



MEMORANDUM

July 5, 2017

TO: Members of the Alameda County Planning Commission

FROM: Medical Cannabis Interdepartmental Work Group

MEETING DATE: July 10, 2017

SUBJECT: Draft Medical Cannabis Dispensary and Cultivation Ordinances

GENERAL INFORMATION

At your April 3, 2017 meeting, your Commission voted five to one to recommend that the Board of Supervisors adopt the proposed medical cannabis dispensary and cultivation ordinances, with the addition of “places of worship” to the list of uses from which dispensaries and cultivation sites are required to locate a distance of at least 1,000 feet (per Section 6.108.030.E.2 of the dispensary ordinance and Section 17.52.585.C.9.c of the Zoning Ordinance amendment pertaining to cultivation sites). Your Commission also recommended that the Board approve the Initial Study and draft Mitigated Negative Declaration (IS/MND) for the proposed ordinances.

The Board of Supervisors considered the proposed medical cannabis ordinances at the April 25, 2017 Board Planning meeting. The Supervisors referred the ordinances back to the Board Transportation/Planning Committee for consideration of comments received recommending changes to the ordinances. The Transportation/Planning Committee has since provided additional direction to staff regarding how to address the comments. The Transportation/Planning Committee also directed staff to present the revised ordinances at a series of public meetings to provide the public with the opportunity to comment on the changes.

STAFF RECOMMENDATION

Staff requests that commissioners review the attached revised medical cannabis dispensary and cultivation ordinances and revised IS/MND, take public testimony on the draft ordinances and on the IS/MND, take an action to recommend that the Board of Supervisors approve the revised IS/MND and adopt the revised proposed ordinances, and adopt the attached resolution reflecting that recommendation.

STAFF ANALYSIS

The table provided in Attachment 1 contains a list of the comments received at the April 25th Board meeting and subsequent to that meeting, direction provided by the Supervisors regarding each comment, and staff’s response. The draft ordinances which have been revised to reflect the Supervisors’ direction are also attached. A summary of the more substantive changes to the proposed ordinances is provided below.

Dispensary Ordinances

- Section 6.108.030.D was revised to require a one-mile buffer between any dispensary in the unincorporated East County and a dispensary within a city; and a five-mile buffer between any two dispensaries in the unincorporated East County.
- The Board determined not to revise Section 6.108.030.E.2 of the ordinance to add “places of worship” to the list of uses from which dispensaries are required to locate a distance of at least 1,000 feet as the Planning Commission recommended.
- Section 6.108.120.A.4 was revised to clarify that the sale of clones would be allowed at dispensaries and would not be considered a “nursery” or “cultivation” land use type.
- Section 6.108.120.A.4 was revised to remove the 100-pound limit on the amount of cannabis allowed on the premises of a dispensary.
- Section 6.108.120.A.5 was revised to remove the provision allowing ingestion of cannabis by dispensary management on the premises of a dispensary

Cultivation Ordinances

- Section 6.106.030.B of the ordinance and draft Cultivation Performance Standard Number 1 were revised to increase the maximum number of cannabis cultivation permits allowed from four to six, allowing a maximum of two permits for indoor cultivation operations and four for mixed-light cultivation operations, such as greenhouses or hoop houses.
- Section 6.106.020 of the ordinance and draft Cultivation Performance Standard Number 1 were revised to clarify that nurseries may be permitted where cultivation is permitted.
- Draft Cultivation Performance Standard Number 11 was revised to prohibit ingestion of cannabis on the premises of a cultivation site, including by management for testing purposes.

Public Meetings to Review Ordinance Revisions

The table below contains a list of the public meeting where staff has presented the revised ordinances.

June 21, 2017	Sunol Citizens Advisory Committee
June 26, 2017	Castro Valley Municipal Advisory Council
June 27, 2017	Agricultural Advisory Committee (Special Meeting)
June 28, 2017	Unincorporated Services Committee

At its June 26th meeting, the Castro Valley MAC reiterated their earlier recommendations which were not included in the final version of the proposed ordinances:

- No additional dispensaries should be allowed in West County beyond the two existing dispensaries unless the ordinance specifies that a third dispensary in West County would be located on the Fairmont Campus.
- The amount of product that can be stored at a dispensary should be limited to 100 pounds.
- The sale of edibles should be prohibited until state standards on potency are in place.
- Dispensaries and cultivation sites should not be located on the same property.
- Individuals with Prop 47 reclassified drug violations within the last 10 years should be excluded from employment/licensure at a cannabis facility.
- Individuals who have been convicted of a felony in the last 10 years should be excluded from employment/licensure at a cannabis facility.
- Any funds raised through a future tax on cannabis facilities should be given to the Sheriff's Office.

- Any performance standards developed by the planning director under Section 17.52.585 of the proposed ordinance amending the County Zoning Ordinance to implement the pilot cultivation program should be reviewed by the public.
- No more than four cultivation sites should be allowed in the unincorporated area.

At its June 27th meeting, the Agricultural Advisory Committee also recommended that the amount of product that can be stored at a dispensary be limited to 100 pounds. No comments or recommendations regarding the content of the proposed ordinance revisions were received at the Sunol Citizens Advisory Committee meeting or the Unincorporated Services Committee meeting.

Sheriff’s Office Concerns

The Sheriff’s Office, which is participating in the County’s Medical Cannabis Interdepartmental Work Group, continues to oppose the following provisions of the proposed ordinance amendments:

- Any increase in the number of dispensaries in the County
- Any cultivation in the County
- Any deliveries in the County
- Increase in the amount of cannabis allowed at the dispensaries, and
- Any edibles sold at the dispensaries.

California Environmental Quality Act

A Notice of Intent to Adopt a Mitigated Negative Declaration (NOIA) and an Initial Study/draft Mitigated Negative Declaration (IS/MND) for the proposed Medical Cannabis Ordinances were released on March 7, 2017 for a 21-day public review period which ended on March 27, 2017. Subsequently, the IS/MND was revised to include analysis of the proposed ordinance revisions. The conclusion of this analysis is that the ordinance revisions do not constitute a substantial revision, pursuant to Section 15073.5 of the California Environmental Quality Act (CEQA) Guidelines; and, therefore, recirculation of the IS/MND for additional public review is not required. The NOIA and IS/MND are attached and can also be accessed on the County website at:

<http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>.

CONCLUSION

Staff recommends that your Commission recommend that the Board of Supervisors approve the IS/MND and adopt the proposed ordinances, and adopt the attached resolution reflecting that recommendation.

A list of past meetings and links to presentations and written materials from those meetings are available on the County website at: <http://www.acgov.org/cda/planning/landuseprojects/medical-cannabis.htm>.

Attachments:

- Attachment 1 – Response to Comments Received on Draft Chapter 6.106 - Medical Cannabis Cultivation Ordinance at and subsequent to the April 25th Board of Supervisors Meeting
- Attachment 2 - Draft resolution to recommend that the Board of Supervisors approve the Initial Study and draft Mitigated Negative Declaration and adopt the Medical Cannabis Dispensary and Cultivation Ordinances
 - Exhibit A – An Ordinance Adding Chapter 6.106 to the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County

- Exhibit B – An Ordinance Amending Chapter 6.108 of the Alameda County General Code to Regulate Medical Marijuana Dispensaries, to Permit and Regulate the Delivery of Medical Cannabis in the Unincorporated Area of Alameda County, and to Regulate the Sale, Dispensing and Delivery of Edibles
 - Exhibit A (map of West County)
 - Exhibit B (map of East County)
- Exhibit C – An Ordinance Amending Title 17 of the Alameda County General Code to Conditionally Permit Medical Cannabis Dispensaries in Specified Districts within the Unincorporated Area of Alameda County
- Exhibit D – An Ordinance Amending Title 17 of the Alameda County General Code to Implement a Pilot Program Authorizing and Regulating the Cultivation of Medical Cannabis in the Unincorporated Area of Alameda County
- Attachment 3 – Performance Standards and Standard Conditions for Pilot Program Cultivation Sites.
- Attachment 4 – Revised Mitigated Negative Declaration for Medical Cannabis Ordinance Amendments