

Legislation Text

File #: AC 20-005, **Version:** 1

Conduct a Public Hearing to consider a Consistency Determination ALUC-20-02 for the proposed City of Suisun City Cannabis Regulations (Cannabis Regulations) with the Travis Air Force Base Land Use Compatibility Plan (Sponsor: City of Suisun City). (Project Planner: Jim Leland)

Published Notice Required? Yes ☐ No ☐
Public Hearing Required? Yes ☐ No ☐

RECOMMENDATION:

Determine that application ALUC-2020-02 (City of Suisun City Cannabis Regulations) is consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

INTRODUCTION:

On December 14, 2017, the Solano County Airport Land Use Commission considered and approved an application (ALUC-17-18) for consistency determination for a zoning ordinance amendment establishing cannabis regulations within the City of Suisun City as listed below.

Existing City of Suisun City Regulations

In order to establish and exert local control, the City of Suisun City is considering adopting approaches to regulating cannabis, as follows:

- 1) **Personal Cultivation.** The City is considering adoption of an ordinance which would permit personal cultivation of cannabis at a person's residence, subject to certain standards and requirements.
- 2) **Cannabis Business Zones and Permits .** The City is considering adoption of an ordinance which would establish regulations and procedures for the review of future cannabis uses but would not directly authorize any commercial cannabis uses at any location within the City at this time. The City may designate specific locations for the Cannabis Business Zone at a future date.

Proposed Regulatory Changes

The City of Suisun City has been studying the option of adding certain form of commercial cannabis uses to its existing cannabis regulations (See Attachment C Red Line Ordinance Revisions). The specific changes are outlined below as taken from the City's staff report to their Planning Commission (See Attachment D).

"Cannabis Regulations.

The following changes have been proposed to Section 18.49 "Cannabis Regulatory Program" of the Suisun City Code.

Section 18.49.020 Definitions.

- *Added "Consumption cafe/lounge," meaning: "for the onsite retail sale and consumption of cannabis or cannabis products. A consumption cafe/lounge shall have a licensed premises that is a physical*

location from which commercial cannabis activities are conducted. The consumption cafe/lounge shall only sell cannabis or cannabis products to adults 21 years of age or older for onsite consumption, either through smoking, vaping, or ingestion of edible or topical products. The space occupied by a consumption cafe/lounge shall be definite and distinct from the space where other activities licensed under this division are exercised and shall be accessed through a separate entrance.”

Section 18.49.030 and 18.49.040 Allowed and Prohibited Uses

- Removed “Type 12 = Microbusiness” from prohibited uses.

Section 18.49.050 Permitted Types of Commercial Cannabis Operations

- Added “Type 12 = Microbusiness” and “Type 14 = Consumption cafe/lounge.”

Section 18.49.060 Cannabis Business Zone; Establishment and Criteria.

- Defined residential zones as RL, RM, RH1, RH2, RMU or within the Waterfront District Specific Plan RLD, RMD, HR, RHD, HLC
- Removed minimum 10-acre requirement.

Section 18.49.070 Cannabis Business Zone Development Agreements.

- Removed exemption from Development Agreements for facilities under 10,000 square feet.
- Removed two-year term of Development Agreement. Requires an annual ministerial review to check for compliance.
- Redefines a qualified applicant as any entity approved by the City.
- Removed under 10,000 square feet exemption for transferees.
- Removed the exemption for transferees that are not changing the activities.
- Clarified that all real property is subject to a development agreement.

Section 18.49.090 Application for Commercial Cannabis Business Permit

- Removed redundant information requirement regarding name, address, email, and phone number of applicant.
- Removed requirements for information on current or prospective employees.

Section 18.49.140 Renewal of Commercial Cannabis Business Permit

- Renewed annually subject to ministerial review.

Section 18.49.150 General Operating Standards and Restrictions

- Removed felony convictions for cannabis as a disqualifier for criminal background checks.

Section 18.49.160 Commercial Cannabis Retailer (Storefront and Non-Storefront): Establishment, Operating Standards and Restrictions.

- Recommended up to **three** commercial cannabis business permits for a storefront retailer.
- Storefront retailers may be permitted to operate only in the following zones: CSF - Commercial Services Fabricating; CMU - Commercial Mixed Use; DMU - Downtown Mixed Use; MSMU - Main Street Mixed Use.
- Specified which allowed license type is allowed in certain zones (See Table below).

Type	Zone
Type 1A = Cultivation; Specialty Indoor; Small.	CSF
Type 1B = Cultivation; Specialty Mixed-Light; Small.	CSF

Type 2A = Cultivation; Indoor; Small.	CSF
Type 2B = Cultivation; Mixed-Light; Small.	CSF
Type 3A = Cultivation; Indoor; Medium	CSF
Type 3B = Cultivation; Mixed-Light; Medium	CSF
Type 4 = Cultivation; Nursery.	CSF
Type 5A = Cultivation; Indoor; Large.	CSF
Type 5B = Cultivation; Mixed-Light; Large.	CSF
Type 6 = Manufacturer 1 (extractions using mechanical methods or nonvolatile solvents).	CSF
Type 7 = Manufacturer 2 (extractions using volatile solvents).	CSF
Type N = Manufacturer (no extractions, pursuant to 17 CCR § 40118, and as may be amended).	CSF
Type P = Manufacturer (packaging and labeling only, pursuant to 17 CCR § 40118, and as may be amended).	CSF
Type 8 = Testing Laboratory.	CSF, CMU, DMU
Type 9 = Non-Storefront Retailer (by delivery only, pursuant to 16 CCR § 5414, and as may be amended).	CSF, DMU
Type 10 = Retailer.	CSF, CMU, DMU, MSMU
Type 11 = Distributor.	CSF
Type 12 = Microbusiness	CSF, CMU, DMU, MSMU
Type 13 = Distributor (transport only, pursuant to 16 CCR § 5315, and as may be amended).	CSF
Cultivation License Types for Indoor or Mixed-Light pursuant to 3 CCR § 8201, and as may be amended).	CSF
Type 14 = Consumption cafe/lounge	CMU, DMU, MSMU

The changes being considered by the City are relatively minor, adding up to three commercial cannabis locations into the City and making a variety of minor administrative changes and minor revisions to the regulations of licensees and to the development standards in the zoning districts. None of the aspects being proposed for change are regulated by the criteria within Compatibility Zone D of the Travis Plan.

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 Land Use Compatibility Plan.

Travis Plan Compatibility Zone D Criteria

The subject property lies within the Area of Influence of the Travis plan, more particularly within Compatibility Zone D. (Attachment B Travis Plan Context Map). The criteria for compatibility in Zone D are listed below.

Compatibility Zone D

Maximum Densities/Intensities: No Limits

Prohibited Uses: None

Other Development Conditions:

- ALUC review required for objects > 200 feet AGL
- All proposed wind turbines must meet line-of-sight criteria in Policy 5.6.1
- 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
- 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.
- 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.

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

ANALYSIS

As described above, the proposed project ordinance revises Suisun's land use regulations and standards for personal cultivation of cannabis, as defined under the Medical and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and the Adult Use Marijuana Act (AUMA) and other applicable laws.

Relevant Issues for the ALUC

The City of Suisun City 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 Attachment B).

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 below.

Intensity Limitations on Nonresidential Uses

There are no land use limitations on non-residential uses within compatibility zone D and thus the proposed cannabis regulations are consistent with this aspect of the Travis Plan.

Identification of Prohibited Uses

The Plan does prohibit "Other Hazards to Flight" which typically consist of sources of smoke or glare, attraction of birds, flashing lights and sources of electronic interference. None of these hazards are permitted in the proposed cannabis regulations and consequently the regulations are consistent with the Travis Plan.

Open Land Requirements

There are no open land requirements specified for Compatibility Zone D and thus the proposed cannabis regulations meet the requirements of the Travis Plan.

Infill Development

The project is not considered infill development and as a result this provision does not apply to the proposed cannabis regulations. Therefore, the proposed cannabis regulations are consistent with the Travis AFB Airport Land Use Compatibility Plan.

Height Limitations and Other Hazards to Flight

Height Limitations

The Height limit for Compatibility Zone D is 200 feet. The proposed cannabis regulations do not make any changes to the height limitations in the Suisun City Zoning regulations and , as such, the proposal is consistent with the height requirements of the Travis Plan.

Other Hazards to Flight

There are no land use limitations within compatibility zone D. The Plan does prohibit “Other Hazards to Flight” which typically consist of sources of smoke or glare, attraction of birds, flashing lights and sources of electronic interference. None of these hazards are permitted in the proposed cannabis regulations and consequently the regulations are consistent with the Travis Plan.

Buyer Awareness Measures

Buyer awareness measures are not required within Compatibility Zone D.

Non-conforming Uses and Reconstruction

The project does not involve reconstruction or non-conforming uses. As a consequence no further discussion is required under this topic.

In light of the above discussion, staff is recommending a determination that the City of Suisun City 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-2020-02, the City of Suisun City Cannabis Regulations, is consistent with the Travis AFB Land Use Compatibility Plan (Travis Plan).

Attachments:

- Attachment A: Application
- Attachment B: Travis Context Map
- Attachment C: Red Line Ordinance Revisions
- Attachment D: Staff Report to Planning Commission
- Attachment E: Resolution (To be Distributed at the Hearing)

