

## Legislation Text

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**File #:** AC 19-032, **Version:** 1

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Conduct a Public Hearing to consider a Consistency Determination ALUC-19-14 for the proposed City of Benicia Cannabis Regulations with the Travis Air Force Base Land Use Compatibility Plan (Sponsor: City of Benicia)

### **RECOMMENDATION:**

Determine that application ALUC-2019-14 (City of Benicia Cannabis Regulations) is consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

### **DISCUSSION:**

#### INTRODUCTION

##### History

On October 12, 2017, the Solano County Airport Land Use Commission conducted a public hearing to consider consistency determination ALUC-17-12, an ordinance of the City of Benicia permitting a variety of cannabis related land uses within the Benicia city limits. The Commission concluded that the proposed ordinance was consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan). On February 20, 2018, the Benicia City Council adopted the ordinance.

Earlier this year the City submitted an application to the ALUC to ban cannabis retail sales locations within the city limits. The proposed ordinance was found consistent with the Travis Plan at the ALUC's Regular Meeting of September 12, 2019.

#### **Current Request**

During the adoption of the most recent cannabis ordinance in September of this year, the City Council directed its staff to initiate additional amendments to the City's cannabis regulations. As a result, the City has drafted a proposed ordinance revision (Attachment F) which would:

1. Amend Benicia Municipal Code Chapter 17.84 (Cannabis) to establish a license category for delivery-only cannabis operations and remove the limitation on the number of microbusinesses.
2. Make corresponding amendments to Chapter 17.32 (Industrial Districts) of the Benicia Municipal Code in order to allow delivery-only uses with the approval of a use permit in the Limited Industrial (IL), General

- Industrial (IG), Waterfront Industrial (IW) and Industrial Park (IP) Districts.
3. Increase to \$5,000 the amount of cash and/or cannabis that delivery drivers may carry.

## 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 zoning changes which have the potential to be incompatible with of the Travis Air Force Base Land Use Compatibility Plan.

### 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 City of Benicia Cannabis Regulations in light of the tests outlined above as well as the specific compatibility factors applicable to lands within the City of Benicia. Our analysis is presented below.

### ALUC Context

The City of Benicia Cannabis Regulations apply to properties which lie within the area of influence of the Travis AFB Land Use Compatibility Plan (Travis Plan), more particularly within Compatibility Zone D (See Attachments B, C and D).

### Travis Air Force Base Land Use Compatibility Plan

The requirements for Compatibility Zone D are limited to the following compatibility factors:

- **Intensity Limitations**
- **Identification of Prohibited Uses**
- **Open Land Requirements**
- **Infill Development**
- **Height Limitations and Other Hazards to Flight**
  - ALUC review required for objects > 200 feet AGL
  - All proposed wind turbines must meet line-of-sight criteria in Policy 3.3.4
  - All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review
  - All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
  - Areas within the Bird Strike Hazard Zone must prepare a WHA and incorporate all feasible mitigation measures.
  - Outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.
- **Buyer Awareness Measures**
- **Non-conforming Uses and Reconstruction**

Staff has reviewed the proposed City of Benicia Cannabis Regulations ordinance for consistency with the applicable land use compatibility plans and our analysis is presented below.

## **ANALYSIS**

### **Intensity Limitations on Nonresidential Uses**

Within Compatibility Zone D, there are no limitations on intensity for non-residential land uses and as a result the minor changes to the City of Benicia Cannabis Regulations are consistent with this provision.

### **Identification of Prohibited Uses**

There are no prohibited uses within Compatibility Zone D. Therefore, the minor changes to City of Benicia Cannabis Regulations are consistent with this provision.

### **Open Land Requirements**

Compatibility Zone D has no open land requirements for development. As a result, the minor changes to City of Benicia Cannabis Regulations are consistent with this requirement.

### **Infill Development**

This project is not a part of an infill development. No further consideration is required for this criterion.

### **Height Limitations and Other Hazards to Flight**

The “Height Limitations” and “Other Development Conditions” listed in Compatibility Zone D are as follows:

1. ALUC review required for objects > 200 feet AGL
2. All proposed wind turbines in excess of 100 feet in height must meet line-of-sight criteria in Policy 3.4.4
3. All new or expanded commercial-scale solar facilities must conduct an SGHAT glint and glare study for ALUC review
4. All new or expanded meteorological towers > 200 feet AGL, whether temporary or permanent, require ALUC review
5. For areas within the Bird Strike Hazard Zone, reviewing agencies shall prepare a WHA for discretionary projects that have the potential to attract wildlife that could cause bird strikes. Based on the findings of the WHA, all reasonably feasible mitigation measures must be incorporated into the planned land use.
6. For areas outside of the Bird Strike Hazard Zone but within the Outer Perimeter, any new or expanded land use involving discretionary review that has the potential to attract the movement of wildlife that could cause bird strikes are required to prepare a WHA.

None of the hazards listed above are associated with the lawful use of the property for cannabis business purposes for reasons discussed in the following sections.

#### **1 & 4. Height Review for Objects Greater than 200 Feet in Height**

The minor changes to City of Benicia Cannabis Regulations do not permit any structures taller than 50 feet, so ALUC review of this item is not required.

#### **2. Wind Turbines in Excess of 100 Feet in Height**

The minor changes to City of Benicia Cannabis Regulations do not permit any structures taller than 50 feet, so ALUC review of this item is not required.

### 3. Commercial Scale Solar Projects

Commercial Solar projects are not allowed by right but require a discretionary permit from the County. The proposed ordinance does not change any provisions pertaining to commercial scale solar projects. As such, the minor changes to City of Benicia Cannabis Regulations are consistent with this provision.

### 5 & 6 Projects within the Bird Strike Hazard Zone or the Outer Perimeter Area

The zoning ordinance applies to properties which lie outside of the Bird Strike Hazard Zone and the Outer Perimeter Area. As a result, the minor changes the City of Benicia Cannabis Regulations are not subject to the bird strike requirements within the Travis Plan.

### **Buyer Awareness Measures**

The proposed project lies within Compatibility Zone E and outside of any noise contours of concern. As a result, Buyer Awareness Measures are not required by the Travis Plan.

### **Non-conforming Uses and Reconstruction**

The project is a change in zoning rules and does not propose any construction therefore does not trigger any non-conforming use or reconstruction issues.

In light of the above discussion, staff is recommending a consistency finding between the City of Benicia Cannabis Regulations and 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 ALUC-19-14 for the proposed City of Benicia Cannabis Regulations is consistent with the Travis Air Force Base Land Use Compatibility Plan (Sponsor: City of Benicia)

### **Attachments:**

Attachment A: Application.

Attachment B: Vicinity Map

Attachment C: Aerial Photo

Attachment D: Travis Context Map

Attachment E: Planning Commission Staff Report

Attachment F: Proposed PC Resolution and Draft Zoning Ordinance

Attachment G: Resolution (To be distributed at the hearing)