



**COUNTY OF SANTA BARBARA  
PLANNING AND DEVELOPMENT**

**MEMORANDUM**

TO: Board of Supervisors

FROM: Daniel Klemann, Deputy Director, Long Range Planning Division  
Staff Contact: Jessica Metzger, Project Manager

DATE: January 31, 2018

RE: **Revisions (RV01) to the Final Environmental Impact Report (17EIR-00000-00003) – Finding that State CEQA Guidelines Section 15088.5(b) applies to the Cannabis Land Use Ordinances for the Cannabis Land Use Ordinances and Licensing Program - Planning and Development Case Numbers 17ORD-00000-00004 and 17ORD-00000-00010**

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**INTRODUCTION**

The County of Santa Barbara prepared a Draft Final Environmental Impact Report (EIR) for the Cannabis Land Use Ordinances for the Cannabis Land Use Ordinances and Licensing Program. There are recommended changes to the Project as a result of staff's review of public comments and as proposed by the County Planning Commission on January 24, 2018, including revisions to the proposed Ordinance Amendments. This EIR revision letter evaluates modifications to the proposed Project subsequent to preparation of and circulation of the EIR.

The California Environmental Quality Act (CEQA) Guidelines Section 15088.5 describes the circumstances under which a lead agency is required to recirculate an EIR when new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review, but before EIR certification. Significant new information that would require recirculation would include a new significant impact or an unmitigated substantial increase in the severity of an impact. According to CEQA Guidelines Section 15088.5, "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a new substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect. Section 15088.5(b) states, "[r]ecirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR."

The Board finds that the EIR (17EIR-00000-00003), as herein amended by the attached EIR Revision Letter analysis, may be used to fulfill the environmental review requirements for the

Cannabis Land Use Ordinances and Licensing Program. None of the changes would result in any new significant, environmental effects or a substantial increase in the severity of previously identified significant effects nor would they cause changes to the conclusions in the impacts analysis in the Final EIR, or deprive the public of a meaningful opportunity to comment. Hence, pursuant to CEQA Guidelines Section 15088.5(b), the proposed revisions described in this document have not been recirculated. The Final EIR for the Cannabis Land Use Ordinance and Licensing Program is hereby amended by this revision document, together identified as (17EIR-00000-00003 RV01).

Exhibits:

1. Cannabis Land Use Ordinances for the Cannabis Land Use Ordinances and Licensing Program Draft Final EIR 17EIR-00000-00003 Revision Letter (RV 01)
2. Amendments to the Land Use Development Code and Coastal Zoning Ordinance via link: [http://longrange.sbcountyplanning.org/programs/Cannabis/Cannabis Ordinances.php](http://longrange.sbcountyplanning.org/programs/Cannabis/Cannabis%20Ordinances.php)

# **The Cannabis Land Use Ordinances and Licensing Program**

## **Final Environmental Impact Report**

**17EIR-00000-00003**

**SCH #2017071016**

### **Revision Letter (RV 01)**

**January 31, 2018**

*Prepared by:*

**County of Santa Barbara**  
Planning and Development Department  
Long Range Planning Division  
123 East Anapamu Street, First Floor  
Santa Barbara, CA 93101

## **REVISIONS TO THE FINAL ENVIRONMENTAL IMPACT REPORT**

### **I. BACKGROUND**

Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15168, a Program Environmental Impact Report (EIR) (17EIR-00000-00003, SCH #2017071016) was prepared for the Cannabis Land Use Ordinances and Licensing Program. The Draft EIR for the Cannabis Land Use Ordinances and Licensing Program was released for public comment on October 2, 2017. Two publicly noticed Draft EIR comment hearings were held on October 12, 2017, and October 17, 2017, in Santa Barbara and Santa Maria, respectively. Public and agency comments were received until the end of the comment period on November 16, 2017. The County responded in writing to comments received on the Draft EIR in accordance with CEQA Guidelines Section 15088. Responses to the comments describe the disposition of significant environmental issues raised and changes to the EIR made in response to the comments, including text changes.

The EIR evaluated four alternatives: (1) No Project Alternative, (2) Alternative 1 - Exclusion of Cannabis Activities from the AG-I Zone District, (3) Alternative 2 - Preclusion of Cannabis Activities from Williamson Act Land, and (4) Alternative 3 - Reduced Registrants. Each alternative is discussed in relation to the objectives of the Project.

The EIR concluded that the Cannabis Land Use Ordinances and Licensing Program would result in significant unmitigable (Class I) impacts to: Agricultural Resources, Air Quality, Noise, Transportation and Traffic, and Aesthetics/Visual Resources (cumulative). The Cannabis Land Use Ordinance and Licensing Program would also result in significant but mitigable (Class II) impacts to Aesthetics and Visual Resources, Agricultural Resources, Biological Resources, Cultural Resources, Hydrology, Land Use, and Utilities.

Since publication of the Draft EIR, County staff prepared recommended changes to the Cannabis Land Use Ordinance and Licensing Program. The recommendations are described in more detail under Section II below, but would generally (A) change the permit level for cannabis cultivation located in an Existing Developed Rural Neighborhood, and (B) prohibit outdoor cannabis cultivation on lots that are 20 acres or smaller in size within AG-1 zone districts.

Also since publication of the Draft EIR, the County Planning Commission (CPC) made recommended changes at the hearing held on January 24, 2018. The CPC concurred with staff's recommendations provided in Section II, (A) and (B) below, and also recommended the changes described in Section II(C) below.

Staff recommends the Board find that the EIR (17EIR-00000-00003), herein amended by this EIR Revision Letter, may be used to fulfill the environmental review requirements for the Cannabis Land Use Ordinances and Licensing Program, and that this Revision Letter sets forth changes to various sections of the proposed Santa Barbara County Land Use and Development Code (Board – February 6, 2018, Staff Report, Attachment 2, (17ORD-00000-00004)) and the Coastal Zoning Ordinance (Board - February 6, 2018, Staff Report, Attachment 3 (17ORD-00000-00010)). None of the changes recommended would result in any new, changed, or

unmitigated environmental impacts. In fact, the recommended changes would put limits on the proposed Project, which would likely reduce potential environmental impacts. However, such changes would not result in any changes to the overall conclusions in the impact analyses in the EIR, or deprive the public of a meaningful opportunity to comment. Hence, pursuant to CEQA Guidelines Section 15088.5(b), the proposed revisions described in this document have not been recirculated.

## II. REVISIONS TO THE EIR ANALYSIS

Staff recommends the following amendments to the proposed Land Use and Development Code (LUDC) and Coastal Zoning Ordinance (CZO) amendments and the project description. These changes, recommended by staff have been drafted based on comments received during the preparation of the Draft EIR which are analyzed below.

### *A. Analysis of Revisions to the Permit Levels for Cannabis Cultivation in Existing Developed Rural Neighborhoods (EDRNs)*

The proposed ordinance amendments incorporate a development standard that specifies that any cannabis cultivation proposed within EDRN areas, or which would require the use of a roadway located within an EDRN area as the sole means of access to the location of the cannabis activity, will require the approval of a Major Conditional Use Permit, which is a discretionary permit that would require Planning Commission review and approval, environmental review pursuant to CEQA, and consideration of the imposition of additional conditions of approval on cannabis cultivation to make it compatible with its surroundings, and would be subject to public review and comment. Proposed amendments have been incorporated in both the LUDC and the CZO. The new language is shown in red underlined text below.

#### **Cannabis Regulations**

Cannabis cultivation within an Existing Developed Rural Neighborhood (EDRN). Applicants within an EDRN, or cultivation that requires the use of a roadway located within an EDRN as the sole means of access to the cultivation lot, shall require approval of a Conditional Use Permit by the Planning Commission.

The applicant would have to demonstrate that the proposed cannabis cultivation project would satisfy the standards of approval for a Major Conditional Use Permit (CUP) which include:

- (1) Adverse environmental impacts are mitigated to the maximum extent feasible.
- (2) Streets and highways are adequate and properly designed to carry the type and quantity of traffic generated by the proposed use.
- (3) There are adequate public services, including but not limited to fire protection, water supply, sewage disposal, and police protection to serve the project.
- (4) The project will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding area.
- (5) In designated rural areas the use is compatible with and subordinate to the scenic and rural character of the area.

Changing the review from a land use permit (LUP) to a CUP will not have any effect on the impacts that were analyzed as part of the Project impact analysis. Rather, this modification

would provide for additional site-specific environmental and land use compatibility review in areas that potentially have special or unique circumstances. Incorporation of these requirements in the recommended project description would not result in any new impacts or increase the severity of impacts analyzed in the Final EIR. Therefore, no change to the Final EIR analysis is necessary to make this amendment to the project.

***B. Analysis of Revisions to the Permit Types Allowed on Lots 20 Acres or Less.***

The ordinance amendments also incorporate an additional development standard to address certain adverse land use compatibility impacts associated with cannabis cultivation, such as objectionable odors experienced in residential areas. The proposed amendments include a development standard that specifies that, on AG-I parcels 20 acres or less, only cultivation permits for mixed-light (greenhouse) or indoor cultivation shall be allowed. Outdoor cultivation, including hoop houses, would be prohibited. Proposed amendments have been incorporated in both the LUDC and the CZO. The new language is shown in red underlined text.

**Specific use development standards - Cultivation**

**AG-I lots 20 acres or less. Outdoor cannabis cultivation, including cannabis cultivation within hoop structures, is prohibited on lots that are 20 acres or less in size. However, mixed-light cannabis cultivation and indoor cultivation are permissible on lots containing 20 acres or less.**

The proposed LUDC and CZO amendments changes recommended by staff have been drafted based on comments received during the preparation of the Draft EIR. These proposed changes are consistent with the project objectives including (1) minimizing adverse effects of commercial cannabis activities on the natural environment, natural resources, and wildlife, including riparian corridors, wetlands, sensitive habitats, and water resources ensure, (2) establishing land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of visual resources and neighborhood character, groundwater basin overdraft, obnoxious odors, noise nuisances, hazardous materials, and fire hazards, and (3) limiting potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

Changing the treatment of outdoor cultivation in AG-I zones will not have any effect on the impacts that were analyzed as part of the Project impact analysis. Rather, this modification would place a regulatory limit on the project that would potentially reduce impacts associated with odor, though not to a level below significant. Incorporation of these requirements in the recommended project description would not result in any new impacts or increase the severity of impacts analyzed in the Final EIR. Therefore, no change to the Final EIR analysis is necessary to make this amendment to the project.

***C. Analysis of County Planning Commission (CPC) Recommended Changes to the Ordinances***

At the hearing held on January 24, 2018, the CPC recommended the following revisions (numbered as 1 through 7) to the draft ordinances. Deletions are shown in ~~red-strikeout~~, additions are shown in red underlined text below.

**1. Personal Cultivation (35.42.075.B.2 and 35-144U.B.2).** The following recommended ordinance text was amended as follows:

b. Cultivation of cannabis for personal use shall only occur within:

- (1) A legally established secure dwelling, or
- (2) An enclosed, legally established secure building that is accessory to a dwelling.

**2. Noticing (35.42.075.B.3 and 35-144U.B.3).** The following, recommended ordinance text was added:

*Entitlements for commercial cannabis uses and/or development shall be subject to the applicable noticing requirements set forth in Chapter 35.106 (Noticing and Public Hearings), except that a mailed notice regarding a pending action or hearing regarding a commercial cannabis entitlement shall be provided to all owners of property located within a 1,000-foot radius of the exterior boundaries of the subject lot.*

**3. “Permit Requirements for Cannabis” Table (35.42.075.B.4 and 35-144U.B.4).** The following changes were made to the uses that are recommended to be allowed by zone:

- Commercial cultivation shall not be permitted in the General Commercial (C-3) zone.
- Nonvolatile manufacturing shall not be permitted in the Limited Commercial (C-1), Retail Commercial (C-2), General Commercial (C-3), and Service Commercial (CS) zones.
- Nonvolatile manufacturing shall be permitted in the Shopping Center (SC) zone with a major conditional use permit (CUP).
- Nonvolatile Manufacturing shall be permitted in SC, Mixed Use (MU), Community Mixed Use Los Alamos (CM-LA), Old Town - Residential/Light Commercial (OT-R/LC), and Old Town - Residential / General Commercial (OT-R/GC) zones with a CUP.
- Retail shall be permitted in MU, CM-LA, OT-R/L, and OT-R/G zones with a CUP.
- Testing shall be permitted with a land use permit or coastal development permit in C-1 and C-2 zones.

**4. Sensitive Receptors (35.42.075.B.4 and 35-144U.B.4).** The footnote of the table(s) shall be amended in regard to buffers from sensitive receptors, as follows: “The proposed cannabis operation shall not be located within ~~600~~ 1,000-feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center.”

**5. Odor Abatement (35.42.075.C.7 and 35-144U.C.7).** The following changes were made to the recommended odor abatement requirements of the ordinances.

- Delete text from the Odor Abatement Plan C.7, as follows: “The Odor Abatement Plan must reduce odors that are experienced within residential zones, ~~to the maximum extent feasible~~ as determined by the Director.”
- Add the following text to the Odor Abatement Plan C.7.g: “The applicant shall allow the Department access to the facility at all times, without notice, for the purpose of inspecting odor mitigation practices, odor source(s), and complaint tracking system records.”
- Remove the text from the Odor Abatement Plan C.7.h and replace with the following text:

*If the Department receives three verified complaints regarding odor events in any 365-day period, the Permittee shall implement corrective actions to comply with the odor abatement requirements of this Section 35-144U.C.7./35-144U.C.7. Upon the Department’s request, the Permittee shall submit a written statement that sets forth the corrective actions and timing of implementation of each corrective action, subject to the Department’s review and approval. The department may require the corrective actions to be re-certified by a Professional Engineer or a Certified Industrial Hygienist. Notwithstanding the requirements of this Section, the Department may take additional enforcement actions pursuant to Chapter 35-108 (Enforcement and Penalties) which may include, but are not limited to, initiating proceedings to revoke the applicable cannabis land use entitlement(s).*

- Delete the following text from the Odor Abatement Plan C.7.i:

~~*If an applicant reasonably believes that odors will be undetectable beyond the lot lines of the lot on which the cannabis activity will occur and, consequently, an complete Odor Abatement Plan is unnecessary, the applicant shall submit written documentation with the application for the cannabis permit, which sets forth the reasons why an Odor Abatement Plan is unnecessary, for the Department’s review and approval. If, in the event the Odor Abatement Plan is deemed unnecessary the applicant shall still be required to follow the above regulations in subsection f regarding a local contact and odor complaints.*~~

**6. Distribution and manufacturing as an accessory uses within the Ag-I And Ag-II zones (35.42.075.D.3 and 4 and 35-144U.C.7D.3 and 4).** The following changes were made to the recommended sections on distribution and manufacturing requirements of the ordinances (Commissioner Blough conducted a “straw poll” on this item, and it carried by a vote of 3 to 2):



- **Distribution.**

- a. **Cultivation limits.** Distribution on a lot zoned AG-I or AG-II shall only be allowed as an accessory use to cannabis cultivation and shall comply with the following requirements:

- 1) A minimum of ~~1050~~% of the cannabis product distributed shall be sourced from cannabis plant material cultivated on the same lot on which the distribution activities will occur.

- **Manufacturing.**

- a. **Cultivation limits.** Manufacturing (volatile and non-volatile) on a lot zoned AG-I or AG-II shall only be allowed as an accessory use to cannabis cultivation and shall comply with the following requirements:

- 1) A minimum of ~~1050~~% of the cannabis product manufactured shall be sourced from cannabis plant material cultivated on the same lot on which the manufacturing activities will occur.
    - 2) Manufacturing shall be subordinate and incidental to the cultivation use of the lot, and the area designated for manufacturing shall occupy a smaller footprint than the area that is designated for cultivation on the lot.

**7. Onsite Consumption (35.42.075.D.6 and 35-144U.C.7D.6).** Ordinance language was added stating “No cannabis consumption, including, but not limited to, smoking, vaporizing or ingesting, shall be permitted on the premises of a retailer or microbusiness.”

The CPC’s proposed LUDC and CZO amendments changes are consistent with the project objectives including (1) minimizing adverse effects of commercial cannabis activities on the natural environment, (2) establishing land use requirements for commercial cannabis activities to minimize the risks associated with criminal activity, degradation of visual resources and neighborhood character, groundwater basin overdraft, obnoxious odors, noise nuisances, hazardous materials, and fire hazards, and (3) limiting potential for adverse impacts on children and sensitive populations by ensuring compatibility of commercial cannabis activities with surrounding existing land uses, including residential neighborhoods, agricultural operations, youth facilities, recreational amenities, and educational institutions.

Most of the CPC recommended changes would lessen potential impacts since fewer uses would be allowed in some of the zones, and more stringent permitting requirements would be required in some of the zones. The permitting of testing in C-1 and C-2 commercial zoning districts qualifies as a new project component that was not analyzed in the EIR. However, this would not be expected to result in new physical impacts since it is likely that such facilities would utilize existing development in such zones. If new construction were proposed in conjunction with such uses, the required permits would have to be obtained for the development and environmental review would be conducted pursuant to CEQA. Overall, it is expected that the changes recommended by the CPC would result in a net reduction of potential environmental impacts as compared to the Project that was analyzed in the EIR. Therefore, no new significant environmental impacts would occur, and no substantial increase in the severity of an

environmental impact would result (CEQA Guidelines Section 15088.5).

### **III. CONCLUSION**

The CPC's recommendations to the Board of Supervisors and public comments regarding the Cannabis Land Use Ordinance and Licensing Program warrant specific revisions to the proposed LUDC and CZO ordinance amendments. None of the changes would result in any new significant, environmental effects or a substantial increase in the severity of previously identified significant effects nor would they cause changes to the conclusions in the impacts analysis in the Final EIR, or deprive the public of a meaningful opportunity to comment.