



COUNTY OF SONOMA

PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

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MEMO

Date: November 17, 2016
To: Planning Commission
From: Amy Lyle, Project Planner
Subject: Medical Cannabis Land Use Ordinance

The Planning Commission (Commission) held public hearings on October 13 and October, 27 2016, to consider the proposed Medical Cannabis Land Use Ordinance, associated staff report and Negative Declaration. At the conclusion of the hearings the Commission held a third meeting on November 3, 2016 to deliberate on the various policy options through a series of Policy Discussion Papers and provided the following direction to staff, which is reflected in the Summary Table and attached Ordinance.

Revisions to the Ordinance as Directed by the Commission by Straw Vote

1. Personal Cultivation (vote 5-0)

The Commission recommended allowing up to 100 square feet of cultivation area per residence in all zoning districts except R2 (Medium Density Residential) and R3 (High Density Residential).

2. Proposition 64: AUMA

- a. The Commission agreed to revise the Ordinance, if Prop 64 (Adult Use of Marijuana Act) passed, to allow up to 6 plants taking up no more than 100 square feet maximum of cultivation area per residence, including both medical and nonmedical use, while prohibiting outdoor cultivation in multifamily units and the R2 (Medium Density Residential) and R3 (High Density Residential) zones. No straw vote was taken.
- b. The Commission voted in favor of the staff recommendation to keep commercial cannabis uses within the Ordinance "medical only" and to consider other changes in Phase II. **(vote 5-0)**

3. Agricultural Zones (vote 5-0)

The Commission voted in favor of the staff recommendation, with an addition of requiring a 2 acre minimum lot size for specialty indoor cultivation (501 to 5,000 square feet) within the Diverse Agriculture zone. This recommendation would allow all sizes of outdoor cultivation, mixed light cultivation up to 10,000 square feet, and up to 5,000 square feet of indoor cultivation, with various levels of permitting and minimum lot size requirements. All cultivation would be subject to the Cultivation Standards.

4. Resources and Rural Development (RRD) Zone (vote 5-0)

The Commission voted in favor of the staff recommendation to allow all sizes of outdoor cultivation, mixed light cultivation up to 10,000 square feet, and up to 5,000 square feet of indoor cultivation, with Minor Use Permits for cottage sizes and Conditional Use Permits for larger cultivation areas. All cultivation would be subject to the Cultivation Standards.

5. Rural Residential Zones

a. Cultivation Size and Scale

- i. The Commission voted in favor of the staff recommendation to allow cottage size commercial cultivation only which is defined as a maximum of 25 plants outdoor, 500 square feet indoors, or 2500 square feet of mixed light, with up to two permits allowed per residence. **(vote 4-1)**

- ii. The Commission recommended that Phase II consider allowing cottage size commercial cultivation with a zoning permit and a 5 acre minimum lot size (in order to phase out smaller parcels over time) within Rural Residential zones. (vote 3-2)

b. Permit Thresholds (vote 4-1)

The Commission voted in favor of allowing cottage size cultivation operations with a Minor Use Permit.

c. Standards (3-2)

The Commission voted in favor of the staff recommendation to include all standards with addition of a 2 acre minimum parcel size for indoor cultivation operations within Rural Residential zones.

6. Industrial Zones (vote 5-0)

- a. The staff recommendation was amended to include distribution and transportation facilities within MP (Industrial Park Districts).

- b. The Commission voted in favor of the staff recommendation on all matters, with the addition of allowing mixed light cultivation, up to 22,000 square feet (all sizes) within the M1 (Limited Urban Industrial), M2 (Limited Urban Industrial) and M3 (Heavy Industrial) zoning districts. This would allow both indoor and mixed light cultivation, laboratories, distribution, transportation, non-volatile manufacturing with a use permit in most industrial zones as shown in the Land Use Table (Attachment A to the Ordinance).

c. Mixed Light Setback Issue- New Staff Recommendation

The allowance of mixed light cultivation within industrial zones was not originally contemplated as part of the Ordinance which includes a requirement that all mixed light cultivation be subject to the setback and separation criteria standards. These standards require a 100 foot setback to property lines, 300 feet from occupied residences and businesses on surrounding parcels, and 600 feet from sensitive uses including schools (K-12), public parks, childcare centers, and alcohol and drug treatment facilities.

These distance requirements may be problematic for industrial properties which are generally small. Staff recommends deleting the 100 foot setback from property lines for all industrial zones. A lesser setback may be sufficient due to the lack of surrounding residential uses and other sensitive uses. Staff recommends requiring a 300 foot setback only to residences on surrounding properties and 600 feet from sensitive uses.

7. Dispensaries (vote 5-0)

The Commission voted in favor of the staff recommendation to continue to allow dispensaries with the current cap of nine, with no levels or operational size limitations, while allowing the sale of edible products and deliveries from permitted brick and mortar dispensaries.

8. Nurseries (vote 5-0)

- a. The staff recommendation was amended to include nurseries within MP (Industrial Park District).
- b. The Commission voted in favor of the staff recommendation to allow nurseries within agricultural, resource, and industrial zones with a Conditional Use Permit. The recommendation included a restriction limiting operations to existing structures, built prior to the effective date of the Ordinance, within the Land Intensive Agriculture (LIA) zone.

Revisions Considered to be New Information Proposed by Staff

Transition Period for Existing Collectives

Ordinance was amended to include a "transition period" for existing cultivation collectives. This will provide approximately one year (until Jan 1, 2018) for collectives to come into compliance provided that there is no

increase in size of the cultivation area and that they are in compliance with the Best Management Practices and Operating Standards within the proposed Ordinance. (Section III of Attachment 1)

Effective Date of the Ordinance

The Ordinance will be in effect 30 days after adoption, however applications for cannabis uses, other than dispensaries, would not be accepted until a cannabis tax is approved or an alternative funding source is established. (Section VI of Attachment 1)

Cultivation Area Definition and Measurement

Staff has provided a definition of cultivation area, in lieu of canopy (Exhibit A, Page 1). This will provide a clear method of measurement for cultivation for permitting and enforcement purposes.

Volatile Definition- Ethanol

The definition of “volatile solvent” has been revised to omit the words “ethanol, Iso-propyl Alcohol” (Exhibit A, Page 4). This would allow non-volatile manufacturing to use ethanol on a case by case basis, with review by the County Fire and Emergency Services Department, with a Conditional Use Permit.

Prohibition on Tours and Special Events

The Ordinance has been modified to express a prohibition on tours and special events at commercial cannabis operations (Exhibit B, Section 26-88-250(c)).

Operator Qualifications

Staff revised the Operator Qualifications section to remove the two year Sonoma County residency requirement and the 51% local business ownership requirement. This section now includes priority processing for the following two categories: 1) cannabis operations that can demonstrate they were in operation prior to January 1, 2016; and 2) operators that can demonstrate Sonoma County residency of an owner or manager since January 1, 2016. (Exhibit B, Section 26-88-250(h))

Design Review Requirements

The Ordinance has been modified to require “new structures and new road, or conversation of existing structures to cannabis cultivation shall be subject to design review.” (Exhibit B, Section 26-88-254(c))

Nursery Size Limitation of One Acre

The Ordinance has been modified to clarify the one acre limit for cannabis nurseries, consistent with state law. (Exhibit B, Section 26-88-254 (f)(2))

Biotic Resources

The standard related to biotic resources has been revised for clarity. (Exhibit B, Section 26-88-254(f)(7))

Cultural Resources

The standard related to cultural resources has been revised in accordance with consultation with the Federated Indians of Graton Rancheria. (Exhibit B, Section 26-88-254(f)(8))

Security Cameras

A requirement was added that security cameras “shall not be pointed at or recording activity on surrounding parcels.” (Exhibit B, Section 26-88-254(f)(14))

Residency Requirement for Commercial Operations on Residential Properties

The Ordinance was amended to add a requirement that the operator reside full-time on the premises where cultivation is occurring within residential districts. (Exhibit B, Section 26-88-254 (g)(2))

Water Supply Standard

The standard was revised in response to a comment letter from California Fish and Wildlife. Section 10.c. now includes language requiring a Streambed Alteration Agreement, if applicable. Section 10.d. related to groundwater was also revised for clarity. (Exhibit B, Section 26-88-254 (g)(11))

Groundwater Monitoring

A new standard was added to Exhibit B which would require all applicants using groundwater sources to install monitoring devices on wells and record an easement allowing the collection of water meter readings. (Exhibit B, Section 26-88-254 (g)(12-13))

Existing Structure Requirement

Staff has included a clarification for the existing structure limitation clarifying that structures finalized before the effective date of the Ordinance. (Land Use Table)

Dispensary Ordinance

The Ordinance was amended to reflect an additional staff recommendation to remove the language relating to “locations that cater to children,” in order to increase the clarity and enforceability of the Ordinance. (Exhibit C, Section 26-88-256(j)(3))

The Ordinance was also amended to add language to the existing dispensary ordinance to allow dispensaries the ability to sell vaporizing devices, if allowed under the County’s Health Permit. (Exhibit C, Section 26-88-256(k)(8))