



City of Woodland

Meeting Agenda - Final

Planning Commission

City of Woodland Planning
Commission
c/o Community
Development Department
300 First Street
Woodland, CA 95695

530-661-5820

Thursday, August 3, 2017

6:30 PM

Council Chambers

Please Note: The numerical order of items on this agenda is for convenience of reference; items may be taken out of order. No new items shall begin after 10:30 pm unless unanimous consent exists to continue.

A. Call to Order

B. Roll Call

C. Pledge of Allegiance

D. Staff and Commissioner Comments

This is an opportunity for the Planning Commission members and staff to make comments and announcements to express concerns, or to request Commission's consideration of any items a Commission member would like to have discussed at a future Commission meeting..

E. Subcommittee Reports

F. Communications from the Public

This is an opportunity for the public to speak to the Commission on any item other than those listed for public hearing on the agenda. Speakers are requested to use the microphone in front of the Commission and to begin by stating their name, whether they reside in Woodland and the name of the organization they represent if any. The Commission may impose a time limit on any speaker depending on the number of people wanting to speak and time available for the rest of the agenda. In the event comments are related to an item scheduled on the agenda, speakers may be required to wait to make their comments until that item is considered.

G. Approval of Minutes

H. Public Hearing

[17-0596](#)

SUBJECT: Cannabis Cultivation Ordinance and Consideration of Commercial Cannabis Uses

DATE: August 3, 2017

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Receive a staff report regarding proposed and recommended

amendments to the City's existing zoning ordinance regulating medical marijuana cultivation to conform the scope of the existing ordinance to new state law, and renaming Article 21.5 to Personal Cultivation of Cannabis;

2. Conduct a public hearing;
3. Discuss zoning options for potential commercial cannabis uses, including potential zoning districts for those uses; and
4. Adopt Resolution No. PC 17 - 05, recommending to the City Council adoption of an ordinance to amend Article 21.5 to conform the scope of the existing ordinance to state law, specifically Proposition 64 adopted by the State of California voters regarding personal cultivation of cannabis.

Attachments: [A - PC Resolution 17-05 Recommending Adoption of Draft Zoning Ord.](#)
[B - Draft Ord. Amending Art. 21.5 ch. 25 Related to Personal Cultivation](#)

I. Business Items

Items for Planning Commission discussion and/or action that do not require public hearing.

[17-0597](#)

SUBJECT: Planning Commission Long Range Calendar

DATE: August 3, 2017

RECOMMENDATION:

Staff recommends that the Planning Commission review the long-range calendar dated, July 28, 2017 and provide comments.

Attachments: [A - 7-28-17 Long Range Calendar](#)

J. Staff or Commissioner Comments

Continued as needed.

Receive Absence Requests.

K. Adjournment

The Planning Commission of the City of Woodland encourages all parties interested in a matter scheduled to be reviewed, discussed and acted on at a meeting, to participate in the public discourse, which may include the submission of written comments and materials. The Planning Commission notifies the public that those materials received less than 24 hours before a meeting date and time may not be able to be considered completely. Further, the Planning Commission encourages interested parties to attend the meeting to discuss any matter of concern and to explain their comments more fully.

Please Note: The numerical order of items on this agenda is for convenience of reference; items may be taken out of order. No new items shall begin after 10:30 pm unless unanimous consent exists to continue.



Legislation Details (With Text)

File #: 17-0596 **Version:** 1 **Name:**
Type: Public Hearing Item **Status:** Agenda Ready
File created: 7/28/2017 **In control:** Planning Commission
On agenda: 8/3/2017 **Final action:**
Title: SUBJECT: Cannabis Cultivation Ordinance and Consideration of Commercial Cannabis Uses

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RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Receive a staff report regarding proposed and recommended amendments to the City's existing zoning ordinance regulating medical marijuana cultivation to conform the scope of the existing ordinance to new state law, and renaming Article 21.5 to Personal Cultivation of Cannabis;
2. Conduct a public hearing;
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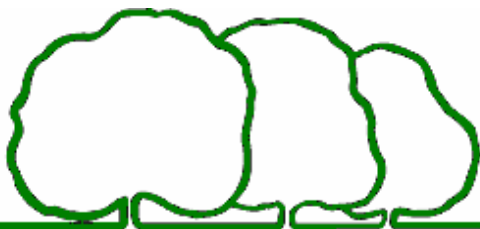
Sponsors:

Indexes:

Code sections:

Attachments: [A - PC Resolution 17-05 Recommending Adoption of Draft Zoning Ord.](#)
[B - Draft Ord. Amending Art. 21.5 ch. 25 Related to Personal Cultivation](#)

Date	Ver.	Action By	Action	Result
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City of Woodland

MEMORANDUM

TO: Members of the Woodland Planning Commission

FROM: Stephen Coyle, Deputy Community Development Director
Cindy A. Norris, Principal Planner

Kara Ueda, City Attorney

SUBJECT: Cannabis Cultivation Ordinance and Consideration of Commercial Cannabis Uses

DATE: August 3, 2017

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Receive a staff report regarding proposed and recommended amendments to the City's existing zoning ordinance regulating medical marijuana cultivation to conform the scope of the existing ordinance to new state law, and renaming Article 21.5 to Personal Cultivation of Cannabis;
2. Conduct a public hearing;
3. Discuss zoning options for potential commercial cannabis uses, including potential zoning districts for those uses; and
4. Adopt Resolution No. PC 17 - 05, recommending to the City Council adoption of an ordinance to amend Article 21.5 to conform the scope of the existing ordinance to state law, specifically Proposition 64 adopted by the State of California voters regarding personal cultivation of cannabis.

PROJECT PROPOSAL

The proposed ordinance would amend Article 21.5 of the Woodland Municipal Code to do the following:

- (1) Rename the Article Personal Cultivation of Cannabis; and
- (2) Amend Article 21.5 to (a) provide that any person within the City of Woodland may cultivate cannabis inside of any residence or enclosed and secure secondary structure that meets certain requirements specified in the ordinance, consistent with state law that permits indoor cultivation of cannabis for medical and non-medical purposes and (b) prohibit all outdoor cultivation of cannabis; and
- (3) Change all use of the word "marijuana" to "cannabis" to be consistent with state law.

In addition to recommending to the City Council a proposed ordinance concerning indoor personal cultivation of cannabis, staff also proposes having a discussion of potential commercial cannabis uses within the City of Woodland and options for where to locate such businesses.

BACKGROUND: CANNABIS CULTIVATION

Applicable Law

The Federal Controlled Substances Act (21 USC §§ 801 *et seq.*) classifies marijuana as a Schedule I drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute, dispense, transport, or possess marijuana for medical purposes.

In 1996, California voters approved Proposition 215 (codified as Health and Safety Code §§ 11362.5 *et seq.* and entitled "The Compassionate Use Act of 1996"). Proposition 215 was intended to allow persons in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances. The State Legislature enacted subsequent legislation (SB 420) to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and

enforce rules and regulations consistent with SB 420.

In 2015, the Governor signed a series of bills, collectively referred to as the Medical Cannabis Regulation and Safety Act (MCRSA). The MCRSA provided a comprehensive licensing scheme for state licensing of commercial, medical cannabis businesses. The MCRSA governed exclusively medical cannabis, with state licensing to begin on January 1, 2018.

California voters in November 2016 adopted Proposition 64 concerning use and cultivation of cannabis for non-medical or recreational purposes. Proposition 64 does a number of things to change existing state law concerning recreational, or “adult-use” cannabis. Of most relevance to this matter is that Proposition 64 permits individuals to grow up to six cannabis plants inside of residential structures and does not allow the City to completely prohibit such indoor cultivation for personal use. The City may, however, impose reasonable regulations concerning the indoor cultivation in order to provide for the health, safety, and welfare of City residents. Proposition 64 also enacted a separate licensing scheme for state licensing of non-medical, adult-use cannabis businesses, also due to begin on January 1, 2018.

On June 27, 2017, the Governor signed SB 94, a budget trailer bill that repealed MCRSA and amended the provisions of Proposition 64 to incorporate many of MCRSA’s provisions. As a bill tied to the state budget, the bill became effective immediately. The purpose of SB 94 was to, among other things, consolidate the state licensing of commercial cannabis businesses into one comprehensive state licensing scheme. The distinction between medical and adult-use cannabis remains in the state law (designated by an “M” or an “A” prefix on the license type), but the overall licensing requirements and process is now consolidated to be the same for both medical and adult-use cannabis businesses. SB 94 did not alter or amend the personal cultivation provisions of Proposition 64.

Existing City Ordinance: Medical Cannabis Only

On May 1, 2012, the City Council adopted an ordinance that added Article 21.5 to Chapter 25 (Zoning) of the Municipal Code related to medical marijuana cultivation. Article 21.5 remains in the Zoning Code and regulates the cultivation of medical marijuana in a manner that protects the health, safety, and welfare of the community. It does not interfere with a patient’s right to medical marijuana nor does it criminalize medical marijuana possession or cultivation by specifically defined classes of persons, pursuant to state law. It does not give any person the independent legal authority to grow marijuana and is intended to simply impose zoning restrictions on medical marijuana cultivation when it is authorized by California law for medical or other purposes.

The existing ordinance provides that only the cultivation of medical marijuana is permitted in the City of Woodland. Additionally, no person (including a qualified patient or primary caregiver) may cultivate medical marijuana outdoors in a residential zone or within 600 feet of any school or residential use. In order to grow medical marijuana indoors within a residential zone, the cultivation must occur within a detached, fully-enclosed and secure secondary structure or within a primary residential structure conforming to a number of minimum standards concerning grow lights, ventilations and filtration systems, maximum size, and other requirements. Additionally, any person wishing to cultivate medical marijuana must register with the Community Development Department. A violation of the ordinance is a public nuisance and subject to nuisance abatement.

The City’s ordinance, however, only addresses cultivation for medical purposes. Prior to the November 2016 election and anticipating passage of Proposition 64, the City Council of the City of Woodland imposed a 45-day moratorium on outdoor cultivation of cannabis and required all indoor cultivation of cannabis to comply with the City’s existing ordinance regarding indoor cultivation of medical cannabis. The City Council extended the

moratorium for an additional ten months and 15 days. The moratorium will expire on October 1, 2017.

DISCUSSION: Cannabis Cultivation for Personal Use

The purpose of the proposed ordinance is to make the City's existing ordinance on indoor personal cultivation of cannabis consistent with the State's allowance of indoor cultivation of cannabis for non-medical/recreational purposes. To do that, certain definitions have been deleted or updated within the ordinance, and all references to medical marijuana have been changed to simply read "cannabis."

Proposition 64 permits indoor cultivation of cannabis within a primary residential structure (including an apartment) or a detached, fully-enclosed and secure secondary structure. That same allowance has been added to the proposed ordinance. However, instead of allowing only a qualified medical marijuana patient or his/her primary caregiver to grow the cannabis, the proposed ordinance also would allow anyone 21 years of age or older to cultivate marijuana for his or her personal use. However, cannabis grown by an individual may not be sold or used for other commercial purposes (but it may be processed, used, or given away, as permitted by state law).

The proposed ordinance would retain the current performance standards and regulations regarding indoor cultivation, including regulations concerning lighting, ventilation and filtration, setbacks for the second unit, not inhibiting the occupancy of a residence, and prohibiting cultivation in the kitchen or bathrooms. Additionally, no exterior evidence of cannabis cultivation may be visible from the public right-of-way. The proposed ordinance also prohibits all outdoor cultivation of cannabis, for any purpose. The City's existing ordinance allowed limited outdoor cultivation of medical marijuana, but in very specific areas. City staff does not know whether any cultivation of medical marijuana occurred outdoors in these limited areas. However, in light of the potential for increase in outdoor personal cultivation of cannabis as a result of Proposition 64, City staff recommends a complete ban on outdoor cultivation in the City consistent with the existing moratorium.

The City's existing ordinance requires any person who cultivates medical marijuana indoors to first register with the Community Development Director for the purpose of the City's monitoring compliance with the building and safety regulations. The ordinance required the property owner to consent to the cultivation of marijuana at the premises and to provide the name of each person growing marijuana, among other things. However, since the enactment of the ordinance, no one has ever registered with the Community Development Director as required by the ordinance. It is difficult to believe that no one in the City has grown or is growing marijuana for medical purposes. Thus, staff believes this requirement has no current beneficial use in the existing code and proposes deleting it. Anyone who chooses to cultivate cannabis indoors will still be required to comply with building and safety regulations in addition to those standards set forth in the ordinance - only the registration component has been deleted.

Both the Planning Commission and the City Council appointed ad hoc two-member subcommittees. Planning Commissioners Harris and Lizarraga met with Mayor Angel Barajas and Council member Rodriguez and staff to discuss various issues related to cannabis cultivation and options for the City of Woodland. The subcommittee members have received a copy of the proposed ordinance and did not have any substantive comments on it.

Environmental Determination

The proposed ordinance authorizes personal cultivation of cannabis, consistent with state law. Staff has determined that the proposed ordinance does not allow or permit new uses or more intensive uses than those already established in existing zoning districts in the City, and that there will not be any significant changes or

effects to the environment. Additionally, the proposed ordinance is more restrictive in the area of outdoor cannabis cultivation than the existing ordinance (which permitted some outdoor cultivation). As such, staff has determined that the ordinance is not a project subject to the California Environmental Quality Act pursuant to Section 15061(b)(d) of Title 14 of the California Code of Regulations.

DISCUSSION: Commercial Cannabis Uses

Some jurisdictions in California are adopting zoning ordinances to allow commercial cannabis uses. Proposition 64 establishes up to 19 different categories of state licenses for commercial cannabis, including commercial cultivation, manufacturing, testing, distribution, and dispensary/retail sales. Proposition 64 also authorized the State of California to begin issuing commercial cannabis licenses to entities as of January 1, 2018 if the business activity is also permitted under applicable local (i.e. city) ordinance.

Ad Hoc Subcommittees: The Planning Commission and City Council ad hoc subcommittees were comfortable with allowing some limited commercial uses to proceed within the City but were uncomfortable with allowing retail uses (such as storefronts and/or dispensaries). The subcommittee members also discussed various financing mechanisms and the different types of commercial uses. Because it is so early in the process, both at the state and local level, and the legal cannabis industry is just beginning to get off the ground, the potential scope and impact of commercial cannabis businesses is not yet known in terms of demand, production estimates, or the amount of revenue the City could receive from commercial cannabis uses.

Desired Planning Commission Feedback: After discussion between the members of the ad hoc subcommittees and staff regarding the potential for commercial cannabis uses in Woodland, staff has identified several preliminary zoning issues for Planning Commission discussion and feedback. Staff seeks input on these preliminary zoning issues to help guide future drafting of a zoning ordinance regarding commercial cannabis uses, which will be brought back to Planning Commission for consideration and recommendation. Specifically, staff seeks discussion and input from the Planning Commission on the following questions:

- 1) Types of Commercial Cannabis Uses. What types of potential commercial cannabis uses should be allowed in Woodland? Specific land use considerations include: uses compatible with existing uses in the City and proposed limits in the total number or total size of such businesses.
- 2) Location of Commercial Cannabis Uses. Where should those potential commercial cannabis uses be located in the City? Specific land use considerations include: compatible zoning districts for proposed uses and the potential for an overlay zone applicable to those uses.
- 3) Land Use Approvals. What land use approval process do we want to impose on potential commercial cannabis uses? For example, should all cannabis uses be required to obtain a Conditional Use Permit?

Additional information and discussion regarding each of these questions is outlined below. Where relevant, initial staff recommendations have been included to help guide Planning Commission consideration.

1) Types of Uses:

The various types of commercial cannabis uses include: commercial cultivation, manufacturing, testing laboratories, distributors, and retailers (conducting retail sales to customers). There is also a state “microbusiness” license type, which authorizes limited amounts of cultivation, distribution, manufacturing, and retailing under a single license. Alternatively, the Planning Commission could recommend prohibiting all

commercial uses at this time.

***Initial staff recommendation** is to allow non-retail, wholesale cannabis uses, and to prohibit all retail sales and retail uses in the city. This would include allowing the following types of uses:

A. Manufacturers. Commercial cannabis uses include operators who blend, extract, infuse, or otherwise make cannabis products, including edibles and/or medication. Cannabis manufacturing may include, but does not necessarily have to include, distribution of wholesale products, although distribution under state law would require a separate state license. Manufacturers do not include retail. In other words, a manufacturer would not sell cannabis products directly from the manufacturing facility.

Additionally, some cities such as Sacramento allow non-volatile manufacturing but not volatile manufacturing. Non-volatile manufacturing does not use volatile solvents in any of the production or compounding of cannabis. State law defines volatile solvents as volatile organic compounds including explosive gases such as propane or kerosene and dangerous poisons, toxins, or carcinogens such as methanol, isopropyl alcohol, or acetone.

B. Testing Laboratories. A cannabis testing lab would include a facility that tests cannabis or cannabis products. These labs may conduct initial analytical or design work or may be engaged in scientific research or experiments. Testing laboratories would not include manufacturing, distribution, or sale of cannabis products.

C. Distribution Facilities. Cannabis distribution facilities may store cannabis on-site, engage in non-retail sales, and transport cannabis and cannabis products between other state-licenses cannabis businesses, including warehouses and other similar structures.

D. Indoor Cultivation. Commercial cannabis cultivators (i.e., not personal cultivation, which is regulated separately), may operate under a variety of state cultivation license types. Those license types vary based on whether the cultivation is conducted indoors, outdoors, or using a combination of lighting, and also vary based on total size of the cultivation premises.

***Initial staff recommendation** is to allow a limited number of indoor cultivation facilities, and to limit the total square footage of such facilities.

Staff also proposes limiting both the total number and total size of each of the above cannabis facility types. Staff is exploring, for example, limiting each of the above non-retail uses to no more than 3-5 in the City. Staff is continuing to study such parameters, but is interested in receiving Planning Commission feedback on this issue.

2) Consideration of Potential Locations:

Based on the assumption that certain limited non-retail cannabis uses outlined above would be permitted in the City, it is necessary to determine appropriate zoning districts for those uses.

***Initial staff recommendation** is to allow the above cannabis uses only in the Industrial Zone. Staff is also exploring the option of developing an overlay zone that would be an even more limited area of the Industrial Zone, authorized for specific types of cannabis uses. For example, an overlay zone could be created for certain non-retail cannabis uses, located in the area east of Pioneer Avenue and north of E. Beamer Street (very north east end of the industrial area). Other cities have begun exploring cannabis overlay zones that would permit all permitted cannabis uses to operate within a particular area, similar to a business park model.

Staff has also prepared a zoning map showing the potential zones for commercial cannabis uses. Another factor for the Planning Commission to consider is whether an additional buffer around these uses is necessary. State law provides a 600-foot radius buffer between cannabis uses and schools, day cares, and other places where children congregate. The City may adopt additional or more stringent restrictions to avoid conflicts with incompatible uses. However, because non-retail cannabis uses will generally not be open to the public, will likely require more space, and will not have cannabis growing outdoors, it is unclear whether additional buffers are necessary for these types of commercial cannabis uses.

3) Consideration of Land Use Approval Process:

Potential authorized cannabis uses could be allowed by right, or conditioned upon the granting of a Conditional Use Permit.

****Initial staff recommendation*** is that any proposed commercial cannabis use be required to receive a conditional use permit in order to operate. This would ensure that no commercial cannabis use would be allowed to operate in the City as of right. In addition to the performance standards set forth in the applicable zone, the City would also have an opportunity to review the proposed use and location and determine compatibility with adjacent land uses, the potential for disruption of potential land uses, and to impose any and all applicable conditions on the use. In addition, staff recommends that any commercial cannabis user also be required to enter into a development or operating agreement. It is possible that any new commercial cannabis user would be required to complete a separate environmental analysis process prior to being allowed to operate in the City.

The City has also gathered information about how neighboring jurisdictions are addressing commercial cannabis. The City of Davis is currently moving forward with allowing all non-retail commercial cannabis businesses, except for commercial cultivation. Davis has already adopted both a zoning ordinance and a separate regulatory ordinance (requiring a business permit to operate and imposing non-zoning related operational requirements) applicable to these types of businesses. Davis has also conducted public workshops to discuss allowing limited numbers of cannabis retailers in the City. The City of Davis also has in place a business license tax requiring every person engaged in a cannabis business to pay ten percent of each dollar of gross receipts to the City, with an exemption for medical cannabis dispensaries in the event they become authorized to operate in the City. City of Davis voters approved that tax in June 2016, prior to the State's approval of Proposition 64. The City of West Sacramento allows whole sale cannabis logistics, distribution, and transportation facilities for medical cannabis within the M-1 zone pursuant to a conditional use permit, a development agreement, and a security plan. The County of Yolo is processing a large number of cultivation permit applications within unincorporated Yolo County.

In addition to the land use and zoning issues, the City Council would also consider various regulatory issues associated with the new commercial cannabis business, including requirements for permit issuance, whether to require background checks, security requirements, processing and license fees, and the duration of cannabis permits, among other issues.

Thus, for consideration by the Planning Commission are the following issues concerning potential commercial cannabis uses in the City of Woodland:

- What types, if any, non-retail commercial cannabis uses should be permitted, conditionally permitted, or prohibited within the City of Woodland
- Where non-retail commercial cannabis uses should be located within the City of Woodland

- Whether there should be a limit on the total number and size of commercial cannabis uses
- Whether retail cannabis uses should be permitted in the City
- Whether an additional buffer(s) should be required around commercial cannabis uses

RECOMMENDATION:

Staff recommends that the Planning Commission:

1. Receive a staff report regarding proposed and recommended amendments to the City's existing zoning ordinance regulating medical marijuana cultivation to conform the scope of the existing ordinance to new state law, and renaming Article 21.5 to Personal Cultivation of Cannabis; and
2. Conduct a public hearing; and
3. Discuss zoning options for potential commercial cannabis uses, including potential zoning districts for those uses; and
4. Adopt Resolution No. PC 17 -05, recommending to the City Council adoption of an ordinance to amend Article 21.5 to conform the scope of the existing ordinance to state law, specifically Proposition 64 adopted by the State of California voters regarding personal cultivation of cannabis.

ATTACHMENTS:

Attachment A - Resolution No PC 17- 05 Recommending Adoption of Draft Zoning Ordinance

Attachment B - Draft Ordinance (Attachment 1 to PC Resolution No.17-05) Amending Article 21.5 of Chapter 25 Related to Personal Cultivation

RESOLUTION NO. PC 17-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF WOODLAND RECOMMENDING TO THE CITY COUNCIL AMENDING ARTICLE 21.5 OF CHAPTER 25 OF THE WOODLAND MUNICIPAL CODE RELATED TO ZONING OF PERSONAL CULTIVATION OF CANNABIS

WHEREAS, the City of Woodland Municipal Code currently permits indoor personal cultivation of medical marijuana in residential zones by qualified patients and primary caregivers for medical purposes, subject to certain registration requirements and performance standards; and

WHEREAS, the City's Municipal Code prohibits commercial cultivation of medical marijuana, cultivation of marijuana for non-medical purposes, and outdoor cultivation within any residential zone and within 600 feet of any child care center, park, school or residential use; and

WHEREAS, at the November 1, 2016 City Council meeting, the City Council adopted Ordinance No. 1602, an urgency interim zoning ordinance establishing a moratorium in all zoning districts on the outdoor cultivation of marijuana for non-medical purposes, in anticipation of Proposition 64 passing at the November 8, 2016 election; and

WHEREAS, at the November 8, 2016 election, California voters adopted Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which took effect the day after the election on November 9, 2016, and authorized certain personal cultivation of marijuana for non-medical purposes; and

WHEREAS, at the November 15, 2016 City Council meeting, the City Council adopted Ordinance No. 1607 to extend the moratorium established by the previous urgency ordinance until October 1, 2017, in order to provide staff time to consider and develop recommendations for personal cultivation of marijuana in light of AUMA; and

WHEREAS, the Planning Commission, after a duly noticed public hearing on August 3, 2017, evaluated proposed amendments to Article 21.5 of Chapter 25 of the Woodland Municipal Code concerning requirements for indoor cultivation of cannabis and the prohibition of outdoor cannabis in any zone within the City and determined that the proposed amendments to the Municipal Code conform to the General Plan of the City and recommended adoption of this Ordinance to the City Council; and

WHEREAS, pursuant to California state law and the Woodland Municipal Code, public notice of this hearing was published in a display ad format in a newspaper of local circulation on July 23, 2017, at least 10-days prior to the hearing date; and

WHEREAS, the Planning Commission further finds that this Ordinance merely clarifies existing zoning regulations and prohibitions regarding cultivation of marijuana in light of State law and does not authorize new or more intensive land uses, and therefore it can be seen with reasonable certainty that this Ordinance does not have the potential for causing a significant effect on the environment; and

WHEREAS, it is the Planning Commission's intent in this recommendation that the City Council's moratorium on all outdoor cultivation of marijuana for non-medical purposes, as set forth in Ordinances Nos. 1602 and 1607, shall be repealed upon the effective date of the Ordinance.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Woodland, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby make findings, determinations, recommendations with respect to the proposed Ordinance and recommends to the City Council approval of the proposed ordinance.

Findings. Pursuant to Chapter 25, Article 29 of the Woodland Municipal Code, the Planning Commission makes the following additional findings in support of the zoning amendments contained in the proposed Ordinance:

- A. The amendments contained in the proposed Ordinance provided in Attachment "A" to this Resolution are necessary to clarify and maintain existing prohibitions and zoning regulations regarding personal cultivation of cannabis in light of State law amendments.
- B. The proposed Ordinance ensures that the zoning regulations and performance standards imposed on personal cultivation of cannabis apply to both medical and non-medical uses of cannabis, and clarifies that all outdoor cultivation of cannabis is prohibited in the City.
- C. Pursuant to Section 25-29-01 of the Woodland Municipal Code, the Planning Commission finds that this Ordinance is necessary for the public necessity, convenience, and general welfare of the City, its residents, and visitors and recommends to the City Council that it consider and adopted the proposed Ordinance.

PASSED AND ADOPTED by the Planning Commission this 3rd day of August 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST:

Cindy A. Norris, Principal Planner

Attachment 1: Ordinance Amending Article 21.5 of Chapter 25 Related to Personal Cultivation of Cannabis.

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WOODLAND AMENDING ARTICLE 21.5 OF CHAPTER 25 OF THE
WOODLAND MUNICIPAL CODE RELATED TO ZONING OF
PERSONAL CULTIVATION OF CANNABIS**

WHEREAS, the City of Woodland Municipal Code currently permits indoor personal cultivation of medical marijuana in residential zones by qualified patients and primary caregivers for medical purposes, subject to certain registration requirements and performance standards; and

WHEREAS, the City's Municipal Code prohibits commercial cultivation of medical marijuana, cultivation of marijuana for non-medical purposes, and outdoor cultivation within any residential zone and within 600 feet of any child care center, park, school or residential use; and

WHEREAS, at the November 1, 2016 City Council meeting, the City Council adopted Ordinance No. 1602, an urgency interim zoning ordinance establishing a moratorium in all zoning districts on the outdoor cultivation of marijuana for non-medical purposes, in anticipation of Proposition 64 passing at the November 8, 2016 election; and

WHEREAS, at the November 8, 2016 election, California voters adopted Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which took effect the day after the election on November 9, 2016, and authorized certain personal cultivation of marijuana for non-medical purposes; and

WHEREAS, at the November 15, 2016 City Council meeting, the City Council adopted Ordinance No. 1607 to extend the moratorium established by the previous urgency ordinance until October 1, 2017, in order to provide staff time to consider and develop recommendations for personal cultivation of marijuana in light of AUMA; and

WHEREAS, the City Council has determined that certain revisions to the City's Zoning Ordinance regarding the personal cultivation of marijuana for medical and non-medical purposes are necessary in light of AUMA; and

WHEREAS, the City Council has determined that the reasonable regulations regarding personal cultivation contained in this Ordinance balance individuals' rights to cultivate marijuana pursuant to State law with the public health and safety concerns of the City posed by cultivation of marijuana; and

WHEREAS, the City Council further finds that this Ordinance merely clarifies existing zoning regulations and prohibitions regarding cultivation of marijuana in light of State law and does not authorize new or more intensive land uses, and therefore it can be seen with reasonable certainty that this Ordinance does not have the potential for causing a significant effect on the environment; and

WHEREAS, to ensure consistency with State law, this Ordinance changes the word "marijuana" to "cannabis," but the meaning of the word is the same; and

WHEREAS, it is the City Council's intent that the moratorium on all outdoor cultivation of marijuana for non-medical purposes, as set forth in Ordinances Nos. 1602 and 1607, shall be repealed upon the effective date of this Ordinance.

NOW, THEREFORE, the City Council of the City of Woodland does hereby ordain as follows:

Section 1. **Recitals.** The above recitals are hereby adopted by the City Council and incorporated as though set forth in this section.

Section 2. **Findings.** Pursuant to Chapter 25, Article 29 of the Woodland Municipal Code, the City Council makes the following additional findings in support of the zoning amendments contained in this Ordinance:

A. The amendments contained in this Ordinance are necessary to clarify and maintain existing prohibitions and zoning regulations regarding personal cultivation of cannabis in light of State law amendments. Specifically, this Ordinance ensures that the zoning regulations and performance standards imposed on personal cultivation of cannabis apply to both medical and non-medical uses of cannabis, and clarifies that all outdoor cultivation of cannabis is prohibited in the City. Accordingly, pursuant to Section 25-29-01 of the Woodland Municipal Code, the City Council finds that this Ordinance is necessary for the public necessity, convenience, and general welfare of the City, its residents, and visitors.

B. The Planning Commission, after a duly noticed public hearing on August 3, 2017, determined that the proposed amendments in this Ordinance conform to the General Plan of the City and recommended adoption of this Ordinance.

Section 3. **Amendment.** Article 21.5 of Chapter 25 of the Woodland Municipal Code is hereby amended to read as follows:

Article 21.5. - ~~Medical Marijuana~~Personal Cultivation of Cannabis~~Marijuana~~.

Sec. 25-21.5-10. - Purpose.

The purpose and intent of this article is to regulate the personal cultivation of ~~medical cannabis~~marijuana in a manner that protects the health, safety, and welfare of the community. This article is not intended to interfere with a patient's right to medical ~~cannabis~~marijuana, as provided for in California Health and Safety Code Section 11362.5, as it may be amended, nor does it criminalize medical ~~cannabis~~marijuana possession or cultivation by specifically defined classifications of persons, pursuant to state law. This article is not intended to give any person independent legal authority to grow ~~cannabis~~marijuana; it is intended simply to impose zoning restrictions on the cultivation of ~~cannabis~~marijuana when it is authorized by California state law for medical or other purposes.

~~Pursuant to Health and Safety Code Section 11362.777, effective January 1, 2016, this article is intended only to authorize limited cultivation of medical marijuana exempt from local and state licensure requirements under California Business and Professions Code Section 19319, expressly reserving any future local licensing authority granted to the city by that section.~~

Sec. 25-21.5-20. - Applicability.

- (a) Applicability. This article is adopted notwithstanding the provisions of Section 25-2-40 concerning compliance with state and federal laws. No part of this article shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. § 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state or federal law, statute, rule, or regulation.
- (b) Nothing in this article shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabismarijuana that is otherwise illegal under local or state law. No provision of this article shall be deemed a defense or immunity to any action brought against any person by the Yolo County District Attorney's Office, the Attorney General of the State of California, or the United States of America.

Sec. 25-21.5-30. - Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section.

"Cannabis" shall mean all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including cannabis products derived therefrom.- For purposes of this Article, "cannabis" shall mean and include both cannabis for medical purposes and non-medical cannabis, unless otherwise specified. have the same meaning as that set forth in California Business and Professions Code Section 19300.5(f), and shall include "marijuana" as defined in California Health and Safety Code Section 11018. No distinction is made in this article between cannabis used for medical purposes and cannabis used for non-medical purposes.

"Child care center" means any licensed child care center, daycare center, or childcare home, or any preschool.

"Commercial cultivation" means cultivation of medical marijuana licensed by the state of California in accordance with the Medical Marijuana Regulation and Safety Act, California Business and Professions Code Section 19300 et seq., and contemplated by the definition of "commercial cannabis activity" set forth in California Business and Professions Code Section 19300.5(k), as amended.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of cannabis or any part thereof.

"Marijuana" has the same meaning as "cannabis."

"Medical marijuana" means medical cannabis or a medical cannabis product that: (i) has been grown by a "qualified patient" or "primary caregiver," as those terms are defined in California Health and Safety Code Section 11362.7; and (ii) is intended to be, and is, cultivated and distributed in strict accordance with California Health and Safety Code Sections 11362.5 and

~~11362.7 through 11362.83, inclusive, commonly referred to as the Compassionate Use Act and the Medical Marijuana Program.~~

“Personal Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of cannabis or any part thereof, conducted by an individual for personal use, and not intended or conducted for sale, resale, or other commercial activity.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.7(d), as it may be amended.

“Qualified patient” shall mean a person identified in California Health and Safety Code Section 11362.7(c) or (f), as they may be amended.

Sec. 25-21.5-40. - Prohibited locations.

~~No person shall cultivate cannabis that is not medical marijuana at any location in the city of Woodland. Commercial cultivation of medical marijuana is prohibited in the city.~~

- (a) ~~No person~~Personal cultivation of cannabis~~marijuana~~, including ~~any by a~~ qualified patient or primary caregiver, ~~shall cultivate medical marijuana is prohibited~~ outdoors. within:

~~(1) A six hundred foot radius of any child care center, park, school or residential use; or~~

~~(2) Any residential zone.~~

- ~~(b) The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the school or residential use to the closest property line of the lot on which the outdoor medical marijuana cultivation is located without regard to intervening structures.~~

- ~~(c)~~(b) No person, ~~except for a qualified patient or primary caregiver,~~ shall cultivate medical cannabis~~marijuana~~ indoors in the city, within any residential zone except within a detached, fully-enclosed and secure secondary structure or primary residential structure that meets the requirements set forth in Section 25-21.5-50 ~~and is registered with the city pursuant with to Section 25-21.5-60.~~

Sec. 25-21.5-50. - Indoor cultivation.

- (a) The indoor personal cultivation of ~~medical cannabis~~marijuana ~~within a residential zone~~ shall only be conducted within a primary residential structure or residential zone and either: within a detached, fully-enclosed and secure secondary structure, ~~or within a primary residential structure.~~

- ~~(a)~~(b) All indoor personal cultivation of cannabis~~marijuana~~ shall conform~~ing~~ to the following minimum standards:

- (1) The ~~medical cannabis~~marijuana is cultivated by either:

(A) a qualified patient exclusively for his or her own personal medical use~~but who does not provide, donate, sell, or distribute medical marijuana to any other person;~~

(B) ~~or,~~ a primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides medical ~~cannabismarijuana~~ exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code Section 11362.765(c); or

(C) a person 21 years of age or older for that person's personal use, possession, processing, transporting, or giving away without any compensation whatsoever in accordance with this Article and state law, as applicable.

- (2) Indoor grow lights in any structure shall not exceed an aggregate of one thousand two hundred watts (1,200 W) and shall comply with all applicable building code regulations. Gas products (including, without limitation, CO₂, butane, propane, and natural gas), or generators shall not be used within any detached structure used for the cultivation of ~~medical-cannabismarijuana~~.
- (3) Any detached, fully-enclosed and secure secondary structure or residential structure used for the personal cultivation of ~~medical-cannabismarijuana~~ must have a ventilation and filtration system installed that shall ~~prevent-mitigate cannabismarijuana~~ plant odors from exiting the interior of the structure and that shall comply with all applicable building code regulations, including obtaining all required permits and approvals. The ventilation and filtration system must be approved by the city and installed prior to commencing cultivation within the detached, fully-enclosed and secure structure or residential structure.
- (4) A detached, fully-enclosed and secure secondary structure used for the personal cultivation of ~~cannabismarijuana~~ shall be located in the rear yard area of a parcel, maintain a minimum ten-foot setback from the rear yard property line and a side yard setback that is equal to the same side yard setback required for the residential lot on which the home sits, and the area surrounding the structure or ~~back~~-yard must be enclosed by a solid fence at least six feet in height.
- (5) ~~CannabisMarijuana~~ cultivation occurring within a residence and/or detached structure shall not exceed more than a cumulative total of six living plants at one time, and shall occur be in a cumulative area totaling no larger than fifty square feet, regardless of how many ~~qualified patients or primary caregivers~~persons are residing at the premises.
- (6) Personal ~~C~~cultivation of ~~cannabismarijuana~~ shall not inhibit the occupancy of the residence or take place in the kitchen or bathrooms of any ~~building~~structure.
- (7) Personal ~~C~~cultivation of ~~cannabismarijuana~~ shall not take place on any carpeted surface.

- (8) ~~Medical marijuana cultivation may occur in a detached structure and/or inside a residence on the same parcel but shall not exceed a cumulative marijuana growing area of fifty square feet total.~~
- (9) ~~Cannabis~~Medical marijuana cultivation areas, whether in a detached ~~building structure~~ or inside a residence, shall not be readily accessible to persons under ~~eighteen~~ 21 years of age. ~~Medical marijuana cultivation shall not be conducted by any person under eighteen years of age.~~
- (910) No exterior evidence of ~~medical cannabis~~marijuana cultivation occurring at the property shall be visible from the public right of way.
- (11) ~~Either a qualified patient or primary caregiver shall reside full time on the premises where the marijuana cultivation occurs.~~

Sec. 25-21.5-60. - ReservedIndoor cultivation registration.

- (a) ~~Prior to commencing any medical marijuana personal cultivation of marijuana, the qualified patient(s) or primary caregiver(s) person owning, leasing, occupying, or having charge or possession of any structure where medical marijuana cultivation is proposed to occur must be registered with the community development director or designee for medical marijuana cultivation. Any registration under this article does not legalize or authorize the cultivation of marijuana but merely exempts the holder from the general zoning prohibition on indoor cultivation in Section 25-21.5-40 and permits the city to monitor compliance with the building and safety regulations in Section 25-21.5-50. The following information will be required with the initial registration application and subsequent renewals:~~
- (1) ~~The owner of the property acknowledges consents to the cultivation of marijuana at the premises on a form provided by the city.~~
- (2) ~~The name of each person, owning, leasing, occupying, or having charge of any legal parcel or premises where medical marijuana will be cultivated.~~
- (3) ~~The name of each qualified patient or primary caregiver person who will participates in the medical marijuana cultivation.~~
- (4) ~~A copy of a current valid medical recommendation or county issued medical marijuana card (if available) for each qualified patient identified as required above, and for each qualified patient for whom any person identified as required above is the primary caregiver.~~
- (5) ~~The physical site address of where the marijuana will be cultivated and a description of the growing area(s).~~
- (6) ~~A signed consent to enter form, acceptable to the city, authorizing city staff, including the police/planning department, to conduct an inspection of the detached, fully enclosed and secure secondary structure or area of the residence used for the cultivation of marijuana upon twenty-four hours' notice.~~

- ~~(b) Any registration under this article is unique to both the holder(s) and location. In the event a property is sold, transferred or leased to a new tenant, the registration for that property shall expire upon such sale, transfer or lease. Moreover, if a registered person qualified patient or primary caregiver moves to a new residence, he or she shall obtain a new registration for that residence. Every person shall renew his or her registration every two years.~~
- ~~(c) To the extent permitted by law, any personal or medical information submitted for medical marijuana cultivation registration or renewals shall be kept confidential and shall only be used for purposes of administering this article.~~
- ~~(d) The city council may adopt a fee or fees required to be paid upon filing of registration(s) as provided by this article, which fees shall not exceed the reasonable cost of administering this article. The city council may adopt and amend any fee by resolution.~~
- ~~(e) In the event of future amendments to this article, the city shall have the authority to implement and impose additional requirements granted by law, including but not limited to permit or licensing requirements regarding medical marijuana cultivation beyond the limited cultivation permitted by this article.~~

Sec. 25-21.5-70. - Public nuisance.

Any violation of this article is declared to a public nuisance and may be abated by the city pursuant to Chapter 14A of this code.

Sec. 25-21.5-80. - Penalty.

A violation of this article shall either be a misdemeanor or an infraction at the discretion of the prosecuting attorney. However, notwithstanding anything in this code to the contrary, persons violating this article shall not be subject to criminal liability under this code solely to the extent such conduct or condition is immune from criminal liability pursuant to the Compassionate Use Act of 1996 (Health and Safety Code Section 11362.5) and/or the Medical Marijuana Program (Health and Safety Code Section 11362.7 et seq.) as they may be amended. This section does not prohibit the city from abating violations of this article by any administrative, civil or other non-criminal means. In such cases, a violation of this article may be considered the civil or administrative equivalent of an infraction or misdemeanor as applicable.

Section 4. **Severability.** If any provision or clause of this Ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this Ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this Ordinance are declared to be severable.

Section 5. **CEQA.** The City Council hereby finds that this Ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15061(b)(3)) because this Ordinance is not a project and does not have the potential for causing a significant effect on the environment. This Ordinance is intended only to clarify existing prohibitions regarding personal cultivation of marijuana, and to impose reasonable zoning regulations and performance standards related to indoor, personal cultivation of marijuana consistent with State law.

Section 6. **Effective Date.** This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City.

PASSED AND ADOPTED by the City Council this ____ day of _____
2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

Ana B. Gonzalez, City Clerk

APPROVED AS TO FORM:

Kara K. Ueda, City Attorney



Legislation Details (With Text)

File #: 17-0597 Version: 1 Name:
Type: Staff Report Status: Agenda Ready
File created: 7/28/2017 In control: Planning Commission
On agenda: 8/3/2017 Final action:
Title: SUBJECT: Planning Commission Long Range Calendar

DATE: August 3, 2017

RECOMMENDATION:

Staff recommends that the Planning Commission review the long-range calendar dated, July 28, 2017 and provide comments.

Sponsors:

Indexes:

Code sections:

Attachments: [A - 7-28-17 Long Range Calendar](#)

Date	Ver.	Action By	Action	Result
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City of Woodland

MEMORANDUM

TO: Members of the Woodland Planning Commission

FROM: Cindy A. Norris, Principal Planner

SUBJECT: **Planning Commission Long Range Calendar**

DATE: August 3, 2017

RECOMMENDATION:

Staff recommends that the Planning Commission review the long-range calendar dated, July 28, 2017 and provide comments.

ATTACHMENTS:

Attachment A - July 28, 2017 Long Range Calendar

PLANNING COMMISSION LONG RANGE CALENDAR

Items subject to removal and/or rescheduling

Prepared July 28, 2017

August 3, 2017

Cannabis Ordinance regarding personal cultivation and discussion concerning commercial uses

August 17, 2017

Public Art Ordinance

Gateway Tentative Parcel Map

September 5, 2017

Planning Commission Elections and Appointments

Accessory Dwelling Unit Ordinance

SUBCOMMITTEE MEETINGS

August 24 - Phase I Zoning Update Review

LONG RANGE PROJECTS:

Cannabis Ord Commercial Cannabis

Downtown Specific Plan Update/ Parking Management Plan

General Zoning Code Update (Phase I immediate GP consistency review; Phase II future comprehensive update)

Affordable Housing Workshop

Specific Plan 1A

Agricultural Mitigation Ordinance

Accessory Dwelling Unit Ordinance/Public Art (? Possibly added to the Phase I zoning update)

UPCOMING CITY COUNCIL ITEMS (Tentative dates)

August 22 – Oyang Mitigation Easement

August 22 - PC Annual Report by Chairman Wells

October – Agricultural Mitigation Ordinance

ZONING ADMINISTRATOR HEARING (Staff level)

August 2 – 1038 Beamer Street request for a Caretaker Unit

HISTORIC PRESERVATION

Heritage Homes for 2017

WORKSHOPS/SUBCOMMITTEE MEETINGS

Affordable Housing Workshop #2 (Sept 19 2017)

PC SUBCOMMITTEES

- **Zoning Subcommittee** (Holt, Lizarraga, Lopez)
- **Public Art** (Wells, Lopez, Murphy)
- **Design Liaison** (Holt)
- **Cannabis** (Lopez, Harris, Lizarraga)
- **Future SP-1A**

- *The long range calendar pertains only to those projects that require Planning Commission review and it does not include all projects that may be in review by the Planning Division*