



Monterey County

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Board Report

Legistar File Number: 16-1027

September 13, 2016

Introduced: 9/1/2016

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

- a. Receive a report regarding options and issues for expanding medical cannabis permitting opportunities in Monterey County; and
 - b. Provide direction to staff.
- (Medical Marijuana Regulations - REF150048-Inland; REF160042-Coastal/County-wide)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a report regarding options and issues for expanding medical cannabis permitting opportunities in Monterey County; and
- b. Provide direction to staff.

SUMMARY:

On July 12, 2016, the Board adopted an ordinance amending the non-coastal zoning regulations (Title 21 of the Monterey County Code), and a resolution of intent to amend the Coastal zoning regulations (Title 20 of the Monterey County Code) regulating medical marijuana uses in Monterey County. At that meeting, the Board requested that staff return with a report outlining options for permitting a limited number of outdoor commercial cannabis cultivation operations. There was interest expressed to consider options that would not have the potential to result in significant environmental impacts such that preparation of an Environmental Impact Report (EIR) would not be required.

On Friday, August 26th, 2016, staff presented options, outlined below, to the medical marijuana ad hoc committee (Committee) regarding expanding outdoor cultivation. After considering the options, the ad hoc committee recommends making no changes at this time for reasons explained in this report. The following options were considered by the Committee:

Option 1: Wait; Do nothing at this time. Hold off exploring changes from the ordinances that were adopted until we see what happens with County and State ballot measures, State regulations (estimated 2018), financing, etc. Gain experience with the approved regulations adopted by the County as well as other jurisdictions before considering changing or expanding.

Option 2: Establish green zones (Zoning overlay). Conduct an opportunity and constraints analysis in order to identify geographic areas determined to have the least environmental constraints. This would afford the greatest flexibility regardless of the underlying zoning. Existing operations would have to meet criteria in order for the overlay to be applied.

Option 3: Regulations (Zoning based). Identify appropriate zoning designations with regulations that act as mitigation. Requiring discretionary permits on a case-by-case basis would defer judgment on suitability of locations to the project specific level.

Option 4: Existing operations. Limit permits to existing operations (no new operations). This arguably could be considered no change over baseline, as existing operations are arguably the baseline condition. Permitting existing operations would be subject to standards that the Board may apply for these types of permits. However, this option would penalize those that have held off waiting for regulations, and potentially reward those that chose to proceed without proper permits/approvals.

All of these options raise important land use policy, environmental, and social questions. The ability to reduce the potential for significant unavoidable impacts to the environment depends on the specifics of Board direction, subject to future in-depth environmental analysis.

DISCUSSION:

Under the regulations adopted by the Board in July, commercial medical marijuana cultivation is limited to indoor grows. The Board directed that staff return to the Board regarding options for expanded permitting of commercial cannabis cultivation, including outdoor cannabis cultivation within Monterey County. Personal cultivation, on a limited scale, is allowed in all zoning districts (indoor or outdoor) and is not at issue in this report.

In remote areas of counties throughout the State, availability of adequate public services and facilities are limited. Common issues surrounding cannabis cultivation around the State include illegal grading, water diversion, tree removal, substandard housing, and unsafe conditions. Expanding regulations to permit outdoor cannabis cultivation, if not done carefully, could lead Monterey County to follow in the footsteps of Humboldt, Mendocino, or Santa Cruz Counties. These counties, amongst others, have experienced difficulties with enforcement of outdoor cultivation. Even where adequate services and facilities are available, concerns arise regarding security and nuisance issues.

The list of issues and options are likely to evolve as more input and feedback from the community and the decision makers become available. This report is intended to be the beginning of discussions around expanded cannabis permitting. If the Board desires to allow outdoor cultivation, construction of new structures for cultivation, or expanded zoning districts, an ordinance amending the recently adopted medical marijuana ordinances will be required. The appropriate level of environmental review cannot be determined with certainty until direction is provided and more in depth environmental analysis is done as required by CEQA.

The Committee recommended keeping the regulations with the current limitations based on what we have learned to date. A number of events will occur in the fall that will have bearing on this issue, including votes on the cannabis business tax which will affect whether the

medical marijuana regulations become operative and the statewide initiative on non-medical marijuana use. Accordingly, the Committee recommended waiting until we have information about the outcome of these measures and, if the medical marijuana regulations become operative, until we have experience with the implementation of those regulations.

Another consideration is staff resources at RMA and other County departments that would be involved in developing new regulations. RMA has limited staff resources. Currently, some long range planning staff has been assisting with current planning projects leaving only 1.5 planners dedicated to long-range planning efforts. Making amendments to marijuana regulations a priority would further divert resources from other priority long range planning projects such as Community Climate Action Plan, Well Ordinance, Agricultural Land Mitigation Ordinance, Development Evaluation System, etc.

This report is not a project under CEQA because it involves only discussion about possible future action which the Board has not approved, adopted, or funded. (CEQA Guidelines, section 15262.)

Detailed discussion is provided in **Attachment A**.

OTHER AGENCY INVOLVEMENT:

This report has been prepared by the Resource Management Agency and reviewed by the Office of County Counsel. If the Board directs initiation of revisions to the recently adopted medical marijuana regulations, it is recommended that the following agencies be involved in the ordinance preparation process:

- Resource Management Agency
- CAO's Office
- Health Department/Environmental Health Bureau
- Economic Development Department
- Sheriff's Office
- Treasure/Tax Collector
- Agricultural Commissioner's Office
- District Attorney's Office
- Office of County Counsel

FINANCING:

Funding for staff time associated with preparation of this report is included in the FY16- 17 Adopted Budget for RMA-Planning.

Prepared by: Craig W. Spencer, Senior Planner, x5233
Reviewed by: Jacqueline Onciano, RMA Services Manager (Long Range Planning)
John Guertin, Acting RMA Deputy Director of Land Use
Approved by: Carl P. Holm, AICP, Resource Management Agency Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Discussion

Attachment B - Comments

cc: Front Counter Copy; Planning Commission; RMA-Environmental Services; Environmental Health Bureau; Water Resources Agency; California Coastal Commission; RMA-Code Enforcement; Health Department; Economic Development; County Counsel; Sheriff; Treasure/Tax Collector; Agricultural Commissioner; District Attorney; CAO's Budget Office; CAO's office; Jacqueline R. Onciano, RMA Services Manager; Craig Spencer, Project Planner; The Open Monterey Project (Molly Erickson); LandWatch; John H. Farrow; Janet Brennan; George Brehmer; Betty Wren; Michael Groves; Todd Bessire; Michael Bitar; Aaron Johnson; Sal Palma; Mike Linder; Jason Kallen; Aaron Newsom; Darin Woodfill; Jennifer Carrera; Ryan Booker; Jeff Scott; Isabelle Franz; Nick Curton; Paula Getzelman; Danica Flores; Lizette Valdez; Jessica McElfresh; Wil Wicke; Frank Chimienti; Joey Espinosa; Ryan Munevar; Valentia Piccinini; Jeff Atkinson; Mark Barber; Jen Linney; Melissa Duflock; Courtney Lyng; Melissa; Ken Greer; Heidi Park; Todd Winter; Ellen Komp; Ken Ekelund; Len Merino; Oren Rosenfeld; Stephen Kim; James Benton; Steven Haba; Saphirre Blackwood; Gavin Kogan; Kathleen Hoganson; The Pharmaceuticals Company; Kurt Kaufeldt; Ralph Calderon; George Omictin; Caroline Waters; Kristin Nevedal; Juls Bindi; Michael Caragio; Guy Savage; Paul Milladin; Rick Walker; Chris Chmelicek; Grace Hall; Bart Clanton; Steve Craig; Erin McKenna; Cheryl Bryant Bruce; Charles Rowley; Alexis Garcia; Planning File REF150048