

Findings Supporting Zoning Permits for Medical Cannabis Cultivation

This memorandum outlines the basis or rationale for prohibiting or allowing cannabis cultivation sites, subject to the proposed Mendocino Medical Cannabis Cultivation Program (M2C3P), in certain zoning districts with a Zoning Clearance, Administrative Permit or Minor Use Permit.

Zoning Districts where Cannabis Cultivation Is Not Permitted

Cannabis cultivation sites are not allowed in any residential zoning district including **SR** (Suburban Residential), **R1** (One Family Residential), **R2** (Two Family Residential), and **R3** (Multiple Family Residential) zoning districts because of the it is not consistent with the general intent of these zoning districts to create and enhance residential neighborhoods. Prohibiting cannabis cultivation sites in the **RR:1** (Rural Residential, 1 acre min lot area) zoning district will help to avoid parcel aggregation or merger, which may thus reduce housing development, if the value of cannabis cultivation exceeds rural residential development.

They are also prohibited in the **RC** (Rural Community), **MU-2** (Mixed Use General), **C1** (Neighborhood Commercial), and **C2** (General Commercial) zoning districts where they may diminish the diverse mixture of commercial, residential, and limited industrial uses that is promoted in rural community centers and commercial districts near the cities of Ukiah, Fort Bragg, Willets, and Point Arena.

Finally, the proposed Medical Cannabis Cultivation Site zoning chapter will amend Division I of the County's Zoning Code and will therefore will only allow medical cannabis cultivation, subject to M2C3P permit requirements, outside the County's Coastal Zone. Land use development within the coastal zone, which stretches along the County's coastline and extends approximately one mile inland from the shore, is subject to Divisions II and III of the County's zoning code. At this time the County Board of Supervisors has not directed the preparation of an amendment to Divisions II and III of the zoning code to include medical cannabis cultivation sites.

Consequently, the zoning districts discuss above and the zoning districts within the coastal zone are not listed in Table 1 (attached).

Cottage Cultivation Sites

C - Cottage Cultivation Sites (not exceeding 2,500 square feet).

Outdoor cultivation is allowed with an Administrative Permit in the RR-2, RR-5, RR-10, AG, and UR zoning districts. It is allowed in the Industrial zoning districts with a Zoning Clearance. This scale of outdoor cultivation (e.g., 50x50 feet) can comply with required setbacks on any parcel exceeding two (2) acres and not adversely affect nearby residents.

C-A – Cottage Indoor, Artificial Light (Not exceeding 500 square feet)

A Zoning Clearance is required to cultivate cannabis in a 500 square foot under artificial light within a structure located all of the zoning districts listed in Table 1 except in the AG where an Administrative Permit is required. This smallest cannabis cultivation site is suited for cultivation within an existing

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structure. The Zoning Clearance would help to confirm compliance with size and setback limitations as well as adherence to M2C3P requirements. The Administrative Permit requirement for these

TABLE 1
Zoning Permit Requirement for Medical Cannabis Cultivation
by Zoning District and Mendocino Medical Cannabis Cultivation (M2C3P) Permit Type

M2C3P Permit Type	C Sm Outdoor	C-A Sm Indoor, Artificial Light		C-B Sm, Mixed Light	1 Med Outdoor	1-A Med Indoor, Artificial Light	1-B Med Mixed Light	2 Lg Outdoor	2-A Lg Indoor, Artificial Light	2-B Lg Mixed Light	4 Nursery
Min Parcel Area (ac)	2	2		2	5	5	5	10	10	10	10
Cultivation Area Limit (sf)	2,500	500	501 - 2,000	2,500	2,501- 5,000	2,501- 5,000	2,501- 5,000	5,001- 10,000	5,001- 10,000	5,001- 10,000	22,000
Zoning District	RR 2	AP	ZC	AP	AP	UP	--	--	--	--	--
	RR 5	AP	ZC	AP	ZC	UP	--	UP	--	--	--
	RR 10	ZC	ZC	AP	ZC	AP	--	AP	AP	--	UP
	AG	ZC	ZC	AP	AP	AP	--	UP	AP	--	UP
	UR	ZC	ZC	AP	AP	ZC	--	AP	ZC	--	UP
	RL	ZC	ZC	ZC	ZC	ZC	--	AP	AP	--	UP
	I1	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC
	I2	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC
	PI	ZC	ZC	ZC	ZC	--	ZC	ZC	--	ZC	ZC

NA = Not Applicable, -- = Not Allowed, ZC = Zoning Clearance, AP = Administrative Permit, UP = Minor Use Permit

smallest sites in the AG zoning district is proposed to help ensure habitable space is not converted to cultivation. No adverse impacts to nearby residents or property are expected.

C-A – Cottage Indoor, Artificial Light (501 – 2,000 square feet)

An Administrative Permit is required for indoor, artificial light cannabis cultivation, between 501 and 2,000 square feet, in RR-2, RR-5, RR-10, AG, and UR zoning district. This permit approval would also help to confirm compliance with size and setback limitations as well as compliance with M2C3P requirements. It would also help to ensure this operation would not convert habitable space within an existing dwelling unit or that a new structure housing the cultivation site fully complies with development regulations. A Zoning Clearance is required for this type of cultivation site in the RL and in the industrial zoning districts. No adverse impacts to nearby residents or property are expected.

C-B - Cottage Mixed Light (Not exceeding 2,500 square feet)

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Like the C type cultivation site, Cottage Mixed Light cultivation with a greenhouse or hoop house is allowed with an Administrative Permit in the RR-2, RR-5, RR-10, AG, and UR zoning districts. It is allowed in the Industrial zoning districts with a Zoning Clearance. This scale of outdoor cultivation (e.g., 50x50 feet) can comply with required setbacks on any parcel exceeding two (2) acres and not adversely affect nearby residents.

Medium Cultivation Sites

1 – Medium Outdoor (2,501 and 5,000 square feet)

A Use Permit is required to establish a medium outdoor site in the RR-2 and RR-5, while an Administrative Permit is required in the RR-10 and AG zoning districts. These permit requirements provide additional planning review that is necessary to help ensure the location and operation of these larger facilities will not have adverse impacts on adjoining residents and properties. On parcels located in the UR and RL zoning districts, where lower intensity resource use and residential development occurs within the County, a Zoning Clearance is the appropriate tool to confirm adherence to zoning and M2C3P requirements. Outdoor cultivation is not allowed in the industrial zoning districts where more intense industrial land use development is intended.

1-A – Medium Indoor, Artificial Light (2,501 and 5,000 square feet)

Medium indoor, artificial light cultivation is only allowed in the County's three industrial zoning districts (I1, I2, and PI) which are served by existing public infrastructure and transportation networks. A Zoning Clearance, which is a quick review by planning staff, will help to ensure the location and operation of these facilities will not have adverse impacts on adjoining land uses. This type of cultivation is very similar to and compatible with other land use types currently allowed within industrial zoning districts.

1-B – Medium Mixed Light (2,501 and 5,000 square feet)

Mixed light cultivation inside a structure, typically a greenhouse or hoop house, will be allowed with an Administrative Permit in the RR-10, UR and RL zoning districts. Again, this review is to help ensure the scale and location of cannabis cultivation does not conflict with the intent to allow agriculture when compatible with rural residential development within the RR-10 and UR, and resource production in the RL. Requiring that this type of cultivation within the AG obtain a use permit is appropriate to avoid or minimize the loss of prime agricultural soils. Finally, a Zoning Clearance in the three industrial districts is in keeping with creating incentives or opportunities for this more intense type of activity to occur in areas already served by infrastructure and transportation. Finally, this type of cultivation is not allowed in the RR-2 or RR-5 where the medium scale cultivation may, as a "highest and best use" may foster parcel aggregation or merger, which may thus reduce housing development which is the intended use with these residential districts

Large Cultivation Sites

2 – Large Outdoor (5,001 and 10,000 square feet)

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An Administrative Permit is required in the RR-10 and AG zoning districts. This permit provides additional planning review that is necessary to help ensure the location and operation of these larger facilities will not have adverse impacts on adjoining residents and properties. On parcels located in the UR and RL zoning districts, where lower intensity resource use and residential development occurs within the County, a Zoning Clearance is the appropriate tool to confirm adherence to zoning and M2C3P requirements. Outdoor cultivation is not allowed in the industrial zoning districts where more intense industrial land use development is intended; nor is it allowed in the RR-2 or Use Permit in RR-5, where the large scale cultivation may, as a “highest and best use” may foster parcel aggregation or merger, which may thus reduce housing development which is the intended use with these residential districts

2-A – Large Indoor, Artificial Light (5,001 and 10,000 square feet)

Large indoor, artificial light cultivation is only allowed in the County’s three industrial zoning districts (I1, I2, and PI) which are served by existing public infrastructure and transportation networks. A Zoning Clearance, which is a quick review by planning staff, will help to ensure the location and operation of these facilities will not have adverse impacts on adjoining land uses. This type of cultivation is very similar to and compatible with other land use types currently allowed within industrial zoning districts.

2-B – Large Mixed Light (5,001 and 10,000 square feet)

Large mixed light cultivation inside a structure, typically a greenhouse or hoop house, will be allowed with a Use Permit in the RR-10, UR, AG and RL zoning districts. Again, this review is to help ensure the scale and location of cannabis cultivation does not conflict with the intent to allow agriculture when it is compatible with rural residential development within the RR-10 and UR, and with resource production in the AG and RL. Requiring a use permit is appropriate to avoid or minimize the loss of prime agricultural soils in the AG and forest resources in the FL. Finally, a Zoning Clearance in the three industrial districts is in keeping with creating incentives or opportunities for this more intense type of activity to occur in areas already served by infrastructure and transportation.

4 - Nursery (22,000 square feet)

Nurseries are allowed in the same zoning districts, subject to the same permits, for the same reasons stated above for large mixed light cultivation sites.

Findings Supporting Zoning Setbacks for Medical Cannabis Cultivation

The rationale of the proposed cannabis cultivation site setbacks listed in Table 2 (attached) is explained below.

The Special Use Setback is based on the State's Alcoholic Beverage Control setbacks from youth oriented and community facilities (e.g., 1,000 feet from schools). The County's proposed setback mirrors the State's requirements and will apply to all types of cannabis cultivation sites including outdoor, indoor with artificial light, and structure with mixed light. This setback will thus help to ensure these special land uses are not adversely affected by cannabis cultivation.

The proposed 100-foot Adjoining Residential Setback would apply to any cultivation site located outdoors or in a structure with mixed light. In addition to the Legal Parcel Line Setback (discussed below) this setback will help to ensure there is adequate separation between cultivation sites and occupied legal residential units.

The 100-foot Legal Parcel Line Setback applies to medium and large outdoor and greenhouse sites (5,000 and 10,000 square feet, respectively) because they have the greatest potential to create adverse impacts on adjoining properties and residents. It is similar to the County's existing agricultural buffer, which establishes a 100-foot setback to help ensure compatibility between agriculture and residential land uses.

The main impacts of cannabis cultivation on neighboring property owners and residents include odor associated with flowering cannabis grown outdoors, light pollution escaping from mixed light operations in structures (i.e., greenhouses and hoop houses), and noise emitting from power generators and air circulation associated with greenhouse mixed light operations. The odor from these sites can be offensive enough to cause nearby residents to avoid or limit outdoor activities during the cannabis flowering season. Also, greenhouse mixed light operations may introduce a new source of light and noise that may significantly degrade the relatively dark sky and low noise environment found in most rural settings. In this regard, these cannabis cultivation sites may substantially deprive property owners and residents the enjoyment and beneficial use of their yards and other outdoor areas.

The 5 and 10 acre minimum lots size for medium and large cultivation sites, respectively, have enough area to accommodate 5,000 to 10,000 square foot outdoor plots or greenhouse mixed light operations. In some instances, however, this setback may be reduced to 50 feet, with an approved use permit, when it can be determined that local topography, major vegetation or some other local site condition will reduce the potential odor, light, and noise impact to a level that is not significant.

Cottage outdoor and greenhouse cultivation sites (2,500 square feet maximum) are subject to a 50-foot setback because they are less likely to generate significant odor, light or noise impacts. Figure 1 (attached) illustrates compliance with this setback requirement is feasible. These smaller scale cultivation sites will be located on parcels not less than two (2) acres in size. Given that a two (2) acre parcel is approximately 250 wide and 330 feet long, a 50x50 cultivation site would fit outside the setback area, within the interior of the parcel. However, in some instances, an irregular shaped

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parcel or topographic conditions may prevent or reduce full development of a cottage cultivation site on these smaller sites.

Finally, indoor artificial light cultivation sites are subject to standard zoning setbacks that apply to any structure. This type of operation is only allowed in the RR and industrial zoning districts where indoor artificial light structures can be built at a scale that is either subordinate to the residential use in the RR zoning districts or the same as the other allowed uses in an industrial district, and not create the odor and light impacts otherwise associated with cannabis cultivation.

TABLE 2

Residential Use and Property Line Setbacks

M2C3P Permit Type	Description	Minimum Lot Area (ac)	Adjoining Residential Setback (ft)	Separate Legal Parcel Line Setback (ft)
C	Sm Outdoor	2	100	50
C-A	Sm Indoor Artificial Light	2	Zoning	Zoning
C-B	Sm Structure Mixed Light	2	100	50
1	Med Outdoor	5	100	100 *
1A	Med Indoor Artificial Light	5	Zoning	Zoning
1B	Med Structure Mixed Light	5	100	100 *
2	Lg Outdoor	10	100	100 *
2A	Lg Indoor Artificial Light	10	Zoning	Zoning
2B	Lg Structure Mixed Light	10	100	100 *
4	Nursery	10	100	100 *

* A reduction in the setback from a legal parcel line (Section 20.242.060.2) may be allowed with an Administrative Permit, approved according to Section 20.242.070.c, provided that the approved setback reduction is 50 feet or greater from an adjoining property under separate ownership or access easement, whichever is most restrictive, and continues to comply with the Adjoining Residential Setback.