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GPA 18-01

A) Commercial Cannabis

March 22, 2018

To: Mono County Planning Commission

From: Michael Draper, Planning Analyst
Wendy Sugimura, Interim Director

Re: GPA 18-01A: Commercial Cannabis

CEQA COMPLIANCE

Business & Professions Code §26055(h) exempts adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review shall include any applicable environmental review pursuant to CEQA (Division 13, commencing with Section 21000, of the Public Resources Code). See Attachment 1.

BACKGROUND

In October 2017, the Planning Commission recommended a General Plan Amendment adopting policies that address commercial cannabis in the Land Use Element and Conservation/Open Space Element. The Board of Supervisors adopted the recommended amendment, with a few modifications, in December 2017. Two rounds of outreach to the Regional Planning Advisory Committees were conducted to develop these General Plan policies and reflect community interests.

Concurrently, the Planning Commission was reviewing a "consistency analysis" to determine appropriate land use designations for various commercial cannabis activities. The Commission continued this work in December 2017, and January and February 2018, along with specific regulations governing cannabis activities. These regulations are consolidated in the new General Plan Land Use Element Chapter 13, Commercial Cannabis Activities. The draft Chapter is the result of public input and Planning Commission feedback to regulate commercial cannabis activity to protect the health, safety and welfare of county residents.

At past meetings the Commission has discussed in depth the topics of property setbacks, visual screening, odor mitigation, security requirements, and land use designations suitable for commercial cannabis activities. Public comments and public letters received were considered during these workshops.

The State issued emergency regulations on November 16, 2017, governing commercial cannabis activities legalized under state law. The new regulations comprise over 300 pages and are available at <https://cannabis.ca.gov/regulations-legislation/>. The General Plan regulations are drafted to complement, rather than duplicate, State regulations. However, the State regulations are very complicated, and so staff continues to review the regulations to ensure compatibility and coordination with the County's structure.

DISCUSSION

The proposed General Plan Amendment to the Land Use Element includes identification of land use designations permitting commercial cannabis uses subject to a use permit and a Cannabis

Operations Permit that shall be set forth in Mono County Code Chapter 5.60; land use designations prohibiting commercial cannabis uses; and a new chapter establishing commercial cannabis development standards including setbacks, buffers from certain existing uses, security measures, odor control, signage and notices, visual screening/fencing, lighting, parking, noise, and other applicable regulations. See Attachment 2: General Plan Amendment Text for GPA 18-01A/Commercial Cannabis. New language is shown in italics and edits to existing language are shown in red font with existing language in standard black text.

Based on the Commission's previous discussion, the Land Use Designations would be modified to allow the following uses subject to a Use Permit and Operations Permit:

- ❑ Agriculture: Cultivation, Processing, Nursery, and Microbusinesses (includes retail, manufacturing, and distribution as an accessory use to a bona fide agricultural operation);
- ❑ Commercial: ~~Processing, Manufacturing Type 6~~, Manufacturing Type N, Manufacturing Type P, Testing, Distribution, Retail, and Microbusiness (subject to only the uses already permitted);
- ❑ Industrial: Cultivation, Nursery, Processing, Manufacturing Type N, Manufacturing Type P, Manufacturing Type 6, Manufacturing Type 7, Testing, Retail, Distribution, and Microbusiness (subject to only the uses already permitted);
- ❑ Industrial Park: Cultivation, Nursery, Processing, Manufacturing Type N, Manufacturing Type P, Manufacturing Type 6, Manufacturing Type 7, Testing, Retail, Distribution, and Microbusiness (subject to only the uses already permitted);
- ❑ Mixed Use: ~~Processing~~, Manufacturing Type N, Manufacturing Type P, ~~Manufacturing Type 6, Manufacturing Type 7~~, Testing, Retail, Distribution, and Microbusiness (subject to only the uses already permitted); and
- ❑ Service Commercial: Processing, Manufacturing Type N, Manufacturing Type P, Manufacturing Type 6, ~~Manufacturing Type 7~~, Testing, Retail, Distribution, and Microbusiness (subject to only the uses already permitted)

In addition, several elements discussed previously by the Planning Commission in Chapter 13 have been moved to Mono County Code Chapter 5.60 as these components pertained more directly to the operational details rather than land use compatibility. These elements include background check and Live Scan requirements, a listing of all persons with ownership interests, and the security plan. The authority to approve Mono County Code Chapter 5.60 rests with the Board of Supervisors. While Chapter 5.60 would have ideally been provided to the Commission as part of this item to provide a complete understanding of the full regulatory framework, the chapter is still in final development stages and not yet ready for release.

Three new elements are included in the proposed General Plan Amendment, including 1) regulations restricting outdoor cannabis cultivation in residential land use designations to a maximum of six plants, which would include cultivation under the Compassionate Use Act; 2) language excluding commercial cannabis activities from the application of a "similar to but not more obnoxious than" interpretation (04.030), home occupations (04.290) and Right-to-Farm provisions; and 3) the addition of the "processor" license type to the same land use designations that permit cultivation. The "processor" is a cultivation site that conducts only trimming, drying,

curing, grading, packaging, or labeling of cannabis and non-manufactured cannabis products. In addition, State law stipulates the following requirements:

- a) All aggregation of product shall adhere to track-and-trace requirements pursuant to sections 8405 and 8406 of CalCannabis regulation;
- b) Licensees may produce nonmanufactured cannabis products without a manufacturing license, provided compliance with packaging and labeling requirements pursuant to section 8212 of this chapter; and
- c) Cultivation of cannabis plants is prohibited at a licensed processor premises

Finally, the Bridgeport Regional Planning Advisory Committee (RPAC) unanimously recommended that commercial cannabis activities be banned in the Bridgeport Planning Area. A letter from the RPAC is included as Attachment 3.

ATTACHMENTS

1. Notice of Exemption under Business & Professions Code §26055(h)
2. General Plan Amendment Text for GPA 18-01A/Commercial Cannabis
3. Bridgeport RPAC letter recommending banning commercial cannabis activity in the Bridgeport Planning Area