

ATTACHMENT 6

Planning Commission Resolution and Findings,
Recommending Adoption of the Ordinances and Certification of the EIR
For the CCLUO

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 17-**

Case Number OR-17-02

RECOMMENDS THAT THE BOARD OF SUPERVISORS CERTIFY COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPT THE AMENDMENTS TO TITLE III, CHAPTER 3 AND CHAPTER 4 OF THE HUMBOLDT COUNTY CODE - REGULATIONS INSIDE THE COASTAL ZONE AND REGULATIONS OUTSIDE THE COASTAL ZONE, 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 April 6, 2017 the Planning Commission reviewed and expressed satisfaction with a set of regulatory objectives for the proposed Commercial Cannabis Land Use Ordinance (CCLUO); and

WHEREAS, on April 7, 2017 the Planning and Building Department circulated for public comment a Notice of Preparation to inform agencies and the public that an EIR was being prepared and to invite comments on the scope and content of the document; and

WHEREAS, on April 11, 2017 the Board of Supervisors reviewed and expressed satisfaction with the same set of regulatory objectives for the ordinance amendments; and

WHEREAS, on June 1, 2017 the Planning Commission reviewed and expressed satisfaction with policy areas for the proposed ordinance amendments which specified the zoning districts where cannabis activities would be allowed and the general standards that would be applied; and

WHEREAS, on June 7, 2017 the Board of Supervisors reviewed and expressed satisfaction with the same set of policy areas for the ordinance amendments; and

WHEREAS, on September 1, 2017 the Planning and Building Department circulated for public comment a Draft Environmental Impact Report (DEIR) for the ordinance amendments; and

WHEREAS, on September 1, 2017, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Availability of the DEIR; and

WHEREAS, on September 7, September 21, October 5, October 19 and November 2, 2017 the Planning Commission held public workshops on the proposed ordinance amendments which gave the Planning Commission opportunities to review the

proposed ordinance, ask questions from staff and the public and to accept public comments; and

WHEREAS, on October 2 and October 12, 2017 the Planning and Building Department held a public workshop in Garberville to review the proposed amendments; and

WHEREAS, on October 18, 2017 the Planning and Building Department held a public workshop in Willow Creek to review the proposed amendments; and

WHEREAS, on October 1, 2017, the Planning Division caused to be published in the Eureka Times-Standard, a newspaper of general circulation in Humboldt County, a Notice of Public Hearing on the proposed ordinance; and

WHEREAS, the Humboldt County Planning Commission continued the public hearing on the proposed ordinance amendments from the October 19, and November 2, 2017, meetings to the November 16, 2017, December 7, 2017, December 14, 2017 and January 11, 2018 meetings; and

WHEREAS, the Humboldt County Planning Commission held a public hearing on the proposed ordinance amendments on November 16, 2017, December 7, 2017, December 14, 2017, January 11, 2018, and January 18, 2018 to receive a report on the draft ordinance amendments, as well as evidence and testimony; and

WHEREAS, the Planning Commission reviewed and considered the report, the Final Environmental Impact Report (FEIR) prepared for the project, evidence, and other testimony presented to the Commission; and

WHEREAS, the Planning Commission considered the suite of alternatives provided in the DEIR; and

WHEREAS, the Planning Commission does not recommend selection of the Environmentally Superior Alternative (Alternative Number 5) because it would give preference to existing cultivators, some of which operated in violation of state and local law, and

WHEREAS, the Planning Commission instead recommend the establishment of a cap on permits within planning watersheds as a means of mitigating environmental impacts in a manner similar to the Environmentally Superior Alternative; and

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

1. Makes the findings in Exhibit A of this resolution based on the information contained in the public record; and

2. Recommends that the Board of Supervisors of the County of Humboldt:
- Hold a public hearing in the manner prescribed by law.
 - Adopt the findings that the proposed ordinance is consistent with the applicable provisions of the Humboldt County Code and General Plan.
 - Adopt a resolution certifying the Final Environmental Impact Report prepared for the ordinance amendments.
 - By ordinance, approve the zoning ordinance amendments.
 - Direct the Planning and Building Department to prepare and file a Notice of Determination pursuant to CEQA for the project.
 - Direct the Clerk of the Board to publish a post approval summary in a newspaper of general circulation, and give notice of the decision to interested parties.; and
 - Adopt a Resolution transmitting the Amendment package, including all necessary supporting documentation, to the California Coastal Commission as an amendment to the certified Local Coastal Program for their review and certification in accordance with Public Resources Code Section 30514.

Adopted after review and consideration of all the evidence on _____, 2018.

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 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.
Evidence Supporting Finding A1 The purpose of the ordinance amendments is to establish land use regulations concerning the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt. 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. This ordinance accomplishes that objective.	

§312-50 of the Zoning Ordinance	Finding A2. That the proposed zoning change is in the public interest
Evidence Supporting Finding A2 These regulations are in the public interest because they are designed to protect the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, end users of medicinal or adult use cannabis; the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law.	

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)
Evidence Supporting Finding B The proposed ordinance amendments 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.	

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

Evidence Supporting Finding C

An FEIR has been prepared for the project, which is included in Attachment 4 of the staff report presented to the Planning Commission. The Planning Commission has considered the FEIR and the comments made on the DEIR. The Planning Commission finds that the FEIR provides sufficient information and analysis to identify the potential environmental consequences of adopting the ordinance. The EIR has presented environmental impacts which cannot be mitigated to a level that is less than significant, but has recommended mitigation measures which reduce the degree of the impact. In addition alternatives have been presented and considered which could mitigate the impacts. None of the alternatives were deemed feasible in the implementation of the ordinance. The FEIR has been prepared in accordance with CEQA and represents the independent decision making of the County.

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
Title 14 §13551 of the Administrative Code and Public Resources Code, § 30200 (Coastal Act)	<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>

Evidence Supporting Finding D

The proposed zoning ordinance amendments will help protect coastal resources from harm resulting from cannabis activities, including streams, fish, and wildlife and wildlife habitat, and Tribal Cultural Resources. Cultivation activities share many similar features with more conventional agricultural uses and are therefore potentially compatible in a variety of zoning districts where agriculture is allowed. Commercial cannabis sales, manufacturing, distribution and testing are activities which share many similar features with more conventional retail sales, light manufacturing, distribution and scientific research uses and are therefore potentially compatible in a variety of zoning districts where those uses are allowed.

The new policies and performance standards provide guidance and new tools to address land use issues surrounding the siting and operational standards for commercial activities involving the cultivation, manufacturing, processing, and distribution of cannabis for medical use. As such, no impact on coastal access concerns, recreational uses, marine or land resources, and industrial resources are likely to occur.