



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: January 19, 2017

TO: Planning Commission

FROM: Mary Lynn Hunt, Senior Planner

SUBJECT: Revisions to Policies and Procedures for Agricultural Preserves and Williamson Act Contracts regarding Cannabis Cultivation

BACKGROUND: In 2015, the County removed its regulations regarding the Williamson Act from Chapter 22.08 of the County Code and separately adopted by Resolution No. 15-156 new Policies and Procedures for Agricultural Preserves and Williamson Act Contracts ("Policies and Procedures"). The Policies and Procedures are currently silent regarding cannabis cultivation, but changes are proposed to clarify how cannabis cultivation should be addressed.

DISCUSSION: The Planning Commission is currently reviewing the proposed Medical Cannabis Cultivation Regulation (MCCR) which would include the creation of two new chapters of the County Code that would regulate where and how cannabis could be cultivated within the County. The Initial Study prepared for the MCCR includes proposed Mitigation Measure AG-3, which reads as follows:

Mendocino County shall prohibit the issuance of cultivation permits on lands currently enrolled in the Williamson Act until the Policies and Procedures for Agricultural Preserves and Williamson Act Contracts have been amended to address cannabis cultivation.

The Initial Study notes (on page 37) that until the Policies and Procedures are amended, there is the potential that cannabis cultivation could be interpreted as conflicting with existing land conservation contracts.

Williamson Act Background: The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to agricultural or related open space use. In return, landowners receive property tax assessments which are much lower than normal because they are based upon farming and open space uses as opposed to full market value. The County of Mendocino adopted Chapter 22.08 of the County Code in 1970, establishing its Williamson Act program at that time. Since then, the County has enrolled approximately 430,000 acres into Williamson Act contracts, helping to preserve both prime and non-prime agricultural lands for commercial agricultural uses.

The Policies and Procedures as they currently exist place several requirements on the eligibility of land for a Williamson Act contract, including minimum acreage requirements (10 acres for prime farmland and 40 acres for non-prime farmland), a requirement that at least 50% of the acreage be continuously used or maintained for agricultural uses (unless the Board of Supervisors makes certain findings), and certain annual income requirements. The Policies and Procedures describe in detail what uses make a property eligible for a Williamson Act contract, what uses are compatible with a Williamson Act contract and what uses are not compatible with a Williamson Act contract.

Proposed Changes: Staff is currently proposing changes to the Policies and Procedures that would make cannabis cultivation a use compatible with a Williamson Act contract, but not a use that would qualify property for a contract. Changes are proposed to the definition of “agricultural use” for the Policies and Procedures that would specify that cannabis cultivation is not an agricultural use. Other sections of the Policies and Procedures, including Sections 5.2 (eligibility), 8.2 (qualifying agricultural uses), and 9.4 (compatible uses), refer back to this defined term. Cannabis cultivation would include planting, growing, harvesting, drying, curing, grading and trimming of cannabis in its natural state. Specifically excluded would be manufacturing, distributing and dispensing of cannabis or cannabis products. Lastly, the Policies and Procedures make cannabis cultivation (and other cannabis uses) incompatible with a Williamson Act contract for open space purposes.

One reason to make cannabis cultivation a compatible, but not qualifying use, is that cannabis cultivation will only be able to occupy a relatively small portion of contracted land. The largest cultivation permit sizes under the MCCR are 22,000 square feet (or ½ acre) for a nursery permit, or 10,000 square feet for a large cultivation permit. These sizes establish that cannabis cultivation on its own cannot meet the requirement that at least 50% of contracted property be used for agricultural purposes. For example, a 10 acre parcel of prime agricultural land would be required to have at least 5 acres of the property in agricultural use, but the largest MCCR permit currently proposed would be a 0.5 acre nursery. An additional 4.5 acres of agricultural uses would need to be on the property to meet the 50% requirement. Because cannabis cannot be the primary agricultural use on the property, it is appropriate to make it a compatible use.

A redline of the Policies and Procedures showing the proposed changes follows this memorandum. Current Williamson Act contract holders were noticed that the Planning Commission would be considering the proposed changes at its meeting on January 19th for a report and recommendation to the Board of Supervisors.

RECOMMENDATION: That the Planning Commission recommend, as part of its report and recommendation to the Board regarding the MCCR as a whole, that the Board of Supervisors amend the Policies and Procedures as proposed in the attached redline.