



## COUNTY OF MENDOCINO

### DEPARTMENT OF PLANNING AND BUILDING SERVICES

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## MEMORANDUM

DATE: SEPTEMBER 16, 2016

TO: BOARD OF SUPERVISORS

FROM: ANDY GUSTAVSON, CHIEF PLANNER

RE: BOARD OF SUPERVISORS DIRECTION REGARDING THE EARLY CONSULTATION NOTICE FOR THE CANNABIS CULTIVATION ORDINANCE ENVIRONMENTAL REVIEW.

On Tuesday September 13<sup>th</sup> the Board of Supervisors gave direction regarding the project description contained in the Early Consultation Notice for the Cannabis Cultivation Ordinance project. What follows is a list specific issues or points which were raised, shown in italics, followed by Board direction and staffs response. These changes will be incorporated into the environmental document released for public review in October.

### **Summary of Board Direction and Staff Response**

1. *The first three bullets under 2.0 on page 2 reference Zoning Districts but include acreage minimums. First, we have no 2 acre minimum for any permit type. Second, the 5 and 10 acre minimums apply equally to every zoning district in which the relevant permit types are allowed.*

Board Direction: Add language to clarify that the acreage “minimums” refer to Zoning Districts and not necessarily parcel size.

Staff Response: The clarification will be added as a footnote to the RR2, RR5, and RR10 zoning district titles.

2. *Under 3.0 on page 3 it states "the Initial Study will assume the conditions in the area affected have not changed substantially since the adoption of the Mendocino County General Plan..." but there has been a steady increase in the number of people cultivating marijuana with widespread environmental impacts. An accurate Baseline needs to acknowledge this fact.*

Board Direction: Add language to clarify that this statement refers primarily to the referenced planning documents and the project setting.

Staff Response: This section and Section 4 will be combined and revised to clarify, in a new subsection 3.1, the “setting” discussion states the environmental, social, and economic context of the County, as described by the County General Plan and the Ukiah Valley Area Plan, has not substantially changed except as noted in Subsection 3.2. The new subsection 3.2 and the accompanying table describe the range of environmental impacts associated with the cultivation of cannabis in the County. While the types of environmental impacts associated with marijuana cultivation are substantially unchanged since the adoption of the documents referenced in Section 3.0, a large body of anecdotal information and the opinion of credible observers support the observation that the intensity of the impacts described in Table 2, and the numbers of locations subject to those impacts has increased on an annual basis.

3. *In 4.0 on page 5 it states that "the lead agency assumes that existing operations which qualify for permits under the proposed ordinance are generally physically indistinguishable from those which do not qualify...."*

Board Direction: Revise the assumption, consistent with BOS direction, that there are distinguishing characteristics, for the reasons stated.

Staff Response: Subsection 3.2 will be refined to better distinguish illegal or trespass cultivation sites from cultivation sites that may qualify ("candidate cultivators") under the proposed cannabis ordinances. Trespass and other clearly illegal cultivation sites will generally be distinguished by a greater range and intensity of environmental impacts. Subsection 3.2 will also recognize that while the location and scale of candidate cultivation site are generally less harmful to the environment than illegal or trespass cultivation sites, they may also substantially impact the environment.

4. *In 6.0 on page 12 the statement at the end of the first bullet point does not reflect BOS direction from 8/2 to include revised language from CDF&FP.*

Board Direction: Correct the reference in line with previous BOS direction.

Staff Response: This section will be revised to include 10A.17.090.X verbatim.

5. *The last sentence in the paragraph at the top of page 13 incorrectly states the number of permit applications received.*

Board Direction: Correct the references based on updated information.

Staff Response: The sentence will be revised to reflect the Agricultural Commissioner's office received "152 voluntary registrations and statements of interest" and the Sheriff's Office received 340 permit applications.

6. *Page 13 – Consider revising list of activities/changes associated with Phase 1 and Phase 2.*

Staff Response: The Phase 1 list will be refined and the Phase 2 list will be replaced with a statement (see next response).

7. *Page 13 – Clarify that Phase 2 only applies to new medium and large indoor cultivation in Industrial zoning and that industrial zoning, by its nature, will have a mitigating effect on any impacts of Phase 2*

Staff Response: The Phase 2 list will be replaced with a statement that new cultivation sites in Phase 2 will be restricted to medium and large indoor artificial light operations located on industrially zoned properties and that development and impacts associated with these new cultivation sites are substantially the same as other manufacturing uses already allowed in these zoning districts.

8. *Page 13 – Clarify that Phase 3 will only allow new cultivation sites in the Ag Zoning District or in watersheds where a watershed assessment has been completed that verifies the availability of water to support additional cannabis cultivation.*

Staff Response: The lead sentence in the first paragraph describing Phase 3 will be revised to state new cultivation sites, other than medium and large indoor artificial light operations located in industrial zoning districts, are only allowed in the AG zoning district or in the other zoning districts listed in Table 2 of the Zoning Ordinance when a watershed assessment establishes a new cultivation site will not take water needed to fulfill demand by existing (and projected) land use development and natural resource protection (e.g., fishery "in-stream" water demand, riparian protection, rare and endangered species, etc.) The type or scope of the watershed assessment will be defined as a mitigation measure, based on resource agency comments and the potential impact assessed by the environmental review.

9. *Page 14 – Correct the reference at the top of the page that “typical permits will be...on currently unused or partially developed properties” and that “activities included in Phase 3 permits will be similar to those included in Phase 2 permits”.*

Staff Response: The last sentence of the paragraph will be revised to emphasize that new cultivation sites in Phase 3 will be restricted to AG zoning districts and to watersheds with demonstrated water supply to accommodate any additional cultivation sites (see above). It will be acknowledged that new sites in AG zoning districts will be substantially the same as existing agricultural cultivation with added protections to limit the area of cultivation (i.e., 10,000 sf or less) and a planning permit finding or requirement to avoid environmentally sensitive areas (e.g., prime soils, steep slopes, oak woodlands) when feasible.

10. *Page 14 – Correct the reference that “Phase 2 and Phase 3 of the ordinance will include substantial activity on land currently used for grazing or other marginally intrusive uses”.*

Staff Response: This statement will be removed. Table 2 in the zoning ordinance will be revised to reference that, with the exception of sites located in an AG zoning district, new sites may only be allowed in the other zoning districts listed in the table subject to the watershed assessment requirement.