



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
▶ 860 NORTH BUSH STREET • UKIAH • CALIFORNIA • 95482
120 WEST FIR STREET • FT. BRAGG • CALIFORNIA • 95437

Ignacio Gonzalez, Interim Director
Ukiah Telephone 707-234-6650
UKIAH FAX 707-463-5709
Ft. Bragg Phone 707-964-5379
Ft. Bragg Fax 707-961-2427
pbs@mendocinocounty.org/pbs
www.mendocinocounty.org/pbs

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TO: PLANNING COMMISSION

FROM: MARY LYNN HUNT, CHIEF PLANNER
MATTHEW KIEDROWSKI, DEPUTY COUNTY COUNSEL
ELIZABETH BURKS, LACO ASSOCIATES

SUBJECT: OA_2018-0003- AMENDMENT TO THE MENDOCINO COUNTY CODE
SECTION 20.243.070 CANNABIS FACILITIES - EXCEPTIONS AS IT RELATES
TO MANUFACTURING WITHIN AGRICULTURAL PRESERVES AND
WILLIAMSON ACT CONTRACTS AND THE AMENDMENT OF POLICIES AND
PROCEDURES FOR AGRICULTURAL PRESERVES AND WILLIAMSON ACT
CONTRACTS

INTRODUCTION

On October 6, 2015, the Mendocino County Board of Supervisors (Board) adopted the Policies and Procedures for Agricultural Preserves and Williamson Act Contracts (Ordinance No. 4345, Resolution No. 15-156) to establish an orderly system whereby property within Mendocino County may be incorporated into agricultural preserves, pursuant to the California Land Conservation Act of 1965, also known as the Williamson Act.

On March 21, 2017, the Board adopted amendments to the Policies and Procedures for Agricultural Preserves and Williamson Act Contracts (Resolution No. 17-041), excluding cannabis from the definitions of "agricultural commodity" and "agricultural use," but specifically adding as a compatible use the cultivation of cannabis, including planting, growing, harvesting, drying, curing, grading or trimming. However, manufacturing, distributing (not including the transport of product from the site for sale or delivery) and dispensing were specifically not considered compatible uses.

On October 17, 2017, the Board adopted Chapter 20.243 - Cannabis Facilities and Chapter 6.36 - Cannabis Facilities Businesses (Ordinance No. 4394) to permit aspects of the cannabis industry (dispensing/retail, distribution, processing, testing and manufacturing) besides cultivation. The ordinance took effect on November 16, 2017.

This staff report details proposed amendments to these policies for consistency.

BACKGROUND

As adopted, the Cannabis Facilities Chapter CFC created an exception (CFC Section 20.243.070) for existing packaging and processing facilities. This exception was intended to allow adaptive reuse of existing, unused facilities for new cannabis facilities. This requires a minor use permit and several findings must be made. These include:

1. The site has been previously permitted as a packing and processing facility prior to the effective date of these regulations.
2. The site is developed with an existing packing and processing facility, including buildings, roads, power source, water source, and sewage disposal system.
3. There will be no net expansion of impervious surfaces.
4. No trees shall be unlawfully removed.
5. The site is not within lands contracted under the Williamson Act.

Upon implementation of the ordinance it has come to Staff's attention that there are existing packaging and processing facilities meeting the above criteria with the exception that they are contracted under the Williamson Act. The effect is that existing packaging and processing facilities on Williamson Act contracted lands are not eligible to receive a permit for cannabis facilities although they would otherwise meet the established criteria. In addition, while the Williamson Act Policies and Procedures considers the cultivation of cannabis to be a compatible use, manufacturing, distribution (other than transporting product from the site for sale or delivery) and dispensing are specifically excluded from being considered compatible uses.

Staff is proposing amendments to both section 20.243.070 and the Williamson Act Policies and Procedures to better reflect the intention of the CFC packaging and processing exception and allow for use of existing facilities for the purposes of cannabis manufacturing.

CHANGES TO CFC

The proposed amendments to Section 20.243.070 are shown in Attachment 1 to this report, which is a redline of the proposed ordinance. Section 20.243.070 has been changed to delete paragraph (A)(5). In deleting this reference, any issues related to the Williamson Act contract will be reviewed as part of the use permit process of section 20.243.070.

CHANGES TO WILLIAMSON ACT POLICIES & PROCEDURES

The proposed amendments to the Williamson Act Policies and Procedures are shown in Attachment 2 to this report and are denoted by redlines on pages 16. Section 9.4 (E) would be changed to allow for cannabis manufacturing to be considered a compatible use, but only to the extent permitted by the County Zoning Code. The revision also refers to "processing facilities," to clarify that such facilities are considered compatible. The reference to the Zoning Code is intended to reinforce the fact that the Zoning Code controls where uses are allowed. At present time, Chapter 20.243 does not allow manufacturing on property in zoning districts that are eligible for Williamson Act contracts unless the property is (1) the site of only Level 1 manufacturing, accessory to a cultivation site and either a home occupation or cottage industry, or (2) the site of an existing packing and processing facility otherwise eligible for the exception of section 20.243.070. Where the site is either a home occupation or cottage industry, the County has already determined that such locations could be home to similar types of businesses. Where the site is an existing packing and processing facility, the proposed use for manufacturing is substantially similar to other packing and processing uses considered compatible uses under the Williamson Act Policies and Procedures.

CEQA RECOMMENDATION

Consistent with the California Environmental Quality Act (CEQA) determination for the CFC, Staff recommends applying Section 15061(b)(3) - General Rule Exemption to this action, as the proposed amendments do not have the potential to cause a significant effect on the

environment, and is therefore not subject to CEQA. These amendments apply only to areas that have been previously disturbed.

GENERAL PLAN CONSISTENCY ANALYSIS

Staff finds that the proposed amendments are consistent with the 2009 Mendocino County General Plan. The amendments would not constitute an increase in the total number of manufacturing facilities intended to be allowed in the County because only sites with an existing facility would be adapted for cannabis purposes. The allowed uses would still only be permitted in areas already otherwise allowed for by the General Plan.

RECOMMENDED MOTION FOR THE PLANNING COMMISSION

Adopt resolution making the Planning Commission's report and recommendation to the Board of Supervisors recommending that the Board of Supervisors approve Ordinance Amendment No. OA 2018-0003 which will modify Chapter 20 of the Mendocino County Code, specifically section 20.243.070, and that the Board approve amendments to the Policies and Procedures for Agricultural Preserves and Williamson Act Contracts, finding that the actions as proposed do not have the potential to cause a significant effect on the environment, and is therefore not subject to CEQA pursuant to the General Rule Exemption of Section 15061(b)(3) of the CEQA Guidelines.

ATTACHMENTS:

1. OA_2018-0003 Ordinance Amending Section 20.243.070 Redline Version
2. Policies and Procedures for Agricultural Preserve and Williamson Act Exception Amendments – Reline Version
3. OA_2018-0003 Planning Commission Resolution