

FROM THE PLANNING COMMISSION MINUTES OF AUGUST 22, 2013

9. ORDINANCE (Public Hearing)

b. OR13-0002/Medical Marijuana Outdoor Cultivation initiated by EL DORADO COUNTY. The proposed amendment to County Ordinance, Title 17, will regulate the outdoor cultivation of medical marijuana in all zone districts in the unincorporated areas of the County of El Dorado. The Ordinance proposes to regulate the outdoor cultivation of medical marijuana by setting standards and regulations for: the maximum size area for cultivation; fencing; separation from youth oriented facilities; setbacks from property lines; limitations on smoke and odor; residency requirements or owner authorization; environmental requirements (water quality, sewage disposal, and use of chemicals); disposal of waste material; collective cultivation on larger lots; abatement and code enforcement; administrative relief provisions and appeal process, including providing for public notice of administrative relief and appeal requests. The Planning Commission proposes to find that adoption of the ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations). *[Project Planner: Peter Maurer] [Continued from 08/08/13 meeting]*

Peter Maurer presented the item and referenced the Revised Attachment 1 – Planning Commission/August 22, 2013. He went through each of the revisions. Mr. Maurer also referenced Attachment 2-Alternative Text. This had been referenced in the text of the Staff Memo dated August 15, 2013, but had inadvertently not been included in the list of attachments. Copies were made available to the Commission and the audience.

County Counsel David Livingston informed the Commission that Items I & J were added to the revised Ordinance as they were deemed necessary by staff.

Captain Andy Wishart, El Dorado County Sheriff's Department, made the following comments:

- They have been working closely with staff on the preparation of this Ordinance;
- Public Safety aspect is their #1 concern;
- Current revised Ordinance has addressed many concerns they had in the beginning of the process;
- Separation is a big issue;
- Recommended using the proposed alternate language for D.3;
- It is important to define what outdoor cultivation is in the Ordinance and supported the current definition;
- Whether plants are being measured from stalks or canopy to determine the area of the planting is not a concern for them;
- They have same concern as the Commission in regards to fencing and security;
- Setbacks are very important for the smaller lots due to the pungent smell that comes from the varieties that are grown in this County;
- Residency needs to be more defined as they do not want out-of-County or out-of-State people coming to El Dorado County just to grow marijuana;

- Very important to have a permitted dwelling on the lot;
- Having the names/contacts posted and legible is very important to them as it reduces time and decreases problems/issues;
- Would like to have a well-worded Ordinance that is practical for all parties;
- Would like wording added to the Administrative Relief section (H.2) that would include a courtesy notice being sent to the Sheriff's Department;
- Sheriff's Department has a vested interest in this Ordinance as they are the primary for enforcing; and
- Don't discount aromatics of the plants because there are people, including himself, that are allergic to them.

Richard Ross distributed a handout and made the following comments:

- Inquired as to where the marijuana is stored after it is harvested;
- Inquired if indoor cultivation was legal in the County;
- Inquired on Section D.5;
- Questioned the legal means of disposing marijuana waste;
- Photo identification should be available and linked to a credible database source that the Sheriff's Department has access to;
- When applying for Administrative Relief, efforts to resolve it should be shown; and
- Specific neighborhoods should be noticed when request/action is being done on a property.

Drew Woodall stated that in regards to youth-oriented facilities, the Boys and Girls Club, legitimate and established licensed daycares, and teen centers should be added. He also stated that bus stop locations could be a problem, as well as Charter Schools, and recommended that they error on the side of the youth.

Valerie Zentner, El Dorado County Farm Bureau, made the following comments:

- Spoke on the ag neighboring parcels;
- Liked the outdoor cultivation definition;
- AP zoning was not listed in Sections D.1 and D.4; and
- Clarification and language modification were needed in Section D.7.

Peter Schultz made the following comments:

- Believed it was a mute issue on people being allergic to marijuana;
- Growers are already securing their property and the Commission shouldn't focus on these small issues; and
- The patients/users are being affected by this.

Karen Bartholomew made the following comments:

- Odor is over-rated;
- A 50 foot setback for 1 acre is harsh;
- Setbacks for bus stop locations should be lower; and
- Questioned why half-acre lots couldn't be allowed to grow 1-2 plants.

Kyle Speaker stated that odor is a ridiculous issue.

Paula Morgan said that she needs to have medical marijuana to control her asthma and it would be a problem if she doesn't have access to grow it.

Kent Davis made the following comments:

- Cannabis is a medicine;
- Felt special consideration should be made for those in his situation in which he owns 2 contiguous lots (11 acres of vacant land and 1.5 acres with a house), but the vacant lot is the only piece of land he could grow on, but would be in violation as there is no dwelling on it;
- This should remain complaint-driven and not have to notify Sheriff's Department of their existence; and
- There is no accurate way to measure canopies because they grow.

Discussion ensued between the Commission and Mr. Davis on the definition of 200 square feet. County Counsel Livingston stated that other jurisdictions' regulations are based on plant count, however, the Board, based on input from the Sheriff's Department, was requesting square footage be used as its easier.

Mitch Fadel provided background on why square footage is used and spoke on a study indicating how much cannabis a patient would need.

Chair Pratt closed public comment.

During testimony, Chair Pratt commented that fluidity was an issue as school bus stop locations can move each year and could re-locate near an established grow.

The Commission deliberated on the Ordinance wording by reviewing each section and provided revisions to be included in the document being recommended to the Board of Supervisors.

There was no further discussion.

Motion: Commissioner Mathews moved, seconded by Commissioner Shinault, and carried (4-0), to recommend the Board of Supervisors take the following actions: 1. Find that the adoption of the proposed ordinance is not subject to CEQA pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines; and 2. Adopt an amendment to Title 17 of the County Code regulating medical marijuana outdoor cultivation as provided with the identified modifications included from today's hearing.

AYES: Stewart, Shinault, Mathews, Pratt
NOES: None
ABSENT: Heflin