



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: SEPTEMBER 10, 2019

TO: HONORABLE BOARD OF SUPERVISORS

FROM: JULIA ACKER KROG, CHIEF PLANNER
MATTHEW KIEDROWSKI, DEPUTY COUNTY COUNSEL
ELIZABETH BURKS, LACO ASSOCIATES

SUBJECT: OA_2019-0002 PROPOSED AMENDMENTS MENDOCINO COUNTY CODE CHAPTER
10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE AND CHAPTER
20.242 – CANNABIS CULTIVATION SITES

Background

The Mendocino County Board of Supervisors (Board) established ad hoc committees in both 2018 and 2019 to review the County's cannabis cultivation ordinances and provide recommendations to the Board.

The 2018 ad hoc committee made its recommendations to the Board in November 2018, and at that time the Board directed staff to make a number of changes to Chapter 10A.17 – Mendocino Cannabis Cultivation Ordinance and Chapter 20.242 – Cannabis Cultivation Sites. Many recommended changes to Chapter 10A.17 were acted upon by the Board in December 2018, but several changes required amendments to Chapter 20.242 of the County Zoning Code, which requires review by the Planning Commission, and needed additional review under the California Environmental Quality Act (CEQA).

The 2019 ad hoc committee made its recommendations to the Board in May 2019, and the Board directed staff to make additional changes to Chapters 10A.17 and 20.242. Some of the directed changes are being made at this time, while others will take additional time for staff to review and prepare for adoption, such as creating a use permit based process for Phase Three.

The draft ordinance for some of the directed changes from the Board was reviewed by the Planning Commission on July 18, 2019 and August 15, 2019. At the August 15, 2019 hearing, the Planning Commission adopted a resolution making its report and recommendation to the Board regarding the proposed ordinance amendment with some proposed changes (see following section).

Proposed Changes from Planning Commission

As stated in the staff report prepared for the Planning Commission, staff specifically sought a recommendation from the Planning Commission regarding the assignment of permits issued within Cannabis Accommodation (CA) Combining Districts. The Planning Commission discussed this topic and, in its resolution, recommended that the Board allow for the transfer of existing cannabis cultivation permits issued on parcels located within CA Combining Districts. This change was specifically made to section 10A.17.070.

In addition, the Planning Commission made several clarifying changes to the form of the draft ordinance. These included correcting a typographical error on page 16, adding the word "to" in paragraph (D) of section 20.242.040. In response to comments made at the July 18 hearing, staff recommended changing the word "original" to "existing" in the context of the transferability language. The language as originally drafted had referred to a transfer from the "original Permittee," and the concern raised was whether this only allowed a single transfer of the Permit, from the first Permittee to only one successor. This limitation was not staff's intent in preparing the language, and staff suggested the change from "original" to "existing." This change was made to both sections 10A.17.070 and 20.242.040.

Proposed Additional Changes to Ordinance

In preparing the agenda packet for today's meeting, staff located (1) an additional change that needs to be made to fully carry out the recommendation of the Planning Commission, and (2) suggested changes that might more clearly carry out the recommendation of the Planning Commission and remove ambiguity. These changes are discussed below.

(1) The language regarding assignment of CA Combining District parcels was changed in section 10A.17.070, but corresponding language in section 20.242.040 was inadvertently not amended at the August 15 Planning Commission hearing. The redline version of the ordinance attached to this agenda packet deletes language on page 17, in paragraph (E)(3); the deleted language is highlighted and in strikethrough. This deletion removes the clause regarding the CA Combining District in essentially the same way as the language was deleted in section 10A.17.070. The clean version of the ordinance prepared for today's meeting incorporates this deletion. It also deletes surplus language at the end of the paragraph, which is also highlighted and in strikethrough.

(2) In preparing the ordinance language, staff has a separate suggestion for the Board that would further alter both section 10A.17.070(K)(3) and section 20.242.040(E)(3). In simply deleting the language regarding CA Combining Districts, the paragraphs will become ambiguous about the assignability of permits in those areas. Both paragraphs will still provide that permits issued on parcels subject to the Sunset Provision are not assignable. But the paragraphs will be silent as to the assignability of CA Combining District parcels, which are still technically subject to the Sunset Provision.

If the Board agrees with the Planning Commission recommendation, and desires to allow permits within CA Combining Districts to be assignable, staff would recommend that section 10A.17.070(K)(3) and section 20.242.040(E)(3) be revised to read as follows:

Section 10A.17.070(K)(3)

(3) Permits issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 10A.17.070(K); provided, however, that permits issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

Section 20.242.040(E)(3)

(3) Permits issued on parcels subject to the Sunset Provision of Section 10A.17.080(B)(2) shall not be assignable pursuant to this Section 20.242.040(E); provided, however, that such permits issued on parcels located within a "CA" Cannabis Accommodation Combining District are assignable.

However, if the Board does not agree with the Planning Commission recommendation, the ordinance may be modified to add the original CA Combining District language back into the ordinance.

The Board may make any of the above changes to the assignability language without going back to the Planning Commission, because the Planning Commission made a generalized recommendation that permits issued within CA Combining Districts be assignable.

Environmental Review

Chapters 10A.17 and 20.242 were adopted following the approval of a Mitigated Negative Declaration that reviewed the impacts of the County's new cannabis cultivation regulations. As such, an Addendum to the Mitigated Negative Declaration has been prepared to satisfy the requirements of CEQA for the changes proposed to Chapters 10A.17 and 20.242 by this proposed ordinance. The addendum makes findings on the level of significance these changes entail with regard to environmental review. A separate resolution has been prepared to adopt the Addendum, and the Addendum is attached to the resolution for review.

Recommended Action

Please see the Agenda Summary for the recommended action.

Attachments

1. Planning Commission Agenda Packet (without Draft Resolution and Associated Exhibits)
2. Planning Commission Public Comment Letters
3. Planning Commission Final Resolution with Exhibits
4. Resolution Adopting Addendum to Previously Adopted Mitigated Negative Declaration, with Addendum attached as Exhibit A
5. Redline Draft of Ordinance Making Amendments to Chapters 10A.17 and 20.242
6. Ordinance Making Amendments to Chapters 10A.17 and 20.242
7. Ordinance Summary