

AGENCY:	City of Fort Bragg
MEETING DATE:	March 23, 2022
PREPARED BY:	Marie Jones
PRESENTED BY:	Marie Jones

AGENDA ITEM SUMMARY REPORT

APPLICATION NO.: ILUDC Amendment 1-22

OWNER: Various

APPLICANT: City of Fort Bragg

AGENT: N/A

PROJECT: Consider Adoption of a Resolution Recommending that City Council Adopt the Inland Land Use and Development Code Amendment #1-22 which Includes New Regulations for Commercial Cannabis Cultivation, Cannabis Retail and Cannabis Retail-Delivery.

LOCATION: All parcels located in the Inland Light Industrial, Heavy Industrial, Central Business District, General Commercial and Visitor Highway Commercial Zoning Districts.

APN: N/A

TOTAL AREA AFFECTED: 170 Acres

ZONING: Inland Light & Heavy Industrial Zones, Central Business District, General Commercial and Visitor Highway Commercial Zones

ENVIRONMENTAL DETERMINATION: A Negative Declaration was prepared and is currently circulating for public comment.

BACKGROUND

For a complete review of the background for developing new regulations for Commercial Cannabis Cultivation and modifications for Cannabis Retail, and Cannabis Retail-Delivery please see **Attachment 1** - Staff Report from February 23, 2022.

Most recently, on February 23 and March 9th of 2022, the Planning Commission held public hearings on this matter, and continued deliberations to March 23, 2022.

On February 28, 2022, the City Council considered the Urgency Ordinance and extended the moratorium for 45-days. The Cannabis Business moratorium will expire on April 14, 2022.

PROJECT DESCRIPTION

The proposed ILUDC amendment would establish land use regulations for commercial cannabis cultivation (cannabis cultivation) and includes modifications to existing regulations for retail cannabis regulations.

As recommended by the Planning Commission, Chapters 18.22, 18.42, and 18.100 of the ILUDC have been revised for City Council's consideration as follows:

Chapter 18.22 – Use Tables

1. Require Minor Use Permit approval for cultivation and retail sales of Cannabis. The Minor Use Permit process would allow staff and/or the Planning Commission to set special conditions, ensure compliance with Chapter 18.42 use requirements, and allow the City to rescind a minor use permit if an applicant does not comply with special conditions. (See Attachment 1, page 1 & 2)
2. Set a maximum of 3 Cannabis Retail permits in the Central Business District by resolution (Att 1, page 2 note)
3. Deleted "Cannabis Retail – Delivery" from Table 2-10, as this is an accessory use and does not need to be separately listed in the Use Table. Regulations and definition for this accessory use are included in Chapter 4.

Chapter 18.42.055 – Cannabis Cultivation

4. Inserted appropriate section heading and text regarding applicability, definitions and standards so that the ordinance form matches the rest of the ILUDC. (See Att 2, top of pages 1, 2 & 3)
5. Set various operation requirements for commercial cannabis cultivation, including deleting the need for a log of visitors which would not be allowed in non-retail areas, as this creates an internal conflict in the ordinance. One cannot require logging of something which is not permitted. (Att 2, middle of pg. 1)
6. Defined accessory cannabis uses for commercial cultivation to include Cannabis Retail Delivery and Cannabis Retail. (Att 2, bottom of pg. 1)

Chapter 18.42.057 – Cannabis Retail

7. Set various operation requirements for Cannabis Retail, including adding regulations regarding odor, hours, screening, etc. (Att 2, middle of pg. 2)
8. Established location limitations for Cannabis Retail in order to minimize conflicts with uses that have a potential for incompatibility. Location limits include 1) Cannabis businesses cannot be located within 150 feet of a youth center, school, church and/or day care facility and 2) cannabis businesses are permitted only west of the center line of Franklin Street in all zoning districts. (Att 2, middle of pg. 2)
9. Defined standards for cannabis accessory uses and require a MUP for the addition of such uses to an existing cannabis business. (Att 2, bottom of pg. 2).

Chapter 18.100

10. Defined multiple terms for Cannabis regulations. New definitions include Cannabis Accessory Use and Craft Cannabis Manufacturing.

GENERAL PLAN ANALYSIS

The proposed ordinance will allow Commercial Cannabis Cultivation in Inland industrial zoning districts. The Inland General Plan (IGP), defines the purpose of these zoning district as follows

:

Heavy Industrial (IH) This designation is intended for a range of heavy industrial uses including manufacturing, assembly and processing, and the storage and distribution of raw materials, aggregate plants, and related heavy industrial uses which are generally incompatible with and require locations removed from residential and visitor serving uses.

Light Industrial (IL) This designation is intended for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses which do not generate a significant amount of on-site customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Manufacturing uses are permitted provided they occur within an enclosed structure. Other uses permitted in this designation include offices ancillary to permitted uses, agricultural product sales and services, construction yards, and automobile repair shops.

Cannabis Cultivation can be found to be consistent with these definitions, as crop production and cannabis manufacturing are already allowable uses in these districts. While Cannabis Cultivation is not spelled out in the General Plan purpose definitions for this zoning districts, it can be inferred by the uses that are allowed.

Likewise, the ILUDC provides the following purposes for the General Commercial, Central Business District and Highway Commercial zoning districts; respectively:

Central Business District (CBD) This designation applies to the core of the downtown which is the civic, cultural, and commercial center of the community. Uses and site development patterns in the Central Business District are typically pedestrian-oriented. This designation is intended to accommodate government and professional offices, retail stores, theaters, and other similar uses. Residential uses on upper floors or on the ground floor at the rear of buildings are encouraged at a density of up to 40 units per net acre.

General Commercial (CG) The General Commercial designation is intended for a less compact and intensive type of development than found in the Central Business District. Typical land uses in this designation depend more on vehicular than pedestrian access and include automotive and service-related outlets, retail sales, hardware, paint or carpeting sales, offices, apparel stores, and food stores. Shopping centers are allowed with approval of a conditional use permit. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre. Highway Visitor

Commercial (CH) This land use designation applies to land uses serving residents and visitors on sites which are located along Highway One and arterials at the entry points to the community. Typical uses allowed in this designation include motels and other lodging enterprises, restaurants, and retail outlets. Residential uses are permitted above the ground floor or on the ground floor at the rear of buildings at a maximum density of up to 24 units per acre.

Cannabis Retail and Cannabis Retail-Delivery can be found to be consistent with the purpose of these three zoning districts as both are retail uses, and the regulations as proposed would mitigate any potential impacts due to the nature of the products for sale.

As analyzed below, the proposed ordinance may be found to be consistent with the Inland General Plan as it does not conflict with any Policies in the Inland General Plan. In particular, the proposed ordinance is consistent with the following:

General Plan Consistency Analysis
<i>Policy LU-1.1 Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations and ensure consistency between the Inland General Plan and the Inland Land Use and Development Code.</i>
CONSISTENT – commercial cannabis cultivation is less intensive than other allowed and conditionally allowable industrial uses including fish processing, agricultural processing, and light, medium, and heavy manufacturing. Only indoor commercial cannabis cultivation would be allowed which is similar to these activities and also similar to crop production which is a permitted use.
<i>Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).</i>
CONSISTENT – the proposed ordinance would require a typical retail store front for Cannabis Retail uses in the CBD. Cannabis retail-Delivery would not be permitted in the CBD. Additionally, the maximum number of dispensaries in the Central Business District may be restricted by resolution to limit any potential inconsistencies which could result from over concentration.
Policy LU-4.3 Standards for Commercial Uses in Residential Areas: Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.

<p>CONSISTENT – All commercial buildings in commercial areas are allowed to have retail businesses. The proposed regulations would limit Cannabis Retail businesses to the area west of the Centerline of Redwood Street in order limit potential conflicts with residential areas located within and close to the CBD, CG and Ch zoning districts.</p> <p>Additionally, the proposed regulations would prohibit cannabis businesses within 150 feet of youth centers, churches, schools and day care facilities.</p>
<p><i>Land Use Goal LU-5 Policy LU-5.2 Industrial Land Use Standards: Require that industrial development avoid or minimize creating substantial pollution, noise, glare, dust, odor, or other significant adverse impacts.</i></p>
<p>CONSISTENT – the City’s existing codes, General Plan, and the environmental review process all protect against projects that would contribute to substantial pollution, noise, glare, dust, or other adverse impacts. Additionally, §18.42.055 Cannabis Cultivation provides protections for odor.</p>
<p><i>Policy PF-2.2 Program PF-2.2.5 Continue to encourage water conservation techniques and water conserving fixtures in all new development projects</i></p>
<p>CONSISTENT – Proposed Section 18.42.055(B)(3)(a) requires that commercial cannabis cultivations use the best available technologies for water systems and water recycling and encourages proposed projects to use alternate sources of water from the City’s potable water system.</p>
<p><i>Open Space Goal OS-7 Improve air quality</i></p>
<p>CONSISTENT –Cannabis cultivation is required to have odor control technology.</p>
<p><i>Policy S-2.5 Use of Local and Renewable Energy: Buildings and infrastructure that create and/or use locally and renewably generated energy are encouraged. Photovoltaic and wind energy systems are encouraged. The installation of solar panels or other clean energy power generation sources over parking areas is preferred</i></p>
<p>CONSISTENT – Proposed ILUDC §18.42.055(B)(3)(C) requires that electricity be exclusively provided by a renewable energy source.</p>
<p><i>Policy S-3.1 Reduce Water Use: Minimize the use of potable water in new and existing development.</i></p>
<p>CONSISTENT - Proposed ILUDC §18.42.055(B)(3)(a) requires that commercial cannabis cultivations use the best available technologies for water systems and water recycling and encourages proposed projects to use alternate sources of water from the City’s potable water system.</p>

There are many additional Inland General Plan policies that would apply to future applications for permits. Specifically, the policies that regulate noise, odor, community design, and environmental impacts. Additionally, all future projects are discretionary as they require a Minor Use Permit and therefore would also require review under CEQA and licensing through the State’s Department of Cannabis Control.

ILUDC ANALYSIS

The proposed ordinance adds a new use to two Industrial zoning districts. In the ILUDC, the industrial zoning districts are defined as follows:

IL (Light Industrial) zoning district. The IL zoning district is applied to areas of the City that are appropriate for a variety of commercial, manufacturing, wholesale and distribution, and industrial uses that do not

generate significant customer traffic or high levels of noise, dust, odors, or other potential off-site nuisance characteristics. Allowable manufacturing uses and activities must be entirely within enclosed structures. The maximum floor area ratio (FAR) is 0.40. The IL zoning district implements and is consistent with the IL land use designation of the General Plan.

IH (Heavy Industrial) zoning district. The IH zoning district is applied to areas of the City that are appropriate for a range of heavy industrial including manufacturing, assembly and processing, the storage and distribution of raw materials, aggregate plants, and related industrial uses that are generally compatible with and require locations removed from residential and visitor serving uses. The maximum floor area ratio (FAR) is 0.40. The IH zoning district implements and is consistent with the IH land use designation of the General Plan.

Commercial Cannabis Cultivation

Cannabis cultivation is consistent with other uses currently allowed in Table 2-10 Allowed Land Uses and Permit Requirements for Industrial Zoning. The following table shows the current permit requirements for some of the uses in the inland industrial zones:

Allowed Land Uses and Permit Requirements for Industrial Zoning

Land Use Type	Light Industrial Permit Requirements	Heavy Industrial Permit Requirements
Agricultural Product Processing	Conditional - Use Permit	Permitted Use
Brewery/Restaurant	Conditional - Use Permit	Conditional - Use Permit
Fish Processing	Permitted Use	Permitted Use
Manufacturing/Processing Light	Permitted Use	Permitted Use
Manufacturing/Processing Medium intensity	Conditional - Use Permit	Permitted Use
Manufacturing/Processing – Heavy	Not allowed	Conditional – Use Permit
Cannabis Cultivation	Conditional - MUP	Conditional - MUP

Indoor commercial cannabis cultivation is similar to other uses that are currently allowed uses in the industrial zoning districts. it would be compatible with other allowable uses in the industrial zoning districts because:

- Potential impacts of Commercial Cannabis Cultivation have been significantly mitigated with existing and proposed regulations for water, energy, and odor control in the Municipal Code and the Inland Land Use and Development Code.

- The proposed ordinances would only allow for indoor cultivation of cannabis in a fully enclosed and secured structure.
- Cannabis Cultivation would require a discretionary MUP and would undergo review to determine if the project would conflict with surrounding land uses.

Cannabis Retail

The existing ordinance, §18.42.057, would be updated to address any potential use compatibility issues, with additional standards for operations (odor, hours, lighting, screening and on-site consumption) and additional requirements around location and accessory uses. Taken together the proposed amendment will significantly reduce the potential for incompatibility between Cannabis Retail, Cannabis Retail-Delivery and other uses in the CBD, CG and CH zoning districts. The proposed amendments also require a MUP for both uses, which will allow staff, and if appealed the Planning Commission, the opportunity to place additional special conditions on a specific proposed project, if warranted.

ENVIRONMENTAL DETERMINATION

An Initial Study and Negative Declaration were prepared, and the project was found to have no significant impacts. The document began circulation on or before February 17, 2022, and is currently in circulation for public review which will be completed on March 17, 2022. If the changes to the proposed ordinances are significant, the document may be recirculated for additional comments.

RECOMMENDED PLANNING COMMISSION ACTION

Review proposed code changes and Consider Adopting a Resolution to recommend that the City Council adopt an ordinance with Planning Commission's recommended changes.

Attachments

1. Proposed Changes to ILUDC Chapter 18.22 & 18.24
2. Proposed Changes to ILUDC Chapter 18.42
3. to ILUDC Chapter 18.100
4. Resolution of the Fort Bragg Planning Commission