



## Legislation Details (With Text)

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| <b>File created:</b>  | 5/16/2022   | <b>In control:</b>   |   | Planning Commission |  |
| <b>On agenda:</b>     | 5/26/2022   | <b>Final action:</b> |   |                     |  |
| <b>Title:</b>         | 9:20 a.m. Public Hearing on Consideration of Major Use Permit UP 19-19 and adoption of an Initial Study (IS 20-15) to satisfy the California Environmental Quality Act (CEQA) requirements related to potential environmental impacts The applicant, MOMBACHO MOUNTAIN ORGANICS, LLC (DAN WESTPHAL & KATHY MCGUIRE) to allow a major use permit for One (1) 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 at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size per license on one premise; and a Type 13 "Distributor Transport Only, Self-Transport Distribution" license: The transport of cannabis goods between entities licensed pursuant to California Code. The project is located at 9205 Mombacho Road, Kelseyville, CA and 9261 Wildcat Road, Kelseyville, CA; further described as Assessor Parcel Numbers: 011-044-17 and 011-044-18. |                      |   |                     |  |
| <b>Sponsors:</b>      | Community Development   |                      |   |                     |  |
| <b>Indexes:</b>       |   |                      |   |                     |  |
| <b>Code sections:</b> |   |                      |   |                     |  |
| <b>Attachments:</b>   | 1. Attachment 1 Vicinity Map UP 19-19, 2. Attachment 2 Property Managmeent Plan, 3. Attachment 3 Site Plans, 4. Attachment 4 UP 19-19 - Conditions of Approval, 5. Attachment 5 IS UP 19-19, 6. Attachment 6 UP 19-19 MMRP, 7. Attachment 7 Hydrology Report & DMP, 8. Attachment 8 Agency & Tribal Comments, 9. Attachment 9 Public Comment Received, 10. Attachment 10 Staff Report, 11. PublicComment (Moss), 12. Public Comment Lake County Environmental Health Wildcat Road   |                      |   |                     |  |

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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## Memorandum

**Item 4**  
**9:20 AM**  
**May 26, 2022**

## STAFF REPORT

**TO:** Planning Commission

**FROM:** Mary Darby, Community Development Director  
Prepared by: LACO Associates  
Planner: Andrew Amelung, Cannabis Program Manager

DATE OF REPORT: May 26, 2022

RE: **Mombacho Mountain Organics, LLC**

- Major Use Permit (UP 19-19)
- Initial Study (IS 19-34)

District 5 Supervisor *Jessica Pyska*  
District 5 Planning Commissioner *Maile Field*

ATTACHMENTS:

1. Vicinity Map
2. Property Management Plan
3. Project Site Plans
4. Proposed Conditions of Approval
5. Initial Study/Mitigated Negative Declaration
6. Mitigation Monitoring Reporting Program (MMRP)
7. Hydrological Analysis/Drought Management Plan
8. Tribal and Agency Comments Received
9. Public Comments Received

## I. **EXECUTIVE SUMMARY**

The applicant, Mombacho Mountain Organics, LLC (MMO) is requesting approval of a Major Use Permit for Commercial Cannabis Cultivation located at 9205 Mombacho Road and 9261 Wildcat Road, Kelseyville, CA further described as assessor parcel numbers (APNs): 011-044-17 and 011-044-18. The combined project area is approximately 20 acres and is zoned "RR-B5" for Rural Residential - Special Lot Size/Density. The applicant's proposal includes the clustering of parcels as allowed by the County of Lake Zoning Ordinance, Article 27, Section 27.13(at).1.ii.(j). In total, MMO requests a total cultivation area of 48,004 square feet (sf) and a total cannabis canopy of 43,200 sf. The proposal includes the following (please see Proposed Site Plans attachment):

- One (1) A - Type 3 "Outdoor" license consisting of 43,200 sf. of canopy and 48,004 sf of cultivation area
- One (1) A-Type 13 "Self-Distribution" license
- One (1) 24' X 96' steel frame greenhouse with six (6) - mil polyethylene/polycarbonate film covering (Item "H" on the Site Plans) to house immature cannabis plants
- One (1) 50' X 50' (2,500 sf) processing building
- One (1) 20' X 20' (400 sf) Pesticides & Agricultural Chemical Storage Area
- Two (2) 5,000-gallon heavy-duty plastic water storage tanks or four (4) - 2,500-gallon heavy-duty plastic water storage tanks
- One (1) 5,000-gallon, metal emergency fire water storage tank on a concrete slab, connected to a two-foot-high hydrant/fire valve equipped with 2.5-inch National Hose Male threaded and cap. The hydrant/fire valve will be located approximately six (6) feet to the north of the existing driveway and will be identified with a three inch or greater reflectorized blue marker mounted to a four (4) - foot tall metal post.
- One (1) ADA accessible parking space and three (3) employee parking spaces. If additional parking is needed, the applicant proposes to install additional parking spaces.
- Composting area
- Refuse/trash area

The subject parcels are located north of Mount Hannah, within the Cole Creek Watershed (HUC 12), and approximately six (6) miles southeast of Kelseyville, CA. The subject parcels are accessible via a private gravel access road/driveway that runs from east to west through the project parcels and connects to Wildcat Road (east) and Mombacho Road (west). The access is secured with the use of locking metal gates, which authorized personnel will have access to. The operation will not be open to the general public.

According to the Property Management Plan, the water storage tanks will be equipped with float valves to shut off the flow of water from the well and prevent the overflow and runoff of irrigation water when full. HDPE water supply lines will gravity feed irrigation water from the water storage tanks to the irrigation systems of the cultivation area(s). Additionally, the cannabis operation will utilize unmarked utility van and/or enclosed trailer to transport cannabis from

their cultivation operation to a licensed cannabis processing, distribution, and manufacturing facilities within the State of California.



### Access

The project parcel is located in a rural area that is accessed by Mombacho Road that intersects Wildcat Road, approximately a half-mile south of the intersection of State Highway 175 and Wildcat Road

### Hydrology and Water Usage

The project parcels are located within the Kelsey Creek-Clear Lake Watershed (HUC10) and the Cole Creek Sub-watershed (HUC12). An unnamed intermittent Class II watercourse and tributary to Cole Creek (NHD/DFG Water ID: 116953978), flows from the southwest to northeast through the southeastern corner of the Project Property, then along the eastern boundary of the property.

The unnamed intermittent Class II watercourse flows into Cole Creek approximately 0.25 miles northeast of the proposed cultivation operation. Additionally, there is an ephemeral Class III watercourse that also flows from south to north along the eastern property line of the Project Property, before crossing under Wildcat Road and entering the previously mentioned intermittent Class II watercourse. The proposed cultivation operation will be located over 150 feet from any surface water bodies and top of bank of any creeks. Additionally, the applicant proposes Best Management Practices in accordance with Chapter 29 and 30 of the Lake County Code to protect all surrounding waterways.

The subject site contains a permitted groundwater well that will be used as the primary water source for this project. According to a Water Well Drillers Report performed by the State of California Department of Water Resources, the onsite groundwater well was drilled in 1977 to a depth of 99 feet

(screened between 75 and 99 feet) and has an estimated yield of 20 gallons per minute (well located at Latitude 38.90131° and Longitude -122.75927°).

However, according to a well test report conducted on July 25, 2019, the report identified an average pump rate of 4.6-gallons per minute but had a recharge rate of 99.7% following a 2-hour shut-down period. According to the report, the difference in both the pumping and static levels recorded showed minimal change which suggests that there is little drawdown while the pump is in operation. The well which has been identified to produce 4.6-gallons per minute translates to approximately 2,419,366 gallons per year. According to the applicant, the cultivation season for the proposed cultivation operation will begin in April and end in November each year. The applicant proposes that the cultivation operation will require approximately 710,355-gallons per year (*Please Note: Water usage may vary depending on weather conditions*). Considering the applicant proposes to use 710,355-gallons per year, this translates to approximately 29% of the existing well's full capacity. All water supply lines will be equipped with safety valves, capable of shutting off the flow of water so that waste of water and runoff is prevented/minimized when leaks occur and the system needs repair, and inline water meters compliant with California Code of Regulations, Title 23, Division 3, Chapter 2.7. The applicant proposes to maintain daily water meter readings records for a minimum of five years, and will make those records available to Water Boards, CDFW, and Lake County staff upon request. The irrigation system of the existing/proposed cultivation area(s) are/will be composed of buried PVC piping, black poly tubing, with drip tapes/lines.

**Cumulative Water Analysis.** The applicant has submitted a Hydrology Report, prepared by Realm Engineering and dated November 18, 2021. The Report estimates average daily water usage to be 6 gallons per plant; this is consistent with multiple reports that have been received and reviewed by Lake County. The report estimates total usage of between 3 and 4 acre-feet per year (approximately 1,000,000 gallons), or about 7,000 gallons per day.

|                        | Apr    | May    | June    | July    | Aug     | Sept    | Oct    | Nov    |
|------------------------|--------|--------|---------|---------|---------|---------|--------|--------|
| Low<br>(25" per year)  | 30,000 | 60,000 | 90,000  | 150,000 | 150,000 | 150,000 | 60,000 | 30,000 |
| High<br>(35" per year) | 40,000 | 80,000 | 120,000 | 210,000 | 210,000 | 210,000 | 80,000 | 40,000 |

**Groundwater Recharge.** The Hydrology Report states that groundwater recharge is the replenishment of an aquifer with water from the land surface. It is usually expressed as an average rate of inches of water per year, similar to precipitation. Thus, the volume of recharge is the rate multiplied by the land area under consideration with the time period and is usually expressed in acre-ft per year. In addition to precipitation, other sources of recharge to an aquifer are stream and lake or pond seepage, irrigation return flow (both from canals and fields), inter-aquifer flows, and urban recharge (from water mains, septic tanks, sewers, and drainage ditches).

For this site, the volcanic aquifer is considered to be unconfined. Drainage features that intersect and boarder the site have likely eroded through some of the overlying layers and are contributing to the recharge of the site's aquifer through the stream bottom. However, it is also likely that a portion of the rainwater falling directly on the site infiltrates the ground surface and migrates downward through the soil matrix until it recharges the aquifer. In addition, flow in the intermittent watercourses to the east and north of the Project Property may contribute to recharge of the aquifer near the site.

To estimate the groundwater recharge at the site, we first must assume that the recharge to the aquifer is primarily through rainfall across the 20-acre Project Property (Lake County APNs 011-044-17 & 18). Therefore, the annual precipitation available for recharge onsite can initially be estimated using the following data and equation:

$$\begin{aligned} &20 \text{ acres} \times 2.8 \text{ feet (Average Annual Precipitation for Lakeport, CA6)} \\ &= 56 \text{ acre-feet} \end{aligned}$$

$$\text{Estimated Annual Precipitation Onsite} = 56 \text{ acre-feet/year}$$

However, this estimate does not account for surface run-off, stream underflow, and evapotranspiration that occurs in all watersheds. According to the USGS, the long-term average precipitation that recharges groundwater in the northern California region is approximately 15 percent. Since the Project Property is covered in well-drained very gravelly loam soils and vegetation, we estimate that the long-term average precipitation that recharges groundwater within the entire site is near the regional average of 15%. With this data and the precipitation data presented above, we can estimate the groundwater recharge of the Project Property by using the following equation.

$$56 \text{ acre-feet/year (annual precipitation onsite)} \times 0.15 \text{ (long term average recharge)} = 8.4 \text{ acre-feet/year Estimated Groundwater Recharge}$$

Based on the estimated average annual recharge to the aquifer of the Project Property (approximately 8.4 acre-feet/year) and the estimated annual water usage of the proposed cultivation operation (2.2 to 3.0 acre-feet/year), it appears that the MMO will have enough water to meet their demands without causing overdraft conditions.

#### Impacts on Neighboring Wells.

The Report states that the 'pumping influence area' is a 400-foot circular area with the well located at the center of this circle. This Area was determined following the November 4, 2021, pump test that was run on the well, and on the general relationships that exist between the on-site well and the neighboring wells in terms of usage, distance and so forth. The Report states that Lake County Environmental Health Department, who oversees wells within Lake County, has no evidence of wells on adjacent parcels and within the 400-foot diameter. The Report mentions an unnamed Class II seasonal drainage channel, and states that the unnamed intermittent Class II watercourse does not support aquatic habitat year-round and is typically dry by May/June of each year, when pumping of the onsite groundwater well for the proposed cultivation operation would reach potentially significant levels. Therefore, the potential for stream depletion as a result of the proposed onsite groundwater usage is not considered a concern to this assessment.

#### Conclusions regarding Water.

All water for the proposed cultivation operation will come from the existing onsite groundwater well located at Latitude: 38.90131° and Longitude: -122.75927°. The onsite groundwater well was drilled to a depth of 99 feet below ground surface (bgs) in April of 1977. A recent pump test performed in November of 2021, indicates that the onsite groundwater well can sustainably produce at least 9.8 gallons per minute. From the pump test data we can calculate a Specific Capacity of approximately 0.51 gpm/foot for the onsite groundwater well. The total estimated annual water use requirement for the proposed cultivation operation is between 720,000 and 990,000 gallons per year.

Based on data from the recent pump test and the estimated water use requirement(s) for the



proposed cultivation operation, it appears that the onsite groundwater well is a sufficient water source for the proposed cultivation operation. Based on the estimated average annual recharge to the aquifer of the Project Property (approximately 8.4 acre-feet/year) and the estimated annual water usage of the proposed cultivation operation (2.2 to 3.0 acre-feet/year), it appears that the aquifer storage and recharge area are sufficient to provide for sustainable annual water use at the site and on the Project Property.

The calculated zone of pumping influence for the proposed cultivation operation extends approximately 400 feet from the onsite groundwater well. It does not appear that pumping for the proposed cultivation operation will impact neighboring wells, given the horizontal and vertical separations between the onsite groundwater well and neighboring wells. An unnamed intermittent Class II watercourse flows within 400 feet of the onsite groundwater well. However, the unnamed intermittent Class II watercourse does not support aquatic habitat year-round and is typically dry by May/June of each year, when pumping of the onsite groundwater well for the proposed cultivation operation would reach potentially significant levels. Therefore, the potential for stream depletion the proposed onsite groundwater usage is not considered a concern.

#### *Pesticides/Fertilizers & Hazardous Materials.*

According to the Property Management Plan, all chemicals will be stored and used for the cultivation operation which includes fertilizers/nutrients, pesticides, and petroleum products and chemical sanitation products necessary to maintain a sterile work environment inside the proposed processing facility. All fertilizers/nutrients and pesticides, when not in use, will be stored in their manufacturer's original containers/packaging, undercover, and at least 100 feet from surface water bodies inside the proposed Pesticides and Agricultural Chemicals Storage Area. Petroleum products will be stored under cover, in the State of California-approved containers with secondary containment and separate from pesticides and fertilizers within the existing onsite wooden garage. Sanitation products will be stored in their manufacturer's original containers/packaging within a secure cabinet inside the proposed Processing Facility. Spill containment and cleanup equipment will be maintained within the proposed Pesticides and Agricultural Chemicals Storage Area and the processing facility. No effluent is expected to be produced by the proposed cultivation operation.

#### *Hours of Operation.*

According to the Property Management Plan, cultivation related activities will occur from 8:00 AM to 6:00 PM. All gates will be locked and secured outside of core operating/business hours and when operation personnel are not present.

#### *Solid Waste Management.*

The types of solid waste that will be generated from the proposed cultivation operation include but are not limited to gardening materials and wastes (*such as used plastic seedling pots and spent plastic fertilizer/pesticide bags and bottles*) and general litter from staff/personnel. All solid waste will be stored in bins with secure fitting lids, located directly adjacent to the proposed outdoor cultivation/canopy area and Processing Facility. At no time will the bins be filled to a point that their lids cannot fit securely. Solid waste from the bins will be deposited into a trailer (*dump trailer*) and hauled away by project staff to a Lake County Integrated Waste Management facility, at least every seven (7) days/weekly. Additionally, all vegetative cannabis waste will be composted onsite. Composted cannabis waste will be used as an organic soil amendment within the cultivation operation.

#### *Site Maintenance & Run-off Control Measures.*

When not in use, all equipment will be stored in its proper designated area upon completion of the task for which the equipment was needed. Any refuse created during the workday will be placed in the proper waste disposal receptacle at the end of each shift, or at a minimum upon completion of the task assigned. Any refuse which poses a risk for contamination or personal injury will be disposed of immediately.

All cultivation areas are/will be located at least 100 feet from the top of bank of any known perennial and/or season waterway. To control runoff, the operations will install runoff control features/Best Management Practices in accordance with Chapters 29 and 30 of the Lake County Code around the cultivation areas and roads and will be maintained for life of the project. Additionally, a minimum buffer of 100 feet of defensible space will be established and maintained around the proposed cultivation operation for fire protection and to ensure safe and sanitary working conditions. Areas of defensible space will be mowed and trimmed regularly around the cultivation operation to provide for visibility and security monitoring. The existing access roads and parking areas are/will be graveled to prevent the generation of fugitive dust, and vegetative ground cover will be preserved throughout the entire site to filter and infiltrate storm water runoff from the access roads, parking areas, and the proposed cultivation operation. Portable restroom facilities will be regularly serviced and made available for use whenever staff is onsite.

#### Construction.

The development of the project will consist of disturbing less than 500 cubic yards of soil (ground disturbance), which is allowed upon issuance of a building permit(s).

All construction activities, including engine warm-up, will occur from 6:00am to 6:00pm Monday through Saturday and shall adhere to all noise requirement in the Lake County Code. Additionally, all equipment will be maintained and operated to all federal, state and local agency requirements to minimize spillage or leakage of hazardous materials.

All equipment will be refueled in locations more than 100 feet from surface water bodies. Servicing of equipment will occur on an impermeable surface. Water from the approved onsite well will be used to mitigate the generation of dust during development, including operations. The overall construction of the project is anticipated to take three (3) to five (5) weeks to complete (weather dependent).

**Staff is recommending approval of Major Use Permit, UP 19-19 and the adoption of a Mitigated Negative Determination based on the environmental analysis (Initial Study, IS 19-34) with the adoption of the incorporated Mitigation Measures, Mitigation Monitoring Reporting Program (MMRP), and Conditions of Approval.**

### **I. RECOMMENDATION**

**Staff recommends that the Planning Commission take the following actions:**

#### **A. Adopt Mitigated Negative Declaration (IS 19-34) for Major Use Permit (UP 19-19) 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-2.

2. Potential air quality impacts can be mitigated to less than significant levels with the inclusion of mitigation measures AQ-1 through AQ-8.
3. Potential biological impacts can be mitigated to less than significant levels with the inclusion of mitigation measures BIO-1 through BIO-9.
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-8.
5. Potential geology and soils can be mitigated to less than significant levels with the inclusion of mitigation measures GEO-1 through GEO-2.
6. Potential hazards and hazardous materials impacts can be mitigated to less than significant levels with the inclusion of mitigation measures HAZ-1 through HAZ-4.
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-2.
8. Potential noise impacts can be mitigated to less than significant levels with the inclusion of mitigation measures NOI-1 through NOI-3.
9. Potential transportation impacts can be mitigated to less than significant levels with the inclusion of mitigation measures TRANS-1 through TRANS-2.
10. This project is consistent with land uses in the vicinity.
11. This project is consistent with the Lake County General Plan, Kelseyville Area Plan, and Zoning Ordinance.
12. 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.
13. As mitigated through specific conditions of approval, this project will result in less than significant environmental impacts.

**B. Approve Major Use Permit UP 19-19 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, *Kelseyville 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 applicant is qualified to apply for the permit described in Chapter 21, Article 27, Section 1.ii.(g)(h).
9. The application complies with the qualifications for a permit described in Chapter 21, Article 27, Section 1.ii.(i).

### **Sample Motions:**

#### **Mitigated Negative Declaration**

I move that the Planning Commission find that the **Mitigated Negative Declaration (IS 19-34)** prepared for ***Mombacho Mountain Organics, LLC*** for the property located at ***9205 Mombacho Road and 9261 Wildcat Road, Kelseyville***, further described as **APNs: 011-044-17 and 011-044-18** will not have a significant effect on the environment and therefore a determination of a Mitigated Negative Declaration with the accompanying **Mitigation Monitoring and Reporting Program (MMRP)** shall be approved with the findings listed in the staff report dated **May 26, 2022**.

#### **Major Use Permit (UP 19-19)**

I move that the Planning Commission find that **Major Use Permit (UP 19-19)** applied for by ***Mombacho Mountain Organics, LLC*** for the property located at ***9205 Mombacho Road and 9261 Wildcat Road, Kelseyville***, further described as **APNs: 011-044-17 and 011-044-18** does meet the requirements of Section 51.4 and Article 27, Section 1(at) [i, ii(g), I (ii)] of the Lake County Zoning Ordinance with the amended site plan and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **May 26, 2022**.

***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.*