



**COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/18/2020	(3) CONTACT/PHONE Kip Morais, Planner II / (805) 781-5136	
(4) SUBJECT Hearing to consider a request by the County of San Luis Obispo for amendments to the Land Use Ordinance and Coastal Zone Land Use Ordinance, Title 22 and Title 23 of the County Code (LRP2019-00005,-00006) as applicable to Cannabis Activities, including, but not limited to, enhanced enforcement for violations, increased distance buffers from sensitive receptors, revisions to water offset requirements, disallowing re-permitting if an operation ceases or code violations occur, requiring fully enclosed ventilation systems, and revising standards for ancillary nursery to be encompassed in overall cannabis cultivation area. Exempt from CEQA. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board: 1. Adopt the Notice of Exemption from the California Environmental Quality Act (CEQA); 2. Adopt the ordinance amendments to Title 22 (Land Use Ordinance) of the County Code; 3. Adopt the ordinance amendments to Title 23 (Coastal Zone Land Use Ordinance) of the County Code; and 4. If adopted, waive the reading of the ordinances.			
(6) FUNDING SOURCE(S) Planning Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. 180) { } Board Business (Time Est. _____)			
(11) EXECUTED DOCUMENTS {X} Resolutions { } Contracts {X} Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5th's Vote Required {X} N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT? Yes	(16) AGENDA ITEM HISTORY {X} N/A Date _____	
(17) ADMINISTRATIVE OFFICE REVIEW Zachary A. Lute			
(18) SUPERVISOR DISTRICT(S) All Districts			



COUNTY OF SAN LUIS OBISPO

TO: Board of Supervisors

FROM: Kip Morais, Planner II

VIA: Trevor Keith, Director
Rob Fitzroy, Assistant Director

DATE: August 18, 2020

SUBJECT: Hearing to consider a request by the County of San Luis Obispo for amendments to the Land Use Ordinance and Coastal Zone Land Use Ordinance, Title 22 and Title 23 of the County Code (LRP2019-00005,-00006) as applicable to Cannabis Activities, including, but not limited to, enhanced enforcement for violations, increased distance buffers from sensitive receptors, revisions to water offset requirements, disallowing re-permitting if an operation ceases or code violations occur, requiring fully enclosed ventilation systems, and revising standards for ancillary nursery to be encompassed in overall cannabis cultivation area. Exempt from CEQA. All Districts.

RECOMMENDATION

It is recommended that the Board:

1. Adopt the Notice of Exemption from the California Environmental Quality Act (CEQA);
2. Adopt the ordinance amendments to Title 22 (Land Use Ordinance) of the County Code;
3. Adopt the ordinance amendments to Title 23 (Coastal Zone Land Use Ordinance) of the County Code; and
4. If adopted, waive the reading of the ordinances.

DISCUSSION

Background

On November 27, 2017, the Board of Supervisors (Board) adopted countywide cannabis land use regulations. On June 19, 2018 during a cannabis program update, the Board directed staff to prepare amendments to the cannabis ordinance in two phases.

Phase I amendments were adopted by the Board on December 11, 2018 and the Inland Land Use Ordinance (Title 22) amendments took effect January 10, 2019. The amendments to the Local Coastal Program (LCP), which included both

amendments to the Land Use Plan (LUP) and Coastal Zone Land Use Ordinance (Title 23) were also approved by the Board and forwarded to the California Coastal Commission for consideration. On April 10, 2019, the California Coastal Commission approved the amendments with minor modifications.

On June 4, 2019, the Board adopted the Phase II Cannabis Activities Ordinance Amendments. These amendments included further defining cannabis canopy, increasing flexibility for fencing and screening standards and additional clean-up items. Phase II ordinance amendments have not yet been certified by the California Coastal Commission, and a hearing date for Phase II at the California Coastal Commission is unknown at this time.

On March 26, 2019, during a cannabis program update, the Board directed staff to prepare Phase III cannabis ordinance amendments. Phase III direction from the Board included eight specific items:

- Establish enforcement-related remedies for cannabis violations, including options and scenarios related to a “3-strike” policy;
- Increase buffer distance from schools and other sensitive receptors;
- Evaluate and analyze options to prohibit outdoor cultivation;
- Disallow the payment of water offset fees over the Paso Robles Groundwater Basin;
- Disallow re-permitting if an operation ceases or violation occurs (no “revolving door”);
- Require enclosed ventilation systems on indoor grows;
- Evaluate and analyze drying in hoop houses; and
- Revise standards for ancillary nurseries to be encompassed in the overall cannabis cultivation area.

Summary of Planning Commission Action

Pipeline Projects and Permit Renewal

On June 25, 2020, the Planning Commission (Commission) discussed the eight direction items from the Board and provided straw votes on each item with direction on how these amendments should apply to applicants in the “pipeline.” Significant time at the hearing was spent discussing how the Phase III amendments would apply to applicants who had already received approval and applicants who are currently in the review process.

Commissioners expressed concern about how certain amendments such as increased setback standards would affect applicants who may have made significant investments during the application process. The Commission decided to define “pipeline projects” as those applications accepted for processing prior to the approval of the ordinance. Projects “accepted for processing” are those that have undergone initial completeness review and have provided all requested and required documents so that the Planning and Building Department may process the permit, commence environmental review and bring the item to hearing.

This is distinctly different than projects that have not been deemed “accepted for processing” but have been submitted to the County. Submitted projects are those that have submitted applications but may be missing project specific information in their application and therefore the Planning and Building Department cannot process the permit until such information is received.

The Board may augment the Commission’s recommendation on how each of the amendments apply to projects. In addition, the Board may augment how any new ordinance amendments apply to approved projects when they are up for renewal every five years. As the draft ordinance is proposed now, all projects upon renewal would be subject to the ordinance in effect at the time of renewal date.

To summarize these options, the Board may time applicability of Phase III amendments as follows.

Phase III Timing Applicability Options:

- **Planning Commission Recommendation:** Would not apply to any project that has been deemed accepted or approved (This would mean that the ordinance changes apply to 55 of the 133 projects in the county))
- Apply to any project submitted to the County but not yet approved (This would mean that the ordinance changes apply to 89 of the 133 projects in the county)

Renewable Applicability for Approved Projects (every five years):

- **Proposed Requirement in Draft Ordinance:** Require that upon renewal of a cannabis Land Use Permit that any rules in effect upon renewal date will apply
- Require that upon renewal of a cannabis Land Use Permit, rules in effect at the time of original approval apply

Proposed Recommendations from the Planning Commission

The Commission agreed to go through the eight items one by one and provide a straw vote on whether to recommend the item to the Board or not, and also to provide direction for how those items should be applied to projects in the pipeline. The Planning Commission recommended that if there was a tie-vote, that the item would move forward to the Board as recommended by staff.

Table 1 below shows a summary of the Commission’s votes on each of the eight items.

Attachments 4 and 5, which show the actual proposed ordinance amendments recommended by the Planning Commission, are presented in redline/strikeout where deleted language **appears like this** and new language **appears like this**.

Table 1: Planning Commission Recommendation

Item of Board direction	Straw vote		How amendment should be applied
	Yes	No	
1. Enhanced Enforcement Violations	2	2	Applies to all applications upon approval of the ordinance
2. Increased Location Standards	2	2	Does not apply to projects in the pipeline
3. Disallowing Outdoor Grows	1	3	Commission does not recommend
4. Disallowing payment of In-Lieu Fees for Water Offsets	4	0	Applies to all applications
5. No Revolving Door (141 applications)	0	4	Commission does not recommend
6. Enclosed System Ventilation	3	1	Applies to any new projects, including those in the pipeline
7. Drying in Hoop Structures	4 (to leave ordinance as is)	0	Commission does not recommend
8. Revising Ancillary Nursery Standards	0	4	Commission does not recommend
9. Limited Infusion on Ag Land	4	0	Commission recommended to

			Board for Discussion
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The Commission did not recommend moving forward with all eight items. The items the Commission did not recommend moving forward with include disallowing outdoor grows, no revolving door limitations, drying in hoop structures, and revising ancillary nursery standards.

Items that were not recommended to move forward have been included here for discussion purposes because the Board did provide such direction. The items appear [highlighted in blue like this in attachments 2 and 3](#). The highlighted blue text is not recommended for adoption, rather the blue text has been included in the ordinance so that the Board may see the amendment history for discussion purposes. Items added by staff following the Planning Commission recommendation are highlighted in [purple and underlined](#).

In addition to the eight items the Board directed, the Board also directed staff to bring back limited manufacturing on Agriculture land for discussion purposes. Staff highlighted this topic for discussion at Planning Commission, and a summary can be found below. Staff has included many minor additional clean-up items in addition to the major Board-directed amendments. Table 2 below shows all of the proposed amendments and lists those pages in Title 22 where the amendments can be found. Title 23, though not referenced in the below table, has been updated for consistency.

Table 2: Summary of Proposed Amendments

Section	Amendment	Title 22 Page Number
Applicability	Cross-Reference Hemp Ordinance	Page 2
Requirements for All Cannabis Activities	Modifications to Application Requirements	Pages 4 - 5
	Modifications to Previous Violations and Security	Page 6
	Modifications to Compliance, State License Required, Pesticides, and Monitoring Program	Pages 7 - 8
Cannabis Cultivation	Modifications to Limit on the Number of Cannabis Cultivation Sites	Page 9
	Modifications to Ancillary Activities	Page 10
	Modifications to Land Use Permit Required	Page 11

	Modifications to Application Requirements	Page 12
	Modifications to Cultivation Standards	Pages 13 - 14
	Modifications to Setbacks and Air Quality	Page 15
	Modifications to Water Requirements	Page 16
	Modifications to Screening and Fencing	Page 17 to 18
	Modifications to Nuisance Odors, Pesticides, and Outdoor Lighting	Pages 18 and 19
	Modifications to Required Findings	Page 20
Cannabis Nurseries	Modifications to Application Requirements	Page 21
	Modifications to Location Standards	Page 22
	Modifications to Setbacks	Page 22 and 23
	Modifications to Water Requirements	Page 24
	Modifications to Fencing and Screening	Page 25
	Modifications to Nuisance Odor	Pages 25 and 26
	Modifications to Outdoor Lighting	Page 26
	Modifications to Required Findings	Pages 26 - 28
Cannabis Processing Facilities	Modifications to Application Requirements	Page 28
	Modifications to Setbacks	Page 29
	Modifications to Nuisance Odor	Page 30
Cannabis Manufacturing	Modifications to Limitations on Type of Manufacturing Allowed on AG Land	Page 31
	Modifications to Setbacks and Nuisance Odors	Page 33
Cannabis Testing Facilities	Modifications to Setbacks	Page 36
Cannabis Dispensaries	Modifications to Application Requirements	Page 38
	Modifications to Setbacks	Page 39
Cannabis Distribution Facilities	Modifications to Setbacks	Page 41

Cannabis Transport Facilities Standards	Modifications to Setbacks	Page 43
Grounds for Revocation	Modifications to Grounds for Revocation	Page 45
Enforcement	Modifications to Enforcement	Page 47 - 49
	New Section: Liability for Abatement Costs and/or Administrative Fines; Interest	Pages 52 - 55

Proposed Ordinance Amendments Recommended by Planning Commission

(1) Enhanced enforcement violations

Board Direction: The Board directed staff to explore options for a “three strikes and you’re out” policy and enforcement of administrative fines via liens on property.

Discussion: These sections use “site” rather than “applicant” because of the potential for applicants to rearrange their entity structure, making it difficult to regulate. Site is also the most appropriate to regulate through the Land Use Ordinance, and the most straightforward to enforce.

Cannabis land use permit revocation hearings for the “three strikes and you’re out” policy would be conducted by the Cannabis Hearing Officer (CHO). If three violations were confirmed, the CHO would revoke the land use permit. A revocation period of five years was chosen because that is the time period for which a cannabis cultivation land use permit is valid. A perpetual revocation period was discussed, but staff is not recommending this because County Counsel has provided input that a perpetual revocation period could be more difficult to enforce.

Staff is also proposing to add a section titled, “*Liability for Abatement Costs and/or Administrative Fines; Interest*” in Section 22.40.130 Enforcement and corresponding section in Title 23. This section establishes procedures for lien hearings and foreclosure proceedings as a way to re-coup abatement costs/ and or administrative fines that have not been paid within 30 days of service of notice of final determination.

Planning Commission Vote: The straw vote was 2-2. The Planning Commission was split in their straw vote for whether they support the enhanced enforcement violations, so it carried forward with a split vote. Specific concerns included lack of specificity in the amendment language regarding the type of violations which would count as a strike. The Commission agreed that if the Board chooses to adopt this language for enhanced enforcement violations that it should go into effect upon adoption of the ordinance including for operations in the pipeline.

Timing: This would apply to all projects upon effective date of the ordinance.

Section 22.40.040.C. has been modified to read as follows:

Previous violations. Any site proposing cannabis activities where there have been verified violations of a County ordinance or other laws relating to cannabis within the last twenty-four (24) months shall require a Conditional Use Permit approval. Any site proposing cannabis activities which has had three (3) or more

verified violations of County ordinance or other laws relating to cannabis within the last twenty-four (24) months shall be ineligible to apply for land use permit approval for any cannabis activity for a period of five (5) years from the date of the last verified violation.

This section is reinforced in the *Section 22.40.110. Grounds for Revocation*, where *subsection J.* was added as follows:

Without modifying or limiting the grounds for revocation set forth above, land use permit approval shall be deemed automatically revoked for five (5) years upon a finding that the site has had three (3) or more verified violations of County ordinance or other laws relating to cannabis within the last twenty-four (24) months.

(2) Increase location and setback standards from schools and other receptors/uses

Board Direction: The Board directed staff to increase the distance from cannabis cultivation to schools and other sensitive receptors or locations and to include a setback distance buffer from single-family residences under separate ownership. Staff researched buffers from schools in other counties.

Discussion: Of the five other counties examined: Nevada, Santa Barbara, Monterey, Humboldt, and Santa Cruz, all had buffers for schools between 600 and 750 feet, which is less than the County's current setback distance of 1,000 feet.

Staff conducted spatial analysis of the average distance between cannabis grows throughout the County. A setback of 1,500 feet was selected for the buffer distance between cannabis grows. *Sections 22.40.050.D.1.b* and *22.40.060.E.1.b.* have been amended to include a 1,500-foot buffer between cannabis cultivation and nursery sites. Distances would be measured from the closest property line of the existing cultivation site to the closest property line containing the proposed cultivation site.

To meet Board Direction, proposed amendments increase the location and setback standards for cannabis cultivation to 1,500 feet. In addition to increasing location standards, staff is similarly recommending cultivation be setback 1,500 feet from existing offsite residences of separate ownership. This setback would be measured from the cannabis cultivation site to the residence itself. Staff is not proposing to modify the 300-foot property line setback.

Planning Commission Vote: The straw vote was 2-2. The Planning Commission was unanimous in their recommendation that the increased location standards and setbacks should not apply to projects in the pipeline (projects that have been accepted for processing at the time the ordinance is approved).

Timing: This would apply to all applications accepted for processing after the adoption of the ordinance.

Section 22.40.050.D.1.b.i and the corresponding section in Title 23 have been modified to include a 1,500 foot setback from sensitive locations (pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility). Location standards are still measured from the nearest point of the property line of the site that contains the cannabis cultivation to the nearest point of the property line of the enumerated use with a direct straight-line measurement.

Section 22.40.050.D.3.b.ii and corresponding section in Title 23 have been modified to include a 1,500-foot setback from outdoor cannabis cultivation to existing offsite residences under separate ownership. Setbacks would be measured from the cultivation site to the residence.

(3) Disallowing outdoor cannabis cultivation grows

Board Direction: The Board directed staff to evaluate and analyze options to disallow outdoor cultivation and analyze who would be affected if such an action were taken.

Discussion: As of July 7, 2020, such an action has the potential to affect 88 outdoor cultivations (including both approved and under review). Staff analyzed and presented the Commission with the following options for consideration:

- (1) Prohibit outdoor cultivation and continue to allow indoor as established by the existing ordinance
- (2) Prohibit outdoor cultivation but allow for an increased amount of indoor cultivation
- (3) Reduce the amount of allowed outdoor cultivation (currently three acres) to a lesser amount and still allow indoor cultivation per the existing ordinance
- (4) Reduce the amount of allowed outdoor cultivation (currently three acres) to a lesser amount and allow for more square footage indoor cultivation square footage

The Commission discussed eliminating outdoor grows and agreed unanimously not to recommend the Board eliminate outdoor grows at this time. Commissioners stated that eliminating outdoor grows was a “moot point,” as outdoor cultivation would already be reduced if the Board adopts the increased setbacks and location standards. Commissioners also cited the large energy draw of indoor cultivation as a concern. The Commission discussed that if the Board wishes to prohibit outdoor cultivation, such direction should be provided to staff.

Per the Commission’s recommendation, the attached draft ordinance would not eliminate outdoor grows. Should the Board wish to reduce or eliminate outdoor grows, staff requests further direction on how to craft such restrictions. The Board could direct staff to pursue one of the options outlined above or direct a different approach. If that direction is provided, staff could return to the Planning Commission with specific ordinance language for consideration or could proceed directly to the Board for consideration because reduction or elimination of outdoor grows was already considered by the Planning Commission.

Planning Commission Vote: The straw vote was 1- 3 in favor of not recommending eliminating outdoor grows.

(4) Disallowing payment of fees in lieu of water offsets

Board Direction: The Board directed staff to disallow payment of in-lieu fees instead of offsetting water use directly for cannabis cultivation and nurseries.

Discussion: This issue has been raised particularly with regards to the Paso Robles Groundwater Basin, where some applicants were initially allowed to pay in-lieu fees to offset water use through Planning Area Standards in *Section 22.94.025, Paso Robles Groundwater Basin*. Fees from these programs were then used to fund “cash for grass” turf removal and plumbing retrofit programs over the basin. This is no longer the case. These offset programs were

originally designed for development projects and it has become clear they are not suitable for cannabis due to the nature of the use and scale of water demand. Currently all cannabis cultivation and nursery water offsets are being conditioned on a project specific basis.

The amendments provide two distinct routes through which a cannabis cultivation or nursery operation may offset their water use. The first is through an approved project-specific offset. This is how all cannabis projects are currently being handled. These offsets are conditioned on a case by case basis through the discretionary permitting process.

The second option allows for cannabis projects to offset through a County-approved water conservation program that expressly provides water offsets for cannabis activities, and results in a verifiable reduction of water demand equal to, or exceeding, the required water demand offset for the life of the project. Such a cannabis-specific program does not currently exist. This language is designed to leave the option open for the future development of a cannabis-specific water conservation program over Level of Severity III impacted groundwater basins should the Department receive such direction from the Board.

Timing: These amendments would go into effect upon adoption of the ordinance, and would apply to all unapproved projects including projects in the pipeline,

Section 22.40.050.D.5.a and Section 22.40.060.E.5.c have been amended as follows:

Cannabis nursery sites that require a land use permit and are in a groundwater basin at Level of Severity III pursuant to the last Biennial Resource Management System report shall provide an estimate of water demand prepared by a licensed ~~professional engineer~~ Professional Geologist, Certified Engineering Geologist, or Certified Hydrogeologist or other expert on water demand, as approved by the Director of Planning and Building, and a detailed description of how the new water demand will be offset. All water demand within a groundwater basin at Level of Severity III shall offset at a minimum 1:1 ratio. All water demand within an identified Area of Severe Decline shall offset at a minimum 2:1 ratio, ~~unless a greater offset is required through land use permit approval.~~ Offset clearance shall be obtained, prior to establishment of the use or receipt of Business License Clearance pursuant to 22.62.020, through an approved project specific or participation in a County approved water conservation program for the respective groundwater basin, ~~prior to the establishment of the use or receipt of Business License Clearance pursuant to Section 22.62.020.~~ that has been subject to environmental review, expressly provides water offsets for cannabis activities, and results in a verifiable reduction of water demand equal to, or exceeding, the required water demand offset for the life of the project. For clarification and not limitation, Planning Area Standards under Article 9 of land use ordinance which apply water offset requirements on development for non-agricultural purposes, including but not limited to Section 22.94.025, do not apply to or supersede the offset requirements under this subsection for cannabis cultivation, nursery or processing uses.

Planning Commission Vote: The straw vote was 4 - 0 in favor the proposed changes.

(5) No re-permitting if an operation ceases or violations occur

Board Direction: The Board directed staff to create a “no revolving door” requirement, wherein if an application is denied or ceases their operation, that application spot is closed and the total number of allowable cannabis projects

is reduce by 1. The Planning Commission did not recommend adopting these changes. They have been included for discussion purposes only per the Board's direction and have been highlighted blue in Attachments 2 and 3.

Discussion: For example, currently there are up to 141 cultivation projects allowed in the unincorporated county; if one of those projects is permitted and subsequently ceases their operation, it will not create a new application spot for a new project. Rather, the total number of projects will permanently reduce by 1, and the total allowable number of cultivation projects will be 140. It is important to note that this would reduce the total number of cannabis operations allowed in the county over time.

This language limits the total number of Cannabis applications approved or accepted for processing to 141. "Accepted for processing" was chosen rather than applications submitted because this eliminates incomplete applications taking up permit spaces. In addition, to meet the Board's direction, language was included that limits the number of applications submitted at any one time to 141 regardless of whether those applications are subsequently withdrawn, or their approvals are revoked. This language does not, however, apply to renewals or modifications of approved applications, meaning if a cannabis operation comes in for renewal that renewal is not counted again toward the 141 total applications cap.

The Commission was unanimous in their opposition to these modifications. Commissioner's expressed concerns that this would reduce the industry over time and that these amendments would not give the industry a chance to succeed.

Planning Commission Vote: The straw vote was 0 - 4 against this amendment.

(6) Enclosed ventilation systems on indoor grows

Board Direction: The Board directed staff to examine the possibility of enclosed filtration systems for indoor grow operations to address odor issues.

Discussion: Staff reviewed practices of seven other counties regarding filtration requirements for indoor cultivations. Humboldt County's ordinance incorporated more specific indoor ventilation system requirements which incorporated mechanical ventilation controls used in concert with carbon filtration defined ventilation. The words "in concert" are important because this allows for an exchange of air between the inside and outside but requires that the air be filtered before it leaves. This requirement is intended to address odors before they leave the indoor cultivation facility rather than neutralizing them afterwards through odor neutralizing sprays.

In addition, the performance standard has been tightened to eliminate nuisance odor emissions from being detected outside of the structure rather than simply offsite and apply this performance standard to ancillary uses associated with indoor cultivation.

Timing: The proposed amendments would apply to all new projects, including those in the pipeline.

Staff revised the performance standards under *Section 22.40.050.D.8. Nuisance Odors* to read as follows:

Nuisance Odors. *All cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite. All structures utilized for indoor cannabis cultivation and ancillary processing, nursery, and distribution shall be equipped and/or maintained with sufficient*

ventilation controls, in concert with carbon filtration or other equivalent or superior method(s) of filtration, (e.g. carbon scrubbers) in a manner that results in the controlled exchange of air and to eliminate nuisance odor emissions from being detected outside of the structure offsite.

Planning Commission Vote: The straw vote was 3 - 1 in favor of recommending these changes to the Board. Commissioner Ortiz-Legg expressed that there was no certainty that these measures could contain cannabis odors. The Commissioners agreed that this language did provide needed clarity.

(7) Drying cannabis in hoop structures

Board Direction: The Board directed staff to investigate allowing the use of hoop structures for drying cannabis products.

Discussion: Currently hoop structures are not required to obtain building permits because they are used for crop protection only. This was allowed via an approval process from the California Building Standards Commission so that agricultural operations did not have to go through a permitting process for crop protection structures in our County. Any changes to this would impact traditional agriculture as well as cannabis activities.

Unpermitted hoop structures are not intended to be used for frequent employee activity, as they do not meet building code requirements for safety and accessibility. There are significant liability and safety concerns with allowing processing activities in unpermitted hoop structures. The existing ordinance is explicit that drying in unpermitted hoop structures is not allowed. In situations where an applicant would like to pursue drying in a hoop house, the applicant would need to go through the process of obtaining a building permit. The Planning Commission was unanimous in their recommendation to the Board that hoop structures remain unpermitted in the county in order to protect traditional agriculture. No change to the ordinance was proposed.

Planning Commission Vote: The straw vote was 4 - 0 in favor of no changes in this regard.

(8) Revising ancillary nursery standards

Board Direction: The Board also directed staff to provide language for consideration revising the ancillary nursery standards so ancillary nursery square footage was included in the square footage of the overall cannabis cultivation area, rather than as an additional canopy area. This would ensure total canopy does not exceed three acres, whether immature or mature plants. During Phase II, language was added allowing a separate nursery area, but limiting that area to 25% of the total canopy area approved. This was to allow for a separate nursery area consistent with state licensing, but to place limits on that area.

Section 22.40.050.A. shows the changes that were taken to the Planning Commission in blue, which would eliminate the extra area allowed for nursery. These changes were ultimately rejected by the Planning Commission. Two options available to the Board would be to follow Planning Commission's direction and keep the current allowance for the extra 25%, or to keep the changes in blue as originally proposed. If the Board does follow the Commission's recommendation, staff recommends the language in purple to clarify that it is the nursery area rather than canopy that is not to exceed 25% of the cannabis cultivation area. The need to distinguish between canopy and area for nursery comes up if this will continue to be an extra area outside of the approved cannabis canopy or cultivation area.

Cannabis nursery. Up to 25% of the approved cannabis cultivation canopy, per Section 22.80.030, may be allocated for use as ancillary cannabis nursery canopy. A separate cannabis nursery for on-site use may be established, provided the nursery canopy does not exceed 25% of the area approved for cannabis cultivation. A separate area for cannabis nursery for on-site use may be established, provided the nursery canopy area (inclusive of walkways) does not exceed 25% of the approved area approved for cannabis cultivation area. The immature plants, seeds or clones shall not be sold or transported off site. Any approved cannabis cultivation canopy area solely allocated for use as an ancillary cannabis nursery shall be subject to the location and setback standards set forth under Section 22.40.060.E.1 and 3.

Planning Commission Vote: The straw vote was 0 - 4 against this amendment. The Commission unanimously voted not to revise the ancillary nursery standards and to continue to allow a separate cannabis nursery for onsite use provided the nursery canopy does not exceed 25% of the area approved for cannabis cultivation.

(9) Manufacturing on agricultural land

Board Direction: On June 19, 2018, the Board directed staff to consider expanding the standards of non-volatile cannabis manufacturing facilities on land within the Agriculture land use category ("AG land") to include infusion-related activities (e.g. edibles) as a part of Phase II. On May 23, 2019, the Commission recommended the Board prohibit infusion of cannabis products on AG land. While this language was not carried forward as part of the Phase II amendments, the Board directed staff to bring it back at a later date for discussion.

Discussion: Staff raised manufacturing on agricultural land for discussion at the Commission. During Phase II, staff had recommended limited expansion of cannabis manufacturing activities on AG land consistent with the State's microbusiness cannabis license for manufacturing, which limits the size and scope of infusion operations of the on-site cultivation area to 10,000 square feet. Consistent with this direction, that following language has been included in Section 22.40.070.1:

Limitations on type of manufacturing allowed on Agriculture land.

1. *Manufacturing of cannabis not grown on site is prohibited.*
 - a. *Extraction shall be limited to the processing of raw cannabis materials grown on site.*
 - ~~b. *Infusion is prohibited.*~~
 - ~~c. *Infusion shall be limited to 10,000 square feet of the cannabis canopy cultivated on site.*~~
2. ~~*Chemical Products Manufacturing is prohibited, except for the infusion of cannabis into a cannabis product.*~~
3. ~~*Food and Beverage Products manufacturing of cannabis products is allowed and is not limited to raw materials (non-cannabis) grown on site.*~~

This is the same language that was proposed in Phase II but was recommended to be removed by the Commission.

Planning Commission Vote: The straw vote was 4 - 0 in favor of carrying forward these amendments to the Board for further discussion.

BUSINESS IMPACT STATEMENT

Approving this request may result in positive and negative impacts to the Uniquely SLO County Cluster identified in the San Luis Obispo County Clusters of Opportunity Economic Strategy (November 2010). Allowing the continued cultivation of cannabis has the potential to benefit farmers in the County who wish to invest in the cannabis market. However, there is the possibility that cannabis cultivation could negatively impact the Uniquely SLO County Cluster, particularly the wine tourism industry, which could potentially be affected by odors caused by cannabis cultivation.

OTHER AGENCY INVOLVEMENT/IMPACT

Staff sought comments from various departments regarding the amended cannabis ordinance, including County Counsel, Ag Commissioner, the Building Division, and the Sheriff's Office. Responses were received from County Counsel, the Ag Commissioner's Office, the Building Division and the Sheriff's Office. These comments were incorporated into the Public Hearing Draft.

FINANCIAL CONSIDERATIONS

The proposed amendments are funded by the Department's FY 2019-20 adopted budget.

RESULTS

If adopted, the proposed amendments would become effective as soon as September 18, 2020, with the exception of Title 23 (Coastal Zone) amendments, which would become effective after CCC review and certification. The Department will submit the amendments to the California Coastal Commission after final Board action. If the California Coastal Commission approves and certifies the amendments, they will take effect immediately. If the California Coastal Commission approves the amendments with suggested modifications, the Department will return to the Board for consideration and approval of the California Coastal Commission's suggested modifications.

ATTACHMENTS

1. Attachment 1 – PowerPoint Presentation
2. Attachment 2 – Inland Public Information Draft
3. Attachment 3 – Coastal Public Information Draft
4. Attachment 4 – Redline Version (Amendments to Title 22)
5. Attachment 5 – Redline Version (Amendments to Title 23)
6. Attachment 6 – Environmental Determination – Notice of Exemption
7. Attachment 7 – Planning Commission Letter and Packet
8. Attachment 8 – Correspondence Received