



## MEMORANDUM

February 15, 2018

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Cannabis Interdepartmental Work Group

MEETING DATE: February 20, 2018

SUBJECT: Cannabis Dispensary and Cultivation Ordinances Implementation Update  
Including Status of Applicant Selection and Permit Process, Proposed Ordinance  
Amendments, Delivery Permit Process, and Fee Study

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### **BACKGROUND**

At your December 4, 2017 Committee meeting, staff provided an update on the status of the cannabis cultivation permits for existing dispensaries, and the release of Requests for Proposals (RFPs) to solicit applications for medical cannabis dispensary and cultivation permits to implement the recently adopted medical cannabis dispensary and cultivation ordinances. Since your December meeting, cultivation and dispensary applications have been reviewed and scored, and the top scoring applicants were selected to receive permits.

### **DISCUSSION/SUMMARY**

#### **Cultivation permit process for existing dispensaries**

Sections 6.106.050 and 6.106.060 of the County Ordinance Code allow up to two permitted dispensaries in good standing to apply for ministerial cultivation permits, avoiding the selection process required for other cultivation permit applicants. No cultivation applications have been received from the existing dispensaries as of this writing.

#### **Request for Proposals for Cultivation Sites**

The County received ten applications in response to a Request for Proposals (RFP) to solicit applications for the remaining four available cultivation permits, pursuant to Section 6.106.070 of the County Ordinance Code. The County Selection Committee (CSC), which consisted of the County Planning Director, the County Agricultural Commissioner, and a Commander from the County Sheriff's Office,

reviewed and scored the applications based on the final evaluation criteria in the RFP. The CSC recommended to the Community Development Director that the four highest ranking applicants be granted permits, and the Director concurred with the Committee's recommendation. Two of the applicants who were not granted permits appealed the Director's decision. The CSC ranked the two applicants who filed appeals seventh and eighth out of the ten applications received.

### **Proposed Ordinance Amendments**

The Board of Supervisors considered the appeals on January 9, 2018 and directed staff to amend Chapter 6.106 of the County Ordinance Code to increase the number of permits allowed through the RFP process to eight so that the applicants who ranked fifth through eighth would also receive permits in addition to the applicants ranked first through fourth. The Board also directed staff to amend Chapter 6.106 and the relevant sections of the Zoning Ordinance in Title 17 to change the cannabis cultivation program from a pilot program to a permanent use. In addition, the Board directed staff to revise the cultivation and dispensary ordinances to allow the cultivation, sale, and delivery of adult use cannabis, as well as medical cannabis. County staff has also recommended some minor, non-substantive revisions to address technical issues that have come up during the ordinance implementation process.

### Planning Commission

The Planning Commission will hold a hearing on the proposed ordinance amendments on February 20, 2018 to consider whether to recommend that the Board of Supervisors approve the amendments. With the Planning Commission's recommendation, the amendments will be presented to the full Board of Supervisors at the April 17, 2018 Board Planning meeting.

### Agricultural Advisory Committee

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 present, objected to the proposed increase in the number of cultivation permits, changing the cannabis cultivation program from a pilot program to a permanent use, and allowing the cultivation, sale, and delivery of adult use cannabis. Speakers also expressed concern about the rapid pace of the ordinance amendment process and the limited opportunities for public input.

### **Request for Proposals for Dispensaries**

The County received five applications in response to a Request for Proposals (RFP) to solicit applications for the two East County dispensaries, pursuant to Section 6.108.030.D of the County Ordinance Code. The County Selection Committee (CSC), which consisted of the County Planning Director, the Director of the Environmental Health Department, and a Commander from the County Sheriff's Office, reviewed and scored the applications based on the final evaluation criteria in the RFP. The CSC recommended to the Community Development Director that the two highest ranking applicants be granted permits, and the Director concurred with the Committee's recommendation. The County received three appeals of the Director's decision; two from owners of property near each of the selected dispensary locations and one from an applicant who was not granted a permit. Section 6.108.140 of the County Ordinance Code requires the Director to convene a panel consisting of representatives from the County Administrator, Community

Development Agency, Health Care Services Agency, and the Sheriff. The panel heard the appeals at a public meeting on February 2, 2018. The panel denied the applicant's appeal thereby upholding the Director's denial of the application. For one of the appeals by a nearby property owner, the panel denied the appeal, thereby upholding the Director's selection of the application for approval. For the other appeal by a nearby property owner, the panel sustained the appeal, thereby reversing the Director's selection of the application for approval resulting in denial of the application. Pursuant to the dispensary ordinance, decisions of the panel may be appealed to the Board of Supervisors. As of this writing, two appeals have been received and will be heard by the Board at the February 27<sup>th</sup>, 2018 Board Planning meeting.

### **Delivery Permit Application Process**

Chapter 6.108 of the County Ordinance Code establishes a permit process and requirements for the delivery of medical cannabis from a permitted dispensary to customers. Staff has developed an application form and process for the approval of delivery permits, which includes verification that the applicant operates a permitted "brick-and-mortar" dispensary. The draft form is undergoing internal review and will be ready for public distribution soon.

### **Fee Study**

SCI Consulting is in the process of preparing a fee study consistent with the provisions of Proposition 26 to determine the appropriate level of fees for application review and approval for medical cannabis dispensaries and cultivation sites, as well as medical cannabis delivery; and for costs associated with on-going maintenance and monitoring of these permits to fully recover the cost of County staff time to perform these functions. An administrative draft has been completed and is undergoing review by the internal working group. The study is expected to be ready for presentation at your next Committee meeting and, if your committee concurs, staff will present the fees to the full Board of Supervisors at the April 17, 2018 Board Planning meeting.

### **NEXT STEPS**

At the next Transportation/Planning Committee meeting, staff will report on the status of cultivation applications for the existing dispensaries, the status of the proposed ordinance amendments, the outcome of the dispensary permit appeals, and the status of the proposed tax measure. In addition, staff will present the draft cannabis fee study.