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# W21a

**Prepared May 18, 2018 for June 6, 2018 Hearing**

**To:** Commissioners and Interested Persons

**From:** Susan Craig, Central Coast District Manager
Sarah Carvill, Coastal Planner

**Subject: San Luis Obispo County LCP Amendment Number LCP-3-SLO-18-0020-1 (Cannabis Regulations)**

## SUMMARY OF STAFF RECOMMENDATION

San Luis Obispo County proposes to amend its Local Coastal Program (LCP), including its Land Use Plan (LUP) and Implementation Plan (IP) components, to allow for and regulate cannabis-related activities in the unincorporated areas of the County. Specifically, the proposed LUP amendment defines six new cannabis uses (cannabis cultivation, cannabis nurseries, cannabis manufacturing, cannabis testing facilities, cannabis dispensaries, and cannabis distribution facilities), identifies which cannabis uses are allowed within each existing land use category,[1] and further specifies where and what type of cannabis uses may be allowed in particular communities within various LCP Area Plans. The IP component of the proposed amendment updates Section 23.11.030 of the IP to include cannabis-related definitions, and adds Sections 23.08.420 through 23.08.432 to provide the standards with which cannabis uses must comply, including standards for the protection of coastal resources.

In general, the proposed amendment to the LUP allows new cannabis uses in areas designated for similar uses. For example, it allows cannabis cultivation in agricultural areas and cannabis processing activities in industrial areas. The proposed IP amendment provides standards that further tailor cannabis-related activities to agricultural, commercial, industrial, and rural residential contexts, and imposes additional requirements that address most of the unique resource-impact issues associated with cannabis, including odor control and water consumption, as well as proximity to at-risk populations. However, the IP amendment, as proposed, does not adequately address other unique potential impacts cannabis uses may engender on visual and scenic resources, including the possible effects of cannabis screening devices, hoop structures, security lighting, and mixed-light cultivation. Moreover, it is not clear whether and how LUP policies related to sensitive natural resources, such wetlands, riparian vegetation, and

[1] The San Luis Obispo County LCP does not have zoning designations, but instead relies solely on land use designations.

environmentally sensitive habitat areas (ESHAs), apply to cannabis uses. Therefore, staff is recommending modifications that require all cannabis-related activities to meet specific visual standards, including standards that ensure protection of blue water ocean views and address night lighting impacts to views from public roads, and to clarify that the setback requirements for riparian habitats, wetlands, and ESHA established in the LUP apply to cannabis activities. Other modifications ensure that such standards cannot be waived or modified, and also correct minor typographical errors.

As modified, the proposed amendment allows for the broad range of cannabis uses in appropriate areas while ensuring protections for coastal resources. As such, the proposed amendment, as modified, is consistent with and adequate to carry out the Coastal Act and the LUP, and County planning staff have been supportive of the staff recommendation. Therefore, staff recommends that the Commission approve the amendment with suggested modifications. The required motions and resolutions are found on page 4 below.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on May 11, 2018, when the County submitted the second of the two approved ordinances that comprise the proposed amendment.[2] The proposed amendment affects both the LCP's Land Use Plan (LUP) and Implementation Plan (IP), and the 90-day action deadline is August 9, 2018. Thus, unless the Commission votes to extend the action deadline (it may be extended by up to one year), the Commission has until August 9, 2018 to take a final action on this LCP amendment. (See Coastal Act Sections 30513 and 30514(b).)

[2] The second ordinance made minor changes to the enforcement section of the proposed IP amendment, which are unrelated to coastal resource issues.

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# I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment with suggested modifications. The Commission needs to make four motions, two on the LUP amendment and two on the IP amendment, in order to act on this recommendation.

**A. Deny the LUP Amendment as submitted**

Staff recommends a **NO** vote on the motion below. Failure of this motion will result in denial of the LUP amendment as submitted and adoption of the following resolution. The motion to certify as submitted passes only upon an affirmative vote of a majority of the appointed Commissioners.

> **Motion:** *I move that the Commission certify Land Use Plan Amendment Number LCP-3-SLO-18-0020-1 as submitted by San Luis Obispo County, and I recommend a **no** vote.*
>
> ***Resolution:** The Commission hereby denies certification of Land Use Plan Amendment Number LCP-3-SLO-18-0020-1 as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the land use plan amendment as submitted does not meet the requirements of and is not in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the land use plan amendment as submitted.*

**B. Certify the LUP Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the LUP amendment with suggested modifications and the adoption of the following resolution and the findings in this staff report. The motion to certify with suggested modifications passes only by an affirmative vote of a majority of the appointed Commissioners.

> ***Motion:** I move that the Commission certify Land Use Plan Amendment Number LCP-3-SLO-18-0020-1 if it is modified as suggested in this staff report, and I recommend a **yes** vote.*
>
> ***Resolution:** The Commission hereby certifies Land Use Plan Amendment Number LCP-3-SLO-18-0020-1 if modified as suggested and adopts the findings set forth in this staff report on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the land use plan amendment if modified as suggested complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the land use plan amendment if modified.*

**C. Deny the IP Amendment as Submitted**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in rejection of the IP amendment as submitted and the adoption of the following resolution and findings. The motion to reject the amendment as submitted passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:*** *I move that the Commission reject Implementation Plan Amendment Number LCP-3-SLO-18-0020-1 as submitted by San Luis Obispo County, and I recommend a* ***yes*** *vote.*

***Resolution:*** *The Commission hereby denies certification of Implementation Plan Amendment Number LCP-3-SLO-18-0020-1 as submitted by San Luis Obispo County and adopts the findings set forth below on grounds that the implementation plan amendment as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the implementation plan amendment would not meet the requirements of the California Environmental Quality Act, as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the implementation plan amendment as submitted.*

**D. Certify the IP Amendment with Suggested Modifications**

Staff recommends a **YES** vote on the motion below. Passage of this motion will result in certification of the IP amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion:*** *I move that the Commission certify Implementation Plan Amendment Number LCP-3-SLO-18-0020-1 as submitted by San Luis Obispo County if it is modified as suggested in this staff report, and I recommend a* ***yes*** *vote.*

***Resolution:*** *The Commission hereby certifies Implementation Plan Amendment Number LCP-3-SLO-18-0020-1 if modified as suggested and adopts the findings set forth below on grounds that the implementation plan amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended. Certification of the implementation plan amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the implementation plan amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the implementation plan amendment if modified.*

# II. SUGGESTED MODIFICATIONS

The Commission's suggested modifications to the proposed LCP amendment are included as **Exhibit 2** to this staff report. If San Luis Obispo County accepts each of the suggested modifications within six months of Commission action (i.e., by December 6, 2018), by formal resolution of the Board of Supervisors, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Text in ~~cross-out~~ format and text in underline format denotes proposed text to be ~~deleted~~ and added, respectively, by San Luis Obispo County in its proposed LCP amendment. Text in ~~double cross-out~~ format and text in double underline format denotes proposed text to be ~~deleted~~ and added, respectively, by the Commission's suggested modifications.

# III. FINDINGS AND DECLARATIONS

## A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The County is proposing changes to both the LCP's Land Use Plan (LUP) and Implementation Plan (IP) in order to regulate cannabis-related activities. The existing LUP's "Framework for Planning" document includes Coastal Table O, which lists fourteen land use categories,[3] the allowable uses within those categories, and the permitting status for each. The Framework for Planning also includes definitions for each defined land use. Four Area Plans[4] additionally restrict or permit specific uses in various parts of the County.

The proposed LUP amendment creates a new use group for cannabis-related activities in Coastal Table O, thereby identifying which cannabis activities are allowed within each land use category, and adds definitions for each cannabis-related activity in the new use group. Defined cannabis activities include cannabis cultivation, cannabis nurseries, cannabis manufacturing, cannabis testing facilities, cannabis dispensaries, and cannabis distribution facilities. All cannabis-related uses are classified in the table as special uses, meaning that they are allowable if specific criteria are met and if required findings are made. County approvals of CDPs for special uses are also appealable to the Coastal Commission. The proposed LUP amendment also adds the new cannabis-related activities to the lists of uses additionally restricted or permitted in the LCP's Area Plans. Finally, the proposed amendment amends IP Section 23.11.030 to include various cannabis-related definitions, and adds IP Sections 23.08.420 through 23.08.432 to provide the standards and conditions with which cannabis-related uses must comply.

The proposed amendment would require a CDP for all cannabis-related activities, and would regulate such activities as follows:

- Outdoor cannabis cultivation operations would be allowed in the Agriculture – Prime Soils (AGps), Agriculture – Non-Prime Soils (AGnps), and Rural Lands (RL) land use categories. Each outdoor cannabis cultivation operation is not to exceed one acre in size,

[3] The San Luis Obispo County LCP does not have zoning designations, but instead relies solely on land use designations.

[4] The County's proposed cannabis regulations would amend the Estero Area Plan, the North Coast Area Plan, the San Luis Bay (Coastal) Area Plan, and the South County (Coastal) Area Plan.

and the number of operations allowed per site varies depending on the land use category of the site and site size.[5]

- Indoor cannabis cultivation would be allowed in the AGps, AGnps, RL, Rural Residential (RR), and Industrial (IND) land use categories, and would be limited to 22,000 total square feet of cumulative canopy area per site.

- The total number of cannabis cultivation operations in the unincorporated portions of the County (including both indoor and outdoor operations) would be limited to 141; until 2019, applications for cannabis cultivation permits would only be accepted from operators previously registered with the County as a cooperative or collective. Permits would be renewable and have a term of five years.

- In all cases where cannabis activities would be allowed outdoors (i.e., outdoor nurseries and cultivation operations), plants would be required to be screened by a secure fence at least six feet in height. Such screening structures would be required to comply with all other applicable plans (e.g., area, community, and specific plans).

- Indoor cannabis nurseries[6] would be allowed in the AGps, AGnps, RL, and IND land use categories, and in the RR land use category on parcels over five acres, while outdoor cannabis nurseries would be limited to the AGps, AGnps, and RL categories only.

- Cannabis testing facilities, cannabis distribution facilities, and non-volatile cannabis manufacturing facilities would be permitted in the Commercial Services (CS) land use category within Urban Reserve Lines, as well as in the IND land use category. Non-volatile cannabis manufacturing facilities would also be allowed in the AGnps land use category, provided that such facilities are processing only raw cannabis materials grown onsite.[7]

- No public retail cannabis sales or mobile cannabis dispensaries would be allowed, but cannabis dispensaries that deliver cannabis or cannabis products to customers would be permitted in the AGnps, RL, RR, CS, and IND land use categories.[8] Dispensaries in RL

[5] Only one operation per site is allowed in the RL land use category. Within the AGps and AGnps land use categories, up to two operations are allowed on sites between 10 and 25 acres, and up to three operations are allowed on sites greater than 25 acres. A site is defined in the proposed amendment as any lot or parcel of land, or contiguous combination thereof, under the same ownership.

[6] Note that in the proposed amendment, "cannabis nurseries" is a distinct, defined use subject to different standards than the "cannabis cultivation" use also referenced above. Nurseries are defined in the proposed LUP amendment as sites that "produce only clones, immature plants, seeds, or other agricultural products used specifically for the planting, propagation, and cultivation of cannabis," while "cultivation" involves growing, harvesting, and processing the mature plant. While the two uses are similar relative to other proposed cannabis uses (which are more oriented to the manufacture and sale of cannabis products than the act of growing the plant), the standards for cultivation and nurseries are provided in different sections of the proposed IP amendment and often differ subtly.

[7] Cannabis manufacturing facilities that use volatile processes or substances are not allowed anywhere in the unincorporated county.

[8] While the term "dispensary" is commonly used to describe facilities that sell cannabis products from public retail storefronts, the state Bureau of Cannabis Control's emergency regulations for medicinal and adult cannabis use recognize delivery-only dispensaries, which are eligible for a Type 9 "non-storefront retailer" license (see Title 16 of

and RR land use categories would only be permitted to sell cannabis grown onsite, and dispensaries in the AGnps land use category would only be permitted to sell cannabis grown onsite or cannabis products manufactured with materials grown onsite.

- Use of a residence as a cannabis cultivation or nursery operation would be prohibited, except when the cultivation or nursery use is undertaken under the proposed amendment's exemptions for personal or caregiver use.[9]

- Cannabis cultivation operations, nurseries, and manufacturing facilities would be required to be sited and operated in a manner that prevents detection of nuisance odors from offsite.

- A variety of regulations related to natural resource protections would also be imposed on cannabis operations, including: 1) groundwater offset ratios for water-intensive cannabis activities (i.e., nurseries and cultivation operations) located in highly impacted groundwater basins; 2) a prohibition on trucked-in water for cannabis irrigation; 3) a minimum 50-foot setback from the upland extent of riparian vegetation for cannabis cultivation operations and nurseries; and requirements that cannabis cultivation operations 4) obtain permits from the Central Coast Regional Water Quality Control Board, 5) meet state requirements related to renewable energy use, and 6) obtain permits and for and obey state laws related to pesticide storage, application, and record-keeping.

- Cannabis-related uses would not be permitted within specified distances of sensitive uses such as schools and addiction recovery facilities.

The proposed amendment is comprised of two County-approved ordinances. The first, which was approved by the Board of Supervisors on November 27, 2017, establishes a regulatory framework for all cannabis activities in the unincorporated area of the County. The second ordinance was adopted on March 20, 2018 and makes minor changes to the enforcement section of the first ordinance. Specifically, the second ordinance gives the Cannabis Hearing Officer Program (established by the first ordinance) authority to conduct nuisance abatement hearings related to certain cannabis violations that, under existing law, would be heard by the Board of Supervisors. The changes proposed in the second ordinance raise no coastal resource issues.

Please see **Exhibit 1** for the proposed amendment text, which reflects both County-approved ordinances.[10]

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the California Code of Regulations, Section 5414). The proposed LUP amendment echoes this approach, defining a dispensary as "a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale" (see **Exhibit 1**, p. 4; **Exhibit 2**, p. 4). The "mobile delivery" dispensary type is then further defined as requiring a Type 9 license, and the IP amendment limits dispensary uses to this delivery-based variety only (see **Exhibit 1**, p. 26-27; **Exhibit 2**, p. 27).

[9] This exemption would allow an individual to keep up to six plants (totaling no more than 100 square feet of canopy area) for personal use, or on behalf of a qualified patient for whom they are the primary caregiver, without obtaining a land use permit. Exempt cultivation would only be allowed inside a legally permitted structure, accessory to a legal residential use.

[10] The changes made by the second ordinance can be found on p. 32 of **Exhibit 1** and p. 33 of **Exhibit 2**.

## B. CONSISTENCY ANALYSIS

**Standard of Review**

The proposed amendment affects both the LUP and IP components of the San Luis Obispo County LCP. The standard of review for LUP amendments is that they must meet the requirements of and be in conformity with the Chapter 3 policies of the Coastal Act. The standard of review for IP amendments is that they must conform with and be adequate to carry out the policies of the certified LUP.

**LUP Amendment Consistency Analysis**

*Relevant Coastal Act Policies*

Coastal Act Section 30250(a) encourages new development within existing developed areas:

> *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

The Coastal Act also requires agricultural land to be maintained in agricultural use to the greatest extent feasible, and for conflicts between agriculture and urban land uses to be minimized:

> ***Section 30241.*** *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*
>
> *(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*
>
> *(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
>
> *(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*
>
> *(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*

*(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

*(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

***Section 30242.*** *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

*Consistency Analysis*

In general, the proposed amendment adds certain commercial cannabis activities as allowable uses within appropriately designated areas. For example, the amendment adds cultivation within agricultural districts, which is appropriate given that these districts seek to protect and foster agricultural production (which cannabis cultivation is), and allows manufacturing within industrial areas, which, again, is the specifically envisioned type of use for that designation. The amendment thus designates specific types of commercial cannabis activities for particular districts so as to ensure their compatibility with the coastal zone's unique geographies and resource considerations, as opposed to a blanket allowance of all such activities anywhere and everywhere in the entire coastal zone. The proposed amendment is therefore broadly consistent with Coastal Act Sections 30241 and 30242, which protect and prioritize coastal agriculture, and with Section 30250(a), which encourages new development within or near existing developed areas. The addition of cannabis-related activities to Coastal Table O allows each defined cannabis use in land use categories that support other essentially similar uses not related to cannabis, such as crop production and manufacturing. (Additional restrictions in the proposed IP amendment further tailor the circumstances under which each cannabis use is allowed in each land use category; these are discussed further in the IP Consistency Analysis below.)

The proposed LUP amendment also adds cannabis-related activities to the "Limitation on Uses" sections of various Area Plans. The effect of these changes is to restrict or allow the new cannabis uses in specific communities or parts of communities where special permissions or prohibitions already exist for similar, non-cannabis uses. In other words, the Area Plan amendments are intended to further tailor cannabis activities to appropriate areas. For example, the Agriculture Section of the Rural Area Standards of the Estero Area Plan includes a standard limiting allowable uses on lands defined as "Row Crop Terrain and Soils" to "those that are most directly related to agricultural production." Such allowable uses are then specified as agricultural accessory structures, animal raising and keeping, crop production and grazing, and nursery specialties soil dependent, among others. The proposed amendment adds cannabis cultivation and cannabis nurseries (i.e., cannabis uses "that are most directly related to agricultural production") to that list. These types of changes ensure that cannabis is regulated in a similar manner to other types of agricultural cultivation and processing by directing agricultural cannabis uses toward less developed areas and by directing more development-intensive cannabis uses to existing developed areas. For these reasons, the proposed LUP amendment is

consistent with the above-cited provisions of the Coastal Act; the only suggested modifications to the LUP correct typographical errors in Coastal Table O (see **Exhibit 2**, p. 3).

**IP Amendment Consistency Analysis**

*Relevant LUP Policies*

The existing LUP includes a variety of policies affecting issues raised by cannabis activities, including protection of environmentally sensitive habitat and visual and scenic resources. Key policies include:

> ***Environmentally Sensitive Habitats Policy 1:*** *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.*
>
> ***Environmentally Sensitive Habitats Policy 17:*** *In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots.*
>
> ***Environmentally Sensitive Habitats Policy 28:*** *In rural areas (outside the USL) a buffer setback zone of 100 feet shall be established between any new development (including new agricultural development) and the upland edge of riparian habitats. In urban areas this minimum standard shall be 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams. Permitted uses within the buffer strip shall be limited to passive recreational, educational or existing nonstructural agricultural developments in accordance with adopted best management practices. Other uses that may be found appropriate are limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that: 1) alternative routes are infeasible or more environmentally damaging and 2) adverse environmental effects are mitigated to the maximum extent feasible. Lesser setbacks on existing parcels may be permitted if application of the minimum setback standard would render the parcel physically unusable for the principal permitted use. In allowing a reduction in the minimum setbacks, they shall be reduced only to the point at which a principal permitted use (as modified as much as is practical from a design standpoint) can be accommodated.*
>
> ***Visual and Scenic Resources Policy 1:*** *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.*
>
> ***Visual and Scenic Resources Policy 2:*** *Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In*

*particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.*

***Visual and Scenic Resources Policy 4:*** *New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views. New land divisions whose only building site would be on a highly visible slope or ridgetop shall be prohibited.*

*Consistency Analysis*

The proposed IP amendments further regulate cannabis in two ways: 1) by imposing additional restrictions on where certain cannabis activities are allowed; and 2) by ensuring that such activities meet specific resource protection standards. Thus, the proposed IP amendment further tailors cannabis uses to appropriate locations and imposes standards on each type of cannabis use to guard against coastal resource impacts. For example, while the proposed LUP amendment would allow cannabis manufacturing in the CS and AGnps land use categories, proposed IP Section 23.08.426 specifies that cannabis manufacturing facilities can only be located on CS sites that are also within an Urban Reserve Line (URL), and limits cannabis manufacturing facilities in AGnps-designated areas to those processing raw cannabis materials grown onsite. In this fashion, the proposed IP amendment goes further than the proposed LUP amendment in directing this more industrial cannabis use to more developed areas, while allowing some processing of cannabis where it is grown, just as the existing LCP allows processing of other agricultural products in the AGnps land use category, subject to some limitations.

Similar restrictions are proposed in IP Section 23.08.428 for delivery-based cannabis dispensaries.[11] While the proposed LUP amendment allows such cannabis dispensaries in the CS, AGnps, RL, and RR land use categories, the proposed IP amendment limits dispensaries in the CS land use category to sites within a URL, restricts those in the RL and RR categories to dispensing cannabis grown onsite, and only allows those in the AGnps category to sell cannabis that is grown onsite or cannabis products manufactured with cannabis grown onsite.

In addition to providing more explicit requirements related to the types and extent of cannabis activities that can occur in particular areas, the proposed IP amendment establishes a variety of standards that more generally address the specific issues associated with cannabis, such as nuisance odors and proximity to at-risk populations, as well as the types of coastal resource impacts that can occur in conjunction with agriculture and development more generally. For example (and as outlined in the project description above), the amendment includes groundwater offset ratios for water-intensive cannabis activities in impacted groundwater basins, requires minimum setbacks from riparian vegetation, and includes requirements intended to safeguard water quality. Generally, these measures provide the needed protections for coastal resources and strike an appropriate balance between addressing the particular issues posed by cannabis, on the

[11] As discussed above, the proposed amendment would not allow retail sale of cannabis products from a public storefront in any land use category, so all dispensaries allowed in the unincorporated areas of the County would be delivery-based.

one hand, and regulating cannabis in a manner similar to other agricultural or manufacturing uses, on the other.

A few potential impacts are not adequately addressed by the proposed IP amendment, however. The amendment seeks to allow new facilities for cannabis cultivation, including new greenhouses and hoop structures, raising the possibility of increased development in rural and agricultural areas along the coast and adverse effects on visual and scenic resources. Particularly, hoop structures and greenhouses may impair public coastal views, and mixed-light cultivation and security lighting may cause nighttime light pollution. The LUP guards against these types of impacts. For example, Visual and Scenic Resources Policy 1 includes broad protections for "scenic vistas," while Visual and Scenic Resources Policies 2 and 4 require new development to be sited in a manner that protects public views, and be designed to blend with the character of the area. While light pollution from cannabis operations can degrade scenic vistas, disrupt public views, and highlight the presence of development in otherwise dark areas at night, the proposed IP amendment does not acknowledge this potential or explicitly require cannabis operators to prevent these impacts. Without a clear articulation of the relationship between the Visual and Scenic Resources policies in the existing LUP and proposed cannabis uses, the proposed IP amendment is not adequate to carry out the certified LUP. Similarly, although hoop structures and greenhouses are development under the Coastal Act and could not be constructed in the Coastal Zone without a CDP, the proposed IP amendment includes no language that explicitly articulates how they can be found consistent with the Scenic and Visual Resource Policies in the LUP.

Additionally, the proposed IP amendment requires outdoor cannabis operations (i.e., cultivation and nurseries) to be screened with six-foot-tall fencing. Outdoor operations are only allowed in the AG and RL land use categories and must comply with a variety of setback requirements,[12] creating the potential for conspicuous islands of fenced land in rural areas. The screening provision includes language requiring fences to comply with other "applicable area, community, specific and design plans" but does not specifically reference any of the policies or standards in these plans, nor does it reference the broader suite of LUP visual-protection policies that apply County-wide.

Therefore, modifications that require all cannabis-related activities to meet specific visual standards are necessary. Modifications to proposed IP Section 23.08.423 (**Exhibit 2**, p. 13) require all cannabis activities to site, angle, shield, and operate lighting for security and mixed-light operations so that it is not visible from public roads; require shielding of mixed-light operations between sunset and sunrise; and require cannabis-associated fences, greenhouses, and hoop structures to be sited to avoid impacts to public views. Views from Highway 1 outside the Urban Service Line (USL), public blue water views, and the blue sky view from public roads are specifically identified for protection. Modifications to proposed IP Section 23.08.422 (**Exhibit 2**, p. 10) apply these same visual standards to exempt uses.

[12] Outdoor cannabis cultivation operations must be set back at least 300 feet from external property lines or public right-of-ways; outdoor cannabis nurseries are subject to standard County setbacks for the Coastal Zone, as well as an additional 100-foot setback from existing offsite living areas (e.g., residences, patios); and both uses must be set back at least 50 feet from the upland extent of riparian vegetation.

The proposed IP amendment would also be strengthened by clarifying language related to setbacks. The County-approved version requires cannabis cultivation and nurseries to be set back at least 50 feet from the upland extent of riparian vegetation; however, Environmentally Sensitive Habitats (ESHA) Policy 28 requires a 100-foot riparian vegetation setback for any new development outside the USL; 50 feet is the standard within urban areas only. Further, the proposed IP amendment makes no mention of other LUP resource setbacks, such as for wetlands and other types of ESHA. ESHA Policy 1, for instance, requires that new development within 100 feet of ESHA shall not significantly disrupt the resource, and ESHA Policy 17 provides a 100-foot development setback for wetlands. Accordingly, modifications are required that: clarify that the riparian vegetation setbacks in the current LCP, including the 100-foot riparian setback in rural areas, apply to all cannabis-related activities (**Exhibit 2**, p. 13); impose LUP-consistent minimum 100-foot setbacks from wetlands and other ESHA (**Exhibit 2**, p. 13); and eliminate language allowing modification of resource setbacks for cannabis cultivation and nurseries through a minor use permit (**Exhibit 2**, pp. 16-17 and 21).

Finally, the existing IP provides for the waiver or modification of special use standards through a Development Plan approval process. Since the proposed LUP amendment classifies cannabis uses as special uses, standards related to cannabis could also be waived or modified under this provision. To ensure that all cannabis-related uses are subject to the standards in the proposed IP amendment, which are necessary to carry out the policies in the County's certified LUP, recommended modifications do not allow standards for cannabis uses to be modified or waived through a Development Plan (**Exhibit 2**, p. 8).

In conclusion, as modified, the IP amendment provides additional specificity and clarity to ensure that cannabis activities are allowed in appropriate areas and in a manner that protects coastal resources. The amendment ensures that the unique issues engendered by cannabis, including those related to visual quality and sensitive habitats, are appropriately addressed. County planning staff have been supportive of the changes described above, and has identified additional, minor modifications to clarify the intent of the proposed amendment and correct drafting errors. As such, the proposed IP amendment, with the identified suggested modifications, is adequate to carry out the LUP.

## C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of the State's Natural Resources Agency as being the functional equivalent of the environmental review required by CEQA. Local governments are not required to undertake environmental analysis of proposed LCP amendments, although the Commission can and does use any environmental information that the local government has developed. CEQA requires that alternatives to the proposed action be reviewed and considered for their potential impact on the environment and that the least damaging feasible alternative be chosen as the alternative to undertake.

San Luis Obispo County filed a notice of exemption for the proposed amendment, noting that Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity, provided that the discretionary review shall include any applicable

environmental review. This report has discussed the relevant coastal resource issues with the proposal. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

## APPENDIX A – SUBSTANTIVE FILE DOCUMENTS[13]

- None

## APPENDIX B – STAFF CONTACT WITH AGENCIES AND GROUPS

- San Luis Obispo County Department of Planning and Building

[13] These documents are available for review in the Commission's Central Coast District office.