

NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "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.

NAME OF PROJECT: Medical Marijuana Land Use Regulations Ordinance

PROJECT FILE NUMBER: PP11-039

PROJECT DESCRIPTION: A proposed ordinance to amend Title 20 of the San Jose Municipal Code (the Zoning Code) to establish land use and zoning regulations pertaining to the siting of Medical Marijuana Collectives with the following major characteristics:

- A maximum number of 10 Medical Marijuana Collectives could be sited in San Jose, with no more than 2 per Council District.
- Medical Marijuana Collectives would be allowed in the Commercial General, Downtown Primary Commercial, Combined Industrial Commercial, and Light Industrial Zoning Districts.
- All Medical Marijuana Collectives would need to meet all of the following distance requirements:
 - 600 feet from Public and Private Schools (consistent with State law), and
 - 500 feet from child daycare, church with child daycare, community/recreation center, park, library, substance abuse rehabilitation center or another Collective, and
 - 150 feet from residential use, and
 - Additional potential criteria for Light Industrial parcels (not in an Enterprise Zone or other incentive zone; not within 1000 feet of a business that uses and/or stores hazardous materials); and
 - Not on the floors of buildings with active pedestrian use (defined as the ground floor of buildings located within the Downtown Core or Neighborhood Business Districts, which areas are more particularly identified in the San Jose General Plan and all floors of shopping centers located on a parcel or parcels totalling over 40 acres in size (such centers would include, by way of example, Eastridge, the Plant and other similarly-sized shopping centers).

- A Zoning Verification Certificate would be required for each establishment to determine whether or not a proposed Medical Marijuana Collective would meet all of the locational parameters set forth above.

The specific sections of the San Jose Municipal Code involved in the proposed ordinance include amending Title 1 of the Municipal Code by amending Section 1.13.050 of Chapter 1.13 to exempt a lawful Medical Marijuana Collective from the definition of a public nuisance and amending Title 20 of the San Jose Municipal Code by amending Section 20.10.040 of Chapter 20.10, amending Section 20.40.100 of Chapter 20.40; amending Section 20.50.100 of Chapter 20.50, amending Section 20.70.100 of Chapter 20.70, adding a new Part 9.5 to Chapter 20.80, adding a new Part 13 to Chapter 20.100, and amending Section 20.100.200 of Chapter 20.100, all to establish land use regulations pertaining to Medical Marijuana Collectives and to establish a related Zoning Verification Certificate process.

CONTACT INFORMATION:

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FINDING:

The Director of Planning, Building and Code Enforcement finds the project described above will not have a significant effect on the environment as described in that the attached initial study.

- I. **AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.
- II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.
- III. **AIR QUALITY.** The project will not have a significant air quality impact, therefore no mitigation is required.
- IV. **BIOLOGICAL RESOURCES.** The project will not have a significant impact on biological resources, therefore no mitigation is required.
- V. **CULTURAL RESOURCES.** The project will not have a significant impact on cultural resources, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.
- VII. **GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

- VIII. HAZARDS AND HAZARDOUS MATERIALS.** The project will not have a significant hazards and hazardous materials impact, therefore no mitigation is required.
- IX. HYDROLOGY AND WATER QUALITY.** The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.
- X. LAND USE AND PLANNING.** The project will not have a significant land use impact, therefore no mitigation is required.
- XI. MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.
- XII. NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.
- XIII. POPULATION AND HOUSING.** The project will not have a significant population and housing impact, therefore no mitigation is required.
- XIV. PUBLIC SERVICES.** The project will not have a significant impact on public services, therefore no mitigation is required.
- XV. RECREATION.** The project will not have a significant impact on recreation, therefore no mitigation is required.
- XVI. TRANSPORTATION / TRAFFIC.** The project will not have a significant traffic impact, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.
- XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on June 13, 2011, any person may:

1. Review the Draft Negative Declaration (ND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulation period, from May 23, 2011 to June 13, 2011


Deputy

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