



Legislation Text

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To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Crystal Acker and Scott Orr, 707-565-1754

Vote Requirement: Informational Only

Supervisorial District(s): Countywide

Title:

8:45 A.M. -Comprehensive Cannabis Program Update Study Session; ORD21-0004

Recommended Action:

Receive a report summarizing results of community engagement conducted in August and early September, 2021, identify overall goals and discuss the proposed direction for updating the Comprehensive Cannabis Program and associated Environmental Impact Report analysis.

Executive Summary:

On June 8, 2021, the Board directed staff to complete a comprehensive update of the cannabis program, based on community input and an Environmental Impact Report (EIR) to comply with the California Environmental Quality Act (CEQA). As a first step in this three-year process, staff relaunched public outreach and engagement concerning the new cannabis ordinance by holding eight virtual visioning sessions, twelve small group outreach sessions, and conducting a county-wide survey.

Due to the complexity and breadth of issues raised and competing values expressed during stakeholder discussions and community engagement, staff believe a review of the entire cannabis program is warranted, and that specific policy recommendations in many areas where a consensus cannot otherwise be obtained will likely need to rely on the results of a comprehensive environmental review, such as would be provided through the Environmental Impact Report process. Although the majority of comments received were focused on cannabis cultivation, substantial input was also received related to manufacturing, distribution, transportation, and retail, indicating that staff should look at all aspects of the cannabis supply chain in the ordinance update.

Staff are seeking the Board's input on policy options to inform the ordinance framework, and have outlined several possible directions and components that could be included in the policy update process, based on public input received since June, 2021. The options presented in this summary report are not intended to represent every aspect of the new ordinance nor every factor to be evaluated in the EIR. The scope of the EIR and details on the proposed ordinance will be developed in later phases.

Discussion:

LEGISLATIVE BACKGROUND SUMMARY

State

In October 2015, the state enacted the Medical Cannabis Regulation and Safety Act (MCRSA) to provide a regulatory framework for medical cannabis businesses. On November 8, 2016, the voters of California passed the Adult Use of Marijuana Act (AUMA). On June 27, 2017, the state passed Senate Bill 94, which consolidated statutes into the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), creating the state cannabis regulatory structure. On July 12, 2021, the state passed Assembly Bill 141, which made changes to MAUCRSA, and created the Department of Cannabis Control (DCC) by consolidating three former state cannabis agencies and transferred all state authority for regulation, licensing, and inspection of cannabis activity in California to the DCC.

Local

Sonoma County first started regulating the cannabis industry with the original dispensary ordinance (Ord. No. 5715) adopted March 20, 2007 and amended on February 7, 2012 to impose a cap of nine dispensaries in the unincorporated County (Ord. No. 5967).

The first comprehensive Cannabis Land Use Ordinance (Ord. No. 6189) was adopted under a Negative Declaration on December 20, 2016, amending Chapter 26 of the Zoning Code to include new definitions and establish special use regulation to allow commercial (and personal) medical cannabis cultivation, and commercial supply chain land uses in various zoning districts.

In April 2017, a multi-department cannabis program was established to implement the ordinances adopted by the Board in December 2016.

On April 10, 2018, the Board conducted a Cannabis Ordinance Study Session and adopted a Resolution of Intent to update the existing Cannabis Ordinance. The update effort was split into two phases.

On October 16, 2018, consistent with the first phase, the Board of Supervisors adopted Ordinance number 6245, amending Chapter 26 to allow adult use cannabis in Sonoma County for the full cannabis supply chain, enhance neighborhood compatibility with a 10 acre minimum parcel size for cultivation, add new definitions, and make minor non-substantive amendments to harmonize with California state law and regulations, where appropriate.

On December 17, 2019, consistent with the second phase, the Board approved direction for staff to implement certain changes related to the cannabis program and its management. The primary direction was to amend the Cannabis Land Use Ordinance to expand opportunities for ministerial cannabis cultivation permits to be administered through the Department of Agriculture/Weights and Measures. Staff also received direction to address neighborhood compatibility.

On May 18, 2021, the Board voted 5-0 to reject the Planning Commission's recommendation to adopt a Mitigated Negative Declaration and a new chapter 38 to increase ministerial permitting for cannabis cultivation within Agricultural and Resource zoned parcels. The Board, instead, directed staff to bring forth a timeline and resources plan necessary to undertake a comprehensive update of the cannabis program, including an update to the County Code and preparation of an Environmental Impact Report, as expeditiously as possible. Additionally, the Board wanted staff to expedite resolution of permits that have been in process since at least June 1, 2018.

On June 8, 2021, the Board approved an initial request for resources to launch the first phase of a Comprehensive Cannabis Program Update, consisting of community engagement to inform the Board's Policy Goals, and gave additional direction on an overall project timeline.

Penalty Relief Program

The original Cannabis Land Use Ordinance established a transition period for those cannabis businesses currently operating under the cooperative/collective model to continue operating while coming into compliance with new local permitting requirements. Regulations for the Temporary Code Enforcement Penalty Relief Program were established by Resolution 17-0233 on May 23, 2017. On September 12, 2017, Resolution 17-0319 was adopted to require an application for the Penalty Relief Program by October 31, 2017, after which new applications would not be accepted, and to extend the deadline for submittal of complete land use applications until June 1, 2018.

COMMUNITY ENGAGEMENT SUMMARY

Public Outreach Conducted

Virtual Visioning Sessions

Eight virtual visioning sessions were held on the Zoom platform August 9 through August 12, 2021, in four primary topic areas: Land Use, Public Safety, Water Use Considerations, and Visual Considerations. The purpose of these sessions was not to build consensus, but to identify the wide range of opinions that Sonoma County residents have regarding their vision for the future of the County's cannabis program. Two identical 90-minute sessions were held each day, one at 11:30 am and one at 5:30 pm. Staff from public agencies provided a PowerPoint presentation which briefly introduced key components of what a cannabis program might include for the public to consider. After each brief staff comment, professional third-party facilitators moderated public written comment provided via the Q & A Zoom feature and by email. Two Spanish interpreters provided interpretation in each session.

In total, 210 participants attended one or more of the eight sessions, with 442 attendees across all sessions representing an average of about 110 participants per topic-day. The two days with the highest attendance were Monday, August 9, the Land Use day, and Wednesday, August 11, the Water Use Considerations day. In addition, 251 written comments were submitted in response to the visioning sessions through August 15, 2021. The most frequent comments and trends identified are summarized below in the Public Input Summary. For full details, the Virtual Visioning Sessions Summary Report is provided as Attachment 1. Transcripts of the Zoom Chats (which includes emails submitted during the sessions) and of the Q & A are included as Attachments 2 and 3. Written comments from July 23 through August 15, 2021, primarily related to the visioning sessions, are included as Attachment 16. Additional public comment submitted on all topics from August 16 through September 15, 2021, are included as Attachment 17.

Small Group Outreach

County staff met with twelve community and industry groups August 16 through August 25, 2021, to listen to their ideas for the cannabis ordinance update. One-hour Zoom sessions were scheduled for each group, limited to 8 participants per session to better facilitate a discussion. Eight of the sessions were with community or geographically-defined groups, including Bennett Valley/Bennett Ridge, "Community Group 8", Concerned Citizens of Bloomfield, Franz Valley, Friends of Graton, Mark West and Palmer Creek/Mill Creek, Montgomery Road, and No Pot on Pepper/Liberty Valley. Four sessions were held with industry groups,

including the Cannabis Business Association of Sonoma County, Hessel Farmers Grange, Industry Professionals, and the Sonoma County Growers Alliance. Some of these groups also submitted written comments and/or copies of their presentations following their session, included as Attachments 5 through 14. Two additional groups, the Alexander Valley Association and a Sebastopol community group, were unable to attend a Zoom session but submitted written comments, Attachments 4 and 13.

Many of the community group comments were related to specific cannabis operations or were focused on specific topics of concern to their group. However, overall, small group participant comments followed the same general themes as the visioning sessions. The most frequent comments and trends identified during small group session are included in the Public Input Summary below.

Cannabis Visioning Survey

A Cannabis Visioning Survey was open on the Survey Monkey platform from August 31 through September 6, 2021. Many of the questions contained in the survey were intended to obtain additional detail and add clarity to comments from the visioning sessions and community group meetings.

Outreach Format

The format of the virtual visioning sessions and the county-wide survey both generated a large number of comments expressing dissatisfaction with the process itself, and claiming bias either for or against the cannabis industry, often both at the same time related to the same visioning session speaking point or the same survey question. In general, a greater percentage of comments received on the virtual visioning sessions claimed bias for the industry, while a greater percentage of comments received on the survey claimed bias against the industry. In some cases, comments suggested that the County did not ask the right questions, or delve deeply enough into the details of the future cannabis ordinance.

While the virtual visioning sessions allowed freeform responses from the public, the survey required participants to select discrete choices. The survey intentionally asked about tradeoffs, even though the choices presented are not the only options under consideration. While many of these tradeoffs may have seemed black and white, they help staff understand the priorities of residents. Survey answers will not be used as “votes” to approve or disprove any future ordinance recommendations, or as support to select protection of one environmental resource over another. The intent was to guide priority trade-offs further into the process, after environmental analysis has been completed on all options.

Staff reiterate that none of the questions asked during any portion of the recent public outreach efforts were intended to represent every aspect that will be taken into consideration during development of a draft ordinance nor every factor to be evaluated in the EIR. The scope of the EIR and details on the proposed ordinance will be developed in later phases. This outreach was just the first step of the multi-year ordinance revision process. Staff will consider public input throughout the process. There will be additional opportunities to provide comment. The outreach focused on areas where staff can learn from the public and topics where feedback is most useful at this phase of draft ordinance development.

Public Input Summary

Location and Separation

Many ideas were expressed about where cannabis cultivation operations should and should not be located.

Generally, comments can be grouped into two broad categories: protecting natural resources and protecting neighborhood compatibility. Some of the most common public input trends were in conflict with each other. For example, areas where groundwater is most available and where first responder response times are faster (a majority of comments favored siting cultivation in these areas) also generally have the highest population density (a majority of comments disapproved of siting cultivation in these areas).

Some public comments suggested that all cannabis operations should be restricted to industrial areas. However, comments from the cannabis industry indicate that a shift towards more outdoor cultivation in rural areas is likely to occur in the future due to the development and promotion of the cannabis appellation program at the state level (not yet adopted), which excludes cannabis products that are grown indoors and requires that all cultivation and processing activities (including planting, growing, harvesting, drying, curing, grading, and trimming) be conducted within an appellation boundary to qualify.

Multiple comments requested that cottage grows should be allowed in rural residential areas, such as the Agriculture and Residential (AR) and Rural Residential (RR) Zoning Districts. The State currently defines a cottage grow as allowing up to 500 square feet of indoor cultivation, up to 2,500 square feet of mixed light cultivation, or up to 25 mature plants for outdoor cultivation.

Many comments were received requesting that the County re-evaluate Inclusion Zones (areas where cannabis operations are encouraged and permitting can be streamlined) and Exclusion Zones (areas where cannabis operations are prohibited) in the new ordinance. Some commenters requested that the new ordinance include an option for neighborhood groups and landowners to apply for a new Inclusion or Exclusion Zone, in addition to any determined by the County.

Compared to cultivation, less public input was received related to location of cannabis supply chain operations, such as distribution centers, manufacturing facilities, and dispensaries, indicating that the industrial and commercial areas where these uses are currently located may already be a good fit.

Many suggestions were received for determining appropriate cultivation separation, including parcel size, central location within the parcel, and specific setback distances; however, no clear trend was identified. Although suggestions for setback distance ranged from none to several miles, the most frequent distance proposed was 1,000 feet.

Multiple comments were received both for and against allowing waivers of established setback distances from sensitive uses.

Odor

Comments related to controlling cannabis odor included both ends of the possible spectrum, from no requirements comparable to agricultural operations, to total odor control through various means. However, a general consensus appears to be that containing odor within the permitted parcel would be acceptable to most.

Water Resources

While comments were received related to most natural resources, protection of water resources was by far the most frequently expressed concern. Water use comments were primarily related to cultivation, and not

the supply chain.

All participants agreed that water resources, particularly groundwater, should be protected to allow for continued support of all land uses into the future, including cannabis, traditional agriculture, residential uses, and commercial/industrial development. Two general groupings of comments emerged: location of cannabis cultivation operations, and the need for additional water-related environmental analysis.

Locational comments generally consisted of suggesting cannabis cultivation operations should be sited outside areas of low groundwater availability, and that operations should be adequately distanced from surface waters, like stream channels, and from neighboring groundwater wells.

Comments related to a need for further study were highly variable, ranging from status quo (requiring site-specific groundwater studies for most discretionary projects), to suggesting groundwater studies should be required for all discretionary and ministerial projects (not just cannabis), to advocating for an update to the Groundwater Availability Zone mapping for the entire county. The common trend through the comments was a request for accurate baseline water resource data and a detailed analysis of how cannabis operations could impact that resource. Many also suggested that all water use analyses should include various drought scenarios into the future.

In general, the array of comments indicates that water resources will be a key issue in the environmental process and that specific policy recommendations will likely need to rely on the results of a comprehensive environmental review, such as would be provided through the Environmental Impact Report process.

Visual Resources

There was general consensus from most participants that visual resources and the existing character of Sonoma County should be protected. Ideas on how that might be accomplished were wide-ranging.

A few consistent trends were identified, including imposing permit limitations within designated Scenic Resource Areas identified in the Sonoma County General Plan, and within proximity to various other visually sensitive resource areas, including public parks, greenbelts, and lands under an open space easement. In addition, most participants dislike high visibility security fencing and would prefer the new ordinance to require better screening or alternate security measures.

On the other hand, comments about hoop houses were split, with many believing they are a normal part of agriculture and as such, blend into the rural landscape, while others suggest that hoop houses are a visual blight on the landscape.

Public Safety

Public safety was a concern among all participants, although ideas on how to increase safety for neighbors, operators, and employees were wide-ranging. The only consistent trend identified can be distilled down to location, that cannabis operations could be most safe when sited in areas with low wildfire risk, adequate access, and/or rapid response time for first responders, and that provide adequate buffer distance from residential communities.

While most of the comments received on safety issues were from members of the public concerned about

how a cannabis operation near them could affect the safe use of their property, it should be noted that comments were also received from current permit holders, who sometimes feel unsafe due to targeted opposition from their neighbors.

Many participants suggest that the new ordinance should incentivize permitting for local residents, and that such a program might improve neighborhood compatibility and safety. Many also suggested that compatibility and safety could be further increased if a local landowner or operator was required to live on-site.

Accountability, Condition Compliance, and Code Enforcement

One of the clearest trends identified in the visioning sessions and small groups was that nearly everybody is displeased with the current condition compliance and code enforcement systems.

Current permit holders generally feel it is too restrictive and/or that current County regulations are not clear, and that the County should defer compliance monitoring and enforcement to various state agencies that already do this efficiently as part of their own permit processes. This group also expressed concern that the general public has a misconception about the industry, possibly based on highly publicized incidents related to illegal operations, and suggested that the County should do more to educate the public on how permitted operations run and how compliance is currently monitored and enforced to curb misinformation and build trust.

Conversely, many members of the public feel that inspections are not frequent enough, and/or that when non-compliance is identified, permittees are given too much latitude to come back into compliance, and that penalties are not high enough to dissuade future non-compliant activities. This group also expressed dissatisfaction with the current County condition compliance monitoring program, and many feel that the burden of code compliance falls on neighbors to complain to initiate compliance inspections rather than these being proactively conducted by staff.

For those who feel a more robust code enforcement program is needed, lack of sufficient County staff was identified as a likely obstacle to improvement.

Improved Uniformity with State Regulations

A majority of current permit holders and industry associates suggested that multiple aspects of the cannabis program could be improved by increased parity with State regulations, stating that revising definitions and adding permit types to align with what is already allowed by the State would streamline both County permitting and State licensing processes, facilitate easier compliance monitoring, and provide additional opportunities for economic growth within the industry.

Some of the specific requests include, but are not limited to: elimination of the one-acre cultivation cap for owner/operator; modification of the maximum cultivation area per parcel size limitation to allow full utilization of existing industrial buildings; elimination of the size cap for propagation and vegetative production area; allowance of new permit types, in compliance with state licensing requirements, such as self-distribution at all points in the supply chain, and accessory or adjunct (small-scale) distribution or manufacturing associated with a permitted dispensary; and revision of the cannabis land use tables (Tables 1A-C Allowed Cannabis Uses and Permit Requirements in Sec. 26-88-250) to improve clarity.

Staff notes that while most of these changes are perceived as minor by those who advocate for them, many may have environmental impacts and/or would be considered projects under CEQA.

Permit Process

Ministerial versus Discretionary. Many opinions were submitted related to the ministerial permit process, which allows a permit to be issued without any site-specific discretionary review or public notification if the project proposal meets code standards. However, comments varied widely on whether the new program should allow all cannabis permits to be ministerial, require all permits to go through a discretionary use permit process, or some combination of the two depending on project-specific factors, such as location (i.e., industrial vs. agricultural) or overall size of the operation. In general, permit applicants and industry allies view the ministerial process as favorable, believing it provides the best opportunity for a streamlined pathway to a decision. Whereas, the general public has a less favorable view of the ministerial process, with many believing it should include site-specific environmental review and public notification.

Term limits. Permit term is another topic that seems to split between the general public, who generally want term limits, and the industry, who typically do not.

Transitional Pathway for Current Permits. Many current operators expressed concern about how their permit applications or issued permits would be transitioned into a new ordinance, which may have different standards than their operation was previously subject to. This group requested that clear transitional pathway options be provided in advance of ordinance adoption to allow proactive planning and minimization of impacts to existing businesses.

Penalty Relief Program. Much concern was expressed related to the Penalty Relief Program and any other pipeline provisions for existing operations which are not fully permitted under current standards (such as renewals of operations permitted before the 10-acre minimum was adopted). Most comments related to this topic requested that these permit applications be expedited to decision, that they be given a hard sunset date by which the permit must be issued or withdrawn, or that they be immediately withdrawn from the program, through a moratorium or other method.

Moratorium on Cannabis Permitting

Although many public participants do not appear to support a moratorium, multiple requests for a moratorium were received. Many of these requests did not specify what type(s) of permit(s) a moratorium should apply to. However, among those that did specify, the most frequent concern expressed was with ministerial permits that do not provide an opportunity for the public to be involved in the approval process.

Other Frequent Comments

A general trend that carried over multiple categories was that most current permit holders and those involved in the cannabis industry believe that cannabis should be regulated as an agricultural use, like hemp.

Conversely, a trend amongst a subset of the public believes that cannabis should be regulated as a drug, and that more study is required to determine its effects on the community.

Comments received in some categories, such as overall size and concentration of cultivation operations, and whether the new ordinance should allow cannabis-related tourism and events had no clear trends, but did

generate a lot of input, indicating these topics are of significant interest to the public.

Tax Reform

Changes to the current cannabis business tax code will not be a part of the land use ordinance update; however, the comment was frequent enough that staff wanted to include it here for the Board's consideration to initiate a concurrent effort with the County Tax Collector.

BOARD DISCUSSION

Due to the complexity and breadth of issues raised and competing values expressed during stakeholder discussions and community engagement, staff believe a review of the entire cannabis program is warranted, and that specific policy recommendations in many areas where a consensus cannot otherwise be obtained will likely need to rely on the results of a comprehensive environmental review, such as would be provided through the Environmental Impact Report process. Although the majority of comments received were focused on cannabis cultivation, substantial input was also received related to manufacturing, distribution, transportation, and retail, indicating that staff should look at all aspects of the cannabis supply chain in the ordinance update.

Staff are seeking the Board's input on policy options to inform the ordinance framework, and have outlined several possible directions and components that could be included in the policy update process, based on public input received since June, 2021. The options presented below are not intended to represent every aspect of the new ordinance nor every factor to be evaluated in the EIR. The scope of the EIR and details on the proposed ordinance will be developed in later phases.

To facilitate discussion, options are grouped into four categories: increasing neighborhood compatibility, increasing economic opportunities, identifying environmental baseline, and permit processing. Note that the order in which these are presented does not indicate staff preference or recommendation.

Policy Options to Increase Neighborhood Compatibility

A. Additional Public Engagement

1. Consider development of a Public Outreach Plan for continued public engagement and community input throughout the ordinance update process, including targeted engagement of Spanish-speaking communities.

B. Zone Changes

1. Consider creation of Cannabis Exclusion Combining Districts (Exclusion Zones).

The Cannabis Exclusion Combining District would allow the Board to exclude cannabis uses on properties on which a cannabis use would otherwise be allowable, based on the properties meeting one or more specified criteria such as inadequate road access, residential character, or low water availability.

- Exclusion Zones could be determined through the environmental review process and adopted by the Board along with the new ordinance.
- Alternatively or additionally, the new ordinance could include a process to allow neighborhood groups and landowners to apply for a new Exclusion Zone, in addition to any determined by the County.

2. Consider creation of Cannabis Inclusion Combining Districts (Inclusion Zones).

The Cannabis Inclusion Combining District would allow the Board to streamline permitting of cannabis uses on parcels meeting one or more specified criteria, such as minimum parcel size, residential compatibility, or high water availability.

- Inclusion Zones could be determined through the environmental review process and adopted by the Board along with the new ordinance.
- Alternatively or additionally, the new ordinance could include a process to allow landowners to apply for a new Inclusion Zone on a specific property or properties within a Zoning District where cannabis uses would not otherwise be allowed (such as a parcel under minimum parcel size) subject to limitations and provided certain criteria were met, such as residential compatibility, or high water availability.

Policy Options to Expand Opportunities for Economic Growth within the Industry

B. Zone Changes

3. Consider allowing cottage-sized cultivation in the Agriculture and Residential (AR) and Rural Residential (RR) Zoning Districts. The State currently defines a cottage grow as allowing up to 500 square feet of indoor cultivation, up to 2,500 square feet of mixed light cultivation, or up to 25 mature plants for outdoor cultivation.

This policy option would allow small farmers in rural residential areas to enter the market and would allow local residents to supplement income opportunities, subject to limitations and provided certain criteria were met, such as a minimum parcel size, residential compatibility, or high water availability.

- Specific criteria to allow cultivation within the AR and/or RR Zoning Districts could be determined through the environmental review process and limitations on cultivation type (i.e., indoor, outdoor, mixed light) could be adopted by the Board along with the new ordinance.
- Alternatively or additionally, allowance of cultivation on specific AR and/or RR Zoned parcels could be implemented through creation of Inclusion Zones, as described above.

Environmental Baseline

The Board has already provided direction to staff to include preparation of an Environmental Impact Report as part of the comprehensive cannabis ordinance update. The EIR will contain a description of the environmental baseline for all environmental resources in the County, including groundwater. There are multiple ways such information could be obtained and organized. The option proposed below is one, which, in addition to informing the cannabis environmental analysis, could provide many beneficial applications beyond the current cannabis ordinance update.

C. Update to the County's Groundwater Availability Zone mapping

1. Consider initiation of a comprehensive study to update the Groundwater Availability Mapping for the entire county. The current mapping was developed in the 1980s, and although it has not been significantly updated since, it is based on substantial evidence and still provides meaningful data on water yield, natural recharge, and major groundwater basins within the County.

Updated mapping could provide additional beneficial applications for the current cannabis ordinance update and beyond, as this information is used to regulate all types of residential, commercial, and industrial development, inform General Plan policy, and could be used to guide future drought planning efforts. It is estimated that this effort would take six months to one year to complete. However, groundwater availability zones are most useful for identifying areas with limited groundwater (Class III and IV areas), and were not intended to identify areas sensitive to overdraft, well interference, or streamflow depletion, the most commonly assessed potential impacts related to cannabis water use.

Permit Processing

D. General Plan Amendment

1. Consider a General Plan Amendment to Classify Cannabis as Agriculture

On May 18, 2021, the Board voted to reject the proposed General Plan Amendment to include cannabis within the meaning of "agriculture" and "agricultural use" as used in the Sonoma County General Plan, in part based on the Board's desire for additional environmental analysis and further development of policy options related to such a reclassification.

The current Board direction to undertake a comprehensive review of the cannabis program based on an EIR could provide another opportunity to consider a General Plan Amendment.

E. Streamlined Permit Processing

The goal of a ministerial program is to set forth clear standards that a project must meet in order to qualify. Staff verify that the application complies with code standards, and either issues or denies the permit without exercising any discretionary judgement. In situations where projects are relatively straightforward, and code

standards are well defined and comprehensive enough to address most project proposal variations, the ministerial process can allow for faster and less expensive permit processing. Public comment received has indicated that the current ministerial process outlined in the Zoning Code can be difficult to understand for many applicants, and also has some challenges to implement for staff due to ambiguous or confusing language. In addition, as the cannabis program has evolved, new circumstances not contemplated when the ordinance was drafted have arisen, which makes interpretation of code challenging. A significant component of the comprehensive ordinance update will be to amend the code to provide greater clarity and to reflect current interpretations, which would help streamline the permitting process across all permit types.

1. Consider alternatives to ministerial permits that still allow for streamlined processing. Staff is in the process of exploring such options. One example is to do a Program Environmental Impact Report studying the Cannabis Land Use Ordinance. Review of each subsequent permit is discretionary, but environmental review at the project level can then be streamlined. If the project is found to be within the scope of what was already studied under the Program EIR, then no additional environmental review may be required or only minimal additional environmental analysis. One benefit of this option is that DCC, the State cannabis licensing authority, requires all operators to obtain a discretionary cannabis license. If the county issues a ministerial permit, DCC becomes the lead agency and applicants may get stuck at the State-level attempting to comply with CEQA. Second, the County would be better positioned to analyze potential impacts of a project and condition it accordingly.

The County is diverse in many respects and developing the one-size-fits-all process that a ministerial program requires may not be feasible for this use. In addition, the ministerial process does not include a public hearing or public notification. Consequently, there is potential for ministerial applications to be submitted and approved in conflict with neighborhood values and overall compatibility.

Ministerial permits may be best suited for supply chain businesses that are located in developed areas. Further, there may be some uses, particularly in industrial zones, that could be allowed by right.

F. Moratorium on Cannabis Permitting

Staff do not recommend a moratorium on cannabis permitting. However, because multiple requests for a moratorium were received, staff is including this option for Board consideration. Due to the complexity involved with applying a moratorium to permits already issued and applications already in process, multiple potential variations are included for discussion.

1. Consider imposing a moratorium on cannabis permitting until after the EIR is completed and the new ordinance is adopted.
 - A moratorium could apply to new ministerial cannabis permit applications only.
 - A moratorium could apply to all new cannabis permit applications.

- A moratorium could apply to all new cannabis permit applications and to applications already in the permit processing system. If this option were to be selected, staff would return to the Board with transitional pathway options for current applicants. Current applications in process which could be affected by a moratorium include:
 - 86 ministerial Zoning Permits, and
 - 60 discretionary Use Permits, of which 28 are operating under the Penalty Relief Program.
- A moratorium could apply to all new cannabis permit applications, to applications already in the permit processing system, and to renewals of current permit holders. If this option is selected, staff would return to the Board with transitional pathway options for current applicants and current permit holders. Current issued permits which could be affected by a moratorium include:
 - 222 ministerial Zoning Permits, and
 - 58 discretionary Use Permits, of which 19 are operating under the Penalty Relief Program.

G. Transitional Pathway/ Interim Program

1. Consider development of a transitional pathway for issued permits and permit applications already in process prior to adoption of the new ordinance, which may have different standards than their operation was previously subject to. Development of options for a clear transitional pathway as a component of the new ordinance will allow proactive planning and minimization of impacts to existing businesses. Note, this policy option would not be relevant if an option for a moratorium including applications and renewals were to be selected.

Much concern has been expressed, from the public and from the Board, regarding the existing permit application backlog, especially related to applications operating under the Penalty Relief Program, and that policy options should be provided to facilitate processing of this backlog to decision. However, this comprehensive ordinance update is too long-term to assist with expediting applications currently in the pipeline. Staff do recognize the need to address the current permit backlog, and are exploring options for additional resources to expedite permitting which could be shared with the comprehensive ordinance update. After staff receive direction from the Board today on goals and policy options, a resource request will be developed and presented for the Board's consideration at a later date.

PROJECT TIMELINE

The following overall timeline was presented to the Board on June 8, 2021, but has been expanded and refined.

Development of Draft Ordinance Framework - October 2021 through December 2021

- October 26, 2021 - Return to the Board on consent with refined resources request to support

the project

- Complete a draft ordinance framework including all potential program elements to consider in the EIR for the new program
- Identify potential program elements to develop further through additional public outreach

Development and Refinement of Draft Ordinance - January 2022 through May 2022

- January 2022 - Draft ordinance framework complete
- January 2022 - Initiate Competitive Request for Proposal (RFP) Process for an EIR Consultant
- Continue public outreach to develop and refine potential program elements as directed by the Board during today's discussion, listen to concerns, and develop options to address concerns
- May, 2022 - Draft ordinance complete for environmental analysis

Environmental Impact Report - June 2022 through Fall 2023

- June 2022 - EIR Professional Services Agreement Board Award
- June 2022 - Notice of Preparation published for the Draft EIR
- July 2022 - Public scoping meeting(s)
- Seek public input on what Potential Environmental Impacts should be considered in the EIR
- Conduct environmental analysis of the proposed draft ordinance
- Provide public access to technical studies used in the environmental analysis, as available
- Provide regular public status updates on the project webpage throughout the EIR process
- Fall 2023 - Draft EIR Published for Public Comment

Draft Ordinance and EIR Approval - Fall 2023 through Summer 2024

- Fall 2023 Draft EIR to Planning Commission for public comment
- Revisions to draft ordinance based on public comment and Planning Commission direction
- Spring 2024 Planning Commission Hearing on Proposed Ordinance
- Summer 2024 Board Hearing on Proposed Ordinance

RESOURCES NEED

Cannabis Ordinance Update

After receiving direction from the Board at today's meeting, staff will refine resource needs assessment for the options selected, and return to the Board with a request for consideration. Preliminarily on June 8, 2021, staff estimated that a comprehensive ordinance update and EIR would likely require full time services of a supervising planner, staff planner, community engagement specialist, and GIS Technician. An updated resource request to support Board direction received today will be developed and presented for the Board's consideration at a later date.

Temporary Permitting Capacity Increase

If the Board elects for priority processing of existing applications to speed up progress of permit processing and resolution backlog, staff recommends that time limited positions be considered instead of a third party consultant. The time limited internal approach provides a focus on the backlog of applications while providing the highest level of fiscal responsibility, as it does not require funds to be expended on contract management or coordination with consultants.

The State of California has set aside funds through the Local Jurisdiction Assistance Grant Program to assist with environmental review and processing of land use permit applications as part of a larger effort to transition the high number of provisional licenses to the final operating license (referred to as an annual license at the State level). Sonoma County is eligible for \$1,158,023 as part of this program. While the grant guidelines are not final, staff has conferred with the Department of Cannabis Control Director Nicole Elliott and confirmed that the funds are not available to support ordinance level work or funding an EIR. The funds can be used on staffing for permit processing.

It is important to note that the work performed by planners on use permits is at cost, meaning the applicant is responsible for 100% processing and review costs. Once state funding is secured, staff will return to the Board with programming of resources to increase permitting capacity.

Prior Board Actions:

- A. May 18, 2021 the Board of Supervisors voted 5-0 to:
 - 1. Accept the Planning Commission’s recommendation and disapprove the proposed general plan amendment;
 - 2. Disapprove the Planning Commission’s recommendation and do not adopt the SMND;
 - 3. Disapprove the Planning Commission’s recommendation and do not adopt the Ordinance Adding Chapter 38 to the Sonoma County Code to Expand Ministerial Cannabis Cultivation Permitting in the Agricultural and Resource Zones and Amending Chapter 26 to Expand Cannabis Cultivation Use Permits and Align with Chapter 38; And, that the Board of Supervisors directs staff to schedule a future public workshop, and take other necessary steps, to discuss and develop proposed revisions to the Cannabis Land Use Ordinance (Sonoma County Code Section 26-88-250 et seq.) that are to be studied under an environmental impact report.
- B. June 8, 2021: Approval of initial resource request to launch the Cannabis Program Update and associated Environmental Impact Report.

FISCAL SUMMARY

N/A

Narrative Explanation of Fiscal Impacts:

Updated resources to support Board direction received today will be developed and presented for the Board’s consideration at a later date.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

- Attachment 1. Visioning Sessions Summary Report, 8/27/2021
- Attachment 2. Visioning Sessions Zoom Chats Transcript, 8/9/2021 - 8/12/2021
- Attachment 3. Visioning Sessions Zoom Q&A Transcript, 8/9/2021 - 8/12/2021
- Attachment 4. Outreach Session Comments Alexander Valley Association
- Attachment 5. Outreach Session Comments Cannabis Business Association of Sonoma County
- Attachment 6. Outreach Session Comments Community Group 8
- Attachment 7. Outreach Session Comments Concerned Citizens of Bloomfield
- Attachment 8. Outreach Session Comments Franz Valley

- Attachment 9. Outreach Session Comments Friends of Graton
- Attachment 10. Outreach Session Comments Industry Professionals
- Attachment 11. Outreach Session Comments Mark West and Palmer Creek/Mill Creek
- Attachment 12. Outreach Session Comments Montgomery Road
- Attachment 13. Outreach Session Comments Sebastopol
- Attachment 14. Outreach Session Comments Sonoma County Growers Alliance
- Attachment 15. County-Wide Survey Results Graphics
- Attachment 16. Visioning Session Public Comment 7-23-2021 through 8-15-2021
- Attachment 17. Public Comment 8-16-2021 through 9-15-2021

Related Items “On File” with the Clerk of the Board:

N/A