

## MEMO

DATE: September 6, 2018

TO: Sonoma County Planning Commission

FROM: Amy Lyle, Supervising Planner

SUBJECT: Cannabis Ordinance Amendments, ORD18-0003

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On June 28<sup>th</sup> the Planning Commission provided a recommendation to the Board of Supervisors on the Cannabis Ordinance Amendments.

On August 7<sup>th</sup> the Board of Supervisors held a public hearing on the proposed cannabis amendments. In addition to reviewing the complete package of proposed amendments and the Planning Commission recommendations, the Board took straw votes on various policy options.

On August 20<sup>th</sup> the Board of Supervisors Ad Hoc Committee met and provided direction on one additional amendment that was not previously considered by the Commission as discussed below.

The Aug 7<sup>th</sup> Board of Supervisor's straw votes included:

1. **Cannabis Permit Requirements-** The Board of Supervisors voted to require a minimum lot size of 10 acres for all commercial cannabis cultivation operations in agricultural and resource zones (LIA, LEA, DA, and RRD). This motion included a pipeline provision that would allow applications for commercial cannabis cultivation operations that were deemed complete prior to the effective date of this ordinance to continue to be processed under the development criteria and minimum lot size in effect at the time their applications were deemed complete.

All approved cannabis permits (both zoning permits and use permits) prior to the effective date of the ordinance, or through this pipeline provision, may be renewed with a use permit. Note that this means zoning permits that do not meet the minimum parcel size under the new ordinance would need to apply a use permit to be renewed which would require public notification, environmental review, and allow the county to require conditions to address any issues.

2. **Exclusion Combining District-**The Board voted to reject the creation of Cannabis Exclusion Combining Districts.
3. **Inclusion Combining District-**The Board voted to reject the creation of Cannabis Exclusion Combining Districts.



4. **Setbacks from Public Parks**-The Board voted to allow a reduction to the setback from public parks with a use permit when it is determined that an actual physical equivalent separation exists due to topography, vegetation or slope; that no offsite impacts will occur; and that the cannabis operation is not accessible or visible from the park.
5. **Propagation Area Allowance**-The Board voted to allow up to a 25% propagation area, to support onsite cultivation, with a use permit. No additional propagation are would be permitted with a zoning permit.
6. **Term of Cannabis Land Use Permit**- The Board voted to extend the term of new cannabis permits from 1 year to 2 years for Zoning Permits, and 5 years for Use Permits.

After further review staff is recommending modifications related to ministerial permits (zoning permits). These recommended modifications include:

1. Retain the one year permit term for all ministerial permits
2. Retain the current requirement for Medical Cannabis cultivation for all ministerial permits

#### **Amendments Requiring Additional Consideration by the Planning Commission**

Staff has identified two items that need to be considered by the Planning Commission prior to the Board's final vote. First, on August 7<sup>th</sup>, after the straw votes were taken the Board provided additional direction to add a pilot program to allow centralized processing facilities on agricultural land in Sonoma Valley. This issue was not fully considered by the Planning Commission during their deliberations in June, 2018.

On August 20<sup>th</sup> the Ad Hoc Committee met and requested an amendment to eliminate the 24 hour notification requirement for inspections and monitoring of permitted operations. This issue was also not previously considered by the Planning Commission.

Government Code Section 65857 states the Board can approve, disapprove, or modify the Planning Commission's Recommended Ordinance but any modification that was not previously considered by the Commission must be referred back for report and recommendation.

#### **Centralized Processing on Agricultural Land**

On August 7<sup>th</sup> the Board asked staff to add an allowance for centralized processing facilities on agricultural land in Sonoma Valley. Centralized processing means "activities associated with drying, curing, grading, trimming, rolling, storing, packaging, and labeling of nonmanufactured cannabis" from off-site sources. The draft ordinance already includes the allowance for centralized processing-only facilities within industrial zones.

Staff recommends that this use be allowed with a conditional use permit within Sonoma Valley because there are other nearby cultivation applications that, if approved, could utilize this nearby land use. The use permit process would allow a case by case review of centralized processing projects including consistency with the General Plan and environmental impacts. This use might reduce impacts associated



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with transportation, air quality, and farmland protections because it reduces the need for onsite processing facilities at individual cultivation sites.

This change would be accomplished with the following footnote added to the Cannabis Land Use Table:

*Cannabis centralized processing facilities that serve cultivators on adjacent properties or in the immediate area may be permitted within Planning Area 9 (Sonoma Valley) but not within any adopted Area Plan.*

#### **Site Visit 24 hour Notification Requirement**

The Cannabis Ad Hoc Committee met on August 20<sup>th</sup>, 2018 and recommended an additional amendment to the ordinance that was not previously considered. The amendment would eliminate the 24 hour notification requirement for inspections and monitoring of permitted operations. This would provide flexibility for staff to inspect without advance notice, although for safety it is current practice for staff to call in advance so the visit is expected. It should be noted this change only impacts inspections to permitted sites. Code enforcement staff does not have to adhere to any advance notice requirements for inspections.

The following amendments are recommended by the Cannabis Ad Hoc Committee:

#### Section 26-88-250 Commercial Cannabis Uses

*(k) Inspections. Premises shall be subject to inspections by appropriate local and state agencies, including but not limited to the Agriculture/Weights & Measures and Permit and Resource Management. Premises shall be inspected at random times for conformance with the county code and permit requirements. The inspection shall be conducted during regular business hours, ~~with at least 24 hours' notice.~~ If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may temporarily suspend the permit and order the permit holder to immediately cease operations.*

#### Section 26-88-254 Operating Standards

*(g)(1) Compliance Inspections. All cultivation sites shall be subject to on-site compliance inspections by agencies having jurisdiction. The inspection shall be conducted during regular business hours, ~~with at least 24 hours' notice.~~*

**RECOMMENDATION:** Staff recommends the Planning Commission

1. Hear the Staff Presentation and take any public comments (though a hearing is not required, public comment on any item on the agenda is required); and
2. Adopt Resolution recommending these additional Zoning Code Amendments.

Attachment A: Revised Planning Commission Resolution



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Resolution Number

County of Sonoma  
Santa Rosa, California

September 6, 2018  
ORD18-0003 Amy Lyle

RESOLUTION OF THE PLANNING COMMISSION OF THE  
COUNTY OF SONOMA, STATE OF CALIFORNIA,  
RECOMMENDING TO THE BOARD OF SUPERVISORS THE  
PROPOSED AMENDMENTS TO CHAPTER 26 OF THE ZONING  
CODE TO ALLOW ADULT USE FOR THE FULL CANNABIS  
SUPPLY CHAIN, ENHANCE NEIGHBORHOOD  
COMPATIBILITY, CREATE CANNABIS INCLUSION AND  
EXCLUSION COMBINING DISTRICTS, THE ADDITION OF NEW  
DEFINITIONS AND AMENDMENTS TO HARMONIZE WITH  
CALIFORNIA STATE LAW AND REGULATIONS WHERE  
APPROPRIATE, AND OTHER AMENDMENTS AS NECESSARY  
FOR CLARIFICATION

WHEREAS, the Medical Cannabis Regulation and Safety Act (“MCRSA”), signed into law in October 2015, constructed a comprehensive framework for the regulation of medical cannabis and replaced the collective/cooperative model with a dual commercial licensing scheme at the local and state levels; and

WHEREAS, on December 20, 2016, the Board of Supervisors adopted a series of ordinances to establish a comprehensive local program, to permit and regulate the complete supply chain of medical uses; and

WHEREAS, the Senate Bill 94, known as the “2017-2018 Budget Trailer Bill”, signed into law on June 27, 2017, repealed the Medical Cannabis Regulation and Safety Act (“MCRSA”) and the Adult Use of Marijuana Act (“AUMA”) with one regulatory framework termed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, SB 94 amended Business and Professions Code section 26055 to add subsection (h), which provides that the CEQA process does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of applications for permits, licenses, or other authorizations to engage in commercial cannabis activity, and that in order to qualify for this exemption, the discretionary review of applications provided for by any such law, ordinance, rule, or regulation shall include a requirement for any applicable environmental review pursuant to the CEQA process to occur prior to taking action on such applications; and

WHEREAS, on July 5, 2017 the County of Sonoma began accepting permit applications for cannabis-related businesses in accordance with the newly adopted Medical Cannabis Land Use Ordinance; and

WHEREAS, on November 16, 2017 the three State of California cannabis licensing authorities, California Bureau of Cannabis Control, CalCannabis Cultivation Licensing, and the

Manufactured Cannabis Safety Branch, issued their comprehensive emergency regulations creating the current cannabis regulatory structure; and

WHEREAS, on April 10, 2018 the Board of Supervisors adopted a Resolution of Intention, directing staff to explore and propose amendments to the Cannabis Ordinance to allow for Adult Use cannabis for the full supply chain, enhance neighborhood compatibility, and adopt new definitions and minor technical changes to harmonize with State law and regulations where appropriate; and

WHEREAS, it is the determination of staff that the proposed amendments are consistent with the previously circulated and approved Negative Declaration, adopted December 20, 2016; that the project is categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professionals Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA. The Planning Commission finds on the basis of the whole record before it that this exemption reflects the independent judgment and analysis of the Commission and that there is no substantial evidence that the project will have a significant effect on the environment.

WHEREAS, in accordance with the provisions of law, the Planning Commission held public hearings on June 7 and June 28, 2018, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission adopted Resolution Number 18-008 recommending that the Board of Supervisors adopt the revised Medical Cannabis Land Use Ordinance amending Chapter 26 of the Sonoma County Zoning Code; and

WHEREAS, the Board of Supervisors held a public hearing on August 7, 2018 and two items have since been identified that weren't previous considered by the Planning Commission; and

WHEREAS, in accordance with Government Code 65857 the Planning Commission met on September 6, 2018 to consider the new information; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the Board of Supervisors adopt the attached revised Medical Cannabis Land Use Ordinance amending Chapter 26 of the Sonoma County Zoning Code.

NOW, THEREFORE, BE IT RESOLVED, in accordance with the provisions of law, the Planning Commission held public hearings on June 7 and June 28, 2018, at which time all interested persons were given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission makes the following findings:

1. The proposed amendments are necessary and desirable to protect the public health, safety and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety and nuisance factors related to the cannabis industry are adequately addressed.
2. This ordinance amendment is intended to be Part 1 to a two part policy effort to alleviate neighborhood compatibility issues and harmonize with state regulations which were adopted after the County's adoption of the Cannabis Land Use Ordinance on December 20, 2016 (Ordinance #6189).
3. This ordinance is consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water.
4. It is the determination of the Commission that the proposed amendments are categorically exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the project will have no significant or physical effect on the environment; under sections 15307 and 15308 as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment; and Section 15321 as an action by an agency for enforcement of a law, general, rule, standard or objective administered or adopted by the agency; and the Business and Professions Code Section 26055(h) (MAUCRSA) because the adoption of this ordinance requires discretionary review of cannabis operations which will include applicable environmental review under CEQA. The Planning Commission finds on the basis of the whole record before it that this exemption reflects the independent judgment and analysis of the Commission and that there is no substantial evidence that the project will have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors find the project to be exempt from CEQA and approve the proposed changes to Chapter 26 of the Sonoma County Code.

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary of the Planning Commission as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of Permit Sonoma, 2550 Ventura Avenue, Santa Rosa, CA 95403.

THE FOREGOING RESOLUTION was introduced by \_\_\_\_\_ who moved its adoption, seconded by Commissioner \_\_\_\_\_, and adopted on roll call by the following vote:

Commissioner	Aye

Ayes:            Noes:            Absent:            Abstain:

WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.