Implementation of
CANNABIS LAND USE ORDINANCES
County Planning Commission Workshop
October 2, 2019
Presentation Team

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Workshop Purpose

- Receive briefing and discuss:
  - Summary of Program Environmental Impact Report (PEIR) Requirements
  - Overview of Final PEIR Methodology and Findings
  - Information on the application of the PEIR to site-specific projects
  - Role of the County Comprehensive Plan, Findings, and Development Standards in Cannabis Regulations
  - Planning Commission questions and feedback
PEIRs

CEQA Requirements and Applicability
PEIR Applicability/Requirements
(CEQA Guidelines Section 15168)

- A PEIR may be prepared on a collection of actions:
  - that are related as individual activities
  - carried out under the same regulatory authority
  - having generally similar environmental effects which can be mitigated in similar ways

- PEIRs identify programmatic impacts and mitigations that apply during implementation

- PEIR findings apply as part of individual project findings

- PEIRs facilitate CEQA streamlining
Advantages of the PEIR
(CEQA Guidelines Section 15168)

- More comprehensive review of impacts and alternatives than possible for an individual project
- Consideration of broad policy alternatives and program-wide mitigation measures early in process when lead agency has flexibility
- No duplicative reconsideration of basic policy considerations for each project
- Thorough review of cumulative effects
- Less CEQA paperwork for applicable projects
Overview of Final PEIR Methodology and Findings
Overview of PEIR for Cannabis Ordinances

- Comprehensive countywide PEIR to address impacts of commercial cannabis land use and licensing
- Prepared by consultant experienced with commercial cannabis impacts in several jurisdictions
- Included technical research on and modeling of key issues such as air pollutant emissions (e.g., NOx, terpenes/odors)
- Used conservative impact assessment methodology
- Identified detailed mitigation measures
Topics Evaluated in the PEIR

- Aesthetics & Visual Resources
- Agricultural Resources
- Air Quality & GHG Emissions
- Biological Resources
- Cultural Resources
- Geology & Soils
- Hazards & Public Safety
- Hydrology & Water Resources
- Noise
- Public Services
- Transportation and Circulation
- Utilities & Energy Conservation
- Population, Employment, & Housing
Alternatives Considered in the PEIR

- Project - No cap on total licenses in allowed zones
  - States assumption of no cap in County for cannabis activities (Section 3.0, Page 3-5)

- No Project Alternative - no cannabis in County

- Alternative 1 - exclusion of cannabis activities from the AG-I zone

- Alternative 2 - preclusion of cannabis activities from Williamson Act lands

- Alternative 3 - reduced registrants
Significant and Unavoidable Impacts (Class I)

- Agricultural Resources
- Air Quality—including ozone precursors and odors
- Noise
- Transportation and Traffic
- Aesthetics/Visual Resources (cumulative)
Less than Significant with Mitigation (Class II)

- Aesthetics and Visual Resources
- Agricultural Resources
- Biological Resources
- Cultural Resources
- Hydrology
- Land Use
- Utilities
Key PEIR Issues

Ozone Precursors (Impact AQ-3)

- PEIR analyzed and modeled Volatile Organic Compounds/Reactive Organic Compounds (VOCs/ROCs) and Nitrogen Oxides (NOx) as ozone precursors
- Significant and unavoidable impact from ozone precursors based on CEQA and APCD thresholds
- Cannabis Site Transportation Demand Management mitigation measure
Key PEIR Issues
Odors (Impact AQ-5)

- Significant and unavoidable odor impacts, supported by in-depth research on terpenes
- Terpenes are Biogenic VOCs (BVOCs)
- BVOCs are created and emitted by all plants
- BVOCs are ozone precursors similar to anthropogenic VOCs
- This issue was examined in the PEIR—the existence of BVOCs is not new information which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR was certified
Key PEIR Issues

Odors (Impact AQ-5)

- Odor Abatement Plan mitigation measure to mitigate terpene release
- PC recommended stricter odor mitigation measures to the Board – zero tolerance policy
- Board rejected zero tolerance policy
- Board supported PEIR odor abatement mitigation, except on most AG-II lands
  - Odor abatement on AG-II lands only if a Conditional Use Permit is required
Key PEIR Issues

CEQA Findings for Ozone & Odors

- Transportation demand management plan addresses mobile sources of ozone precursors (NOx)
- Odor abatement plan addresses stationary sources of ozone precursors and odors (i.e., terpenes & VOC/ROC)
- Impacts remain significant and unavoidable after mitigation
Key PEIR Issues

Aesthetics (Impacts AV-1, -2, & Cumulative)

- PEIR identified significant and unavoidable cumulative visual impacts
  - Cumulative structural development (e.g., hoop houses)
- PEIR mitigation measures require additional landscape screening when needed
- Cannabis Ordinance development standards would apply countywide
- Local regulations (e.g., community plans) would apply in specific communities, but not countywide
Key PEIR Issues
Agriculture (Impact AG-2 & Cumulative)

- Significant and unavoidable Program and cumulative agricultural resource impacts
  - Loss of prime soils from cannabis and other agricultural development
- Mitigation measures require locating cannabis structures to avoid prime soils as feasible
- PEIR characterized the County’s agricultural industry (e.g., crop types, farmland)
- PEIR explained role of APAC in permit review
The Board:

- Certified the Final PEIR
- Made findings and adopted overriding considerations for Class I impacts
- Approved the Program
- Adopted ordinances amending the LUDC and CZO
  - Included operative date relative to banking and taxation
PEIR Mitigation Measures adopted as LUDC Development Standards

- Compliance with State and Local Regulations
- Archaeological and Paleontological Surveys
- Energy Conservation Plan
- Fencing and Security Plan
- Lighting Plan
- Noise Attenuation
- Signage Requirements
- Tree Protection and Habitat Protection Plans
- Landscape Plan and Screening Plan
- Odor Abatement Plan
- Transportation Demand Management Plan
“When the lead agency approves a project which will result in the occurrence of significant effects...the agency states in writing the specific reasons to support its action based on the final EIR...”

Board finding: “adverse environmental effects of the program were considered ‘acceptable’ after consideration of specific economic, legal, social, technological, or other benefits”
Implementing the PEIR

Application of the PEIR to site-specific projects
Implementing PEIRs
(CEQA Guidelines Section 15168)

- Project-specific review verifies project impacts would be consistent with findings of and analysis within the PEIR

- Additional environmental review is only required if the later activity would have effects that were not examined in the PEIR or any of the conditions in CEQA Guidelines Section 15162 have occurred.
Examine subsequent activities in light of the PEIR

“Where the subsequent activities involve site-specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the Program EIR”

County approach is consistent with standards
State CEQA Guidelines § 15168(c)(4) Checklist for Commercial Cannabis Land Use Entitlement and Licensing Applications

A. Purpose

On February 6, 2018, the Santa Barbara County Board of Supervisors certified a programmatic environmental impact report (PEIR) that analyzed the environmental impacts of the Cannabis Land Use Ordinance and Licensing Program (Program). The PEIR was prepared in accordance with the State CEQA Guidelines (§ 15168) and evaluated the Program’s impacts with regard to the following environmental resources and subjects:

- Aesthetics and Visual Resources
- Agricultural Resources
- Air Quality and Greenhouse Gas Emissions
- Biological Resources
- Cultural Resources
- Geology and Soils
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Noise
- Transportation and Traffic
- Utilities and Energy Conservation
- Population, Employment, and Housing

The PEIR evaluated the direct and indirect impacts, as well as the project-specific and cumulative impacts, that would result from the implementation of the Program. The PEIR identified a number of significant impacts and set forth feasible mitigation measures that were included as development standards and requirements in the land use and licensing ordinances, which are applied to site-specific land use entitlement and business licensing applications for commercial cannabis operations authorized under the Program.

The following checklist was prepared pursuant to the State CEQA Guidelines (§ 15168(c)(4)) to document the evaluation of the sites and activities that are the subject of land use entitlement and business licensing applications for commercial cannabis operations authorized under the Program, in order to determine whether the environmental effects of proposed commercial cannabis operations are within the scope of the PEIR.

B. Project Description

Please provide the following project information.

1. Land Use Entitlement Case Number(s): ______________________
2. Business Licensing Ordinance Case Number(s): ______________________
Subsequent CEQA Review (EIRs and (M)NDs) (CEQA Guidelines Sections 15162)

- CEQA sets forth when additional environmental review (i.e., subsequent/supplemental ND or EIR, Addendum) is required following PEIR certification
A subsequent environmental document is required if substantial evidence shows:

- new significant environmental effect or a substantial increase in the severity of a previously identified significant effect;
- substantial changes occur with respect to the circumstances under which the project is undertaken; or
A subsequent environmental document is required if substantial evidence shows:

- new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the PEIR was certified
  - Significant impact(s) not discussed in the PEIR
  - Substantially more severe significant impacts than shown in the PEIR
  - Previous infeasible mitigation measures or alternatives are now found to be feasible, but project proponent rejects them
  - Considerably different mitigation measures or alternatives would substantially reduce significant impacts, but project proponent rejects them
PEIR Application to Cannabis Entitlements

- PEIR provides detailed review of potential impacts associated with most individual permits
  - E.g., odor, vehicle trips
- Written findings and refined analysis, if needed, is integrated into the County’s tailored checklist
- For most permits, no new CEQA review is required
- Certain unique applications may require more detailed subsequent environmental review, including:
  - Projects involving volatile manufacturing
  - Projects with potential biological impacts due to location
Project Issues & PEIR Tools

Using PEIR/Ordinance tools to address site-specific planning and impact concerns
155 cannabis entitlement applications pending [i.e., not issued—either under review, approved, or on appeal]

Analyzed pursuant to CEQA Guidelines Sections 15162 and 15168

Public concerns include:
- Odor and BVOCs countywide and in particular communities (e.g., Carpinteria and Eastern Goleta Valley)
- Aesthetic impacts primarily in the Santa Ynez Valley
- Cannabis in proximity to residential development and other agriculture (e.g., use of pesticides in other agriculture)
Key Implementation Issues
County Requirements for Odor Abatement

- County requires most cannabis activities (except certain AG-II) to have an Odor Abatement Plan
  - Address odor (i.e., terpene) control, deodorizers, and HVAC systems
  - Abate odors for nearby residential areas
- Burden on applicants to demonstrate compliance and ongoing performance to the satisfaction of the County
- Additional monitoring now required
Key Implementation Issues

County Requirements for Odor Abatement

- Odor abatement technologies
  - Activated carbon-filtration systems to filter/block terpene emissions
  - Vapor-phase systems to deodorize/neutralize terpenes so they are not perceptible to sensitive receptors; not odor masking
- Odor control systems shall not emit a hazardous air pollutant or a toxic air contaminant
Key Implementation Issues
Aesthetic Impacts

- Concerns regarding aesthetic impacts—especially in the Santa Ynez Valley
- PEIR identified cumulatively significant and unavoidable aesthetic impacts
- PEIR mitigation measures and LUDC/Article II development standards partially mitigate impact
- LUDC/Article II standards apply to all cannabis projects—including screening requirements
Key Implementation Issues
Pesticide Impacts to Cannabis

- Concerns regarding compatibility of cannabis and other crops (e.g. pesticide use, organic)
- Unwillingness of certain applicators to spray, out of concern of losing insurance
- Agricultural Commissioner convened working group to address this issue
Cannabis Project Planning Tools

Planning tools for cannabis project review and processing
Tools to Address
Individual Cannabis Permits

- Broad range of tools to address planning concerns:
  - Findings, Development Standards, and Conditions of Approval:
    - If odor control is required, Commission may request additional technology if proposed odor control is insufficient
    - Require additional landscape screening
    - Consider site design and suitability in land use compatibility analysis
  - Community Plan Policies and Standards
    - Apply land use, visual, and biological resource policies and standards
Apply other Comprehensive Plan Policies

- Land Use Element:
  - Visual Resource Policies (e.g., Policy 2) to address concerns over the height, scale, and visibility of cannabis development
  - Hillside and Watershed Protection polices (e.g., Policy 2) to address landform alteration and grading concerns (e.g., hillside hoop houses)
Land Use Permit (LUP) Findings (LUDC Section 35.82.110.E)

- Proposed development conforms:
  - To Comprehensive Plan, including community and area plans
  - With applicable provisions of the LUDC
- Must be on a legal lot
- Must comply with all rules, regulations, etc., of LUDC
- Must pay any outstanding zoning violation fees
- Summerland Community Plan – development won’t adversely impact recreational facilities and uses
Coastal Development Permit (CDP) Findings (CZO Section 35-169.5.1)

Non-appealable development:

- Proposed development conforms:
  - To Comprehensive Plan, including Coastal Land Use Plan (CLUP)
  - With applicable provisions of the CZO
- Must be on a legal lot
- Must comply with all rules, regulations, etc., of CZO
- Must pay any outstanding zoning violation fees
Appealable development:

- Same findings as non-appealable development, and development:
  - will not significantly obstruct public views from a public road or public recreation area to, and along, the coast
  - is compatible with the established physical scale of the area
  - complies with the public access and recreation policies of the CZO, Comprehensive Plan, and CLUP
Inland Conditional Use Permit (CUP) Findings (LUDC Section 35.82.060.E.1)

- Project site is adequate in terms of location, physical characteristics, shape, and size to accommodate the proposed use and development.
- Significant environmental impacts will be mitigated to the maximum extent feasible.
- Streets and highways are adequate and properly designed to carry the type and quantity of project traffic.
- Adequate public services, including fire protection, police protection, sewage disposal, and water supply to serve the proposed project.
Inland CUP Findings
(LUDC Section 35.82.060.E.1) - Continued

- Project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area
- Project will comply with the LUDC, Comprehensive Plan, and any applicable community or area plan
- In Rural areas, the proposed use will be compatible with, and subordinate to, the rural and scenic character of the area
Coastal CUP Findings
(CZO Section 35-172.8)

- Same findings as Inland CUP findings, and the:
  - project complies with the CLUP
  - project will not conflict with any easements for public access through, or public use of, the property
  - use is consistent with the intent of the zone
Summary

- The PEIR addresses the impacts for most pending cannabis permits.

- Additional environmental review is only required for individual projects ("later activities") if the individual projects would have effects that were not examined in the PEIR or any of the conditions in CEQA Guidelines Section 15162 have occurred.
Summary

- County can address cannabis activities’ impacts and community concerns through the:
  - application of ordinance standards and Comprehensive Plan policies, as part of discretionary review process
  - additional environmental review, if needed
Questions and Comments
Key Implementation Issues
Odors and BVOCs

- Concerns that PEIR did not address BVOC as ozone precursors—2019 study:
  - found BVOCs may combine with NOx emissions and sunlight, creating tropospheric ozone (smog)
  - assumed all outdoor grows in a dense urban environment; therefore, conclusions are inapplicable to rural conditions in County and indoor/greenhouse cultivation

- PEIR addressed ozone precursor impact, including mobile NOx and stationary VOCs (terpenes)
Key Implementation Issues
APCD Requirements

- APCD requires permits and nuisance enforcement for several activities (e.g., equipment use):
  - Processing offsite
  - Manufacturing
  - Distribution, storage, and/or packaging offsite

- APCD does not regulate cultivation, under District Rule 303 (Nuisance)

- APCD recommends odor abatement for cultivation, including use of containment, filters, and low- or no-VOC deodorizers