

## **ORDINANCE NO. 4452**

### **ORDINANCE ESTABLISHING CHAPTER 20.134 (MP- MINERAL PROCESSING COMBINING DISTRICTS) WITHIN DIVISION I (INLAND MENDOCINO COUNTY ZONING CODE) OF TITLE 20 OF THE MENDOCINO COUNTY CODE**

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

**Section 1:** The Board of Supervisors of the County of Mendocino (the "Board") finds and determines, based on the evidence in the record, that:

- A. The zoning amendment has undergone environmental review pursuant to the California Environmental Quality Act ("CEQA"). The County completed a Draft EIR in December of 2007 ("2007 DEIR") and prepared a Revised Draft EIR in May of 2011 ("2011 RDEIR"). The County released a Final EIR in February of 2012 ("2012 FEIR"), which was certified in April of 2012.
- B. On March 22, 2012, the Mendocino County Planning Commission recommended to the Board approval of the Ordinance Amendment (OA 1-2007), which included establishment of Chapter 20.134 of Division 1 of Title 20 of the Mendocino County Code set forth in Section 2 below.
- C. The County was directed to set aside and vacate certification of the EIR and Project approvals pursuant to litigation in *Keep the Code v. County of Mendocino*, Case No. SC UK CVPT 1260196, affirmed by the Court of Appeal in *Keep the Code, Inc. v. County of Mendocino* (Nov. 30, 2018, No. A140857) [nonpub. opn].
- D. The County released a Final EIR on December 6, 2019 ("2019 FEIR").
- E. On December 16, 2019, the Board conducted a duly noticed public hearing and received and considered evidence concerning the zoning change, 2019 RDEIR and 2019 FEIR (collectively "2019 Revised EIR").
- F. By Resolution adopted as part of the same agenda item as this Ordinance, the Board certified the 2019 Revised EIR, adopted CEQA Findings of Fact and a Statement of Overriding Considerations, and adopted a Mitigation Monitoring and Reporting Program.
- G. The zoning amendments are consistent with, and implement, policies of the County of Mendocino's General Plan.
- H. The zoning amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the County.

**Section 2:** Chapter 20.134 of Division I of Title 20 of the Mendocino County Code is established to read as follows:

#### **CHAPTER 20.134**

#### **"MP" MINERAL PROCESSING COMBINING DISTRICT**



**Sec. 20.134.005 Intent.**

This combining district is intended to allow, in limited circumstances, the processing of mineral resources near the site of extraction. Processing includes, and is limited to, operation of asphalt and/or concrete batch plants. Since mineral extraction must take place on the physical site where the minerals naturally occur, special controls are needed to minimize conflicts with other land uses. The Mineral Processing Combining District functions as an "overlay district" to be applied to the area where mineral processing activities will take place.

**Sec. 20.134.010 Regulations for "MP" Mineral Processing Combining District.**

- (A) Objectives: The operation of asphalt and concrete batch plants shall be allowed on properties within the Mineral Processing Combining District, subject to the issuance of a major use permit. "Asphalt and concrete batch plants" are defined as machinery used to process raw gravel, sand, and other materials into either hot asphalt or ready-mix concrete.
- (B) Locational Requirements: The Mineral Processing Combining District shall only be applied to areas with an R-L zoning designation (See Chapter 20.060) within one-half miles of a legally established and active mining or mineral extraction operation. The Mineral Processing Combining District shall not be applied to:
  - (1) Land within any area of special flood hazard established in Section 22.17.210; or
  - (2) Land incorporated into Agricultural Preserves under Williamson Act contract.
- (C) Designation: The Mineral Processing Combining District shall be designated by the symbol (MP) on the County Land Use Plan.
- (D) Development Standards:
  - (1) The operation of asphalt and concrete batch plants shall be limited to areas within one-half mile of surface mining activities that have vested rights or a permit to mine from the County.
  - (2) The general building height limitations for R-L districts shall not apply to mineral processing equipment located within a Mineral Processing Combining District. Instead, asphalt silos and other mineral processing equipment are subject to the seventy-five (75) foot height limitation provided in Section 20.152.025(C).
  - (3) When mining activity ceases, the mineral processing use must cease within one year.



- (4) The batch plant site shall be reclaimed subject to a Reclamation Plan approved as part of the Use Permit approval provided for in Section 20.134.015.
- (E) Required Information: A Mining/Reclamation Plan describing the phasing of reclamation, in relation to the phases of the mining operation, shall be submitted for land areas which are to be included within a Mineral Processing Combining District. When approving an MP use permit the County may include a condition of approval requiring the permittee to remove the MP zoning overlay upon expiration of the mining use permit.

**Sec. 20.134.015 Uses Subject to a Use Permit.**

In addition to the use types specified as uses subject to a use permit by the zoning district with which the "MP" combining district is combined, the onsite use of asphalt and concrete batch plants shall also be permitted upon issuance of a major use permit.

**Section 3:** This ordinance supersedes Ordinance no. 4294, which was rescinded.

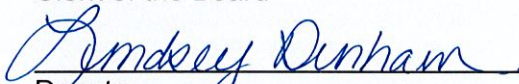
This ordinance shall become effective 30 days from the date of its adoption.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this 16<sup>th</sup> day of December 2019, by the following roll call vote:

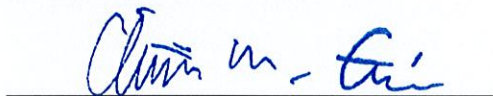
AYES: Supervisors Brown, McCowen and Gjerde  
NOES: Supervisors Haschak and Williams  
ABSENT: None

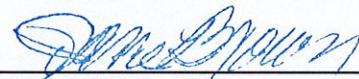
**WHEREUPON**, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

  
Deputy


APPROVED AS TO FORM:  
CHRISTIAN M. CURTIS,  
Acting County Counsel



  
CARRE BROWN, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO  
Clerk of the Board

  
Deputy