



Legislation Details (With Board Report)

File #: RES 22-179 **Name:** Consider adoption of a ND for 7 pending apps for commercial cannabis

Type: BoS Resolution **Status:** Passed

File created: 9/20/2022 **In control:** Board of Supervisors

On agenda: 10/4/2022 **Final action:** 10/4/2022

Title: Public hearing to consider adoption of a Negative Declaration prepared for 7 pending applications that would permit commercial cannabis activities at 5 different locations within the northern portion of unincorporated Monterey County.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A – Draft Resolution for adoption of IS-ND, 3. Attachment B – Initial Study-Negative Declaration (revised), 4. Attachment C – Comments on the IS-ND, 5. Attachment D – Responses to comments on the IS-ND, 6. Completed Board Order Item No. 16, 7. Completed Resolution No. 16

Date	Ver.	Action By	Action	Result
10/4/2022	1	Board of Supervisors	adopted	Pass

Public hearing to consider adoption of a Negative Declaration prepared for 7 pending applications that would permit commercial cannabis activities at 5 different locations within the northern portion of unincorporated Monterey County.

RECOMMENDATION:

Staff recommends that the Board of Supervisors adopt a resolution to approve the Negative Declaration prepared for 7 pending commercial cannabis permit applications at 5 different sites located in the North Monterey County unincorporated area.

SUMMARY

A draft initial study (IS) for 7 cannabis applications in the North Monterey County area was funded by the applicants for the permits and submitted to the County for review. County staff has reviewed the document for compliance with California Environmental Quality Act (CEQA) and made edits so that what is being presented to the Board of Supervisors reflects the County’s independent judgement. The IS reflecting the County’s independent judgement found that the approval of the 7 pending cannabis projects would not result in any significant environmental impacts, and consequently, staff prepared a Negative Declaration (ND) pursuant to CEQA.

The purpose of this IS/ND (**Attachment B**) is to help facilitate processing land use permits for the 7 cannabis cultivation sites in North Monterey County (excluding the Moss Landing area). Sites evaluated under this ND will be able to rely on this IS/ND to the extent that the permits are consistent with the analysis and assumptions contained in the IS/ND. They will also be able to submit the IS/ND to the Bureau of Cannabis Control (BCC) for state licensing purposes.

Some cannabis operations were allowed to begin ahead of receiving their land use entitlements, so this analysis considers conditions prior to the cannabis industry, as best it can. Cannabis operations were required to locate where there were pre-existing buildings/operations. For example, greenhouses for the cut flower industry that

are no longer active. As such, the primary impact identified relates to changes from cut flower operations to cannabis operations. This type of reuse of greenhouse properties was found to have no potentially significant environmental effects.

A separate IS resulting in a Negative Declaration (ND) was prepared for 45 sites in the geographically distinct Salinas valley area where there was a much higher concentration of permits and operations. That IS/ND was adopted by the Board of Supervisors on November 17, 2020. There are a couple of outlying permit applications that are not covered by either the Salinas Valley IS/ND or this North County IS/ND. Those permits will require individual CEQA review, which will tier from the larger analysis contained in the geographically applicable study.

DISCUSSION:

The County has received more than 100 applications for commercial cannabis operations in the unincorporated areas since the program began in 2016. Over 70 of those applications are for commercial cannabis cultivation in existing greenhouses or industrial buildings. As of November 2020, 13 applications had been approved. Each of those applications were found categorically exempt from CEQA; however, staff determined that the unusual circumstance of this industry starting all at once created potential cumulative impacts that warranted evaluation. CEQA requires consideration of the effects of past, present, and probable future projects (cumulative considerations) when evaluating the potential environmental impacts of individual projects (CEQA Guidelines section 15064). With 62 more cultivation permits pending, in addition to the 13 already approved, staff identified a need to review the cumulative effects of the cannabis permits overall rather than on a case-by-case basis, particularly in the areas that contain a higher concentration of greenhouses. Typically, programmatic CEQA coverage is considered in adoption of enabling regulations (the cannabis ordinances). However, in this case, the ordinances were previously found statutorily exempt from CEQA (under then-operative Business & Professions Code section 26055(h)) with the caveat that individual permits authorized by the ordinances are themselves subject to CEQA.

To address the CEQA needs for individual permits, 45 cannabis applicants agreed to fund the preparation of technical reports and an IS that examines the cumulative effects on the environment of multiple cannabis cultivation sites in the area surrounding the City of Salinas, including a few outlying sites between Chualar and the City of Gonzales and along River Road. Separately and geographically different from the Salinas area, 7 different sites in the North Monterey County area have been analyzed in the subject IS/ND.

Cannabis applicants in the North Monterey County area hired Denise Duffy & Associates (DDA) to prepare an IS pursuant to CEQA, and the preliminary draft IS was submitted to County staff for review. County staff reviewed and edited the IS; the final IS reflects staff's independent judgment and analysis. The IS concludes the impacts of all 7 cannabis applications are less than significant. No mitigation is needed to avoid or reduce potentially significant environmental effects. The North County ND was circulated for public comment from March 16, 2022 through April 16, 2022.

During the review period on the IS/ND, 4 comment letters were received from the Bureau of Cannabis Control (BCC), the California Department of Fish and Wildlife (CDFW), Kris Del Piero, and Juana Alanis. BCC and CDFW are both responsible agencies under CEQA. Mr. Del Pier and Ms. Alanis are (or represent) neighbors to one of the properties considered in the IS/ND. BCC comments focused on clarification of site-specific conditions that will be needed for State licensing purposes. CDFW summarized the types of biological impacts normally associated with cannabis operations. Kris Del Piero commented as a neighbor to 250 Lewis Road, requesting mitigation of odor impacts. Juana Alanis commented as a neighbor to 37 McGinnis Road, requesting revisions to the proposed method of storing and mulching of cannabis byproducts at the site to prevent debris from drifting over the property line. All comments are attached as **Attachment C** to this report.

Staff revised the IS/ND in response to these comments. The revisions clarify and amplify the IS/ND. These revisions, made in May 2022, are shown in strikeout and underline format. Again, draft responses reflect staff's input and independent judgement. Staff has concluded that none of the comments, particularly following staff revisions, changed its determination that the IS/ND is adequate. A copy of the final IS/ND is attached to this staff report as **Attachment B**.

OTHER AGENCY INVOLVEMENT:

This report has been drafted by the Housing & Community Development with input from the Environmental Health Bureau, Public Works, Parks, and Facilities, and the North Monterey County Fire Protection District.

FINANCING:

Preparation of the IS/ND was funded by cannabis applicants. Funding for staff time associated with review of the IS/ND and for preparation of this report is included in the FY 2022/2023 adopted budget for each department involved, supported with permit fee revenue.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Cannabis permitting would align with several of the Board's Strategic Initiatives. Adoption of the IS/ND would allow the County to process applications in a timely manner.

Check the related Board of Supervisors Strategic Initiatives:

Economic Development

Administration

Health & Human Services

Infrastructure

Public Safety

Prepared by: Craig W. Spencer, Chief of Planning, ext. 5233

Reviewed by: Kelly Donlon, Office of County Counsel

Approved by: Erik Lundquist, AICP, HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution for adoption of IS/ND

Attachment B - Initial Study/Negative Declaration (revised)

Attachment C - Comments on the IS/ND

Attachment D - Responses to comments on the IS/ND

cc: Front Counter Copy; Planning Commission; Applicants for the 7 covered sites; Kris Del Piero, Juana Alanis; County Counsel; Sheriff; Treasure/Tax Collector; Agricultural Commissioner; District Attorney; CAO's Budget Office; CAO's Cannabis Program; Craig Spencer, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch; John H. Farrow; Cannabis Interested Parties List: Planning File REF220024