



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
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Lakeport, California 95453
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STAFF REPORT

TO: Planning Commission

FROM: Scott DeLeon, Community Development Director
Tocarra Thomas, Deputy Director
Prepared by: Sateur Ham, Assistant Planner

DATE: May 13, 2021

RE: **Bottle Rock Herbal Medicine, LLC**

- **Major Use Permit (UP 20-37)**
- **Initial Study (IS 20-46)**

Supervisor District Jessica Pyscka
Planning Commissioner Lance Williams

ATTACHMENTS:

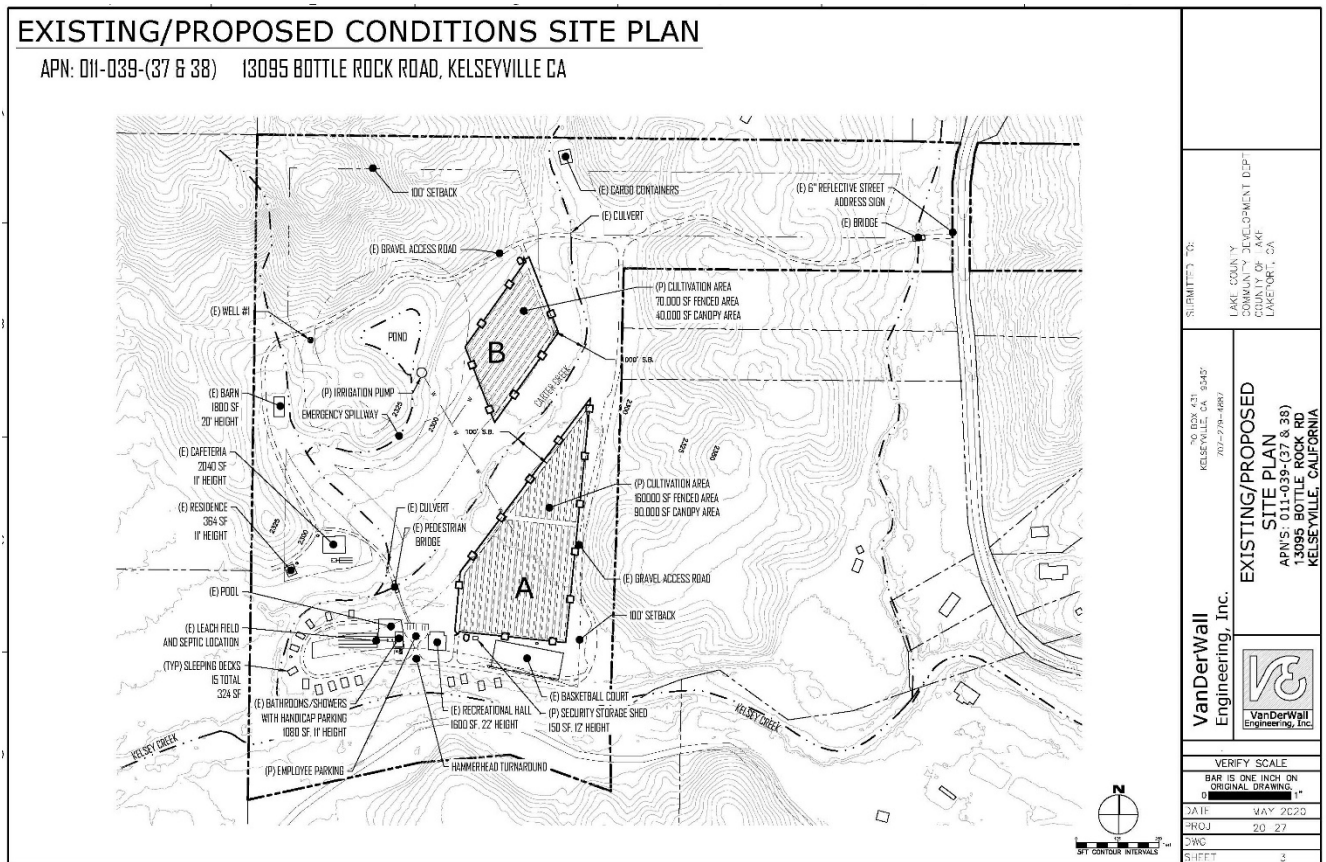
1. Vicinity Map
2. Property Management Plan
3. Proposed Site Plans
4. Proposed Conditions of Approval
5. Initial Study
6. Agency Comments

I. EXECUTIVE SUMMARY

Bottle Rock Herbal Medicine, LLC. is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation (*the cultivation of commercial cannabis includes the planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing*) at 13095 & 13130 Bottle Rock Road, Cobb, CA on Lake County APN 011-039-37 & 011-039-38 *as one legal lot*. The applicant's proposal includes three **(3) A-Type 3 "Outdoor" License**, outdoor cultivation for adult-use cannabis without the use of light deprivation and/or artificial lighting in the canopy area of one acre in size per licenses. The cultivation area will take place in two site locations totaling up to 5.3 acres and is as follows:

Site A: 90,000 square feet canopy area within 160,000 square feet cultivation area
Site B: 40,000 square feet canopy area within 70,000 square feet cultivation area

The project does not consist of any construction of new structures with the project parcel. The applicant will utilize and convert existing structures such as the cafeteria, existing restroom facility, barn, recreational hall, and several outbuildings.



Staff is recommending approval of Major Use Permit, UP 20-37, and the adoption of a Mitigated Negative Declaration based on the environmental analysis (Initial Study, IS 20-46) with the incorporated Mitigation Measures and Conditions of Approval.

II. PROJECT DESCRIPTION

Applicant: Bottle Rock Herbal Medicine, LLC.

Owner: Charleen Wignall, successor trustee of the Frances. A Wignall Living Trust and Lawrence Sekara

Location: 13095 & 13130 Bottle Rock Road
Cobb, CA 95426

A.P.N.: 011-039-37 & 011-039-38

Parcel Size: 61.83 acres total

General Plan: Rural Lands

Zoning: Rural Lands-Special Lot Size/ Density-Scenic Combining-Waterway District Combining

Flood Zone: “D”: Areas of undetermined, but possible, flood hazard

Submittal Date: May 21, 2020

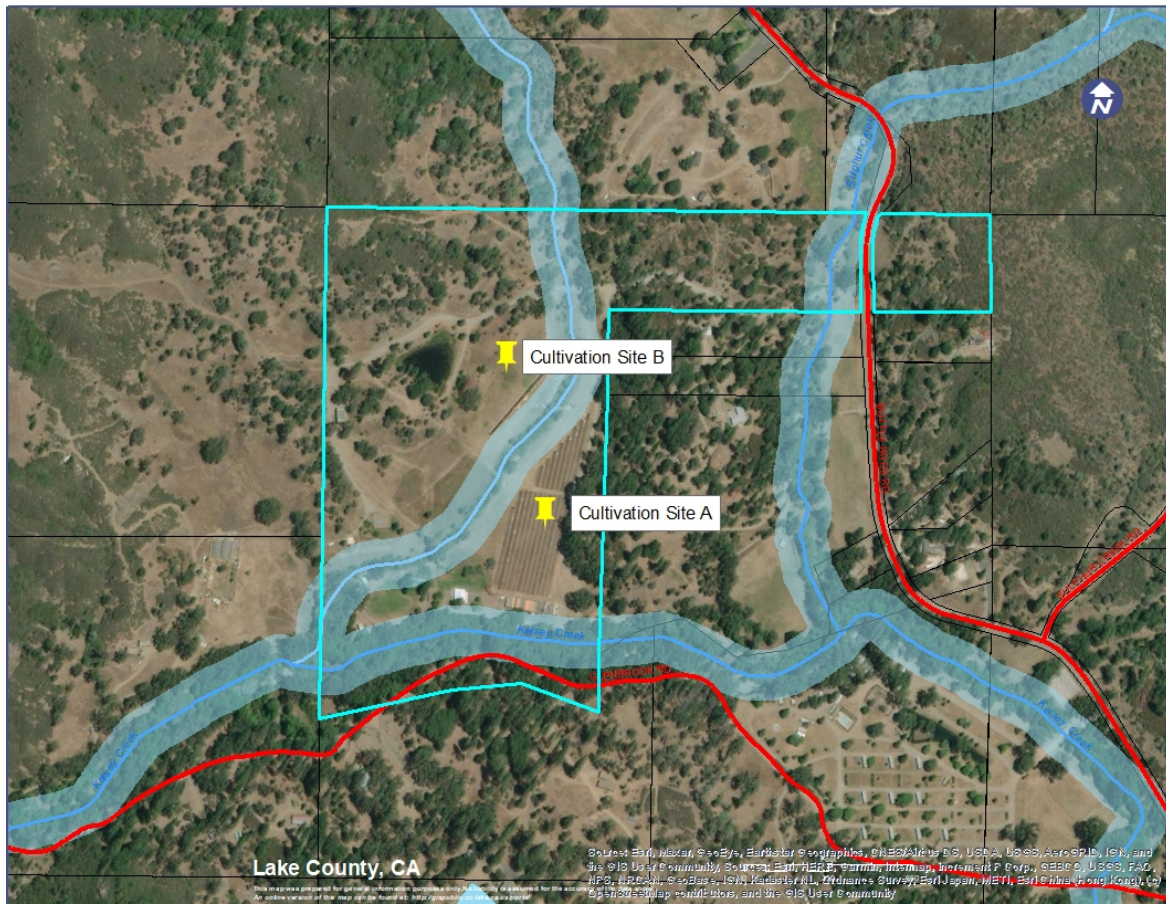


Figure 3. Aerial Photo of Subject Site

<u>Topography:</u>	The cultivation sites are located within a relatively flat area that was previously graded and flattened for an existing commercial campground. The overall project parcel's average slope ranges from 18.22-30.57%.
<u>Soils:</u>	<p>The <u>project area</u> contains the following soil type:</p> <ul style="list-style-type: none">• Maymen-Etsel-Mayacama complex (166)• Still gravelly loam (234)
<u>Water Supply:</u>	Existing Well and Kelsey Creek
<u>Sewage Disposal:</u>	On-site septic system to accommodate for commercial use with ADA-compliant toilet
<u>Fire Protection:</u>	South Lake County Fire Protection District
<u>Vegetation:</u>	The cultivation area takes place within an area that was previously disturbed and maintained within an existing sports field.
<u>Water Courses:</u>	Kelsey Creek

IV. PROJECT ANALYSIS

General Plan Conformance

The General Plan designation for the subject site is Rural Lands. The following General Plan policies related to site development in the context of this proposal:

Rural Lands allows for rural development in areas that are primarily in their natural state, although some agricultural production, especially vineyards, can occur on these lands. This category is appropriate for areas that are remote or characterized by steep topography, fire hazards, and limited access. Typical uses permitted by right include, but are not limited to, animal raising, crop production, single-family residences, game preserves, and fisheries. Other typical uses permitted conditionally include, but are not limited to, recreational facilities, manufacturing and processing operations, mining, and airfields.

The applicant is proposing commercial cannabis cultivation which applies to crop production with the Lake County General Plan (2008) for Rural Lands. The project proposes three (3) acres of cannabis canopy area which would require a total of 60 acres for the permitted use on an existing commercial campground facility. The operation would include planting, growing, harvesting, drying, curing, grading, trimming, and/or any combination of those activities, including processing. The proposed project conforms with the general plan for land use as agricultural production.

The following General Plan policies related to site development in the context of this proposal:

Land Use

Goal LU-6: “To maintain a healthy and diverse local economy that meets the present and future employment, shopping, recreational, and service needs of Lake County residents”.

- *Policy LU 6.1*: “The County shall actively promote the development of a diversified economic base by continuing to promote agriculture, recreation services, and commerce and by expanding its efforts to encourage industrial and non-industrial corporate developments and the developments of geothermal resources”.

The proposed project fits the objective to promote a diversified economic base by continuing to promote agriculture through cannabis as new crop production. The proposed commercial cannabis cultivation would create diversity within the local economy, create future employment opportunities for residents and allow the expansion of industrial and non-industrial corporate developments for the present and future of Lake County.

Cobb Mountain Area Plan Conformance

The subject site is within the Cobb Mountain Area Plan’s boundary. The Plan contains several policies that are subject to consistency review as follows:

“3.3a: Protect water resources for existing and future beneficial uses, including for residential, commercial and agricultural needs.”

“3.3b: Provide necessary support to assure that area water rights are protected to accommodate projected long-term water needs.”

The proposed project consists of using an existing well that produces approximately 5.5 GPM and water diversion from Kelsey Creek through historic water rights from the State Water Resources Control Board. The maximum eligible diversion season is November 1 to March 31, and the maximum diversion rate is 10 gallons per minute. Water sources will be monitored and recorded. These requirements will be reinforced and add as the conditions of approval for compliance.

“3.9a: Archaeological surveys shall be required per state law whenever new the development could potentially impact unique or significant cultural resources.”

“3.9b: Designated historic preservation sites shall be identified in Figure 20 of Cobb Mountain Area Plan. Efforts to protect such sites shall be referred to the County's Cultural Resource Commission for review.”

The proposed project will take place within an existing facility that was used as a commercial campground facility. The then-undisturbed area was surveyed in 1982 for cultural resources by the same owner and resulted in findings of archeological resources that were properly identified and reported. The applicant also provided an updated archeological report and resulted in the same findings from the original survey. The proposed project is not predicted to create an impact to cultural resources.

“4.1a: The most recent fire hazard criteria of the California Department of Forestry and Fire Protection (CDF) shall be considered for general plan and zoning purposes in the Cobb Mountain area.”

“4.1b: The adoption of fire safety guidelines provided by the CDF will be considered in areas subject to high and very high wildland fire hazards.”

As a Conditions of Approval (Attachment 4), the applicant shall comply with the California Department of Forestry and Fire Protection for emergency ingress and egress. As the project proposal, the applicant will need to comply with current fire-safe standards as they are using existing structures as part of their cultivation operation proposal. As a condition of approval, all existing structures will need to meet current commercial standards.

Zoning Ordinance Conformance

Article 7 - Rural Lands Zoning District

The purpose to provide for resource-related and residential uses of the County's undeveloped lands that are remote and often characterized by steep topography, fire hazards, and limited access.

Article 30 - Special Lot Size/ Density

To provide for specified minimum lot sizes, or to promote open space and protect sensitive resources by clustering residential development. “B5” areas: Maximum permitted density measured by dwelling units per gross acre and minimum lot size shall be as specified on the sectional district map.

Article 34 – Scenic Combining District

To protect and enhance views of scenic areas from the County's scenic highways and roadways for the benefit of local residential and resort development, the motoring public, and the recreation-based economy of the County.

Article 37- Waterway Combining District

To preserve, protect and restore significant riparian systems, streams, and their riparian, aquatic, and woodland habitats; protect water quality; control erosion, sedimentation, and runoff; and protect public health and safety by minimizing dangers due to floods and earth slides.

Article 27 - Use Permits

The purpose of Article 27 is for those uses possessing characteristics of unique and special form as to make their use acceptable in one or more districts upon issuance of a zoning permit, minor or major use permit; in addition to any required building, grading, and/or health permits.

In response to the following zoning designation for the project location, the cultivation of commercial cannabis is permitted within the rural lands zoning district upon issuance of a use permit, according to Section 27.13 (Table B) of the Lake County Zoning Ordinance. Article 30 reflects the special lot size for land use alteration and does not apply to the project proposal. The scenic combining district protects and enhances views of scenic areas, although the project is located within this district. The project location is outside of the scenic viewshed and is naturally screened by dense native trees. The waterway combining district preserve, protect and restore significant waterways to protect water quality. The project is located 100 feet away from all waterways. The proper best management plan will be implemented for sediment and erosion control. Article 27 also includes the development standards, general requirements, and restrictions listed below—the applicant/project conforms to these requirements and is as follows:

Development Standards, General Requirements, and Restrictions. This application meets the following Development Standards, General Requirements, and Restrictions as specified within Article 27, subsection (at) of the Lake County Zoning Ordinance.

Development Standards

- Minimum Lot Size (20 acres per A-Type 3): *Complies, the lot is 61.83 acres in size. The applicant needs 60 acres for three (3) A – Type 3 licenses.*
- Setback from Property Line (100 feet): *Complies; the cultivation site is set back a minimum of 100 feet from the nearest property line.*
- Setback from Off-Site Residence (200 feet): *Complies; the nearest dwelling is over 500 feet away from the cultivation area.*
- Minimum Fence Height of Six (6) Feet: *Complies; the proposed enclosure is a 6 feet tall chain-linked fence.*
- Maximum Canopy Area (130,680 ft² maximum for a (3) A-Type 3 “Outdoor”): *Complies; the proposed canopy area would be 130,000 ft² of total canopy area.*

General Requirements. There are several general requirements for cannabis cultivation listed in Section 27.13(at) of the Lake County Zoning Ordinance. These include, but are not limited to,

obtaining a State License, completion of background checks, obtaining property owner approval, complying with hours of operations and deliveries, access requirements, etc.

The applicant meets the General Requirements outlined in Section 27.13(at) of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to ensure compliance. The applicant meets the General Requirements outlined in Section 27.13(at) of the Zoning Ordinance. If the requirements have not yet been met, a condition has been added to ensure compliance. Under Article 27, the applicant shall provide a written description of the project, site plans, and a project management plan. The applicant has submitted the three following items outlining compliance with all regulations relating to the proposed cannabis operations including air quality, cultural resources, energy usage, fertilizer usage, fish and wildlife protection, stormwater management, security, compliance monitoring, etc. Also, the applicant complies with the restrictions regarding the prohibited activities listed in Article 27, subsection 13(at), including but not limited to the removal of commercial trees, illegally diverting water, producing excessive odors, pesticides that have been banned for use in the state, etc. The applicant satisfies all the requirements listed within Section 27.13 and provided all necessary documents for review and approval.

V. ENVIRONMENTAL REVIEW

The California Environmental Quality Act (CEQA) requires agencies to evaluate the environmental implications of land use actions. An Initial Study and Mitigated Negative Declaration (IS 20-46; Attachment 5) was prepared and circulated for public review in compliance with CEQA from **02/22/2021** to **03/24/2021**. The applicant submitted an original Cultural Resource Assessment to the Community Development Department (CDD) dated March 1982, amended on January 31, 2020, with a letter and a new study conducted on March 5, 2021, which concluded there are cultural resources, however, it was properly recorded and handled during the initial cultural survey. Also, the local tribes were notified of the project and no adverse comments were received. Per biological resource assessment, the property has the potential for special status species, conditions are added to ensure the protection and minimize the potential adverse impact of migratory birds, bats, Foothill Yellow-Legged Frog, California Giant Salamander, and Red-Bellied Newt.

The Initial Study found that the project could cause potentially significant impacts:

- Aesthetics: *to address new addition of artificial lighting for security*
- Air Quality: *to address construction for dust fugitives and odor control plan*
- Biological Resources: *to address sensitive species and water resources*
- Cultural Resources/Tribal Cultural Resources: *to address inadvertent discoveries of cultural resources in the future.*
- Geology/Soils: *to address best management practices for potential erosion control and grading as well as meeting current building codes for existing structures.*
- Hazards/Hazardous Materials: *to address potential biological, chemical, and physical hazards during operations.*
- Hydrology/Water Quality: *to address water usage, water quality, and wastewater*
- Wildfire: *to address ingress and egress of emergency access through 4290 fire safety standards*
- Noise: *to address noise during operating hours and construction.*

However, with the incorporation of the mitigation measures in Attachment 5, all impacts can be reduced to a less than significant level.

VI. MAJOR USE PERMIT FINDINGS FOR APPROVAL

The Review Authority shall only approve or conditionally approve a Major Use Permit (LCZO Section 51.4, Major Use Permits) if all of the following findings are made:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.

The proposed use of commercial cannabis cultivation operation is permitted in the Rural Lands zoning designation upon issuance of a Major Use Permit according to Article 27 of the Lake County Zoning Ordinance. The zoning ordinance provides specific details to incorporate measures that will alleviate potential detriments to the general welfare of the community and the surrounding environment such as buffer zones, installing security, road maintenance, and installing a water meter as part of the general requirement. The general requirement includes providing specific plans such as security plans, erosion and sediment prevention plans, stormwater plans, water management plans, and other plans to ensure that the proposed use would address various factors that will minimize the potential impact on the surrounding area. Additionally, the Community Development Department would conduct an annual compliance monitoring inspection during the cultivation season to ensure compliance with the approved Property Management Plan and Conditions of Approval.

2. That the site for the project is adequate in size, shape, location, and physical characteristics to accommodate the type of use and level of development proposed.

The proposed cultivation area is 5.28 acres and is taken place on two different cultivation sites within the property to accommodate the size, shape, and physical characteristics of the properties. The proposed project meets all siting and development standards for cannabis. That is, the site is adequate to accommodate the proposed project with the incorporation of all buffer zones due to physical characteristics to avoid sensitive biological resources and cultural resources as well as a setback from property lines and nearest off-site dwelling. While incorporating the scenic combining districts to preserve the scenic viewsheds of the property.

3. That the streets, highways, and pedestrian facilities are reasonably adequate to safely accommodate the specific proposed use.

The circulation system will not cause any additional impact on the roadway to the cultivation site. Per the Public Resource Code 4290 Fire Safe Requirements, the project will have to meet CalFire road standards for incorporating existing structures into the cannabis cultivation operation. The project site location met the commercial standards for the existing development, however, due to changes over time with regulatory standards set by PRC, the applicant will comply with the current commercial standards before operation. This is made as a condition of approval in attachment 4.

4. That there are adequate public or private services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.

This application was routed to all of the affected public and private service providers including the Department of Public Works, Special Districts, Environmental Health, Lake County Fire Department, Lake County Sheriff Department, and PG&E. No adverse comments were received. The applicant will be subjected to all agency requirements as part of any future developments and will be included as part of the conditions of approval. Also, there are adequate public services to accommodate the proposed project to continue as commercial use.

5. That the project is in conformance with the applicable provisions and policies of this Code, the General Plan, and any approved zoning or land use plan.

Since commercial cannabis cultivation is a permitted use for land designation Rural Lands within Article 27 of the local zoning ordinance, this proposal is consistent with the governing ordinance for cannabis cultivation in Lake County. The proposal, as conditioned, meets all requirements and development standards of the Zoning Ordinance. The General Plan and the Cobb Mountain area Plan do not have any provisions for commercial cannabis, but both plans include either direct and/or indirect provisions for economic development and related policies that the project is subjected to such as new development, incorporating protecting biological and cultural resources, and agricultural uses (see Section IV, Project Analysis, above).

6. That no violation of Chapters 5, 17, 21, 23, or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from public health, safety or general welfare basis.

There are no violations of Chapters 5, 17, 21, 23, or 26 of the Lake County Code on this property.

In addition to the findings required above for a Use Permit, the following findings are required for approval of a cannabis-specific Use Permit:

7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i. as outlined in this staff report.
8. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii. as outlined in this staff report and Attachments 1 through 6.

VII. RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

- A. **Adopt Mitigated Negative Declaration (IS 20-46) for Major Use Permit (UP 20-37) with the following findings found in Attachment 5:**
 1. Potential aesthetics impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AES-1 through AES-3.
 2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-5.

3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-8.
4. Potential environmental impacts related to cultural and Tribal resources can be mitigated to less than significant levels with the inclusion of mitigation measures CUL-1 and CUL-3.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1 through GEO-6.
6. Potential hazards and hazardous materials can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1 through HAZ-7.
7. Potential hydrology and water quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HYD-1 through HYD-5.
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-3.
9. This project is consistent with land uses in the vicinity.
10. This project is consistent with the Lake County General Plan, Cobb Mountain Area Plan, and Zoning Ordinance.
11. Any changes to the project will require either an amended Use Permit or a new Use Permit unless the Community Development Director determines that any changes have no potential environmental impacts.
12. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

B. Approve Major Use Permit UP 20-37 with the following findings:

1. That the establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, or be detrimental to property and improvements in the neighborhood or the general welfare of the County.
2. The site is adequate in size, shape, locations, and physical characteristics to accommodate the type of use and level of development proposed.
3. The streets, highways, and pedestrian facilities are reasonably adequate to safely accommodate the proposed use.
4. There are adequate services to serve the project.
5. This project is consistent with the Lake County General Plan, Cobb Mountain Area Plan, and Lake County Zoning Ordinance.

6. No violation of Chapter 5, 17, 21, 23, or 26 of the Lake County Code currently exists on this property, with a condition of approval implemented.
7. The proposed use complies with all development standards described in Chapter 21, Article 27, Section 1.i.
8. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii and attachments 1 through 6.

Sample Motions:

Mitigated Negative Declaration

I move that the Planning Commission find that the **Major Use Permit (UP 20-37)** was applied for by **Bottle Rock Herbal Medicine, LLC. (Charleen Wignall)** on property located at **13095 & 13130 Bottle Rock Road, Cobb, CA**, further described as **APNs: 011-039-37 & 011-039-38** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **May 13, 2021**.

Major Use Permit (UP 20-37)

I move that the Planning Commission find that the **Major Use Permit (UP 20-37)** was applied for by **Bottle Rock Herbal Medicine, LLC. (Charleen Wignall)** on property located at **13095 & 13130 Bottle Rock Road, Cobb, CA**, further described as **APNs: 011-039-37 & 011-039-38** does meet the requirements of Section 51.4 and Article 27, Section 1(at) [i, ii] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **May 13, 2021**.

***NOTE:** The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fees must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*