



BOARD OF SUPERVISORS  
AGENDA LETTER

**Agenda Number:**

**Clerk of the Board of Supervisors**  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** Planning & Development  
**Department No.:** 053  
**For Agenda Of:** March 20, 2018  
**Placement:** Departmental  
**Estimated Time:** 2 hours  
**Continued Item:**  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Glenn S. Russell, Ph.D., Director, Planning and Development  
Director(s) (805) 568-2085  
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning  
(805) 568-2072  
**SUBJECT:** Cannabis Amendments to the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones*

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:**

As to form: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors (Board):

- a) Consider options for amending the *Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones* (Uniform Rules) to address cannabis uses and development allowed pursuant to the Cannabis Land Use Ordinance and Licensing Program on lands subject to agricultural preserve contracts;
- b) Make the required findings for approval of amendments to the Uniform Rules, including California Environmental Quality Act (CEQA) findings (Attachment 1);
- c) Adopt a resolution (Case No. 17ORD-00000-00019) amending the Uniform Rules (Attachment 2);  
and
- d) Determine for the purposes of CEQA that:

- i. Approval of the amendments to the Uniform Rules (Case No. 17ORD-00000-00019) is within the scope of the Cannabis Land Use Ordinance and Licensing Program, and the Cannabis Land Use Ordinance and Licensing Program Final Programmatic Environmental Impact Report (PEIR) [Case No. 17EIR-00000-00003, State Clearinghouse No. 2017071016] (Attachment 4) adequately describes this activity for the purposes of CEQA.
- ii. Pursuant to CEQA Guidelines section 15162(a), after considering the PEIR certified by the Board of Supervisors on February 6, 2018, that no subsequent EIR or Negative Declaration is required because: i) no substantial changes are proposed which require major revisions of the PEIR; ii) no substantial changes have occurred with respect to the circumstances under which the ordinance is undertaken which require major revisions of the PEIR; and iii) no new information of substantial importance concerning the ordinance's significant effects or mitigation measures, which was not known and could not have been known with the exercise of reasonable diligence at the time that the PEIR was certified, has been received.

**Summary Text:**

Pursuant to Government Code § 51231, the Board is the decision making body for amendments to the Uniform Rules regarding allowed uses on lands that are subject to agricultural preserve contracts. Based on this authority, at the February 6, 2018, hearing regarding the Cannabis Land Use Ordinance and Licensing Program, the Board directed staff to return on March 13, 2018 (later rescheduled for March 20, 2018) to present options to the Board regarding amendments to the Uniform Rules to allow certain cannabis land uses and development on lands that are subject to agricultural preserve contracts.

Two options for amending the Uniform Rules are discussed in detail below. The first is the recommendation of the Agricultural Preserve Advisory Committee (APAC), as shown in Attachment 3. The second is the P&D staff recommendation that was recently prepared after meeting with stakeholders, reviewing public comment letters, and reviewing the Uniform Rules in light of the Cannabis Land Use Ordinances adopted on February 6 and 27, 2018. Although the APAC recommendation is a feasible option to amending the Uniform Rules, P&D staff is recommending that the Board adopt a more permissive option due to certain unique features of cannabis cultivation that do not apply to other compatible uses set forth in the Uniform Rules.

An additional direction from the Board on February 6, 2018, was for staff to return for consideration of capping retail cannabis permits to eight with a maximum of two per district. Further direction was received from the Board on February 27, 2018, to add cultivation to the discussion on caps. This discussion is presented separately under the item for the Cannabis Business License Ordinance.

**Discussion:**

The County's Uniform Rules implement the Williamson Act locally by defining eligibility requirements and addressing compatible uses. Each participating landowner must comply with the Uniform Rules in order to be eligible for a reduced tax assessment for lands in contract (Revenue and Taxation Code § 421 *et seq.*). The Government Code sets forth principles that the Board must consider when determining which uses and development are compatible on lands that are subject to agricultural preserve contracts (Government Code § 51238.1). These principles are set forth in Attachment 5. Based on these principles, the Board has adopted both general compatibility guidelines and guidelines that currently apply to specific uses (e.g., guidelines that apply to agricultural preparation and processing facilities,

animal boarding and breeding facilities, recreational uses, and temporary filming and special events) (Uniform Rules, Uniform Rule 2).

Given the Board's decisions on February 6 and 27, 2018, to allow certain types of cannabis uses and development on agricultural lands (many of which are subject to agricultural preserve contracts), the Board should amend the Uniform Rules to provide clear guidance regarding under what conditions (if any) cannabis uses and development may be allowed on lands that are subject to agricultural preserve contracts. Cannabis is similar in certain ways to other uses that are currently considered to be either qualifying or compatible uses pursuant to the Uniform Rules. For example, cannabis cultivation involves the growing of plants similar to crop production that may count towards the minimum cultivation requirements of the Uniform Rules (Uniform Rule 1, § 1-2.3). Furthermore, similar to certain types of crop production, cannabis cultivation requires at least a minimal amount preparation (e.g., drying and trimming) of cannabis in the raw state for the market, which under circumstances may not compromise the viability of agricultural lands. Also, certain cannabis products (e.g., oils and food products) require processing beyond the raw state, similar to how certain agricultural commodities are processed for the market (e.g., processing of grapes into wine).

However, cannabis differs from many of the uses that are currently considered to be qualifying or compatible uses pursuant to the Uniform Rules. For example, cannabis is a highly regulated, illegal controlled substance under federal law, the cultivation of which presents security and law enforcement challenges that generally do not apply to other types of crop production. Cannabis cultivation also creates odors to which many are unaccustomed and find more objectionable than the odors produced from more conventional types of crop production.

In summary, there are both important similarities and distinctions between cannabis activities, on the one hand, and agricultural uses and compatible uses which are currently allowed on agricultural preserves, on the other hand. As such, there are a number of legislative policy options that are available to the Board with regard to the allowance of cannabis activities on lands that are subject to agricultural preserve contracts. Historically, the Board has valued and supported the Williamson Act provisions by designating numerous agricultural preserves in Santa Barbara County and implementing specific rules for their protection. With the recent cannabis regulations, the Board provided a structure to permit and regulate cannabis activities without giving cannabis cultivation a "right to farm" status. Given the Board's direction on these issues to date, as well as input from the public, agricultural industry, and cannabis industry, staff recommends that the Board focus its consideration on the following two options—APAC's recommendation and an alternative P&D staff recommendation. Additional approaches that have been considered are also listed below under *Other Considerations*. However, if the Board decides to pursue a different option, staff recommends that the Board direct staff to return to the Board at a later date with the necessary findings, resolution(s), etc., for the Board's consideration of adoption.

#### APAC Recommendation

In 2017 APAC reviewed the draft Cannabis Land Use Ordinance and Licensing Program and associated Draft EIR, to assess the Cannabis Land Use Ordinance and Licensing Program's consistency with the Uniform Rules. On August 11, 2017, November 3, 2017, and December 1, 2017, APAC held publicly noticed meetings at which it reviewed and considered the suitability of cannabis uses on lands that are subject to agricultural preserve contracts. On December 1, 2017, by unanimous vote, APAC

recommended that the Board adopt specific cannabis-related amendments to the Uniform Rules (Attachment 3). In summary, APAC recommended that the Board amend the Uniform Rules as follows:

1. Add definitions related to cannabis.
2. Specify that cannabis cultivation and ancillary facilities in support of cannabis cultivation are compatible—but not qualifying—uses on contracted land.
3. Specify that manufacturing (excluding extraction), retail sales, testing, and marketing of cannabis or cannabis products are prohibited on Williamson Act lands.
4. For contracts involving lands with prime and non-prime soils, specify that cannabis cultivation and ancillary facilities may be located within the designated development envelope and/or outside of the development envelope of a premises. However, the amount of land dedicated to cannabis cultivation and ancillary facilities that are located outside of the development envelope cannot exceed 5% of the premises or 5 acres, whichever is less.
5. Specify that processing, distribution, and manufacturing (extraction only) of cannabis from off-site sources is allowed, however it shall be limited to no more than 49 percent of the total volume of cannabis that is processed, distributed, and manufactured on the premises.
6. For contracts involving superprime lands, specify that all cannabis cultivation and ancillary facilities must be located within the designated development envelope.

APAC's recommendation is consistent with how certain compatible uses (e.g., agriculture preparation facilities, and processing of wine grapes) are currently addressed in the Uniform Rules. However, by taking the approach of setting limits on the amount of cannabis activity that can occur on Agricultural Preserves, it substantially limits the amount of area in the County that can support cannabis operations and it would potentially displace existing medicinal cannabis operations and facilities. Furthermore, given that cannabis cultivation is similar to crop production that counts toward the minimum cultivation requirements of certain agricultural preserve contracts, and would not involve the permanent conversion of farmlands, the Board may want to treat cannabis differently than other compatible uses in the Uniform Rules. Neither the final Cannabis Land Use Ordinances adopted on February 6 and 27, 2018, nor the P&D recommendation described below, have been presented to APAC. Thus, the Committee has not reviewed these issues since its December 1, 2017, meeting.

#### *P&D Staff Recommendation*

Since the APAC recommendation was finalized, stakeholders have argued that the recommendation is too restrictive. Many of the concerns are related to the acreage limits which would potentially displace existing medicinal cannabis cultivation and ancillary facilities, prevent consolidation of operations, and discourage vertical integration strategies on contracted lands. Staff considered these concerns in light of the goals of the Agricultural Preserve Program and keeping in mind the unique features of cannabis that warrant different regulations from those which apply generally to agriculture. Staff concurs with APAC that the optimal approach is to allow certain cannabis activities as compatible uses on lands that are subject agricultural preserve contracts; however, staff recommends that cannabis cultivation and ancillary facilities should not be subject to acreage limitations, provided that the property owner complies with the minimum cultivation of non-cannabis crops and/or grazing requirements that are set forth in the eligibility requirements, as well as the applicable contract. In summary, the P&D recommendation (Attachment 2) would:

1. Add definitions related to cannabis.
2. Specify that cannabis cultivation and ancillary facilities in support of cannabis cultivation are compatible—but not qualifying—uses on contracted land.
3. Specify that retail sales and marketing of cannabis or cannabis products are prohibited on Williamson Act lands.
4. Specify that processing, distribution, and manufacturing of cannabis from off-site sources is allowed, however it shall be limited to no more than 49 percent of the total volume of cannabis that is processed, distributed, and manufactured on the premises.

This alternative would maintain the current criteria for commercial agricultural production, clarify that cannabis cultivation does not count towards the minimum eligibility criteria for commercial agricultural production, yet afford a considerable degree of flexibility to conduct certain cannabis activities on lands that are subject to agricultural preserve contracts. In doing so, it would address many stakeholder concerns while staying largely consistent with APAC's recommendation, and would not undermine the principles of compatibility for agricultural preserve contracts.

#### Other Considerations

While the two options discussed in detail above appear to best balance the objectives of the Cannabis Land Use Ordinance and Licensing Program with the provisions of the Uniform Rules, other options have been evaluated by staff and discussed with stakeholders. Some of the options explored are listed below with a brief explanation as to why they were not preferable to the APAC and P&D staff recommendations.

1. Prohibit Cannabis on Agricultural Preserves – This option would disallow any cannabis activities on contracted lands. Thus, it would prevent any conflicts with the Uniform Rules and minimize any potential incompatible uses on contracted lands. However, it would (1) conflict with the objectives of the Cannabis Land Use Ordinance and Licensing Program, (2) potentially displace established medicinal cannabis operations, and (3) potentially result in a significant number of landowners filing for non-renewal, which could induce a loss of agricultural preserves in the County.
2. Limited Cultivation Only as Compatible Use – This option was evaluated in the PEIR as Alternative 2, which specified that up to 22,000 square feet of cannabis cultivation could be allowed as a compatible use on contracted lands, while ancillary uses such as manufacturing, testing, distribution, and sales would be incompatible. This would have similar consequences as stated for No. 1 above, and would not address stakeholder concerns regarding consolidation of operations and vertical integration.
3. Unlimited Cannabis Activities as Compatible Use – This approach would be the most permissive in favor of the cannabis industry and would specify that all permitted cannabis activities are compatible with the principal agricultural use of the land under contract. While this would address most industry concerns, the permitted cannabis uses would potentially conflict with the general compatibility guidelines in the Uniform Rules (Rule 2-1). In addition, the resulting Uniform Rules would be substantially less restrictive toward ancillary cannabis uses than toward

supportive agricultural uses such as development of preparation facilities, processing facilities, and retail operations (Section 2-2). A more comprehensive update to the Uniform Rules would be recommended in this case to achieve a balance of allowed uses.

4. Cannabis is Defined as Agriculture and Allowed as a Principle Use – Under this scenario, cannabis cultivation would be defined as an agricultural use and its production would be used to meet the eligibility requirements for a Williamson Act contract. Such an approach would likely raise concerns regarding “Right to Farm” protections that may affect the County’s ability to mitigate impacts from cannabis (e.g., odor abatement measures). General public concerns have also been raised regarding the potential government subsidy of cannabis activities that would occur under this option.

### **Environmental Review**

The Cannabis Land Use Ordinance and Licensing Program Final PEIR, (Attachment 4), was certified on February 6, 2018. Both options described in this Board Letter and shown in the attached Uniform Rules amendments (Attachments 2 and 3) are adequately covered by the Program EIR.

### **Fiscal Analysis**

The fiscal impacts associated with the cannabis land use ordinances are described in the Board Letter dated February 6, 2018 (Attachment 6). No additional impacts would result from the changes proposed under this action (17ORD-00000-00019).

### **Attachments:**

1. Findings for Approval
2. P&D Staff Recommended Board Resolution amending the Uniform Rules for Agricultural Preserves and Farmland Security Zones (Case No. 17ORD-00000-00019)  
Exhibit 1 – P&D Staff Recommended Amendments to the Uniform Rules
3. APAC Recommended Board Resolution amending the Uniform Rules for Agricultural Preserves and Farmland Security Zones (Case No. 17ORD-00000-00019)  
Exhibit 1 – APAC Staff Recommended Amendments to the Uniform Rules
4. Link to Final Program Environmental Impact Report and Revision Letter (Case No. 17EIR-00000-00003 and RV 01)
5. Government Code Provisions for Compatible Uses on Agricultural Preserves
6. Link to Board Agenda Letter for February 6, 2018
7. Maps Depicting Contracted Lands in Santa Barbara County

### **Authored by:**

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