

ATTACHMENT A: FINDINGS

1.0. CEQA FINDINGS

1.1 CEQA Guidelines Exemption Findings

1.1.1 The County Board of Supervisors finds that approval of the proposed project, 10ORD-00000-00007, 11ORD-00000-00020, and 11ORD-00000-00021, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3). Please see Attachment B, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS.

2.1 Land Use and Development Code Findings (10ORD-00000-00007)

In compliance with Section 35.104.060 (Findings Required for Approval of Amendments) of the Santa Barbara County Land Use and Development Code (LUDC), the following findings shall be made by the Board of Supervisors to approve a text amendment to the LUDC.

2.1.1 The request is in the interests of the general community welfare.

Since the Passage for the Compassionate Use Act in 1996 a proliferation of storefronts has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. This combination of factors has, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated medical marijuana storefronts have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.¹ In the unincorporated area at least two² of these locations have been within the buffers recommended as part of the proposed ordinance from schools, parks, residences, and other sensitive uses. Currently there is a moratorium which expires in December 2011. If no amendments are made, since MMC Storefronts are not an enumerated use in the zoning ordinances, applicants will be able to apply for similar use determinations in any zone throughout the County.

Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code. Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any state regulations and/or guidelines adopted in furtherance thereof, and to reduce the adverse secondary effects from operations of MMC Storefronts. The proposed ordinance would be enacted as a health and safety measure pursuant to the County's police power. California Health and Safety Code Section 11362.768 requires a minimum 600-foot buffer from schools, and allows jurisdictions to adopt policies further restricting the location or establishment of MMC Storefront. California State Health and Safety Code 11362.79 prohibits smoking of

¹ County Sheriff testimony at the Board of Supervisors December 8, 2009

² The Green Room and Miramar Collective are less than 1000 feet from a County Park and less than 300 feet from residential zone districts.

medical marijuana within 1000 feet of a school or youth center.³ The proposed 1000-foot buffer from schools, and facilities such parks and daycare centers would provide for consistency with state law and prevent easy access in places where minors congregate. Requiring a 300-foot buffer for residential and mixed-use zone district buffer would allow for a distribution of MMC Storefronts site throughout the county while separating incompatible uses consistent with the intent of the zone districts.

County-wide the C-1 (Limited Commercial), C-2 (Retail Commercial), and C-3 (General Commercial) zone districts were selected as appropriate locations based on a recommended separation of residential uses and places where children are present based on evidence presented at public hearings during the moratorium⁴ and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments are in the interest of the general community welfare since the LUDC amendments would require a discretionary permit and regulate the location of Medical Marijuana Collective/Cooperative (MMC) Storefronts without compromising community values, environmental quality, or public health and safety.

The proposed ordinance amendments would revise existing permit processes to require a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission, specify allowable zone districts, require buffers from sensitive uses and facilities, provide location criteria, and add new development standards and restrictions pertaining to MMC Storefronts, which would minimize potential adverse impacts to the surrounding area. The proposed ordinance would allow for MMC Storefronts in appropriate areas while providing for safe access to medical marijuana as allowed under the Compassionate Use Act.

2.1.2 The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and this Development Code. If the Amendment involves an Amendment to the Local Coastal Program, then the request shall also be found to be consistent with the Coastal Land Use Plan.

The proposed ordinance amendments would require discretionary processing through a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission for all MMC Storefronts. Discretionary projects are subject to review under the California Environmental Quality Act and associated findings. In order to approve an MMC Storefront, the review authority would have to find that the proposed development is consistent with the policies and development standards of the Comprehensive Plan and the requirements of state planning and zoning law.

³ Also prohibits smoking in no smoking zones (except in private residences), on school buses, in a motor vehicle that is being operated, or while operating a boat.

⁴ Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010.

Adoption of the proposed ordinance would provide more effective implementation of the State health and safety, planning, and zoning laws by providing a discretionary MMC Storefront permit process. If no amendments are adopted and the existing moratorium expires in December, applicants would be able to apply for similar use determinations in any zone throughout the County. The proposed ordinance would not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan, and would allow the County to protect public health and safety.

The proposed ordinance amendments are also consistent with the remaining portions of the LUDC that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan, the requirements of state law, and the LUDC.

The proposed LUDC amendments would not affect the Coastal Land Use Plan or Article II.

2.1.3 The request is consistent with good zoning and planning practices.

The proposed ordinance is consistent with sound zoning and planning practices by instituting regulations for land uses for the overall protection of the environment and community values. It would guide MMC Storefront development and uses, provide for a discretionary permit processes, and add new development standards and restrictions, which serve to minimize potential adverse impacts to the surrounding area. As discussed in Finding 2.1.2, above, the amendments are consistent with the Comprehensive Plan and the LUDC.

2.2 Montecito Land Use and Development Code Findings (11ORD-00000-00020)

In compliance with Section 35.494.060 (Findings Required for Approval of Amendment) of the Santa Barbara County Montecito Land Use and Development Code (Montecito LUDC), the following findings shall be made by the Board of Supervisors to approve a text amendment to the Montecito LUDC:

2.2.1 The request is in the interests of the general community welfare.

Since the Passage for the Compassionate Use Act in 1996 a proliferation of storefronts has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. This combination of factors has, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated medical marijuana storefronts have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.⁵ In the unincorporated area at least two⁶ of these locations have been within the buffers recommended as part of the proposed ordinance from schools, parks, residences, and other sensitive uses. Currently there is a moratorium which expires in December 2011. If no

⁵ County Sheriff testimony at the Board of Supervisors December 8, 2009

⁶ The Green Room and Miramar Collective are less than 1000 feet from a County Park and less than 300 feet from residential zone districts.

amendments are made, since MMC Storefronts are not an enumerated use in the zoning ordinances, applicants will be able to apply for similar use determinations in any zone throughout the County.

Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code. Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any state regulations and/or guidelines adopted in furtherance thereof, and to reduce the adverse secondary effects from operations of MMC Storefronts. The proposed ordinance would be enacted as a health and safety measure pursuant to the County's police power. California Health and Safety Code Section 11362.768 requires a minimum 600-foot buffer from schools, and allows jurisdictions to adopt policies further restricting the location or establishment of MMC Storefront. California State Health and Safety Code 11362.79 prohibits smoking of medical marijuana within 1000 feet of a school or youth center.⁷ The proposed 1000-foot buffer from schools, and facilities such parks and daycare centers would provide for consistency with state law and prevent easy access in places where minors congregate. Requiring a 300-foot buffer for residential and mixed-use zone district buffer would allow for a distribution of MMC Storefronts site throughout the county while separating incompatible uses consistent with the intent of the zone districts.

The C-1 (Limited Commercial), C-2 (Retail Commercial), and C-3 (General Commercial)⁸ zone districts were selected as appropriate locations County-wide based on a recommended separation of residential uses and places where children are present based on evidence presented at public hearings during the moratorium⁹ and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments are in the interest of the general community welfare since the Montecito LUDC amendment would require a discretionary permit and regulate the location of Medical Marijuana Collective/Cooperative (MMC) Storefronts without compromising community values, environmental quality, or public health and safety.

The proposed ordinance amendments would revise existing permit processes to require a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission, specify allowable zone districts, require buffers from sensitive uses and facilities, provide location criteria, and add new development standards and restrictions pertaining to MMC Storefronts, which would minimize potential adverse impacts to the surrounding area. The proposed ordinance would allow for MMC Storefronts in appropriate areas while providing for safe access to medical marijuana as allowed under the Compassionate Use Act.

⁷ Also prohibits smoking in no smoking zones (except in private residences), on school buses, in a motor vehicle that is being operated, or while operating a boat.

⁸ The MLUDC does not contain the C-1, C-2, or C-3 Zone Districts.

⁹ Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010.

2.2.2 The request is consistent with the Comprehensive Plan, the requirements of State planning and zoning laws, and the Montecito Land Use and Development Code. If the Amendment involves an Amendment to the Local Coastal Program, then the request shall also be found to be consistent with the Coastal Land Use Plan.

The proposed ordinance amendments would require discretionary processing through a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission for all MMC Storefronts. Discretionary projects are subject to review under the California Environmental Quality Act and associated findings. In order to approve an MMC Storefront, the review authority would have to find that the proposed development is consistent with the policies and development standards of the Comprehensive Plan including the Montecito Community Plan and the Coastal Land Use Plan, the requirements of state planning and zoning law.

Adoption of the proposed ordinance would provide more effective implementation of the State health and safety, planning, and zoning laws by providing a discretionary MMC Storefront permit process. If no amendments are adopted and the existing moratorium expires in December, applicants would be able to apply for similar use determinations in any zone throughout the County. The proposed ordinance would not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan, including the Montecito Community Plan, and would allow the County to protect public health and safety.

The proposed ordinance amendments are also consistent with the remaining portions of the Montecito LUDC that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan including the Montecito Community Plan, the requirements of state law, and the Montecito LUDC.

The proposed Montecito LUDC amendments would not affect the Coastal Land Use Plan or Article II.

2.2.3 The request is consistent with good zoning and planning practices.

The proposed ordinance is consistent with sound zoning and planning practices by instituting regulations for land uses for the overall protection of the environment and community values. It would guide MMC Storefront development and uses, provide for a discretionary permit processes, and add new development standards and restrictions, which serve to minimize potential adverse impacts to the surrounding area. As discussed in Finding 2.1.2, above, the amendments are consistent with the Comprehensive Plan, including the Montecito Community Plan, and the Montecito LUDC.

2.3 Article II Coastal Zoning Ordinance Findings (11ORD-00000-00021)

In compliance with Section 35-180.6 of the Santa Barbara County Article II Coastal Zoning Ordinance, the following findings shall be made by the Board of Supervisors to approve a text amendment to the LUDC.

2.3.1 *The request is in the interests of the general community welfare.*

Since the Passage for the Compassionate Use Act in 1996 a proliferation of storefronts has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. This combination of factors has, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated medical marijuana storefronts have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.¹⁰ In the unincorporated area at least two¹¹ of these locations have been within the buffers recommended as part of the proposed ordinance from schools, parks, residences, and other sensitive uses. Currently there is a moratorium which expires in December 2011. If no amendments are made, since MMC Storefronts are not an enumerated use in the zoning ordinances, applicants will be able to apply for similar use determinations in any zone throughout the County.

Standards are required to assure that the operations of medical marijuana cooperatives are in compliance with California Health and Safety Code. Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any state regulations and/or guidelines adopted in furtherance thereof, and to reduce the adverse secondary effects from operations of MMC Storefronts. The proposed ordinance would be enacted as a health and safety measure pursuant to the County's police power. California Health and Safety Code Section 11362.768 requires a minimum 600-foot buffer from schools, and allows jurisdictions to adopt policies further restricting the location or establishment of an MMC Storefront. California State Health and Safety Code 11362.79 prohibits smoking of medical marijuana within 1000 feet of a school or youth center.¹² The proposed 1000-foot buffer from schools, and facilities such parks and daycare centers would provide for consistency with state law and prevent easy access in places where minors congregate. Requiring a 300-foot buffer for residential and mixed-use zone district buffer would allow for a distribution of MMC Storefronts site throughout the county while separating incompatible uses consistent with the intent of the zone districts.

The C-1 (Limited Commercial), C-2 (Retail Commercial), and C-3 (General Commercial)¹³ zone districts were selected as appropriate locations county-wide based on a recommended separation of residential uses and places where children are present based on evidence presented at public hearings during the moratorium¹⁴ and the *White*

¹⁰ County Sheriff testimony at the Board of Supervisors December 8, 2009

¹¹ The Green Room and Miramar Collective are less than 1000 feet from a County Park and less than 300 feet from residential zone districts.

¹² Also prohibits smoking in no smoking zones (except in private residences) on school buses, in a motor vehicle that is being operated, or while operating a boat.

¹³ Article II does not contain the C-3 Zone District.

¹⁴ Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010

Paper on Marijuana Dispensaries by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments are in the interest of the general community welfare since the LUDC amendments would require a discretionary permit and regulate the location of Medical Marijuana Collective/Cooperative (MMC) Storefronts without compromising community values, environmental quality, or public health and safety.

The proposed ordinance amendments would revise existing permit processes to require a Conditional Use Permit (CUP) under the jurisdiction of the Planning Commission, specify allowable zone districts, require buffers from sensitive uses and facilities, provide location criteria, and add new development standards and restrictions pertaining to MMC Storefronts, which would minimize potential adverse impacts to the surrounding area. The proposed ordinance would allow for MMC Storefronts in appropriate areas while providing for safe access to medical marijuana as allowed under the Compassionate Use Act.

2.3.2 *The request is consistent with the Comprehensive Plan, the Coastal Land Use Plan, the requirements of State planning and zoning laws and this Article.*

The proposed ordinance amendments would require discretionary processing through a CUP under the jurisdiction of the Planning Commission for all MMC Storefronts. Discretionary projects are subject to review under the California Environmental Quality Act and associated findings. In order to approve an MMC Storefront, the review authority would have to find that the proposed development is consistent with the policies and development standards of the Comprehensive Plan, including the Coastal Land Use Plan, the requirements of state law, and the Article II Coastal Zoning Ordinance.

Adoption of the proposed ordinance would provide more effective implementation of the state health and safety, planning, and zoning laws by providing a discretionary MMC Storefront permit process. If no amendments are adopted and the existing moratorium expires in December, applicants would be able to apply for similar use determinations in any zone throughout the County. The proposed ordinance would not result in any inconsistencies with the adopted policies and development standards of the Comprehensive Plan, including the Coastal Land Use Plan, and would allow the County to protect public health and safety.

The proposed ordinance amendments are also consistent with the remaining portions of the Article II Coastal Zoning Ordinance that would not be revised by this ordinance. Therefore, this ordinance may be found consistent with the Comprehensive Plan, including the Coastal Land Use Plan, the requirements of state laws, and the Article II Coastal Zoning Ordinance.

2.3.3 *The request is consistent with good zoning and planning practices.*

The proposed project is consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values since it would provide for a MMC Storefront discretionary permit processes and add new development standards and restrictions pertaining to MMC Storefronts, which would serve to minimize potential adverse impacts to the surrounding area. As discussed in Finding 2.2.2, above, the amendments are consistent with the Comprehensive Plan, including the Coastal Land Use Plan, and the Article II Coastal Zoning Ordinance.