

Attachment 1

Draft Board of Supervisors Resolution

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on _____

Resolution No. ____ - ____

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF HUMBOLDT CERTIFYING COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, MAKING FINDINGS PURSUANT TO HUMBOLDT COUNTY CODE SECTION 312-50 – CONCERNING ADOPTION OF ZONING ORDINANCE AMENDMENTS FOR THE COASTAL ZONE AND TITLE 14 §13551 OF THE ADMINISTRATIVE CODE AND PUBLIC RESOURCES CODE, §30200 (COASTAL ACT).

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, the Humboldt County Planning Commission held a public hearing on the proposed ordinance amendments on June 6, 2019 to receive a report on the draft ordinance amendments, as well as evidence and public testimony; and

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

WHEREAS, at their June 6, 2019 meeting, the Humboldt County Planning Commission approved Resolution # 19-90 making all the required findings and recommending that the Board of Supervisors of the County of Humboldt:

- Hold a public hearing in the manner prescribed by law.
- Consider the Addendum and the Environmental Impact Report (EIR) for the CCLUO, State Clearinghouse No. 2017042022, certified by the Board of Supervisors on May 8, 2018 (Exhibit B).
- Find that the Addendum is sufficient for adoption of the modifications approved by the Coastal Commission based on the evidence provided in the Addendum; and
- Accepts and agrees to the modifications that are suggested by the Coastal Commission as shown in Attachment 2 of the staff report.
- Take whatever formal action is necessary to implement the modifications.
- Agree to issue coastal development permits subject to the approved Local Coastal Program.
- Transmit the approved ordinance amendments to the Coastal Commission for final certification.
- Direct the Planning Staff to prepare and file a Notice of Determination with the County Clerk and Office of Planning and Research.

WHEREAS, the proposed Zoning Text Amendments may be approved if it can be found 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;

WHEREAS, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, PEIR Project Description Section 2.7, Project Approvals Required and Subsequent Actions, identifies updating the Zoning Code in a manner consistent with the General Plan as a key implementing action; and

WHEREAS, Exhibit A of this Resolution includes substantial evidence in support of making all of the required findings for approving the proposed Zoning Text Amendments; and

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Board of Supervisors that the Board of Supervisors:

1. The Board of Supervisors has considered the Environmental Impact Report (EIR) for the Commercial Cannabis Land Use Ordinance - State Clearinghouse No. 2017042022, certified by the Board of Supervisors on May 8, 2018 (Attachment 5 of this staff report) - and finds that the EIR for the Commercial Cannabis Land Use Ordinance is sufficient to address the potential environmental impacts associated with adoption of the Commercial Cannabis Land Use Ordinance and was prepared in accordance with Section 15168 (c)(2) of the CEQA Guidelines to anticipate adoption of modifications suggested by the Coastal Commission and no new information has been presented that change the findings of the EIR in accordance with section 15162 of the State CEQA Guidelines; and
2. Makes all of the required findings for adoption of the Zoning Text amendments based on evidence in Exhibit A of this resolution, which is incorporated fully into this Resolution and finds that the proposed amendments to the Coastal Zoning Regulations conform to the policies contained in Chapter 3 of the Coastal Act; and
3. The Board of Supervisors acknowledges receipt of resolutions A and B adopted by the Commission on May 9, 2019 to deny the LCP amendment as submitted but to certify the LCP amendment if modified as suggested; (2) accepts and agrees to all of the suggested modifications adopted by the Coastal Commission and adopts these modifications by repealing Ordinance 2598 and replacing with Ordinance _____; and (3) agrees to issue permits subject to the approved local coastal program.
4. The changes to the Coastal Zoning Regulations (Ordinance No. ____) will become effective only upon certification by the Coastal Commission.

BE IT FURTHER RESOLVED by the Humboldt County Board of Supervisors that upon adoption of the Ordinances:

1. The Clerk of the Board is hereby directed to give notice of the decision to any interested party; and

By:

KATHY HAYES

Date: _____, 2019

By _____
Deputy

Exhibit "A" -- Findings of approval for Zoning Text amendments

California Environmental Quality Act Findings

Project Description

The project is amendment of land use regulations in the Humboldt County Code governing the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis, known as the Commercial Cannabis Land Use Ordinance (CCLUO) for the Coastal Zone. The proposed amendments incorporate the modifications suggested by the Coastal Commission at their meeting on May 9, 2019. The nature of the changes made by the Coastal Commission did not change the regulatory intent or approach of the ordinance as crafted. Most of the changes are intended to increase clarity relative to regulations and policies specific to the Coastal Zone, some definitions were added, and the Mitigation Measures from the EIR were all completely written out as standards within the ordinance.

Finding

1. The County of Humboldt adopted findings and a Mitigation Monitoring and Reporting Program and certified an Environmental Impact Report (EIR) for the CCLUO on May 8, 2018 (State Clearinghouse # 2017042022). The Project will not result in additional environmental effects that were not adequately examined in the EIR certified for the CCLUO.

Facts

1(a) The EIR states in Section 3.9.1 that the CCLUO needs to be certified by the Coastal Commission prior to becoming effective.

1(b) CEQA exempts local government from the requirement of preparing an EIR in connection with its activities and approvals necessary for the preparation and adoption of a local coastal program. Thus, local governments are not required to prepare an EIR in support of their proposed LCP amendments, although the Coastal Commission can and does use any environmental information that the local government submits in support of its proposed LCP amendments. Instead, the CEQA responsibilities are assigned to the Coastal Commission, and the Coastal Commission’s LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5.

1(c) The Coastal Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment [14 CCR §§ 13542(a), 13540(f), and 13555(b)].

1(d) The County’s LCP Amendment consists of an IP amendment only. The Coastal Commission incorporated its findings on LUP conformity into this CEQA finding as it is set forth in full. As discussed herein, the IP amendment as originally submitted is not in conformity

with, or adequate to carry out, the provisions of the six Local Coastal Area Plans in the certified LCP. The Coastal Commission, therefore, suggested modifications to bring the IP Amendment into full conformance with the six Local Coastal Area Plans in the certified LUP. As modified, the Coastal Commission found that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of CEQA. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

1(e) On May 8, 2018, the Board of Supervisors made Findings, adopted a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program, certified the EIR and adopted the CCLUO.

1(f) The County has analyzed the proposed modifications suggested by the Coastal Commission pursuant to Public Resources Code Section 21094(c) and Section 15168(c)(2) of the CEQA Guidelines to determine if the Project may cause significant effects on the environment that were not examined in the EIR and whether the Project is within the scope of the EIR.

1(f) The proposed modifications to the CCLUO will not result in additional environmental effects that were not adequately examined in EIR. As documented in Exhibit A of this Resolution, Evidence Supporting the Required Findings, the Project will not increase the severity of, significant environmental impacts previously identified in the Program EIR

Finding

2. In accordance with Public Resources Code Section 21094(b) and Section 15168(c)(2) of the CEQA Guidelines, none of the conditions or circumstances that would require preparation of subsequent or supplemental environmental review pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162 exists in connection with the Project:

Facts

2(a) The Project does not include any changes in the CCLUO that result in impacts weren't already considered in the EIR and no substantial changes have occurred with respect to the circumstances under which the Project is to be undertaken consistent with the CCLUO, so the EIR does not require any revisions due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

2(b) No new information of substantial importance, which was not known and could not have been known at the time that the EIR was certified as complete, shows that the Project would cause new or substantially more severe significant environmental impacts as compared against the impacts disclosed in the Program EIR, that mitigation measures or alternatives found infeasible in the Program EIR would, in fact be feasible, or that different mitigation measures or alternatives from those analyzed in the Program EIR would substantially reduce one or more significant environmental impacts found in the Program EIR..

2(c) All significant effects on the environment due to the implementation of the Project have been eliminated or substantially lessened where feasible through the EIR mitigation measures adopted in connection with the Board of Supervisor's approval of the EIR. All Program EIR mitigation measures applicable to the Project have been incorporated into the Project.

2(d) All significant effects on the environment due to the implementation of the Project have been eliminated or substantially lessened where feasible through identified measures to mitigate, to the extent feasible, the significant adverse project and

2(e) All Program EIR mitigation measures applicable to the Project are incorporated into the proposed zoning ordinance amendments.

2(f) In accordance with Public Resources Code Section 21094(d), any significant and unavoidable impacts of the Project with regard to air quality and utilities and service systems are outweighed by overriding considerations as set forth in the EIR and in the Findings adopted by the Board of Supervisors in connection with the approval of the EIR, as incorporated by reference and reaffirmed herein.

2(g) Based upon the testimony and information presented at the hearing and upon review and consideration of the environmental documentation provided, the Project is consistent with the CCLUO, falls within the environmental parameters analyzed in the EIR, and would not result in any new significant environmental effects or a substantial increase in the severity of any previously identified effects beyond those disclosed and analyzed in the EIR, nor would new mitigation be required for the Project.

2(h) The Planning and Building Department is the custodian of the records of the proceedings on which this decision is based. The records are located at the Humboldt County Planning and Building Department, 3015 H Street, Eureka, CA 95501.

Findings of Approval for Zoning Text amendments

Finding

3. Public Interest: The Zoning Text amendments are in the public interest.

Facts

3(a) 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.

The modifications approved by the Coastal Commission align the CCLUO with the County's Local Coastal Plans which is also in the public interest.

Finding

4. General Plan Consistency: The Zoning Text amendments are in conformance with other applicable policies and standards of the Humboldt County General Plan.

Facts

4(a) 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 coastal zone portion of Humboldt County.

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.

4(b) The modifications approved by the Coastal Commission align the CCLUO with the County's Local Coastal Plans as described in the findings approved by the Coastal Commission in the May 9, 2019 staff report.

Finding

5. Coastal Act Consistency: The Zoning Text amendments are in conformance the Coastal Act.

5(a) The proposed zoning ordinance amendments as modified by the Coastal Commission 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.

5(b) The suggested modifications will make the CCLUO for the coastal zone more consistent with the County's Coastal Plans and the Coastal Act as described in the findings adopted by the Coastal Commission at their meeting on May 9, 2019.