

Mono County Community Development Department

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To: Board of Supervisors

From: Michael Draper, CDD Planning Analyst
Wendy Sugimura, CDD Senior Analyst

Subject: County Cannabis Workshop

RECOMMENDED ACTION

1. Receive staff presentation and conduct workshop; provide staff direction on Cannabis Policy Questions:
 - A. Timing of tax measure and regulatory permitting system,
 - B. Manufacturing with volatile solvents,
 - C. Interpretation of the Mixed-Use designation in the Antelope Valley,
 - D. Commercial cultivation in Rural Residential (RR) designations,
 - E. Buffers from schools and potentially other facilities, and
 - F. Bi-State sage-grouse mitigation measures.
2. Provide staff any desired direction on General Plan Issues, Opportunities, and Constraints; Policies; and regulatory topics.

FISCAL IMPACT

Impacts are not known at this time, and depend on a future tax measure and permit/regulatory fee program.

BACKGROUND

In November 2016, the voters of California passed Proposition 64 legalizing adult use of marijuana and cannabis for purposes other than medical uses. Statewide, the measure passed with a 56.4% approval rating, and in Mono County the measure passed with a 61.6% approval rating. Every precinct in Mono County approved the measure, although the margin was low in Bridgeport and Tri-Valley.

With the passage of Prop 64, local jurisdictions in the state essentially had three options: 1) Allow the State to regulate activities, 2) Ban activities in whole or in part, or 3) Draft local regulations for cannabis activities. At the June 13, 2017, Board of Supervisors meeting, the direction to develop local regulations was reaffirmed, and the Board provided input on a potential land use framework. This agenda item is based on this direction; however, all three options continue to be available.

The land use framework is based on a consistency analysis that evaluated potential cannabis activities, as defined by the State licensing program, for similarity to currently permitted uses in each Land Use Designation (LUD) in the Mono County General Plan (see Attachment #1). From this baseline scenario, LUD definitions and regulations can be modified to address specific issues, or increase or decrease requirements (although regulations may not be relaxed beyond State standards). For instance, the LUD "Commercial" allows for retail trade, professional services, personal services, etc. Therefore, a cannabis retail business appears to be similar to and consistent with these commercial uses rather than, for example, a residential LUD where the primary

use is single-family dwellings and other similar uses. A use permit or similar approval process is suggested as the approval tool at this time to allow for site-specific evaluations and adjustments.

A second round of community input was initiated for the consistency analysis and land use framework concept, which complemented the first round of community outreach on education and identification of public concerns, questions and comments. Both community outreach rounds were presented at the following Regional Planning Advisory Committee (RPACs) or community meetings: Antelope Valley, Bridgeport Valley, Mono Basin, June Lake Citizens Advisory Committee (CAC), Long Valley/Swall Meadows/Paradise, and Tri-Valley (Benton/Hammil Valley/Chalfant). The multi-departmental County Joint Committee also reviewed the framework, along with an audience of "industry" members.

The intent is to pursue a rational planning process that prioritizes public health and safety, and consistency with the General Plan Vision, community character, and related public input. Challenges that complicate the regulatory development process include rapidly changing state laws, the emotional nature of the topic, varying opinions across the county, and private investments prior to established rules.

Prior to today's workshop, the Board received presentations concerning cannabis on:

- March 21, 2017 – Regular Board meeting: report on ongoing activities, initial public feedback, and what we've learned so far.
- April 18, 2017 – Joint Town/County Special meeting: received a presentation by Paul Smith of the Rural County Representatives of California (RCRC).
- June 13, 2017 – Regular Board meeting: cannabis workshop: presentations from various departments. Direction provided was to draft and research regulations.
- August 1, 2017 – Regular Board meeting: Cannabis workshop; received presentation from Paul Smith (RCRC) and David McPherson of HdL (on taxation).

RPAC OUTREACH SUMMARY

The RPAC presentation consisted of the land use framework and consistency analysis, as well as a discussion of personal cultivation and school buffers. Below is a compilation of public comments received:

June Lake CAC 7/5/17

- What is the Board's view?
- Has the County completed an economic analysis on the industry?
- How will outdoor cultivation affect the environment? Specific concerns about water pollution were raised.
- Set a maximum area for cultivation
- June will have a preschool, please take that into account.
- Require a waste disposal plan
- Tax should cover the County's costs
- Require annual renewal of local licenses
- Consider visual effect of operations
- Do not allow personal cultivation outdoors in June Lake
- Ban pesticides and fertilizers during cultivation and have an organic certification

Bridgeport RPAC (7/11/17)

- No specific comments or concerns, buffer around schools (and potentially additional facilities) appears to be sufficient

Mono Basin RPAC (7/12/17)

- Allow personal outdoor cultivation, require screening and security
- Allow manufacturing in Commercial designations for creating edible products, similar to a commercial kitchen

Tri-Valley Community Meeting (7/16/17)

- Concerned with waste water from personal and commercial cultivation leeching into wells – need to limit pesticides used
- Require sustainability plan
- Where will seasonal employees live? The industry may increase demand for housing that is already limited.
- CBD oil/extracts can be manufactured without volatile solvents – no need to allow for volatiles.
- Desire to maintain a good community image – need to consider how we are seen based on the actions we take.

Long Valley Community Meeting (7/26/17)

- Concern with personal grows in apartments due to shared ventilation.
- Ban growing in rental properties that have shared centralized air units.
- The County needs to define Nuisance more strictly.
- Mono County should not be a marijuana Mecca.
- Create an ordinance that is manageable and enforceable with strong definitions.
- Straw Poll: 17 people total
 - Regulate personal grows: in favor = 7, opposed = 6, undecided = 1
 - Ban outdoor personal grows: 6
 - Expand buffer (add more facility types): 15
 - Expand buffer (distance to 1,000): 13
 - Expand buffer (distance to 2,000): 5
 - Create buffer corridors: 3

Antelope Valley RPAC 8/3/17

Personal Cultivation:

- Allow it outdoors, don't regulate further
- How do you regulate/enforce it?
- Wait until there's a problem, and then go after it
- There are currently houses growing and won't be able to bring them in for permits, so regulating would create problems where there weren't any before

Commercial Uses:

- How will distribution be handled?
- Only applicable LUD in the Antelope Valley is Mixed Use. Is this sufficient, or are more/different LUDs needed?

Commercial Manufacturing:

- The LUDs for commercial manufacturing don't apply in the Antelope Valley except for Agricultural. Need a mechanism to allow more broadly in the Antelope Valley.
- One person suggested allowing commercial manufacturing in residential - others disagreed. Some discussion about whether state law and/or fire standards would prohibit.
- Discussion about the definition of "manufacturing," does it qualify as a "cottage" industry that could be a home-based business? Is there a type of commercial manufacturing that fits with residential?

Commercial Testing

- Same LUD issue – these LUDs don't apply to the Antelope Valley. Need to provide for this use.
- Testing facility is necessary for regional success - make land uses broad to ensure we can have one somewhere in the Eastern Sierra.

Cultivation

- One person suggested allowing cultivation in residential
- Concern about lighting from greenhouses at night, Humboldt County cited as an example
- Suggestion that indoor cultivation should be allowed in any land use designation (or expanded LUDs) - if it's indoors, why do we care what LUD it's in?
- Suggestion that RR be an allowable LUD - or set a minimum size RR (20 acres) where it could be allowed with big buffer (setbacks) that would prevent impacts to neighbors
- A comment that odors are significant so be careful, even with indoor grows and buffers
- Some folks have strong opinions that requirements of the dark sky regulations should apply to all lighting – greenhouses, security lighting, etc.
- Setbacks: allow for variation based on configuration of the parcel and land, have consistent setbacks (don't increase if parcel size increases), preference for less than 200 feet
- Concern about kids: have setbacks with good security requirements
- Be careful about creating problems with the regulations
- One person against outdoor cultivation

Buffers

- Some supportive of expanding facilities (4 of ~15), consensus seems to be keep at 600 ft

Use Permit

- Skeptical about a requirement for a use permit - why is it needed, burden on applicant, burden on County
- Use permit requirement will make people miss out on 2018 growing season
- If meet requirements (e.g., via checklist), then allow, don't worry about site-specific issues
- Streamline with a checklist, plus if other permits are needed (building permit, etc.) then it takes too long
- Individual who is against outdoor commercial cultivation says there has to be a public comment process

Other

Allow in LUDs of interest (e.g., RR) so people don't have to change their LUDs – individuals should not need to be responsible for this land use change.

DISCUSSION

The purpose of today's workshop is primarily seek Board direction on policy issues (Attachment #2) in order to craft draft regulations for approval. Drafts of initial General Plan policy documents are also provided for feedback, including Issues, Opportunities, and Constraints (Attachment #3); policies (Attachment #4); and a menu of potential regulatory requirements (Attachment #5). The menu of potential regulatory requirements seeks to provide a range of options ranging from permissive to conservative, drawing on "best practices" as well as regulations proposed or in use by other California jurisdictions, and reflective of public input.

Staff is seeking specific direction from the Board on the policy questions and General Plan language. Ideally, the Board establishes policy guidance, and the Planning Commission develops the specific regulatory requirements in support of those policies. In this case, the Board's feedback will be used to craft final draft policies, and then the Planning Commission will recommend specific regulatory requirements (see timeframe below).

NEXT STEPS

Lastly, CDD has outlined the following timeframes for the County to complete cannabis regulation development by the target date of Dec. 31, 2017. Additional considerations include when the State will accept applications and issue licenses (issuance targeted for January 2, 2018), and the County's taxation measure. The current understanding of State licensing for cultivation is that local approval is not needed prior to an application submittal. Instead, the State will contact the local jurisdiction when processing an application for approvals and the jurisdiction has 60 days to respond.

Timeframe:

- ✓ **August 17:** Planning Commission Workshop – land use framework
- ✓ **Sept. 21:** Planning Commission Workshop – regulatory menu/options
- ✓ **Sept. 19 Oct 3:** Board of Supervisors Workshop – regulatory menu/options
- **Oct. 19:** Planning Commission Recommendation - public hearing on proposed regulations
- **Nov. 14:** Board of Supervisors Public Hearing (Resolution Adoption for General Plan Amendment)
- **Nov. 21:** Board of Supervisors Public Hearing for extension of moratorium (which would expire Dec. 2 if no action is taken)

For questions on this staff report, please contact Michael Draper (760.924.1805, mdraper@mono.ca.gov).

ATTACHMENTS

1. Summary of Land Use Consistency Analysis Framework
2. Policy Questions for Direction
3. Draft General Plan Issues, Opportunities, and Constraints
4. Draft General Plan Policies
5. Commercial Cannabis Regulation Topics and Menu
6. State license types and General Application Requirements