



**COUNTY OF SANTA BARBARA
PLANNING AND DEVELOPMENT**

MEMORANDUM

TO: Board of Supervisors

FROM: Lisa Plowman, Planning Director

DATE: June 26, 2019

HEARING DATE: July 9, 2019

RE: Cannabis Ordinance Amendments Board Agenda Letter

On June 18, 2019, the Board of Supervisors took action to set a hearing on the proposed cannabis ordinance amendments for July 9, 2019. Planning and Development Staff is providing the Board with one additional recommended action for consideration at the hearing on July 9, 2019.

This memo provides the revised recommended actions for the July 9, 2019 Board Agenda Letter for the Cannabis Ordinance Amendments and information on the general legal framework by which the Board of Supervisors may regulate cannabis activities.

Recommended Actions

Recommended action “c” has been added to the “Recommended Actions” Section on page 2 of the Cannabis Ordinance Amendments Board Agenda Letter. The revised recommended actions are as follows (additional recommended action shown in bold/underline format below):

Pursuant to the Planning Commission’s recommendation, on July 9, 2019, the Board’s action should include the following:

- a) **LUDC Amendment (Case No. 19ORD-00000-00001):**
 - i) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings (Attachment 1);
 - ii) After considering the Final Program Environmental Impact Report (EIR) adopted for the Cannabis Land Use Ordinance and Licensing Program (17EIR-00000-00003) (Attachment 2), determine that as reflected in the CEQA findings (Attachment 1), no subsequent environmental document shall be prepared for this project pursuant to CEQA Guidelines Section 15162); and adoption of the LUDC Amendment (Case No. 19ORD-00000-00001) is within the scope of the program approved earlier, and the Final Program EIR adopted for the Cannabis Land Use Ordinance and Licensing

Program (17EIR-00000-00003) (Attachment 2) adequately describes the activity for the purposes of CEQA pursuant to CEQA Guidelines Section 15168(c)(2); and

- iii) Adopt the ordinance (Case No. 19ORD-00000-00001) to amend the LUDC, which is included as Attachment 3 to this Board letter.
- b) Article II Amendment (Case No. 19ORD-00000-00002):
- i) Make the required findings for approval, including CEQA findings (Attachment 1);
 - ii) Find, pursuant to CEQA Guidelines Section 15265 the preparation, approval, and certification of a LCP Amendment is exempt from the requirements of CEQA because the California Coastal Commission's review and approval process has been certified by the Secretary of Resources as being the functional equivalent of the environmental review process required by CEQA in Sections 21080.5 and 21080.9 of the Public Resources Code;
 - iii) Adopt the ordinance (Case No. 19ORD-00000-00002) to amend Article II, which is included as Attachment 4 to this Board letter;
 - iv) Adopt a resolution authorizing submittal of the Cannabis Ordinance Amendment to the California Coastal Commission (Coastal Commission) for certification as an amendment to the Santa Barbara County Local Coastal Program (Attachment 5); and
 - v) Direct the Planning and Development Department to transmit the adopted resolution to the Executive Director of the Coastal Commission.

c) Provide any other direction to staff to amend the County's Land Use and Development Code and/or Article II - Coastal Zoning Ordinance in regards to cannabis.

General Legal Framework

California Business and Professions Code § 26200(a)(1) provides that the County may adopt local ordinances to regulate cannabis activities including through "zoning and land use requirements, business license requirements, and requirements related to reducing exposed to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses." Through County Code Chapters 35 and 50, the County established dual permitting and licensing requirements for cannabis operations to legally operate in the County.

The County may further amend its ordinances that regulate cannabis activities. Property owners do not "vest" to existing zoning or anticipated zoning. After receiving a permit and performing substantial work and incurring substantial liabilities in good faith reliance on the permit, though, property owners may acquire a vested right. The County's land use codes also provide

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“nonconforming use” regulations for the continuation of established land uses that were lawful before later amendments prohibited or further restricted those land uses.

The County cannot adopt another general moratorium on cannabis operations. This is because the County already adopted a general moratorium on cannabis operations in 2017, which was ultimately terminated by the County’s adopted cannabis regulatory program. Under Government Code § 65858(e), no further moratorium covering the whole or part of the same property is available after the expiration of the prior moratorium. In addition, the County cannot simply put a temporary stop or freeze on acceptance of cannabis applications.

The County’s zoning ordinances regulate cannabis in both the Inland Zone and Coastal Zone. Any ordinance changes to cannabis-related development in the Coastal Zone generally must first be certified by the California Coastal Commission before taking effect, because these likely would bring a “change in the density or intensity of use of land.” Accordingly, any further odor control ordinance restrictions in the Coastal Zone likely would require Coastal Commission action.