



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning & Development
Department No.: 053
For Agenda Of: February 27, 2018
Placement: Departmental
Estimated Time: 0.5 hours
Continued Item:
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn S. Russell, Ph.D., Director, Planning and Development
Director(s) (805) 568-2085
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning
(805) 568-2072
SUBJECT: Reconsideration of Cannabis Land Use Ordinances

County Counsel Concurrence

As to form: Yes

Other Concurrence:

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors (Board):

Reconsider Case Nos. 17ORD-00000-00004 and 17ORD-00000-00010, which the Board adopted on February 6, 2018, to amend, respectively, the County Land Use and Development Code (LUDC), and the Article II Coastal Zoning Ordinance (CZO), to establish regulations for cannabis.

The Board should take the following specific actions:

- a) Make the required findings for approval for the ordinance revisions, including California Environmental Quality Act (CEQA) findings (Attachment 1), and determine that the Board previously adopted a statement of overriding considerations covering the entire Cannabis Land Use Ordinance and Licensing Program which remains in effect and requires no changes.
- b) Adopt an ordinance (Case No. 17ORD-00000-00004) amending Section 35-1 of the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code (Attachment 2B).

- c) Adopt an ordinance (Case No. 17ORD-00000-00010) amending Section 35 of the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code (Attachment 3B)

- d) Determine for purposes of CEQA that:
 - i. Adoption of the Land Use and Development Code (Case No. 17ORD-00000-00004) is within the scope of the program approved earlier, and the Cannabis Land Use Ordinance and Licensing Program Final Programmatic Environmental Impact Report (PEIR) [Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016] (Attachment 4) adequately describes the activity for the purposes of CEQA; and
 - ii. Pursuant to CEQA Guidelines section 15162(a), after considering the PEIR certified by the Board of Supervisors on February 6, 2018, that no subsequent EIR or Negative Declaration is required because: i) no substantial changes are proposed which require major revisions of the PEIR; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR; and iii) no new information of substantial importance concerning the ordinance's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified, has been received.
 - iii. Adoption of the Coastal Zoning Ordinance, Case No. 17ORD-00000-00010, remains exempt from CEQA pursuant to CEQA Guidelines section 15265 (Attachment 5).

- e) Resolution Transmitting Case No. 17ORD-00000-00010 (CZO) to the Coastal Commission.
 - i. Adopt a resolution transmitting Case No. 17ORD-00000-00010 (CZO) to the Coastal Commission for certification by the California Coastal Commission as an amendment to Santa Barbara County's certified Local Coastal Program (Attachment 6);
 - ii. Find that transmittal of the Resolution is an administrative activity of the County, which will not result in direct or indirect physical changes in the environment and is therefore not a "project" as defined for purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5); and
 - iii. Direct the Planning and Development Department to transmit the adopted Resolution to the Executive Director of the Coastal Commission.

Summary Text:

At the February 6, 2018, hearing on the cannabis land use ordinances, the Board's adopted motion included the following changes to the County Planning Commission recommended cannabis land use ordinances:

- a. Revise the CZO (subsection 35-144U.D.1.m) and the LUDC (subsection 35.42.075.D.1.m) to specify that cannabis cultivation on properties (a) zoned Agriculture II (AG-II) and (b) located adjacent to the Urban/Rural boundary lines or an Existing Developed Rural Neighborhood (EDRN), require the approval of a Conditional Use Permit (CUP).

- b. Revise the CZO (subsection 35-144U.D.6) and the LUDC (subsection 35.42.075.D.6) to remove the requirement for an odor abatement plan for the cultivation of cannabis on properties zoned AG-II, unless cannabis cultivation requires the approval of a CUP.

However, the adopted ordinance amendments stated that the changes in “a” and “b” above, only applied to the *outdoor* cultivation of cannabis. In doing so, the effect is that odor abatement would not be required for indoor or mixed-light cultivation of cannabis. The attached ordinances also correct some footnotes in the ordinances.

In addition, the Board specified that Nurseries shall have a buffer of 600 feet from property line to premise. This provision was added as a footnote in the land use tables; however, some of the numbering of the footnotes for this buffer was found to be incorrect, and the entire footnote was inadvertently omitted from one of the tables.

The clarified language for above and the revised numbering of the footnotes in the land use tables, are provided in Attachments 2A and 3A with additions shown in red underline and deletions shown in red strikethrough. Reconsideration of the LUDC and CZO to approve the changes should occur prior to March 8, 2018, which otherwise would be the effective date of those ordinances.

Background:

In addition to adopting the LUDC and CZO cannabis amendments, at the February 6, 2018, hearing the Board also took the following actions which are not recommended for further change:

- Made the required findings for approval for the proposed ordinances and resolutions, including California Environmental Quality Act (CEQA) findings and the statement of overriding considerations (Case Nos. 17ORD-00000-00009, 17ORD-00000-00019, and 18ORD-00000-00001).
- Adopted an ordinance (Case No. 17ORD-00000-00009) amending Section 35-2 of the Santa Barbara County Montecito LUDC, of Chapter 35, Zoning, of the County Code.
- Adopted an ordinance (Case No. 18ORD-00000-00001) amending and partially rescinding Article X, Medical Marijuana Regulations, of Chapter 35, Zoning, of the County Code.
- Certified the Cannabis Land Use Ordinance and Licensing Program Final Programmatic Environmental Impact Report (EIR) (Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016) and the associated revision letter (RV 01) for Case Nos. 17ORD-00000-00009, 17ORD-00000-00019, and 18ORD-00000-00001, and adopt the mitigation monitoring and reporting program as incorporated in the above referenced ordinances pursuant to the State CEQA Guidelines.

Environmental Review

The Cannabis Land Use Ordinances and Licensing Final Program Environmental Impact Report (EIR) (Attachment 4), along with the associated revision letter (RV 01), was certified on February 6, 2018. The changes described in this Board Letter and shown in the attached LUDC (Attachment 2A) are adequately covered by the Program EIR. In addition, the changes shown in the CZO (Attachment 3A) are exempt from CEQA pursuant to State CEQA Guidelines section 15265, as described in the Notice of Exemption (Attachment 5).

Fiscal Analysis

The fiscal impacts associated with the cannabis land use ordinances are described in the Board Letter dated February 6, 2018 (Attachment 7). No additional impacts would result from the minor changes proposed under this reconsideration of Case Nos. 17ORD-00000-00004 and 17ORD-00000-00010.

Special Instructions

Planning and Development staff will fulfill noticing requirements. The Clerk of the Board shall provide a copy of the Ordinance amendments and Board Minute Order(s) to Planning and Development, Attn.: David Villalobos.

Attachments:

1. Findings for Approval
- 2A. Reconsideration of the LUDC (Case No. 17ORD-00000-00004)
- 2B. Ordinance amending the LUDC (Case No. 17ORD-00000-00004)
- 3A. Reconsideration of the CZO (Case No. 17ORD-00000-00010)
- 3B. Ordinance amending the CZO (Case No. 17ORD-00000-00010)
4. Link to Final Program Environmental Impact Report (EIR) (Case No. 17EIR-00000-00003)
5. Notice of Exemption for Case No. 17ORD-00000-00010
6. Resolution Transmitting Case No. 17ORD-00000-00010 to the Coastal Commission for certification
7. Link to Board Agenda Letter for February 6, 2018

Authored by:

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