

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, 11ORD-00000-00029, 11ORD-00000-00030, and 11ORD-00000-00031, 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 (11ORD-00000-00029)

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 storefront dispensaries has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. Medical Marijuana Dispensary (MMD) storefronts have, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated MMDs have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.¹ The proposed ordinance prohibition would be enacted as a health and safety measure pursuant to the County's police power and would prohibit the permitting of MMDs throughout the county. Currently there is a moratorium which expires in December 2011. If the proposed amendments are not adopted, since MMDs are not an enumerated use in the zoning ordinances, applicants would be able to apply for similar use determinations in any zone throughout the County after the moratorium expires.

The MMD prohibition is initiated based on evidence presented at public hearings during the interim moratorium and ordinance adoption process,² conflict between state and federal law, and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments prohibiting MMDs are in the interest of the general community welfare since the LUDC amendments would ban MMDs thus preserving community values and public health and safety.

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

² Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010, and October 4, 2011.

The proposed ordinance amendments would not affect non-storefront collectives and cooperatives, which could continue to provide access to medical marijuana as allowed under the Compassionate Use Act and as regulated by other laws. As discussed in Section 5.2.3 of the staff report, and incorporated herein by reference, the ban of MMDs is consistent with federal law.

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.

Adoption of the proposed prohibition would allow continued implementation of existing State health and safety, planning, and zoning laws. 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, and public health and safety. 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-00000-00030)

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 MMDs has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. These MMDs have, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated MMDs have with been shut down or are under investigation for sale of illegal

drugs, money laundering, and illegal firearms.³ The proposed ordinance prohibition would be enacted as a health and safety measure pursuant to the County's police power and would prohibit the permitting of MMDs throughout the county. Currently there is a moratorium which expires December 6, 2011. If the proposed amendments are not adopted, since MMDs are not an enumerated use in the zoning ordinances, applicants would be able to apply for similar use determinations in any zone throughout the County after the moratorium expires.

The prohibition on MMDs is initiated based on evidence presented at public hearings during the interim moratorium and ordinance adoption process,⁴ conflict between state and federal law, and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments prohibiting MMDs are in the interest of the general community welfare since the Montecito LUDC amendments would ban Medical Marijuana Dispensaries thus preserving community values, environmental quality, and public health and safety.

The proposed ordinance amendments would not affect non-storefront collectives and cooperatives, which could continue to provide access to medical marijuana as allowed under the Compassionate Use Act and as regulated by other laws. As discussed in Section 5.2.3 of the staff report, and incorporated herein by reference, the ban of MMDs is consistent with federal law.

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.

Adoption of the proposed prohibition would allow continued implementation of existing State health and safety, planning, and zoning laws. 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.

³ County Sheriff testimony at the Board of Supervisors December 8, 2009 and October 4, 2011.

⁴ Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010 and October 4, 2011.

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, and public health and safety. 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-00000-00031)

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 MMDs has occurred in California and in Santa Barbara County creating the need for regulating these new uses in zoning. These MMDs have, according to the Sheriff's Office, resulted in negative and harmful secondary effects, including criminal activity. County-wide, several unregulated MMDs have with been shut down or are under investigation for sale of illegal drugs, money laundering, and illegal firearms.⁵ The proposed ordinance prohibition would be enacted as a health and safety measure pursuant to the County's police power and would prohibit the permitting of MMDs throughout the county. Currently there is a moratorium which expires December 6, 2011. If the proposed amendments are not adopted, since MMDs are not an enumerated use in the zoning ordinances, applicants would be able to apply for similar use determinations in any zone throughout the County after the moratorium expires.

The prohibition on MMDs is initiated based on evidence presented at public hearings during the interim moratorium and ordinance adoption process,⁶ conflict between state and federal law, and the *White Paper on Marijuana Dispensaries* by the California Police Chiefs Association's Taskforce on Marijuana Dispensaries.

The proposed ordinance amendments prohibiting MMDs are in the interest of the general community welfare since the LUDC amendments would ban Medical Marijuana Dispensaries thus preserving community values and public health and safety.

⁵ County Sheriff testimony at the Board of Supervisors December 8, 2009 and October 4, 2011.

⁶ Board of Supervisors hearings on January 19, 2010; February 16, 2010; and December 7, 2010 and October 4, 2011.

The proposed ordinance amendments would not affect non-storefront collectives and cooperatives, which could continue to provide access to medical marijuana as allowed under the Compassionate Use Act and as regulated by other laws. As discussed in Section 5.2.3 of the staff report, and incorporated herein by reference, the ban of MMDs is consistent with federal law.

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.*

Adoption of the proposed prohibition would allow continued implementation of existing State health and safety, planning, and zoning laws. 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 LUDC 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 law, the LUDC, 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, and public health and safety. 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.