



**COUNTY OF NEVADA  
COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT**

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**NEVADA COUNTY BOARD OF SUPERVISORS  
Board Agenda Memo**

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**MEETING DATE:** October 23, 2018

**TO:** Board of Supervisors

**FROM:** Sean Powers, CDA Director  
Brian Foss, Planning Director

**SUBJECT:** Motion to provide direction regarding minor amendment to the draft ordinance permitting process for Commercial Medical Cannabis Cultivation

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**RECOMMENDATION:** Make motion to provide direction regarding amendments to the permitting process for the draft commercial medical cannabis cultivation ordinance.

**FUNDING:** No impact to the General Fund would occur.

**ATTACHMENT:** None

**BACKGROUND:** On May 1, 2018, County staff presented a draft commercial medical cannabis cultivation ordinance to the Board of Supervisors for review and direction. After public testimony and directing staff to make revisions to the document the Board directed staff to begin the RFP process for the preparation of an EIR based on the draft cannabis cultivation ordinance. On June 26, 2018, a contract with Kimley-Horn and Associates Inc. was approved by the Board of Supervisors to prepare the environmental impact report based on the draft ordinance that was reviewed by the Board of Supervisors in May. The draft ordinance contained permitting levels for various sizes of commercial medical cannabis cultivation operations. The permitting levels in the draft ordinance include allowing grows up to 2,500 square feet of canopy cover to be permitted with an Administrative Development Permit (ADP) and cultivation sites over 2,500 square feet up to 10,000 square feet to be permitted with a Use Permit.

As the process has unfolded the need for efficient and timely permit processing has become evident and paramount in order to meet the seasonal requirements of the industry. The Use Permit process can be lengthy and the anticipated number of permit applications that will be submitted may overburden the public hearing process and result in unnecessary delays for qualifying applications. Revising the proposed draft ordinance permitting process and eliminating the Use Permit requirement and requiring an Administrative Development Permit instead for cultivation sizes between 2,500 square feet and 10,000 square feet and requiring only the annual permit for grow sizes less than 2,500 square feet would streamline the permitting process and allow permits to be issued in a more timely manner once the ordinance is adopted. No other modifications or amendments to the existing draft are requested.

This modification to the proposed permitting process would have the following effects. The annual permit and the ADP process are non-discretionary, so that any permit application that is received and meets the criteria outlined in the ordinance will be issued without public hearing or public notice. The Use Permit process is reserved for land uses that may or may not be compatible with the surrounding area given the site-specific circumstances. The Use Permit process allows for unique conditions of approval to be applied to an application to address unique site-specific impacts. The ADP process does not afford any discretion and the allowed use is assumed to be compatible with the surrounding area as long as the ordinance standards are met (zoning, setbacks, canopy size, etc.). Existing zoning ordinance standards such as resource protection standards, lighting and noise limitations will still apply to ADP's.

The environmental review is underway on the draft ordinance and impacts associated with commercial cannabis grows will still be analyzed regardless of the permitting process. The environmental review process will need to identify the specific and cumulative impacts of cannabis cultivation throughout the County. When the permit processing path allows for further discretionary review and environmental analysis (through a Use Permit) the analysis in the EIR can be at a more programmatic level and rely on site-specific analysis to ensure that mitigation is crafted to address any unique site-specific issues for cultivation sites. When the permitting path is administrative, the EIR will need to make greater assumptions regarding general countywide environmental impacts and will have less certainty that all impacts will be mitigated completely on a site-specific level. It is likely that with this change the EIR will identify broader significant impacts from ordinance implementation and will require overriding findings to be made that state the impacts to the environment and surrounding properties may be significant but the benefits of the project (ordinance implementation) outweigh the significant adverse impacts. Significant impacts requiring overriding findings may still be identified even with the Use Permit process requirement in place. The EIR will still identify mitigation measures to be built into the ordinance as development standards to reduce impacts to the environment as much as possible. These development standards would then become the criteria (in addition to existing zoning standards described above) that must be met in order to approve and issue an ADP and/or annual permit.

Staff is requesting a motion to amend the draft ordinance as follows: 1) remove the permit processing requirement for a Conditional Use Permit for cultivation sites over

2,500 square feet up to 10,000 square feet; 2) require an Administrative Development Permit for cultivation sites sized from 2,500 square feet to 10,000 square feet of canopy cover and; 3) require an annual permit for cultivation sites less than 2,500 square feet.

**Approved by:** Sean Powers, CDA Director  
Brian Foss, Planning Director

**Submitted:** October 15, 2018

**Revised:**