



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

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Trisha Tillotson
Community Development Agency Director

Brian Foss
Planning Director

MEMORANDUM

November 17, 2021

TO: Planning Commission

FROM: Matt Kelley, Senior Planner *MK*

HEARING DATE: November 17, 2021

SUBJECT: PLN21-0051; GPA21-0001; RZN21-0001; EIS21-0002. An application for a General Plan Land Use Map Amendment and Zoning District Map Amendment.

Dear Commissioners,

Attached for review and consideration by the Planning Commission are two additional public comment letters which were received on November 10, 2021 and November 15, 2021 by the Nevada County Planning Department.

Enclosures:

Additional Public Comment Letters

Matt Kelley

From: Maniko <maniko@templeofsong.com>
Sent: Wednesday, November 10, 2021 7:43 PM
To: Planning
Cc: Lee Auerbach
Subject: Public Hearing on November 17, 2021 re PLN21-0051, GPA21-0001, RZN21-0001, EIS21-0002

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Please be advised that I wish to join in the comments Lee Auerbach submitted to Mr. Kelley by letter dated October 27, 2021. I also wish to have Mr. Auerbach speak on my behalf at the November 17, 2021 meeting.

Thank you,

Maniko Dru Dadigan
16486 Cooper Rd
Nevada City, CA 95959

November 15, 2021

To: Nevada County Planning Commission

Regarding: PLN21-0051; GPA21-0001; RZN21-0001; EIS21-0002
10460 harmony Ridge Road
Proposal to change General Plan Designation from RUR 5 to RUR 20; and the zoning Map change from RA 5 (w/planned development) to AG 20.

Prepared By: Menkin Nelson
High Pockets LLC

Statement for consideration:

Based on the opposing argument that the redesignation of the 10460 Harmony Ridge Rd General Plan Designation from RUR 5 to RUR 20 and the Zoning Map change from RA 5 to AG 20, is to cultivate cannabis on the proposed 4 parcels created; I've been asked to make a statement on the Initial Study prepared by Matt Kelley, Senior Planner, dated October 8, 2021, and the Comments on Draft Initial Study/Negative Declaration for the Murty and Law General Plan Amendment and Rezone Project, prepared by Lee Auerbach, dated October 26, 2021. My input is offered as a consultant who is familiar with the cannabis cultivation licensing process in both Nevada County and the State of California, with over 6 years' experience meeting the licensing requirements for both state and local cannabis cultivation licenses. I am not an expert on the subject of rezoning and make no assumptions about the decisions the Planning Commission faces, but only offer my perspective from the side of navigating the cannabis cultivation licensing process and the requirements as they relate to the impacts considered specifically with the potential cannabis cultivation use of the rezoning proposal.

The Initial Study (Matt Kelley, 2021) was prepared from the evaluation standpoint of measuring impacts to the land, environment and community in the case of project approval. The recommendation of the planner sums up the report clearly in one sentence *'I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.'*

I would like to propose we also consider the report in a reverse manner and draw attention to the level of impact that would be reduced or completely avoided by allowing the rezoning away from the RUR 5 and RA 5 with a planned development of 18 residences to RUR 20 and AG 20 with 4 residences, including the hypothetical cannabis cultivation activities.

To clarify why I refer to the cannabis cultivation activities as hypothetical, even though the landowner has stated, and the initial study reminds us, that the rezone may include cultivation use. Section L-II of the Nevada County Land Use Ordinance 2467 only allows an individual to have financial interest in up to 3 cultivation sites within Nevada County. Assuming the current owner retains all 4 parcels, they would only be allowed to have a financial interest in a maximum of three of the parcels for cultivation purposes. This makes a large assumption that any future

purchasers of the remaining parcel, or ANY of the proposed 4 parcels from the current owner, would be doing so for cannabis cultivation, as opposed to any other type of agricultural development, homesteading or personal use that the county is appreciated for.

The repeated mention of the potential for cannabis cultivation use throughout the Initial Statement, although only a possibility and not actually part of the proposal, clearly rebuts the continued accusations in the Comments on Draft Initial Study/Negative Declaration for the Murty and Law General Plan Amendment and Rezone Project (Lee Auerbach, Oct 2021) that the proposal is being piecemealed together to keep the members of the review board in the dark about the possible implications associated with the rezoning proposal.

Below you will find additional information about the items reviewed in the Initial Study from the perspective of why the proposed rezoning to RUR 20 and AG 20 could potentially reduce the impact to the community from the currently existing zoning of RUR 5 and RA 5 with a Proposed Development. Please excuse any sections that were not addressed as I did not have information pertinent to that subject as it relates specifically to cannabis cultivation.

AESTHETICS

The visual impact of 18 homes with driveways, standard vehicle use and home construction sites as an alternative to 4 developments in the same allotted area is immediately apparent.

The largest impact could potentially be tree removal. The California Department of Forestry and Fire Protection (CAL FIRE) is responsible for the enforcement of the Z'Berg – Nejedly Forest Practice Act on non-federal forested land, and timber harvest documents are required from CAL FIRE for the cutting and/or removal of trees when 'Residential development, commercial development, agricultural development or any other building activities will occur regardless of tree size.'

A landowner who wishes to cut and/or remove trees to convert land to another use (e.g., to construct a home or other structure, to convert timberland to agricultural uses, etc.). Depending on the extent of the project a landowner may submit a Less Than Three Acre Conversion Exemption which allows for the one-time conversion of less than three acres of timberland. The guidelines associated with less than 3 acre conversions do not allow for a common land owner to get less than 3 acre conversions on adjacent parcels. However, there is a possibility to split the less than 3 acre conversion across several parcels. This means that while the current landowner is limited to a TOTAL of less than 3 acres of tree removal across all 90.01 acres; the potential of 4 cannabis cultivation sites under different ownership is limited to a total of less than 12 acres of tree removal; and the proposed development of 18 homes could allow for up to 54 acres of tree removal in the same 90.01 acre area.

54 acres is 60% of the current subject parcel, and although not directly adjacent to Hwy 20, the subject parcel may be viewed from several sections of the highway which has been deemed eligible for the State Scenic Highway System and has been designated as such for 6 miles (9.7 km) near the east end; this is part of the federally designated Yuba-Donner Scenic Byway, a National Forest Scenic Byway that uses SR 20 east of SR 49.

Additionally, light pollution could be substantially higher in a residential area populated with 18 homes on smaller parcels. In addition to the 78% reduction of residential homes allowed (4 vs. 18), Home exterior security lighting does not have to adhere to the same regulations as a

potential cannabis cultivation site which would be required to comply with the requirements of Section L-II 4.2.8. D. of the Nevada County Land Use Ordinance 2467, Stating that all supplemental lighting shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the premises.

BIOLOGICAL RESOURCES

Biological resources would include the already discussed potential tree removal which is natural habitat to an assortment of creatures several of which are potentially on the Sensitive Animals List (2019; 2020; 2021) of the Department of Fish and Wildlife (CDFW), California Natural Diversity Database (CNDDDB) or state or federal special status lists. The residential development of 18 homes would impact the area with more tree removal, more driveways, potentially paved, more landscaping and removal of natural flora as well as light pollution. In the case of the hypothetical 4 cannabis cultivation sites, they would each be required to register with the Water Control Board under the General order to verify the water used for cultivation is not detrimental to the local watersheds and no harmful substances were discarded into the watersheds. The General Order WQ 2019-0001-DWQ was a policy developed by the State Water Resources Control Board specifically to monitor the effects of cannabis cultivation and discharges of waste associated with cannabis cultivation, which requires monthly reporting and monitoring of all pesticides and chemical use as well as amounts within specified secondary containment storage, and any sediment or discharge runoff during the winter season, heavy rain or storm periods. Commercial cannabis projects in the state of California are subject to visual inspection by agency officials prior to project approval and annually, or additionally any time the agency finds inconsistencies or issues, at their discretion. In the case of any watershed or surface water diversion cultivators are additionally required to go through the application process of a Small Irrigation Use Permit (SIUR), at a very minimum.

California licensed cannabis cultivation sites are also required to register with the California Department of Fish and Wildlife (CDFW) through the Environmental Permit Information Management System (EPIMS) program. Site inspections from CDFW agency officials are required for project approval and include, but are not limited to, full reviews of Biological Management Plans, Best Management Practices, site plans, distances to setbacks, surrounding habitat, potential disturbances, and adherence to regular monitoring and reporting requirements. The Department of Cannabis Control regulations also require all cultivation sites to either have a Lake and Streambed Alteration Agreement or a Letter of Exemption issued and verified from the CDFW prior to license approval.

Cannabis cultivation sites additionally have to register with the Agricultural Commissioner of Nevada County as well as the state of California and report all pesticides and chemicals used, by quantity and EPA registration number. A residential homeowner has no such monitoring or checks and balance system and may use any non-regulated, available pesticide without reserve. The California cannabis pesticides list provides one of the most environmentally conscious pesticide limitations across the Country and rules out a vast majority of pesticides that are known to cause damage to humans and animals but are still available for over-the-counter purchase and residential use. To name a few; Roundup, Eagle 20

CULTURAL RESOURCES

In the initial study (Matt Kelley, Oct 2021) it states, 'As proposed, the project is a legislative action and therefore, the County did not require a site-specific cultural inventory.'

However, in the hypothetical situation of the rezoned AG 20 parcels being utilized for cannabis cultivation they would each have to adhere to the Section L-II of the Nevada County Land Use Ordinance 2467 stating that all cannabis cultivation applications shall include a non-Confidential Records Search to NCIC to determine the potential for Commercial Cannabis Cultivation sites to disturb historic, cultural, or tribal resources. Should the NCIC cultural resource study deem the parcel to have ANY potential for locating historic-period cultural resources in the immediate vicinity of the proposed project area or for locating indigenous-period/ethnographic-period cultural resources in the immediate vicinity of the proposed project area; the applicant shall retain a qualified professional to conduct a cultural resource study of the project area. No permit shall be issued until the completion of such report, and if needed, until recommended mitigation is implemented, or a plan has been submitted to the County for implementation.

ENERGY

The subject parcel is located in Western Nevada County and has access to the existing PG&E energy grid and infrastructure. Any electrical improvements for projects used as cannabis cultivation are required to go through the rigorous PG&E application process for commercial businesses, contract licensed electrical engineers, obtain a building permit under the Nevada County Land Use and Development Code, and comply with the California Building Code (Title 24, California Code of Regulations. It is difficult to compare the power usage of 18 residences vs. 4 agricultural sites with a residence on site because there are so many variables between home designs including pools, hot tubs, solar installations, utility choices, etc. However, we do know that most licensed cannabis cultivation in Nevada County is either outdoor, which uses no supplemental power, or Mixed Light tier 1 or tier 2. Mixed light Tier 1 projects include no supplemental lighting, only light deprivation, or up to up to 6w per square foot. Mixed light Tier 2 includes projects between 6w and 25w per square foot at a maximum.

Per Section L-II of the Nevada County Land Use Ordinance 2467; All electrical, mechanical, and plumbing used for Indoor or Mixed-Light Cultivation of Cannabis shall be installed with valid electrical, mechanical, and plumbing permits issued and inspected by the Nevada County Building Department, which building permits shall only be issued to the legal owner of the Premises or their authorized agent. The collective draw from all electrical appliances on the Premises shall not exceed the maximum rating of the approved electrical panel for the Parcel. Electrical utilities shall be supplied by a commercial power source.

GEOLOGY/SOILS

The initial study (Matt Kelley, Oct 2021) states *'the project site is located within Seismic Zone 1 – the Low Intensity Zone of the Modified Mercalli Scale – meaning the site has a low risk for strong ground motion (Nevada County, 1991). Future development of the project site will be subject to California Building Code standards which will effectively ensure future development or construction and is primarily a map amendment proposal only.'*

While the initial study of increasing the parcels to RUR 20 and AG 20, shows all areas of Geology/Soils to be 'Less than significant impact'; including items like 'rupture of a known earthquake fault,' 'strong seismic ground shaking,' 'substantial soil erosion or loss of topsoil,' and 'have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems,' the risk of keeping the increased number of proposed 18 residential developments on the RUR 5 and RA 5 is not addressed. We can safely say the disturbed residential development of 4 cannabis cultivation residential sites is approximately 22% of the same sized developments of 18 residences. Cannabis cultivation would add an additional disturbed area, assumed to be 10,000sf per AG 20 parcel. Most licensed cannabis cultivation in Nevada County takes place in ag-exempt tunnel hoop houses or outdoor settings, both of which allow for the more cost effective optional of none to minimal ground disturbance.

GREENHOUSE GAS EMISSIONS

Initial construction phase including all equipment, heavy machinery, daily traffic and associated carbon emissions would likely be reduced with the reduction from 18 projects to 4 projects, should the rezoning be approved. The long-term reductions in greenhouse gas emissions of daily traffic trips can roughly be calculated as follows:

18 residences w/ average of 2 car daily trips = 36 daily trips

4 cultivation sites w/ average of 2 car daily trips for associated residences = 8 daily trips

4 cultivation site w/ seasonal employees of 4 car trips = 16 daily trips

36 daily trips from 18 residences vs. 24 daily trips from 4 cultivation sites (including residents) at peak season (approx. 2-3 months out of the year) vs. 8 daily trips during off peak season (approx. 9-10 months out of the year).

Only 22% of daily trips expected with the current zoning would be typical and up to 66% of daily trips during peak season.

HAZARD/HAZARDOUS MATERIALS

Section L-II of the Nevada County Land Use Ordinance 2467 states The use of Hazardous Materials shall be prohibited in Cannabis Cultivation except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance from water sources in accordance with Nevada County Land Use and Development Code Chapter X. The production of any Hazardous Waste as part of the Cultivation process shall be prohibited. Additionally monthly reporting of any chemical or pesticide use is evaluated by the Nevada County Agricultural Commissioner, California Agricultural Commissioner and the State Water Resources Control Board through the General Order WQ 2019-0001-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities.

The Initial Study (Matt Kelley, Oct 2021) states '*The hazardous materials anticipated for use are small volumes of petroleum hydrocarbons and their derivatives (e.g. / gasoline, oils, lubricants, and solvents) required to operate construction equipment. These relatively small quantities*

would be below reporting requirements for hazardous materials business plans and would not pose substantial public health and safety hazards though release of emissions or risk of upset.'

The Initial Study is addressing the proposal of amending the General plan Land Use designation from RUR 5 to RUR 20 and the Zoning District Map from RA 5 to AG 20. When we consider this in terms of keeping the existing RUR 5 and RA 5 zoning with proposed development of 18 residences, we would have the same State of California threshold levels for Hazardous Materials allowed 18 times over instead of only 4.

Additionally, there would be the previously discussed increase in vehicular daily traffic daily which may include standard vehicle fluid leaks, but given the proximity to the neighboring Recreational Vehicle Park the potential for the majority of the residences having Recreational Vehicles is high. Typically, Recreational vehicles are filled by residents in an unregulated setting, using gas cans and posing additional spillage opportunities. Many older model recreation vehicles still have two stroke engines. A two-stroke (or two-stroke cycle) engine is a type of internal combustion engine that completes a power cycle with two strokes (up and down movements) of the piston during one power cycle, this power cycle being completed in one revolution of the crankshaft. The thermal efficiency and fuel economy of the two-stroke engines are poor, and total hydrocarbon (THC) and particle mass (PM) emissions are very high.

HYDROLOGY / WATER QUALITY

Comments on Draft Initial study/Negative Declaration for the Murty and law General Plan Amendment and Rezone Project (Lee Auerbach, Oct 2021) states numerous times that the area of his concern was the lack of addressing the potential risk to groundwater, specifically section B. 2 The County's suggestion that Environmental Impacts to Groundwater Will Be Assessed in the Future is Illusory. Although these concerns were addressed in the Initial Study (Matt Kelley, Oct 2021) under both section 10. Hydrology / Water Quality and section 21. Mandatory Findings of Significant Environmental Impact, I would like to elaborate on the future assessments from the State water Resource Control Board as they pertain to cannabis cultivation specifically.

On October 2, 2015, the Central Valley Regional Water Quality Control Board adopted a General Waste Discharge Requirements Order for Discharges of Waste Associated with Medical Cannabis Cultivation Activities (Order No. R5-2015-0113). In 2019 it was adopted into The State Water Resources Control Board through the General Order WQ 2019-0001-DWQ, General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities, commonly referred to as the 'Cannabis Policy,' describes the water quality control policy structure, requirements for cannabis cultivation activities to protect water quality and instream flows, implementation, means of compliance, and enforcement. Section 19332 (d) of the Business and Professions Code directs the State Water Board, in consultation with the California Department of Fish and Wildlife (CDFW) and the California Department of Food and Agriculture (CDFA), to ensure, pursuant to Section 13149 of the Water Code, that individual and cumulative effects of water diversions and discharges associated with cannabis cultivation do not affect the instream flows needed for fish spawning, migration, rearing, and the flows needed to maintain natural flow variability.

Water Code section 13149 required the State Water Board to adopt principles and guidelines for diversion and use of water for cannabis cultivation in areas where cannabis cultivation may have the potential to substantially affect instream flows. The principles and guidelines may

include, but are not limited to, instream flow objectives, limits on diversions, and requirements for screening of diversions and elimination of barriers to fish passage. The principles and guidelines may also include requirements that apply to groundwater extractions where the board determines those requirements are reasonably necessary. The principles and guidelines were developed as part of state policy for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 and include measures to protect springs, wetlands, and aquatic habitats from negative impacts of cannabis cultivation. The principles and guidelines are included in the Cannabis Cultivation Policy – Principles and Guidelines for Cannabis Cultivation (Cannabis Policy). The Cannabis Policy describes the overarching water diversion and waste discharge requirements (WDRs) associated with cannabis cultivation activities.

This General Order implements the Cannabis Policy requirements, specifically those requirements that address waste discharges associated with cannabis cultivation activities. Dischargers covered under this General Order are subject to the requirements of the Cannabis Policy in its entirety. Administrative requirements, such as how to apply for coverage, terminate coverage, applicable fees, and monitoring and reporting requirements are contained within this General Order.

The Cannabis Policy provides criteria to evaluate the threat to water quality based on site conditions, including the disturbed area, which indicates the threat to water quality because level of threat is proportional to the area of disturbed soil, the amount of irrigation water used, the potential for storm water runoff, and the potential impacts to groundwater. The Cannabis Policy includes instream flow objectives, limits on diversions, requirements for screening of diversions and elimination of barriers to fish passage, and requirements that apply to groundwater extraction. Cannabis cultivation activities statewide are required to comply with the requirements of the Cannabis Policy.

For additional consideration, The University of California Berkeley Cannabis Research Center began researching water use on cannabis farms in 2017, shortly after cannabis was legalized for recreation use in California. Van Busic and Ted Grantham, co-directors of the Cannabis Research Center and adjunct fellows at the Public Policy Institute of California's Water Policy Center, are working to better understand how cannabis cultivation affects the state's water post-legalization. They said their research 'hasn't found cannabis to be particularly thirsty relative to other crops.' And Busic later stated "Legal outdoor production uses about the same amount of water as a crop like tomatoes."

LAND USE / PLANNING

Initial Study (Matt Kelley, Oct 2021) clearly states 'The subject project site is currently zoned Residential Agriculture (RA-5) with Planned Development (PD) as shown on Zoning District map 64 and has a RUR-5 General Plan Land Use Designation. The applicant requests to amend the General Plan Land Use Designation from RUR-5 to RUR-20 and amend the Zoning District map from RA-5-PD to AG-20. The subject parcel is approximately 91.01 acres in size and based on the current zoning of RA-5-PD it would allow for an overall density of 18 dwelling units. If approved, the overall density would be reduced by 14 units and allow for up to 4 dwelling units. While the project as proposed does not include a proposal for development at this time, the applicant has state that they intend to develop the project site for residential and potentially commercial agricultural uses including the cultivation of cannabis. As proposed, this type of use

would be compatible with the surround subject parcels which are zoned General Agriculture with a 10-acre minimum parcel size. As a result, this impact would be less than significant.’

NOISE

Pursuant to Nevada County Land use and Development Code, Section L-II 4.1.7.D.8, the County Sound Standards (table shown below) shall not apply to those activities associated with the actual construction of a project or to those projects with the provision of emergency services or functions. With the current zoning of RA-5 with Planned Development there is the potential for 18 independent periods of construction, which would all be exempt from the County Sound Standards. With the proposed rezoning to AG 20 the potential for independent noise exempt construction periods would be reduced to 4.

County Sound Standards

Zoning Districts	Time Period		Noise Level, dBA	
	Start	End	L eq	L max
AG, TPZ, AE, OS, FR, IDR	7 am	7 pm	55	75
	7 pm	10 pm	50	65
	10 pm	7 am	40	55

Noise levels generated by Cannabis Cultivation shall not exceed the standards set forth in Table LII 4.1.7 (Exterior Noise Limits) applicable to the Land Use Category and Zoning District for the Premises on which the Cultivation occurs.

Additionally, Section L-II of the Nevada County Land Use Ordinance 2467 states All Cannabis Cultivation areas shall comply with the following requirements:

If generators are used for emergency purposes as approved by the Enforcing Officer, all generators shall be located in containment sheds while in use to reduce generator noise to no greater than 50dB as measured at 100 feet from any sensitive habitat or known sensitive species. This is an annual requirement and shall be verified yearly when the ACP is renewed. If conformance is not shown, the permit shall be denied or held in abeyance until the project infraction is brought into conformance with this Section.

PUBLIC SERVICES

The project site would be served by individual water wells and septic systems and PG&E would provide electrical service to the project site. While the Initial Study (Matt Kelley, Oct 2021) states that *‘the project is anticipated to have a less than significant impact to Public Services.’* One could easily say that allowing the proposal for rezoning to RUR20 and AG-20 would have a positive impact.

As part of the licensing process for cannabis cultivation through the Nevada County Community Development Agency subject parcels are required to go through approval of all seven county departments. Department of Public Works verifies all access is within legal easements prior to issuing approval, Department of Environmental Health verifies all wells, septic systems, leach

fields and leach field repair areas are compliant prior to issuing an approval for the cannabis cultivation permit and both the Nevada County Consolidated Fire District and Cal Fire verify road access complies with Fire Standard Access Road Standards, maintains vegetative clearance as fire prevention, is appropriate for emergency vehicle access, and has sufficient pull out or turn arounds.

Prior to annual cannabis permit issuance, the projects are required to pay traffic mitigation fees, local school district fees and fire district fees that are based on the number of employees, vehicle usage expected and square footage of any proposed commercial structures. Additionally, any commercial access joining a county-maintained roadway is required to meet encroachment standards to help minimize the impact to the county roadway system.

WILDFIRE

The subject parcel is located in the Nevada County Consolidated Fire District and is in a Very High Fire Hazard Severity Zone. The reduction of homes from 18 to 4 could alleviate the amount of potential fire hazards from a variety of sources including daily vehicle trips, chimney debris, human error, cigarette butts, etc.

All cannabis cultivation projects must be approved by the local fire district as well as Cal Fire prior to license issuance. The applicants are required to meet 2474 Section L-VII 1.6: Address standards and a minimum of the 2474 Section L-XVI 3.2 Private Driveway Construction Standards; Including Vertical vegetation clearance shall be fifteen (15) feet minimum, measured from the outside edge of the shoulder, Roadside vegetation fuel modification area shall be provided for a distance of 10 feet on each side of the driveway, standardized turn outs for vehicle access during congestion, and additional roadway construction standards that allow for the safe passage of emergency vehicles.

2474 Section L-XVI 4.2 Application states Remote Commercial Applications shall also maintain a stored amount of on-site water available for fire protection that is compliant with the National Fire Protection Association (NFPA) 1142, "Standard on Water Supplies for Suburban and Rural Firefighting." The minimum amount of stored water required is 2500 gallons and may be higher dependent on the size of the structures to be protected and will be in addition to any domestic needs. The water shall be available on-site at the time of the agency inspection. Construction of the water storage facility shall be in compliance with the drawings kept on file in the Office of the Fire Marshal and NFPA 1142 calculations/math and required amount of stored water are required to be shown on site plans, prior to approval consideration.

2474 Section L-XVI 4.4 Standards for Hydrants/Fire Valves specifies that all commercial cannabis cultivation sites have a draft hydrant built to the standards required for all local fire engines installed prior to cannabis cultivation application approval.

Fuel Modification Standards: Section L-XVI 5.1 Purpose and Intent further states; To reduce the intensity of a wildfire by reducing the volume and density of flammable vegetation, these areas shall provide (1) increased safety for emergency fire equipment and evacuating civilians; and (2) a point of attack or defense from a wildfire; and (3) strategic siting of fuel modification and greenbelts. All cannabis cultivation sites shall Maintain Defensible Space of 100 feet from each side, front and rear of all permitted structures on the property. The amount of vegetation modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation.

Vegetation shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well- pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of the vegetation management may vary within the 100-foot perimeter of the structure, with the most intense being within the first 50 feet around the structure.

Whereas these are suggested common practice across from our local fire fighters, commercial business requires site visits and regular inspections to ensure that cannabis cultivation sites adhere to the Fire District Marshall's recommendations. Commercial cannabis cultivation also provides well marked, and documented water storage for fire suppression, which may also be available to help protect neighbors at the discretion of the Fire District and Emergency Responders.

CONCLUSION

Based on the Comments of Draft Initial Study/Negative Declaration for the Murty and Law General Plan Amendment and Rezone Project (Lee Auerbach, Oct 2021) it seems that the concerns regarding the rezoning proposal to RUR 20 and AG 20 are centered around the hypothetical outcome of all 4 subdivided parcels being used for cannabis cultivation. Although this is a possible outcome, it is not guaranteed or part of the rezoning proposal. However, as we've demonstrated above, the approval of the rezoning, including the hypothetical cannabis cultivation, could potentially have a reduction in impact to the environment, community and surrounding species. This does not address or consider potential increases in natural resources, available jobs, tax revenue for Nevada County and income for infrastructure costs.

Valid concerns have been expressed about allowing cannabis cultivation within RA zones because of the potential impact on existing neighborhoods, as address in Response to Comment K-7 of the DEIR *'The County is not able to evaluate the specific cultivation that is existing with RA zoned areas because this would involve a level of detail outside the scope of this Program EIR. This also would not provide equal protection to residents residing in RA zones not presently cultivating while giving special treatment to persons illegally cultivating.'* However, the proposed rezoning of 10460 Harmony Ridge Rd from RUR 5 to RUR 20 on the General Plan Land Use Designation and RA 5 (with PD) to AG 20 on the Zoning District Map would not fall within this area of concern as there are no existing residents or cultivation sites, but only a designation of planned development, currently associated with the subject parcel zoning.

According to Section D. of Comments on Draft Initial Study/Negative Declaration for the Murty and Law General plan amendment and Rezone Project (Lee Auerbach, Oct 2021) *'The county extensively evaluated environmental impact related to cannabis cultivation in the EIR and related documents and processes which led to the enactment of the NCCO in 2019. There, the County's stated objectives included "defin[ing] specific zones within the County in which production of commercial cannabis cultivation will be allowed" and "defin[ing] within the specific zones, the total area of commercial cannabis cultivation that will be allowed." [citation]. The Findings noted that there were then a total of 27,207 parcels zoned AG, AE and FR within the County.'* This statement references the EIR (Final Environmental Impact Review 18-0001, Nevada County Commercial Cannabis Cultivation Ordinance Project, April 2019), which

considered a total allowance of 27,207 cultivation sites within Nevada County. If each of those parcels were to cultivate the maximum permissible amount of cannabis canopy area that would equate to approximately 2,684 acres. As such, this assumption represents a 'worst-case' or highest possible cultivation usage, scenario for purposes of analyzing environmental impacts. Currently there are only approximately 300 approved or in process cannabis cultivation licenses within the Nevada County system, or only 1.1 % of the total allowed cultivation sites considered within the EIR. Should the 4 proposed parcels become cultivation sites using the maximum allowed square footage they would make a less than 0.01% increase to the considered impact.

Finally, the findings of the EIR point to AG, AE and FR zones as allowable for cannabis cultivation. The RA Zoned was not included in the EIR baseline and no assumptions should be made as to a negative verdict.

I thank the Planning Commission for taking the time to consider my letter.

Sincerely,



Menkin Nelson

High Pockets LLC

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Nevada City, CA 95959
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