



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

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MEMORANDUM

DATE: December 7, 2020
TO: Board of Supervisors' Transportation/Planning Committee
FROM: Chris Bazar, Director, Community Development Agency
Albert Lopez, Planning Director
SUBJECT: Proposed amendments to the County Ordinance Code to allow water-hauling from off-site locations for the purposes of cannabis cultivation

BACKGROUND

On November 2nd, the Board of Supervisors' Transportation and Planning Committee directed staff to prepare ordinance amendments to amend the County Ordinance Code in relation to cannabis retail. Those ordinance amendment changes will be going to the Board of Supervisors meeting on December 15th for proposed adoption. In the meantime, a request for changes to the cannabis cultivation ordinance has been initiated by the District 4 Cannabis Stakeholders' Group seeking to allow hauling of water from off-site locations for cannabis cultivation.

DISCUSSION

Draft Ordinance Amendments

Chapter 6.106 of the County's General Ordinance Code contains a standard condition that prohibits hauling water from off-site for the purpose of cannabis cultivation.

The proposed ordinance amendment would entail the deletion of sub-paragraph 21 in Paragraph A of Section 6.106.125 of the ordinance code:

“21. Water. Water is to be sourced locally (on-site) and trucked water shall not be allowed for general cultivation purposes, but may be used for emergencies (e.g., fire).”

Agricultural Advisory Committee Comments

On October 27th, the Agricultural Advisory Committee considered a request from the District 4 Cannabis Stakeholders' Group that this restriction be deleted to enable cannabis cultivators to haul water from off-site locations for agricultural purposes like any other agricultural use. At the October 27th Agricultural Advisory Committee meeting, comments raised by the public and members of the committee in relation to this proposed ordinance change included the following:

- Suggestions that cannabis cultivation is a permitted type of agriculture and should not be denied access to off-site water, if available, for cultivation purposes and concern that it is inconsistent and not justified to treat cannabis cultivation differently from the cultivation of other agricultural crops that would be able to use off-site water for cultivation;

- Concerns that the provision requiring no off-site water to be used for cultivation was part of a longer 3-year cannabis ordinance development process and no concerns were raised during that time;
- Concerns about the traffic impacts of additional water trucks on narrow rural roads and the interface of trucks with commuter traffic;
- Concerns that allowing cannabis cultivation operations to haul water from off-site locations could have impacts on the quality of groundwater resources; and
- Suggestions that the CUP process is adequate to manage consideration of water access issues.

After discussion, the Agricultural Advisory Committee passed a motion supporting the removal of paragraph 21 from the standard conditions in the cultivation ordinance.

On December 7th, staff will present these ordinance amendments related to cannabis cultivation and retail to the Planning Commission for consideration. The Commission's recommendations concerning the proposed ordinance amendments and comments raised by the public at the meeting will be brought to the full Board on December 15th when the Board will be asked to approve the proposed amendments.

CEQA

The ordinance amendments are exempt from CEQA per state law. Business and Professions Code section 26055(h) exempts from CEQA the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review for commercial cannabis permits or other authorizations, where CEQA review will be part of that discretionary review. This exemption is effective through July 1st, 2021. Because all commercial cannabis operations in the County will require discretionary review in the form of a conditional use permit with associated CEQA review, this ordinance amendment is exempt.

NEXT STEPS

Staff seeks direction from your committee to take the draft ordinance amendments to the full Board for consideration on December 15th.