



Cannabis Cultivation Ordinance Update on CEQA

BOS Special Meeting

May 1, 2018

Presented by

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CEQA

- Portion of today's presentation
- Discuss CEQA for the permanent ordinance
- No action items
- Today is one of many additional steps
- BOS questions on CEQA
- County Counsel to present draft version of revised ordinance

Review from March 6th

CEQA Info and Considerations

- Need a framed draft ordinance to start CEQA
- Requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible
- Costs
 - Staff time
 - Consultant (EIR, traffic, biological, water, air quality, etc.)
 - Funding source
- Ordinance revisions based on environmental impacts and mitigation
- Amount of new activities and cumulative effect revised ordinance allows

CEQA

- California Environmental Quality Act that protects environmental resources
- Inform governmental decision-makers and the public about the potential, significant environmental effects of proposed activities
- Identify the ways that environmental damage can be avoided or significantly reduced
- Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible

CEQA cont'd

- Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved
- Encourage early coordination among agencies in reviewing projects
- Provide opportunity for public participation
- Failure to comply with CEQA can lead to legal action to invalidate County's ordinance and expose County to payment of attorney fees
- Public projects are subject to the same level of review and consideration as private projects (PRC 21001.1)
- CEQA is integral to the decision making process (PRC 21006)

Project and Activity

- "Project" means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:
 - **An activity directly undertaken by any public agency (Lead Agency per CEQA)**
- "Activities" directly undertaken by a public agency, which include public works construction activities, clearing or grading of land, improvements to existing public structures, **enactment and amendment of zoning ordinances**, and adoption and amendment of local general plans

Significant effect on the environment

- "Significant effect on the environment" means a **substantial, or potentially substantial**, adverse change in any of the physical conditions within the area affected by the project, including:
 - land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance
- If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a **significant effect on the environment, the agency shall prepare an EIR**
- Cumulative impacts – project specific including water, air quality, loss of habitat, loss of oak woodlands, growth inducing impacts, etc.

EIR – Environmental Impact Report

- An EIR is used to inform public agency decision-makers and the public of
 - Significant environmental impacts of a project
 - Identify possible ways to mitigate or avoid significant effects
 - Describe a range of reasonable alternatives to the project that could feasibly attain most of the basic objectives of the project while substantially lessening or avoiding any of the significant environmental impacts

EIR cont'd

- Public agencies are required to consider the information presented in the EIR when determining whether the project (i.e. standards, regulations and permitting requirement of a zoning ordinance)
- An EIR must examine the countywide environmental effects of the entire project and potential actions carried out as a part of the zoning ordinance amendment, including construction and operational activities

EIR cont' d

- Prior ordinance didn't allow commercial activity and the new will allow more cultivation
- The maximum size increases from 25 plants to 10,000 square feet (100 plants or more)
- Prior ordinance was the absolute maximum that could be allowed under an exemption

Benefits of EIR

- Used by the County to streamline environmental review of subsequent site specific/individual application and permit actions implementing the proposed ordinance per CEQA
- May also be used by the California Department of Food and Agriculture (CDFA) for its licensing actions in Nevada County
- County in covering the upfront expense of the EIR for staff time and consultant cost
- Mitigation of risk against a legal challenge upon ordinance implementation

State EIR

- CDFA/CalCannabis completed Final Environmental Impact Report in Nov. 2017
- Nearly all areas of review
 - Significance Before Mitigation
 - Less than Significant
 - Mitigation measures
 - None required
 - Significance After Mitigation
 - Less than Significant
- Require local lead agencies to fill in those areas (see page 4.06-6, Reliance on Local Regulations)
- Statewide view, not Nevada County specific and we need to fill in those areas

SB94 – June 2017

- Business and Profession Code Sec. 26055h
- Only applies to an ordinance that requires all cannabis permitting subject to **discretionary** permits from the local jurisdiction
- More of a deferral than an exemption
- Requires CEQA for all individual permits
- Majority of jurisdictions completing an EIR
- If no CEQA review upfront then applicants will have to do their own CEQA documents when they pull the permit resulting in potential delays, additional cost, risk or uncertainty

Enviro Areas that Need Review

- Aesthetics – Scenic resource and lighting
- Agriculture and Forestry Resources – Farmland conversion, loss of forestland
- Air Quality – Pollutant impacts
- Biological Resources - Aquatic and plant species, wildlife riparian habitat, other sensitive natural communities, or federally protected wetlands conservation plans, habitat conservation plans, pesticide rodenticide use
- Cultural resources - Historical, archaeological resources, and human remains

Enviro Areas cont'd

- Energy Use and Greenhouse Gas Emissions – Energy consumption and increase demand
- Geology and Soils – Unstable and expansive soils and landslides
- Hazards, Hazardous Materials, and Human Health – HazMat storage, pesticide, wildfire, first responders
- Hydrology and Water Quality – Supply, diversion, discharge, pesticide, erosion control, stormwater, runoff
- Land Use and Planning - Applicable land use plans, policies, or regulations

Enviro Areas cont'd

- Mineral Resources – Loss of resources
- Noise – Equipment, ambient
- Population and Housing – Growth
- Public Services – Public protection, police, fire, schools
- Recreation – Impacts
- Traffic and Transportation – Circulation, hazards, emergency access
- Tribal Cultural Resources – Consultation and impacts
- Utilities and Service Systems – Water, wastewater, solid waste
- Cumulative impacts

Review from March 6th

CEQA Timeline

- RFP, review, selection, BOS approval
- Public scoping meetings, plus state and federal comments
- Prepare draft EIR, Staff review, the release for 45 day comment period
- Public comment meeting on draft EIR
- Receive, review, and prepare responses for comments
 - Number of comments can extend 45 days
- Final EIR with 10 day review period
- Planning Commission with EIR and ordinance
- BOS meeting to adopt EIR and ordinance

CEQA Questions

