



MEMORANDUM

March 1, 2018

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Cannabis Interdepartmental Work Group

MEETING DATE: March 5, 2018

SUBJECT: 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

BACKGROUND

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. In the course of hearing appeals for additional cultivation sites, the Board of Supervisors directed staff to amend Chapter 6.106 of 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 Chapter 6.106 and the 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.

DISCUSSION/SUMMARY

Cultivation Ordinances

The cultivation ordinance in Chapter 6.106 currently allows a total of six medicinal cannabis cultivation permits, up to two permits for dispensaries that have been operating in good standing in the unincorporated area for at least one year, and an additional four cultivation sites to be selected through a "Request for

Proposals” (RFP) process. The proposed ordinance amendments would increase the number of cannabis cultivation sites to be granted through the RFP process to eight, increasing the total number of cultivation sites allowed from six to ten. Chapter 6.106 would also be revised to remove the two-year sunset provision as well as other references to a pilot program. Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the cultivation of medicinal cannabis only. Proposed amendments to these ordinance sections would also allow cultivation of adult use cannabis in accord with the state’s Medical and Adult Use Cannabis Regulation and Safety Act (MAUCRSA). (See Attachments 1 and 4)

Dispensary Ordinances

The dispensary ordinance in Chapter 6.108 and the relevant sections of the Zoning Ordinance in Title 17 currently allow the sale and delivery of medicinal cannabis and medicinal cannabis products only. Proposed amendments to these ordinance sections would allow the sale and delivery of both medicinal and adult use cannabis in accord with MAUCRSA. (See Attachments 2 and 3)

Sheriff’s Office Concerns

The Sheriff’s Office, which is participating in the County’s Cannabis Interdepartmental Work Group, opposes any increase in the number of cultivation sites in the County, and the cultivation and sale of adult use cannabis by businesses located in the unincorporated area.

Public Meetings

Agricultural Advisory Committee Meeting

The Agricultural Advisory Committee discussed the proposed ordinance amendments at its January 23, 2018 meeting. A few of the committee members, as well as members of the public, objected to the proposed increase in the number of cultivation permits and changing the cannabis cultivation program from a pilot to an ongoing program, before any of the cultivation sites have been in operation. There was also opposition to allowing the cultivation, sale, and delivery of adult use cannabis, in addition to medicinal cannabis. Speakers expressed concern about the rapid pace of the ordinance amendment process and the limited opportunities for public input.

Planning Commission

The Planning Commission considered the proposed ordinance amendments at a public hearing on February 20, 2018. Many East County residents who live near the locations of the additional cultivation sites that could be granted permits under the amendments gave testimony in opposition to the proposed ordinance changes. In addition, many emails and letters from East County residents, the majority of which expressed opposition to the amendments, were distributed to the commissioners at the meeting (See Attachment 5). A motion was made to recommend that the Board approve the proposed ordinance amendments with the exception that the two-year sunset clause in the cultivation ordinance be retained to continue the cultivation pilot. The commissioners indicated that they believed it was premature to remove the sunset clause since none of the cultivation sites have been fully permitted yet. Five of the seven commissioners were present at the meeting and one of the commissioners recused himself for this item.

Three of the remaining commissioners voted in favor of the motion, with one opposed. Because four affirmative votes were needed to adopt the motion, the motion did not pass. As a result, there is no recommendation from the Commission regarding approval of the ordinance amendments.

California Environmental Quality Act

The Board of Supervisors adopted an Initial Study and Mitigated Negative Declaration (IS/MND) for the cultivation and dispensary ordinances on July 11, 2017. When there are changes to a project after adoption of the MND for the project, Section 15162 of the CEQA Guidelines requires that a supplemental or subsequent MND be prepared if any of the criteria in the section are met. Where a supplemental or subsequent MND is not appropriate, CEQA Guidelines Section 15164(b) allows for the preparation of an Addendum to an adopted negative declaration only if there are minor technical changes or additions that do not meet the conditions of Section 15162. As the Board of Supervisors adopted the IS/MND for the medicinal cannabis ordinances prior to consideration of the proposed ordinance amendments, staff considered whether any of the criteria in Section 15162 had been met. Staff concluded that a supplemental or subsequent MND is not appropriate and prepared an MND Addendum (See Attachment 6) pursuant to CEQA Guidelines Section 15164(b).

NEXT STEPS

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

Attachments:

- Attachment 1 - An Ordinance Amending Chapter 6.106 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda (showing mark up with additions underlined and deletions crossed out)
- Attachment 2 - An Ordinance Amending Chapter 6.108 of the Alameda County General Ordinance Code to Regulate Cannabis Retailers (showing mark up with additions underlined and deletions crossed out)
 - Exhibit A (map of West County)
 - Exhibit B (map of East County)
- Attachment 3 - An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Conditionally Permit Cannabis Retailers in Specified Districts within the Unincorporated Area of the County of Alameda (showing mark up with additions underlined and deletions crossed out)
- Attachment 4 - An Ordinance Amending Title 17 of the Alameda County General Ordinance Code to Regulate the Cultivation of Cannabis in the Unincorporated Area of the County Of Alameda (showing mark up with additions underlined and deletions crossed out)
- Attachment 5 - Public Comment Letters
- Attachment 6 – Addendum to the Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments