

**Board of Supervisors
May 12, 2020**

Receive a report on the Retirement, Remediation and Relocation (RRR) incentive concept; consider options for the development of an RRR ordinance to be administered by the Cannabis Program; discuss Cannabis Program and Resource Management Agency workload priorities; and provide direction to staff.

Project Location: Countywide

CEQA action: Statutorily Exempt per CEQA Guidelines section 15262

RECOMMENDATION:

It is recommended the Board of Supervisors:

- a. Find that this action is part of a planning study for direction on possible future action and qualifies for a statutory exemption per Section 15262 of the CEQA Guidelines; and
- b. Receive a report on the Retirement, Remediation and Relocation (RRR) incentive concept; consider options for the development of an RRR ordinance to be administered by the Cannabis Program; and review the Cannabis Program and Resource Management Agency workload priorities to determine a timeline for this concept; and
- c. Provide direction to staff as appropriate.

SUMMARY:

A Retirement, Remediation and Relocation (RRR) Program is a concept intended to incentivize the transfer of development rights from one area to another, often to satisfy criteria which were not met at the original site. Research of this concept as adopted by Humboldt County was prompted by Monterey County constituents potentially being excluded from the legal market when permanent commercial cannabis regulations were adopted, despite having pursued required permits and paying cannabis taxes.

In order to provide a path to compliance, Program staff was directed by the Cannabis Standing Committee to propose criteria for the development of an RRR Program within Monterey County and identify properties which would be eligible for relocation of indoor/mixed light cultivation. After a second workshop with the Standing Committee, revisions were made to the proposed criteria and staff was directed to bring the item to the Board of Supervisors for direction. There are several competing priorities for the Cannabis Program (“Program”) and RMA staff which would be impacted by the development an RRR Program for properties that could be found eligible under the proposed criteria.

DISCUSSION

What is an RRR Program?

An RRR Program is intended to incentivize, promote, and encourage relocation through a transfer of development rights from a site which does not satisfying required criteria to another site which does. Examples of criteria may be district, planning area, zoning, or setback requirements.

Why is the County considering it?

Commercial cannabis businesses were allowed to operate in the interim period before Ordinance 5270 was passed on July 12, 2016. This ordinance established regulations for commercial medical cannabis

activities including specified zoning districts, which ruled out these operators who previously pursued required permits and paid cannabis taxes. Monterey County is considering the development of an RRR Program to provide a path to compliance for these operators.

Direction Received from Cannabis Committee

On January 22, 2020, Program staff presented an overview of the RRR Program adopted by Humboldt County and preliminary research into Monterey County candidates. Staff was directed to return to the Cannabis Standing Committee with an overview of what an RRR Program would look like in Monterey County. Staff returned to the committee on April 1, 2020 with additional research quantifying the RRR Program as adopted by Humboldt County and proposed criteria for an RRR Program in Monterey County. Staff was directed to add a multiplier of three to the previously permitted greenhouse square footage and bring the revised criteria to the Board of Supervisors.

Research of Humboldt County

Candidates eligible for the RRR Program as adopted by Humboldt County must satisfy the following criteria:

- Were in operation at any time between January 1, 2006 and January 1, 2016, **and** any of the following:
 - Source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit; or
 - Served by roads which do not conform with one or more access performance standards specified under Section 55.4.12; or
 - With slopes in excess of 15%; or
 - Where the cultivation area location does not comply with the required setbacks.

Humboldt County operators who meet these requirements can relocate to an eligible site for an area up to four times that of the previously existing site, up to a maximum of 20,000 sq. ft. To receive these benefits, the operator shall prepare a plan for full environmental remediation of the previously existing site to be completed within 12 months and shall post a bond in a sufficient amount to allow Humboldt County to contract the specified work in the event that the operator fails to do so. Through review of Humboldt County Planning Commission meetings, Program staff has identified approved RRR proposals totaling over 300,000 square feet of relocated cultivation.

How many operators would qualify in Monterey County?

Staff researched the County's electronic permit database, Accela Automation, in conjunction with County GIS services to identify properties which could qualify under these proposed criteria. Countywide, there was one property that would qualify. The property is located in South County and would qualify for 24,000 Square feet of greenhouse cultivation to be relocated under an RRR program. If the board chose to add the multiplier suggested by the Cannabis Committee (3-times), this would yield 72,000 square feet after the operation moved to the new site.

What an RRR Program could look like in Monterey County

If the Board of Supervisors decided to prioritize the development of an RRR program, criteria that could be considered for development include:

- a. Property owner applied for and was issued a building permit to construct a greenhouse before January 1, 2016.

- b. The property owner would need to provide proof of cannabis taxes paid during the period of July 2016 – June 2018.
- c. Property owner would be allowed an exception to relocate the greenhouse structure to an allowable cannabis zoning area:
 - a. The transferred permit could apply a multiplier of three times the original footprint of the greenhouse(s); and
 - b. The relocation site will not be allowed to begin to operate while diligently pursuing all required permits.

Staff time and resources needed to create an RRR Program amongst existing priorities

If the Board chooses to pursue an RRR program, the development of this entirely new program would require further research, definition of criteria, public workshops, recurring meetings with the Board for policy direction, and adoption of amendments to both Title 20 (Coastal) and Title 21 (Inland); note that amendments to Title 20 would require certification by the California Coastal Commission.

Outlined below is what would be required to add the RRR program to the Monterey County Code.

- Adoption of amendments
 - Major amendment to Titles 20 and 21 of the Monterey County Code to include the RRR program in all zoning districts in which it would be allowed.
- Approval process
 - Title 20 goes to Planning Commission for a recommendation, Board of Supervisors for adoption, and then California Coastal Commission for certification.
 - Title 21 goes to Planning Commission for a recommendation and then Board of Supervisors for adoption.

Additionally, the current proposed criteria apply to a select few and would not be inclusive to constituents who have expressed interest in an RRR program as a path to compliance for the outdoor grow pilot program.

The Program has several priority assignments that should be considered in prioritizing workload:

- Updating the Strategic Plan and Implementation Action Plan;
- Progressing cannabis industry operators towards being fully permitted;
- Reviewing and issuing, when applicable, 116 new and renewal Cannabis Business Permit applications;
- Managing continuous compliance inspections, issuing notices, and follow-up;
- Managing the Governor's Office of Business & Economic Development Cannabis Equity Grant and conducting an equity assessment;
- Completing the application for the Board of State and Community Corrections (BSCC) Prop 64 grant; and
- Enhancement of the Cannabis Program website.

To the extent that the Resource Management Agency is involved in program and ordinance development, this effort would compete with current RMA priorities:

- Implementation of the 2010 General Plan;

- Short-term rental ordinance;
- Accessory Dwelling unit ordinance;
- Moss Landing Community Plan development;
- Development Evaluation System;
- Castroville Community Plan Impact Fees;
- Mixed Use Ordinance;
- Chualar Community Plan Draft;
- Big Sur Land Use Plan updates;
- Outdoor Grow Pilot Program ordinance; and
- Current Planning Permit processing.

Conclusion

Staff is requesting that the Board of Supervisors provide direction on the development of an RRR Program within Monterey County and if developed, direct prioritization amongst existing Cannabis Program and RMA priorities.

OTHER AGENCY INVOLVEMENT:

The Cannabis Program, Office of the County Counsel, and Resource Management Agency were involved in the preparation of this report and the identification of parcels and any land use or investigative activity on such parcels.

FINANCING:

Monterey County’s Cannabis Program is funded in County Administrative Office – Department 1050, Intergovernmental and Legislative Affairs Division – Unit 8054, Cannabis. Preparation of this report did not incur additional expenses to the Program, however the development of an RRR Program would commit staff time and resources.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

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