

Legislation Text

File #: AC 18-024, **Version:** 1

Public hearing to consider a Consistency Determination (ALUC-18-08) for the proposed County of Solano Commercial Cannabis Regulations with the Travis Air Force Base, Nut Tree Airport and Rio Vista Airport Land Use Compatibility Plans (Sponsor: County of Solano)

RECOMMENDATION:

Determine that application ALUC-2018-08 (County of Solano Commercial Cannabis Regulations) is consistent with the Travis AFB, Nut Tree Airport and Rio Vista Airport Land Use Compatibility Plans.

INTRODUCTION:

The California statewide general election held on November 8, 2016 included Proposition 64, the Adult Use of Marijuana Act (AUMA). The Act, passed by the voters, will:

- (1) allow adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use;
- (2) regulate and tax the production, manufacture, and sale of marijuana for adult use; and
- (3) rewrite criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges.

The initiative permits personal possession and cultivation, commercial cultivation, testing, manufacture, distribution, sales and delivery of marijuana for recreational use to occur statewide. The initiative also allows some local control and regulation for most of these activities within a local jurisdiction. However, the personal possession, cultivation and use may not be prohibited by local jurisdictions, although controls and regulations may be placed on personal cultivation.

County of Solano Cannabis Regulations

Personal Cannabis Activities

The County of Solano has adopted regulations for the personal cultivation of cannabis. The Airport Land Use Commission found those regulations consistent with the relevant Airport Land Use Compatibility Plans at its November 2, 2016 Regular Meeting.

Commercial Cannabis Activities

The County has been working on the issues involved in regulating commercial cannabis activities. After considerable study and various meetings, the County Board of Supervisors will be considering an ordinance which bans commercial cannabis activities, more specifically, the ordinance would:

- 1) Define Commercial Cannabis Activities as:

Cannabis uses that require a state license or are otherwise regulated by the state, including, but not limited to cannabis testing laboratory, distributor, transporter, storefront retailer, non-storefront retailer, microbusiness, collective, cooperative, cultivator, nursery, manufacturer, or processor, regardless of whether for-profit or not, as defined in the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code, sections 26000 to 26231.2) and its regulations, as they may be amended. For purposes of this definition, a transporter or non-storefront retailer may transport and deliver cannabis and cannabis products in any zoning district. For purposes of this definition, Commercial Cannabis Activities do not include a

temporary cannabis event, as defined in California Code of Regulations, Title 16, Division 42, Chapter 5, sections 5601 - 5603, as may be amended. Personal and Primary Caregiver Cannabis Cultivation, as defined in Section 28.82 of this Code, shall be excluded from this definition of Commercial Cannabis Activities.

- 2) List *Commercial Cannabis Activities* as a prohibited land use in any zoning district within the unincorporated County.

REQUIRED TESTS FOR CONSISTENCY

ALUC Review Requirements

State law, under Section 21661.5 of the Public Utilities Code, requires that any proposed zoning regulations or revisions to the local zoning ordinance be reviewed for consistency with adopted airport land use compatibility plans.

The ALUC is concerned with those aspects of the proposed cannabis regulations which have the potential to be incompatible with of the Travis Air Force Base, Nut Tree Airport AND Rio Vista Airport Land Use Compatibility Plans. The State of California Division of Aeronautics publishes a handbook which provides guidance on making consistency determinations.

California Airport Land Use Planning Handbook

The State Department of Aeronautics has published the California Airport Land Use Planning Handbook as a guide for Airport Land Use Commissions in the preparation and implementation of Land Use Compatibility Plans and Procedure Documents. Section 6.4.2 sets forth procedures for the review of local zoning ordinances and directs agencies to consider the topics listed in Table 5A, as follows:

Zoning or Other Policy Documents (from Table 5A, CalTRANS Airport Land Use Planning Handbook)

The Handbook lists the following topics for consideration when reviewing zoning or other policy documents.

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*
- *Non-conforming Uses and Reconstruction*

Staff has reviewed the County of Solano Commercial Cannabis Regulations in light of the tests outlined above as well as the specific compatibility factors applicable to lands within the County of Solano's unincorporated areas. Our analysis is presented below.

ANALYSIS

Project Description

The Board of Supervisors for Solano County is considering a permanent ordinance to replace an interim urgency ordinance which bans commercial cannabis activities. The proposed project is the permanent ordinance, which defines commercial cannabis activities and prohibits those activities within unincorporated areas of the County of Solano. It is scheduled for consideration by the Board of Supervisors on October 2, 2018.

The primary reason that the Board previously banned commercial activities were that the unincorporated areas of Solano County lack water, wastewater treatment, and road infrastructure needed for most commercial and industrial cannabis uses in rural areas. In addition, it was noted that most of the cities in Solano County, as well as near-by counties, have

approved some type of commercial cannabis activities, including non-storefront cannabis retailers that provide delivery, and found that there was not a compelling need to duplicate such uses in unincorporated Solano County where services are limited.

Relevant Issues for the ALUC

The County of Solano Commercial Cannabis Regulations apply to properties which lie within the area of influence of the Travis AFB, Nut Tree Airport and Rio Vista Airport Land Use Compatibility Plans.

Zoning Change Consistency Factors

As previously discussed, Table 5A of the CalTRANS Handbook lists the following topics for consideration when reviewing zoning or other policy documents.

- *Intensity Limitations on Nonresidential Uses*
- *Identification of Prohibited Uses*
- *Open Land Requirements*
- *Infill Development*
- *Height Limitations and Other Hazards to Flight*
- *Buyer Awareness Measures*
- *Non-conforming Uses and Reconstruction*

These topics are analyzed by means of a global compatibility analysis, as follows:.

Global Compatibility Analysis

The ordinance being evaluated replaces an interim urgency ordinance with permanent amendments to the County of Solano Zoning Regulations. The proposed ordinance does not authorize any new land uses, does not modify any development standards and does not alter any procedural elements of the current zoning regulations. As such, it can be seen with certainty that the prohibition of commercial cannabis activities does not trigger any of the review elements for zoning ordinance compatibility review.

In light of the above discussion, staff is recommending a determination that the County of Solano Commercial Cannabis Regulations are consistent with the Travis Plan.

RECOMMENDATION

Based on the analysis and discussions above, staff recommends that the Solano County Airport Land Use Commission find as follows:

Determination: Determine that application ALUC-2018-08 (County of Solano Commercial Cannabis Regulations) is consistent with the Travis AFB, Nut Tree Airport and Rio Vista Airport Land Use Compatibility Plans (Travis Plan, Nut Tree Plan and Rio Vista Plan).

Attachments:

Attachment A: Prohibition of Commercial Cannabis Ordinance

