



Charissa Leach
Assistant TLMA Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

Memorandum

Date: July 18, 2018

To: Planning Commissioners

From: Charissa Leach

RE: Agenda Item No. 3.1 – Commercial Cannabis Activity Ordinance Amendment

1. Staff received 5 emails and 11 letters via email after the Planning Commission Agenda Packets were sent out last week. They have been emailed to you previously and hard copies have been provided to you today. Given time constraints, staff was not able to prepare and provide formal responses to all of the comments. However, Staff has reviewed this correspondence and has created responses to questions or input, as appropriate (attached). Also, responses, as deemed necessary, to input that was provided at the June 20, 2018 hearing is included. Staff will plan to provide responses at the Board of Supervisors meeting as appropriate.
2. In addition, as required for all Land Use Ordinance Amendments the subject ordinance amendment was submitted to the Airport Land Use Commission (ALUC) for review. Because each commercial cannabis activity requires a conditional use permit, is subject to CEQA and no standards or changes to land uses that would increase density or non-residential intensity are proposed, on July 9, 2018, the ALUC found that the ordinance amendment has no possibility for having an impact on the safety of air navigation within airport influence areas located within the unincorporated areas of the County and therefore, is consistent with all Riverside County Airport Land Use Compatibility Plans.



Charissa Leach, P.E.
Assistant TLMA Director

RIVERSIDE COUNTY PLANNING DEPARTMENT

DATE: July 18, 2018
TO: Planning Commission
FROM: Charissa Leach, TLMA Assistant Director
RE: Item 3.1 – Public Comments and Responses

Below are responses to public comments prepared by Staff.

Attached are comments received from the public (some which were addressed in the staff report) as well as responses to the comments received for consideration by the Planning Commission.

Comment	Staff Response
Response to Comments by Planning Commissioners – June 20, 2018	
<p>1. <i>The commission asked if medical facilities would be allowed to test cannabis and/or cannabis products.</i></p>	<p>Staff could not find any regulation or law that prohibits a medical facility laboratory from performing testing as long as the facility complies with the BPC Section 26100-26106, all and local permitting requirements, State Regulations and State laws related to hospital facilities. The facility would require a land use permit for the testing of cannabis and cannabis products and would be required to keep those activities separate and apart from other activities.</p>
<p>2. <i>The Commission inquired what the ratio of Code Enforcement Officers and Sheriff Patrol Deputies to residents is currently.</i></p>	<p>The ratio of Riverside County’s Code Enforcement staff officers to unincorporated residents is about 1 officer per 22,000 residents. The County is moving away from using a deputies per thousand ratio, which is an older standard. The Sheriff’s office has a Marijuana Enforcement Team (MET) that is tasked with focusing on this issue, with support from the local RSO offices as available.</p>
<p>3. <i>The Commission inquired what types of multiple licenses types are allowed on one property with a CUP.</i></p>	<p>This was addressed in the ordinance as presented at the June 20, 2018 PC hearing and also addressed in the Staff Report for the July 18, 2018 PC hearing.</p>
<p>4. <i>The Commission asked Staff to consider and explain why the separation radius from cannabis retailers was not increased to 1,000-feet similar to cultivation requirements.</i></p>	<p>This comment was addressed in detail in the Staff Report.</p>
<p>5. <i>The Commission asked Staff to consider cultivation in the R-A, & R-R and W-2 Zones, within limits and large lots sizes to allow for small cultivations sites.</i></p>	<p>This comment was addressed in detail in the Staff Report</p>



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Comment	Staff Response
6. <i>The Commission asked Staff to Re-consider onsite consumption or smoking lounges.</i>	This comment was addressed in detail in the Staff Report
7. <i>The Commission asked Staff to Re-consider separate entrances for medical/adult use retailers.</i>	This comment was addressed in detail in the Staff Report
8. <i>The Commission inquired if a permitted cannabis activity would be subject to losing their permit or not being able to renew their permit if a sensitive use is permitted within the minimum radius, subsequently.</i>	This comment was addressed in detail in the Staff Report
Christopher Martinez – CannaBiz Consulting Group – Letter Rec’d. June 20, 2018	
9. <i>SECTION 19.503.F. NUISANCE ODORS – solved with carbon filters similar to what is used in cigar lounges. Not all cannabis operations pose an odor nuisance therefore extreme measures to mitigate the smell are unnecessary.</i>	<p>Staff believes that the ordinance is clear and allows for those cannabis Activities that may not create nuisance odors can easily comply with the requirement, given the following statement is included in the ordinance.</p> <p>“or any other equipment that can be proven to be an equally or more effective method or technology to control these nuisances”</p>
10. <i>SECTION 19.503.G.2 - “background check. How much and where? Some cities have charged over \$200 for what can be done at UPS for more than half the price. The county will have to set up a code that correlates to the cannabis activity.”</i>	Background checks are an important tool that to be utilized during the entitlement process. The costs of background checks or other costs or fees are not a part of the County’s Land use Ordinance and will be determined subsequently to, or in concurrence with the Board’s decision on the ordinance.
11. <i>SECTION 19.503.G.3 “permits not permitted to felony convictions? This goes above and beyond the state regulations. Allow for rehabilitation and also give special acceptance to non-violent felonies especially if convictions were related to cannabis</i>	Staff Response: The ordinance as drafted, related to the level of a felony conviction is consistent with State Regulations Article 3. Licensing, Section 5017.
12. <i>SECTION 19.503.M. “Restriction on consumption: State regulations already allow onsite consumption in dispensaries. Why restrict it further?”</i>	Cannabis consumption on the site of a cannabis Activity is subject to do so in accordance with the business and Professions Code section 26200(g). Section 26200(g) of the Business and Professions Code makes it clear that a <u>local jurisdiction may</u> allow for “the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division” if certain criteria are met. Because of the reasons stated in the Staff report, Staff continues to recommend that consumption of cannabis or cannabis products on the site of a permitted cannabis activity be prohibited.



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<p>13. SECTION 19.503.O. <i>“Draft ordinance state 45 days of video storage. State requires 90 days of storage.”</i></p>	<p>This statement is correct and the draft ordinance has been amended to 90 days of storage.</p>
<p>14. SECTION 19.509.B.6. <i>“Each license needs CUP even on same lot? Applicants normally apply for multiple licenses on the same lot. This would be burdensome to the applicant financially and take more time to operate.”</i></p>	<p>19.509.B.6 was unclearly presented and has been revised to read: “A conditional use permit has been granted for Indoor Cannabis Cultivation and specifies the number and size of each proposed licensed Premises. “</p>
<p>15. SECTION 19.512 CANNABIS WHOLESALE NURSERIES B. NO MULTIPLE USE PERMITS <i>“Many operations are obtaining multiple use permits for the same premise (cultivation, manufacturing, distribution etc.) State allows vertically integrated cannabis operations why limit that at the county level?”</i></p>	<p>Staff recommends that conditional use permits for cannabis nursery activities be separated from other cannabis activities because of the specific nature and requirements for monitoring the cultivated product and because this is the only cultivation activity suggested to be allowed to take place outdoors. Having a nursery only permit also allows a different option for interested parties to get into the business at the ground level.</p>
<p>16. SECTION 19.514 CANNABIS MANUFACTURING FACILITIES <i>“Why does a manufacturing facility have to be 6-10k sq. feet? This just doesn’t make sense considering how much space is needed to operate a cannabis extraction business. Non-volatile manufacturing requires even less space.”</i></p>	<p>The draft ordinance requires that the minimum lot size for a Cannabis manufacturing facility be 10,000 square feet. The ordinance is silent on a particular facility size. The minimum lot size is consistent with other manufacturing type uses listed in the County’s Land Use ordinance and allows for the required driveways, parking, setbacks and landscaping.</p>
<p>17. SECTION 19.516 CANNABIS TESTING FACILITIES B. NO MULTIPLE USE PERMITS — <i>“Makes the burden of entry high. The County is in dire need of a reliable testing facility and should make this a priority to ensure safe product is leaving the area.”</i></p>	<p>Prohibiting other types of commercial cannabis activities on one lot is consistent with the Business and Professions Code (Section 26053.b), requiring that a person that holds a state testing laboratory license is prohibited from licensure for any other activity, except testing. A conditional use permit for a testing laboratory will be issued to an applicant who will be exclusively performing testing of cannabis and cannabis products which allows for clean, unbiased testing.</p>
<p>18. SECTION 19.519. CANNABIS RETAILER MINIMUM STANDARDS. A. GENERAL LOCATION - <i>“Why 1000 ft. from each other? No state regulations require distance from other retailers.”</i></p>	<p>Staff recommends that a 1,000 foot distance be maintained between retailers as a way to avoid an excessive concentration of retailers is avoided in any one area in the County.</p>
<p>19. <i>Separate entrances - The state does not require separate and distinct from M to A license and has even created an application at the state level that combines them. All that is required is separate storage.”</i></p>	<p>Staff has revised Section 19.519.C, removing the requirement for separate entrances into a cannabis retail facility, as explained in the Staff Report.</p>



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<p>20. <i>“Cannabis Retailers shall only deliver to customers within a jurisdiction that does not expressly prohibit delivery within their jurisdictional boundary by ordinance (LOCAL JURISDICTION CANNOT BAN DELIVERY ON PUBLIC ROADS CA STATE LAW)”</i></p>	<p>The draft ordinance does not prohibit delivery on Public Roads but does make reference to only allowing deliveries to customers within a jurisdiction that does not expressly prohibit delivery within their jurisdictional boundary by ordinance.</p>
<p>21. SECTION 19.523. CANNABIS MICROBUSINESS FACILITIES STANDARDS. C.1. <i>“Cannabis Microbusiness Facilities shall not transport or store non-cannabis goods.”</i> <i>“This would bar them from selling food and liquid items even vending machines for workers. Why would the county need to bar these types of sales in a microbusiness?”</i></p>	<p>The ordinance requires that a cannabis microbusiness is required to comply with the requirements of each activity that the business is permitted for. State regulations require that a distributor “shall not store or distribute non-cannabis goods”. Therefore this requirement is consistent with State regulations for a microbusiness that is permitted for distribution of cannabis and cannabis products. Further, if a microbusiness is permitted for retail sales they are subject to the requirements of cannabis retailers which allows for operations for not more than 10% of the Cannabis Retailer floor area, up to a maximum of 50 square feet, shall be used for the sale of incidental goods.</p>
<p>22. <i>Social Equity Program – The commenter indicated that he would like to see a ‘social equity’ program adopted that would give priority processing to Social Equity Applicants.</i></p>	<p>The item before the Commission is strictly a land use ordinance. Any program or policy that creates a program meant to prioritize applicant’s land use applications would be initiated and approved by the Board of Supervisors and involve many County Departments.</p>
<p>Questions from June 20, 2018 PC Hearing (Public)</p>	
<p>23. <i>One commenter inquired whether these regulations applied to Native American Tribal property.</i></p>	<p>County Land use regulations do not apply to Federal Tribal Lands.</p>
<p>24. <i>Permit limits were questioned by a number of speakers</i></p>	<p>Staff is proceeding under the direction provided by the Board to craft a program that has an implementation phase-in a process that would allow for a set number of permits for cultivations and retail sales for just the first year. This includes a recommendation for annual reviews of the ordinance. This would allow the County to adjust to this new land use and make appropriate adjustments in a controllable and thoughtful way.</p>
<p>25. <i>One commenter inquired about the potential for allowing microbusinesses in the Agricultural Zones.</i></p>	<p>Staff recommends that allowing microbusinesses within agricultural zones is inappropriate.</p>
<p>26. <i>One commenter asked if delivery only retailers could be considered in the R-3 Zone</i></p>	<p>Staff recommends that no cannabis activity be allowed in any residential zone.</p>



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<p>27. <i>A number of speakers inquired about the Development Agreement process.</i></p>	<p>This process is currently being outlined by County Staff. The details will be brought to the Board with any recommendations from the Planning Commission on the ordinance. Staff will brief the Commission on these details at a future Commission hearing.</p>
<p>Response to Comments Rec'd. after June 20, 2018 and before July 16, 2018</p>	
<p>Dr. Theodoropoulos 28. <i>The commenter states that Staff's assertion that the differences between the R-A, R-R and W-2 Zones is minimal.</i></p>	<p>Staff fully explains the reasoning behind this assertion in the Staff Report. The commenter is correct that the W-2 Zone has a greater number of large parcels but, as indicated in the Staff Report, about 80% of these parcels are in General Plan Land Uses designations that would prohibit most commercial uses without a Foundation General Plan Amendment.</p>
<p>29. <i>The commenter states that there are some commercial uses allowed in the W-2 Zone, including meat processing plants and concrete/masonry product fabrication.</i></p>	<p>These are both listed uses in the W-2 Zone. However, as stated in the Staff report, the underlying General Plan must be reviewed with any use permit which poses issues with most of the W-2 Zoned properties.</p>
<p>30. <i>The commenter states that "you could very well have safe and permitted commercial/industrial buildings in W-2 zoned property that are highly suitable for cannabis cultivation"</i></p>	<p>The W-2 Zone is a residential zone and does not allow for many industrial uses. Unless a property has been entitled for an industrial or commercial use, any buildings on site have been reviewed as residential buildings and will not meet building codes for a commercial use.</p>
<p>31. <i>The commenter makes statements regarding his personal property.</i></p>	<p>Staff has made every effort to approach the Commercial Cannabis Activity Ordinance carefully and without bias, as such we have made a point to not discuss particular properties during this entire process and continue to do so.</p>
<p>32. <i>The commenter has asked that indoor cultivation be allowed in the W-2 Zone.</i></p>	<p>Staff continues to recommend that no cultivation be allowed in residential zones as explained in the Staff Report.</p>
<p>33. <i>The commenter makes detailed comments regarding the proposed scale of cultivations and lots sizes.</i></p>	<p>This issue was addressed in detail in the Staff Report.</p>
<p>Multiple emails 34. <i>Several emails were submitted related to personal properties.</i></p>	<p>Staff has made every effort to approach the Commercial Cannabis Activity Ordinance carefully and without bias, as such we have made a point to not discuss particular properties during this entire process and continue to do so.</p>