



# Agenda Item

DATE: August 9, 2011

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: Resolution No. 12251 - Amendment to Text Application No. 364

Applicants: Fresno County

Request: Amend Sections 803.1 and 843.1 of the Fresno County Zoning Ordinance relating to Medical Marijuana Cultivation Facilities in the M-1 (Light Manufacturing), M-2 (General Industrial) and M-3 (Heavy Industrial) Zoning Districts.

## PLANNING COMMISSION ACTION:

At its hearing of July 21, 2011, the Commission considered the Staff Report and public testimony (summarized in Exhibit "A").

A motion was made by Commissioner Ferguson and seconded by Commissioner Mendes to forward Amendment to Text Application No. 364 to the Board of Supervisors with a recommendation for approval with direction to staff to meet with concerned cities and report the outcome of said meeting to the Board of Supervisors at its August 9, 2011 hearing.

This motion passed on the following vote:

ADMINISTRATIVE OFFICE REVIEW

*Brandi O'Neil*

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BOARD ACTION: DATE

APPROVED AS RECOMMENDED

OTHER

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EXHIBIT "A"

Amendment to Text Application No. 364

**Staff:** The Fresno County Planning Commission considered the Staff Report dated July 21, 2011, and heard a summary presentation by Department staff and staff from the Sheriff's Office.

**Applicant:** County staff presented the Staff Report and described the proposal and offered the following information:

- On July 13, 2010 and on September 14, 2010, the Board of Supervisors adopted separate Interim Urgency Ordinances prohibiting new Medical Marijuana Dispensaries and outdoor cultivation pending completion of a comprehensive Medical Marijuana Ordinance.
- On July 12, 2011, the Board of Supervisors considered and approved the first reading of the proposed Medical Marijuana Ordinance. The Ordinance addresses possession, consumption, distribution, and cultivation of medical marijuana.
- The proposed Ordinance limits cultivation of medical marijuana to the County's M-1, M-2 and M-3 Industrial Zone Districts.
- Staff is not opposed to the City of Fowler's request; however, it is recommended that these provisions not be made part of the Ordinance because all Site Plan Review Applications within a city's Sphere of Influence are already routed to each effected city and each city may have differing provisions relating to the status of an existing use upon annexation.
- The proposed Medical Marijuana Cultivation Facilities are required to meet operational, separation and security requirements. Medical Marijuana Cultivation Facilities are limited to a maximum of 99 marijuana plants.

**Sheriff's Office:** Sheriff's staff presented the following information:

- The Sheriff supports approval of the proposed Ordinance.

- No one wants this type of use in their backyard. Today, marijuana continues to be illegal under state and federal law. However, with passage of Proposition 215, limited protection was provided to qualified patients and primary caregivers.
- Unfortunately, there are not state-wide regulations, so individual cities and counties have to adopt their own regulations.
- The Medical Marijuana Ordinance would prohibit dispensaries in Fresno County. After the City of Fresno adopted an Ordinance prohibiting dispensaries in the City, the unincorporated County islands exploded with new dispensaries. There is current a dispensary located across the street from an elementary school.
- The only way we can eradicate marijuana grows is to have probable cause or demonstrate the grows are not being grown by either qualified patients or primary caregivers.

**Others:**

A representative of the City of Selma spoke in opposition to the proposal and offered the following information:

- The Selma City Council voted to oppose Medical Marijuana Cultivation Facilities within one-half mile of the City or within Selma's Sphere of Influence.
- Selma was not made aware of the public hearings and approval of the proposal would negatively impact joint efforts to improve and beautify the Golden State Corridor.
- Selma is also current working with a major commercial tenant and is concerned that if such a facility is located nearby, that tenant would relocate to another city.
- Under the City/County Memorandum of Understanding, the County is required to consult with the cities on these types of matters.
- The cities will be impacted when properties containing these facilities are annexed.
- The County should investigate the possibility of designating light manufacturing sites away from the cities to accommodate this proposed use.

Correspondence:

One letter was received from the City of Fowler requesting that two provisions be added to the proposed Ordinance as follows:

- If an application for a License and/or Site Plan Review Application is filed for a Medical Marijuana Cultivation Facility within their Sphere of Influence, that the City be notified at least 60 days prior to formal consideration of the matter and be provided the opportunity to comment upon the application, including a request that the County consider the imposition of additional Operational Conditions to alleviate potential adverse effects upon the City; and
- Notification shall be provided to individuals applying for a Medical Marijuana Cultivation Facility that the facility will not be grandfathered in as a legal non-conforming use upon annexation, and instead, will be subject to the City's Ordinances pertaining to medical marijuana.

BJ:mac

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