



AGENCY: City of Fort Bragg
MEETING DATE: May 3, 2021
DEPARTMENT: Community Development
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AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Whether to Create a Cannabis Microbusiness Category or Enhance the Accessory Use Definition in Inland Land Use and Development Code Section 18.42.057

ISSUE:

City Council adopted an ordinance to allow accessory uses as part of a cannabis microbusiness in November of 2019. The City received an application for a cannabis microbusiness and attempted to implement the code as it was understood to be intended by Council. Through this process, it was determined that there is a need for more specific language to clarify Council's intentions.

ANALYSIS:

The Inland Land Use and Development Code (ILUDC) addresses accessory uses for a cannabis retail dispensary in section 18.42.057 (E). It states:

"As defined in Article 10, accessory uses are customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use. Uses accessory to cannabis retail facilities may be allowable pursuant to the permitting requirements in Article 2. Accessory uses may include activities that require multiple State cannabis licenses, including, but not limited to, manufacturing, distribution, cultivation and/or processing. In no instance shall cannabis manufacturing using volatile solvents be allowable as uses accessory to cannabis retail uses."

Additionally, Municipal Code Chapter 9.30 Cannabis Businesses includes the following definition in Section 9.30.020:

"COMMERCIAL CANNABIS CULTIVATION. The planting, growing or harvesting of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold. Commercial cannabis cultivation is permitted as an accessory use to a permitted cannabis business."

The major difference between a microbusiness and a retail dispensary with accessory uses is the percentage of space dedicated to each activity, and whether the accessory use(s) "serve the parcel."

Currently a cannabis retail dispensary is allowed with a Minor Use Permit in the Central Business District, General Commercial, and Highway Commercial zones. Cannabis Retail Delivery is allowable with a Minor Use Permit in the General Commercial and Highway Commercial zones.

Adding a microbusiness as an allowable use would be appropriate if the Council wishes to allow cultivation and/or manufacturing as part of a retail operation in a commercial zone and does not want to limit the floor space dedicated to those uses. A Cannabis Microbusiness would require a new definition to be developed specific to Fort Bragg, as it has already been determined that the State's definition is not appropriate for the City. The reason to create the microbusiness as a use and add a definition, would be to allow a business that would not meet the requirements of a primary use/accessory use by square footage.

Because the current accessory use definition in Article 10 says that the accessory use, "does not alter the primary use nor serve property other than the parcel where the primary use is located," the Council will need to specify if this prohibits a business from wholesale and distribution if they are in a commercial zone. Staff researched accessory use definitions and the above text is specific to the City's code. The Council may wish to update the definition if they feel it is too restrictive.

If the Council decides to continue with accessory use, it is necessary to have a reliable empirical metric to determine if uses are accessory. The most reasonable and consistent metric is square footage. This is not only quantifiable but it can be measured and confirmed if a permit is issued.

An example of how the Council can clarify the allowable accessory uses might be to include the following in the definition in Section 18.42.057:

In the Central Business District and Highway Visitor Commercial Zones:

1. A cultivation of immature plants no larger than XXX square feet for retail sale on site
2. Processing of cannabis for retail sale on site
3. Non-volatile manufacturing of cannabis for retail sale on site
4. Retail delivery
5. Accessory office

In the General Commercial Zone:

1. A cultivation of immature plants no larger than XXXX square feet
2. Processing of cannabis for (retail and wholesale?) sale on site
3. Non-volatile manufacturing of cannabis for (retail and wholesale?) sale on site
4. Retail delivery
5. Office space

The following are NOT allowed as accessory uses to cannabis retail in the commercial zone:

1. Cultivation of mature or flowering plants
2. Cannabis manufacturing using volatile substances
3. Wholesale, warehousing, and distribution of cannabis

RECOMMENDED ACTION:

Provide direction to staff on whether to create a Cannabis Microbusiness Use or to modify the definition of accessory uses to clarify what activities are allowable in which zones.

ALTERNATIVE ACTION(S):

- Recommend a different alternative.
- Direct staff to take no further action on the matter.

FISCAL IMPACT:

There is no significant fiscal impact that will result from this activity.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no significant GHG impact from this project.

CONSISTENCY:

Staff is seeking a recommendation from Council for an ordinance that is consistent with the relevant City of Fort Bragg 2012 Inland General Plan Goals, Policies, and Programs:

Land Use Goal LU-1: Promote development and conservation of land in Fort Bragg according to the pattern shown on the Land Use Designations Map.

Land Use Goal LU-3: Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Land Use Goal LU-4: Promote the economic vitality of the City's existing commercial areas.

Land Use Goal LU-5: Support industrial development which is consistent with the protection, enhancement, and restoration of natural and scenic resources.

Land Use Policy LU-5.1: Siting New Industrial Development: Site new industrial development so that it is contiguous with, or in close proximity to, existing developed areas able to accommodate it, or where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects on natural and scenic resources, either individually or cumulatively.

Land 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.

IMPLEMENTATION/TIMEFRAMES:

Council's recommendations will be presented to Planning Commission on June 9, 2021 for review and recommendations to Council. A final ordinance will be presented to Council on Monday, June 28, 2021.

ATTACHMENTS:

1. Staff PowerPoint Presentation

NOTIFICATION:

1. Cannabis Notify Me subscriber list