



Inter Office Memo

DATE: August 9, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director *Alan Weaver*
Department of Public Works and Planning

SUBJECT: Resolution No. 12251– Amendment to Text Application No. 364
(Applicant: Fresno County)

RECOMMENDED ACTION

Conduct public hearing and adopt Ordinance approving Amendment to Text Application No. 364 amending 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.

BACKGROUND / DISCUSSION

An Amendment to the Zoning Ordinance is a legislative act requiring final approval from your Board. If approved, the amended Zoning Ordinance would then become effective 30 days after adoption.

On July 13, 2010, your Board adopted Resolution of Intention No. 10-269 initiating a Zoning Ordinance Text Amendment relating to medical marijuana, along with directing staff to prepare a comprehensive Ordinance addressing possession, consumption, distribution, and cultivation of medical marijuana in the unincorporated areas of Fresno County. Also, on July 12, 2011, your Board approved the first reading of the proposed Medical Marijuana Ordinance and is scheduled to consider the second reading on August 9, 2011.

As proposed by staff and consistent with your Board's July 12, 2011 hearing, approval of Amendment to Text Application No 364 would define and add Medical Marijuana Cultivation Facility as use permitted in the County's M-1, M-2, and M-3 Zoning Districts, subject to licensing requirements under Chapter 6.6 of Title 6 of the County Ordinance Code.

On July 21, 2011, the Planning Commission considered the subject application. As part of the public testimony portion of the hearing, a representative of the City of Selma spoke in opposition to the proposal indicating that 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 staff indicated that they were 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 staff also noted that the City is currently working with a major commercial

tenant and is concerned that if such a facility is located nearby, that tenant would relocate to Kern County.

In addition, one letter was received from the City of Fowler requesting that two provisions be added to the proposed Ordinance requiring that 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 Fowler 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. In addition, the City requested that notification be provided to individuals applying for a Medical Marijuana Cultivation Facility Business License that the facility, if approved in the County, 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.

Upon consideration of the staff presentation, testimony and correspondence, the Planning Commission voted unanimously (seven to zero) to recommend that your Board approve Amendment to Text Application No. 364, with direction to staff to meet with concerned cities prior to today's Board hearing. As of the date of the drafting of this Agenda Item, staff is coordinating a meeting with the cities that have expressed concern and will report the outcome of the meeting to your Board. As it relates to the City of Fowler's request, staff is not opposed to the City's request; however, staff does not recommend that the proposed provisions be made part of the Ordinance because currently all Site Plan Review Applications within a city's Sphere of Influence are routed to each affected city (and staff will continue to do this), and each city may have differing provisions relating to the legal status of an existing use upon annexation. Rather, staff recommends that your Board provide direction for staff to include a general notification regarding the issue of continued use upon annexation on the Medical Marijuana Cultivation Facility Business License Application form.

REFERENCE MATERIAL

BAI #13, July 13, 2010
BAI #9, August 24, 2010
BAI #6, September 14, 2010
BAI #12, October 26, 2010
BAI #9, December 7, 2010
BAI #4, February 1, 2011
BAI #6, July 12, 2011