

ATTACHMENT 3

FINDINGS FOR APPROVAL OF CANNABIS BUSINESS LICENSE ORDINANCE April 10, 2018

1.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

1.1 FINDINGS PURSUANT TO PUBLIC RESOURCES CODE SECTION 21166 AND THE CEQA GUIDELINES SECTIONS 15162-15164:

1.1.1 RELIANCE ON PREVIOUSLY CERTIFIED PROGRAM ENVIRONMENTAL IMPACT REPORT (EIR)

On February 6, 2018, the Board of Supervisors (Board) certified the Final Programmatic EIR (Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016) for the Cannabis Land Use Ordinance and Licensing Program. Also, on February 6, 2018, the Board adopted a statement of overriding considerations. Both of these actions remain in full force and effect and are not proposed to be changed by the adoption of the proposed Cannabis Business License Ordinance. The State CEQA Guidelines Sections 15162 through 15164 and 15168(c) set forth the criteria for determining the appropriate additional environmental documentation, if any, to be completed when there is a previously certified EIR covering the project for which a subsequent discretionary action is required. In accordance with State CEQA Guidelines Section 15164(e) and 15168(c) the previously certified EIR is adequate without modification for the following reasons.

The present action consists of the adoption of a Cannabis Business License Ordinance that would: (1) add a local commercial cannabis business license ordinance to the County Code; and (2) include a complete outdoor cannabis cultivation ban in the Coastal Zone and limit the indoor cultivation of commercial cannabis to 186 acres within the area that is subject to the Carpinteria Agricultural (CA) Overlay District.

The adoption of the Cannabis Business License Ordinance was anticipated during the preparation of the EIR, as described in Chapter 1, *Introduction*, Page 1-1, and Chapter 2, *Project Description*, Pages 2-1, 2-40, 2-43, and 2-44. The project description set forth in the EIR did not include a complete outdoor cannabis cultivation ban in the Coastal Zone and limitation to indoor cultivation of commercial cannabis to 186 acres within the area that is subject to the CA Overlay. Therefore, the project description analyzed in the EIR would have allowed a greater amount of cannabis cultivation and resulted in a corresponding greater degree of environmental impacts than what will occur with the proposed Cannabis Business License Ordinance--particularly with regard to coastal resources and land use impacts associated with commercial cannabis cultivation activities located within proximity to sensitive receptors in the Carpinteria Valley and elsewhere in the Coastal Zone. Indeed, the EIR (Section 3.9, *Land Use and Planning*, page 3.9-48) acknowledges existing and prospective cannabis cultivators' desires to continue operating existing, and/or establish entirely new, commercial cannabis operations in the South Coast Region, much of which is located in the Coastal Zone. Furthermore, there is a unique concentration of greenhouses within the Carpinteria Valley and, more specifically, the CA Overlay, some of which are currently occupied by medicinal cannabis cultivators and contributing to acute land use incompatibilities

for surrounding residentially-developed areas due to cannabis odors. As discussed in Section 3.3, *Air Quality and Greenhouse Gas Emissions*, of the EIR, despite the imposition of feasible mitigation measures, impacts related to cannabis odors would be significant and unavoidable (Class I). Although cannabis odor impacts would remain significant and unavoidable with the ban on outdoor cultivation in the Coastal Zone and the 186-acre limitation on cannabis cultivation within the area subject to the CA Overlay, this ban and limitation on cannabis cultivation would further reduce odor impacts experienced in residential areas located within proximity to cannabis cultivation sites.

Furthermore, consistent with the California Coastal Act (Section 30240), a ban on outdoor commercial cannabis cultivation would reduce the potential for adverse impacts to environmentally sensitive habitat. More specifically, such a ban would avoid the direct conversion of environmentally sensitive habitat to actively cultivated agricultural lands, indirect conversion of environmentally sensitive habitat due to the introduction of exotic species, and habitat fragmentation, which could result from the outdoor cultivation of commercial cannabis.

The proposed project would revise and implement Mitigation Measure (MM) UE-2a that is set forth in Section 3.13, *Utilities and Energy Conservation*. MM UE-2a is designed to mitigate the impacts that would result from increased demand for new energy resources for commercial cannabis activities, to a less-than-significant level (Class II). MM UE-2a required (in pertinent part) that the Cannabis Land Use Ordinance require applicants to fully offset net energy demand of cannabis activities and provide 100% of the cannabis activity's electricity demand through the generation of alternative power onsite or through participation in renewable energy source programs and use of power from alternative energy sources. The proposed project would implement the mitigation requirements of MM UE-2a by including a new Section 50-10 in the Business License Ordinance that would require an applicant for a business license to develop an energy conservation plan that satisfies the requirements of MM UE-2a. Given that a business license would be required for the activities that warrant the development of an energy conservation plan, MM UE-2a is equally as effective as a requirement set forth in the Business License Ordinance as compared to a requirement set forth in the Cannabis Land Use Ordinance.

Furthermore, MM UE-2a was revised to be consistent with the requirements of the Santa Barbara County Energy and Climate Action Plan (ECAP) (May 2015), which was subject to environmental analysis pursuant to CEQA and set forth a greenhouse gases emissions reduction target of 15% below 2007 emissions levels by 2020. The Cannabis Land Use Ordinance and Licensing Program would allow existing medicinal cultivators who were in existence as of or following 2007 to continue operating, as well as allow entirely new commercial cannabis operations to operate, under the proposed new commercial cannabis regulations. Therefore, given the ECAP's 2007 baseline emissions inventory and standard, MM UE-2a has been modified as follows:

- For an operation site that involved energy usage in 2007, the operator must demonstrate that the proposed cannabis operation will achieve a 15% reduction in the energy usage in 2007.

- For an operation site that involved energy usage after, but not during, 2007, the operator must demonstrate that the proposed cannabis operation will achieve a 15% reduction in the average energy usage either (a) since the time at which energy usage began on the operation site or (b) during the 10 years prior to the date of the application, whichever is the shorter period of time.
- If no energy usage has occurred on the operation site, then 100% of the proposed operation's electrical demand shall be considered net energy demand.

MM UE-2b, which also was a mitigation measure set forth in Section 3.13, *Utilities and Energy Conservation*, required applicants to participate in a Regional Renewable Choice (RRC) program, Green Rate program, Community Renewable program, or similar equivalent renewable energy program, if feasible. Furthermore, MM-UE-2c, which also was a mitigation measure set forth in Section 3.13, *Utilities and Energy Conservation*, allowed applicants to participate in the Smart Build Santa Barbara (SB²) Program as part of the land use permit process. MM UE-2b and -2c stated that these requirements are to be set forth in the Cannabis Land Use Ordinance as requirements for a zoning permit for cannabis activities. However, the proposed project would implement the mitigation requirements of MM UE-2b and -2c by including a new Section 50-10 in the Business License Ordinance that would require an applicant for a business license to develop an energy conservation plan that satisfies the requirements of MM UE-2b and -2c. Given that a business license would be required for the activities that warrant the development of an energy conservation plan, MM UE-2b and -2c are equally effective as requirements set forth in the Business License Ordinance as compared to zoning permit requirements set forth in the Cannabis Land Use Ordinance.

Finding: The Board finds that there are no substantial changes in the project, no substantial changes in the circumstances under which the project is undertaken, and no new information which results in a new significant environmental effect or a substantial increase in the severity of a previously identified significant environmental effect since the certification of the Final Programmatic EIR (17EIR-00000-00003) dated December 2017, and the EIR Revision Letter (RV 01) dated January 31, 2018, for the project. In addition, the Board finds that no new effects would occur and no new mitigation measures would be required and adoption of the Business License Ordinance with the changes to the mitigation measures described above is within the scope of the project covered by the EIR and no new environmental document is required.

1.1.2 FULL DISCLOSURE

The Board finds that the previously certified EIR, appendices, and RV 01, along with these findings and the findings and statement of overriding consideration made by the Board on February 6, 2018, constitute a complete, accurate, adequate, and good faith effort at full disclosure pursuant to CEQA.

1.1.3 LOCATION OF RECORD OF PROCEEDINGS

The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Development Department located at 123 East Anapamu Street, Santa Barbara, CA 93101.

2.0 CANNABIS BUSINESS LICENSE ORDINANCE FINDINGS

The Cannabis Business License Ordinance will require cannabis operations within the unincorporated areas of the County Santa Barbara to first obtain a County cannabis business license in order to operate, includes license compliance standards and proposes caps on both cannabis cultivation outdoors in the Coastal Zone and indoors in the Carpinteria Agricultural Overlay and on storefront cannabis retail operations. The proposed ordinance and caps are necessary because of the nature of cannabis including public health and safety issues as well as the current federal status of cannabis. Under the federal Controlled Substances Act, cannabis is an illegal Schedule I controlled substance, meaning the federal government considers cannabis to be a drug that “has a high potential for abuse,” “has no currently accepted medical use” and “[t]here is a lack of accepted safety for use of the drug or other substance under medical supervision.” (21 U.S.C. § 812(b)(1)). California law is in conflict with federal law which creates additional risks to public health, safety and welfare.

The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), California Business and Professions Code §§ 26000 *et seq.*, allows the County to adopt and enforce local ordinances and licenses to regulate cannabis operations allowed under MAUCRSA or to completely prohibit such operations within the local jurisdiction. (Bus. & Prof. Code § 26200.) Accordingly, the Board finds that imposing caps will allow for regulated development that will limit excessive concentration and overburdening of the community with cannabis operations and associated negative impacts as identified in the EIR. Caps on cultivation in the Coastal Zone are necessary to protect visual resources in the Coastal Zone as the development standards in the County’s cannabis ordinances require safety and perimeter fencing on cultivation sites to protect the safety of the community, including minors. (EIR Section 3.1; Public Resources Code § 30251.) In addition, greenhouse cultivation is a preferred method of cultivation by the industry, particularly in the Coastal Zone, and the Carpinteria Agricultural Overlay Area current has both the highest concentration of greenhouses within the County and the highest concentration of temporary State licensed medical cannabis cultivators. (See March 20, 2018, Board Agenda Letter, hereby incorporated by reference.) In addition, the Board has received significant public comment from the residents of the Coastal Zone and the Overlay Area regarding the adverse impacts of cannabis cultivation in the area including, but not limited to, odor issues. (See public comment from the more than 27 public meetings as listed in February 6, 2018 Board Agenda Letter and hereby incorporated by reference.) The Board finds that imposing these caps is in the interest of protecting the public health, safety and general welfare.