

Resolution Number \_\_\_\_\_

County of Mendocino  
Ukiah, California

May 6, 2021

OA\_2021-0002

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, MAKING ITS FURTHER REPORT AND RECOMMENDATION TO THE MENDOCINO COUNTY BOARD OF SUPERVISORS REGARDING PROPOSED ADOPTION OF MENDOCINO COUNTY CODE CHAPTER 22.18 – COMMERCIAL CANNABIS ACTIVITY LAND USE DEVELOPMENT ORDINANCE AND CORRESPONDING PROPOSED AMENDMENTS TO MENDOCINO COUNTY CODE CHAPTERS 10A.17 – MENDOCINO CANNABIS CULTIVATION ORDINANCE AND 20.242 – CANNABIS CULTIVATION SITES

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; and

WHEREAS, the Board of Supervisors has made subsequent amendments to Chapters 10A.17 and 20.242; and

WHEREAS, the County of Mendocino desires to add Chapter 22.18 – Commercial Cannabis Activity Land Use Development Ordinance to Mendocino County Code and amend Mendocino County Code Chapters 10A.17 – Mendocino Cannabis Cultivation Ordinance and 20.242 Cannabis Cultivation Sites, applicable to the unincorporated areas of Mendocino County excluding the coastal zone; and

WHEREAS, County Staff has, pursuant to the direction of the Board of Supervisors of Mendocino County, prepared a draft Mendocino County Code Chapter 22.18 – Commercial Cannabis Activity Land Use Development Ordinance and associated amendments to the Mendocino County Code Chapters 10A.17 – Mendocino Cannabis Cultivation Ordinance and 20.242 Cannabis Cultivation Sites, which are attached to this Resolution as Exhibit A and incorporated herein by this reference (the “Project”); and

WHEREAS, Business and Professions Code section 26055(h) provides that the California Environmental Quality Act (“CEQA”) (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity; and

WHEREAS, the Project establishes discretionary review and approval of permits to engage in commercial cannabis activity and therefore is statutorily exempt from CEQA pursuant to section 26055(h) of Business and Professions Code; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a public hearing on March 19, 2021, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Planning Commission provided their report and recommendation to the Board of Supervisors in Resolution No. PC\_2021-0004; and

WHEREAS, in accordance with applicable provisions of law, the Board of Supervisors held a public hearing on April 19, 2021, at which time the Board of Supervisors heard and received all relevant testimony and evidence presented orally or in writing regarding the Project. All interested persons were given an opportunity to hear and be heard regarding the Project; and

WHEREAS, the Board of Supervisors continued the hearing to a special meeting on April 27, 2021; and

WHEREAS, the Board of Supervisors at the continued hearing on April 27, 2021 referred the Project to the Planning Commission for additional report and recommendation on several items; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission held a meeting on May 6, 2021 to discuss the Project as referred by the Board of Supervisors; and

WHEREAS, the Planning Commission has had an opportunity to review this Resolution and finds that it accurately sets forth the intentions of the Planning Commission regarding the Project.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record before it and all the findings and determinations provided in the staff report, makes the following second report and recommendation to the Mendocino County Board of Supervisors regarding Ordinance Amendment OA\_2021-0002:

1. The Planning Commission recommends that the Board of Supervisors find that the adoption of Ordinance Amendment OA\_2021-0002 is consistent with the General Plan.
2. The Planning Commission recommends that the Board of Supervisors adopt Ordinance Amendment OA\_2021-0002, making the changes to code sections as shown in the attached Exhibit A and making the following additional changes:-
  - a. Revise \*6 on Appendix A to read that "Parcels in the AG and RL zoning districts that have a minimum parcel size of ten (10) acres or larger may cultivate up to ten percent of the parcel area or 2 acres, whichever is less, with the issuance of a Major Use Permit."
  - b. Revise the table on Appendix A for cultivation sites in the RR-10 zoning district as shown in the attached Exhibit A.
  - c. Revise \*7 on Appendix A, and section 22.18.050(B)(2) to reflect that Persons who applied for a Phase 1 permit pursuant to Chapter 10A.17 that are not located in a Commercial Cannabis Prohibition (CP) Combining District, or sunset area (pursuant to MCC section 10A.17.080(B)(2)(b)) may apply for a Land Use Permit under Chapter 22.18. Subject to the issuance of an Administrative Permit, Phase 1 applicants need not comply with the zoning district or parcel size criteria within Appendix A, for applications for cultivation sites which do not exceed what was permissible for their parcel during Phase 1. Any cultivation beyond what was permissible for their parcel during Phase 1 shall be subject to the provisions of Appendix A, including zoning district and parcel size.
  - d. Add the following definition for "tilled": "land which has been turned or stirred by plowing or harrowing or hoeing."
  - e. Add the following definition for "previous crop history": "a demonstrated history of use of an area of land for a plant or plant product that can be grown and harvested extensively for profit or subsistence, which plant or plant products may fall into six categories: food crops, for human consumption (e.g., wheat, potatoes); feed crops, for livestock consumption (e.g., oats, alfalfa); fibre crops,

for cordage and textiles (e.g., cotton, hemp); oil crops, for consumption or industrial uses (e.g., cottonseed, corn); ornamental crops, for landscape gardening (e.g., dogwood, azalea); and industrial and secondary crops, for various personal and industrial uses (e.g., rubber, tobacco)”.

- f. Require that the “prior crop history” of a proposed cultivation site be shown during the time frame of January 1, 2000, and January 1, 2020.
- g. Revise section 22.18.050(C)(3) to require the cultivation site be limited to the footprint of the site that has been previously tilled with a prior crop history.
- h. Revise the third paragraph of section 22.18.030 to read as follows: One Land Use Permit for cannabis cultivation may be applied for and granted on a legal parcel. The Land Use Permit may allow for one nursery, one outdoor cultivation type, one mixed light cultivation type, and/or one indoor cultivation type pursuant to the limitations identified in Appendix A. Additional outdoor canopy may be allowed so long as the parcel qualifies for \*6 of Appendix A.
- i. Revise the finding in section 22.18.070(H)(1) to remove the word “cleared” and rely on the definitions of tilled and previous crop history.
- j. Revise the finding in section 22.18.070(I)(1) to replace the word “unintended” with the term “growth-inducing,” rewording the sentence for clarity if necessary.
- k. Revise section 22.18.050(B)(3) to include the sentence: “This paragraph shall not be construed as permitting Phase 1 applicants that do not currently utilize water delivery to begin doing so.”
- l. Revise section 22.18.070(J) to include the following additional finding: “Medium indoor and medium mixed light shall use renewable energy sources for heating, cooling and energy light loads.”
- m. Revise section 22.18.070(J)(2) to refer to cultivation “structures” as opposed to cultivation “sites” and end the sentence before the word “however.”
- n. Revise section 22.18.070 to include the finding: Cultivation structures will be sited and designed to avoid or minimize visual impacts from public rights of way.
- o. Revise section 22.18.070 to include the finding: “Lighting should not leave mixed light and indoor cultivation areas. Security lighting shall be shielded and down cast.”
- p. Delete finding (1) from section 22.18.070(I).
- q. Revise section 22.18.070(B) to strike the clause “to the maximum extent feasible”

3. The Planning Commission further recommends that the Board of Supervisors consider the following:

- a. Consider creating a separate definition of “parcel” for section 22.18 related to parcels created by certificates of compliance as raised during the meeting.
- b. Consider further defining “emergency situations” for the purpose of water delivery.

- c. Consider allowing a cultivation site to use a water source on a separate parcel if there is an easement or other form of water sharing agreement.
- d. Consider requiring applicants to provide the documentation showing their legal right to access the property.
- e. Consider adding a requirement for the priority processing of applications from Phase 1 applicants that are complete.
- f. Recommend the establishment of a mechanism allowing Phase 1 applicants applying for permits under Chapter 22.18 to continue cultivating during the application process of Chapter 22.18.
- g. Recommend that the Board of Supervisors prioritize identifying mechanisms and resources to identify groundwater supply and security for Mendocino County communities.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary as the custodian of the document and other materials which constitutes the record of proceedings upon which the Planning Commission decision herein is based. These documents may be found at the office of the County of Mendocino Department of Planning and Building Services, 860 North Bush Street, Ukiah, CA 95482.

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

ATTEST: JAMES FEENAN  
Commission Services Supervisor

By: \_\_\_\_\_

BY: NASH GONZALEZ  
Interim Director

ALISON PERNELL, Chair  
Mendocino County Planning Commission

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