



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legislation Details (With Board Report)

File #: PC 21-007 **Name:** PLN170296 CABRERA (CHAPIN LIVING TRUST)
Type: Planning Item **Status:** Agenda Ready
File created: 2/12/2021 **In control:** County of Monterey Planning Commission
On agenda: 2/24/2021 **Final action:**
Title: PLN170296 - CABRERA (CHAPIN LIVING TRUST)
Public hearing to provide early assessment of an applicant-requested general plan amendment to adopt a Special Treatment Area allowing commercial cannabis retail on Farmland zoned property (former McShane's Nursery).

Project Location: 115 & 115 A Monterey Salinas Highway, Greater Salinas Area Plan (APN: 207-131-004-000 and 207-131-005-000)
Proposed CEQA action: No CEQA action required for early assessment since the action is not defined as a "project" pursuant to the CEQA Guidelines.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Staff Report, 2. Exhibit A - Vicinity map, 3. Exhibit B - Letter from Property Owner

Date	Ver.	Action By	Action	Result
2/24/2021	1	County of Monterey Planning Commission		

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RECOMMENDATION

Staff recommends the Planning Commission assess the proposed General Plan amendment to adopt a Special Treatment Area allowing commercial cannabis retail sales on a farmland-zoned property and provide feedback to staff.

PROJECT INFORMATION

Applicant: Don Chapin
Agent: Cerissa Skinner
Property Owner: The Chapin Living Trust
APN: 207-131-004-000; 207-131-005-000
Parcel Size: 0.79 acres and 2.0 acres respectively
Zoning: Farmlands/40 acre [F/40]
Plan Area: Greater Salinas Area Plan
Flagged and Staked: No

SUMMARY

The Housing and Community Development Department has received an application to consider adoption of a Special Treatment Area for two parcels off Highway 68, south of the City of Salinas. This application follows the denial of a proposal for a cannabis dispensary by the Planning Commission and Board of Supervisors due to inconsistency with the zoning code. The Zoning Code does not allow commercial cannabis retail sales within the Farmland zoning designation. Amending the General Plan to designate the site as a Special Treatment Area would address the underlying legal non-conforming use of the property as well as provide an opportunity to permit a cannabis retailer at the site. The item before the Planning Commission is an early assessment of the proposed amendment pursuant to Section 21.91.030 of the Inland Zoning Ordinance pertaining to the process for consideration of a General Plan amendment.

DISCUSSION

Application History

On August 12, 2020, the Planning Commission denied an application for a commercial cannabis business by Mr. Ricky Cabrera, who is leasing the former McShane's Nursery property from the property owner Don Chapin. The project proposed retail cannabis sales in addition to cannabis cultivation and non-volatile manufacturing. The project was not approvable since the County's cannabis regulations do not allow retail cannabis sales within the Farmland zoning designation.

The applicants submitted an appeal to the Board of Supervisors on August 26, 2020, and the appeal was heard on October 20, 2020. At that meeting, the Board discussed various options with the intent to identify a path for potential approval. The Board continued the item and directed staff to discuss options.

Staff brought the item back to the Board on January 12th. The recommendation, with agreement from the applicant, was to apply for the Special Treatment Area to allow cannabis retail sales on the property. Staff presented two options to the Board related to the scope of the Special Treatment Area: the area could encompass only the subject property, or the subject property and additional properties north of the project area that are developed with existing commercial uses. The Board directed staff to pursue the Special Treatment Area for only the subject property in the interest of avoiding a significant increase in processing time that would be required to include the larger area.

Process

Establishment of the Special Treatment Area requires a zone change and a General Plan Amendment. Chapter 21.91 sets forth the procedures and requirements for General Plan Amendments, which go before the Planning Commission twice per year in February or August for recommendation, and to the Board in April and October.

Section 21.91.040 requires early assessment of proposed amendments by the Planning Commission before the amendment can proceed to hearing. Specifically, "The Planning Commission shall provide an early assessment of each application for general plan amendment to determine the suitability of the request. The Planning Commission shall provide by a majority vote its early assessment as to whether the proposed project has the potential to meet the evaluation criteria set forth in [Section 21.91.050](#)

https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT21ZO_CH21.91GEPLAM_21.91.050EVCR

of this Chapter." Thus, the Planning Commission is asked to provide comments on the proposed Special Treatment Area to allow cannabis retail sales on the Chapin property, and to vote on the potential of the project to meet the criteria below (21.91.050):

1. The amendment is not in conflict with the goals, objectives, and policies of the general plan

- that are not proposed for amendment; and
2. The applicant demonstrates, based on substantial evidence, one or more of the following:
 - a. There is a demonstrable error or oversight in the adopted general plan; or
 - b. There is a clear change of facts or circumstances; or
 - c. The amendment better carries out the overall goals and policies of the general plan.

The applicant has requested the General Plan Amendment via the attached letter (Exhibit B), which states that both b. and c. above apply to this property. A change in circumstances has resulted from the legalization and normalization of cannabis sales in Monterey County in 2018. Although the County's cannabis ordinance specifically excludes Farmland zoning from cannabis retail sales, for this particular property agricultural retail sales have been allowed as an existing use for many years, and allowed sales should now include cannabis and its derivatives as they are now legal agricultural products state-wide, and likely soon to be legal federally. Additionally, the letter states that the amendment better carries out the overall goals and policies of the general plan because the requested Special Treatment Area will recognize the existing non-conforming uses on the property and will allow the uses to be conforming and allowable going forward.

Draft Text

To provide the Planning Commission opportunity to comment on draft text, an initial draft of the text to be added to the Greater Salinas Area Plan is provided below:

Special Treatment Area: Chapin property at 116 Monterey Salinas Hwy 68. The property shall be designated a Special Treatment Area. In recognition of the unique circumstances of the property, including the long history of legal non-conforming retail use of the Farmland-zoned property, retail use, including but not limited to commercial cannabis sales, shall be allowed pursuant to the adopted General Development Plan for the property.

In addition to the General Plan Amendment, the application includes a request to amend the existing General Development Plan for the property. Staff is currently working with the applicant to identify all uses requested to be allowed on the property. As proposed, uses will include cannabis cultivation (for demonstration purposes), non-volatile manufacturing, cannabis retail sales, and non-cannabis related retail. Cannabis operations on the property will be subject to all regulations identified in Section 21.67.

Next Steps

Following the Planning Commission's early assessment of the proposed amendment, staff will continue processing the requested amendment as well as the additional necessary entitlements and the required CEQA review. Staff anticipates bringing all requested entitlements forward to the Planning Commission as a complete package for consideration. This will include:

- General Plan Amendment
- Zone change to apply the Special Treatment Area to the property
- Permit for Commercial Cannabis business, including retail sales, non-volatile manufacturing, and cultivation (for demonstration purposes)
- General Development Plan
- Amendment to Section 21.67 to specify that commercial cannabis retail sales is allowed where specifically designated in a Special Treatment Area.

ENVIRONMENTAL REVIEW

Pursuant to section 21.91.030 of the County Code, the early assessment may be undertaken prior to environmental review under the California Environmental Quality Act (CEQA) based on the recognition that

the early assessment is not a commitment to the general plan amendment and does not excuse preparation of environmental review as appropriate under CEQA. The environmental review for the formal project would be conducted concurrently with processing of all required entitlements; including, General Plan amendment, rezone, use permit, and general development plan amendment.

OTHER AGENCY INVOLVEMENT

The following agencies have previously reviewed the proposed commercial cannabis project, have comments, and/or have recommended conditions:

- Environmental Health Bureau
- RMA-Public Works
- RMA-Environmental Services
- Monterey Regional Fire Protection District
- Monterey County Health Department

Prepared by: Cheryl Ku, Senior Planner
Reviewed by: Craig Spencer, Planning Services Manager
Approved by: Erik V. Lundquist, AICP, Chief of Planning

The following attachments are on file with the HCD:
Exhibit A - Vicinity Map
Exhibit B - Letter from Property Owner

cc: Front Counter Copy; Planning Commission, Brandon Swanson, RMA Planning Services Manager; Cheryl Ku, Planner; Cerisa Skinner, Agent; Ricky Cabrera and the Chapin Living Trust, Owners; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN170296.