



County of Monterey Planning Commission

Agenda Item No.5

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Item No.5

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

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REF260001 (PLN250139-DEP & PLN190243) - SOUTH COUNTY AREA PLAN AND CENTRAL SALINAS VALLEY AREA PLAN AMENDMENTS

Consider early assessment of a proposed 2010 General Plan Amendment to 1) amend Sectional District Map 79 and South County Area Plan Figure LU9 to rezone and redesignate four parcels (APNs: 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000) from light commercial (LC) to low-density residential (LDR/1); and 2) amend the Central Salinas Valley Area Plan to create a Special Treatment Area over APN: 420-063-014-000 to allow up to 20,000 square feet of outdoor commercial cannabis cultivation.

Project Location: The properties are located at 68202, 68210, 68226, and 68218 Interlake Road, Bradley (Assessor's Parcel Number 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000), South County Area Plan; and 50700 Thompson Canyon Road, King City (Assessor's Parcel Number 420-063-014-000), Central Salinas Valley Area Plan.

Proposed CEQA action: Find early assessment of the project Statutorily Exempt pursuant to CEQA Guidelines section 15262.

RECOMMENDATION

Staff recommends that the Planning Commission assess whether the proposed General Plan Amendments to the South County Area Plan and Central Salinas Valley Area Plan are consistent with state law, have the potential to meet the evaluation criteria set forth in Title 21 section 21.91.050, and provide feedback to staff.

PROJECT INFORMATION

Property Owners: USREY TIMOTHY D & PAULA C AND CAMACHO IGNACIO AND MARTINEZ RAFAEL AND MARTINEZ RAFAEL AMADOR ET AL (PLN250139-DEP); and CUMMING JOHN HANSEN & MARIE TRS ET AL (PLN190243)

APN's: 423-381-006-000, 423-381-007-000, 423-381-008-000, 423-381-009-000, 420-063-014-000, 420-063-014-000

Plan Areas: South County Area Plan and Central Salinas Valley Area Plan.

Project Planner: Fionna Jensen, Principal Planner, (831) 796-6407
JensenF1@CountyofMonterey.gov

PROJECT SUMMARY/DISCUSSION

REF260001 consists of two 2010 General Plan Amendment proposals (HCD-Planning File Nos. PLN250139-DEP and PLN190243). Title 21 section 21.91.030 requires that all General Plan Amendments be referred to the Planning Commission for an "early assessment", prior to the Planning Commission's formal recommendation to the Board of Supervisors, to provide the Applicants/Owners

input and general comments regarding the suitability for such proposals. Accordingly, the discussion below details the various components of the proposed General Plan Amendments and is broken out by Area Plan. Staff is seeking the Planning Commission's direction (majority vote) as to whether the various proposals have the potential to meet the General Plan Amendment evaluation criteria set forth in Title 21 section 21.91.050.

Pursuant to Title 21 section 21.91.050, the decision to approve a General Plan Amendment remains in the discretion of the Board of Supervisors in accordance with state law. If the Board of Supervisors, in its discretion, chooses to approve an amendment to the General Plan, the amendment must, at a minimum, satisfy the following criteria in addition to any other relevant considerations:

1. The amendment is not in conflict with the goals, objectives, and policies of the general plan that are not proposed for amendment; and
2. The applicant demonstrates, based on substantial evidence, one or more of the following:
 - a. There is a demonstrable error or oversight in the adopted general plan; or
 - b. There is a clear change of facts or circumstances; or
 - c. The Amendment better carries out the overall goals and policies of the general plan.

Applicable State Law, pursuant to Title 21 section 21.91.020.A, includes Government Code section 65358(a), which states *Top of Form*, "If it deems it to be in the public interest, the legislative body may amend all or part of an adopted general plan. An amendment to the general plan shall be initiated in the manner specified by the legislative body. Notwithstanding Section 66016, a legislative body that permits persons to request an amendment of the general plan may require that an amount equal to the estimated cost of preparing the amendment be deposited with the planning agency prior to the preparation of the amendment."

South County Area Plan

Proposed General Plan Amendment: PLN250139-DEP proposes to amend the South County Area Plan by rezoning and redesignating four parcels (APN: 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000) from light commercial properties (LC) to low-density residential (LDR/1). See **Exhibit A** (Draft Rezone map).

History & Justification: The unincorporated community of Lockwood received its first zoning designation in 1976. The entire area surrounding Lockwood was zoned Rural Districts ("N"), except for one property (APN: 423-041-084-000), which was developed with an existing retail commercial use and was thus zoned Retail Business District ("C-1"). This one commercial property was located on the northwest corner of the intersection of Jolon Road and Interlake Road/Lockwood-Jolon Road. The subject properties (APNs: 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000) were zoned N. At this time, the N district allowed low-density residential uses, crop and tree farming, livestock farming, limited commercial agricultural uses, accessory uses and structures, and airports. The C-1 district allowed retail stores of a light commercial character, multi-family residential development, and public-quasi public uses. In 1978, the unincorporated area of Lockwood remained primarily zoned N, or was rezoned to Agriculture-Residential ("K"). The single commercially zoned property also remained C-1. However, an approximately 40-acre area surrounding commercially zoned property and the intersection of Jolon Road and Interlake

Road/Lockwood-Jolon Road was rezoned to the Transitional District (T). According to Section 23.2 of the County's 1974 Zoning Ordinance, the T District is "considered as a holding district until more detailed land use studies can be made and more precise zoning adopted for the area covered by said Transitional District". Land outside of this T District was zoned N or K. The subject properties (APNs: 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000) were zoned N at this time, and immediately south of the T District. **Attachment 1 of Exhibit B** includes the 1976, 1978, and 1993 Sectional District maps.

The zoning in the unincorporated area of Lockwood remained the same until 1993 (**Attachment 1 of Exhibit B**). The prior 40-acre Transitional District was rezoned to Light Commercial (LC) and expanded to encompass approximately 155 acres along the intersection of Jolon Road and Interlake Road/Lockwood-Jolon Road. The subject properties (APNs: 423-381-006-000, 423-381-007-000, 423-381-008-000, and 423-381-009-000) were included in this 155-acre area and accordingly also rezoned from N (Rural) to Light Commercial. To the west and east of this commercial area, properties were rezoned from N or K to Low Density Residential (LDR/1).

In 2005, approximately 40 acres south of the intersection of Jolon Road and Interlake Road/Lockwood-Jolon Road were subdivided into four, 5-acre parcels (Parcel 1-4), with one 20-acre remainder parcel (HCD-Planning File NO. PLN030415; Minor Subdivision Resolution No. 05012; **Attachment 2 of Exhibit B**). The prepared Mitigated Negative Declaration analyzed foreseeable impacts from developing these parcels with residential uses. At that time, the Sectional District Map illustrated the western 20 acres of this parcel as LDR/1, and the eastern 20 acres of this parcel as LC. Minor Subdivision Resolution No. 05012 correctly recognized that Parcels 1-4 were zoned Low Density Residential, 1 unit per acre (LDR/1), but fails to mention that the 20-acre Remainder Parcel was zoned LC.

In 2006, the 20-acre remainder parcel was subdivided into four, 5-acre parcels (Parcels 5-8) (HCD Planning File NO. PLN060078; Planning Commission Resolution No. 06014; **Attachment 2 of Exhibit B**). This Resolution recognizes the newly created parcels as LDR/1, not LC. Further, the prepared amended Mitigated Negative declaration analyzed foreseeable impacts from developing these parcels with residential uses. Staff's review of the applicable documents indicates that these parcels were zoned Light Commercial at the time of the subdivision. Accordingly, reference to LDR/1 in Planning Commission Resolution No. 06014 appears to be an error.

The zoning in the unincorporated area of Lockwood remained the same with the adoption and implementation of the 2010 General Plan, with minor changes including rezoning an LDR/1 property to Public Quasi-Public to align with the property's development (elementary school). Parcels 1-4 continued to be zoned LDR/1, and Parcels 5-8 continued to be zoned LC. Adoption of the 2010 General Plan also created multiple Rural Centers (Policy LU-2.27). The Lockwood Rural Center contains approximately 345 acres and includes properties zoned Low Density Residential, Rural Grazing, Light Commercial, Medium Density Residential, and Public Quasi-Public. The subject properties are located within the Lockwood Rural Center. The proposed land use designation and zoning change would not impact the Lockwood Rural Center's purpose, boundaries, or intent. Between 2021 and 2023, Parcels 5-8 were sold to the current owners, who believed they were purchasing residential properties. The Owners of Parcels 5-8 claim these parcels were "recorded as

Low Density Residential-1, according to county records, and remained so designated until 2010” **(Exhibit B)**. This claim is based on the County’s GIS, which identifies the properties as being zoned LC and LDR, and Planning Commission Resolution No. 06014’s erroneous recognition of the LDR/1 zoning. Further, the properties’ Covenants, Conditions, and Restrictions (CC&Rs) describe out the primary use of the properties as follows: “... *intends to distribute and/or sell the parcels to separate owners and restrict the property and of the parcels and the remainder Parcel, in accordance with a common plan for the express purpose of enhancing and protecting the residential value of the land ...*”, and “*The parcels shall be used for **residential and agricultural purposes only**. All other trade, business and commercial uses, incidental or otherwise, whether or not obtrusive, including, without limitation, uses involving the production, storage or sale of goods, non-agricultural products or materials, or rendering of services, are prohibited.*” **(Exhibit B)**. Additionally, the CC&Rs prohibit the use of commercial storage buildings unless they can be screened from public view.

The LC zoning allows for residential uses, provided that the gross square footage of the residential use does not exceed the gross square footage of the commercial use (Title 21 section 21.18.060). Accordingly, to develop Parcels 5-8 with single-family residences, the property owners would also have to construct/operate an equal or greater-sized commercial business. Although the County does not enforce CC&Rs, it is recognized that operations of a business on these properties may conflict with the private restrictions of the CC&Rs. In addition to this conflict, the Owners of Parcels 5-8 find that it is “*highly unlikely that a single business, not to mention four businesses, would survive, let alone flourish, given the sparse population and remoteness of the location.*” **(Exhibit B)** The Owners of Parcels 5-8 have expressed a desire to develop these parcels with single-family dwellings, but cannot do so without a change in zoning and land use designation.

Based on the information above, staff believes there is a demonstrable error or oversight in the 2010 General Plan, which was caused by an incorrect recognition of these parcels as LDR in 2005 and 2006. Additionally, staff believe there has been a change in circumstance, being that the development of these parcels with residential uses, rather than commercial, is more viable and supports the County’s housing demand.

This General Development Proposal has been referred to the South County Land Use Advisory Committee. The LUAC’s recommendation will be provided to the Planning Commission when the item is scheduled for formal recommendation (date to be determined).

Central Salinas Valley Area Plan

Proposed General Plan Amendment: PLN190243 proposes to amend the Central Salinas Valley Area Plan to create a Special Treatment Area over APN: 420-063-014-000 to allow outdoor commercial cannabis cultivation. Specifically, it would add CSV Policy 1.8: “Special Treatment Area: Cumming’s Ranch - the Cumming’s Ranch (APN: 420-063-014-000) shall be designated as a “special treatment area” to allow up to 20,000 square feet of outdoor cannabis cultivation, provided the operator obtains a commercial cannabis business permit, and the operation complies with the requirements of the Outdoor Cannabis Cultivation Pilot Program, except for location”.

Background/Justification:

On June 18, 2019, the Board of Supervisors adopted Chapters 20.69 and 21.69 of the Monterey County Code (coastal and inland) and created a pilot program (Program) for limited outdoor commercial cannabis cultivation in the Big Sur, Carmel Valley, and Cachagua plan areas. The Program was limited to certain zoning districts and qualified operations that were previously operating. In the fall of 2020, in response to requests from the Cannabis Committee and HCD, the Board of Supervisors directed staff to prepare ordinances updating the Program to remove some of the barriers to Program entry. Based on direction from the Board of Supervisors and the Cannabis Committee, HCD staff prepared draft ordinances amending Titles 20 and 21 of the Monterey County Code (coastal and non-coastal zoning ordinances). In addition to making energy requirement and setback revisions and extending the Program's expiration, staff recommended that the Central Salinas Valley Area Plan be added to the Outdoor Cannabis Cultivation Pilot Program. However, the Agriculture Advisory Committee considered the draft ordinance and recommended removal of the Central Salinas Valley Area Plan, citing concerns with crop incompatibility (cannabis pesticides and odors impacting other crop cultivation, including vineyards, and the impact of off-site pesticide use on cannabis crops), an unknown number and location of permittees in the Area Plan, water availability, and potential impacts on cattle grazing).

In April 2021, the Planning Commission considered the draft ordinance. During the Planning Commission's hearing, members of the Commission raised questions about whether the AAC's concerns were substantiated, concerns regarding excluding the limited public members of the Central Salinas Valley Area Plan who cultivate cannabis and wish to legalize their operation, and reiterated that the purpose of a pilot program is to attempt to address concerns and questions, which will then better inform an ultimate ordinance. The Agricultural Commissioner was present in the hearing. Without additional research, the Agricultural Commissioner conservatively stated during this hearing that a 2-mile buffer between cannabis cultivation and off-site agricultural operations would be needed to ensure that cannabis crops would not be rendered a loss and impacted by off-site pesticide use, or vice versa. After public testimony and given the July 1, 2021 deadline to find the Ordinance Statutorily Exempt from CEQA, the Planning Commission recommended the adoption of the draft Ordinance, without the Central Salinas Valley Area Plan. The amended draft ordinance was then adopted by the Board of Supervisors on May 18, 2021.

Even with the time extension and these improvements to the Title 20 and 21 code requirements (valid through June, 2026), there has yet to be a permit issued for outdoor cannabis cultivation in the County. One rancher (Mr. John Cumming) in unincorporated County has consistently requested the ability to have an outdoor cannabis grow site. This applicant owns a large ranch in the Central Salinas Valley Planning Area, and the land is zoned Permanent Grazing (**Exhibit C**). Since Mr. Cumming's property is located within the Central Salinas Valley Area Plan, it is not subject to the Outdoor Cannabis Cultivation Pilot Program. Accordingly, there are no existing regulations that would allow Mr. Cumming to establish an outdoor cannabis cultivation site. Since 2019, Mr. Cummings has attempted to be included in the Outdoor Cannabis Cultivation Pilot Program. He now seeks the adoption of a Special Treatment Area to would allow him to cultivate approximately 20,000 square feet of cannabis.

A "Special Treatment Area" (STA) is intended to be used in conjunction with the underlying land use designation. Its purpose is to facilitate a comprehensive planned approach for specifically designated

properties (or a single property) where a mix of uses is permitted and/or where there are unique natural and scenic resources or significant recreational/visitor-serving opportunities. In this case, the STA would essentially recognize uniqueness about the property and allow the Owner to cultivate cannabis, subject to meeting the requirements of Title 7 and obtaining necessary licenses/permits from the County of Monterey Cannabis Program. The STA would be added as CSV Policy 1.8: “Special Treatment Area: Cumming’s Ranch - the Cumming’s Ranch (APN: 420-063-014-000) shall be designated as a “special treatment area” to allow up to 20,000 square feet of outdoor cannabis cultivation, provided the operator obtains a commercial cannabis business permit, and the operation complies with the requirements of the Outdoor Cannabis Cultivation Pilot Program, except for location”.

Should the STA be adopted, the cannabis proposal would involve 378 plants with a total canopy area of 18,522 square feet in the heart of a private 120+ acre ranch located at 50700 Thompson Canyon Road, King City (Assessor's Parcel Number 420-063-014-000; **Exhibit C**). The Outdoor Cannabis Cultivation Pilot Program’s (Chapter 21.69) requirements were used as guidelines to better determine whether Mr. Cumming’s outdoor cannabis proposal is appropriate. Although not required, as Chapter 21.69 is not applicable, the Applicant’s operation plan (**Exhibit D**) demonstrates that the cultivation proposal would comply with all its requirements as follows:

- Cannabis activities would be limited to outdoor cultivation (Title 21 section 21.69.060.A);
- The Applicant/Owner would obtain necessary permits and licenses, and has offered to pay a “fair canopy tax” (Title 21 section 21.69.060.B);
- Cannabis activities would comply with all required setbacks from schools, watercourses, public roads, and offsite structures (Title 21 section 21.69.060.C), and no setback exceptions are required (Title 21 section 21.69.060.D). The nearest residence is 1.7 miles northeast;
- The Applicant/Owner cultivated cannabis onsite from 2014 to 2020;
- The Applicant/Owner has demonstrated the right to use the private road (Title 21 section 21.69.060.F);
- Cannabis cultivation would not take place on federal or state lands, or on lots where the only access is through federal land (Title 21 section 21.69.060.G)
- Cannabis cultivation would not take place within an existing single family or multi-family dwelling (Title 21 section 21.69.060.H);
- Due to property size and topography, the outdoor cultivation would not be visible from offsite (Title 21 section 21.69.060.I);
- The cannabis cultivation would not exceed 20,000 square feet of canopy and would not exceed 2.5% of the lot size (Title 21 section 21.69.060.J);
- Adequate on-site security measures to restrict access to only those intended and to deter trespass and theft of cannabis or cannabis products already exist on-site (Title 21 section 21.69.060.K);
- Cannabis cultivation would occur without use of conventional herbicides, fungicides, and insecticides (Title 21 section 21.69.060.L). There would be no pesticide drift impacting nearby agricultural operations due to the size of the subject parcel and its location within the owner’s larger ranch;
- No lighting would be required (Title 21 section 21.69.060.M);
- Adequate on-site water suppression storage tanks (approx. 83,200 gallons) exist, and CalFire has access to existing gates (Title 21 section 21.69.060.N);

- An existing on-site spring produces approximately 1,620 gallons per day, which would exceed the water demand of the cannabis cultivation (ranging between 151 gallons to 302 gallons per day). Efficient micro-sprinklers would be used (Title 21 section 21.69.060.O);
- An Operations Plan was created and reviewed by County staff that discusses all required subsections and demonstrates no power source or generator would be needed, with appropriate hazardous waste, non-hazardous waste, stormwater control, and project water management (Title 21 section 21.69.060.Q); and
- No wastewater facilities would be required by the Environmental Health Bureau (Title 21 section 21.69.060.P).

The primary reason the Central Salinas Valley Area Plan was removed from inclusion in the Program was due to the concerns raised by the Agriculture Advisory Committee and Agricultural Commissioner (main concern being pesticide drift and the recommendation of a 2-mile setback from off-site agricultural operations), and the limited time to take advantage of a CEQA Statutory Exemption. Although no additional research has been conducted by staff at this time, Mr. Cumming's has demonstrated compatibility with the Program's requirements (besides location) and confirms that it will not impact any nearby grazing, vineyard, or crop cultivation due to distance. Mr. Cummings is the only cannabis cultivator in the Central Salinas Valley Area Plan who has contacted the HCD seeking a path forward to legalize limited outdoor cannabis cultivation. In this case, staff believes there is a change in circumstance, being that the Pilot Program is soon to expire (June 2026), research to better determine whether the Program should be amended to include the Central Salinas Valley Area Plan have yet to occur, no cultivators have taken advantage of the Program, and the subject property meets all Program requirements but is excluded simply due to location within the Central Salinas Valley Area Plan. Additionally, creation of the STA better meets the goals, policies, and text of the General Plan by promoting economic development, allowing Mr. Cumming to increase the agricultural viability of his property, and benefiting the health and safety of all County residents by promoting permitting and regulation of outdoor cannabis in the County.

The Safety Element of the 2010 General Plan (GP) discusses that various hazards occur when toxic chemicals in the form of pesticides, herbicides, fertilizers, etc. are mismanaged or misused. These contaminate the air and water and can cause fires and explosions. Leaks and spills are more likely to occur at outdoor cannabis grow sites that are not legally permitted. 2010 GP Policy S-3.2 requires Best Management Practices (BMPs) to protect groundwater and surface water quality to be incorporated into all permitted development. 2010 GP Policy S-4.22 requires development to meet minimum requirements in the state and County fire codes. This application includes BMPs and a fire and fuel management plan, conforming to these policies. Furthermore, by being the first permitted outdoor cannabis operation in the County, the STA provides a model to encourage other outdoor cannabis growers that are eligible for the Program, or wish to be, but have not applied, and potentially encourages the County to revisit the applicability and duration of the Program.

There is no Land Use Advisory Committee for the Central Salinas Valley Area Plan.

NEXT STEPS

Pursuant to Title 21 section 21.91.030, HCD-Planning staff is seeking the Planning Commission's early assessment on the proposed General Plan Amendments to rezone and redesignate four parcels in the South County Area Plan to LDR/1, apply a Special Treatment Area over a parcel in Central

Salinas Valley Area Plan to allow outdoor cannabis cultivation, and rezone and redesignate a parcel in the Carmel Valley Master Plan to HDR/20. The Planning Commission is tasked with deciding whether the proposed General Plan Amendments have the potential to meet the evaluation criteria needed to approve such requests. Additionally, the Planning Commission's early assessment decisions should include consideration of the Government Code's requirement that a General Plan Amendment be in the "public interest".

Following the Planning Commission's early assessment decision, HCD-Planning staff will finalize its environmental review, and schedule the item for the Planning Commission's recommendation to the Board of Supervisors.

ENVIRONMENTAL REVIEW

Pursuant to section 21.91.030 of the County Code, the early assessment may be undertaken prior to environmental review under the California Environmental Quality Act (CEQA) based on the recognition that the early assessment is not a commitment to the General Plan Amendment and does not excuse preparation of environmental review as appropriate under CEQA. CEQA Guidelines section 15262 Statutorily Exempts feasibility studies for possible future actions that have yet to be taken. The Planning Commission's Early Assessment is a determination of whether the proposed General Plan Amendments are feasible and have the potential of meeting specific criteria. The environmental review for the General Plan Amendments will occur prior to the Planning Commission's formal consideration.

OTHER AGENCY INVOLVEMENT

HCD-Engineering Services, -Environmental Services, and -Housing reviewed the proposed South County Area Plan Amendment.

HCD-Engineering Services and Environmental Services, Environmental Health Bureau, and CalFire reviewed the Central Salinas Valley Area Plan Amendment.

Prepared by: Fionna Jensen, Principal Planner, x6407

Approved by: Melanie Beretti, AICP, Chief of Planning

The following attachments are on file with HCD:

Exhibit A - South County Area Plan Rezone Map

Exhibit B - PLN250139 Applicant's Justification for SCAP Amendment (Rezoned)

- Historical Sectional District (79) Maps
- 2005 and 2006 Parcel Maps

Exhibit C - Central Salinas Valley Area Plan Special Treatment Area Vicinity Map

Exhibit D - PLN190243 Applicant's Justification for CSVAP STA

cc: Front Counter Copy; Fionna Jensen, Principal Planner; Usrey Timothy D & Paula C And Camacho Ignacio And Martinez Rafael And Martinez Rafael Amador Et Al (PLN250139-DEP); and Cumming John Hansen & Marie Trs Et Al (PLN190243), Property Owners; The Open Monterey Project (Molly Erickson); LandWatch (Director); Christina McGinnis, Keep Big Sur Wild; Laborers International Union of North America (Lozeau Drury LLP); REF260001.