

Board of Supervisors November 6, 2018

Cannabis Permitting Process
and
Dispensary Setbacks

PROJECT

- An ordinance amending Title 21 (inland zoning); and
- A Resolution of intent to amend Title 20 (coastal zoning)
To:
 1. Change permits required for commercial cannabis activities
 2. Create exceptions to 1,500 foot setback for cannabis retailers
- Adopt a Resolution clarifying fees
 - Coastal Ordinances includes amendments to setbacks from parks, schools, youth centers, and child care centers are carried forward in Title 20
 - Previously adopted by the Board
 - Not yet certified by Coastal Commission

BACKGROUND - PERMITS

- County Code requires a Use Permit/Coastal Development Permit for all commercial cannabis uses (PC)
- County has received ~100 applications for commercial cannabis uses
 - Most permits are non-controversial
 - Similar character to other uses permitted with an administrative process
 - State law – Temporary licenses to expire
 - Limited-term provisional licenses – 1 year
- County Code provides an Administrative process to expedite work flow, decrease time, and dispense with public hearings

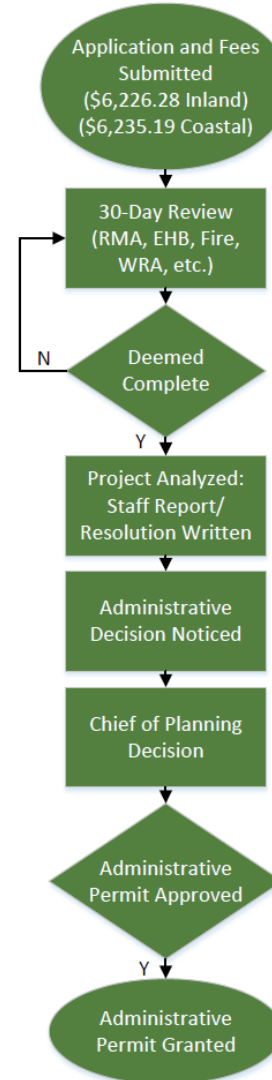
PROCESS

Admin Permits v Use Permits

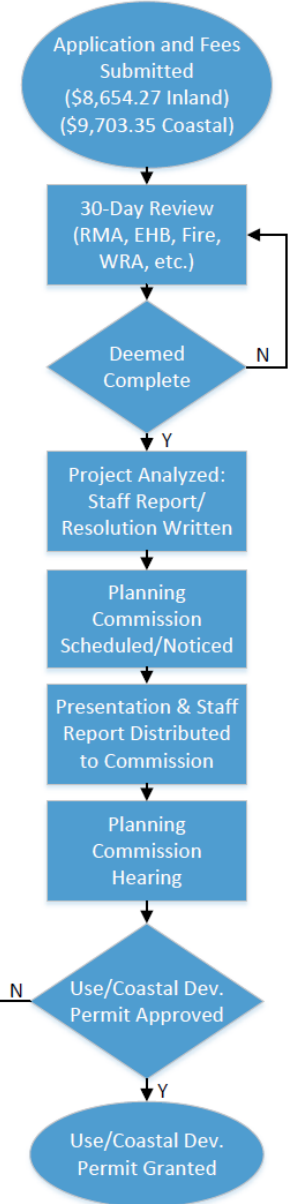
- Process is similar except:
 - Chief of Planning can approve instead of PC
 - No hearing required unless requested
- Subject to CEQA review
- Public notice provided
- Faster process if no hearing is requested

Permit Workflow Side-by-Side

Administrative Permit



Use/Coastal Dev. Permit



FEE RESOLUTION

- Clarify fee associated with the change in permits
 - Applications previously submitted are not entitled to a refund
 - Administrative Permit fees will be charged for new applications
- Staff time for processing cannabis-related applications has been more than average:
 - Changing regulations and training
 - Existing operations, state licensing, and “good standing”
 - Most properties require infrastructure improvements to meet existing codes.

BACKGROUND - SETBACKS

- County code requires a 1,500 foot setback between dispensaries
- Issues have been identified
 - Competition for permits
 - No exceptions (other than via a variance)
 - Changes have occurred in state law
- Staff directed to consider amending setbacks
 - Planning Commission and Board considered draft ordinances requiring review of Public Convenience and Necessity
 - Draft language ambiguous
 - Public health concerns
 - Directed to Cannabis Committee for review
 - Maintain 1,500 foot setback and create exception criteria
 - Develop alternative policy language addressing Public Health impacts for consideration

DRAFT ORDINANCES – SETBACKS

- Cannabis Committee Draft (not recommended):
 - Minor Exception - Director of Planning may approve exception to 1,500 foot setback if:
 - Located in a Community Area, Rural Center, or “Large Shopping Center”
 - Not to exceed 3 in a Community Area or 2 in a Rural Center or Shopping Center
- Added following Cannabis Committee Review:
 - Major Exception – Retailer not meeting setbacks, including minor exception, requires a Use Permit (rather than Variance).

PLANNING COMMISSION RECOMMENDATION

- **September 12, 2018** – Planning Commission
 - Continue hearing to October 10 with direction to:
 - Remove “minor exception”
 - Require a Use Permit/Coastal Development Permit for any cannabis proposal that does not meet established criteria
 - Establish findings for consideration
- Recommended Ordinance:
 - Any retailer not meeting the 1,500 foot setback requires a UP/CDP (PC);
 - Review report from Public Health;
 - Must make findings:
 1. Special Circumstances
 - Including, but not limited to location in a Community Area, Rural Center, or Shopping Center
 2. Will not result in a density or concentration that would:
 - Disproportionally impact a low-income community
 - Disproportionally impact a community with a high proportion of youth; or
 - Adversely impact public health

PUBLIC HEALTH CONCERNS - SETBACKS

- Dispensary density is associated with higher likelihood of youth experimenting with cannabis vaping and edibles
 - *Policies should limit densities from the beginning to avoid same mistakes as alcohol and tobacco.*
 - *Can be made less restrictive in the future. Revoking permits is much more difficult*
- Cap based on ratio of population to density are suggested
 - i.e. 1 dispensary for every 15,000 people
 - Exception to cap if located more than 25 miles from nearest dispensary
- Caps have not been incorporated in draft ordinances
 - Suggested ratios would move issues from setbacks to cap
 - Limit already reached with permitted facilities
 - Health concerns incorporated in required findings

RECOMMENDATION

- Find the ordinances Statutorily Exempt from CEQA the pursuant to Business and Professions Code Section 26055(h)
 - Permits are individually subject to CEQA review
- Adopt the ordinance amending Title 21 (Inland Zoning)
- Adopt a resolution of intent to amend Title 20 (coastal zoning)
- Adopt a resolution clarifying fees