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as 2022-E0086
Mendocino County Clerk-Recorder

Notice of Determination

To:
☒ Office of Planning and Research
U.S. Mail: PO Box 3044, Sacramento, CA 95812-3044
Street Address: 1400 Tenth St., Rm 113, Sacramento, CA 95812

☒ County Clerk:
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

From:
Mendocino County Planning & Building
860 North Bush Street
Ukiah, CA 95482
Contact: JULIA KROG
Phone: 707-234-6650

Lead Agency (if different from above):
Mendocino County Cannabis Program
Address: 125 East Commercial Street;
Willits, CA 95490
Contact: Kristin Nevedal, Director
Phone: 707-234-6680

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resource Code.

State Clearinghouse Number (if submitted to State Clearinghouse): 2016112028

Project Title: County of Mendocino – Mendocino Cannabis Cultivation Regulation

Project Applicant: County of Mendocino

Project Location (include county): County of Mendocino – Inland Areas

Project Description: Amendments to Chapter 10A.17 of the Mendocino County Code to establish an administrative appeals process for denials of cultivation permit applications or renewal applications. The amendment also creates a new definition of "Department" as the Cannabis Department, and revises references to the Agricultural Commissioner or the Department of Agriculture to simply the "Department" as appropriate.

This is to advise that the County of Mendocino (Lead Agency) has approved the above described project on November 1, 2022, adopted an addendum to the adopted Mitigated Negative Declaration and made the following determinations regarding the above described project.

1. The project [☐will ☒will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.
   ☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative declaration is available to the General Public at: https://www.mendocinocounty.org/government/cannabis-cultivation/ceqa-information-cannabis and 125 East Commercial Street; Willits, CA 95490.

Signature (Public Agency): Julia Krog Title: Director

Date: 11/28/2022 Date Received for filing at OPR: 11/28/2022

RESOLUTION NO. 22-211

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS APPROVING AND ADOPTING AN ADDENDUM TO THE PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION, IN COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS, FOR AMENDMENTS TO CHAPTER 10A.17 OF THE MENDOCINO COUNTY CODE TO ESTABLISH AN APPEALS PROCESS AND DEFINE DEPARTMENT AS THE CANNABIS DEPARTMENT

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, referred to as the Medical Cannabis Cultivation Regulation, which was subsequently renamed the Mendocino Cannabis Cultivation Regulation (Project); and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (Public Resources Code section 21000 *et seq.*; CEQA) and the CEQA Guidelines (Title 14 California Code of Regulations section 15000 *et seq.*) an Initial Study was prepared, which determined that the Project will not have a significant effect on the environment with the implementation of mitigation measures, which supported the adoption of a Mitigated Negative Declaration (MND); and

WHEREAS, by Resolution Number 17-042, adopted on March 21, 2017, following a public review period as required by CEQA and the CEQA Guidelines, the Mendocino County Board of Supervisors adopted an MND for the Project; and

WHEREAS, Section 15164 of the CEQA Guidelines provides that an addendum to a previously adopted MND may be prepared if only minor technical changes or additions to the project are necessary or none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent environmental impact report or MND have occurred; and

WHEREAS, following the adoption of the MND and receiving applications for medical cannabis cultivation, the Board of Supervisors adopted amendments to Chapters 10A.17 and 20.242 of the Mendocino County Code, by Ordinance Nos. 4392, 4405, 4408, 4411, 4413, 4420, 4422, 4438 and 4463, for all of which the Board of Supervisors adopted addenda pursuant to CEQA; and

WHEREAS, the Board of Supervisors is desirous of making certain additional changes to Chapter 10A.17 of the Mendocino County Code, to create an appeals process and define the Department administering the Chapter as the Cannabis Department; and

WHEREAS, an addendum to the MND for the Project (Addendum) related to the changes proposed to be made to Chapter 10A.17 has been prepared, which is attached hereto as Exhibit A and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Mendocino County Board of Supervisors, based on the whole record before it, hereby makes the following findings:

1. The above recitals are true and correct and incorporated herein by this reference.

2. The Addendum to the previously adopted MND has been completed in compliance with CEQA and the CEQA Guidelines.

3. The Addendum to the previously adopted MND was presented to the Board of Supervisors, which independently reviewed and considered the addendum and the Board of Supervisors has exercised its independent judgment in making the findings and determinations set forth herein.

4. That, based on the evidence submitted and as demonstrated by the analysis and findings included in the Addendum, none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent negative declaration or environmental impact report have occurred.

BE IT FURTHER RESOLVED that the Mendocino County Board of Supervisors hereby approves and adopts the Addendum to the previously adopted Mitigated Negative Declaration for the Mendocino Cannabis Cultivation Regulation and directs the Mendocino County Department of Planning and Building Services to attach the Addendum to the MND.

The foregoing Resolution introduced by Supervisor Haschak, seconded by Supervisor Mulheren, and carried this 18th day of October, 2022, by the following vote:

AYES: Supervisors McGourty, Mulheren, Haschak, Gjerde, and Williams
NOES: None
ABSENT: None

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

TED WILLIAMS, Chair
Mendocino County Board of Supervisors

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

BY: DARCIE ANTLE
Clerk of the Board

Deputy

ADDENDUM TO THE MITIGATED NEGATIVE DECLARATION

FOR

MENDOCINO COUNTY
MEDICAL AND ADULT-USE 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. Since that time, the County has approved multiple modifications for minor changes, which have had separate addenda.

The current project involves amending Chapter 10A.17 to (1) add an administrative appeals process and (2) define the "Department" as the Cannabis Department and revise references to the Agricultural Commissioner or the Department of Agriculture to simply the "Department" where appropriate. The administrative appeals process is added in new sections 10A.17.125 through 10A.17.128, with an addition to section 10A.17.100 clarifying that cultivating beyond the limits of paragraph (B) or (C) of section 10A.17.030 (medicinal and personal cultivation) is prohibited after denial of a permit. The appeals process contains timelines within which decisions on the appeal must be made. Chapter 10A.17 was previously amended to allow for the Board of Supervisors to designate a different department than the Department of Agriculture/Agricultural Commissioner's Office to administer Chapter 10A.17, and in early 2022 the Cannabis Department was already so designated. No other changes are proposed at this time.

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.

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

The changes being proposed to Chapter 10A.17 are administrative in nature. The creation of an administrative appeals process or amending the ordinance to formally acknowledge that the Cannabis Department is administering the ordinance will not increase the severity of previously identified significant effects or result in new environmental effects. The proposed changes are not substantial and will not require major revisions to the previously approved Mitigated Negative Declaration. No additional mitigation is required by these changes, and they do not affect the effectiveness of the mitigation measures as there will be no additional environmental impact associated with these administrative changes.

In every impact category analyzed in this review, the projected consequences of the proposed ordinance change are the same as 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. The creation of an administrative appeals process or amending the ordinance to formally acknowledge that the Cannabis Department is administering the ordinance will not change the anticipated environmental impacts of the ordinance. An administrative appeals process simply allows for an appeal of a denial of an application to the County prior to seeking judicial review, which process will occur within specified timeframes. The environmental impacts of cultivation would remain the same.

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 changes 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 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 ordinance changes 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 ordinance changes 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.