



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 and
Development
Department No.: 053
For Agenda Of: 02/26/2019
Placement: Administrative:
Set Hearing for
03/12/2019
Estimated Time: 3 hours on 03/12/2019
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Dianne M. Black, Director, Planning and Development
Director (805) 568-2086
Contact Info: Daniel T. Klemann, Deputy Director, Long Range Planning
(805) 568-2072
SUBJECT: Hoop Structures Ordinance Amendment Case No. 17ORD-00000-00005

County Counsel Concurrence

As to form: Yes

Other Concurrence N/A

As to form: No

Auditor-Controller Concurrence

As to form: No

Recommended Actions:

That the Board of Supervisors (Board):

On February 26, 2019, set a hearing for March 12, 2019, to consider the Planning Commission (Commission)-recommended ordinance amending the County Land Use and Development Code (LUDC) (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.

On March 12, 2019, if the Board adopts the Commission recommendation, the Board's action should include the following:

- a) Make the required findings for approval, including California Environmental Quality Act (CEQA) findings and Statement of Overriding Considerations (Attachment 1).
- b) Certify the Hoop Structures Ordinance Amendment Program Environmental Impact Report (17EIR-00000-00004) (State Clearinghouse No. 2017101040) (Attachment 2), as modified by the EIR Revision Document RV 01 dated March 12, 2019 (Attachment 3).
- c) Adopt an ordinance amending the LUDC (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 4).

Alternatively, provide direction to staff regarding changes to the Ordinance Amendment and direct staff to prepare documents supporting that direction.

Summary Text:

Hoop structures and shade structures (collectively referred to as crop protection 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. They are widely used in the County to produce high value crops. Although hoop structures and shade structures are defined in the LUDC and Coastal Zoning Ordinance (CZO), specific permit requirements for hoop structures are set forth only in the CZO regulations that apply to areas that are subject to the Carpinteria Agricultural (CA) Overlay zoning designation. Hoop structures are permitted as greenhouses in areas regulated by the LUDC and CZO outside of the CA Overlay.

The Board included the Hoop Structures Ordinance Amendment (project) in the Planning and Development (P&D) Department's Long Range Planning Division 2017-2018 Annual Work Program. P&D staff developed a draft ordinance amendment, conducted environmental review, and prepared a final draft ordinance amendment incorporating mitigation measures identified in the Final Environmental Impact Report (EIR) for the Commission's consideration.

Beginning on May 30, 2018, the Commission held six hearings to consider the ordinance amendment, which, as initially recommended by P&D, incorporated all seven mitigation measures identified in the Final EIR (Attachment 2). Following the submittal of additional information into the record and consideration of public testimony, the Commission recommended revisions to the ordinance amendment. On January 30, 2019, the Commission recommended that the Board: (1) reject two aesthetic/visual resources mitigation measures as infeasible (MM-VIS-1 and MM-VIS-2); (2) delete two mitigation measures based on new evidence indicating that the measures would not be necessary or effective (MM-WR-1 and MM-BIO-2); and (3) revise three mitigation measures (MM-VIS-3, MM-BIO-1, and MM-BIO-3). The Commission also recommended adding a slope criterion for the permit exemption. The changes are discussed in section 2.0 below. Potential environmental impacts associated with these changes are addressed in the EIR Revision Document RV 01 (Attachment 3), which concludes that no new significant environmental impacts would result and no substantial increase in the severity of an environmental impact would result. The Commission recommended that the Board certify the Final EIR and Revision Document and approve the revised ordinance amendment incorporating these changes (Attachment 5).

Background:

1.0 Introduction

On July 25, 2017, the Board directed staff to prepare an ordinance amendment to expressly allow the use of hoop structures in Agricultural zones, exempt hoop structures 20 feet or less in height from zoning permits, require permits for taller structures, and move forward with environmental review pursuant to CEQA. Staff also included shade structures in the proposed ordinance due to the similarity of issues to hoop structures.

A Draft Program EIR was prepared and published for 45 days of public review beginning on January 30, 2018. P&D held two public comment hearings, one on February 26, 2018, in Santa Maria, and one on March 5, 2018, in Santa Barbara. P&D received public comments through the close of the comment period on March 15, 2018. The Commission held six public hearings regarding adoption of the Hoop Structures Ordinance Amendment on May 30, July 11, August 29, November 7, and December 5, 2018,

and January 30, 2019. On October 9, 2018, a Board member requested a discussion of the Hoop Structure Ordinance Amendment by the Board of Supervisors before the Commission made their recommendation. Your Board took no action on that item.

The original project description, as analyzed in the Final EIR, included the following components:

- Identification of crop protection structures as allowed uses in the table titled “Allowed Land Uses and Permit Requirements for Agricultural Zones” (LUDC Section 35.21.030 Table 2-1).
- A permit exemption for crop protection 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 crop protection structures taller than 20 feet, a Land Use Permit requirement if less than 20,000 square feet in size, or a Development Plan requirement if 20,000 square feet or larger, in the AG-I and AG-II zones.
- A permit exemption for crop protection 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.
- To qualify for the permit exemption, crop protection structures shall not have electrical wiring, plumbing, mechanical equipment (e.g., heaters), permanent footings, or foundations, and shall only be used to protect plants grown in the soil or in containers upon the soil.

The Final EIR (Attachment 2) identified seven mitigation measures, which were incorporated into the ordinance amendment for the Commission’s consideration.

2.0 Environmental Review

The Final EIR (Attachment 2) assessed the potential environmental impacts that would result from the placement and use of crop protection structures throughout the County’s AG-I and AG-II zones in the Inland Area. The Final EIR identified eight potentially significant impacts that would result from allowing the use of crop protection structures of 20 feet or less in height without a permit and seven mitigation measures that would partially mitigate some of the identified impacts and mitigate other impacts to less than significant levels. These impacts and mitigation measures are summarized in Table 1 below; a more detailed discussion is provided in the staff report to the Planning Commission dated May 22, 2018 (Attachment 6).

Table 1 – Summary of Significant Impacts and Mitigation Measures Final EIR May 2018	
Class I Impacts (Significant and Unavoidable)	Mitigation Measures
Impact VIS-1 Visual Character Changes Impact VIS-2 Public Scenic Views and Scenic Resources Impact VIS-3 Light and Glare	MM-VIS-1 Height and Setback Requirements MM-VIS-2 Urban Township Setback Requirement MM-VIS-3 Design Control (D) Overlay Limitation
Impact RR-1 Solid Waste	No feasible mitigation identified
Class II Impacts (Significant and Mitigable)	Mitigation Measures
Impact WR-4 Flooding	MM-WR-1 Crop Protection Structures within a Floodway
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	MM-BIO-1 Limit Exemption to Crop Protection Structures on Historically Intensively Cultivated Agricultural Lands MM-BIO-2 Require a Minimum Gap of One Foot between Ground Surface and Hoop Structure Plastic MM-BIO-3 Setbacks from Streams and Creeks

3.0 Commission Recommendation

On January 30, 2019, the Commission recommended approval of the Hoop Structures Ordinance Amendment with nine revisions to the original ordinance amendment. The Commission also made a separate motion, as discussed below, asking the Board to consider what level of permit is most appropriate for nonexempt development in certain areas of the County. The final ordinance amendment, included as Attachment 4 to this Board Agenda Letter, incorporates the following Commission-recommended revisions.

1. MM-VIS-1 (Height and Setback Requirements) required a 12-foot height limit within a 75-foot setback from public roads for crop protection structures to qualify for the permit exemption. The purpose of this mitigation measure was to reduce impacts to aesthetics/visual resources (public scenic views and scenic resources) as seen from public roadways, including State Scenic Highways. The Commission recommended rejecting this mitigation measure as infeasible because it could create an economic burden on agricultural operations leading to farming inefficiencies and increased costs that might compromise the first objective identified in the Final EIR (i.e., to simplify the permit process to allow more efficient agricultural operations), without adequately meeting the last objective to reduce or minimize potential adverse effects.
2. MM-VIS-2 (Urban Township Setback Requirement) required crop protection structures to be set back 400 feet from the urban boundaries of nine unincorporated urban townships (Santa Ynez, Ballard, Los Olivos, Los Alamos, Casmalia, Sisquoc, Garey, New Cuyama, and Cuyama) unless the structures would not be visible from public roads or other areas of public use. The purpose of this mitigation measure was to reduce impacts to the visual character of unincorporated townships. The Commission recommended rejecting this mitigation measure as infeasible because it could create an economic burden on agricultural operations leading to farming

inefficiencies and increased costs that might compromise the first objective identified in the Final EIR (i.e., to simplify the permit process to allow more efficient agricultural operations), without adequately meeting the last objective to reduce or minimize potential adverse effects.

3. MM-VIS-3 (Design Control (D) Overlay Limitation) would limit the size of crop protection structures to 4,000 square feet if located within the D Overlay unless the structures would not be visible from public roads. The purpose of this mitigation measure was to reduce impacts resulting from the use, without permits or design review, of large crop protection structures within the D Overlay of the Santa Ynez Valley. The D Overlay applies to the public roads and community separators between the cities and unincorporated towns of the Santa Ynez Valley Community Plan (SYVCP) area. The D Overlay also requires design review of any agricultural structures larger than 1,000 square feet to ensure new buildings and structures are compatible with the visual character of the SYVCP area. The Commission recommended revising this mitigation measure such that 4,000 square feet would not be a size limit, but a permit threshold. Thus, as revised, an exemption would be allowed for structures 4,000 square feet or less, and a permit would be required for larger structures unless they are not visible from public roadways or other areas of public use. The permit requirement would be consistent with other permitting requirements set forth in the LUDC, which require a Land Use Permit for structures smaller than 20,000 square feet and a Development Plan for structures 20,000 square feet or larger.
4. The original project description would allow and exempt crop protection structures located within the 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. The CVC Overlay applies to both inland and coastal areas of the Gaviota Coast Plan area; however, this ordinance amendment would only apply to the Inland Area, and would not affect permitting requirements within the Coastal Zone. The Commission recommended revising this ordinance requirement such that 4,000 square feet would not be a size limit, but a permit threshold. Thus, as revised, an exemption would be allowed for structures 4,000 square feet or less, and a permit would be required for larger structures unless they are not visible from public roadways or other areas of public use. The permit requirement would be consistent with other permitting requirements set forth in the LUDC, which require a Land Use Permit for structures smaller than 20,000 square feet and a Development Plan for structures 20,000 square feet or larger.

After making its final recommendation on the ordinance amendment, the Commission subsequently briefly discussed the permitting requirements for nonexempt hoop structures and shade structures located within the Santa Ynez Valley D Overlay and the Gaviota Coast CVC Overlay – that is, whether the required permit within these overlays should be a Land Use Permit instead of a Development Plan for non-exempt hoop structures and shade structures that are larger than 20,000 square feet. The Commission made a separate motion to ask the Board to consider this question; however, it was not part of the final recommendation of the Commission and is not part of the Commission-recommended ordinance amendment attached to this Board Agenda Letter (Attachment 4).

5. MM-WR-1 (Crop Protection Structures within a Floodway) would not allow structures located within the floodway with an exemption, but would allow them with a permit, such that site-specific review would determine the potential for flooding and compliance with the County Floodplain Management Ordinance. The purpose of this mitigation measure is to reduce impacts associated with using crop protection structures within a Federal Emergency Management

Association (FEMA) mapped floodway (e.g., along the lower reaches of the Santa Ynez River near Lompoc). The Commission requested additional information from the County Flood Control District, and based on the new evidence submitted in a letter from the Public Works Deputy Director of the Flood Control District and testimony at hearing by the Flood Control Engineering Manager, concluded that impacts associated with the use of crop protection structures within a floodway would be less than significant. Therefore, the Commission determined this mitigation measure would not be required.

6. MM-BIO-1 (Limit Exemption to Crop Protection Structures on Historically Intensively Cultivated Agricultural Lands) would apply to all grazing lands and other lands that have not undergone intensive agricultural cultivation within a specified timeframe because these lands may support protected biological resources, including special status plant or animal species (including listed federal and state threatened and endangered species and their habitats) and/or other sensitive habitats and sensitive natural communities. The purpose of this mitigation measure was to reduce potentially significant impacts to unique, rare, threatened or endangered species and sensitive habitats, including plant and animal species listed by the federal and California Endangered Species Acts. MM-BIO-1 would address these impacts by limiting the permit exemption for crop protection structures to only those agricultural lands that have been historically intensively cultivated within a particular timeframe. In addition, MM-BIO-1 defined historically intensively cultivated agricultural land for the purpose of this ordinance amendment as land that has been tilled for agricultural use and planted with a crop for at least three of the previous five years. The Commission explored alternative timeframes for what should be considered historically intensively cultivated to decrease the burden on agriculture while still providing mitigation of potentially significant impacts to biological resources. Staff consulted with the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) to determine a timeframe that would not substantially increase the severity of impacts to biological resources. USFWS stated it could support one of the alternative timeframes considered, one year out of the previous three years. CDFW stated a preference for the original timeframe, three years out of the previous five years (Attachment 12). The Commission recommended revising the timeframe to be considered historically cultivated to at least one year out of the previous three years.
7. MM-BIO-2 would require a minimum gap of one foot between ground surface and hoop structure plastic. The purpose of this mitigation measure was to address impacts of crop protection structures located within 1.24 miles of a known or potential California tiger salamander (CTS) (*Ambystoma californiense*) breeding pond by allowing free movement of CTS. Following Commission questions, P&D staff consulted further with staff of the USFWS. USFWS further considered the MM-BIO-2 requirement to maintain a gap between the ground and the hoop structure plastic and consulted five independent CTS biologists. The biologists unanimously agreed that “although it is usually beneficial to allow passage for dispersing wildlife, in this case doing so would expose California tiger salamanders to hazards associated with agricultural activities ... and it is better overall to exclude California tiger salamanders from the hoop structures.” USFWS then recommended removing MM-BIO-2. P&D staff and the Commission concurred, and the Commission recommended removal of this mitigation measure.
8. MM-BIO-3 (Setbacks from Streams and Creeks) would require setbacks from streams and creeks of 100 feet in Rural Areas and 50 feet in Urban and Inner-Rural areas and Existing Development Rural Neighborhoods. The purpose of this mitigation measure was to reduce impacts to riparian habitats and species that depend on riparian habitats for food, forage, shelter, and wildlife

corridors, and ensure consistency with Comprehensive Plan policies that identify specific setback distances from streams and creeks. The Commission recommended revising MM-BIO-3 (Setbacks from Streams and Creeks) to decrease the setback from streams and creeks in the Rural Area from 100 feet to 50 feet. Staff proposes a footnote in the proposed Ordinance Amendment (Attachment 4) to clarify, pursuant to LUDC Subsections 35.10.020.B, 35.20.020.C, 35.82.080.E.1.f, and 35.82.110.E.1.a that land uses and structures shall comply with the Comprehensive Plan including applicable community plans, and, therefore, must comply with policies that require 100-foot setbacks within the Rural Area of certain community plan areas (Gaviota Coast Plan, Santa Ynez Valley Community Plan, and Toro Canyon Plan), where applicable.

9. Neither the original draft ordinance amendment nor the EIR considered whether to limit the use of crop protection structures on steep slopes. The Commission recommended adding a slope criterion after considerable discussion and public testimony at several hearings. The slope criterion would be used to determine when crop protection structures would be exempt and when a permit would be required. The Commission recommended that these structures be allowed without a permit when located on slopes averaging 20% or less (calculated over the area of the lot where crop protection structures will be used), and require a permit when located on steeper slopes.

4.0 Comprehensive Plan Consistency

The Commission reviewed the Hoop Structures Ordinance Amendment for consistency with the applicable policies of the Comprehensive Plan, including community plans with lands zoned for agriculture. As discussed under Section 2.0 above (Item #8), pursuant to LUDC Subsections 35.10.020.B, 35.20.020.C, 35.82.080.E.1.f, and 35.82.110.E.1.a, land uses and structures shall comply with the LUDC and Comprehensive Plan including applicable community plans, and, therefore, must comply with policies that require 100-foot setbacks within the Rural Area of certain community plan areas (Toro Canyon Area Plan, Santa Ynez Valley Community Plan, and Gaviota Coast Plan). The Ordinance Amendment (Attachment 4) includes a footnote to clarify this requirement. With that clarification, the Hoop Structures Ordinance Amendment, as revised by the Commission, would be consistent with the Comprehensive Plan, including applicable community plans.

5.0 Board Changes to the Commission Recommendation

If the Board chooses to make changes to the Commission recommendation, staff recommends that you provide direction to staff to return at a later date to amend the ordinance language, findings, and EIR to reflect the Board's direction. If the changes require revision and recirculation of the EIR, the EIR contract has a remaining balance of \$35,811, including contingency funds, which may be sufficient for revision and recirculation of the document, depending upon the changes.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Funding for the project is included in the Board of Supervisors-adopted Planning and Development Department budget in the Long Range Planning Budget Program on page D-272 of the adopted Fiscal Year 2018-2019 budget. Current fiscal year project cost to date is approximately \$57,677. Total cost to date is approximately \$329,663, including contract costs to prepare the EIR. There are no facilities impacts.

On October 10, 2017, the Board approved a contract of \$149,985 (including a 10 percent contingency) with RECON Environmental, Inc. (RECON) to prepare an EIR for the Hoop Structures Ordinance Amendment. RECON delivered a proposed Final EIR in May 2018 for the Commission's consideration without using the entire budget. Currently, there is a balance remaining of \$35,811, including contingency funds, which may be sufficient for revision and recirculation of a revised EIR, should the Board direct an action necessitating such a revision.

Special Instructions:

The Planning and Development Department will fulfill noticing requirements.

The Clerk of the Board shall provide a copy of the executed ordinance amendment and the minute order to P&D, attention: David Villalobos.

Attachments:

1. Findings for Approval and Statement of Overriding Considerations
2. Final Environmental Impact Report (17EIR-00000-00004)
http://longrange.sbcountyplanning.org/programs/Hoop%20Structures/PDF%20Files/Final%20EIR/Final%20Program%20EIR_Hoop%20Structures%20Ordinance%20Amendment.pdf
3. EIR Revision Document (RV 01)
4. Ordinance Amending the County Land Use and Development Code (Case No. 17ORD-00000-00005)
5. Planning Commission Action Letter, dated January 30, 2019
6. Policy Consistency Analysis
7. Staff Report to the Planning Commission dated May 22, 2018 (without attachments)
8. Staff Memorandum to the Planning Commission dated July 3, 2018 (without attachments)
9. Staff Memorandum to the Planning Commission dated August 21, 2018 (no attachments)
10. Staff Memorandum to the Planning Commission dated October 30, 2018 (without attachments)
11. Staff Memorandum to the Planning Commission dated November 28, 2018 (without attachments)
12. Staff Memorandum to the Planning Commission dated January 22, 2019 (without attachments)
13. Public Comments to the Planning Commission

Authored by:

Julie Harris, Senior Planner, Long Range Planning Division