  
RESOURCES  
INFORMATION  
SYSTEM



ALAMEDA  
COLUSA  
CONTRA COSTA  
DEL NORTE

HUMBOLDT  
LAKE  
MARIN  
MENDOCINO  
MONTEREY  
NAPA  
SAN BENITO

SAN FRANCISCO  
SAN MATEO  
SANTA CLARA  
SANTA CRUZ  
SOLANO  
SONOMA  
YOLO

**Northwest Information Center**  
Sonoma State University  
150 Professional Center Drive, Suite E  
Rohnert Park, California 94928-3609  
Tel: 707.568.8455  
nwic@sonoma.edu  
<http://www.sonoma.edu/nwic>

May 6, 2021

File No.: 20-2099

Mark Roberts, Senior Planner  
City of Clearlake  
14050 Olympic Drive  
Clearlake, California 95422

re: UP 2021-23, UP 2021-24, UP 2021-25, UP 2021-26, UP 2021-27, UP 2021-28 / APN 010-044-210, 2160 Ogulin Canyon Road / Ogulin Hills Holdings, LLC c/o Brian Pensack

Dear Mark Roberts,

Records at this office were reviewed to determine if this project could adversely affect cultural resources. **Please note that use of the term cultural resources includes both archaeological sites and historical buildings and/or structures. The review for possible historic-era building/structures, however, was limited to references currently in our office and should not be considered comprehensive.**

**Project Description:** The applicant is requesting approval of the above use permits to allow the development of a commercial cannabis operation. Hours of Operation: Monday Through Saturday: 8:00AM to 5:00PM. Up to 35 employees. Up to +/- 4 managers. Proposed Structures: 33,600 SQFT cannabis processing, manufacturing, and distribution building. 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space. Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each) Proposed Parking: +/- 46 Parking Spaces.

**Previous Studies:**

XX This office has no record of any previous cultural resource field survey for the proposed project area conducted by a professional archaeologist or architectural historian (*see recommendation below*).

**Archaeological and Native American Resources Recommendations:**

XX The proposed project area has the possibility of containing unrecorded archaeological site(s). A study by a qualified professional archaeologist is recommended prior to commencement of project activities.

XX We recommend that the lead agency contact the local Native American tribe(s) regarding traditional, cultural, and religious heritage values. For a complete listing of tribes in the vicinity of the project, please contact the Native American Heritage Commission at (916) 373-3710.

     The proposed project area has a low possibility of containing unrecorded archaeological site(s). Therefore, no further study for archaeological resources is recommended.

**Built Environment Recommendations:**

XX Since the Office of Historic Preservation has determined that any building or structure 45 years or older may be of historical value, if the project area contains such properties, it is recommended that prior to commencement of project activities, a qualified professional familiar with the architecture and history of Lake County conduct a formal CEQA evaluation.

Due to processing delays and other factors, not all of the historical resource reports and resource records that have been submitted to the Office of Historic Preservation are available via this records search. Additional information may be available through the federal, state, and local agencies that produced or paid for historical resource management work in the search area. Additionally, Native American tribes have historical resource information not in the California Historical Resources Information System (CHRIS) Inventory, and you should contact the California Native American Heritage Commission for information on local/regional tribal contacts.

The California Office of Historic Preservation (OHP) contracts with the California Historical Resources Information System's (CHRIS) regional Information Centers (ICs) to maintain information in the CHRIS inventory and make it available to local, state, and federal agencies, cultural resource professionals, Native American tribes, researchers, and the public. Recommendations made by IC coordinators or their staff regarding the interpretation and application of this information are advisory only. Such recommendations do not necessarily represent the evaluation or opinion of the State Historic Preservation Officer in carrying out the OHP's regulatory authority under federal and state law.

For your reference, a list of qualified professionals in California that meet the Secretary of the Interior's Standards can be found at <http://www.chrisinfo.org>. If archaeological resources are encountered during the project, work in the immediate vicinity of the finds should be halted until a qualified archaeologist has evaluated the situation. If you have any questions please give us a call (707) 588-8455.

Sincerely,  
  
Bryan Much  
Coordinator



**From:** [Fahmy Attar](#)  
**To:** [Mark Roberts](#)  
**Cc:** [Doug Gearhart](#)  
**Subject:** Re: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Monday, June 7, 2021 11:42:19 AM  
**Importance:** High

---

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Mark,

For a Cannabis operation site, here is a list of Air Quality requirements that may be applicable to the site:

1. Off-site odor impacts should be mitigated to minimize nuisance to nearby residences, property, and public roads.
2. Any manufacturing or delivery Cannabis operations must comply with LCAQMD rules and regulations. An application must be submitted. Contact LCAQMD for more details.
3. 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.
4. 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.
5. 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.
6. 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. Contact LCAQMD for more details.
7. 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 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.

8. 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.

Best Regards,

**Fahmy Attar**  
Air Quality Engineer  
Lake County Air Quality Management District  
2617 S. Main Street, Lakeport, CA, 95453  
[fahmya@lcaqmd.net](mailto:fahmya@lcaqmd.net)

On Apr 20, 2021, at 10:44 AM, Mark Roberts <[mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us)> wrote:

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: **Please refer to attached packet, site plans and architectural plans for further details.** If you have any concerns and/or comments on the project, please submit them **no later than May 7<sup>th</sup>, 2021.** –

- Hours of Operation:
  - Monday Through Saturday: 8:00AM to 5:00PM.
  - Up to 35 employees
  - Up to +/- 4 managers

- Proposed Structures:
  - 33,600 SQFT cannabis processing, manufacturing, and distribution building
  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,

<image001.png>

**Mark Roberts** | *Senior Planner*  
**City of Clearlake**  
14050 Olympic Drive | Clearlake, CA 95422  
707-994-8201

<RFR - All Agencies 2160 Ogulin Canyon RD.pdf>

**From:** [Andrew White](#)  
**To:** [Mark Roberts](#)  
**Subject:** RE: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Wednesday, April 28, 2021 10:05:04 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

---

Good Morning,

The Police Department opposes the application as presented for failing to demonstrate compliance with City Ordinances related to the proposed operation. Additionally, although the application seems to represent that a criminal history check has been completed and approved by me. I have not reviewed or approved any criminal history check with regards to this applicant.

The security plan, consisting of one sentence, is wholly inadequate and requires further review in the interest of public safety, health and welfare.

We look forward to the applicant submitting a complete application that sufficiently demonstrates compliance with the City Code. We are also open to meeting with the applicant to address any questions or concerns as they revise their submittal.

Thank you



**Andrew White** | *Chief of Police*  
Clearlake Police Department  
14050 Olympic Dr | Clearlake, CA 95422  
(O) 707 994-8251 x301 | (C) 707 681-5688 | Dispatch: 707 994-8251



---

**From:** Mark Roberts <mroberts@clearlake.ca.us>  
**Sent:** Tuesday, April 20, 2021 10:45 AM  
**Subject:** RFR - 2160 Ogulin Canyon road Cannabis Project  
**Importance:** High

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following:

**Please refer to attached packet, site plans and architectural plans for further details. If you have any concerns and/or comments on the project, please submit them no later than May 7<sup>th</sup>, 2021. –**

- Hours of Operation:
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  - 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- 
  
- Proposed Parking:
  - +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,



**Mark Roberts | Senior Planner**  
**City of Clearlake**  
14050 Olympic Drive | Clearlake, CA 95422  
707-994-8201

**From:** [Lori Baca](#)  
**To:** [Mark Roberts](#)  
**Subject:** RE: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Wednesday, April 28, 2021 9:49:25 AM  
**Attachments:** [image003.png](#)  
[image001.png](#)

---

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mark,

Parcel 010-044-210 is outside of any Special Districts service area, no impact.

Have a wonderful day!

**Lori A. Baca**

Customer Service Coordinator

[Lori.Baca@lakecountyca.gov](mailto:Lori.Baca@lakecountyca.gov)

Office Number (707) 263-0119

Fax (707) 263-3836



---

**From:** Mark Roberts [mailto:mroberts@clearlake.ca.us]  
**Sent:** Tuesday, April 20, 2021 10:45 AM  
**Subject:** [SUSPICIOUS MESSAGE] RFR - 2160 Ogulin Canyon road Cannabis Project  
**Importance:** High

**This Message contains suspicious characteristics and has originated outside your organization. This message appears to be from an individual who works for the County, but does not come from a County address.**

---

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following:  
**Please refer to attached packet, site plans and architectural plans for**



**further details.** If you have any concerns and/or comments on the project, please submit them **no later than May 7<sup>th</sup>, 2021.** –

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  - Five (5) Greenhouse – Each greenhouse will be 75' X 25' (1,875 SQFT Each)
  
- Proposed Parking:
  - +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,



Mark Roberts | *Senior Planner*  
City of Clearlake  
14050 Olympic Drive | Clearlake, CA 95422  
707-994-8201

**From:** [kcwd@mchsi.com](mailto:kcwd@mchsi.com)  
**To:** [Mark Roberts](#)  
**Subject:** Re: RFR - 2160 Ogulin Canyon road Cannabis Project  
**Date:** Friday, April 23, 2021 9:48:03 AM

---

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Konocti County Water District has no comments. This area is not in our district. Thank you, Frank.

----- Original Message -----

From: "Mark Roberts" <mroberts@clearlake.ca.us>  
Sent: Tuesday, April 20, 2021 10:44:30 AM  
Subject: RFR - 2160 Ogulin Canyon road Cannabis Project

Good Morning,

I hope you are well. This email is in regards to the proposed project/development located at 2160 Ogulin Canyon Road; Clearlake, CA 95422. The applicant is requesting approval of multiple use permits to allow the development of a commercial cannabis operation. According to the application packet, the project includes but is not limited to the following: Please refer to attached packet, site plans and architectural plans for further details. If you have any concerns and/or comments on the project, please submit them no later than May 7th, 2021.

· Hours of Operation:

- o Monday Through Saturday: 8:00AM to 5:00PM.
- o Up to 35 employees
- o Up to +/- 4 managers

· Proposed Structures:

- o 33,600 SQFT cannabis processing, manufacturing, and distribution building
- o 5,000 SQFT office building that will also serve as the administrative center and the cannabis delivery and storage space.
- o Five (5) Greenhouse - Each greenhouse will be 75' X 25' (1,875 SQFT Each)

· Proposed Parking:

- o +/- 46 Parking Spaces

If you have any questions and/or need additional information, please let me know.

Sincerely,

[cid:image001.png@01D735CE.BED42BF0]  
Mark Roberts | Senior Planner  
City of Clearlake  
14050 Olympic Drive | Clearlake, CA 95422  
707-994-8201

# Attachment # 6

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAILTO:**

City of Clearlake  
14050 Olympic Dr.  
Clearlake, CA 95422  
Attention: City Clerk

---

**SPACE ABOVE THIS LINE FOR RECORDER'S USE**

**Recording Fee Exempt per Government Code §27383**

**DEVELOPMENT  
AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (this “Agreement”) is made and entered into this **13th day of December 2022** (the “Execution Date”), by and between the **CITY OF CLEARLAKE, a California municipal corporation** (“City”) and **Brian Pensack, Manager Ogulin Hills Estates, LLC** (“Owner”). City and Owner are sometimes referenced together herein as the “Parties.” In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a “Party.” The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement.

**RECITALS**

- A. The State of California enacted California Government Code Sections 65864 *et seq.* (“Development Agreement Statutes”) to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction.
- B. The purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the developer, and to meet certain public purposes of the local government.
- C. Owner owns an approximately +/- 9.56 acres acre property at 2160 Ogulin Canyon Road, Clearlake, CA, Assessor’s Parcel No. 010-044-21-000 and proposes development and operation of cannabis Processing – No Cultivation and/or Nursery Activities will occur onsite); manufacturing, distribution, and retail delivery with development of related facilities as described in more detail per development applications submitted to the City of Clearlake, on file with the City of Clearlake Community Development Department.
- D. Owner intends to operate a cannabis facility and operation. All such cannabis facilities shall operate in accordance with the California State Compassionate Use Act (Health & Safety Code § 11362.5) (“CUA”), the Medical Marijuana Program Act (Health & Safety Code §§ 11362.7 *et seq.*) (“MMPA”), and the 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued by the California Attorney General (the “AG Guidelines”), and Senate Bill 94, the Medicinal and Adult Use of Cannabis Regulation and Safety Act (“MAUCRSA”), creating a unified regulatory structure for adult use and medical cannabis, and all regulations promulgated by the responsible state agencies to implement MAUCRSA (collectively the “California Cannabis Laws”). Prior to operating a cannabis facility, Owner shall be required to obtain use and cannabis business regulatory permits from the City for the facility and operations.

- E. Ultimately, Owner intends to obtain state licenses issued pursuant to MAUCRSA to operate cannabis facilities at the Site, once such licenses are being issued.
- F. Owners presently intend to develop and open a cannabis operation on the Site consistent with the California Cannabis Laws and Project Approvals (known as the “Project”).
- G. Owner applied to City for a development agreement and will subsequently need to obtain special use permits and regulatory permits for the Project. This Agreement, and the special use and regulatory permits, when and if issued by the City, shall collectively be referred to as “Project Approvals”.
- H. The Project will maintain inventory of cannabis and cannabis products under the California Cannabis Laws.
- I. The City adopted a Zoning Ordinance permitting Cannabis Delivery Only Dispensaries and Cannabis Businesses (as those terms are defined in the applicable city ordinances) in strict compliance with the applicable California Cannabis Laws regulating delivery only dispensaries and cannabis cultivation, manufacturing, processing, and distribution under certain conditions and provisions.
- J. City and Owner have agreed that, as a condition of allowing the Project, as defined herein, and due to the unique circumstances of the proposed Project, Owner shall pay to the City a semi-annual fee based on the gross revenue of the operations, and an annual Facility Fee, as hereinafter defined, which fees shall abate if and when the City adopts a tax on Cannabis Delivery Only Dispensaries and Cannabis Businesses.
- K. All procedures of the California Environmental Quality Act (“CEQA”), California Public Resources Code §21000 *et seq.*, and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 *et seq.* have been satisfied as the project is categorically exempt under CEQA guidelines sec. 15301, for modification of existing facilities.
- L. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in City’s General Plan, zoning code and municipal ordinances.
- M. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Owner that it will enjoy the development rights.
- N. The City agrees that Owner’s land use entitlements for the Project shall vest for the term of this Agreement as described below.
- O. After conducting a duly noticed hearing on **December 13<sup>th</sup>, 2022**, in conjunction with certain amendments and additions to the City’s Municipal Code, the Planning Commission of the City reviewed, considered and approved the Project and recommended approval of the execution of this Agreement to the City Council. The Planning Commission found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized zoning code; is in conformity with the public necessity, public convenience, general welfare and good land use practices; will not be detrimental to the health, safety and general welfare of the city; will not adversely affect the orderly development of property or the preservation of property values; and will have a positive fiscal impact on the City.

- P. After conducting a duly noticed hearing on **December 13th, 2022**, in conjunction with amendments and additions to the City's Municipal Code creating an allowable use, appropriate zoning, and comprehensive regulations for the proposed use, and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the zoning code; is in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Clearlake and its residents.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

### **AGREEMENT**

1. **Binding Effect of Agreement.** The Parties agree that the Recitals above are true and correct and intend to be bound by same; the Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced therein. This Agreement pertains to the Site as described in **Exhibit A (Legal Description)** and shown in **Exhibit B (Site Map)** and incorporates by reference all Development Approvals approved by the City for the Site. Except as otherwise provided in Section 15 of this Agreement, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide continued notice thereof, the Parties will record this Agreement with the Lake County Recorder. The word "Owner" as previously defined and used herein shall include successor owners, apart from government or quasi-public agencies, of any portion of the Site. Should the size or orientation of any Site component specified above be changed in minor respects, *e.g.*, changed by a lot line adjustment, this Agreement shall not thereby be deemed to have been affected or invalidated, but the rights and obligations of the Parties and their successors shall remain as provided herein.

2. **Relationship of the Parties.** It is hereby specifically understood and acknowledged that the Project is a private project and that neither City nor Owners will be deemed to be the agent of the other for any purpose whatsoever. City and Owners hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Owners joint ventures or partners.

3. **Term.** Except as otherwise specified herein, the term of this Agreement (the "Term") is 3 years from the date the Owner begins commercial operation at the Project Site ("Operation Date"). The Operation Date shall be no later than 12 months following the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 **Term Extension – Third Party Issues.** Notwithstanding the Parties' expectation that there will be no limit or moratorium upon the Project's development or the issuance of building or other development related permits (a "Development Limitation") during the Term, the Parties understand and agree that various third parties may take action causing a *de facto* Development Limitation. Consequently, the Term shall be extended for any delay arising from or related to any of the potential Development Limitations that follow in the subsections below for a time equal to the duration of that delay occurring during the Term. No Development Limitation may arise or result from an action or omission by Owner.

3.1.1 **Litigation.** Any third party-initiated litigation that arises from or is related to any City action or omission with respect to this Agreement or any subsequent City approval required in connection with the Project's development, or third party-initiated litigation having the actual effect of delaying the Project's development. This extension period related hereto shall include any time during which appeals may be filed or are pending.

3.1.2 **Government Agencies.** Any delay arising from or related to the act(s) or omission(s) any third-party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Owner.



3.1.3 Force Majeure. Any delay resulting from riot, war, acts of terrorism, an event during the Term creating radioactive or toxic/hazardous contamination, a catastrophic earthquake, flood, fire or other physical natural disaster, excluding weather conditions regardless of severity, strikes or industrial disputes at national level effecting development involved personnel not employed by Owner, their subcontractors or suppliers and effecting an essential portion of the Project's development, excluding any industrial dispute that is specific to development taking place as a part of the Project.

3.2 Term Extensions. The Term of this Agreement will be extended for seven additional years upon a determination of the City Council, by way of resolution of the City Council acted on at a regularly scheduled meeting, that both of the conditions listed in subparts 3.2.1 and

3.2.2 below have been fully satisfied are the Owner is in full compliance:

3.2.1. No Default by Owner. Owner shall not be in default with respect to any provision of this Agreement or any subsequent agreement or understanding between the Parties arising from or related to this Agreement, having received notice from City of said default per this Agreement, or if Owner did in fact default as to this Agreement, upon notice from City, that Owner did cure said default during the period to cure provided herein to City's satisfaction.

3.2.2 Finding of Community Compatibility. The City Council shall review the operations of Owner prior to granting an extension of the term of this Agreement and make a finding that the Project, notwithstanding that the Project activities may not be in precise technical compliance with the issued regulatory permit and special use permit, continue to be compatible with surrounding land uses and are not detrimental to the public health, safety and general welfare.

3.2.3. Mutual Agreement of Parties. In addition to the process listed above for a seven-year term extension, this Agreement's Term may be extended by mutual agreement of the Parties and formal amendment of this Agreement.

3.3 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Owner shall have no right to engage in the Project activities at the Project Site, except as may otherwise be allowed by City ordinance, law or separate development agreement.

4. Defined Terms. As used in this Agreement, the following terms shall have the meanings hereinafter set forth:

4.1. Certified Report. "Certified Report" shall mean a detailed document prepared by Owner on a form acceptable to the City's Director of Finance to report to the City the gross receipts of the Project's operations and sales, as defined herein, in the Project during each semi-annual period starting January 1 and July 1 of each calendar year. Each Certified Report shall be certified as true and correct by a duly-authorized officer of Owner.

4.2. Development Approvals. "Development Approvals" means the land use entitlements approved by the City for the development of site improvements and buildings on the Site which define the permitted uses of the property, the density or intensity of use, and the maximum height and size of proposed buildings.

4.3. Production Fee. "Production Fee" shall mean a semi-annual fee remitted to the City by Owner based on the Gross Receipts of its Project operations, as defined below, in the amount of 5% of gross sales from operations.

4.4. Certification of Non-Income Tax Exemption. Owner certifies that Owner is not income tax exempt under State or Federal Law and that Owner will not file for such an exemption from the Internal Revenue Service or the Franchise Tax Board.

4.5. Facility Fee. Facility Fee shall mean an annual fee remitted to the City by Owner in the amount of \$2 per gross square foot of the entire Project facility. The Facility Fee shall be paid annually, starting July 1<sup>st</sup> of each year. A late fee of 5% of the amount due shall be added to any payment 5 days past due. Fees later than 30 days

past due will constitute a breach subject to Section 20 of this agreement.

4.6. Semi-Annual Production Fee. The semi-annual Production Fee will be due no later than July 30<sup>th</sup> for the preceding period of January 1<sup>st</sup> through June 30<sup>th</sup> and no later than January 31<sup>st</sup> for the preceding period of July 1<sup>st</sup> through December 31<sup>st</sup>. A late fee of 5% of the amount due shall be added to any payment 30 days past due.

4.7. “Land Use Regulations” shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Project. “Land Use Regulations” do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

4.7.1. The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

4.7.2. Other than as provided in this Agreement, taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Developer is paying any fee or providing any improvement pursuant to this Agreement;

4.7.3. The control and abatement of nuisances;

4.7.4. The granting of encroachment permits and the conveyance of rights and interests which provides for the use of, access to or the entry upon public property, as may be approved by mutual agreement between Developer and City; and

4.7.5. The exercise of the power of eminent domain.

4.8. “Existing Land Use Regulations” means all Land Use Regulations in effect as of the approval date of this Agreement, including the Project Approvals.

4.9. “Gross Receipts” means 5% (five percent) for 1) wholesale and retail sales of cannabis products by Owner to third parties.

5. Fee Payments by Owner. In consideration of City’s entering into this Agreement and authorizing the development and operation of the Project, the requirements for City services created by the Project, the City insuring Owner’s compliance with this Agreement, California Cannabis Laws and the City’s municipal ordinances, throughout the Term of this Agreement, Owner shall make the following payments to City:

5.1. Production Fee Payments by Owner. Semi-annual payments of the Production Fee by Owner to the City as specified in Section 7 herein. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement, but the Production Fee under this Agreement shall cease if any City-wide tax is imposed specifically on Cannabis cultivation.

5.2. Facility Fee Payments by Owner. Annual payments of the Facility Fee by Owner to the City. The obligations of Owner under this Section shall survive the expiration or any earlier termination of this Agreement, but the Facility Fee shall cease if any City-wide tax is imposed specifically on Cannabis cultivation.

5.3. Sales Tax Point of Sale. Owner agrees that Clearlake will be designated as the point of sale for all operations, as allowed by law.

6. Community Participation. Owner agrees to participate in the community as a good corporate citizen and sponsor events and organizations that improve the community.

6.1. Clearlake Chamber of Commerce. Owner agrees to immediately apply for membership in the Clear Lake Chamber of Commerce and, if accepted, maintain an annual membership in good standing.

7. Payment Procedures. The following payment procedures shall apply during the operation of the Project:

7.1. Remittance of Production Fee/Certified Reports. Within thirty (30) calendar days following the end of each semi-annual period during the Term of this Agreement, Owner shall submit the Certified Report to the City's Finance Director and a payment for the Production Fee for that Operational Period as identified in the Certified Report. Owner shall pay Production Fees to the City on a semi-annual basis without exception. Any material misstatement or misrepresentation in the Certified Report and any failure to pay Production Fees when due shall constitute events of default by Owner subject to the default provisions of this Agreement.

7.2. Maintenance of Records. Owner shall maintain complete records of their operations to substantiate and document the content of each Certified Report. Such records shall include, without limitation, invoices and payments taken by Tenants and/or any operator of the facility. Owner shall maintain such records in a form and location reasonably accessible to the City, following reasonable notice to Owner and/or any operator, for a period of at least five (5) calendar years following Owner's submission of the Certified Report to which the records apply.

7.3. Audit. Within ninety (90) calendar days following the end of each semi-annual payment term, the City may conduct an audit or arrange for a third-party independent audit, at Owner's expense, of Owner records regarding Certified Reports and the Production Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Owner, and shall reasonably attempt to schedule the audit so as to reduce the impact on Tenants' operations as much as is feasible. Owner shall cooperate with the City in completing the audit. If the audit reveals that Owner has underpaid the Production Fee, Owner shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Director of Finance in addition to all costs of the audit, including city staff time and outside consultants. If the audit reveals that the Owner has overpaid any amount of the Production Fee, City shall provide written notification to Owner and shall credit such amount against Owner's subsequent semi-annual payment of Production Fees.

8. Covenants of Owner. During the Term of this Agreement, Owner hereby covenants and agrees with the City as follows:

8.1. Implementation. Owner shall use commercial reasonable efforts to pursue the implementation of the Project as expeditiously as feasible, in the form approved by the City, subject to all applicable laws, this Agreement, the Project Approvals and the Municipal Code.

8.2. Enhanced Design Requirement. Owner shall submit a design plan for the building and site, for review and approval by the Planning Director, which shall incorporate at a minimum upgraded fencing and landscaping improvements consistent with the Community Character and Design Policies in the City's General Plan.

8.3. Maintain & Operate Project. Owner shall maintain and operate the Project on the Site throughout the Term of this Agreement, in accordance with the Project Approvals and all City, and State laws.

8.4. Hold Harmless. Owner shall defend (with counsel reasonably acceptable to City), indemnify and hold City and its councilpersons, officers, attorneys, agents, contractors, and employees (collectively, the "Indemnified Parties") harmless from and against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees and costs), damages (including, without limitation, consequential damages), claims and liabilities arising from the Project, this Agreement, the approval of the Project, and the activities of Owner, their members, officers, employees, agents, contractors, invitees and any third parties on the Site, from and against any challenges to the validity of this Agreement or other Project Approvals. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement.

9. Covenants of City. During the Term of this Agreement, City hereby covenants and agrees with Owner as follows:

9.1. Expeditious Services. City shall process applications and address questions and concerns raised by Owner representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Owner's request, or if, in an exercise of City's own discretion, City staff determines that it cannot comply with this section, City shall expeditiously engage the services of private contract planners, plan checkers or inspectors ("Private Contractors") to perform such services as may be necessary to assist in processing the project plans as described herein. Compensation of such Private Contractors shall be at Owner's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Owner shall pay such costs and expenses of Private Contractors via reimbursement to City, per City's applicable policies and procedures. City shall have absolute discretion in the selection of such Private Contractors.

9.2. Vested Rights. During the Term of this Agreement, Owner shall have the vested right and entitlement to develop and operate the Project in accordance with the Existing Land Use Ordinances, in addition to any Cannabis Cultivation Operating Standards adopted by the City Council, which may be amended at the City's discretion. Parties acknowledge that neither the City nor the Owner can at this time predict when or the rate at which or the order in which parts of the Project will be developed. Owner shall have the vested right to develop the Project in such order and at such rate and at such times as Owner deems appropriate in the exercise of its business judgment, provided that Owner is in compliance with the Project Approvals.

9.3. Building Permits and Other Approvals and Permits. Subject to (a) Owner's compliance with this Agreement, the Project Approvals the Existing Land Use Ordinances, the Building Ordinances, and Operating Standards; and (b) payment of the usual and customary fees and charges of general application charged for the processing of such applications, permits and certificates and for any utility connection, or similar fees and charges of general application, the City shall process and issue to Owner promptly upon application therefore all necessary use permits, building permits, occupancy certificates, regulatory permits, licenses and other required permits for the construction, use and occupancy of the Project, or any portion thereof, as applied for, including connection to all utility systems under the City's jurisdiction and control (to the extent that such connections are physically feasible and that such utility systems are capable of adequately servicing the Project).

9.4. Procedures and Standards. The standards for granting or withholding permits or approvals required hereunder in connection with the development of the Project shall be governed as provided herein by the standards, terms and conditions of this Agreement and the Project Approvals, and to the extent not inconsistent therewith, the Existing Land Use Ordinances, but the procedures for processing applications for such permits or approvals (including the usual and customary fees of general application charged for such processing) shall be governed by such ordinances and regulations as may then be applicable.

## 10. Effect of Agreement.

10.1. Grant of Right. This Agreement shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full. The Parties acknowledge that this Agreement grants to Owner the right and entitlement to develop the Project and use the land pursuant to specified and known criteria and rules as set forth in the Project Approvals and Existing Land Use Ordinances, and to grant the City and the residents of the City certain benefits which they otherwise would not receive.

10.2. Binding on City/Vested Right of Owner. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions notwithstanding any subsequent action of the City, whether taken by ordinance or resolution of the City Council, by referendum, initiative, or otherwise. The Parties acknowledge and agree that by entering into this Agreement and relying thereupon, the Owner has obtained, subject to the terms and conditions of this Agreement, a vested right to proceed with its development of the Project as set forth in the Project Approvals and the Existing Land Use Ordinances, and the timing provisions of Section 3, and the City has entered into this in order to secure the public benefits conferred upon it hereunder which are essential to alleviate current and potential problems in the City and to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

10.3. Future Conflicting Local Laws. If any City law, including ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications (collectively "City Laws") are enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any

proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Project Site or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

10.3.1 Without limiting the generality of the foregoing, moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Project. Owner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a moratorium or to impose any other limitation that may affect the Project.

## 11. Specific Criteria Applicable to Development of the Project.

11.1 Applicable Ordinances. Except as set forth in the Project Approvals and subject to the provisions of Section 10.2 below, the Existing Land Use Ordinances shall govern the development of the Site hereunder and the granting or withholding of all permits or approvals required to develop the Site; provided, however, that (a) Owner shall be subject to all changes in processing, inspection and plan-check fees and charges imposed by City in connection with the processing of applications for development and construction upon the Site so long as such fees and charges are of general application and are not imposed solely with respect to the Project Site, (b) Owner shall abide by the Building Ordinances in effect at the time of such applications, (c) Development Impact Fees to be paid by Owner shall be those in effect at the time permits are issued subject to those fees, and (d) development shall be consistent with current Operating Standards.

11.2 Amendment to Applicable Ordinances. Any change to the Existing Land Use Ordinances that conflicts with the Project Approvals shall nonetheless apply to the Project if, and only if (i) it is consented to in writing by Owner in Owner's sole and absolute discretion; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (iii) it is required by changes in State or Federal law; (iv) it consists of changes in, or new fees permitted by, Section 4.1; or (v) it is otherwise expressly permitted by this Agreement. The Parties anticipate that the City shall subsequently adopt Operating Standards that govern this type of use, which Regulations, and any amendments thereto, shall apply to the Project.

11.3 Applicability of Zoning Amendments. In the event that the City zoning ordinance is amended by the City in a manner which provides more favorable site development standards for the Project Site or any part thereof than those in effect as of the Effective Date, Owner shall have the right to notify the City in writing of its desire to be subject to all or any such new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council, such new standards shall become applicable to the Project. Should City thereafter amend such new standards, upon the effective date of such amendment, the original new standards shall continue to apply to the Project as provided above, but Owner may notify City in writing of its desire to be subject to all or any such amended new standards and City shall agree in the manner above provided to apply such amended new standards to the Project.

## 12. Permitted Delays, Superseded by Subsequent Laws.

12.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Owner and City shall be excused from performance of their obligations hereunder during any period of delay caused by acts of mother nature, civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, any referendum elections held on the Enacting Ordinance, or the Land Use Ordinances, or any other ordinance effecting the Project or the approvals, permits or other entitlements related thereto, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder (collectively, "Laws"), orders of courts of competent jurisdiction, or any other cause similar or dissimilar to the foregoing beyond the reasonable control of City or Owner, as applicable. Each Party shall promptly notify the other Party of any delay hereunder as soon as possible

after the same has been ascertained. The time of performance of such obligations shall be extended by the period of any delay hereunder.

12.2 Supersedure of Subsequent Laws or Judicial Action.

12.2.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new Law or decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new Law, or issuance of such Decision, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Owner and City shall have the right to challenge the new Law or the Decision preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, except that the Term shall be extended, in accordance with Section 2.1 above, for a period of time equal to the length of time the challenge was pursued, to extent such challenge delayed the implementation of the project.

13. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and the Owner. It is anticipated due to the term of this Agreement that refinements to the approvals may be appropriate with respect to the details of performance of the City and the Owner. To the extent allowable by law, the Owner shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement. When and if the Owner finds it necessary or appropriate to make changes, adjustments or clarifications, the Parties shall enter into memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Agreement. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized upon consultation with the Owner, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Agreement which requires compliance with the provisions of this Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby authorized to execute any operating Memoranda hereunder without further City Council action.

14. CEQA. All procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq.*, and the CEQA guidelines, Title 14 of the California Code of Regulations, chapter 3, §15000 *et seq.* have been satisfied based on the Project being categorically exempt.

15. Building Permits. Nothing set forth herein shall impair or interfere with the right of City to require the processing of building permits as required by law relating to any specific improvements proposed for the Project pursuant to the applicable provisions of the City's municipal code, inclusive of such California and International Codes as have been adopted in accord therewith, that are in effect at the time such permits are applied for; provided, however, no such permit processing shall authorize or permit City to impose any condition on and/or withhold approval of any proposed improvement the result of which would be inconsistent with this Agreement.

16. Assignment and Transfer of Rights. Except as otherwise provided in this Section, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants that run with the Site. Owner, for itself, its heirs, distributees, executors, administrators, legal representatives, successors and assigns, shall not, at any time during the Term, assign, convey, lease, sell or otherwise transfer all or any portion of its rights under this Agreement ("Assignable Rights") to a third party, a subordinate entity, or a related entity (make an "Assignment") without the prior written consent of City in each instance, which consent may be withheld in City's sole discretion. Any assignment in violation of this Section will be void. No permitted assignee of this Agreement may further assign this Agreement without City's prior written consent.

17. Review for Compliance.

17.1 Periodic Review. Pursuant to CGC §65865.1, City shall engage in an annual review this Agreement, on or before the anniversary of the date of execution, in order to ascertain Owner's good faith compliance



with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Owner shall be deemed to be in full compliance with the Agreement.

18. Amendment or Cancellation. This Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties or in the manner provided in CGC §65865.1 or CGC §65868 and subsection 3.2 above.

18.1 Provide Notice. Provide the other Party with written notice of such State or Federal law or regulation, a copy of such law or regulation and a statement identifying how such law regulation conflicts with the provisions of this Agreement.

18.2 Meet and Confer. Upon notice by one Party to another as to preemption or frustration of this Agreement by law or regulation, the Parties shall promptly meet and confer in good faith and make a reasonable attempt to modify or suspend this Agreement to comply with such applicable Federal or State law or regulation. If the Parties cannot agree on a manner or method to comply with such Federal or State law or regulation, the Parties may, but shall not be required to, engage in alternative dispute resolution.

19. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS] ), sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

**If to City:**  
City of Clearlake 14050  
Olympic Drive  
Clearlake CA 95422  
Attention: City Manager

With copy to: Jones & Mayer, City Attorney 8150 Sierra

College Blvd., Suite 190  
Roseville California 95661  
Attention: Ryan R. Jones, Esq.

**If to Owner:**  
Ogulin Hills Estates, LLC  
637 Lindero St., Suite 201  
San Rafael, CA 94901

Notices sent in accordance with this Section shall be deemed delivered upon the: *(a)* date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); *(b)* date of actual receipt (if personally delivered by other means); *(c)* date of transmission (if sent by email or telecopier, so long as sender receives actual confirmation that the transmission was received); or *(d)* date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section.

20. Breach and Remedies. Notwithstanding any provision of this Agreement to the contrary, Owner shall not be deemed to be in default under this Agreement with respect to any obligation owed solely to City, and City may not terminate or modify Owner's rights under this Agreement, unless City shall have first delivered a written notice of any alleged default to Owner that specifies the nature of such default. If such default is not cured by Owner within sixty (60) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, Owner fails to commence to cure the default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, City may terminate Owner's rights under this Agreement. Default by any Assignee or Owner's successor in interest shall affect only that portion of the Site owned by such Assignee or successor, and shall not cancel or diminish in any way Owner's rights with respect to any portion of the Site not owned by such Assignee or successor. In the event that a breach of this Agreement occurs, irreparable

harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by Owner against City for an alleged breach of this Agreement shall be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement and not by a claim or action for monetary damages.

21. Entire Agreement. This Agreement and the Exhibits herein contain the entire integrated agreement among the Parties. The Parties intend that this Agreement state their agreement in full to each and every one of its provisions. Any prior agreements, understandings, promises, negotiations or representations respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, are agreed by all Parties to be null and void.

22. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any Party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

23. Attorneys' Fees. If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

24. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument.

25. Execution of Agreement. The Parties shall sign this Agreement on or within five (5) business days of approval.

26. Authority to Execute. All persons executing this Agreement on behalf of a party warrant that they have the authority to execute this Agreement on behalf of that party.

27. Estoppel Certificate. City shall, at any time and from time to time within ten (10) days after receipt of written notice from Owner so requesting, execute, acknowledge and deliver to Owner a statement in writing: *(a)* certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and *(b)* acknowledging that there are no uncured defaults on the part of Owner hereunder or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrances of all or any portion of the Site. Upon Owner's written request, City shall issue a certificate of performance evidencing completion of any of Owner's obligation(s) under this Agreement.

28. Encumbrances on Real Property.

28.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Site or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Site or such portion. City acknowledges that the lenders providing such financing may require certain modifications, and City agrees, upon request, from time to time, to meet with Owner and/or representatives of such lenders to negotiate in good faith any such request for modification. City further agrees that it will not unreasonably withhold its consent to any such requested modification. Any mortgagee or trust deed beneficiary of the Site or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

28.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Owner may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Owner and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement are subject to the provisions of this Agreement relative to modifications or amendments.

28.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Site or any portion thereof by a Mortgagee (whether pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall be subject to all of the terms and conditions of this Agreement.

28.4 Mortgagee Not Obligated. Notwithstanding the provisions of Section 26.2, no Mortgagee will have any obligation or duty under this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder, or to guarantee such performance, except that to the extent that Mortgagee opts to receive the benefits of the Agreement, including the right to operate, any covenant to be performed by Owner is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder. No Mortgagee will be liable for any monetary defaults arising prior to its acquisition of title to the Site or any portion thereof. Uncured monetary defaults will terminate the Agreement and Mortgagee's right to operate.

28.5 Written Notice of Default. Each Mortgagee shall be entitled to receive written notice from City of any default by Owner under this Agreement, if such default is not cured within thirty (30) days, provided such Mortgagee has delivered a written request to City for such notice. Each Mortgagee shall have a further right, but not the obligation, to cure such default for a period of thirty (30) days after receipt of such notice of default. Any non-curable defaults of Owner of any obligation owed solely to City arising prior to Mortgagee's acquisition of title to the Site or any portion thereof shall be waived; provided, however, the non-payment of money shall not be deemed a non-curable default.

29. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and, subject to City's written consent, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

30. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Furthermore, the Parties agree to venue in the Superior Court of Lake County, California.

31. Mutual Covenants. The covenants contained herein, including those contained in the Recitals herein, are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

32. Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement ("Successors"). Furthermore, the rights and remedies, together with the benefits and burdens of this Agreement of each Party to this Agreement shall be coextensive with those of its Successors. All provisions of this Agreement shall be enforceable as equitable servitude's

and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Site: (a) is for the benefit of and is a burden upon every portion of the Site; (b) runs with the Site and each portion thereof; and, (c) is binding upon each Party and each Successor during ownership of the Site or any portion thereof. From and after recordation of this Agreement, the Agreement shall impute notice to all persons and entities in accord with the recording laws of this State.

33. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their Successors and Assignees. No other person or entity shall have any right of action based upon any provision of this Agreement.

34. Waiver. Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by the other party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

35. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

36. Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Government Code Section 65868.5.

37. Headings. The headings in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

38. Jointly Drafted. It is agreed among the parties that this Agreement was jointly negotiated and jointly drafted by the Parties and their respective counsel, and that it shall not be interpreted or construed in favor of or against any party solely on the ground that it drafted the Agreement. It is also agreed and represented by all Parties that said Parties were of equal or relatively equal bargaining power and that in no way whatsoever shall this Agreement be deemed to be a contract of adhesion, or unreasonable or unconscionable.

39. Independent Legal Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and voluntarily declined to consult legal counsel, and that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

40. Further Cooperation. The parties herein agree to execute any and all agreements, documents or instruments as may be reasonably necessary in order to fully effectuate the agreements and covenants of the Parties contained in this Agreement, or to evidence this Agreement as a matter of public record, if required to fulfill the purposes of this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this

Agreement.

41. Enforceability. This Agreement shall not become binding and shall have no force and effect whatsoever until such time as it has been fully executed by and delivered to all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Execution Date.

“CITY”

CITY OF CLEARLAKE, CA a California  
Municipal Corporation

Date: <Insert date and year >

By: \_\_\_\_\_

Mayor

Attest:

By: \_\_\_\_\_

City Clerk

*Approved as to form:*

Jones & Mayer

By: \_\_\_\_\_

Ryan R. Jones, Esq.

City Attorney

“OWNER”

Ogulin Hills Estates, LLC, Brian D. Pensack,  
Manager

Date: \_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_

Brian D. Pensack, Manager

EXHIBIT A LEGAL DESCRIPTION

ISSUED BY THE COUNTY CLERK OF THE COUNTY OF LAKE

Doc # 2021003188  
Page 1 of 2  
Date: 2/23/2021 11:39A  
Filed by: FIRST AMERICAN TITLE  
Filed & Recorded in Official Records  
of COUNTY OF LAKE  
RICHARD A. FORD  
COUNTY RECORDER  
Fee: \$627.50

RECORDING REQUESTED BY:  
First American Title Company

MAIL TAX STATEMENT  
AND WHEN RECORDED MAIL DOCUMENT TO:  
OGULIN ESTATES HOLDINGS LLC  
637 Lindero St, Suite 201  
San Rafael, Ca 94901

Space Above This Line for Recorder's Use Only

A.P.N.: 010-044-21-00

File No.: 1701-6465534 (KH)

GRANT DEED

The Undersigned Grantor(s) Declare(s): DOCUMENTARY TRANSFER TAX \$610.50; CITY TRANSFER TAX \$;  
SURVEY MONUMENT FEE \$

[ X ] computed on the consideration or full value of property conveyed, OR  
[ ] computed on the consideration or full value less value of liens and/or encumbrances remaining at time of sale,  
[ ] unincorporated area; [ X ] City of Clearlake, and

EXEMPT FROM BUILDING HOMES AND JOBS ACTS FEE PER GOVERNMENT CODE 27388.1(a)(2)



FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **MISTY M. SPRINGER, A MARRIED WOMAN AS HER SOLE AND SEPARATE PROPERTY**

hereby GRANTS to **OGULIN ESTATES HOLDINGS LLC, a Delaware limited liability company**

the following described property in the City of **Clearlake**, County of **Lake**, State of **California**:

**PARCEL B AS SHOWN ON A MAP FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID LAKE COUNTY ON JULY 17, 1987, IN BOOK 29 OF PARCEL MAPS AT PAGES 30 AND 31.**

Mail Tax Statements To: **SAME AS ABOVE**

8

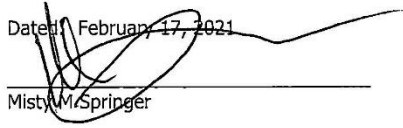


Date: **02/17/2021**

A.P.N.: 010-044-21-00

File No.: 1701-6465534 (KH)

Dated: February 17, 2021

  
Misty M. Springer

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California )SS

COUNTY OF Lake )

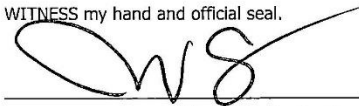
On February 18, 2021 before me, Robert K. Crosby, Notary Public, personally appeared Misty M. Springer

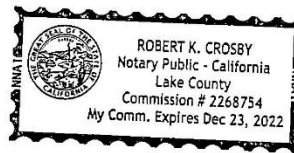
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

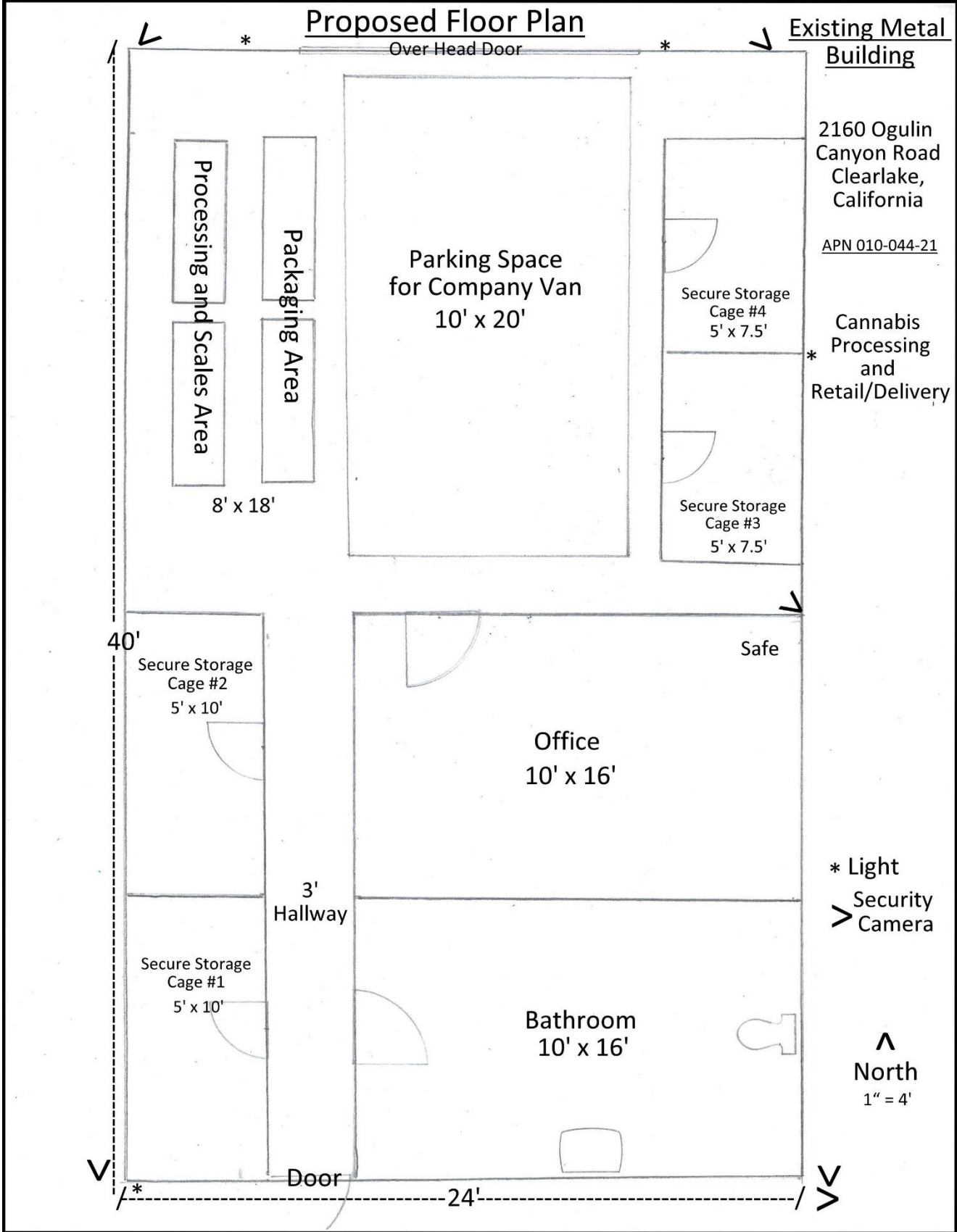
*This area for official notarial seal.*

  
Notary Signature Robert K. Crosby













# Attachment # 7

## City of Clearlake –Notice of Intent to Adopt a Mitigated Negative Declaration

Notice is hereby given that the City of Clearlake has tentatively determined that the project described below will not result in a significant adverse impact on the environment and that, in accordance with the California Environmental Quality Act, the City is prepared to issue a “mitigated negative declaration” in accordance with the California Environmental Quality Act (CEQA).

**Project Summary:** The proposed project includes development of industrial style structures to be used for cannabis related facilities including a 33,600 ft.<sup>2</sup> single story building and a 5,000 ft.<sup>2</sup> office building that will also serve as the administrative center/cannabis delivery and storage space. Five - 75’ x 25’ greenhouses for indoor cannabis cultivation will be developed. The amount of paved surface area will include 22,660 square feet of parking lot. Specific project uses are to include: 1. Cannabis cultivation/processing; 2. Cannabis manufacturing; 3. Cannabis distribution; 4. Cannabis nursery. For a detailed description of the project, please refer to the link below.

**Project Location:** 2160 Ogulin Canyon Road, Clearlake, CA 95422, Assessor Parcel Number (APN): 010-044-21.

This tentative determination is based on an environmental study that assesses the project’s potential environmental impacts and those potential impacts have been reduced to less than significant levels with the incorporated mitigation measures. Anyone can review this study at Clearlake City Hall, 14050 Olympic Drive, Clearlake, CA 95901, during normal business hours or by downloading from the State Clearinghouse Website at: (I have also attached a Complete Initial Packet above for your convenience.

- <https://ceqanet.opr.ca.gov/>

Final environmental determinations are made by the decision-making body, which, in this case would be the City of Clearlake, Planning Commission. The public review period for this notice will remain open for a period of at least 30 days from the publication of this **Notice (04/04/2022), until (05/13/2022)**. For more information, please call (707) 994-8201 during normal business hours of City Hall (Monday through Thursday – 8am to 5pm). During this period written comments on the project and the proposed mitigated negative declaration may be addressed. You may also submit comments via email at [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us) (**Please Note: All comments must be received no later than May 13, 2022 by 5pm**).

City of Clearlake  
Planning Department  
Attn: Mark Roberts  
14050 Olympic Drive  
Clearlake, CA 95422

Published Date: April 4, 2022



**CITY OF CLEARLAKE  
PUBLIC HEARING NOTICE  
PLANNING COMMISSION**

**NOTICE IS HEREBY GIVEN** that the City of Clearlake Planning Commission will hold a public hearing at a regularly scheduled meeting on **Tuesday, December 13th, 2022, at 6:00 p.m.** or soon thereafter in the City Council Chambers at City Hall, 14050 Olympic Drive, Clearlake, CA., to consider:

- *Conditional Use Permit Applications 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); Development Agreement and corresponding Environmental Analysis (CEQA IS 2022-02) to allow a Commercial Cannabis Operations located at 2160 Ogulin Canyon Road; Clearlake, CA 95422 further described as Assessor Parcel Number 010-044-21*

If you would like to comment remotely, please send all comments to Senior Planner Mark Roberts at [mroberts@clearlake.ca.us](mailto:mroberts@clearlake.ca.us) prior to the commencement of the meeting and be sure to identify the subject you wish to comment on in the subject line.

The Council Chambers are open to the public and members of the public may also participate via Zoom (*link to be circulated with agenda materials*). Please contact the Community Development Department for any additional information or questions, available by phone at (707) 994-8201.

The City of Clearlake does not discriminate in housing or employment on the basis of race, religion, sex, age, national origin, or disability. The location of the public hearing is fully accessible to mobility-impaired individuals. In compliance with the Americans with Disabilities Act, the City of Clearlake encourages those with disabilities to participate fully in the public hearing process. If you require special accommodations in order for you to participate in this public meeting process, please contact the City Clerk at (707) 994-8201 or by e-mail at [mswanson@clearlake.ca.us](mailto:mswanson@clearlake.ca.us) in advance of the public hearing so that we may make every reasonable effort to accommodate you.

POSTED: Saturday, December 3rd, 2022