



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 and Development
Department No.: 053
For Agenda Of: October 22, 2018
Placement: Departmental
Estimated Time: 1 hour
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne M. Black, Director, Planning and Development
Director (805) 568-2086
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning
(805) 568-2072
SUBJECT: California Coastal Commission Certification of an Amendment to the Local Coastal Program – Cannabis Land Use Ordinance, Countywide

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: No

Other Concurrence: N/A

As to form: No

Recommended Actions:

On October 22, 2018, the Board of Supervisors (Board) should take the following actions regarding the California Coastal Commission's certification with modifications of an amendment to the Implementation Plan (IP) component of the County's Local Coastal Program (LCP) regarding the Cannabis Land Use Ordinance.

- a) Receive notice of the California Coastal Commission's certification with four suggested modifications of an amendment to the County's Local Coastal Program (California Coastal Commission Case No. LCP-4-STB-18-0039-1-Part C Cannabis Regulations) (Attachment 1);
- b) Adopt a resolution acknowledging receipt of the California Coastal Commission's resolution of conditional certification, including any terms or modifications suggested for final certification, accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications, agrees to issue Coastal Development Permits for the total area included in the certified Local Coastal Program, and adopts the Local Coastal Program Amendment with the suggested modification (Attachment 2);
- c) Determine that the Board of Supervisors' action is not subject to the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 20180.9. In addition, the changes proposed through the Local Coastal Program Amendment for the Coastal Zoning Ordinance

(17ORD-00000-00010) are exempt from CEQA pursuant to the State CEQA Guidelines section 15265; and

- d) Direct the Planning and Development Department to transmit the adopted resolution to the Executive Director of the California Coastal Commission.

Summary Text:

On October 10, 2018, the Coastal Commission certified the Cannabis Land Use Ordinance as an amendment to the County's Local Coastal Program, subject to four modifications. The four modifications are presented in Attachment 1 (Coastal Commission Action letter dated October 11, 2018), discussed in depth in Attachment 3 (Coastal Commission Staff Report and Exhibits dated September 27, 2018, and Staff Report Addendum, dated October 8, 2018), and summarized in this Board letter below.

The Coastal Commission's conditional certification will expire on April 10, 2019, six months following the date of the Coastal Commission's actions on October 10, 2018, unless prior to that date the Board acts to accept the modifications. The Board has the following options if it does not accept the suggested modifications:

- Reject the modifications, direct County staff to prepare amendments to address the suggested modifications for the Board's approval, and re-submit the amended Cannabis Land Use Ordinance for certification as a new Local Coastal Program Amendment.
- Reject the modifications without adopting any amendments to the suggested modifications and request that the Coastal Commission not certify the Cannabis Land Use Ordinance.
- Allow the Coastal Commission's certification with the suggested modifications to expire by taking no action prior to April 10, 2019.

Staff recommends that the Board accept the modifications and communicate this decision to the Executive Director of the Coastal Commission for the Coastal Commission's final certification of the modified Local Coastal Program Amendment.

Background:

A. Project Recap

On February 6, 2018, the Board made the required findings for approval, 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 adopted the following zoning ordinances:

- a. Ordinance No. 5022 (Case No. 17ORD-00000-00004) that amended Section 35-1 of the Santa Barbara County Land Use & Development Code (LUDC), of Chapter 35, Zoning, of the County Code to allow certain commercial cannabis activities in the Inland portion of the County.
- b. Ordinance No. 5023 (Case No. 17ORD-00000-00010) that amended Section 35 of the Santa Barbara County Coastal Zoning Ordinance (CZO), of Chapter 35, Zoning, of the County Code to allow commercial cannabis activities in the Coastal Zone of the County.
- c. Ordinance No. 5024 (Case No. 17ORD-00000-00009) that amended Section 35-2 of the Santa Barbara County Montecito Land Use & Development Code (MLUDC), of Chapter 35 Zoning, of

the County Code that prohibited commercial cannabis activities in the Inland portion of the Montecito Community Plan area.

- d. Ordinance No. 5025 (Case No. 18ORD-00000-00001) that amended and partially rescinded Article X, Medical Marijuana Regulations, of Chapter 35, Zoning, of the County Code.

On February 27, 2018, the Board reconsidered and adopted specific changes (e.g., to clarify certain prohibitions and permitting requirements for outdoor cultivation on AG-I lands located near urban areas) to the LUDC and CZO amendments that the Board originally adopted on February 6, 2018.

In addition to the adoption of the zoning ordinances related to cannabis, on May 1, 2018, the Board adopted Ordinance No. 5037 which added a new Chapter 50, Licensing of Cannabis Operations, to the County Code, thereby creating business licensing procedures for commercial cannabis activities which complement the cannabis zoning ordinance regulations.

On May 15, 2018, the Board adopted Resolution No. 18-115 and directed staff to submit the CZO amendments (Ordinance No. 5028) to the Executive Director of the California Coastal Commission, for the Coastal Commission's consideration of certification. On May 21, 2018, County staff submitted the CZO amendments and accompanying documents for the Coastal Commission's review and certification. On September 27, 2018, the Coastal Commission staff issued a staff report with suggested modifications to the Cannabis Land Use Ordinance (discussed below) and, on October 10, 2018, the Coastal Commission certified the CZO amendments subject to the suggested modifications.

Coastal Commission Modifications Summary and Decision-Making Options

The Coastal Commission certified the Local Coastal Program amendment regarding the Cannabis Land Use Ordinance subject to four suggested modifications, which are summarized below and described in detail in Attachment 1 (Coastal Commission Action letter dated October 11, 2018) and Attachment 3 (Coastal Commission Staff Report and Exhibits dated September 27, 2018, and Staff Report Addendum, dated October 8, 2018).

- Modification No. 1: Modification No. 1 (1) added definitions for "Canopy" and "Commercial cannabis operation" that are set forth in the Business Licensing Ordinance, to the CZO, (2) revised the definitions of "Commercial cannabis activity," "Distribution," "Personal Use," "Premises," and "Retail," and (3) deleted the definitions of "Medical Marijuana," "Medical Marijuana Dispensary," "Medical Marijuana Cooperative," and "Medical Marijuana Collective." The addition, revision, or deletion of these terms would not substantively change the Board's originally-adopted amendments to the CZO regarding cannabis.
- Modification No. 2: Modification No. 2 included a number of changes to text that (1) is unrelated to the cannabis ordinance and was pending at the time staff submitted the cannabis ordinance to the Coastal Commission for certification, but (2) has not yet been, or was not, certified (e.g., text regarding homestays, short-term rentals, and agricultural employee dwellings). Therefore, the changes resulting from Modification No. 2 would not substantively change the Board's originally-adopted amendments to the CZO regarding cannabis.
- Modification No. 3: Modification No. 3 includes a number of changes to the new Section 35-144U, Cannabis Regulations, that sets forth the general regulations for commercial cannabis development in the Coastal Zone. Modification No. 3 includes a number of relatively minor changes such as: deletion of references to documents that are not part of the Local Coastal Program (e.g., the County's current Cultural Resources Guidelines); clarification regarding certain security fencing requirements; clarification regarding which cannabis uses qualify as

principally permitted uses in the zones in which they would be allowed; restating the 186-acre cap on cultivation within the Carpinteria Agricultural (CA) Overlay District, which is set forth in the Cannabis Business Licensing Ordinance; and edits to the resource protection-related regulations in order to align them with existing regulations and policies in the Local Coastal Program. However, Modification No. 3 also includes the following, substantive changes to the Board-adopted general regulations for commercial cannabis.

- (1) Modification No. 3 would eliminate the Board-adopted ban on outdoor cannabis cultivation on AG-I lots 20 acres or less in size, lots zoned AG-I-5, and lots zoned AG-I-10 and, instead, would ban outdoor cannabis cultivation within two miles of a designated Urban area (i.e., within two miles of an Urban Rural boundary) (Attachment 4). The Coastal Commission found that a ban on outdoor cultivation near Urban areas is important to avoid land use conflicts associated with outdoor cultivation of cannabis (e.g., the creation of objectionable odors). However, the Coastal Commission also expressed concerns regarding how a complete ban on outdoor cannabis cultivation could result in a proliferation of greenhouse development along the Gaviota Coast. Therefore, the Coastal Commission adopted the more limited ban on outdoor cultivation within two-miles of an Urban area.
 - (2) Modification No. 3 would change the limitations placed on cannabis distribution and manufacturing uses that are accessory to cannabis cultivation on lots zoned AG-I or AG-II. More specifically, the Board-adopted regulations would have required that at least 10% of the cannabis that is distributed or manufactured as an accessory use to cannabis cultivation on lots zoned AG-I or AG-II, must be cannabis cultivated on-site. However, Modification No. 3 would require that—only within the area that is subject to the Gaviota Coast Plan—at least 51% of the cannabis that is distributed or manufactured as an accessory use to cannabis cultivation on lots zoned AG-I or AG-II, must be cannabis that is cultivated on-site. This requirement is similar to a requirement that is currently under consideration as part of the Gaviota Coast Plan Local Coastal Program Amendment for lots zoned AG-II [new, pending CZO Sections 35-460.D.2.a(2), -3.a(3), and -4.a(2)], which would establish that no more than 49% of agricultural products used in agricultural processing may originate outside of the premises on which the production would occur. This requirement is intended to ensure that cannabis cultivation, rather than distribution and manufacturing uses, is the primary use of the AG-I and AG-II lots on which these activities would occur.
 - (3) Modification No. 3 also would require cannabis that is used in distribution and manufacturing activities that are accessory to cannabis cultivation on lots zoned AG-I or AG-II, to be sourced solely from other agricultural land within 25 miles of the boundaries of Santa Barbara County (Attachment 5). This requirement is the same requirement that currently applies to the processing of other agricultural products on lots zoned AG-I (CZO Section 35-68.4.3) or AG-II (CZO Section 35-69.4.4), and is intended to protect local agriculture.
- Modification No. 4: County staff included the Cannabis Business Licensing Ordinance as part of the Local Coastal Program Amendment application, given that certain limitations on commercial cannabis activities were set forth solely in the Cannabis Business Licensing Ordinance. However, rather than certify the Cannabis Business Licensing Ordinance in its entirety, the Coastal Commission: (1) added certain definitions from the Cannabis Business Licensing

Ordinance to the CZO as part of Modification No. 1 (as discussed above); (2) added the 186-acre cap on cultivation within the CA Overlay District that is set forth in the Cannabis Business Licensing Ordinance, to the CZO; and (3) did not certify the Cannabis Business Licensing Ordinance as part of the Local Coastal Program.

The Board may choose to accept or reject the suggested modifications. If your Board chooses to accept the modifications, then following receipt of the attached Board resolution acknowledging and accepting the Coastal Commission's suggested modifications, the Coastal Commission's Executive Director will make a determination that the County's action is legally adequate to satisfy any specific requirements set forth in the Coastal Commission's certification order and report this determination to the Coastal Commission at its next regularly scheduled public meeting. If the Coastal Commission does not object to the Executive Director's determination, then notice of the certification will be filed with the Secretary of the Resources Agency, and the certification will be deemed final and effective. However, if a majority of the Coastal Commission members object to the Executive Director's determination and find that the County's action does not conform to the provisions of the Coastal Commission's action to certify the amendment to the County's Local Coastal Program, then the Coastal Commission will review the County's action in a subsequent public hearing as if it was a re-submittal.

Once the amendment receives final certification from the Coastal Commission, the amendment as modified will become effective and will be incorporated into the County's certified Local Coastal Program.

Fiscal and Facilities Impacts:

Budgeted: Yes

Funding for the completion of the Coastal Commission certification process for the Cannabis Land Use Ordinance is budgeted in the 2018-19 Long Range Planning Work Program as reflected in the Department's approved FY 2018-19 budget. There are no facilities impacts.

Special Instructions:

P&D staff will fulfill noticing requirements.

The Clerk of the Board shall provide a copy of the executed resolution and the minute order to P&D, attention: David Villalobos.

Attachments:

1. Coastal Commission Action Letter dated October 11, 2018, Santa Barbara County Local Coastal Program Amendment No. LCP-4-STB-18-0039-1-Part C (Cannabis Regulations) Modifications
2. Board of Supervisors Resolution Accepting the Coastal Commission's Certification of the Local Coastal Program Amendment with Modifications
3. Coastal Commission Staff Report and Exhibits dated September 27, 2018, and Staff Report Addendum, dated October 8, 2018
4. 2 Mile County Buffer Urban Boundary Line Map
5. 25 Mile Radius Map

Authored by:

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