

ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION

FOR

MENDOCINO COUNTY

MEDICAL CANNABIS CULTIVATION REGULATION

TO BE RENAMED:

MENDOCINO CANNABIS CULTIVATION REGULATION

SCH NO. 2016112028

DRAFT

Modified Project Description and Project History

The Mendocino County Board of Supervisors (County) adopted a Mitigated Negative Declaration (MND) (SCH# 2016112028) for Ordinance No. 4381, known as the Medical Cannabis Cultivation Regulations, which added Chapters 10A.17 and 20.242 to the Mendocino County Code, on April 4, 2017.

The current project involves modifying the previously adopted ordinance to include adult-use as a cannabis cultivation use type. This change applies to all permit types and allows applicants to choose whether to cultivate cannabis intended for medical or adult-use. This change also alters the Project Title to “Mendocino Cannabis Cultivation Regulation” (MCCR). This change has been made to align the ordinance with updated state regulations. The initial project was based on the Medical Cannabis Regulation and Safety Act (MCRSA) which took effect in January 2016. MCRSA developed guidelines for the establishment of regulations for the medical cannabis industry. MCRSA was followed by the passage of Proposition 64, the Adult Use of Marijuana Act (AUMA) in November 2016, which developed guidelines for the establishment of regulations governing the adult-use cannabis industry. In June 2017 these two bodies of regulation were essentially combined into the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). MAUCRSA generally imposes the same requirements on both commercial medical and commercial adult-use cannabis activity. While the change to the County ordinance will allow for adult-use cannabis cultivation to be considered, identical cultivation standards would be imposed on both adult-use and medical cultivation operations. The addition of adult-use cultivation to the project description would not change the discussion of environmental impacts, or the mitigation measures.

The following additional changes are proposed:

- Removing references to “medical” cannabis in order to allow for both “medical” and “adult-use” cannabis.
- Explicitly defining the terms “A-License,” “A-licensee,” “Disturbance,” “Expansion,” “Flowering,” “Immature plant,” “License,” “M-license,” “M-licensee,” “Mature plant,” and “Private residence”.
- Allowing multiple cultivation types under a single permit, as opposed to separate permits, but if any type would require a permit pursuant to Chapter 20.242, the entire application would undergo such review.
- Allowing a single permit for multiple contiguous parcels under the same ownership.
- The area dedicated to propagating immature plants would no longer count towards the total square footage, with the condition that such propagation must not constitute any new disturbance such as grading or clearing.
- Clarifying that parcels in Industrial zoning districts are not subject to a minimum parcel size.
- Clarifying that existing cultivation sites in the Forestland (FL) and Timberland Production (TPZ) zoning districts that were previously enrolled in a permit program pursuant to the County’s Chapter 9.31 shall be required to obtain a zoning clearance unless the applicant seeks to expand beyond the size previously cultivated under such permit program.
- Minor rewording throughout for clarity or administrative purposes.

Purpose

Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously adopted Negative Declaration (ND) if some changes or additions are necessary but none of the conditions described in Section 15162 calling for a subsequent ND have occurred. Section 15162 states that when an ND has been adopted for a project, no subsequent ND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. *Substantial changes are proposed in the project which require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;*

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous ND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous ND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous ND; B) significant effect previously examined will be substantially more severe than shown in the previous ND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous ND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

No substantial changes are proposed which would require major revisions to the previously approved Mitigated Negative Declaration. None of the proposed changes to the project will increase the severity of previously identified significant effects. The proposed changes will not result in a new environmental effect.

No additional mitigation is required. The proposed changes do not affect the effectiveness of the mitigation measures as there will be no additional environmental impact associated with the inclusion of the adult-use permit type. Identical cultivation standards and requirements would be imposed on both adult-use and medical cultivation operations.

Explanation of Decision Not to Prepare a Supplemental Mitigated Negative Declaration:

See Purpose section above. In every impact category analyzed in this review, the projected consequences of the proposed ordinance changes are either the same or less than significantly increased compared to the project for which the Mitigated Negative Declaration was adopted. Based upon this review, the following findings are supported:

Findings

1. For the modified project there are no substantial changes proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

No new significant effects or increase of severity of effects are anticipated. Allowing adult use cultivation following the same restrictions of the medical cultivation standards will not change the anticipated environmental impacts. The proposed change in accounting for the space used for propagation of immature plants would not create a new significant impact or increase severity, because these propagation areas would be permitted only in areas that have been previously disturbed. Changes related to allowing multiple cultivation types under one permit and allowing a single permit for multiple contiguous parcels do not lessen any review standards and so do not create a new significant impact or increase severity. Additional changes clarify that existing cultivation sites in the Forestland (FL) and Timberland Production (TPZ) zoning districts that were previously enrolled in a permit program pursuant to the County's Chapter 9.31 shall be required to obtain a zoning clearance unless the applicant seeks to expand beyond the size previously cultivated under such permit program. This clarifying change would not create a new significant effect or increase the severity of previously identified significant effects, as these sites were already in existence at the time the Initial Study was drafted, and are therefore considered part of the baseline conditions. Expansion of these sites beyond what was cultivated under the previous permit program would continue to require the issuance of an Administrative Permit. As a result of

this clarifying change, the first revision made to page 36 of the Initial Study in the errata sheet adopted concurrently with the approval of the Initial Study/Mitigated Negative Declaration is no longer relevant or part of the Project.

2. For the modified project no substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Based on the discussion in Finding 1, above, no new significant environmental effects resulting from the proposed text amendments are anticipated. The circumstances under which the project is undertaken remain the same.

3. For the modified project there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

There has been no new information of substantial importance which was not known and could not have been known at the time the previous MND was complete. The baseline conditions describing the overall impacts of existing cannabis cultivation remain the same.

4. The proposed changes do not constitute a change in the level of significance previously discussed in the original MND. As such, it is concluded that: the current project will not have one or more significant effects not discussed in the previous MND. Furthermore, significant effects previously examined will not be substantially more severe than shown in the previous MND. There are no mitigation measures or alternatives previously found not to be feasible that would in fact be feasible and would substantially reduce one or more significant effects of the project.

The proposed text amendments do not involve changes to, or analysis of any mitigation measures. No new potential impacts have been identified requiring new mitigation measures to be developed.

5. Finally, there are no mitigation measures or alternatives identified in this analysis which are considerably different from those analyzed in the previous MND, and which would substantially reduce one or more significant effects on the environment.

The proposed text amendments do not involve changes to, or analysis of any mitigation measures.

Conclusion

Based on these findings it is concluded that an Addendum to the adopted Mitigated Negative Declaration is appropriate to address the requirements under CEQA for the proposed ordinance changes.