

Resolution Number 21-01

County of Sonoma
Santa Rosa, California

April 15, 2021
ORD20-0005

RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, RECOMMENDING TO THE BOARD OF SUPERVISORS TO ADOPT (1) PROPOSED NEW CHAPTER 38 ZONING REGULATIONS TO EXPANDED MINISTERIAL PERMITTING BY THE DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES FOR COMMERCIAL CANNABIS CULTIVATION IN LEA, LIA, DA, AND RRD AGRICULTURAL AND RESOURCE ZONING DESIGNATIONS, (2) AND PROPOSED AMENDMENTS TO EXISTING CHAPTER 26 ZONING REGULATIONS TO ALIGN WITH PROPOSED NEW CHAPTER 38, AND ADD DEFINITIONS AND OTHER AMENDMENTS AS NECESSARY FOR CLARIFICATION

WHEREAS, opportunities in the County of Sonoma for commercial cannabis cultivation are important to promote agricultural diversity and a robust and sustainable local economy;

WHEREAS, establishing clear regulations to guide land use permitting for commercial cannabis cultivation is essential to encourage legal cannabis market participation, discourage illegal market participation, and ensure commercial cannabis cultivation is located on appropriate parcels;

WHEREAS, in October 2015, the state enacted the Medical Cannabis Regulation and Safety Act (Medical Cannabis Act) to provide a regulatory framework for medical cannabis businesses;

WHEREAS, on November 8, 2016, the voters of California passed the Adult Use of Marijuana Act (Adult Use Cannabis Act);

WHEREAS, on June 27, 2017, the state passed Senate Bill 94 which consolidated regulations into the Medicinal and Adult-Use Cannabis Regulation and safety Act (Cannabis Act), which related the current state cannabis regulatory structure;

WHEREAS, on December 20, 2016, the Board of Supervisors adopted Ordinance number 6189 to amend Chapter 26 allow personal cultivation of cannabis and permit cultivation of commercial medical cannabis and support land use in various zoning districts, adopting new definitions and establishing special use regulations;

WHEREAS, on April 10, 2018, the Board of Supervisors conducted a Cannabis Ordinance Study Session and adopted a resolution of intent to update the existing Cannabis Ordinances, which included the County's Cannabis Health Ordinance and Tax Ordinance;

WHEREAS, the cannabis land use ordinance amendment process was divided into two phases. The first phase had a limited scope that focused on aligning with requirements of state law. The second phase had a broader scope for ordinance amendments developed over an extended period. The scope of the second phase was designed to achieve multiple goals developed through extensive input from the public and collaboration with the Cannabis Advisory Group (CAG), initially convened in 2017, at the direction of the Board of Supervisors. The last meeting of the CAG was held on June 26, 2019 and its recommendations were submitted to staff and the Board of Supervisors. The recommendations focused on ordinance revisions that would ensure the competitiveness of small operators with large corporate entities in the region, while also ensuring neighborhood compatibility with a focus on protecting sensitive receptors;

WHEREAS, on October 16, 2018, consistent with the first phase, the Board of Supervisors adopted Ordinance number 6245 amending Chapter 26 to allow adult use cannabis in Sonoma County for the full cannabis supply chain, enhance neighborhood compatibility, add new definitions and make minor non-substantive amendments to harmonize with California state law and regulations where appropriate;

WHEREAS, on December 17, 2019, consistent with the second phase, the Board of Supervisors directed staff to develop and propose amendments that would expand opportunities for ministerial commercial cannabis cultivation to be administered through the Department of Agricultural / Weights and Measures in order to treat cannabis similarly to other agricultural uses like wine grapes;

WHEREAS, in May 2020, the County Administrator's Office, in collaboration with the Department of Agriculture / Weights and Measures and Permit Sonoma, began developing ordinance amendments consistent with the Board's December 17, 2019 direction and with consideration to all of the recommendations of CAG and the Board's Cannabis Ad Hoc, for application outside of the coastal zone;

WHEREAS, staff additionally proposed an amendment to the Agricultural Resources Element of the Sonoma County General Plan Amendment to explicitly include cannabis cultivation within the meaning of agricultural use as used in the General Plan, as part of the proposed policy and code update;

WHEREAS, the County contracted with Rincon Consultants to conduct environmental review of the proposed policy and code update;

WHEREAS, on January 31, 2021, in order to encourage early engagement and promote transparency, staff released a preliminary working draft of Chapter 38 and the IS/MND for public review prior to the official publishing of proposed hearing drafts of Chapter 38, amendments to Chapter 26, amendment to the General Plan, and IS/MND for public review on February 16, 2021;

WHEREAS, on February 12, 2021, the Notice of Completion and Draft IS/MND for the project was received by and filed with the State Clearinghouse. The 30-day public review period began on February 16, 2021;

WHEREAS, on February 16, 2021, the County published a Notice of Intent to Adopt an Initial Study/ Mitigated Negative Declaration (IS/MND) for the project in the Press Democrat, and also alerted all interested parties on file with the County by email of the availability of the IS/MND. The County made publicly available copies of the proposed ordinance amendments, general plan amendment, and the Initial Study and draft Subsequent Mitigated Negative Declaration (SMND) and technical studies, project materials, and associated documents by request and on its cannabis program website <https://sonomacounty.ca.gov/cannabis-program/>;

WHEREAS, on March 8, 2021, staff conducted virtually held two ninety-minute public workshop and listening sessions to review key policy changes and to receive comments and questions from the public regarding the proposed changes;

WHEREAS, the requirements of AB 52 and SB 18 related to tribal consultation for this project will be satisfied before the Board of Supervisors considers or takes action on the proposed project, SMND, or general plan amendment;

WHEREAS, on March 8, 2021, a Planning Commission public hearing notice was published in the Press Democrat and emailed to all those interested parties on file with the County;

WHEREAS, on March 11, 2021, consistent with the practice of the Sonoma County Planning Commission, the staff report, draft resolution, and public comments received to date were made publicly available on the Planning Commission's website <https://sonomacounty.ca.gov/Planning-Agency/Full-Calendar/> seven days prior to the noticed hearing scheduled for March 18, 2020, before the Planning Commission;

WHEREAS, on March 12, 2021, staff conducted two additional virtually held ninety-minute public workshop and listening sessions to review key policy changes and to receive comments and questions from the public regarding the proposed changes;

WHEREAS, on March 18, 2021, the Sonoma County Planning Commission held a public hearing facilitated virtually through Zoom, allowing videoconference or telephonic access and participation, pursuant to California Governor Executive Orders N-25-20 and N-29-20, on the proposed zoning ordinance amendments, both the proposed changes to Chapter 26 and the proposed new chapter 38, and the proposed general plan amendment, reviewed the staff report, received a staff presentation, and comments from the public, closed the public hearing and continued the meeting to March 25, 2021;

WHEREAS, the Planning Commission held a continued meeting on March 25, 2021, to deliberate on the proposed ordinance amendments and general plan amendment, provided direction to staff to make changes to the proposed ordinances and resolution, and continued to the meeting to April 15, 2021;

WHEREAS, the Planning Commission held a continued meeting on April 15, 2021, on the proposed ordinances and resolution;

WHEREAS, consistent with California Government Code Section 65855, the Planning Commission's recommendation to the Board of Supervisors on the proposed ordinance amendments will be transmitted with applicable findings in support thereof,

WHEREAS, consistent with California Government Code Section 65354, the Planning Commission's recommendation to the Board of Supervisors on the proposed general plan amendment will be transmitted to the Board of Supervisors on a majority vote of the commission; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the County of Sonoma does hereby find and resolve as follows:

1. Recitals

The foregoing recitals are true and correct and are incorporated into the findings herein.

2. Record

The Record of Proceedings ("Record") upon which the Planning Commission makes its recommendation includes, but is not limited to:

(1) General Plan 2020, and its Agricultural Resource Element in particular, (2) the FEIR certified for the General Plan 2020, including the appendices and technical reports cited in and/or relied upon in preparing the FEIR, (3) the Initial Study/Mitigated Negative Declaration for the Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment, (4) Exhibit A of this Resolution including the draft zoning ordinance amendments to Chapter 26, incorporated herein, (5) Exhibit B of this Resolution including the draft zoning ordinance addition of Chapter 38, incorporated herein, (6) Exhibit C of this Resolution including the draft general plan amendment to the Agricultural Resources Element, incorporated herein, (7) all staff reports, County files and records and other documents prepared for and/or submitted to the Commission relating to the Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment project, (8) all documentary and oral evidence received at public hearings and meetings or submitted to the County relating to the project, and (9) all matters of common knowledge to the Commission and the County, including, but not limited to, county, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the county and its surrounding areas.

3. Compliance with the California Environmental Quality Act (CEQA)

The Planning Commission of the County of Sonoma has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared for Sonoma County Cannabis Land Use Ordinance Update and General Plan Amendment, and based on its independent judgement and analysis determines that the MND was prepared in accordance with the CEQA and that based on the whole record, including public comments received during the public review process, finds there is not substantial evidence that the project will have a significant effect on the environment. In particular, the Planning Commission has reviewed the Mandatory Findings of Significance (Section 21; of the Subsequent Mitigated Negative Declaration) and concurs with the findings that the Project will have a less than significant impact on the environment for the reasons specified as more fully described in this resolution;

4. Findings

- (1) The proposed amendments to the County of Sonoma's zoning regulations are necessary and desirable to protect the public health, safety and environmental resources, provide a consistent regulatory pathway for the cannabis industry consistent with state regulations, foster a healthy, diverse and economically viable cannabis industry that contributes to the local economy, and ensure that environmental, public health, safety, protection of sensitive uses, and nuisance factors related to the commercial cannabis cultivation industry are adequately addressed.
- (2) The proposed ordinance amendments are consistent with the overall goals, objectives, policies and programs of the General Plan to promote a healthy and competitive agricultural industry, stabilize farm incomes and provide opportunities for diversification of agricultural products; protect Important Farmlands; preserve biotic resources; promote energy conservation and use of renewable energy; minimize discharge of sediment, waste and other pollutants into the drainage systems; protect groundwater resources; encourage graywater systems and use of recycled water. If cannabis cultivation is not redefined as "agriculture" the proposed ordinance remains consistent with the General Plan because cannabis cultivation, as strictly regulated and limited by the ordinance, is highly compatible with agricultural production on land designated for agricultural use, continues to be limited in scope and scale so that conventional agricultural remains the primary use, and furthers the overall goals, objectives, policies and programs of the General Plan as stated herein.

BE IT FURTHER RESOLVED that the Planning Commission hereby recommends adoption of the Subsequent Mitigated Negative Declaration. The Planning Commission certifies that the Subsequent Mitigated Negative Declaration has been completed, reviewed, and considered, together with comments received during the public review process, in compliance with CEQA and State and County CEQA Guidelines, and finds that the Subsequent Mitigated Negative Declaration reflects the independent judgment and analysis of the Planning Commission.

BE IT FURTHER RESOLVED, that the Planning Commission recommends that the Board of Supervisors adopt the proposed amendments to Chapter 26, and the addition of Chapter 38 to Sonoma County's zoning regulations;

BE IT FURTHER RESOLVED, that the Planning Commission does not recommend that the Board of Supervisors adopt the proposed General Plan Amendment to include cannabis within the meaning of "agriculture," and "agricultural use" as used in the Sonoma County General Plan;

BE IT FURTHER RESOLVED, that the Planning Commission recommends that the Board immediately direct staff to investigate a more comprehensive update of commercial cannabis permitting, also including cannabis uses in the commercial and industrial zoning districts, as the next phase of the County's Cannabis Program in conjunction with preparation of an environmental impact report;

BE IT FURTHER RESOLVED, that the Planning Commission directs staff to transmit the recommendations as stated herein to the Board of Supervisors as required by law; and

BE IT FURTHER RESOLVED that the Planning Commission designates the Secretary of the Planning Commission as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of Permit Sonoma, 2550 Ventura Avenue, Santa Rosa, CA 95403.

THE FOREGOING RESOLUTION was introduced by Commissioner Mauritson who moved its adoption, seconded by Commissioner Reed, and adopted on roll call by the following vote:

Commissioner Reed:	Aye
Commissioner Belforte:	Aye
Commissioner Mauritson:	Aye
Commissioner Davis:	No
Commissioner Carr:	No

Ayes: 3	Noes: 2	Absent: 0	Abstain: 0
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WHEREUPON, the Chair declared the above and foregoing Resolution duly adopted; and

SO ORDERED.