



MEMORANDUM

September 30, 2020

TO: Board of Supervisors' Transportation/Planning Committee

FROM: Cannabis Interdepartmental Work Group

DATE: October 5, 2020

SUBJECT: Consideration of potential amendments to the County Ordinance Code to allow the remaining unallocated cannabis retail store permit in West County to be made available in West or East County and, if it is in East County, to be a boutique operation

BACKGROUND

On September 8th, the Board of Supervisors' Transportation/Planning Committee directed staff to identify examples of boutique cannabis retail stores in other counties and provide information to the Committee about options to amend the County Ordinance Code to allow the remaining unallocated cannabis retail store permit to be allowed in West or East County, and to be a boutique operation.

DISCUSSION/SUMMARY

The Alameda County Ordinance Code currently allows a maximum of five permits to be issued for cannabis retail stores in unincorporated Alameda County. Two are allowed in East County, and those permits have been issued through a Request for Proposals (RFP) process. Three are allowed in West County, with a maximum of two allowed in Area 1 (Ashland and Cherryland) and Area 2 (Castro Valley). The two existing cannabis retail stores in unincorporated Alameda County – We Are Hemp and Garden of Eden – are both located in Area 1. Therefore, the remaining one unallocated permit would currently be available to be located only in Castro Valley. An RFP has not been conducted yet for this permit.

It would be possible to amend Chapter 6.108 of the County Ordinance Code to allow the fifth permit for a cannabis retail store to be allowed in East or West County.

Under Chapter 6.109 of the County Ordinance Code, the permit holder of a cannabis retail store can apply to have the business converted to a combined cannabis operation (CCO). In addition to allowing retail sales, a CCO permit that originated from a retail store permit allows the permit holder to include at least two of the following additional activities: cultivation, manufacturing, and/or distribution. The cultivation area for a CCO that converted from a retail store permit must not exceed 10,000 square feet. A CCO that was converted from a cultivation permit, which is allowed in East County only, is not allowed to include retail. These CCO's are limited to providing cultivation, manufacturing and distribution.

Boutique cannabis operations in other counties

At the Committee’s direction, staff has researched cannabis operations in other counties that are described or advertised as boutique operations. Many dispensaries in California describe themselves as “boutique”. There seems to be a large market for high-end dispensaries, including those that offer other related cannabis “experiences”. In some locations in California (e.g. San Francisco and Mendocino), some cannabis retail stores include on-site consumption.

In California wine-growing regions, several tour operators are offering “weed and wine” tours, but it seems that mostly the wine and cannabis activities are separate. For example, on one of these tours you might start with a wine tasting at a winery, do a tour of a nearby cannabis cultivation site and stop off at a cannabis retail store. Under State law, a cannabis dispensary in California cannot be located on the same “premises” as a business selling alcohol.

Staff has identified several examples of boutique cannabis activities in wine regions, including those that describe experiential, educational and food related activities, but none where a dispensary is on the same site as a winery. These boutique operations combine different aspects of cannabis operations without breaching requirements (e.g. to not have cannabis and alcohol for sale on the same premises). Some examples include the following:

- In Mendocino, there is a business called Flow Kana, also referred to as the Flow Cannabis Institute¹, which is self-described as “The World’s First Cannabis Campus: Bringing the Entire Supply Chain Under One Roof”. It does not combine a winery and cannabis but proposes to replicate a winery-like model for cannabis on the premises of a former winery. From the description on their website, it seems their operation is proposed to include processing, manufacturing and distribution of cannabis, but not retail sale. It does not appear to be operational yet, but Flow Kana does hold cannabis licenses for distribution and manufacturing, which may be for this site, although the State license listing does not identify the address for the licensed activities.
- In Napa, operators including Francis Ford Coppola are advertising cannabis events and partnerships, including Coppola’s “new cannabis lifestyle company”². The company’s marketing materials state that they are producing boutique cannabis products, but the business as described does not involve activities on a cannabis retail store site. Cultivation, dispensaries and manufacturing are currently prohibited in the unincorporated areas of Napa. Napa County was scheduled to conduct a series of public forums on commercial cannabis in early 2020, but these were postponed due to COVID.
- In Sonoma, there is a business called TSO Sonoma, which runs “Elevated Events”³. The company runs events which include cannabis, wine and food pairings. It seems that one way they can offer cannabis and wine pairings is by hosting events on unlicensed private properties (e.g. an Instagram post from the company describes that they have hosted events on a co-founder’s property in Sonoma).

Cannabis trends related to wine

¹ <https://www.flowkana.com/flow-cannabis-institute>

² As profiled in this article in Forbes: <https://www.forbes.com/sites/katieshapiro/2018/11/02/francis-ford-coppola-goes-from-wine-to-weed-with-new-cannabis-lifestyle-company/#2c308f553c7f>

³ <https://tsosonoma.com/>

In reviewing opportunities for boutique cannabis retail store opportunities, staff identified some other trends related to cannabis and California’s wine regions:

- In some wine growing regions, wine growers are reporting incompatibilities with cannabis activities. For example, a November 2019 article in a wine publication⁴ describes potential conflict between wineries and cannabis cultivation in Santa Barbara, in particular the risk of herbicide and pesticide drift as well as odor issues, and an October 2019 article in the San Francisco Chronicle⁵ describes the reason all commercial cannabis activities have been so far banned in Napa was due to concerns about incompatibility with wine growing.
- Another trend that has emerged is the creation of cannabis-infused wine. This wine, which can be sold in cannabis retail stores, is prepared by removing the alcohol from wine, and infusing it with THC or CBD. Cannabis cannot be infused into a product containing alcohol.
- Similar to appellations for wine, which identify wine produced with at least 85% of grapes from a particular geographic region to be from that viticultural area, CalCannabis, which regulates cultivation licensing in the State, has announced that it will be launching the “CalCannabis Appellations Project”. As described in a December 2019 article in the Cannabis Industry Journal⁶,

“The underlying premise behind the CalCannabis Appellations Project is that the distinctive qualities of a cannabis product are often attributable to where and how the plant is grown. Through this project, CalCannabis is developing a statewide appellations system that will allow qualifying licensed cultivators to effectively communicate information about their cannabis crops (i.e., the standards, practices and/or varieties used) through labels, advertisements and other marketing techniques.”

Amending Alameda County ordinances

If the ordinances are amended to allow the remaining dispensary permit to be in East or West county, under State law it would not be allowed to be located on the same premises as a winery.

The Alameda County ordinances allow dispensaries to apply to become a combined cannabis operation (CCO), which must include at least two additional activities – cultivation, manufacturing and/or distribution – in addition to retail. The manufacturing aspect of a CCO could have some potential for additional activities, for example tours or education related to the production of cannabis products on site.

NEXT STEPS

Staff seeks direction from your committee and, if directed to do so, will draft amendments to the County Ordinance Code for consideration by the full Board to allow the remaining cannabis retail store permit to be permitted in either West or East County.

⁴ Wine Spectator: <https://www.winespectator.com/articles/can-cannabis-and-wine-coexist>

⁵ <https://www.sfchronicle.com/business/article/Napa-County-votes-to-ban-all-commercial-cannabis-14539327.php>

⁶ https://cannabisindustryjournal.com/feature_article/the-calcannabis-appellations-project-is-about-to-spark-a-new-chapter-in-place-based-branding/