

ATTACHMENT 1: FINDINGS FOR APPROVAL

CASE NO. 19ORD-00000-00009

1.0 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

1.1 FINDING THAT A PREVIOUS ENVIRONMENTAL DOCUMENT CAN BE USED [State CEQA Guidelines Sections 15162 and 15168(c)(2)]

On February 6, 2018, the Board of Supervisors certified the Final Program Environmental Impact Report (EIR) for the Cannabis Land Use Ordinance and Licensing Program (Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016) and adopted a Statement of Overriding Considerations. The EIR, EIR appendices, and EIR Revision Letter (RV 01), for the Cannabis Land Use Ordinance and Licensing Program identified several environmental impacts which could not be fully mitigated and, therefore, were considered unavoidable (Class I). These impacts involved: agricultural resources; air quality and greenhouse gas emissions; noise; transportation and traffic; and aesthetic and visual resources. To the extent the impacts remained significant and unavoidable, such impacts were considered acceptable when weighed against the overriding social, economic, legal, technical, and other considerations set forth in the Statement of Overriding Considerations. For each of these Class I impacts described in the EIR, feasible changes or alterations were required in, or incorporated into, the Cannabis Land Use Ordinance and Licensing Program which avoided or substantially lessened the significant environmental effects to the maximum extent feasible. The Final Program EIR is available for review at <http://cannabis.countyofsb.org/zones.sbc>.

The Board of Supervisors finds that the Final Program EIR adopted for the Cannabis Land Use Ordinance and Licensing Program fulfills the environmental review requirements for the proposed County Land Use and Development Code (LUDC) amendments (Case No. 19ORD-00000-00009). The proposed LUDC amendments will change the current commercial cannabis zoning regulations that apply to the Inland Area of the unincorporated county, as follows:

- The proposed LUDC amendments would prohibit commercial cannabis activities within Existing Developed Rural Neighborhoods (EDRNs). Currently, commercial cannabis activities are allowed within an EDRN subject to the approval of a Major Conditional Use Permit (CUP).
- On lots zoned Agricultural II (AG-II), projects that include a proposed cultivation area that exceeds 51% of the subject lot area will require the approval of a Major CUP, rather than a Land Use Permit (LUP) as is currently required for certain projects that are located within the AG-II zone.
- The proposed LUDC amendments would require cannabis cultivation areas to be setback a minimum of 50' from all lot lines.
- The proposed LUDC amendments would require processing (i.e., the drying, curing, and/or trimming) of harvested cannabis to be either: (1) located within an enclosed structure which utilizes best available control technology; or (2) subject to techniques and/or include the use of equipment that achieves an equivalent or greater level of odor

control as could be achieved using an enclosed structure which utilizes best available control technology. Currently, processing activities may be located outdoors without the use of such technology, if the project complies with the odor development standard set forth in LUDC Section 35.42.075.C.6 (if applicable).

The proposed LUDC amendments would apply to all commercial cannabis activities except for commercial cannabis activities that are the subject of either an issued permit or a “final approved permit” which would be defined as a permit that has been:

- (1) approved and the appeal period has expired without an appeal;
- (2) approved on appeal with a final decision rendered by the County on the permit application by the effective date of the LUDC amendments; or
- (3) approved and subject to litigation, which if upheld by the Court would be exempt from the LUDC amendments, but if not upheld by the Court would be subject to the LUDC amendments.

State CEQA Guidelines Section 15168 and 15162 provide guidance on the use of a program EIR for later activities in the program that is the subject of the program EIR. State CEQA Guidelines Section 15168(c)(2) state:

If the agency finds that pursuant to Section 15162, no subsequent EIR would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Whether a later activity is within the scope of a program EIR is a factual question that the lead agency determines based on substantial evidence in the record. Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.

State CEQA Guidelines Section 15162 provides (in pertinent part) that the lead agency shall not prepare a subsequent EIR for a project when the lead agency or another entity has already adopted an EIR for that project, unless one or more of the following have occurred: (1) substantial changes are proposed which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; (2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or (3) new information of substantial importance which was not known and could not have been known at the time the previous EIR was adopted has become available.

The proposed changes that constitute the proposed LUDC amendments would not result in the need for the preparation of a subsequent EIR, pursuant to the requirements of State CEQA Guidelines Section 15162. The prohibition on commercial cannabis activities within EDRNs would reduce the amount of land that could be subject to commercial cannabis activities by approximately 25,047 acres (39 square miles). Certain areas within EDRNs exhibit steep slopes, sensitive biological resources, unique visual/scenic resources, existing inadequate access, and/or

limited water supplies; the prohibition on commercial cannabis activities within EDRNs would eliminate the potential for new commercial cannabis projects that could result in adverse effects associated with these environmental issues and resources.

Furthermore, the change to the permitting requirement for certain cannabis projects on AG-II-zoned lots that include a cultivation area that occupies over 51% of the subject lot area, would not result in adverse environmental effects. A Major CUP, as compared to a LUP, affords decision-makers greater discretion to determine whether a proposed project is suitable for a particular project site, given additional findings that must be made in order to approve a conditionally-permitted use. As such, decision-makers could consider site-specific environmental conditions when determining the suitability of, and when applying conditions of approval to, a proposed project, thereby avoiding adverse environmental effects which might not otherwise be avoidable if a LUP is required for the proposed commercial cannabis activity.

The proposed LUDC amendments that would require cannabis cultivation areas to be located a minimum of 50-feet from lot lines, would limit the total area eligible for cultivation and result in a corresponding decrease in environmental impacts, as compared to the project description that was the subject of the Final Program EIR. The project description that was the subject of the Final Program EIR assumed that cannabis cultivation areas would be treated the same way that non-cannabis crop production is treated in the LUDC with regard to setbacks (i.e., no setback from lot lines would be required). As such, the proposed, new setback requirement would reduce the amount of area eligible for cannabis cultivation and the corresponding environmental impacts that were disclosed in the Final Program EIR, and is unlikely to create a new environmental impact that was not previously disclosed in the Final Program EIR.

The proposed changes to require processing activities to be located within an enclosed building using best available odor control technology will further limit odor impacts from commercial cannabis activities. However, these changes to the odor control requirements also could result in the development of new buildings in which to conduct processing activities, or new vehicle miles traveled if harvested cannabis is shipped to an off-site location to be processed. Although this development and the corresponding impacts would not otherwise occur if outdoor processing is allowed, they are not new or more severe environmental impacts than what was disclosed in the Final Program EIR. The project description that was the subject of the Final Program EIR was sufficiently broad in scope to capture the level of building development and vehicle miles traveled which could result if processing activities must be located within an enclosed building using best available odor control technology. Consequently, the environmental impacts (e.g., impacts to scenic/visual resources from building-related development, and energy-related impacts from the use of odor control-related equipment) which could result from the proposed changes would not be new or more severe than the environmental impacts disclosed in the Final Program EIR.

The proposed LUDC amendments were within the scope of the project covered by the Final Program EIR. The project analyzed in the Final Program EIR included zoning ordinance amendments to establish permitting requirements and development standards that would apply to commercial cannabis activities. As stated above, the project description set forth in the Program EIR was purposefully written to be broad, in order to give decision-makers options with regard to the specific zoning regulations that they could adopt in reliance on the environmental analysis set forth in the Program EIR. The proposed LUDC amendments include changes to the

specific zoning regulations to provide further limitations on commercial cannabis than what is currently provided in the LUDC. Furthermore, the amendments: apply to a portion of the same geographical area analyzed in the Final Program EIR (i.e., the Inland Area of the unincorporated county); would allow land uses that were the subject of the Final Program EIR; would not increase the planned density and building intensity of the project that was analyzed in the Final Program EIR; and involves the same type of infrastructures analyzed in the Final Program EIR [State CEQA Guidelines Section 15168(c)(2)].

Therefore, the proposed amendments are within the scope of the program EIR approved earlier, and it adequately describes the activity for the purposes of CEQA, pursuant to CEQA Guidelines Section 15168(c)(2). The proposed LUDC amendments will not allow new land uses, increase permitted densities, or otherwise alter the purpose or intent of the LUDC cannabis regulations. Furthermore, the proposed LUDC amendments will not result in new adverse environmental effects which were not previously disclosed in the Final Program EIR, and will not increase the severity of environmental effects identified in the Final Program EIR. The Board of Supervisors finds that no new environmental document is required and that the proposed LUDC amendments do not require subsequent environmental review pursuant to CEQA Guidelines Section 15162 and 15168(c)(2).

2.0 ADMINISTRATIVE FINDINGS

In compliance with LUDC Section 35.104.060.A (Findings for Comprehensive Plan, Development Code and Zoning Map Amendments), the Board of Supervisors shall make the following findings in order to approve a text amendment to the LUDC.

2.1 The request is in the interest of the general community welfare.

The proposed LUDC amendments are in the interest of the general community welfare since the amendments will serve to clarify the permit types and standards for commercial cannabis activities, and would address community complaints and concerns as raised during and as analyzed by the County Planning Commission on January 22, 2020, January 29, 2020, February 5, 2020, March 4, 2020, and March 25, 2020, as well as the Board of Supervisors on June 2, 2020, June 11, 2020, and July 14, 2020, and incorporated by reference. As described in Section 1.1 of these findings (above), the LUDC amendments would: prohibit commercial cannabis activities in EDRNs; establish new permitting requirements for projects in the AG-II zone that involve cultivation areas that occupy greater than 51% of the subject lot area; establish a 50-foot setback from lot lines for cultivation areas; require processing activities to be located indoors using best available technology to control odors, or utilize technology and/or practices to achieve at least an equivalent amount of odor control to what can be achieved indoors using best available control technology; and not apply to commercial cannabis activities that are subject to either an issued permit or final approved permit. The LUDC amendments would further limit cannabis development and result in a corresponding decrease in environmental impacts. Furthermore, for projects that would be subject to a Major CUP (rather than an LUP) as a result of the LUDC amendments, decision-makers would be afforded greater discretion to apply conditions of approval to proposed commercial cannabis activities in order to make them compatible with the surrounding neighborhood, and ensure that they do not compromise the general community welfare. Therefore, the proposed amendments will be consistent with the requirements of this finding.

2.2 The request is consistent with the Comprehensive Plan (including the LUDC) and the requirements of State planning and zoning laws.

The Board of Supervisors-adopted LUDC cannabis regulations establish standards that are designed to protect the public health, safety, and welfare, enact strong and effective regulatory and enforcement controls, as a result of, and in compliance with, State law, protect neighborhood character, and minimize potential for negative impacts on people, communities, and the environment, by establishing minimum land use requirements for medicinal and adult use cannabis activities including cultivation, processing, distribution, manufacturing, testing, and sales.

The proposed LUDC amendments, as analyzed in the Board Agenda Letter, dated July 14, 2020, and incorporated by reference, prevents development which may be inconsistent with the Comprehensive Plan and provide more effective implementation of the LUDC zoning requirements for commercial cannabis cultivation and related on-site processing. The proposed ordinance amendments will prohibit commercial cannabis activities within EDRNs, some of which exhibit environmental constraints and hazards (e.g., steep slopes, sensitive biological resources, and limited groundwater supplies) that are un conducive to commercial cannabis activities and would warrant development that could be found inconsistent with certain Comprehensive Plan policies and development standards (e.g., policies and development standards to protect environmentally sensitive habitat or discourage grading on steep slopes).

Furthermore, the proposed LUDC amendments would improve commercial cannabis activities' compatibility with surrounding legally-established uses. The new requirement for a 50-foot setback from lot lines which would apply to cultivation areas, would provide a buffer between cannabis cultivation areas and off-site agricultural activities which can be incompatible with cannabis cultivation (e.g., pesticide application). In doing so, the proposed LUDC amendments are consistent with the goals and policies to protect and enhance agriculture in the county. In addition, the new requirement to locate processing activities within an enclosed building using best available odor control technology will reduce the odor impacts of commercial cannabis activities, making them more compatible with existing, legally-established land uses (e.g., urban and residentially-developed areas) located within the vicinity of commercial cannabis activities.

Finally, the processing of the proposed LUDC amendments complied with the procedural requirements for a zoning ordinance amendment set forth in Government Code Sections 65854-65857.

Therefore, the proposed ordinance amendments would be consistent with the Comprehensive Plan including the Community Plans, the requirements of State Planning and Zoning Laws, and the LUDC.

2.3 The request is consistent with good zoning and planning practice.

The proposed LUDC amendments, as discussed in these findings (above) and the Board Agenda Letter, dated July 14, 2020, and hereby incorporated by reference, are consistent with sound zoning and planning practices to regulate land uses for the overall protection of the environment and community values. The amendments provide clear direction regarding permit requirements

for commercial cannabis activities, which serve to minimize potential adverse impacts on people, communities, and the environment. The proposed LUDC amendments would: prohibit commercial cannabis activities in EDRNs; establish new permitting requirements for projects in the AG-II zone that involve cultivation areas that occupy greater than 51% of the subject lot area; establish a 50-foot setback from lot lines for cultivation areas; require processing activities to be located indoors using best available technology to control odors, or utilize technology and/or practices to achieve at least an equivalent amount of odor control to what can be achieved indoors using best available control technology; and not apply to commercial cannabis activities that are subject to either an issued permit or final approved permit. In effect, the proposed LUDC amendments will further limit commercial cannabis activities, and will afford decision-makers with greater discretion to apply conditions to certain commercial cannabis activities to make them more suitable with their surroundings. As discussed in Finding 2.2, above, the proposed LUDC amendments are consistent with the Comprehensive Plan (including the LUDC), and good zoning and planning practice. Therefore, the proposed ordinances are consistent with sound zoning and planning practices to regulate land uses.