

Resolution Number _____

County of Mendocino
Ukiah, California

March 19, 2021

OA_2021-0002

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 ADOPTION OF MENDOCINO COUNTY CODE CHAPTER 22.18 – COMMERCIAL CANNABIS ACTIVITY LAND USE DEVELOPMENT ORDINANCE AND CORRESPONDING PROPOSED AMENDMENTS TO MENDOCINO COUNTY CODE CHAPTERS 10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE AND 20.242 – CANNABIS CULTIVATION SITES

WHEREAS, on April 4, 2017, the Board of Supervisors adopted Ordinance Number 4381, adding Chapters 10A.17 and 20.242 to the Mendocino County Code; and

WHEREAS, the Board of Supervisors has made subsequent amendments to Chapters 10A.17 and 20.242; and

WHEREAS, the County of Mendocino desires to add Chapter 22.18 – Commercial Cannabis Activity Land Use Development Ordinance to Mendocino County Code and amend Mendocino County Code Chapters 10A.17 – Mendocino Cannabis Cultivation Ordinance and 20.242 Cannabis Cultivation Sites, applicable to the unincorporated areas of Mendocino County excluding the coastal zone; and

WHEREAS, County Staff has, pursuant to the direction of the Board of Supervisors of Mendocino County, prepared a draft Mendocino County Code Chapter 22.18 – Commercial Cannabis Activity Land Use Development Ordinance and associated amendments to the Mendocino County Code Chapters 10A.17 – Mendocino Cannabis Cultivation Ordinance and 20.242 Cannabis Cultivation Sites, which are attached to this Resolution as Exhibit A and incorporated herein by this reference (the “Project”); and

WHEREAS, Business and Professions Code section 26055(h) provides that the California Environmental Quality Act (“CEQA”) (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity; and

WHEREAS, the Project establishes discretionary review and approval of permits to engage in commercial cannabis activity and therefore is statutorily exempt from CEQA pursuant to section 26055(h) of Business and Professions Code; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on March 19, 2021, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record before it and all the findings and determinations provided in the staff report, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding Ordinance Amendment OA_2021-0002:

1. The Planning Commission recommends that the Board of Supervisors find that the adoption of Ordinance Amendment OA_2021-0002 is consistent with the General Plan.
2. The Planning Commission recommends that the Board of Supervisors adopt Ordinance Amendment OA_2021-0002, making the changes to code sections as shown in the attached Exhibit A, and recommending the following additional changes:-
 - A. Section 22.18.030(A)(1) be revised to allow for the drilling of test water wells.
 - B. Provisions in section 22.18.030 regarding cultivation exempt from a permit are recommended to remain in Chapter 10A.17.
 - C. Section 22.18.050(A) be revised to allow applicants previously denied on the basis of the 4 bullet points stated on page 4 of the staff report, as well as applicants who were denied for being non-responsive to requests for information by the County.
 - D. Section 22.18.050(B)(1) be revised to require an Administrative Permit instead of a Major Use Permit.
 - E. Section 22.18.060 be revised to include a streamlined application process for applicants of Phase 1 permits to obtain an Administrative Permit under Chapter 22.18, and also include a 30-60 day window of time where Phase 1 applicants may apply for an Administrative Permit under Chapter 22.18 before the application process is opened to all applicants.
 - F. Section 22.18.060 be revised to include a requirement for applicants for Land Use Permits on parcels located abutting private roads to notify all property owners abutting that private road of the public hearing for the Land Use Permit.
 - G. Appendix A be revised as follows:
 - i. Specialty Cottage outdoor limitations be modified to be consistent with State law and regulations.
 - ii. For all Specialty Cottage cultivation types, the permit required by the zoning table be changed to an Administrative Permit.
 - iii. Require a Major Use Permit for all medium outdoor, medium mixed light and medium indoor cultivation types on Agricultural zoned parcels.
 - iv. Require a Major Use Permit for Nursery permits in Agricultural, Upland Residential and RR-10 zoning districts.
 - v. For Small Outdoor and Small Indoor cultivation types in the RR-10 and Upland Residential zoning districts, a Major Use Permit is required.
 - vi. For Small Indoor and Small Mixed Light Tier 1 and Tier 2 cultivation types in the Agricultural zoning district, a Minor Use Permit is required.

3. The Planning Commission further recommends that the Board of Supervisors consider the following:

- A. Consider whether to require renewable energy sources for Medium Indoor and Medium Mixed Light Tier 1 and Tier 2 in order to reduce greenhouse gas emissions due to high energy usage.
- B. Placing an acreage limitation on the amount that can be cultivated pursuant to footnote *6 in Appendix A. The Commission was not able to reach consensus on a limitation, but discussed a maximum area from 1 acre up to 5% of the parcel size, but one Commissioner recommended allowing up to the 10% of parcel size in the Rangeland zoning district.
- A.C. The Commission emphasized the importance of allocating appropriate resources to the Department of Planning and Building Services and the Mendocino County Sheriff's Office for permitting, enforcement and oversight.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other materials which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Department of Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

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

ATTEST: JAMES FEENAN
Commission Services Supervisor

By: _____

BY: NASH GONZALEZ
Interim Director

ALISON PERNELL, Chair
Mendocino County Planning Commission
