



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707)445-7541 Fax: (707) 268-3792

Hearing Date: September 19, 2019

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Zoning Ordinance Amendments - Cannabis Ordinances #2**
Commercial Cannabis Land Use Ordinance
Case Number OR 17-02

The attached staff report has been prepared for your consideration of the Coastal Zone Cannabis Personal Use and Dispensaries in the Coastal Zone Ordinance at the public hearing on September 19, 2019. The staff report includes the following:

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Please contact Michael Richardson, Supervising Planner, at 268-3723, or by email at mrichardson@co.humboldt.ca.us, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

| | | |
|--|---|---|
| Hearing Date September 19, 2019 | Subject Zoning Ordinance Amendments – Commercial Cannabis Land Use Ordinance Case Number OR 17-02 | Contact Michael Richardson |
|--|---|---|

Project: The project involves review of proposed amendments to the County's Commercial Cannabis Land Use Ordinance (Section 313-55.4 and 314-55.4 of Division 1 of Title III) require compliance with any and all requirements imposed by the California Cannabis Authority (CCA) on commercial cannabis operators or operations. The proposed ordinance as modified would apply throughout the unincorporated areas of Humboldt County including the Coastal Zone.

Project Location: The implementing Ordinance and LCP Amendments apply to all the unincorporated areas of the County including the coastal zone.

Present Plan Designations: N/A.

Present Zoning: N/A.

Assessor Parcel Number(s): (multiple).

Environmental Review: The project is exempt from environmental review per Section 15306 of the CEQA Guidelines (Information Collection).

State Appeal Status: Changes proposed to the Local Coastal Program must receive final certification from the California Coastal Commission before they may become effective.

**ORDINANCE AMENDING HUMBOLDT COUNTY CODE
CONCERNING THE REGULATION OF COMMERCIAL CANNABIS ACTIVITIES
Case Number OR-17-02**

Recommended Commission Action

1. Open the public hearing.
2. Request that staff present the staff report.
3. Receive public testimony.
4. Deliberate on the draft ordinance, public input, and alternatives presented.
5. Take the following action:

"Move to make all of the required findings, based on evidence in the staff report and public testimony, and recommend the find the project is exempt from environmental review and approve the Commercial Cannabis Ordinance Amendments by adopting the attached Resolution."

Executive Summary: The Board of Supervisors joined the California Cannabis Authority (CCA) on March 13, 2018. The CCA is a Joint Powers Authority established by county governments to develop and manage a statewide data platform. The platform helps local governments that are regulating commercial cannabis activity by gathering, collecting, and analyzing information from a myriad of data sources into one resource, to help local governments ensure cannabis regulatory compliance and also provide necessary information to financial institutions that wish to work with the cannabis industry.

One of the requirements of all CCA members is their commercial cannabis ordinances include requirements that, "persons engaged in commercial cannabis, as a condition of their license, permit, or other authorization to operate, to comply with any and all requirements imposed by CCA on commercial cannabis operators or operations, including the payment of any levies, charges, or other exactions of any kind." The proposed amendments to the County's Commercial Cannabis Land Use Ordinances include the language required by the CCA.

Staff believes the necessary findings can be made for the Commission to approve the attached resolution recommending that the Board of Supervisors adopt the proposed CCLUO amendments. The draft resolution is included in the staff report as Attachment 1. The proposed amendments are included in Attachment 2.

Environmental Review: This project is exempt from environmental review per Section 15306 of the CEQA Guidelines (Information Collection) because it adds a requirement to the existing CCLUO that applicants share information with the CCA. There is no evidence that this sharing of information will result in any disturbance to an environmental resource.

ATTACHMENT 1

Draft Resolution

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 19-**

Case Number OR-17-02

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO HUMBOLDT COUNTY'S COMMERCIAL CANNABIS LAND USE ORDINANCES (SECTIONS 313-55.4 AND 314-55.4 OF DIVISION 1 OF TITLE III) GOVERNING COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, AND DISTRIBUTION OF CANNABIS.

WHEREAS, California Government Code Section 65850, et seq. authorizes counties to regulate land use, and to adopt and amend zoning ordinances for such purposes, and sets forth procedures governing the adoption and amendment of such ordinances; and

WHEREAS, on May 8, 2018 the Board of Supervisors approved the CCLUO for the inland and coastal portions of the County; and

WHEREAS, the Board of Supervisors joined the California Cannabis Authority (CCA) on March 13, 2018; and

WHEREAS, one of the requirements of all CCA members is their commercial cannabis ordinances include requirements that, "persons engaged in commercial cannabis, as a condition of their license, permit, or other authorization to operate, to comply with any and all requirements imposed by CCA on commercial cannabis operators or operations, including the payment of any levies, charges, or other exactions of any kind."; and

WHEREAS, the proposed amendments to the County's Commercial Cannabis Land Use Ordinances include the language required by the CCA; and

WHEREAS, the proposed zoning text amendments may be approved if findings can be made that: (1) the proposed change is in the public interest; and (2) the proposed change is consistent with the General Plan; and (3) the amendment does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law; and; (4) the proposed change is consistent with the objectives of the Coastal Act and approved Local Coastal Plans.

WHEREAS, the project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) per Section 15306 of the CEQA Guidelines (Information Collection) because it adds a requirement to the existing CCLUO that applicants share information with the CCA; and

WHEREAS, Exhibit A of this resolution includes substantial evidence in support of making all the required findings for approving the proposed amendments to the zoning text; and

WHEREAS a public hearing was held on the matter before the Humboldt County Planning Commission on September 19, 2019.

NOW, THEREFORE, be it resolved and determined that the Planning Commission:

1. The Planning Commission makes the findings in Exhibit A of this resolution, which is incorporated fully herein, based on the evidence provided.

BE IT FURTHER RESOLVED that the Planning Commission recommends that the Board of Supervisors of the County of Humboldt:

1. Hold a public hearing in the manner prescribed by law.
2. Find that the project is exempt from environmental review per Section 15306 of the CEQA Guidelines (Information Collection).

3. Take whatever formal action is necessary to implement the modifications.
4. Agree to issue coastal development permits subject to the approved Local Coastal Program.
5. Transmit the approved ordinance amendments for the Coastal Zone to the Coastal Commission for final certification.
6. Direct the Planning Staff to prepare and file a Notice of Exemption with the County Clerk and Office of Planning and Research.

Adopted after review and consideration of all the evidence on _____, 2019.

The motion was made by Commissioner ____ and seconded by Commissioner ____.

AYES: Commissioners:

NOES: Commissioners:

ABSTAIN: Commissioners:

ABSENT: Commissioners:

DECISION:

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department

Exhibit A - Findings

Required Findings: To approve the proposed zoning ordinance amendments, the Hearing Officer shall determine that there is evidence in support of making **all** of the following required findings.

A. Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes in the Zoning Ordinance

1. The proposed zoning change is consistent with the General Plan.
2. The proposed change is in the public interest

B. Required Finding for Consistency With Housing Element Densities

1. Government Code Section 65302.81 requires specific findings supported by substantial evidence where a general plan amendment or zone reclassification is adopted that reduces the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation).
2. In addition, the same Government Code sections also requires any proposed development to maintain the residential density for any parcel at or above that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation), unless the following written findings are made supported by substantial evidence: 1) the reduction is consistent with the adopted general plan including the housing element; and 2) the remaining sites identified in the housing element are adequate to accommodate the County share of the regional housing need; and 3) the property contains insurmountable physical or environmental limitations and clustering of residential units on the developable portions of the site has been maximized.

C. Required Finding for Consistency With the California Environmental Quality Act

The California Environmental Quality Act (CEQA) states that one of the following findings must be made prior to approval of any development which is subject to the regulations of CEQA:

1.
 - a) The project either is categorically or statutorily exempt; or
 - b) There is no substantial evidence that the project will have a significant effect on the environment or any potential impacts have been mitigated to a level of insignificance and a negative declaration has been prepared pursuant to Section 15070 of the CEQA Guidelines; or
 - (c) An environmental impact report (EIR) has been prepared and all significant environmental effects have been eliminated or mitigated to a level of insignificance, or the required findings in Section 15091 of the CEQA Guidelines are made.

D. Required Finding for Consistency With the California Coastal Act

Consistency: Administrative Regulations – Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act). The proposed amendments must conform to the policies contained in Chapter 3 of the Coastal Act. Chapter 3 sets forth policies regarding the following issues:

Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)

Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)

Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)

Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)

Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)

Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.

Finding A: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance

| Section(s) | Applicable Requirements |
|---|---|
| §312-50 of the Zoning Ordinance | Finding A1. That the proposed zoning change is consistent with the General Plan. |
| <p>Evidence Supporting Finding A1</p> <p>The purpose of the ordinance amendments is to require compliance with the requirements of the CCA.</p> <p>Policy UL-P21 of the 2017 Humboldt County General Plan states: Cultivation of medical cannabis shall be regulated by ordinance to provide for the health, safety, and welfare of the community, but shall not interfere with the patient's right to medical cannabis. The General Plan policy was finalized prior to California State approval of recreational cannabis, and thus this policy should be understood to apply to both medical and recreational cannabis regulations. This policy states the clear intent of the county that cannabis activities shall be regulated in order to protect the public, health safety and welfare. These ordinance amendments accomplish that objective.</p> | |
| §312-50 of the Zoning Ordinance | Finding A2. That the proposed zoning change is in the public interest |
| <p>Evidence Supporting Finding A2</p> <p>These regulations are in the public interest because they are designed to require cannabis operations comply with required data reporting and payment of legally imposed fees.</p> | |

Finding B: Section 312-50 of the Zoning Ordinance states the following findings must be made to approve changes to the Zoning Ordinance

| Section(s) | Applicable Requirements |
|--|---|
| Government Code Section 65302.81 | Finding B. That the proposed zoning change will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law (the mid point of the density range specified in the plan designation) |
| <p>Evidence Supporting Finding B</p> <p>The CCLUO's do not allow any cannabis activities on parcels zoned Residential Single Family or Residential Multifamily, so the properties affected by the ordinance are not included in the residential land inventory used by the by the Department of Housing and Community Development in determining compliance with housing element law.</p> | |

Finding C: Required Finding for Consistency With CEQA

| Section(s) | Applicable Requirements |
|--|--|
| Section 15091 of the CEQA Guidelines | Finding C. That the proposed zoning ordinance amendments comply with the requirements of CEQA |
| <p>Evidence Supporting Finding C</p> <p>This project is exempt from environmental review per Section 15306 of the CEQA Guidelines (Information Collection) because it adds a requirement to the existing CCLUO that applicants share information with the CCA. There is no evidence that this sharing of information will result in any disturbance to an environmental resource.</p> | |

D. Required Finding for Consistency with the California Coastal Act

The following table identifies the evidence which supports finding that the proposed Coastal Zoning Ordinance Amendments are consistent with the Coastal Act.

| Section(s) | Applicable Requirements |
|--|---|
| <p>Title 14, § 13551 and Public Resources Code, § 30200 (Coastal Act)</p> | <p>Finding D. That the proposed zoning ordinance amendments comply with the requirements of the Coastal Act.</p> <p>Access (including provisions for access with new development projects, public facilities, lower cost visitor facilities, and public access)</p> <p>Recreation (including protection of water-oriented activities, ocean- front land protection for recreational uses, aqua- cultural uses, and priority of development purposes)</p> <p>Marine Resources (including protecting biological productivity, prevent hazardous waste spills, diking, filling and dredging, fishing, revetments and breakwaters, and water supply and flood control)</p> <p>Land Resources (including environmentally sensitive habitats, agricultural lands, timberlands, and archaeological resources)</p> <p>Development (including scenic resources, public works facilities, safety, and priority of coastal dependent developments)</p> <p>Industrial Development (including location and expansion, use of tanker facilities, oil and gas development and transport (both onshore and off), and power plants.</p> |
| <p>Evidence Supporting Finding D</p> <p>The proposed zoning ordinance amendments as modified will not affect coastal resources because they are for the purpose of requiring cannabis operators and operations submit required information and pay required fees and other exactions.</p> | |

ATTACHMENT 2

DRAFT AMENDMENT TO THE CCLUO (Coastal and Inland Ordinances¹) (shown in underline and yellow highlight)

55.4.12 PERFORMANCE STANDARDS

55.4.12.1 Performance Standards for All Commercial Cannabis Activities

Permittees and operators shall conduct all commercial cannabis activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and administrative penalties.

- 55.4.12.1.1 Maintain compliance with all applicable state laws and County ordinances and any and all requirements imposed by the California Cannabis Authority on commercial cannabis operators or operations, including the payment of any levies, charges, or other exactions of any kind.
- 55.4.12.1.2 Maintain valid license(s) issued by the appropriate state licensing authority or authorities for the type of activity being conducted, as soon as such licenses become available.
- 55.4.12.1.3 Where subject to state licensure, participate in local and state programs for “Track and Trace” once available.
- 55.4.12.1.4 Maintain a current, valid business license at all times.
- 55.4.12.1.5 Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
- 55.4.12.1.6 Pay all applicable application and annual inspection fees.
- 55.4.12.1.7 Comply with any special conditions applicable to the permit or Premises which may be imposed.

¹ The Coastal CCLUO is Section 313-55.4 of Division 1 of Title III of Humboldt County Code, and the Inland CCLUO is Section 314-55.4 of Division 1 of Title III of Humboldt County Code.