



AGENCY: City Council
MEETING DATE: October 13, 2020
DEPARTMENT: City Manager
PRESENTED BY: S McCormick
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AGENDA ITEM SUMMARY

TITLE

Receive Report and Community Development Committee Recommendations and Provide Direction to Staff Regarding the Scope of Work in a Request for Proposals for Professional Services to Prepare a Commercial Cannabis Cultivation Ordinance for the Inland Area of Fort Bragg

ISSUE:

The City of Fort Bragg has established regulations for Cannabis Businesses and allows the land uses, “Manufacturing/Processing Cannabis” with Use Permit, and “Cannabis Retail” with Minor Use Permit approval. On January 8, 2018, Council received a report and the Public Safety Committee’s recommendations regarding policy approaches to address cannabis cultivation in the City (Attachment 1). On June 24, 2019, City Council discussed developing an ordinance allowing and regulating commercial cannabis cultivation, and directed staff to do so (Attachment 2). Several factors delayed said ordinance, including the withdrawal of a development application for a proposed commercial cannabis cultivation project (Root One Botanical), staffing changes in City Hall, and the challenges involved with the associated environmental document, pursuant to the California Environmental Quality Act (CEQA).

Members of the Community Development Committee (CDC) requested this matter to be brought forward for discussion at the regularly scheduled September meeting (Attachment 3). Committee members considered whether or not the current land use, “Cannabis Retail,” satisfied market demand for cannabis cultivation in City limits. Cannabis Retail includes provisions to operate a cannabis microbusiness, which is a facility that engages in a combination of retail, distribution, manufacturing and/or *cultivation*.

CDC members also discussed whether or not commercial cannabis cultivation should be allowed on parcels other than the inland industrial zoned parcels north of Pudding Creek. Due to operating characteristics, the potentially large size of building footprints, and weighing the fact that commercial zoning is best retained for businesses that provide services and contribute sales tax, CDC confirmed that the industrial zoning designation is best suited for commercial cannabis cultivation activities. However, CDC recommends that Council consider expanding commercial cannabis cultivation to include all industrial zoned parcels in the inland area, rather than just those north of Pudding Creek.

The table below incorporates CDC’s recommendation to Council for the proposed ordinance. The information presented in the table below, as well as the proposed approach to the associated CEQA document following, will be included in the scope of work in a Request for Proposals:

Consideration	Direction
Location/Zoning	To be permitted in all inland industrial zoned parcels.
Permit Requirements	Use Permit Approval, implementing regulations of the proposed ordinance and utilizing the policies established by FBMC Chapter 9.30 for cannabis businesses.

Fees	No sales tax, or additional taxation specifically for cannabis, shall be collected. Standard fees, as identified by the City's Fee Schedule, in addition to fees associated with building permits as determined by Mendocino County will apply.
Design	No specific design requirements for commercial cannabis cultivation businesses have been identified. New development and significant remodels shall be subject to a Design Review Permit process and reflect design standards as outlined in Fort Bragg's Citywide Design Guidelines, Chapter 3: Industrial Design Guidelines.
Site Standards	Development site standards shall comply with those set forth in the City's Inland Land Use and Development Code for Light Industrial (IL) and/or Heavy Industrial (IH) zoning.
Operating Characteristics	Submission of a plan to address odor and other public nuisances that may derive from the cultivation facility.
Water	City ordinances allow the use of groundwater for agricultural and industrial uses, which would allow commercial cannabis cultivators to use wells for irrigation. Connection to municipal water is required for all domestic uses. Municipal water can also be utilized for cultivation uses.

California Environmental Quality Act (CEQA)

Revision of the ILUDC requires CEQA evaluation. The basic purpose for the CEQA document is to inform decision makers and the public about potentially significant environmental effects of proposed activities, and to reduce those environmental impacts to the extent feasible. A CEQA analysis evaluating the potential environmental impacts of the proposed ordinance, which included all industrial zoned parcels in the inland area of the City would be a costly and complicated endeavor.

Staff is recommending that the proposed Ordinance be found exempt from CEQA per CEQA Guidelines Section 15061(b)(3). Section 15061(b)(3) states that CEQA applies only to those projects that may have the potential to cause a significant effect on the environment. Staff has determined that environmental review should be conducted on a project-by-project basis to accurately assess the environmental impacts of each proposal. The adoption of the proposed Ordinance does not allow construction of any building or structure or establishment of a new land use, but sets forth the regulations that shall be followed if and when a building, structure or land use is proposed to be constructed or a site is proposed to be developed. Therefore, the Ordinance itself has no potential for resulting in significant physical change in the environment, directly or ultimately.

The City can ensure CEQA obligations are met by incorporating site specific compliance into the proposed ordinance and local permitting process. This would involve the preparation of a site-specific environmental evaluation, pursuant to CEQA, for every proposed cannabis cultivation project as part of the Use Permit process that would be considered before the Planning Commission. Cannabis cultivation, similar to other agricultural land uses, is a high-water user and therefore may have individual or cumulative impacts on the City's water supply. The individual and cumulative impacts on the City's water supply will in part depend on whether well water is available for cultivation uses. The availability, quantity and quality of well water is unique to every property and therefore, are appropriate for a site-specific evaluation. In order to address the specific impacts of cannabis cultivation in the City, Staff is proposing that a water supply assessment be required as part of the Use Permit application submittal to ensure the potential impacts to water supply are adequately addressed.

RECOMMENDED ACTION:

Staff recommends the City Council provide direction regarding the development of an ordinance to amend Title 18 of the City of Fort Bragg’s Inland Land Use and Development Code in order to establish requirements and regulations for commercial cannabis cultivation in all industrial zoning designations.

1. Would Council like to proceed with a commercial cannabis ordinance, or instead allow cultivation only as part of the cannabis microbusiness model allowed under the land use Cannabis Retail and/or as regulated by the City’s medical marijuana cultivation ordinance?
2. If Council wishes to proceed with the proposed ordinance, are there changes or modifications Council would like to make to the Community Development Committee’s recommendations?

FISCAL IMPACT:

Preparation of an ordinance by a contracted service professional solicited through a Request for Proposals will require efforts by staff and the City Attorney, as well as by the selected firm or individual. These costs would be paid through the City’s General Plan Maintenance Fund. If an ordinance is adopted allowing commercial cannabis cultivation, new businesses may open creating jobs and revenue.

CONSISTENCY:

The recommended actions would amend the ILUDC such that future commercial cannabis cultivation businesses could only be permitted consistent with the revised ordinance.

IMPLEMENTATION/TIMEFRAMES:

The implementation/timeframe to develop an ordinance allowing and regulating commercial cannabis cultivation is estimated as follows:

RFP Release	October 19, 2020
RFP Deadline for Written Questions	October 30, 2020
RFP Proposals Due	December 15, 2020
RFP Consultant Selection Date	December 21, 2020
RFP Finalize Contract and Scope of Work	December 31, 2020
RFP City Council Contract Approval	January 11, 2021
Consultant Draft for Staff Review	March 1, 2021
Planning Commission Review	March 24, 2021
City Council Review and Introduction	April 12, 2021
City Council Ordinance Adoption	April 26, 2021
Effective 30 days after adoption	May 26, 2021

ATTACHMENTS:

1. January 8, 2018 Council Report
2. June 24, 2019 Council Report
3. September 22, 2020 CDC Staff Report
4. RFP Scope of Work

NOTIFICATION:

Notify Me: Cannabis Legislation, Economic Development Planning
Fort Bragg Planning Commission