

Resolution Number _____

County of Mendocino
Ukiah, California
January 19, 2017

OA_2016-003

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING PROPOSED AMENDMENTS TO THE MENDOCINO COUNTY CODE TO ADD CHAPTER 10A.17 – MEDICAL CANNABIS CULTIVATION ORDINANCE AND CHAPTER 20.242 – MEDICAL CANNABIS CULTIVATION SITE REGULATION OF THE MENDOCINO COUNTY INLAND ZONING ORDINANCE

WHEREAS, the County of Mendocino desires to regulate the cultivation of medical cannabis within the unincorporated areas of Mendocino County in a manner consistent with current State law, including the Medical Cannabis Regulation and Safety Act (“MCRSA”); and

WHEREAS, County staff has, under the direction of the Board of Supervisors of Mendocino County, prepared draft regulations in the form of two (2) proposed new chapters of the Mendocino County Code: Chapter 10A.17- Medical Cannabis Cultivation Ordinance and Chapter 20.242 - Medical Cannabis Cultivation Site Regulation of the Mendocino County Inland Zoning Ordinance, which chapters are together known as the Medical Cannabis Cultivation Regulation or “MCCR”; and

WHEREAS, an Initial Study was prepared for the MCCR and noticed and made available for agency and public review on November 9, 2016 (SCH# 2016112028), and subsequently recirculated on December 5, 2016, in accordance with the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*; “CEQA”) and the State and County CEQA Guidelines; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public meeting on December 1, 2016, to solicit public comments on the proposed MCCR, and subsequently held a public hearing on December 15, 2016, which it continued to January 19, 2017, at which times the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Initial Study and the MCCR. All interested persons were given an opportunity to hear and be heard regarding the Initial Study and the MCCR; and

WHEREAS, pursuant to Government Code section 65850 *et seq.*, the Planning Commission is to provide its report and recommendation to the Board of Supervisors on ordinances related to land use regulation; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets for the intentions of the Planning Commission regarding the Initial Study and the MCCR.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding the MCCR and the Initial Study related thereto:

1. The Planning Commission recommends that the Board of Supervisors consider the adoption of the Initial Study and Mitigated Negative Declaration prepared for the MCCR in the form attached to this resolution as Exhibit A, with the following changes:

A. Revise Mitigation Measure AES-1 as follows:

AES-1: Mendocino County shall modify the MCCO prior to its adoption by the Board of Supervisors to require that all structures used for mixed-light cultivation shall be constructed or retrofitted in a manner so as to fully contain any light or

light glare involved in the cultivation process. Security lighting shall be motion activated and fully shielded.

B. Remove Mitigation Measure AIR-2, Prohibition on burning excess plant materials, as this mitigation measure can be addressed through already existing limitations on burn days and through the incorporation of AIR-1 requiring a referral to the Mendocino County Air Quality Management District.

C. Reword Mitigation Measure BIO-2 as follows:

BIO-1: Mendocino County shall amend the MCCR to require referral of Permit to CDFW for each proposed cultivation site. Upon referral, CDFW may recommend approval of the proposed development, ask to be included in the pre-permit site inspection (Ordinance Section 10A.17.100(B) or request additional studies in order to make the determination that no impacts to sensitive species will occur. If it is determined that a sensitive species could occur, the required cultivation and operations plan shall be revised to incorporate measures to protect sensitive species to the satisfaction of CDFW or if impacts cannot be avoided, another location must be selected for cultivation. A cultivator that cannot demonstrate to the satisfaction of CDFW that there will be a less than significant impact to sensitive species will not be issued a cultivation permit. The County may eliminate this requirement at such time CDFW authorizes the County to perform this function based on available mapping and training of Agricultural Commissioner's staff and the qualifications of third party inspectors to identify sensitive species habitat. CDFW will remain involved when a sensitive resource is identified.

D. Make the following clarifying changes to paragraphs 1 and 2 of the Aesthetics a) and c) section on page 30 of the Initial Study:

...Per Section 10A.17.040(A)(4) of the proposed MCCR, cultivation plants will not be visible from public roads or publicly traveled private roads. Scenic vistas will not be affected from the most typical vantage points.

Although there is a requirement that , cultivation plants may not be visible from a public road or publicly traveled private road, changes in the landscape may be visible as a result of the relocation or expansion of existing cultivation sites under Phase 1 implementation, or the installation of new cultivation sites under Phase 3 implementation. Potentially visible features may include new structures, fencing, limited vegetation removal, and grading for roadway or site development. Per Policy DE-85 of Chapter 3: Development Element of the Mendocino County General Plan related to *Community Character Policies*, "Viewshed preservation shall be considered when development is located in a highly scenic environment, adjacent to or atop a ridgeline or hill, and in similar settings."

E. Revise Tables 1 and 2 (pages 2 and 6, respectively) in the proposed Medical Cannabis Cultivation Site Regulation (20.242) and Tables 3 and 4 on Page 21 of the Initial Study to eliminate medium outdoor cultivation permits in I1 and I2 zoning districts .

2. The Planning Commission recommends that the Board of Supervisors revise the Mendocino County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts as shown in the form attached to this resolution as Exhibit B.

3. The Planning Commission recommends that the Board of Supervisors consider the adoption of an ordinance adopting the Medical Cannabis Cultivation Regulation ("MCCR") in the form attached to this resolution as Exhibit C, with the following recommended changes:

A. Revise the MCCR pursuant to the mitigation measures of the Initial Study.

B. Section 20.242.040.A)2 should be amended as follows:

Each legal parcel may have only one or more medical cannabis cultivation location(s) established on the legal parcel where the cultivation of medical cannabis is occurring, either for personal use or any other use allowed by this Chapter or Chapter 10A.17.

In addition, Chapter 20.242 should be reviewed to change the singular word "site" to "legal parcel" or "cultivation area," depending on the location, in order to clarify that the intent of the MCCR is to allow multiple cultivation sites on each legal parcel so long as the total area cultivated does not exceed the maximum allowed for the zone and permit type issued.

C. The following sentence should be added to the definition of "Cultivation site" in section 10A.17.020: "One or more areas of cannabis cultivation may exist on the legal parcel used for that purpose."

D. Revise Table 1 in section 20.242.050 and Table 2 in section 20.242.070 to eliminate medium outdoor cultivation permits in I1 and I2 zoning districts.

4. The Planning Commission further recommends that the Board of Supervisors consider the following additional changes to the MCCR:

A. Eliminate the dwelling unit requirement of section 10A.17.080 for parcels in the UR zoning district and to allow new cultivation permits in this zoning district, consistent with any future oak woodland protection ordinance.

B. Allow an exception to the dwelling unit requirement of section 10A.17.080 for parcels in the RR-10 zoning district upon the issuance of an administrative permit. The required findings for the administrative permit are outlined in section 20.242.080 C), with a special additional finding be required that for any cultivation site proposed without a residence on the same legal parcel, the applicant shall demonstrate that the cultivation site and any associated infrastructure (roads, buildings, water storage, etc.) does not preclude the development of the site with a residence in the future. For parcels that will need on-site sewage disposal systems to be developed this may require the identification of a primary and reserve leach field to be identified in order to issue the administrative permit.

I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.

ATTEST: ADRIENNE M. THOMPSON
Secretary to the Planning Commission

By: _____

BY: STEVEN D. DUNNICLIFF
Director

MOLLY WARNER, Chair
Mendocino County Planning Commission
