

DEPARTMENT: Planning

BY: Kris Schenk, Director

PHONE: 742-1216

RECOMMENDED ACTION AND JUSTIFICATION:

- 1) Adopt a Resolution finding that the project is exempt from environmental review and approving Zoning Amendment No. 2011-170 with findings; and
- 2) Waive the first reading and introduce an ordinance, approving amendments to the Zoning Ordinance pursuant to Zoning Amendment No. 2011-170.

The proposed amendments to Title 17 Zoning would amend Purpose, Adoption, and Compliance with Ordinance Section 17.04.030.E; Rural Residential Zone Section 17.16.010.A.1.c; Mountain Home Zone Section 17.20.010.A.1.c; Mountain Transition Zone Section 17.24.010.A.1.c; Mountain General Zone Section 17.28.010.A.1.c; General Forest Zone Section 17.32.010.A.1.c; Mountain Preserve Zone Section 17.36.010.A.1.c; Agriculture Exclusive Zone Section 17.40.010.A.1.d; Timber Exclusive Zone Section 17.44.010.A.1.c; Industrial Mining Zone Section 17.48.010.A.1.c; Residential Exclusive Overlay One Section 17.68.010.A.1.c.; Residential Exclusive Overlay Two Section 17.72.010.A.1.c.; Neighborhood Commercial Zone One Section 17.76.020.A.4; Neighborhood Commercial Zone Two Section 17.80.020.A.4; General Commercial Zone-1 Section 17.88.020.B.4; General Commercial Zone-2 Section 17.92.020.B.4; Resort Commercial Zone Section 17.96.020.B.4; Light Manufacturing and Industrial Zone-1 Section 17.100.020.B.4; Heavy Manufacturing and Industrial Zone-2 Section 17.104.020.B.4; Single Family Residential (9000s.f.) Zone Section 17.312.020.A.3; Single Family Residential (1/2 acre) Zone Section 17.314.020.A.3; Multi-Family Residential Zone Section 17.316.020.A.3; Professional Office Zone Section 17.318.020.A.3; General Commercial Zone Section 17.320.020.A.3; Light Industrial Zone Section 17.322.020.A.3; Public-Quasi Public Zone Section 17.324.020.A.3; Scenic Resource 5-Acre Zone Section 17.325.020.A.3; Scenic Resource 20-Acre Zone Section 17.326.020.A.3; Section 17.148.010 Definitions of terms and phrases; Chapters 17.108 Supplementary Standards and 17.334 Supplementary Use Standards of Mariposa County Code. The amendments will modify the list of prohibited uses in all zones, define and regulate medical marijuana dispensaries, medical marijuana and the collective and cooperative cultivation of medical marijuana.

A new section will be created in Chapters 17.108 and 17.334 to list uses that are prohibited in all zones.

Justification: The recommended action is based on a recommendation by the Planning Commission. See staff report for additional discussion regarding review issues.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

January 26, 2010-Board adopted Urgency Ordinance No. 1067, establishing a moratorium on medical marijuana dispensaries.

March 9, 2010- Urgency Ordinance No. 1067 is extended for 10 months and 15 days.

January 25, 2011-Urgency Ordinance No. 1067 is extended for an additional year.

October 11, 2011-Resolution No. 11-501, a Resolution of Intention to Initiate Amendments to Title 17 to prohibit medical marijuana dispensaries and the collective and cooperative cultivation of marijuana is adopted.

November 4, 2011-Planning Commission adopts a resolution recommending that the Board approve the proposed amendments to Title 17 to prohibit medical marijuana dispensaries and the collective and cooperative cultivation of marijuana.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Amend text of draft ordinance.

Do not take action to approve project. Code would remain the same and be silent on medical marijuana cultivation and medical marijuana dispensaries.

Financial Impact? () Yes (X) No Current FY Cost: \$ Annual Recurring Cost: \$
Budgeted In Current FY? () Yes () No () Partially Funded

Amount in Budget: \$ _____
Additional Funding Needed: \$ _____
Source:
Internal Transfer _____
Unanticipated Revenue _____ 4/5's vote
Transfer Between Funds _____ 4/5's vote
Contingency _____ 4/5's vote
() General () Other _____

Staff Report to the Board with Attachments:
(attachments as listed on page 8 of Staff Report)

CLERK'S USE ONLY:

Res. No.: 11-594 Ord. No. _____
Vote - Ayes: 4 Noes: 2/2/0
Absent: _____
MW Approved
() Minute Order Attached () No Action Necessary

COUNTY ADMINISTRATIVE OFFICER:

Requested Action Recommended
 No Opinion
Comments:

The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
Attest: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

CAO: RJB



COUNTY of MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JIM ALLEN, CHAIR
JANET BIBBY, VICE-CHAIR
LEE STETSON
LYLE TURPIN
KEVIN CANN

DISTRICT V
DISTRICT III
DISTRICT I
DISTRICT II
DISTRICT IV



MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRIS SCHENK, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider Zoning Amendment No. 2011-170, Action Includes Adoption of a Resolution Approving the Zoning Amendment, Finding the Amendment is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Title 17 Zoning. The Project Proposes to Define and Regulate Medical Marijuana Dispensaries and Medical Marijuana Cultivation. Project Affects all of Mariposa County. County of Mariposa, Project Proponent

RES. 11-594

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on December 6, 2011

ACTION AND VOTE:

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Planning

PUBLIC HEARING to Consider Zoning Amendment No. 2011-170, Action Includes Adoption of a Resolution Approving the Zoning Amendment, Finding the Amendment is Exempt from Environmental Review, and Waiving the First Reading and Introducing an Ordinance Amending Title 17 Zoning. The Project Proposes to Define and Regulate Medical Marijuana Dispensaries and Medical Marijuana Cultivation. Project Affects all of Mariposa County. County of Mariposa, Project Proponent

BOARD ACTION: Chair Allen asked County Counsel to respond to the letter that was received from Anita Starchman Bryant, Starchman & Bryant Attorneys at Law, this date. County Counsel advised that he discussed the letter with Planning and out of caution Planning will recommend an amendment to the Ordinance and documents to address the issues that were raised. Kris Schenk/Planning Director, was present. Alvaro Arias/Associate Planner, presented the staff report; and he advised of their recommendation to delete reference to Section 17.04.030.E from the Ordinance and the Resolution and he noted that it will be up to the Board to direct that this Section be brought back at a later date. He reviewed the history of the urgency Ordinance for the moratorium, and he review the recommended amendments since adoption of the Resolution of Intent. He read the title of the Ordinance into the record. Supervisor Stetson asked County Counsel whether the Board could consider requiring a 4/5ths vote to make sure that potential future consideration of prohibition of an activity is not lightly considered. Supervisor Stetson reviewed his concerns with the

recommended action; stating he does not feel that this law is doing any particular good and he is opposed to it; and that he supports the use of medical marijuana for the seriously ill patients and does not feel that they should have to go out of the County to obtain the medicinal marijuana. County Counsel responded to the question relative to requiring a 4/5ths vote and noted that the State law calls for a majority vote on these matters; and for the Board to require 4/5ths vote would require a change in the State law. Staff responded to a question from the Board relative to the noticing requirements and Section 17.04.030.E not being included in the noticing that was done for this hearing.

The public portion of the hearing was opened and there was no input. The public portion of the hearing was closed and the Board commenced with deliberations. Staff responded to a question from the Board clarifying the changes that are necessary to delete Section 17.04.030.E in the resolution, Ordinance and Summary of Ordinance. (M)Cann, (S)Bibby, Res. 11-594 was adopted finding that the project is exempt from environmental review and approving Zoning Amendment No. 2011-170 with findings; waiving the first reading and introducing an Ordinance approving amendments to the Zoning Ordinance pursuant to Zoning Amendment No. 2011-170; with the amendment to the Resolution and the Ordinance to delete Section 17.04.030.E. Staff responded to questions from the Board as to what would be necessary for Section 17.04.030.E to come back to the Board. Supervisor Stetson questioned what would happen if a designated primary caregiver goes on vacation. Supervisor Allen expressed concern with this being the only drug that doctors prescribed that is not regulated like the other drugs; and he noted that there is an alternate drug there is dispensed through pharmacies. Supervisor Bibby asked that information be provided by the Sheriff at a future date relative to screening of plants, and that there be continued follow-up as the marijuana issues evolve. Supervisor Turpin asked about addressing the land use issues. Ayes: Turpin, Bibby, Cann, Allen; Noes: Stetson. The hearing was closed.

Cc: Steven W. Dahlem, County Counsel
Doug Binnewies, Sheriff
File