

ALAMEDA COUNTY BOARD OF SUPERVISORS' TRANSPORTATION/ PLANNING COMMITTEE

Thursday, March 8, 2018
11:00 a.m.

Supervisor Scott Haggerty, Chair
Supervisor Nate Miley

Location: Alameda County Conference Center
125 ~ 12th Street, Oakland Room, 4th floor
Oakland, CA 94612

Summary/Action Minutes

I. Proposed Massage Establishments Regulations Update

[Attachment](#)

Christina Horrisberger, Senior Planner, Community Development Agency, presented a memorandum regarding Proposed Massage Establishment Regulations.

In January 2015, State Assembly Bill 1147 (AB1147) took effect. This bill made several adjustments and clarifications to the State's requirements and also reinstated a local agency's authority to require land use permits for massage establishments. In order to allow time to examine the County's existing regulatory structure with respect to AB1147, the Board of Supervisors established a moratorium on new massage establishments within the unincorporated county. The moratorium was extended twice, which is the maximum number of extensions allowed by the state. The moratorium expired on February 18, 2018. In addition, in January 2017, AB2194 took effect. AB2194 further clarified and extended for four years the requirements established by AB1147.

Recently, County Counsel, Planning staff, and the Sheriff's Office staff have worked in concert to review the County's regulations to identify the changes necessary to meet the revised state law, to make changes that remove obsolete language and/or will improve the clarity, efficiency, and efficacy of the County's regulations, and to reinstate the County's ability to require CUPs for new massage businesses. In January 2018, the Castro Valley Municipal Advisory Committee reviewed the proposed regulations update and recommended that the Board of Supervisors grant approval of the proposed regulations. On February 20, 2018 the Planning Commission adopted a resolution recommending approval of the proposed regulations update. The proposed amendments were also heard by the Unincorporated Services Committee on December 6, 2017.

The proposed draft amendments include:

- Update the registration process, which would continue to be administered by the ACSO, in order to reflect minor modifications to the review and approval criteria established by SB731, AB1147, and AB2194;
- Clarify and refine language related to the County's registration process;
- Require that all massage practitioners in the unincorporated County are CAMTC certified;
- Reestablish the County's authority to require land use permits in areas where massage businesses can be conditionally permitted; and,
- Limit the type of massage businesses allowed as home-businesses to out call only massage businesses.

Massage establishments would continue to be prohibited in San Lorenzo, pursuant to the *San Lorenzo Village Specific Plan*.

Staff request the Transportation & Planning Committee's support to present the proposed amendments to the full Board in April 2018 at the next BOS Planning meeting.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: Support. Move to the full Board of Supervisors.

II. Proposed Amendments to the Mixed-Use Provisions of the Ashland and Cherryland Business District Specific Plan and Eden Area General Plan

[Attachment](#)

Christina Horrisberger, Senior Planner, Community Development Agency, presented a memorandum titled Proposed Amendments to the Mixed Use Provisions of the Ashland and Cherryland Business District Specific Plan and Eden Area General Plan.

The *Eden Area General Plan* establishes land use policies and objectives throughout the Eden Area, which includes the Specific Plan area. The General Plan also establishes primary and secondary land uses, as well as residential density ranges for properties where residential land use is allowed. The residential density ranges set forth in the General Plan are the same whether the residential land use is the primary, secondary, or only land use. This housing requirement does not account for the additional non-residential component, or the additional parking and site improvements associated with mixed-use development, and in practice the policies can conflict with one another.

Economic consultants and prospective developers of the larger sites in the plan areas have advised staff that meeting the current 25% non-residential requirement on lots over 10,000 square feet, and meeting the minimum residential density requirement, are an impediment to mixed-use development in the area. Further, the 25% requirement is onerous when compared with neighboring municipalities which have no minimum, and is in conflict with economic consultant advice that the 25% minimum be a goal rather than a requirement.

The Planning Commission, at their May 1, 2017, preliminary review meeting concerning a potential mixed-use project at Mission and Mattox, indicated support of Specific Plan and General Plan Amendments that provide flexibility for mixed-use development that meets overarching Plan objectives.

The Commission directed staff to consult with the community and proceed accordingly. As a result, Planning Department staff conducted two community outreach meetings in Summer 2017, and presented the draft amendments at the Unincorporated Services Committee Meeting in October 2017. The community has generally been in support of the amendments. At their February 5, 2018 meeting, the Planning Commission recommended Board approval of the proposed Plan Amendments and EIR Addenda, which were prepared in association with the amendments in accordance with the California Environmental Quality Act.

Proposed Amendments

ASHLAND AND CHERRYLAND BUSINESS DISTRICT SPECIFIC PLAN

The proposed Specific Plan Amendment would modify the existing mixed-use approval findings to:

- Clarify the meaning of primary and secondary land uses
- Better define what is counted as non-residential space
- Add findings allowing Planning Commission approval of projects not meeting 25% non-residential requirement, under certain circumstances, when the Specific Plan Goals are met and the community will benefit from the project.

- A revised minimum amount was not defined, as the intention is to provide flexibility for exceptional projects, which warrant approval but may provide a relatively small percentage of non-residential space when compared to the property area.

Speakers

Randy Waage spoke in support of the amendments to support upcoming projects in Ashland & Cherryland.

Ashley Strausberg, Executive Director, Eden Area Chamber of Commerce, supports the amendments and upcoming projects in the area.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: Support. Move to the full Board of Supervisors.

III. Bed and Breakfast Inns, South Livermore Valley Area Plan

[Attachment](#)

Bill Lambert, Assistant Agency Director, Community Development Agency presented a memorandum titled, Bed and Breakfast Inns, South Livermore Valley Plan, and supporting documents.

On February 3, 1993, the Board of Supervisors approved the South Livermore Valley Plan. The County policies were incorporated into the East County Area Plan (ECAP), including provisions for allowing bed-and-breakfast establishments as conditional uses.

Since the adoption of the South Livermore Valley Plan there has been only one bed & breakfast established in the plan area. In order to accommodate the community's desire to establish more bed & breakfast businesses, it would be necessary to make amendments to the ECAP Policy, Program and the Zoning Ordinance.

Staff has proposed possible next steps in the process to include:

- Prepare presentation for community meetings and workshops, seeking public input
- Seek input from the Planning Commission, Agricultural Advisory Committee, City of Livermore, Livermore Valley Winegrowers Association and others
- Develop draft recommendations from Committee and Board consideration.

Speakers

Barbara Steinfeld, President, Visit Tri-Valley President, supports amendments to allow Bed and breakfast business in the East County Area Plan area.

Rhiannon Eddy, Purple Orchid owner, supports amendments to allow Bed and Breakfast business and suggested that instead of rooms being limited to 14 the limit should be 20 rooms.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: The Transportation and Planning Committee directed staff to move forward with presentations, workshops and community meetings to seek input for proposed amendments to the East County Area Plan and Zoning ordinances to begin to allow more bed and breakfast businesses in the area.

Supervisor Haggerty directed staff to research “hip camps” which have been established in rural parts of East County. A hip camp is a minimal structure campsite that can be rented for several people for camping and or parties.

IV. Proposed Amendments to the Cannabis Dispensary and Cultivation Ordinances to Allow Permitted Operations to include both Medicinal and Adult-use Cannabis, to Increase the Number of Cultivation Sites Permitted and to remove the Two-Year Sunset Clause from the Cultivation Ordinance
[Attachment](#)

Liz McElligott, Assistant Agency Director, Community Development Agency, presented a memorandum titled Proposed Amendments to the Cannabis Dispensary and Cultivation Ordinances to Allow Permitted Operations to include both Medicinal and Adult-use Cannabis, to Increase the Number of Cultivation Sites Permitted and to remove the Two-Year Sunset Clause from the Cultivation Ordinance.

The Board of Supervisors approved the medical cannabis cultivation and dispensary ordinances on September 12, 2017, and was followed by an extensive Request for Proposals (RFP) process to solicit applications for both cannabis cultivation and dispensary facilities, the first step in a two-step process to allow this new land use type. The RFP process is near complete with two dispensaries and four cultivation sites selected, all in the East County Plan Area.

The Board of Supervisors directed staff to amend the County Ordinance Code to increase the number of cultivation permits allowed through the RFP process from four to eight, so that the applicants who ranked fifth through eighth would also receive permits. The Board also directed staff to amend relevant sections of the Zoning Ordinance in Title 17 to remove the two-year sunset clause from the cannabis cultivation ordinance. In addition, the Board directed staff to revise the cultivation ordinances to allow the cultivation of both medicinal and adult use cannabis, and the dispensary ordinances to allow the sale and delivery of both adult use and medicinal cannabis. County staff has also recommended some minor, non-substantive revisions to address administrative issues that have come up during the ordinance implementation process, and for consistency with state regulations.

Staff will make changes to the proposed ordinance amendments as directed by the Transportation & Planning Committee and with this Committee’s support, will present the ordinances and MND Addendum to the full Board of Supervisors at the April 17, 2018 Board Planning meeting.

Speakers

Robert Raich stated that felony convictions being the sole disqualifying factor of an applicant is inconsistent with State regulations. Alameda County should align with the State goals.

Danny Schultz, Rosciano Farms, stated that the number of cultivation sites Alameda County will allow is a very small number. In addition, Mr. Schultz stated that there will not be a significant increase in traffic due to cultivation sites in operation.

Brenda Morris stated that she operates a ranch in the area where County has approved three cannabis cultivation sites near her property. Ms. Morris does not support amendments or increase in cultivation sites.

Jessica Knott stated that she does not support removing the two-year sunset clause for cannabis cultivation.

Bob Viera stated that the County is changing the rules of the RFP after it has closed and does not support the amendments.

Purpose:

- Report progress
- Advocacy or Education
- Request Transportation and Planning Committee recommendation**
- Other:

Recommendation from Transportation & Planning Committee: Support. Move to the full Board of Supervisors.

- Approve Adult use of cannabis
- Increase cultivation sites
- Remove 2 year sunset clause
- Staff will review how the RFP tied the applicant to a particular location for cultivation; how can that be remedied?
- Staff get an opinion from the District Attorney on felony convictions

V. Consideration of Issues regarding County Ordinances for Cannabis Manufacturers, Distributors, Testing Laboratories and Microbusinesses - Community Development Agency – *continued to a future meeting*

[Attachment](#)

VI. Discussion of Potential Cannabis Taxation Options – Alameda County Tax Collector’s Office – *continued to a future meeting.*

[Attachment](#)

VII. PUBLIC COMMENT

None.

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