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Environmental Scoping Document for the Cannabis Land Use Ordinance and Licensing Program

Project Website:

<http://longrange.sbcountyplanning.org/programs/Cannabis/cannabis.php>

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1.0 Purpose

This environmental scoping document describes the Cannabis Land Use (CLU) Ordinance and licensing program (collectively, “Project”) and provides a preliminary review of the Project’s potential environmental impacts in accordance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.). This scoping document, along with comments received in response to the Notice of Preparation (NOP) of the Environmental Impact Report (EIR) for the Project, will assist the County of Santa Barbara, as the lead agency for the preparation of the EIR for the Project, in identifying environmental impacts that must be evaluated in the EIR.

2.0 Background

CEQA requires the preparation of an EIR to inform the public and decision-makers of the potential environmental effects of the proposed regulations. According to CEQA Guidelines Section 15151, an EIR should include a sufficient degree of analysis, or scope, to provide decision-makers with information that enables them to make a decision which intelligently takes account of environmental consequences.

The EIR for the Project will evaluate the environmental impacts of anticipated activities resulting from the implementing ordinance language for land use entitlements and licenses, which constitute the Project. The environmental analysis will be based on the Project Description and draft ordinance; although, changes to the language may be required based on results of the environmental review and decision-making phases of the Project.

3.0 Project Description

This section describes the proposed Project including the applicant/lead agency, Project location, existing environmental setting, regulatory setting, summary of the Project, and Project adoption and implementation actions.

3.1 Project Applicant/Lead Agency

The County of Santa Barbara is both the project applicant and the lead agency for the proposed Project.

3.2 Project Location

The Project involves amendments to the Santa Barbara County Land Use and Development Code, Santa Barbara County Montecito Land Use and Development Code, and Santa Barbara County Coastal Zoning Ordinance. These ordinance amendments (hereafter referred to as a single ordinance) will regulate medical and nonmedical cannabis activities in the unincorporated areas of Santa Barbara County, including the coastal zone (Figure 1), excluding land under the jurisdiction of incorporated cities, the federal government (Los Padres National Forest and Vandenberg Air Force Base), and the University of California Santa Barbara (UCSB).



Figure 1. Santa Barbara County Jurisdictional Map

3.3 Regulatory Context

In 1996, California voters passed Proposition 215, the Compassionate Use Act of 1996 (CUA). The purpose of the CUA was to “ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician” (Health & Safety Code section 11362.5(b)(1)(A)). In addition, patients and primary caregivers would not be subject to criminal prosecution or sanction (Ibid section 11362.5(b)(1)(B)). Two additional medical cannabis laws were enacted by the State. In 2003, the State adopted the Medical Cannabis Program Act and in 2016, the State adopted the Medical Cannabis Regulation and Safety Act (MRCSA). In response, the County adopted ordinances banning both medical cannabis dispensaries and medical cannabis cultivation, with limited exceptions, in the unincorporated areas of the County.

On November 8, 2016, the voters of the State of California approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (also known as the Adult Use of Marijuana Act, or AUMA). The AUMA establishes a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical cannabis, including cannabis products, for use by adults 21 years and older, and to tax the growth and retail sale of cannabis. It also sets forth provisions for the cultivation of industrial hemp. The AUMA

requires a state license to engage in commercial nonmedical cannabis activity and requires the State to start issuing licenses by January 1, 2018. Nonmedical cannabis operators will have to conform to all state regulations and the issuance of these licenses will also require the local jurisdiction's approval if the County adopts regulations in accordance with Business & Professions Code section 26200.

On June 27, 2017, Governor Jerry Brown signed SB-94, which combines the medical and recreational cannabis laws into one regulatory system known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). Among other things, the new law outlines the State-Local licensure process, clarifies law enforcement requirements, and establishes taxation plans.

None of the above regulations limit the authority of a local governing body to adopt and enforce local ordinances regulating or completely prohibiting state-licensed cannabis operations. Moreover, local jurisdictions may regulate or ban all outdoor cultivation and may impose reasonable regulations on personal cultivation (Health and Safety Code section 11362.2(3)(b)). The CLU Ordinance draft language is provided in Attachment A.

3.4 Summary of Proposed Ordinance and Licensing Program

The draft CLU Ordinance to be analyzed in the EIR would allow certain types of cannabis activities by zone district as described below:

- Allow cultivation of cannabis in Agricultural I (AG-I), Agricultural II (AG-II), Industrial Research Park (M-RP), Light Industry (M-1), and General Industry (M-2) zone districts.¹
- Allow manufacturing of non-volatile extraction in Agricultural I (AG-I), Agricultural II (AG-II), Limited Commercial (C-1), Retail Commercial (C-2), General Commercial (C-3), Community Mixed Use - Los Alamos (CM-LA), Service Commercial (SC), Mixed Use (MU), Industrial Research Park (M-RP), Light Industry (M-1), and General Industry (M-2) zone districts.
- Allow manufacturing of volatile extraction in Agricultural II (AG-II), Light Industry (M-1), and General Industry (M-2) zone districts.
- Allow post-processing and packaging in Agricultural I (AG-I), Agricultural II (AG-II), Limited Commercial (C-1), Retail Commercial (C-2), General Commercial (C-3), Community Mixed Use - Los Alamos (CM-LA), Service Commercial (SC), Mixed Use (MU), Industrial Research Park (M-RP), Light Industry (M-1), and General Industry (M-2).
- Allow testing in General Commercial (C-3), Community Mixed Use - Los Alamos (CM-LA), Service Commercial (SC), Mixed Use (MU), Industrial Research Park (M-RP), Light Industry (M-1), General Industry (M-2), and Professional and Institutional (PI).

¹ Personal cultivation and consumption of cannabis would be allowed in all zones that allow a residential use (e.g., single-family dwelling in a residential zone, or caretaker's residence in an industrial zone).

- Allow commercial retail sales in Limited Commercial (C-1), Retail Commercial (C-2), General Commercial (C-3), Service Commercial (SC), Mixed Use (MU), and Light Industry (M-1) zone districts.
- Allow wholesale commercial sales in General Commercial (C-3), Industrial Research Park (M-RP), Light Industry (M-1), and General Industry (M-2).
- Prohibit cannabis activities in all other zone districts including all Residential,² Mountainous Areas, Highway Commercial (CH), Resort/Visitor Serving Commercial (C-V), Coastal Dependent Industry (M-CD), Coastal Related Industry (M-CR), Public Works Utilities and Private Service Facilities (PU), Recreation District (REC), Resource Management (RES), and Transportation Corridor (TC) zone districts.

3.5 Adoption and Implementation

The Montecito and County Planning Commissions will consider and advise the Board of Supervisors (BOS) regarding the adoption of the CLU Ordinance. In addition to the CLU Ordinance, the BOS will consider amendments to the County Code to establish a local licensing program for cannabis activities. The BOS will need to take the following actions in order to implement the Project:

1. Adoption of environmental findings, certification of the EIR, and, if needed, adoption of a Statement of Overriding Considerations for any unavoidable, significant environmental impacts that will result from the Project;
2. Adoption of amendments to the Santa Barbara County Land Use and Development Code, Santa Barbara County Montecito Land Use and Development Code, and Santa Barbara County Coastal Zoning Ordinance, to establish the land use regulations that will pertain to cannabis activities;
3. Adoption of amendments to the Santa Barbara County Code to establish a local licensing program for cannabis activities; and
4. Possibly, the adoption of amendments to the Santa Barbara County Uniform Rules for Agricultural Preserves and Farmland Security Zones.

In addition to the actions set forth above, the Coastal Commission must certify any amendments to the Local Coastal Program (LCP)—including the Article II Coastal Zoning Ordinance, as the implementing ordinance of the LCP.

4.0 Scope of the Environmental Review

4.1 Overview

CEQA requires the preparation of an EIR to inform the public and decision-makers of the potential environmental effects of the Project. This includes any potential environmental effects resulting from the regulation of the cultivation, processing, manufacturing, distribution, testing, sale of cannabis (including cannabis products), retail sale of cannabis, and the cultivation of

² See footnote 1, above—cannabis cultivation and consumption for personal use, under certain conditions, is exempt from local and State licensing and permitting requirements.

industrial hemp as described in the CLU Ordinance draft language. According to CEQA Guidelines Section 15151, “[a]n EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences.”

4.2 Environmental Topics to be Analyzed in the EIR

CEQA Guidelines Section 15060(d) states that an initial study is not required in cases where preparation of an EIR is determined to be clearly required by the lead agency. Accordingly, an Initial Study for the Project is not provided herein. However, the preliminary review of the Project identified the following issue areas for evaluation in the EIR. Additional environmental topics beyond what is set forth below might be added to the EIR, based on comments received in response to the NOP for the EIR and Draft EIR that will be prepared for the Project.

4.2.1 Aesthetics and Visual Resources

The EIR will assess the Project’s potential impacts to visual and scenic resources and identify mitigation measures as necessary. This includes characterization of the existing physical setting; identification of potential impacts upon the character of scenic areas, gateways, relevant aspects of the built environment, public open spaces, and recognized landmarks; evaluation of consistency with routes in the County designated for protection under California’s Scenic Highway Program, and cumulative effects to public vistas and scenic routes.

4.2.2 Agricultural Resources

The EIR will describe the existing agricultural operations in the County, including cultivated agriculture, grazing and equestrian operations, crop types and acreages, and general locations based on available data from existing sources; assess whether the proposed Project is consistent with existing agricultural preservation policies and programs or has the potential to result in potentially significant adverse effects to prime soils, state designated important farmlands (Prime, Statewide, Local, or Unique), or grazing lands. The EIR will also assess whether the Project will cause potential impacts to agricultural resources, including potential conversion of agricultural land, including Williamson Act lands, to non-agricultural uses or result in land use conflicts that impact nearby agricultural operations. The Project EIR will identify mitigations for potentially significant impacts, where feasible.

4.2.3 Air Quality and Greenhouse Gas (GHG) Emissions

Describe existing conditions within the South Central Coast Air Basin and in the Project vicinity, including attainment status for criteria pollutants, climatic conditions, and local emissions sources and sensitive receptors, such as schools, elder care facilities, park visitors and adjacent neighborhoods; provide a brief description of the current regulatory setting regarding Air Quality and GHGs, including APCD rules related to odors; and assess the potential air quality impacts from the processing and manufacturing of cannabis, as well as potential impacts to air quality and GHG emissions from project-related vehicle trips. The Project’s potential to create objectionable odors will also be analyzed in this section of the EIR. The EIR will identify the need for mitigation of significant impacts. It will also assess consistency with the policies and measures in the County’s Energy and Climate Action Plan (ECAP).

4.2.4 Biological Resources

The Project could result in impacts to sensitive species and their habitats. The EIR will discuss the special status plant and wildlife species and habitat found within the Project area and analyze the potential for significant project-specific and cumulative effects to biological resources. It will also identify feasible mitigation measures necessary to reduce or avoid significant impacts to these resources.

4.2.5 Cultural

The EIR will identify the general geology and paleontology of the County; provide a brief overview of the County's history, including the Native American, Spanish/Mexican and American periods; describe existing known cultural resources, including general description of known pre-historic sites and the locations of known historic structures; address consultation with the Native American individuals and organizations that may be knowledgeable about the County; assess the potential for archaeological and historical resource impacts from the Project including cumulative impacts; and identify mitigation measures as necessary.

The EIR will summarize the County's Assembly Bill (AB) 52 tribal consultation as well as Senate Bill (SB) 18 consultation prior to amending or adopting any general plan amendment, if needed.

4.2.6 Geology and Soils

The EIR will describe the existing geologic setting, including a general characterization of County terrain, soils, seismicity, and other geologic features, such as groundwater basins and faults; describe the existing regulatory setting, including the County's Seismic Safety and Safety Element, Grading Ordinance, existing community plans and Land Use Element policies, the Alquist-Priolo Act, Uniform Building Code, etc.; assess direct, indirect, and cumulative geologic hazards and impacts posed by new cannabis cultivation and related operations, including grading for terracing and access roads; and identify recommended mitigation measures as needed to address geologic impacts, building from the California Building Code and the County Code.

4.2.7 Hazards and Public Safety

The EIR will describe the hazards and hazardous materials setting for the County based on existing reports and maps; assess hazards and hazardous materials impacts from cultivation and manufacturing sites by considering storage, handling, and application practices of hazardous materials; and identify mitigation measures necessary to address hazards and hazardous material concerns, including consideration of existing regulation and best management practices (BMPs) or development standards to address how and where hazardous materials would occur on cultivation sites. The EIR will further assess the Project for consistency with requirements in federal, state, and county regulations of hazardous materials.

4.2.8 Hydrology and Water Resources

Construction of new cultivation sites could impact in-stream water quality and hydrology through increased grading, vegetation clearing, erosion, and sedimentation or be impacted by flood flows from nearby rivers and creeks. The EIR will describe the existing hydrologic setting,

provide an estimate of current water use, describe the existing regulatory setting for management of ground and surface waters within the County, and analyze potential impacts to water supply, including supplies from groundwater. The EIR will also review the potential for significant impacts related to water quality and/or drainage/flooding, and will identify mitigation measures where necessary.

4.2.9 Land Use and Planning

The CLU ordinance would apply to the unincorporated County—specifically, certain agricultural, commercial, mixed use, and industrial zoned properties—and would regulate the cultivation, manufacturing, distribution, and sale of cannabis. The EIR analysis will examine the Project and identify potential land use conflicts and quality of life impacts.

In addition, the Project will involve regulations that will apply to cannabis activities in the Coastal Zone. The EIR will include an analysis of the consistency of the Project with coastal land uses and any potential significant adverse impacts on coastal resources resulting from the Project.

Cultivation

Potential land use conflicts between agriculture and residences may result from normal agricultural practices, such as noise, dust, and lights, as well as potential land use conflicts that are unique to the cultivation of cannabis (e.g., odors) as compared to other agricultural products.

Manufacturing

Potential land use conflicts between existing manufacturing uses and this new proposed use may result from the additional security measures that cannabis manufacturers would install on the site, including additional lights and fencing.

Commercial Sales

Commercial sales are anticipated to occur in existing buildings. No additional impacts are foreseen besides indirect impacts associated with public safety and services, which will be analyzed separately in the EIR.

The EIR will identify potential mitigation measures as needed to address any adverse land use impacts, including adjustments in proposed geographic restrictions, cultivation limits, and setbacks.

4.2.10 Noise

The Project EIR will describe the existing noise setting, focusing on roadway corridor and agricultural operation-related noise particularly in relation to proximity with sensitive receptors, consider both short-term construction impacts and long-term operational impacts; analyze long-term impacts based on potential increased traffic along roadways associated with changes or intensification of cannabis-related operations; analyze noise caused by cannabis processing facilities and cultivation areas that may require electricity by a generator. Mitigation measures will be identified for locations where noise levels may exceed regulatory standards or cause a substantial increase in the ambient noise levels for adjoining areas.

4.2.11 Public Services

The Project may incrementally increase demand for public services, particularly fire and police protection. Incremental increases in demand for code enforcement along with other services (e.g., road maintenance) may also occur. The EIR will assess existing service capabilities of applicable public services such as schools, police protection, and fire protection; assess fire protection issues and potential increases in demand for other public services associated with cannabis cultivation and production sites while accounting for existing regulations and development standards; identify Project impacts to established service standards, including emergency response standards. Where feasible, mitigation measures will be proposed to reduce or eliminate significant impacts.

4.2.12 Transportation and Circulation

Traffic and circulation impacts may result from the distribution of cannabis, the establishment of cultivation sites, and from consumers traveling to and from commercial retail locations. The EIR will review existing County traffic volume data, project trip generation/distribution, level of service calculations, accident data, and safety issues; identify potential construction-related traffic impacts; assess the Project's long-term operational impacts associated with cannabis-related development; evaluate the Project's cumulative effects to traffic and transportation based on regional development trends; and identify feasible mitigation options to address significant impacts.

4.2.13 Public Utilities

The Project would increase demand for water and power to support cannabis activities and may generate wastewater requiring treatment and solid waste requiring landfill disposal. While many cultivation sites are anticipated to be rural and served by wells, indoor cultivation is likely to require municipal water sources and use of existing infrastructure. In accordance with CEQA Guidelines, Appendix F: Energy Conservation, the EIR would investigate the energy availability and demand associated with commercial-scale cannabis cultivation and manufacturing, including energy diversity and options for alternative energy sources; describe the capacity of existing systems that would serve cultivation sites, including water, wastewater, solid waste, and energy systems; identify impacts from cannabis cultivation sites upon the existing utility system and services and operation-related impacts from existing and new cultivation sites related to the increase in demand for utility services and increase in waste associated with cultivation; assess energy impacts consistent with Appendix F of the CEQA Guidelines; describe cumulative impacts associated with proposed projects in the vicinity; and identify potential mitigation measures as needed to address impacts.

4.2.14 Cumulative Impacts

Pursuant to CEQA Guidelines Section 15130, the EIR shall discuss the cumulative impacts of the Project when the Project's incremental contribution to a significant cumulative impact is considered to be "cumulatively considerable." A cumulative impact consists of an impact that is created as a result of the combination of the proposed Project together with other projects causing related impacts.

The EIR will assess the potential cumulative impacts in each environmental topical section. The EIR will describe buildout impacts of the Project's land uses considered along with development of reasonably foreseeable (proposed and approved, not yet built) projects in the area.

4.3 Alternatives Analysis

The EIR will describe a reasonable range of alternatives to the Project that would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, as required by CEQA Guidelines Section 15126.6. The alternatives discussion in the EIR will include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the Project. The EIR will programmatically describe the major characteristics and significant environmental effects of each alternative. The EIR analysis will also include a brief discussion of each alternative considered, but rejected from further analysis in the EIR, if any, as suggested by CEQA Guidelines Section 15126.6.

4.4 Other CEQA Required Discussions

The EIR will include a section that addresses other issues for which CEQA Guidelines Section 15126 requires analysis beyond the environmental topical areas described above. In this section, the EIR will analyze the additional possible impacts of the proposed Project including growth inducement and significant irreversible environmental changes.

Attachments: Attachment A, Santa Barbara County Land Use & Development Code
Draft Cannabis Land Use Ordinance