

# **Board of Supervisors**

## **March 20, 2018**

Cannabis

# REQUESTED ACTION

- First - Consider adopting:
  - An ordinance establishing regulations for adult-use and medicinal use commercial cannabis activities in the coastal areas (Title 20, Coastal Zoning); and
  - A Resolution modifying the text of the North County Land Use Plan
- Second – Consider adopting:
  - An ordinance amending the inland zoning regulations (Title 21); and
  - Only if the first Ordinance is adopted;
    - A Resolution of Intent to adopt an ordinance amending the coastal zoning regulations (Title 20)
  - Both of these ordinances would modify setbacks applicable to cannabis activities in the coastal areas.

# OVERVIEW – FIRST ACTIONS

- Zoning Ordinance establishing regulations for commercial cannabis activities in the Coastal Zone (Title 20)
  - Same as the current inland zoning regulations
    - Permit required for all commercial cannabis uses
    - Zoning district limitations are the same
    - Cultivation limited to existing greenhouses or industrial buildings
- Text Amendment to North County LUP
  - Commercial cannabis activities may be permitted at the former Kaiser National Refractories site despite “coastal dependent” designation

# BACKGROUND

- November 15, 2017 - Planning Commission
  - Recommend Board remove setback from public parks, adopt a Resolution of Intent with the suggested revision; and consider the North County LUP text amendment separately from zoning regulations.
- December 5, 2017 – Board of Supervisors
  - Adopted a Resolution of Intent to adopt an ordinance establishing coastal zoning regulations (without changes to the setbacks) and to amend the North County LUP text
    - Transmitted to CCC for certification
- February 7, 2018 – Coastal Commission
  - Certified proposed amendments as submitted
- No Changes since Board adopted Resolution of Intent
  - Does not include revisions to be discussed in second part – Setbacks.

# ZONING ORDINANCES

- Uses added to Zoning Districts subject to a Use Permit or Coastal Development Permit in each case:



[CGC](#) and [MLC](#)



LI, HI, and AI



LI, HI, AI, [AC](#), and [CAP](#)



LI, HI, and AI



LI, **HI**, AI

# RECOMMENDATION – FIRST PART

- Acknowledge receipt of the CCC resolution certifying the proposed amendments;
- Find adoption of the ordinance and resolution statutorily exempt from CEQA;
- Adopt the ordinance amending the coastal zoning ordinance to regulate commercial cannabis activities in the coastal zone; and
- Adopt a Resolution amending the text of the North County LUP

# OVERVIEW – SECOND PART

- Consider Adopting:
  - An ordinance amending the Inland zoning regulations (Title 21); and
  - A Resolution of Intent to adopt an ordinance amending the coastal zoning regulations (Title 20)

Both modifying the setback requirements applicable to commercial cannabis activities

- For the Coastal Zoning regulations (Title 20) the ordinance amends the regulations adopted in the First Part of today's actions.

# BACKGROUND

- July 2016 - Board adopted medical cannabis regulations
  - Since mid 2016, State law has changed twice and the State licensing Agencies have issued licensing regulations
- County setbacks for cannabis activities have not changed since 2016
  - Permitting challenges identified
- Board and Planning Commission direction to consider amending setback requirements



# ISSUES

- Setbacks between Retailers
  - Competition for permits and limited commercial space
  - Not aligned with state law
- Setbacks from “Schools, Public Parks, and Drug Recovery Facilities”
  - Prohibits potential retailer in Big Sur
  - Not well defined
  - Not aligned with state law

# ALIGNMENT WITH STATE LAW

## Existing County Code

- Setback between Retailers (1,500 feet)
- Setback from “schools, public parks, and drug recovery facilities” (600 feet)

## State Law and Licensing Regulations

- Excessive Concentration of retailers
  - No distance required between retailers
- Setback from schools, day care centers, and youth centers

# RETAILER SETBACKS - ANALYSIS

- Setback between Retailers
  - Review of State regulations:
    - Excessive Concentration. No distance requirements
    - Similar to ABC licensing
  - Review ABC licensing requirements and process
  - Consider Health and Safety basis for additional limitations
    - Review studies
    - Consult with Health and Sheriff
- Health Department concerned with potential community health impacts of retailers
  - Comparison to Alcohol and Tobacco industries
  - Underserved communities disproportionately impacted
  - Potential to avoid repeating mistakes

# RETAILER SETBACKS - PROPOSED ORDINANCE

- Proposed amendments:
  - Delete 1,500 foot setback
  - Replace setback requirement with review of Public Convivence or Necessity on a case-by-case basis to include consideration of:
    - Retailer concentrations in the census tract
    - Consider relevant economic and social factors; and
    - Recommendations from Health and Sheriff
- Reasoning:
  - Public Convivence or Necessity approach aligns with state law
    - Mirrors requirements for ABC licensing
  - Maintains consideration of public health and safety concerns
  - Address permitting challenges by tying review to basis for concern

# OTHER SETBACKS - ANALYSIS

- Setbacks for all cannabis activities
  - Review of state law
    - 600 feet from Schools (K-12), Day Care Centers, Youth Centers
    - No setbacks for Drug Recovery Facilities or Public Parks
  - Consult with State Parks
  - Consider potential incompatible land uses (i.e. Youth oriented facilities)
- State Parks concerned with all agricultural uses and development near state lands
  - Fire clearances, Runoff, Pesticides and Fertilizers
  - Retailer uses within existing commercial zones not a concern for resource protection within parks
- Park setback intended to protect youth oriented facilities such as playgrounds

# OTHER SETBACKS – PROPOSED ORDINANCE

- Proposed Amendments:
  - Mirror state law and definitions for schools, day care centers, and youth centers for all cannabis activities
  - Remove public park setback from retailers and replace with setback from “playground”
- Reasoning:
  - Types and definitions align with state law
    - Schools (K-12), Day Care Centers, and Youth Centers
  - Playgrounds are youth oriented facilities that may be incompatible with cannabis activities
  - Addresses permit challenges and allows retailer use in Big Sur

# SUMMARY OF PROPOSED CHANGES

- Between Retailers
  - Remove 1,500 foot setback
  - Add review of public convenience or necessity including
    - Concentration
    - Economic and social factors; and
    - Input from Health and Sheriff
- All commercial cannabis - 600 foot setback
  - School providing instruction in K-12
  - Day care center
  - Youth Center
  - “playground”

# ALTERNATIVES ANALYZED

## Other Options Considered:

- Keep the established setback of 1,500 feet;
- Establish a density requirement that could limit applications based on a number of retailers per acre ratio without setback from another retailer (e.g. one retailer per 10 acres of commercial center); or
- Create an exception process and/or criteria.

## Proposed Draft Ordinances reflect staff's recommended approach:

- Align County regulations with state law;
- Address permitting challenges; and
- Address health, safety, and resource concerns



# PLANNING COMMISSION RECOMMENDATION

- February 14, 2018 – Recommend adoption by a vote of 7 ayes, 2 noes, and 1 abstention
  - Revisions to ordinance made at hearing:
    - Remove “Public Park” setback for all cannabis activities (not only dispensaries) and replace with “Playground”
    - Change the term “day care facility” to “child care facility” and include transitional kindergartens in the definition;
    - Require consideration of a report from the Public Health Department as part of the Public Convivence or Necessity Finding

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# RECOMMENDATION

- Find the ordinances require subsequent review of discretionary permits which are themselves individually subject to CEQA and there for qualify for statutorily exempt pursuant to B&P Code Section 26055(h) and Section 15282 of CEQA;
- Adopt an Ordinance Amending cannabis setback regulations for the inland areas of the County (Title 21);
- Adopt a Resolution of Intent to amend cannabis setback regulations for the coastal areas of the County (Title 20); and
- Direct staff to transmit the Resolution of Intent to the Coastal Commission for certification.