

BEFORE THE TOWN OF CORTE MADERA PLANNING COMMISSION

In the Matter of:

Recommendation to the Town of Corte Madera Town Council approving the adoption of a Resolution Affirming the Prohibition on Commercial Cultivation of Medical Marijuana in the Town of Corte Madera.

Resolution No. 16-001

Adoption Date: 1/12/2016

Appeal Period Ends: NA

WHEREAS, on October 9, 2015, Governor Brown signed the Medical Marijuana Regulation Act, consisting of Assembly Bills 243, 266, and Senate Bill 643 (MMRSA), effective January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, delivery, and sale of medical marijuana; and

WHEREAS, Health & Safety Code section 11362.777(b)(3), which is contained within the MMRSA, provides that the Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning; and

WHEREAS, the MMRSA provides that local agencies who wish to prohibit the cultivation of marijuana within their jurisdictions must explicitly prohibit such cultivation by March 1, 2016, after which time the State will become the sole licensing authority over medical marijuana cultivation; and

WHEREAS, Town of Corte Madera Municipal Code Section 18.02.050 was adopted and operates under the principles of permissive zoning, under which those uses which do not specifically constitute a permitted or conditionally permitted use are prohibited; and

WHEREAS, the commercial cultivation of marijuana is not listed as a permitted or conditionally permitted use in any of the Town's zoning districts, including overlay districts;

WHEREAS, Town of Corte Madera Municipal Code Section 18.02.110 expressly prohibits any use that is in violation of lawful federal or state statute. The commercial cultivation and use of marijuana for medicinal purposes as allowed under California state law is a violation of federal law.

WHEREAS, the Planning Commission of the Town of Corte Madera affirms commercial cultivation of medical marijuana is prohibited based on the principles of permissive zoning contained in Town of Corte Madera Municipal Code Title 18 (Zoning Ordinance); and

WHEREAS, the Planning Commission of the Town of Corte Madera affirms that medical marijuana cultivation is prohibited based on the principles that it violates federal law contained in Town of Corte Madera Municipal Code Title 18 (Zoning Ordinance); and

WHEREAS, this Resolution is not subject to the California Environmental Quality Act

(CEQA) pursuant to Guidelines Section 15060(c)(2), as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; and Guidelines Section 15060(c)(3) as the activity is not a project as defined in Guidelines Section 15378, because it has no potential for resulting in physical change to the environment directly or indirectly.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the Town of Corte Madera that:

1. Commercial cultivation of marijuana is prohibited within the Town of Corte Madera because it is not expressly permitted.
2. Commercial cultivation of marijuana is prohibited within the Town of Corte Madera because it is currently a violation of federal law.
3. The State of California is not allowed to issue a license for medical marijuana cultivation businesses within the Town of Corte Madera.
4. The Planning Commission is recommending the Town Council affirm the existing prohibition of the commercial cultivation of medical marijuana and continue such prohibition at this time.

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PASSED AND ADOPTED by the Corte Madera Planning Commission on January 12, 2016, by the following vote:

AYES: Chase, Metcalfe, Caldera, McCadden

NOES:

ABSTAIN:

ABSENT: McHugh


Adam Wolff, Planning Director


Peter Chase, Chair