

Commissioner Malcolm Weston, Chair  
Chair Commissioner Christine Alcocer  
Commissioner Tyler Eccles  
Albers Commissioner Ranjit Davit

Commissioner Aaron Eller, Vice  
Commissioner Jeramy Chapdelaine  
Commissioner Donald

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**November 7, 2017 7:00 PM**

**A. CALL TO ORDER**

**B. ROLL CALL**

Commissioners Albers, Alcocer, Chapdelaine, Eccles, Eller, Davit, and Weston

**C. PLEDGE OF ALLEGIANCE**

**D. APPEARANCE OF INTERESTED CITIZENS\***

*To address the Commission please step to the rostrum and state your name and address*

**E. APPROVAL OF MINUTES**

1. Approval of Minutes from the October 3, 2017 Planning Commission meeting.

**F. PUBLIC HEARING**

1. **Parcel Map 17-4, Jose Orozco.** A proposal to divide a 0.6 acre parcel into two parcels (Parcel 1 is 0.31 acre and Parcel 2 is 0.3 acre). The project is located at 2016 Pennington Road Live Oak, CA. Assessor's Parcel No. The project is Exempt from CEQA; Minor Land Division.
2. **Zoning Ordinance Amendment - Update Fence Ordinance:** This proposed ordinance increases the maximum allowed fence height to seven feet along publicly maintained open spaces and trails. Environmental Determination: Exempt.
3. **Zoning Ordinance Amendment – Regulations for the Cultivation of Cannabis:** The proposed ordinance would allow the cultivation of up to six cannabis plants per residence in approved structures as allowed by Proposition 64, the Adult Use of Marijuana Act. Environmental Determination: Exempt.

## **G. ADJOURNMENT**

Persons dissatisfied with any decision of the Planning Commission may appeal such action to the City Council. Appeals, accompanied by a fee of \$733, must be filed with the City Clerk, 9955 Live Oak Blvd., Live Oak, CA 95953, within 10 days of such action. If no appeal is filed within this time limit, the Commission action becomes final. The exception to this is rezonings – please check with the Planning Department, 9955 Live Oak Blvd., Live Oak, CA 95953, for the procedure. Mailed notices of the Council hearings will be accomplished in the same manner as the Planning Commission hearings unless additional notice is deemed necessary.

If you require auxiliary aids or services (e.g., signing services) to make a presentation to the Planning Commission, the City will be glad to assist you. Please contact the City offices (530) 695-2112 at least 72 hours in advance so such aids or services can be arranged.

\*Members of the public may address the Planning Commission on items of interest that are within the City's jurisdiction whether or not such items of interest are on the agenda for this meeting. Members of the Commission will respond as best as they can to public comments but cannot take action or enter into a discussion on items not contained on the agenda. Public comment on public hearing agenda items will be permitted during the hearing.



**LIVE OAK PLANNING COMMISSION MINUTES**  
**REGULAR MEETING OF October 3, 2017**  
**City Hall – 9955 Live Oak Boulevard, Live Oak, CA 7:00 PM**

**A. CALL TO ORDER**

The meeting was called to order at 7:00 p.m.

**B. ROLL CALL**

Commissioners Albers, Eccles, and Weston were present.  
Commissioners Alcocer, Chapdelaine and Davit were absent.

**C. PLEDGE OF ALLEGIANCE**

Commissioner Albers led the Pledge of Allegiance.

**D. APPEARANCE OF INTERESTED CITIZENS**

None.

**E. APPROVAL OF MINUTES**

1. Approval of Minutes from the July 11, 2017 special meeting.

- A. Eller- Made a correction on the minutes of 7/11/17.  
Eller made the motion, the # of Noes is 0

Commissioner Eccles motioned to approve.  
Commissioner Albers seconded the motion.

AYES: 2

NOES: 0

Abstain: 3

**F. PUBLIC HEARING**

1. **Zoning Ordinance Amendment- Marijuana Cultivation:** Recommend approval to the City Council of an ordinance allowing the cultivation of up to six marijuana plants per residence in approved structures as allowed by Proposition 64, the Adult Use of Marijuana Act. Environmental Determination: Exempt, Zoning Ordinance Amendment.

Staff report presented

Public Hearing opened 7:13

Gary Baylon 3154 Valley Oak Ct.- He does not want to be impacted by cannabis in the community. He is ok as long as there is no impact to neighbors or the community. Not sure if the 100ft setback is needed.

Public Hearing closed 7:18pm

#### Commissioner Comments

Eccles- Would like to see stronger language regarding odor control, odor cannot be smelled beyond the property line.

Based on SB 94 it should be referred to as cannabis, not marijuana.

It should be clear it is only allowed in the accessory structure.

Should the 6 plants be referred to as living plants?

Does Section 5 change any of the regulations regarding medical grows or commercial operations.

Section 1- Would like to see language added from SB 94

The word dispensary has been replaced with retailer, add to definitions

Would like to see Code Enforcement fees increased as it related to cannabis activities.

Eller- Asked about the required building permits. How will the ventilation/odor control be checked?

Albers- Would like to see a handout on all the regulations when they are adopted.

Eller- made a motion to have staff make changes to the draft Ord. and bring it back to the Commission for review.

2<sup>nd</sup>: Eccles

Yes 4

Noes 0

#### **G. ADJOURNMENT**

The meeting was adjourned at 8:00pm by Commissioner Weston.



DATE: November 7, 2017  
 TO: City of Live Oak Planning Commission  
 FROM: Erin Ventura, Contract City Planner

Application: Parcel Map No. 17-04;  
 Applicant/Owner: Jose Orozco  
 Location/APN: 2016 Pennington Road APN 06-433-018  
 Environmental: Exempt; Minor Land Division  
 General Plan: Low Density Residential  
 Zoning: Low Density Residential (R-1)  
 Site Information: Vacant Lot

**RECOMMENDED ACTION:**

Recommend approval to the City Council of Parcel Map No. 17-04 that will subdivide one parcel into two parcels as provided in the attached parcel map, subject to the required Findings and project Conditions of Approval.

**EXECUTIVE SUMMARY:**

The applicant is requesting a Parcel Map, dividing one 0.6 acre parcel into two parcels. The proposed Parcel One will be 0.31 acres and the proposed Parcel Two will be 0.30 acres.

**SETTING:**

The project site is currently a vacant lot. The surrounding area is developed with single family homes and orchard land. The table below lists the land use, zoning designation, and General Plan designation of the area surrounding the project site.

	<b>Land Use</b>	<b>Zoning Designation</b>	<b>General Plan Designation</b>
<b>North</b>	Orchard/Single family home	R-1	Low Density Residential
<b>South</b>	Single family home	R-1	Low Density Residential
<b>East</b>	Single family home	R-1	Low Density Residential
<b>West</b>	Single family home	R-1	Low Density Residential

**BACKGROUND:**

The project site is located on Pennington Road at J Street. The property owner is proposing to split the property into two new lots. The area to the north of the property is outside of the City Limits.

Once reviewed by Planning Commission, and recommended for approval, the application will be reviewed by the City Council for final approval.

**GENERAL PLAN AND ZONING ORDINANCE**

The proposed parcel map is consistent with the General Plan of Low Density Residential and the Zoning Ordinance development standards of R-1 zoning district.

**AGENCY & PUBLIC REVIEW:****City Department Review**

This request was sent to all applicable City departments. Staff received comments from the City Engineer. The comments were either addressed prior to the meeting or addressed through conditions of approval.

As stated above the proposed parcel map is consistent with the General Plan and City of Live Oak Zoning Ordinance.

**Public Notice**

This project was advertised in The Appeal Democrat newspaper and mailed to all property owners within 300 feet of the site. To date, no comments have been submitted either against or in support of this project. Any additional written comments received will be handed out at the Planning Commission hearing.

**ENVIRONMENTAL REVIEW:**

The proposed parcel map is Exempt from CEQA; Minor Land Division

**Attachments:**

1. Findings of Fact
2. Proposed Conditions of Approval
3. Proposed Parcel Map

**FINDINGS FOR APPROVAL**

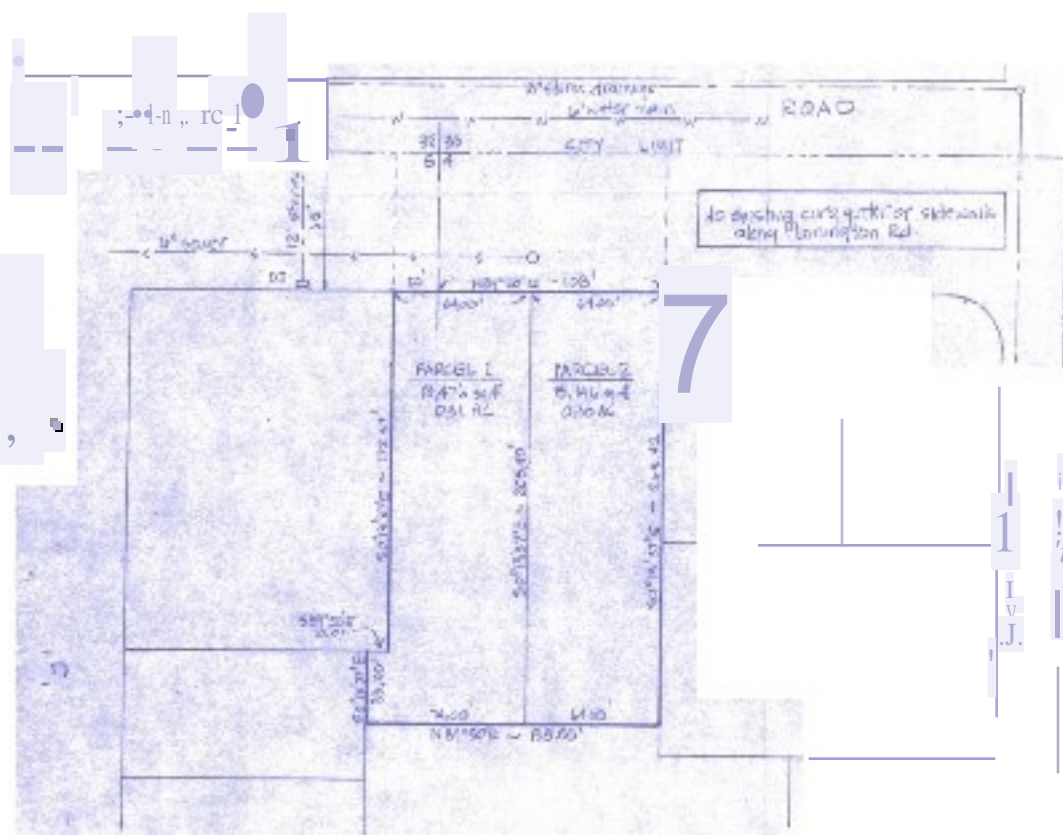
- 1.** After review and consideration find that the proposed Parcel Map is Exempt from CEQA; Minor Land Division
- 2.** That the proposed parcel map is consistent with the City General Plan of Low Density Residential
- 3.** That the proposed parcel map, as conditioned, is consistent with the Subdivision Map Act and the Municipal Code.
- 4.** The proposed parcel map does not conflict with the general health, safety and welfare of the community.

**ATTACHMENT 2**

**RECOMMENDED CONDITIONS OF APPROVAL  
TPM- No. 17-4  
Orozco  
2016 Pennington Road APN 06-433-018**

1. Preparation of the parcel map shall comply with the requirements of the Subdivision Map Act and Title 16 of the Live Oak Municipal Code (LOMC).
2. The parcel map shall be prepared by a licensed surveyor or a registered civil engineer who is authorized to perform land surveying in accordance with LOMC Chapter 16.28.
3. A current title report and a tax certificate are to be submitted with the parcel map.
4. The parcel map must adequately delineate the public easements which will remain in effect after the parcel map.
5. Survey monuments conforming to the requirements of the Live Oak Municipal Code, the California Land Surveyors Act and the California Subdivision Map Act shall be provided.
6. All easements of record which affect the parcel map properties shall be shown on the Final Parcel Map.
7. The Final Parcel Map shall offer of dedication for the Pennington Road right-of-way.





**PROJECT**

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**TELEPHONE SERVICE**

**OWNER'S**

Jose Luis Orozco  
 771 Madison Court, N  
 Carrol Pool records  
 at Document 10  
 Salter County 20  
 Phone: 530-246-1011

**EXISTING TERRAIN**



DATE: November 7, 2017  
TO: City of Live Oak Planning Commission  
FROM: Erin Ventura, Contract City Planner

Project: Amendment of the Live Oak Municipal Code Section Title 17,  
Chapter 24.020, Section 17.24.020A Fence Heights

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**RECOMMENDED ACTION:**

Staff recommends that the Planning Commission make a recommendation to City Council to adopt an Ordinance (Attachment A) amending section 17.24.020A of the Live Oak Municipal Code.

**PROJECT LOCATION:**

The ordinance will effect properties along City maintained open spaces and trails.

**BACKGROUND:**

In April 2017 the City Council held a discussion regarding fence heights and regulations. Staff brought the issue to the City Council due to comments and complaints received regarding a lack of privacy and security issues that some residents were experiencing with their properties along the City's recreation trail. At that meeting the City Council referred the discussion back to the Planning Commission for further discussion, consideration and review.

At the June 20, 2017 Planning Commission meeting the Commission discussed allowing an increase in fence height for properties abutting publicly maintained open spaces and trails.

**ANALYSIS:**

The draft Ordinance proposes allowing properties that abut publicly maintained open spaces and trails (Attachment B) to have side or rear yard fences that can be a maximum of seven feet in height. The maximum allowed height for fences in other parts of the City is proposed to remain at six feet in height.

Attachment B shows there areas within the City where properties abut publicly maintained open spaces and trails. The publicly maintained open spaces and trails are shown in green on the attached maps.

If the height of a fence is extended to seven feet, the material used must be similar to the existing fence.

If the Planning Commission does not see a need for additional changes to the Ordinance the next step is to recommend review and approval to the City Council.

**ORDINANCE NO. XXX**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LIVE OAK, CALIFORNIA, AMENDING SECTION 17.24.020A OF THE LIVE OAK MUNICIPAL CODE.**

**SECTION 1:**

Title 17, Chapter 24.020, Section 17.24.020A is hereby amended to read as follows:

**17.24.20 Standards for Residential Zone Districts**

- A. Height:** The maximum height of a fence or wall is three feet within any front yard or street-side yard, and six feet in any interior side yard and rear yard. Properties with side or rear yards abutting City maintained public opens spaces and trails may increase fence height to seven feet, as long as the materials used are consistent with the other fencing material.

**SECTION 2:** Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

**SECTION 3:** Effective Date. This ordinance, following its adoption, shall be published as provided by law and by its terms herein, shall be effective 30 days after its adoption and shall thereafter remain in full force and effect unless otherwise changed by appropriate amending ordinance.

**SECTION 4:** Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

Introduced and the first reading waived at a regular meeting of the City Council of the City of Live Oak on the \_\_\_\_ of \_\_\_\_\_, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

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Jason Banks, Mayor

ATTEST:

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Hope Ithurnburn, City Clerk

APPROVED AS TO FORM:

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Brant J. Bordsen, City Attorney

# Rec Trail 1

## Legend

- Roads 1k - 10k
  - 1
  - 3
  - 4
  - 5
- Leaves 1k - 30k
- Railroads
- Parcels 0k - 5k



0.1 0 0.05 0.1 Miles

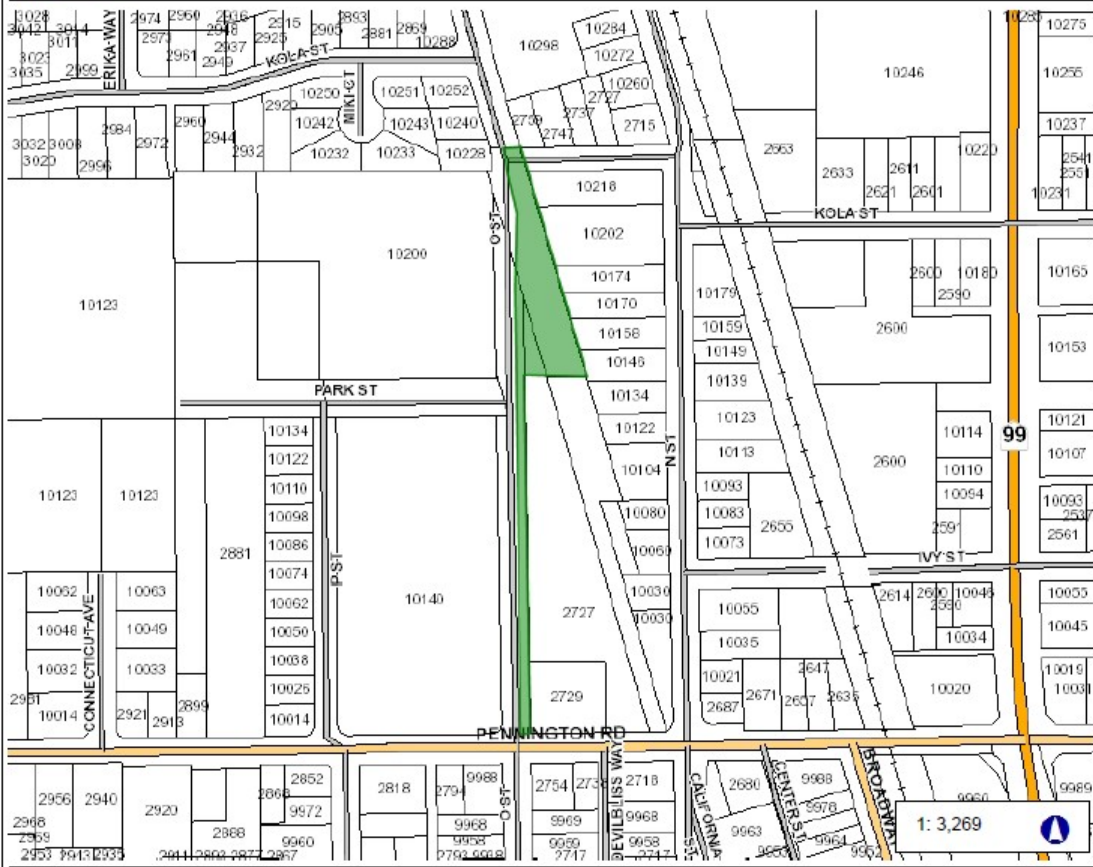
NAD\_1983\_StatePlane\_California\_II\_FIPS\_0402\_Feet  
© City of Live Oak

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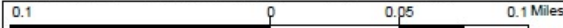
THIS MAP IS NOT TO BE USED FOR NAVIGATION



### Rec Trail 2



- Legend**
- Roads 1k - 10k
    - 1
    - 3
    - 4
    - 5
  - Leaves 1k - 30k
  - Railroads
  - Parcels 0k - 5k



NAD\_1983\_StatePlane\_California\_II\_FIPS\_0402\_Feet  
© City of Live Oak

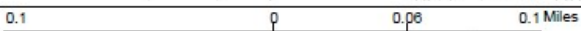
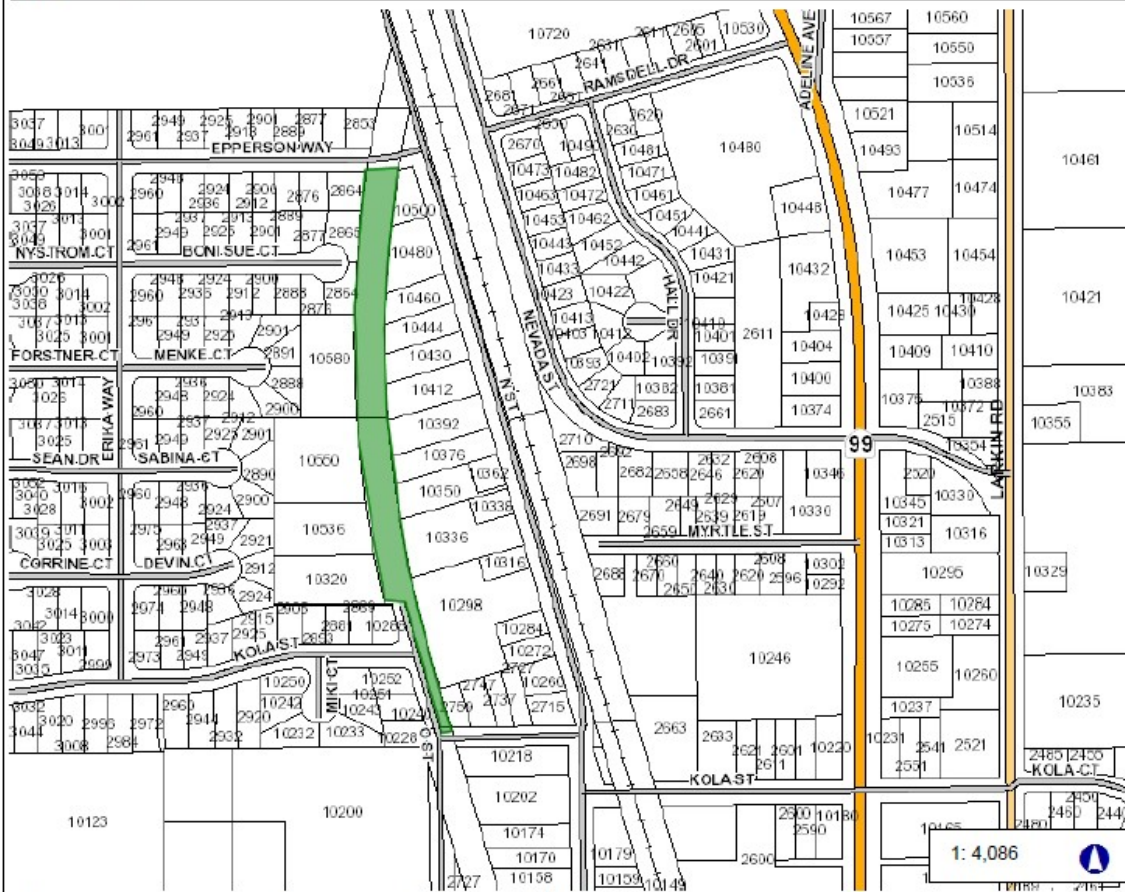
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**



1:3,269

### Rec Trail 3

- Legend**
- Roads 1k - 10k
    - 1
    - 3
    - 4
    - 5
  - Levees 1k - 30k
  - Railroads
  - Parcels 0k - 5k



NAD\_1983\_StatePlane\_California\_II\_FIPS\_0402\_Feet  
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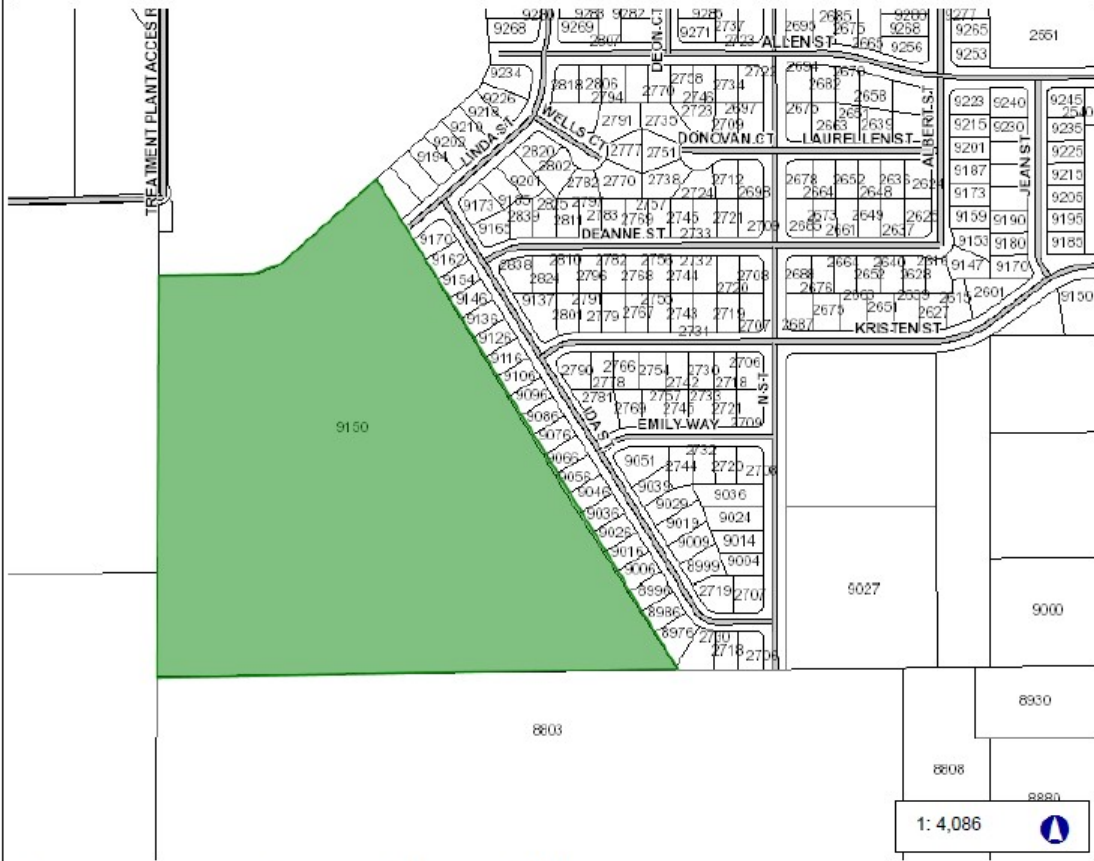


1: 4,086

# Soccer Park

## Legend

- Roads 1k - 10k
  - 1
  - 3
  - 4
  - 5
- Levees 1k - 30k
- Railroads
- Parcels 0k - 5k



0.1 0 0.06 0.1 Miles

NAD\_1983\_StatePlane\_California\_II\_FIPS\_0402\_Feet  
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THIS MAP IS NOT TO BE USED FOR NAVIGATION

1: 4,086







# Skate Park/Little League



### Legend

- Roads 1k - 10k
  - 1
  - 3
  - 4
  - 5
- Levees 1k - 30k
- Railroads
- Parcels 0k - 5k

1: 2,043



0.1 0 0.03 0.1 Miles

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THIS MAP IS NOT TO BE USED FOR NAVIGATION



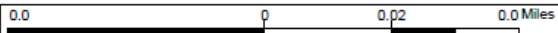
# Date Street Park

## Legend

- Roads 1k - 10k
  - 1
  - 3
  - 4
  - 5
- Levees 1k - 30k
- Railroads
- Parcels 0k - 5k



1: 1,021



NAD\_1983\_StatePlane\_California\_II\_FIPS\_0402\_Feet  
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**THIS MAP IS NOT TO BE USED FOR NAVIGATION**





DATE: November 7, 2017  
TO: City of Live Oak Planning Commission  
FROM: Erin Ventura, Contract City Planner

Project: Amendment of the Live Oak Municipal Code Section 17.17  
Medical Marijuana

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**RECOMMENDED ACTION:**

Staff recommends that the Planning Commission make a recommendation to City Council to adopt an Ordinance (Attachment A) amending section 17.17 of the Live Oak Municipal Code.

**PROJECT LOCATION:**

The ordinance will be in effect City wide.

**BACKGROUND:**

In December 2011 the Live Oak City Council adopted Ordinance 538 regulating the cultivation and distribution of medical marijuana within all zones within the City. Council's action was triggered by growing complaints within the city related to cultivation activities, public safety concerns and a desire not to be in conflict with federal law and based on findings. The findings were based on the potential to significantly impact the jurisdiction, and also the right that local jurisdictions have to adopt ordinances regulating marijuana activities in their community. At the time, Council adopted the most restrictive regulatory approach available, a complete ban on the cultivation and distribution of marijuana within the city.

On November 8, 2016, Proposition 64 was approved by California voters and authorized the use, possession, cultivation and processing of marijuana and its products for non-medical (or recreational) uses. As with previous legislation, Proposition 64 provides local agencies the ability to completely ban marijuana uses or allow those uses consistent with local policies and ordinances. The only exception is allowing the personal cultivation, possession and use of marijuana and prohibiting local agencies from banning the cultivation and processing of marijuana within an individual's personal residence or accessory building to the residence for up to six (6) plants.

A common element of the above legislation is the requirement that ultimately a local and state permit will be required to operate either a medical or non-medical commercial cannabis business. The State allows local licenses for commercial medical marijuana businesses to be issued now, but licenses for recreational uses will not be allowed either locally or by the State until 2018.

To allow the City time to study the appropriateness of marijuana regulations within the City an Urgency Ordinance and an extension were adopted. Under Ordinance 558 all sales, distribution, and cultivation activities are banned within the City of Live Oak until February 6, 2018.

To assist in the process of developing a strategy for regulating cannabis the City hired HdL Companies. On May 2, 2017 a public workshop was held where HdL made a presentation for the City Council and interested residents. On May 17, 2017 the City Council held a public

hearing to take comments from the community. At that meeting the Council directed staff to work with the Planning Commission to draft an ordinance that bans all marijuana related activities within the city, with the exception of personal cultivation of six (6) plants.

At the October 3, 2017 meeting of the Planning Commission a draft of the ordinance was reviewed at the public hearing. The Commission took public comments, and provided staff additional suggestions and revisions to the ordinance. The attached draft ordinance does not include the suggested revisions, it only includes formatting corrections.

The following changes were suggested by the Planning Commission:

- Add stronger language regarding odor control, odor cannot be smelled beyond the property line.
- Based on SB 94 it should be referred to as cannabis, not marijuana throughout the Ordinance.
- Language should be added that makes it clear cannabis can only be cultivated in accessory structures.
- Language clarify that only six (6) living cannabis plants are allowed.
- Add additional language from SB 94 to be added to Section 1.
- The word dispensary has been replaced with retailer, add to definitions section.
- Discuss Code Enforcement fees as it related to cannabis activities.

**ANALYSIS:**

The draft Ordinance proposes regulations banning all marijuana related activities within the community with the exception of allowing six (6) plants to be cultivated within an approved accessory structure on parcels in the Residential Zoning District (R1-R4) and the UR Zone District.

Since the time of the October 3, 2017 Planning Commission City staff along with the City Attorney have drafted additional suggested changes to the draft ordinance:

- In the original proposed draft ordinance a setback of 100 ft. from all property boundaries was proposed. Due to the average size of lots within the City this regulation excludes the majority of the parcels from cultivating cannabis. The setback is now being proposed at the required setback for accessory structures per the Zoning Code.
- Remove the definition for “Private Residence” or “Residence” and replace it with a definition for “Single Family Residence”
- Administrative code enforcement violations are regulated by State Government Code. Govt. Code 36900 is specific to the amount that can be charged on a violation. Violations of the proposed ordinance fall under administrative violations.

Staff is also looking for discussion and recommendation from the Planning Commission on how the current recommendations will impact multifamily housing within the community. The majority of multifamily housing units within the community are publicly funded or subsidized and prohibit cannabis cultivation. Also landlords are able to prohibit cannabis cultivation in their property through lease agreements.

The next step for the Planning Commission is to direct staff to take their recommendations to the City Council.

**ORDINANCE NO. XXX**

**AN OF THE CITY OF LIVE OAK, ADOPTED PURSUANT TO GOVERNMENT CODE SECTION 65858, PROHIBITING THE ESTABLISHMENT OF MARIJUANA DISPENSARIES, COOPERATIVES, COLLECTIVES AND RETAIL BUSINESSES, PROHIBITING THE ESTABLISHMENT OF OUTDOOR CULTIVATION OF MARIJUANA IN ALL ZONES, AND LIMITING THE INDOOR CULTIVATION OF MARIJUANA IN RESIDENTIAL ZONES IN THE CITY OF LIVE OAK**

The City Council of the City of Live Oak ordain as follows:

**Section 1. Findings and Declarations.**

A The City Council is exempt from the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) ("CEQA") because it cannot be seen with certainty that there is no possibility that it will have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)) and because it consists of regulations and restrictions on activities to assure the maintenance, restoration, or enhancement of natural resources and the environment by prohibiting environmentally destructive components of currently unregulated marijuana cultivation (Class 7 and Class 8, CEQA Guidelines Sections 15307, 15308).

B Pursuant to Article XI, Section 7 of the California Constitution, the City of Live Oak ("City") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

D The federal Controlled Substances Act (21 U.S.C. Section 801, et seq.) prohibits, except for certain research purposes, the possession, distribution, and manufacture of marijuana.

E On November 5, 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (codified at Health & Safety Code Section 11362.5) ("CUA"), an initiative that exempted certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for medical purposes. One of the stated purposes of the CUA is to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use has been recommended by a physician.

F On December 7, 2011, the City adopted Ordinance No. 538, an Ordinance of the City Council of the City of Live Oak Regarding the Cultivation and Sale of Medical Marijuana Within the City Limits, which in part amended Chapter 17 of Zoning Regulations and in part added a new Chapter 17.17 enacting "Standards for Medical Marijuana". Ordinance No. 538 excluded medical marijuana collectives, cooperatives, and dispensaries in any zoned district in the City.

G On November 8, 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("Marijuana Act"). The passage of the Marijuana Act results in adults 21 years of age or older being able to legally grow, possess, and use marijuana for nonmedical purposes, with certain restrictions. The state will regulate nonmedical marijuana businesses and tax the growing and selling of medical and nonmedical marijuana. The measure created two new taxes, one levied on cultivation and the other on retail price. Businesses will now be able to acquire a state license to sell marijuana for recreational use. Local governments can also require them to obtain a local license. The Bureau of Medical Cannabis Regulation was renamed the Bureau of Marijuana Control and became responsible for regulating and licensing marijuana businesses. Counties and municipalities are empowered to restrict where marijuana businesses could be located. Local

governments are also allowed to completely ban the sale of marijuana from their jurisdictions. The Marijuana Act amends and repeals and adds sections to the Business and Professions Code, Food and Agriculture code, Health and Safety Code, Labor Code, Revenue and Taxation Code, and Water Code.

H. The Marijuana Act is going to require additional extensive regulations being enacted by the State.

I. The Zoning Regulations are consistent with the Live Oak 2030 General Plan in that the General Plan, its goals, objectives and policies do not permit or contemplate the establishment or operation of marijuana related businesses.

K. It is critical to note that the Marijuana Act does not abrogate the City's powers to regulate for public, health, safety and welfare. The Marijuana Act authorizes cities and counties to adopt and enforce rules and regulations consistent with the Marijuana Act.

### **Section 2. Applicability.**

- A. Nothing in this Chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Marijuana Act.
- B. Nothing in this Chapter is intended, nor shall it be construed, to make legal any cultivation, sale or other use of marijuana that is otherwise prohibited under California law.
- C. Nothing in this Chapter is intended, nor shall it be construed, to exempt any activity related to the cultivation of marijuana from any applicable electrical, plumbing, land use or other building or land use standards or permitting requirements.
- D. All cultivation and sale of marijuana within the City shall be subject to the provisions of this Chapter, save and except for the regulation of medical marijuana that is provided for in Chapter 17 of the Municipal Code.
- E. This Ordinance applies within all areas of the City of Live Oak.

### **Section 3. Definitions.**

For purposes of this Ordinance, the following terms have the definitions set forth below:

- A. "City." The City of Live Oak.
- B. "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, or sale of marijuana and marijuana products.
- C. "Cultivation." The planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.
- D. "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology

- platform owned and controlled by the retailer, or independently licensed under California law, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- E. "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities for commercial use purposes.
  - F. "Fully Enclosed and Secure Structure and Accessory Structure." Within a fully enclosed and secure structure that complies with the California Building Code, as adopted in the City of Live Oak, that has a complete roof enclosure supported by connecting walls extended from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors and accessible only to the owner or tenant. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch or thicker studs overlaid with 3/8s inch or thicker plywood or the equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical and Fire Codes as adopted by the City of Live Oak.
  - G. "Immature Plant." A marijuana plant that has not begun to bloom or flower.
  - H. "Inside" means inside a fully enclosed and secure structure or within a private residence.
  - I. "Licensee" means the holder of any state issued license related to marijuana activities, including but not limited to licenses issued under Division 10 of the Business & Professions Code.
  - J. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
  - K. "Marijuana." Marijuana, shall have the meaning set forth in the California Health and Safety Code Section 11018.
  - L. "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.
  - M. "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.
  - N. "Mature Plant." A marijuana plant that has begun to bloom or flower, or that contains one or more blooms, flowers, or buds.

- O. "Outdoors." Any location that is not "indoors" within a fully enclosed structure and secure structure as defined herein. For purposes of this Ordinance, cultivation within a "hoophouse" shall be considered outdoor cultivation.
- P. "Private Residence" or "Residence." A house, an apartment unit, a mobile home or other similar dwelling.
- Q. "Sale" includes any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.
- R. Any term defined in this Section also means the very term as defined in the California Business & Professions Code or the California Health & Safety Code, unless otherwise specified.

#### **Section 4. Prohibition on Outdoor Cultivation.**

Cultivation of marijuana outdoors is prohibited in all land use categories and zone districts within the City of Live Oak by any person owning, leasing, occupying, or having possession of any parcel or premises. A person may also not harvest, dry, or process marijuana plants outdoors in any zoning district of the City. No use permit, building permit, variance, or any other permit or entitlement, whether administrative or discretionary, shall be approved or issued for any such use or activity.

#### **Section 5. Prohibition on Commercial Marijuana Activity and Property Use.**

The use of any property within any zone in the City of Live Oak by any person owning, leasing, occupying, or having possession of any parcel or premises as a marijuana store, shop, dispensary, cooperative, or collective, is prohibited and shall be deemed unlawful. The establishment or operation of any business of commercial marijuana activity is prohibited in the City of Live Oak. The City also prohibits the manufacture, processing, laboratory testing, labeling, storing and wholesale and retail distribution of marijuana on any property, in any zone in the City of Live Oak. No use permit, variance, building permit, or any other entitlement or permit, whether administrative or discretionary, shall be approved or issued for the establishment or operation of any such business or operation. Such prohibited businesses or operations may include, but are not limited to:

- (a) The transportation, storage, distribution, or sale of marijuana, marijuana products, or marijuana accessories;
- (b) The cultivation of marijuana;
- (c) The manufacturing or testing of marijuana, marijuana products, or marijuana accessories; or
- (d) Any other business licensed by the state or other government entity under Division 10 of the California Business & Professions Code, as it may be amended from time to time.

#### **Section 6. Limitation of Indoor Cultivation.**

It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying or having charge or possession of any parcel or premises within any zoning



district in the City to cultivate marijuana indoors except as provided for in this Ordinance. No person other than an individual 21 years of age or older may engage in the indoor cultivation of marijuana in the Residential Zone Districts (R1-R4) and in the UR Zone District, within the City of Live Oak, subject to the following limitations:

- (a) Marijuana may only be cultivated in an approved accessory structure to a private residence, located upon the grounds of a private residence that is fully enclosed and secure;
- (b) The primary use of the property shall be for a residence. Marijuana cultivation is prohibited as a home occupation;
- (c) All areas used for cultivation of marijuana shall comply with the definition of "indoors" as set forth in this Ordinance and in accordance with the Building Code adopted by the City;
- (d) Marijuana cultivation shall be limited to six (6) marijuana plants (including both mature and immature plants) per accessory structure to a private residence, notwithstanding the number of individuals living in or about the private residence;
- (e) The marijuana plants shall be in a locked space;
- (f) The marijuana plants shall be not visible by normal unaided vision from a public place;
- (g) The accessory structure must be completely detached from any residence or other structure used or intended for human occupancy. The structure shall have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments. The structure shall be secure against unauthorized entry, and accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, such as two inch by four inch or thicker studs overlays with three-eighths inch or thicker plywood or equivalent. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.
- (h) Any accessory structure, regardless of square footage, constructed, altered or used for the cultivation of marijuana must obtain a building permit from the Building Official. The intended use for marijuana cultivation shall be disclosed in the application for building permit, and the accessory structure shall be inspected for compliance with this chapter prior to the commencement of any cultivation. The conversion of any existing accessory structure, or portion thereof, for cultivation of marijuana shall be subject to these same permit requirements, and must be inspected by the building official for compliance with this chapter prior to the commencement of any cultivation. Cultivation within any accessory structure may not commence without final approval of the Building Official.
- (i) The maximum electrical panel for the accessory structure shall be fifty amps. Except for temporary use in case of emergency power loss, the use of generators

- to supply power to any system or activities associated with marijuana is prohibited.
- (j) Light systems utilized in connection with marijuana cultivation shall not exceed one thousand two hundred watts and shall be shielded, including adequate coverings on windows, so as to confine light and glare to the interior of the structure.
  - (k) The accessory structure shall be equipped with odor control filtration and ventilation system(s) adequate to prevent marijuana plant odors from exiting the interior of the structure.
  - (l) The accessory structure shall have locking doors and a working security system which shall consist of a standard audible residential alarm of at least ninety dB A, but not exceeding one hundred ten dB A.
  - (m) The marijuana cultivated pursuant to this Section shall be for the personal use only of an individual or individuals residing on the property and may not be distributed to any other person, collective, cooperative or dispensary;
  - (n) No person shall reside inside the accessory structure.
  - (o) The residential structure on the same premises as the accessory structure shall remain at all times a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. ;
  - (p) Cultivation of marijuana in any other zone district other than those listed in this Section is prohibited;
  - (q) The use of flammable or combustible products, including but not limited to, propane and butane, for cultivation and processing is prohibited;
  - (r) Each accessory structure in which the marijuana is cultivated shall be set back at least one hundred feet from all boundaries of the premises. Such setback distance shall be measured in a straight line from the structure in which the marijuana is cultivated to be boundary line of the premises.
  - (s) This Section is otherwise subject to any and all other restrictions imposed by California Health and Safety Code Section 11362.2.

**Section 7. Public Nuisance.**

Any cultivation, processing or distribution of marijuana which takes place in violation of any provision of this Ordinance is unlawful, and is hereby declared a public nuisance and is subject to all enforcement actions pursuant to Chapter 14.08 of the Live Oak municipal Code.

**Section 8. Severability.**

If any provision, word, phrase, section or subsection of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision, word, phrase, section or subsection to other persons or circumstances not be affected thereby. To this end, provisions of this Ordinance are severable.

**Section 9. Medical Marijuana Existing Law.**

The adoption of this ordinance of this City shall not in any manner affect the provisions adopted in Title 17 of the Municipal Code related to medical marijuana. This

Ordinance is solely regulating the recreational use and does not change the previous ordinances adopted by the City relating to medicinal marijuana pursuant to the Compassionate Use Act.

**Section 10. No Vested Right to Be Established.**

The City Council declares that this urgency ordinance is enacted for the limited purposes described above and for the time period allowed by the ordinance and Government Code Section 65858. The Council has directed its staff to research and prepare a permanent ordinance to regulate the cultivation of marijuana and to bring such ordinance before the Council prior to the expiration of this ordinance.

**SECTION 11:** Effective Date. This ordinance, following its adoption, shall be published as provided by law and by its terms herein, shall be effective 30 days after its adoption and shall thereafter remain in full force and effect unless otherwise changed by appropriate amending ordinance.

**SECTION 12:** Publication. The City Clerk is directed to cause this ordinance to be published in the manner required by law.

Introduced and the first reading waived at a regular meeting of the City Council of the City of Live Oak on the \_\_\_\_of \_\_\_\_, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Jason Banks, Mayor

ATTEST:

\_\_\_\_\_  
Hope Ithurburn, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Brant J. Bordsen, City Attorney