

SANTA BARBARA COUNTY PLANNING COMMISSION
Staff Report for the Hoop Structures Ordinance Amendment

Hearing Date: May 30, 2018

Staff Report Date: May 22, 2018

Case No.: 17ORD-00000-00005

Environmental Document: Program
Environmental Impact Report

17EIR-00000-00004

Deputy Director: Dan Klemann

Division: Long Range Planning

Supervising Planner: David Lackie

Supervising Planner Phone #: 805-568-2023

Staff Contact: Julie Harris

Staff Contact Phone #: 805-568-3543

1.0 REQUEST

Hearing on the request of the Planning and Development Department for the County Planning Commission to consider making recommendations to the Board of Supervisors regarding the following:

- 1.1 **Case No. 17ORD-00000-00005.** Adopting an ordinance amending the zoning regulations of the County Land Use and Development Code (County LUDC) in compliance with Chapter 35.104, Section 35-1 of Chapter 35, Zoning, of the Santa Barbara County Code, to address permitting requirements for hoop structures and shade structures.
- 1.2 Certifying the Program Environmental Impact Report (17EIR-00000-00004) pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). As a result of this project, significant effects on the environment are anticipated in the following categories: Visual Resources, and Resource Recovery and Solid Waste Management.

The project involves lands zoned Agriculture-I and Agriculture-II located throughout the Inland Area of the County.

2.0 RECOMMENDATION AND PROCEDURES

Follow the procedures outlined below and recommend that the Board of Supervisors (Board) approve Case No. 17ORD-00000-00005 based upon the project's consistency with the Comprehensive Plan, and based on the ability to make the required findings. Your Commission's motion should include the following:

1. Make the required findings for approval, including CEQA findings, and recommend that the Board of Supervisors make the required findings for approval of the proposed amendment, including CEQA findings and Statement of Overriding Considerations (Attachment A).
2. Recommend that the Board certify the Hoop Structures Ordinance Amendment Program Environmental Impact Report (17EIR-00000-00004) (Attachment B).

3. Adopt a resolution (Attachment C) recommending that the Board approve the Hoop Structures Ordinance Amendment by adopting an ordinance amending the zoning regulations of the County Land Use and Development Code (Case No. 17ORD-00000-00005), Section 35-1 of Chapter 35, Zoning, of the Santa Barbara County Code, to address permitting requirements for hoop structures and shade structures (Attachment C, Exhibit 1).

Please refer the matter to staff if your Commission takes other than the recommended actions for the development of appropriate materials.

3.0 JURISDICTION

The County Planning Commission is considering this project based on Sections 65854 to 65857, inclusive, of the California Government Code and Sections 35.80.020 and 35.104.050 of the County LUDC, which state that the County Planning Commission shall review and consider County LUDC Amendments, and provide a recommendation to the Board.

4.0 ISSUE SUMMARY AND BACKGROUND

Hoop structures and shade structures are removable agricultural plant protection structures that shelter crops from the elements and enhance the growing environment by moderating temperatures, protecting crops from dust and moisture that can cause disease, and extending the growing season. More specifically, in the Inland Area, hoop structures are defined in the County LUDC Subsection 35.110.020 as:

A structure consisting of a light-weight, frame with no permanent structural elements (e.g., footings, foundations, plumbing, electrical wiring) and an impermeable, removable covering used to protect plants grown in the soil or in containers upon the soil. Includes structures commonly known as berry hoops and hoop houses.

Shade structures are similarly defined as:

A structure consisting of a frame with no permanent structural elements (e.g., footings, foundations, plumbing, electrical wiring, etc.) and a dark, permeable, removable covering (e.g. netting) used to shade plants grown in the soil or in containers upon the soil.

Hoop structures are widely used in the County to produce high value crops. Recent trends indicate that more farmers are using hoop structures and that they are using taller hoop structures. As agricultural practices evolve, these structures are being used for a wider variety of crops and varied farming methods. Hoop structures allow farmers flexibility with crop selection and rotation, as they can be (1) erected where needed to enhance production and to protect crops that are more sensitive to the elements, (2) moved to other parts of the farm when crops are rotated, and (3) removed entirely when crop selection indicates they are no longer needed. Shade structures have similar properties and similar uses. Hoop structures and shade structures in 2015 covered approximately 1,480 acres based

on aerial photography and best information available during preparation of the Draft Environmental Impact Report (EIR).

Although hoop structures and shade structures are defined in the County LUDC, they are not specifically identified as allowable uses on lands zoned Agriculture. Absent greater clarity in the County LUDC, hoop structures and shade structures would otherwise be permitted in the same manner as greenhouses in areas regulated by the County LUDC, requiring a Land Use Permit for less than 20,000 square feet, and a Development Plan for 20,000 square feet or more. The Development Plan process also requires environmental review and a hearing before the Planning Commission (County LUDC Section 35.42.140).

On April 19, 2016, the Board of Supervisors adopted an amendment to the County Building Code, Section 10-1.6.a.13, to exempt hoop structures of 20 feet in height or less from requiring a building permit. Prior to this amendment, hoop structures were required to be 12 feet in height or less to qualify for the exemption from building permit requirements. The Building Code Section 10-1.6.a.14 also does not require a building permit for “shade cloth structures constructed for nursery or agricultural purposes.”

Considering the lack of clarity in the County LUDC regarding the permitting of these structures, the exemption from building permits allowed by the Building Code, and the importance of these structures to agriculture in the County, the Board included the Hoop Structures Ordinance Amendment (Project) in the Long Range Planning Division’s 2017-2018 Annual Work Program. In addition, on July 25, 2017, the Board directed staff to prepare an ordinance amendment to exempt hoop structures from planning permits in the Inland Area consistent with the Building Code exemption from building permits. The similarity of shade structure issues with hoop structure issues warranted their inclusion in the ordinance amendment. The Board also directed staff to prepare an environmental document pursuant to CEQA to determine whether impacts associated with the use of the structures would create potentially significant impacts on the environment, and whether mitigation measures could be identified to reduce impacts such that the structures could be allowed with a permit exemption.

5.0 PROJECT DESCRIPTION SUMMARY

Key objectives of the Project are to: (1) expressly allow hoop structures and shade structures on agriculturally zoned lands in the inland, unincorporated areas of Santa Barbara County, (2) simplify and streamline the permit process, and (3) include a permit exemption for structures 20 feet or less in height, in order to allow farmers more flexibility and efficiency in agricultural operations in support of the County’s agricultural economy. Attachment C, Exhibit 1 provides the draft County LUDC amendment language. To address these objectives, the amendments would revise the text of the County LUDC to expressly allow hoop structures and shade structures on land zoned Agriculture-I (AG-I) and Agriculture-II (AG-II), and would provide development standards with which the structures must comply in order to qualify for the permit exemption. Additional development standards would apply to all hoop structures and shade structures regardless of whether a permit is required. In summary, the Project includes the following components:

- A permit exemption for hoop structures and shade structures, regardless of square footage, in the AG-I and AG-II zones provided the structures are not more than 20 feet in height.
- For hoop structures and shade structures taller than 20 feet, a Development Plan requirement if 20,000 square feet or larger in size, or a Land Use Permit requirement if less than 20,000 square feet in size in the AG-I and AG-II zones.
- A permit exemption for hoop structures and shade structures located within the Critical Viewshed Corridor (CVC) Overlay only if they do not exceed 4,000 square feet per lot. The CVC Overlay applies to AG-II zoned lands located along the U.S. Highway 101 corridor within the Gaviota Coast Plan area (Attachment D).
- To qualify for the permit exemption, hoop structures and shade structures shall not have electrical wiring, plumbing, mechanical (such as heaters), permanent footings, or foundations, and shall only be used to protect plants grown in the soil or in containers upon the soil.
- Additional development standards identified as mitigation measures in the EIR prepared for the Project and discussed further in Section 6.0 of this staff report, below.

The Project applies to approximately 927,014 acres of land zoned AG-I and AG-II within the unincorporated, inland areas of the County outside of Montecito.

6.0 ENVIRONMENTAL REVIEW

A Draft Program EIR (Draft EIR) was prepared and published for 45 days of public review beginning on January 30, 2018. Two public comment hearings were held, one on February 26, 2018, at the Betteravia Government Center in Santa Maria, and one on March 5, 2018, at the County Planning Commission Hearing Room in Santa Barbara. Public comments were received until the close of the comment period on March 15, 2018.

The Final EIR identified four Class I (Significant and Unavoidable) impacts and five Class II (Significant and Mitigable) impacts, as discussed in Section 6.1 of this staff report, below. The Final EIR also incorporates the 12 comment letters and four oral testimonies received on the Draft EIR and staff's responses to those comments in Section 9.0 of the Final EIR. Responses to comments and text revisions focus on comments received on the adequacy and accuracy of the Draft EIR. Following publication of the Final EIR, staff incorporated additional responses to four of the comments received, as provided in Attachment E. Minor text revisions add context, content, and clarity to the environmental analysis but do not result in any new significant impacts or any increase in the severity of impacts. Changes to the text presented in the Draft EIR are shown with ~~striketrough~~ and underline text in the Final EIR. The Final EIR (Attachment B) can be reviewed on the Project webpage at:

<http://longrange.sbcountyplanning.org/programs/Hoop%20Structures/Hoops.php>

In addition, the Final EIR can be reviewed at Planning and Development Department offices at 123 East Anapamu Street, Santa Barbara, or at 624 West Foster Road, Suite C, Santa Maria; and Central Branch of the City of Santa Barbara Library, 40 East Anapamu Street, Santa Barbara.

6.1 Summary of the Environmental Analysis

Environmental review addressed the potential environmental impacts associated with project implementation. The EIR assessed the potential environmental impacts that would result from the placement and use of additional hoop structures and shade structures (collectively referred to as crop protection structures in the EIR and in this summary of the environmental analysis) throughout the County's AG-I and AG-II zones in the Inland Area. The EIR did not analyze the potential impacts that might result from cultivation or other agricultural practices, given that these uses are currently allowed in AG-I and AG-II zones and the regulations pertaining to these practices would not change as a result of the Project.

The EIR analyzed the impacts of the Project with regard to six resource areas: land use and development, aesthetics/visual resources, agricultural resources, water resources and flooding, resource recovery and solid waste management, and biological resources. Potential impacts associated with the crop protection structures were analyzed, and mitigation measures to avoid or reduce potential impacts to the maximum extent feasible were identified.

Since a principal component of the project description is to establish a permit exemption for crop protection structures 20 feet or less in height, several of the EIR mitigation measures identify requirements, if complied with, would reduce potential environmental impacts to a level appropriate for a permit exemption. The EIR focused mitigation measures in two areas: (1) those that would reduce impacts resulting from the use of crop protection structures to less than significant levels such that the use of these structures could be allowed with a permit exemption, and (2) mitigation measures that would apply to all crop protection structures, regardless of permit requirements, to reduce impacts to the maximum extent feasible.

The Class I (Significant and Unavoidable) impacts and Class II (Significant and Mitigable) impacts of the Project are listed in Table 1; these impacts and the associated mitigation measures are discussed in more detail, below.

Table 1 – Summary of Significant Impacts
Class I Impacts (Significant and Unavoidable)
Impact VIS-1 Visual Character Changes
Impact VIS-2 Public Scenic Views and Scenic Resources
Impact VIS-3 Light and Glare
Impact RR-1 Solid Waste
Class II Impacts (Significant and Mitigable)
Impact WR-4 Flooding
Impact BIO-1 Unique, Rare, Threatened, or Endangered Plant or Wildlife Species
Impact BIO-2 Sensitive Habitats or Sensitive Natural Communities
Impact BIO-3 Movement or Patterns of Any Native Resident or Migratory Species
Impact BIO-4 Conflicts with Adopted Local Plans, Policies, or Ordinances

A. Summary of Potentially Significant Impacts

Aesthetics/Visual Resources. The Final EIR identified three significant and unavoidable project specific impacts as well as cumulative impacts to aesthetics and visual resources.

Impact VIS-1, Visual Character Changes, could result from the Project as seen from public viewing locations, where crop protection structures are located adjacent to urban townships, or located within County Urban Areas, Existing Developed Rural Neighborhoods, and Inner Rural Areas. The expansion of crop protection structures could alter the public viewshed of existing agricultural landscapes from a mix of cultivated fields, grazing lands, and crop protection structures to an agricultural landscape dominated by crop protection structures in certain locations; potentially affecting the overall scenic quality enjoyed by residents of, and visitors to, the County.

Impact VIS-2, Public Scenic Views and Scenic Resources, identifies impacts to views and scenic resources from public roads within and adjacent to lands zoned AG-I, designated State Scenic Highways, State Route 246, Santa Rosa Road, and Hollister Avenue adjacent to the San Marcos Agricultural Area within the Eastern Goleta Valley.

Impact VIS-3, Light and Glare, identifies impacts to visual resources resulting from glare effects due to reflected light that creates the effect of bright light to the viewer, particularly when hoop structures are installed on land with sloping topography and depending on the angle of the sun's reflection. No light impacts would result, as lighting is not allowed in crop protection structures.

Water Resources and Flooding. The Final EIR identified a significant but mitigable project-specific impact to flooding (Impact WR-4, Flooding) that would result from the placement and use of crop protection structures within a floodway, as designated on Federal Emergency Management Agency (FEMA) maps. The floodway is the location of strongest flood flows, and the placement of structures within a floodway could impede or exacerbate flooding hazards, including the potential to tear down crop protection structures, washing them downstream during large storm events, further contributing to flood hazards.

Resource Recovery and Solid Waste Management. The Final EIR identified significant and unavoidable project-specific and cumulative impacts to solid waste management based on the amount of agricultural plastics waste generation that exceed County thresholds (Impact RR-1, Solid Waste). Agricultural plastics, which are used to provide the covers of crop protection structures, have a lifespan of approximately three years and need to be replaced approximately every three years to provide the service and benefits intended with the use of these structures.

Biological Resources. The Final EIR identified four significant but mitigable project-specific impacts as well as cumulative impacts to biological resources. If crop protection structures are installed on land that has not been historically, intensively cultivated, the Project could result in impacts to unique, rare, threatened, or endangered species associated with habitat modifications (Impact BIO-1, Unique, Rare, Threatened, or Endangered Plant or Wildlife Species).

Similarly, Impact BIO-2 (Sensitive Habitats or Sensitive Natural Communities) and Impact BIO-3 (Movement or Patterns of Any Native Resident or Migratory Species) could result from the placement of hoop structures and shade structures on land that has not been historically, intensively cultivated.

Finally, Impact BIO-4, Conflicts with Adopted Local Plans, Policies, or Ordinances Oriented Towards the Protection and Conservation of Biological Resources, could result from the Project unless crop protection structures are required to provide minimum setbacks from streams and creeks to be consistent with County policies adopted to protect these biological resources.

B. Summary of Mitigation Measures

The EIR identified seven mitigation measures to reduce potentially significant impacts to the maximum extent feasible. All of the mitigation measures require the addition of development standards to the ordinance amendment before the amendment is adopted by the Board. These standards have been incorporated into the ordinance amendment attached to this staff report (Attachment C, Exhibit 1). The mitigation measures consist of two types of development standards: standards that must apply to all crop protection structures in order to be exempt from permits; and standards that apply to all applicable crop protection structures, whether qualifying for a permit exemption or requiring a permit. A key goal was to identify development standards that would support the permit exemption for crop protection structures, while mitigating the impacts to the maximum extent feasible.

Mitigation Measures – Development Standards to Qualify for Permit Exemption

In addition to the 20-foot maximum height, crop protection structures must meet the following mitigation measures, incorporated into the ordinance amendment as development standards, to qualify for the permit exemption. If these measures cannot be met, then prior to installation and use of the crop protection structures, a permit must be issued similar to the permit requirements for greenhouses. For structures less than 20,000 square feet in area, a Land Use Permit would be required, and for structures 20,000 square feet in area or more, a Development Plan permit would be required (Attachment F).

MM-VIS-1 Height and Setback Requirements. Mitigation Measure MM-VIS-1 amends the ordinance so that, in addition to the standard structural setback in each zone, to qualify for the permit exemption, crop protection structures cannot exceed a height of 12 feet within 75 feet of the edge of the right-of-way of a public road or State Scenic Highway.

MM-WR-1 Crop Protection Structures within a Floodway. Mitigation Measure MM-WR-1 amends the ordinance to clarify that crop protection structures located within a floodway would not qualify for the permit exemption. If an agricultural operator wishes to locate these structures within a floodway, the structures must be assessed on a case-by-case basis through the permit process, and may be allowed provided a civil engineer provides a no rise determination indicating that the structures would not result in a rise of floodwaters during a storm event. This requirement is consistent with the County Floodplain Management Ordinance.

MM-BIO-1 Limit Exemption to Crop Protection Structures on Historically Intensively Cultivated Agricultural Lands. Mitigation Measure MM-BIO-1 amends the ordinance to allow the permit exemption for structures only on historically intensively cultivated lands, which are defined within the mitigation as lands that have been tilled for agricultural use and planted with a crop for at least three of the previous five years.

MM-BIO-2 Require a Minimum Gap of One Foot between Ground Surface and Hoop Structure Plastic. Mitigation Measure MM-BIO-2 amends the ordinance to clarify that to qualify for the exemption, any hoop structure or shade structure located within 1.24 miles of a known or potential California tiger salamander (*Ambystoma californiense*) breeding pond shall ensure that a minimum one-foot gap is maintained between the bottom edge of the plastic material and the ground surface, to allow free movement of the salamander.

Mitigation Measures – Development Standards that Apply to All Hoop Structures and Shade Structures

The following mitigation measures, incorporated into the ordinance amendment as development standards, are required for all crop protection structures. Structures not in compliance with these measures would not be allowed.

MM-VIS-2 Urban Township Setback Requirement. Mitigation Measure MM-VIS-2 amends the ordinance to require a setback of 400 feet from the urban boundary line of the County's unincorporated urban townships (i.e., Santa Ynez, Ballard, Los Olivos, Los Alamos, Casmalia, Sisquoc, Garey, New Cuyama, and Cuyama) only if the crop protection structures could be viewed from public roadways or other areas of public use (Attachment G). If not visible, the setback would not be required. (The 4,000-square foot size limitation within the CVC Overlay is part of the original project description and not a mitigation measure.)

MM-VIS-3 Design Control (D) Overlay Limitation. Mitigation Measure MM-VIS-3 amends the ordinance to limit the size of crop protection structures to 4,000 square feet when located within the D Overlay within the Santa Ynez Valley Community Plan area (Attachment H). If the structures could not be viewed from public roadways or other areas of public use, the size limit would not be required.

MM-BIO-3 Setbacks from Streams and Creeks. Mitigation Measure MM-BIO-3 amends the ordinance to require a minimum 50-foot setback from streams and creeks in the Urban Areas and Inner Rural Areas and a minimum 100-foot setback from streams and creeks in the Rural Areas to ensure consistency with several policies and development standards of the Comprehensive Plan.

Solid Waste. No feasible mitigation measures were identified to address Impact RR-1. The primary mitigation would be to require recycling of agricultural plastics. However, the major barrier to agricultural plastics recycling is the lack of a consistent recycling market for the plastics. When a recycling market is available, it offers an incentive to farmers to recycle the plastics because farmers stand to earn money from the plastic waste, which could offset hauling costs and landfill feed, instead of spend money to have it hauled and deposited in a landfill. Additional ordinance requirements to recycle agricultural plastics (when no market currently exists) would have no practical effect on actual

practice. Thus, impacts to solid waste management would not be mitigated and would remain significant and unavoidable.

6.2 Summary of the Alternatives

As required by the State CEQA Guidelines Section 15126.6, the Final EIR examines a reasonable range of alternatives to the Project that potentially minimize environmental impacts while achieving most of the project objectives. The alternatives assessed in the Final EIR include the following:

- The No Project Alternative would not amend the County LUDC to explicitly allow the use of hoop structures and shade structures on lands zoned AG-I and AG-II or to clarify the permitting regulations and requirements, would not allow these structures to be exempt from permits, and would result in a Development Plan requirement for most of these structures, similar to permitting for greenhouses.
- Alternative 1 would further certain policy objectives of the Comprehensive Plan by: (1) incorporating additional development standards into the ordinance in order to qualify for a permit exemption, such as an additional 100-foot setback from additional biological resources, and additional locations where a 12-foot height limit would be required; and (2) streamlining permit requirements for non-exempt structures (i.e., structures proposed to be used on lands not historically cultivated) by allowing them with a Zoning Clearance instead of a Development Plan.
- Alternative 2 would revise the ordinance to: (1) limit the permit exemption within the AG-I zone to structures no taller than 12 feet, instead of 20 feet, and (2) limit the permit exemption to structures no taller than 12 feet on entire lots adjacent to a State Scenic Highway, instead of limiting the height to 12 feet only within the 75-foot setback of MM-VIS-1.

The alternatives analysis finds that Alternative 1 is the environmentally superior alternative because it would further reduce less than significant residual impacts related to land use and development (LU-1 Conflicts with Land Use Plans/Regulations), would further reduce the significant, unavoidable impacts related to all of the aesthetics/visual resources (VIS-1, VIS-2 and VIS-3), and would further reduce the significant, mitigable impacts related to all of the biological resources (BIO-1, BIO-2, BIO-3). Alternative 1 also furthers policy objectives that support agriculture by streamlining the permit process from a Development Plan to a Zoning Clearance for non-exempt crop protection structures that would be located on historically uncultivated lands.

The primary difference between Alternative 1 and the Project is that Alternative 1 is a planning permit option that streamlines the permit requirement for non-exempt crop protection structures from a Development Plan, which requires a Planning Commission hearing, to a Zoning Clearance, approved by the Director without a hearing. This alternative also would facilitate coordination between landowners and regulatory agencies, which is already required for similar agricultural practices (e.g., converting grazing land to cultivation) that do not require a Land Use Permit. Thus, Alternative 1 would not significantly reduce impacts to the environment.

The additional development standards in Alternative 1, while providing incremental reductions in impacts to aesthetics/visual resources and biological resources, would not reduce any impacts to less than significant levels, but would decrease flexibility for the farmers. This would conflict with a basic project objective to allow farmers more flexibility and efficient agricultural operations in support of the County's agricultural economy. Therefore, Alternative 1 has been found infeasible for social, economic and other reasons.

7.0 COMPREHENSIVE PLAN CONSISTENCY

Staff reviewed the Hoop Structures Ordinance Amendment for consistency with the applicable policies of the Comprehensive Plan, including the Agricultural Element and applicable Community Plans. The policy consistency analysis is included in Section 5 of the Final Program EIR. Staff concludes that the Hoop Structures Ordinance Amendment would be consistent with the Comprehensive Plan, and recommend that the Planning Commission make the findings of consistency.

8.0 APPEALS PROCEDURE

Ordinance Amendments recommended for approval or denial are automatically forwarded to the Board of Supervisors for final action; therefore, no appeal is required.

ATTACHMENTS

- A. Findings for Approval
- B. Final Environmental Impact Report
<http://longrange.sbcountyplanning.org/programs/Hoop%20Structures/Hoops.php>
- C. Resolution of the County Planning Commission
Exhibit 1. Board of Supervisors Ordinance Case No. 17ORD-00000-00005
- D. Critical Viewshed Corridor (CVC) Overlay Gaviota Coast Plan Area
- E. Additional Responses to Comments
- F. Permit Exemption or Requirement Flowchart
- G. Unincorporated Urban Townships
- H. Design Control (D) Overlay Santa Ynez Valley Community Plan Area