

Exhibit A

Pilot Program Discussion

Background

On July 10, 2018, the Board of Supervisors provided direction to staff to prioritize developing a pilot program that would permit limited outdoor cannabis cultivation within Supervisorial District 5, specifically in the Big Sur, Carmel Valley, and Chachagua Planning areas. Direction also included excluding Districts 2 and 3 (Resolution 18-703). On December 18, 2018, the Cannabis Committee provided initial direction to staff on the scope, criteria and process for the Pilot Program. Initial direction from the Cannabis Committee included:

- Limit the Pilot Program to Watershed and Scenic Conservation (WSC) and Rural Density Residential (RDR) zoning designations;
- On properties that were legally cultivated under for medicinal cannabis under Senate Bill 420
- On lots that are 10 acres or more in size; and
- Limit canopy to small grows (10,000 square feet or less).

Direction also included taking advantage of an exemption in California Business and Professions Code section 26055(h) which provides a statutory exemption from CEQA for the adoption cannabis ordinances when the ordinance requires discretionary review of individual permits pursuant that are themselves subject to environmental review under CEQA. The statutory exemption provided in the Business and Professions Code section 26055(h) expires on July 1, 2019 so the Pilot Program must be considered by the Board of Supervisors prior to that date in order to apply the exemption to the ordinance.

Direction further included limited outreach given the timeline for development and consideration of the ordinances. Outreach included review and consideration by Land Use Advisory Committees (LUACs) in the Big Sur, Carmel Valley, and Cachagua areas, coordination with interested industry representatives, and public hearings before the Cannabis Committee.

Since December 2018, staff has:

- Met multiple times with industry representatives who have requested consideration of:
 - Cultivation on lots of less than 10 acres using a sliding scale;
 - Inclusion of the Resource Conservation zoning district in the Cachagua Planning area; and
 - A program to allow transfer of canopy from sites that were previously cultivated, but do not qualify for a permit under the Pilot Program, to a large site that is capable of supporting multiple 10,000 square foot cultivation areas.
- Attended meetings of the Big Sur, Carmel Valley, and Cachagua LUACs. All three LUACs unanimously supported efforts to establish a Pilot Program with various comments and concerns to be considered (See discussion below for more details).
- Met internally with affected County Departments who have provided input on the ordinance including estimated resource needs for implementation.
- Prepared a draft ordinance establishing a Pilot Program for the Big Sur Land Use Plan area (coastal ordinance) (**Exhibit B**). A separate ordinance that is substantially the same as the coastal ordinance will be prepared for the Carmel Valley and Cachagua planning areas (Inland). It is the intent of staff to include the Resource Conservation zoning district in the Cachagua planning area but not within the Carmel Valley planning area.

The draft ordinance reflects direction from the Board of Supervisors, the Cannabis Committee, the industry, and the LUACs.

Overview

Ordinances have been, or will be prepared to establish a 5-year pilot program for the permitting and regulation of small outdoor cannabis cultivation in the Big Sur, Carmel Valley, and Cachagua Planning areas. The purpose of the pilot program is to gather data and experience for future consideration of long-term outdoor cultivation policies and regulations.

As drafted, the pilot program would allow outdoor cultivation and ancillary uses with a discretionary (Administrative) permit in each case. Outdoor cultivation includes growing, drying, and trimming of cannabis without the use of artificial lighting or light deprivation. Eligibility for the pilot program is limited to “qualified properties”. Qualified properties are limited by all of the following:

- Area – Properties must be located within the boundaries of the Big Sur Land Use Plan, Carmel Valley Master Plan, or Cachagua Area Plan (District 5) only
- Zoning – Properties must be located in the following zoning districts:
 - Within the Big Sur Land Use Plan
 - Rural Density Residential (RDR); or
 - Watershed and Scenic Conservation (WSC).
 - Within the Carmel Valley Master Plan
 - Rural Density Residential (RDR)
 - Within the Cachagua Area Plan
 - Rural Density Residential (RDR); or
 - Resource Conservation (RC).
- Lot Size – The property must contain 10 acres or more
- Previously Cultivated - Proof that the property was cultivated for medicinal cannabis prior to January 1, 2016 must be provided.

The above referenced Area and Zoning limitations would allow permitting within much of the Big Sur Land Use Plan area. Permitting in Carmel Valley Master Plan would be limited to large lots in the northern hills of the valley. Cultivation would not be permitted on the valley floor. In Cachagua, permits would be limited to Rural Density Residential neighborhoods along Carmel Valley Road and Sky Ranch Road as well as Resource Conservation zones in and around Cachagua Road and Tassajara Road.

Regulations and required findings are provided in the draft pilot program to address neighborhood compatibility, health and safety, and environmental impacts.

Ancillary uses to outdoor cultivation include supportive nurseries, self-processing, and self-distribution. The ancillary uses will allow cultivators to:

- Supportive Nursery - Maintain a small nursery operation to support the cultivation activities on the site. Nursery canopy is not be included in the 10,000 square foot canopy

limit for outdoor cultivation and artificial lighting would be permitted in the nursery area to prevent the nursery plants from flowering;

- Self-processing - Produce non-manufactured cannabis products such as pre-rolls using products cultivated onsite, and package and label products produced on-site; and
- Self-distribution - Distribute products produced onsite to the next step in the cannabis supply chain.

Unique application requirements for outdoor cultivation and ancillary uses are established and enforcement, suspension, and revocation of permits under the pilot program will be guided by the adopted regulations for commercial cannabis already in place for greenhouse and indoor grows (Chapters 20.67 and 21.67 of the Monterey County Code).

Comments

Staff has met with the Big Sur Farmers Association (BSFA) on multiple occasions and attended meetings of the Big Sur, Carmel Valley, and Cachagua Land Use Advisory Committees (LUAC) to get feedback on the pilot program from the affected industry and communities. The following is a summary of feedback and comments from those meetings followed by staff comments where applicable:

BSFA – BSFA supports regulations that will provide opportunity for those involved in the medicinal cannabis industry to become part of the legalized commercial cannabis industry. They consider small cannabis cultivation in the program area as historic uses and not new uses. BSFA representatives have expressed two main concerns that may lead to exclusion of a significant number of participants:

1. The Resource Conservation (RC) zoning designation in the Cachagua area must be included; and
 2. The 10-acre minimum lot size should be replaced with setbacks and a maximum lot coverage or sliding scale of canopy area. They suggest approximately 2.5% coverage. This would allow participation by cultivators on lots of varying sizes provided they meet setback and coverage requirements.
- Staff intends to include the RC zoning district for Cachagua in the pilot program regulations. The pilot program would need to be amended to remove the 10 acre minimum. Staff has included minimum lot sizes as a means to minimize impacts on residential areas with relatively higher densities (0-10 acres per unit densities) and the larger lot sizes can typically accommodate larger setbacks.

BSFA has also requested the County consider policies that would allow farmers who have moved since 2016, or who are otherwise excluded by restrictions in the pilot program, the opportunity to transfer a previously cultivated site from its original location to a larger lot that is capable of supporting two or more 10,000 square foot canopy areas.

- Staff has not included this in the pilot program. There may be unintended consequences of such a program and staffs ability to establish reasonable such policies and regulations in the time provided is limited.

Additional information has been provided by the BSFA in meetings to clarify operational needs and limitations for consideration. Key information included:

- Hoop houses or indoor space is needed for maintaining immature plants outside the outdoor cultivation canopy;
 - Drying sheds and trimming areas are required for post harvesting activities. Significant policy restrictions such as fire sprinklers, ADA access, septic and water system requirements could provide significant barriers to entry for operators;
 - 10,000 square foot outdoor grows can typically be managed by a resident and caretaker onsite. For harvesting and trimming, 4 to 10 employees may be onsite for about a 3-week period once per year (most use about 4 employee's maximum).
 - A 10,000-square foot grow requires approximately ¼ acre foot of water per year.
- Staff is has taken this information under advisement. Health, safety, and fire requirements will apply to outdoor cultivation permits although staff is considering options for reducing barriers to entry in certain non-essential cases.

LUACs – Staff meet with the Big Sur, Carmel Valley, and Cachagua LUACs. All three LUACs unanimously supported the pilot program provided concerns are addressed.

Big Sur LUAC – The final vote of the Big Sur LUAC was to support the program provided the following items are addressed:

- Adequate water quality and quantity are available from appropriate water sources;
- Greenhouses and structures should not be visible;
- Increase traffic on private roads should be addressed
- Adequate security should be required
- Fees for permitting should be evaluated and potentially reduced to minimize financial barriers to entry;
- A local residency requirement and/or non-transferable permit should be considered; and
- The pilot program should be limited in duration, outcome criteria for measuring the pilot program success should be developed and the program should be expanded or modified based on results of the pilot program.

Carmel Valley LUAC – The final vote of the Carmel Valley LUAC was to support the pilot program provided the following issues are addressed:

- Water supply in Carmel Valley is limited and must be addressed in the program or permits;
- Monterey Bay Air Pollution Control District should be consulted regarding odors;
- Barriers to entry including permit fees should be removed; and
- The pilot program should be limited in duration and reviewed after a set period of time.

Cachagua LUAC – The final vote of the Cachagua LUAC was to support the pilot program provided the following issues are addressed:

- Tax dollars should be invested in the affected community. Provide a soccer field, fix the roads, increase sheriff presence, etc.;
- The night sky must be protected;
- Water sources including groundwater quantities and watery systems should be protected;
- Access on private roads should be addressed;
- Public noticing of permits should be required;
- Nuisances including odor, noise, and security threats must be considered;
- A local residency requirement and/or non-transferable permit should be considered;
- Small personal grows should not qualify to become 10,000 square foot commercial grows;
- The Rural Density Residential (RDR) zoning is the least desirable zoning district in Cachagua due to higher densities of residential uses and smaller lots sizes. Consider allowing in Farmland and Grazing land zoning districts;
- The pilot program should be limited in duration and reviewed after a set period of time.

Many other comments were made at the LUAC meetings and in emails from individuals. LUAC minutes are attached to the Cannabis Committee Report (Exhibit C).

Written correspondence has been received (Exhibit D). Main concerns raised include:

- Security concerns with lack of sheriff presence and long response times. Cannabis can be an attraction for a criminal element; and
- Environmental review should be conducted prior to adoption of the ordinance; and

Staff comments

- Staff has taken all of the comments received into consideration. Regulations have been added to the pilot program addressing lighting, nuisances, water and sewage, traffic and security among other things. The pilot program is limited in duration with a mandatory review after a 5-year period. Fees for permitting and local residency requirements will be considered separate from the zoning regulations establishing the pilot program.

Next Steps:

Staff is seeking input and direction from the Cannabis Committee on the draft ordinance. With Cannabis Committee direction, the next steps for the Pilot Program include a review and recommendation at the Planning Commission followed by consideration at the Board of Supervisors. In the Coastal Zone (Big Sur), the Pilot Program ordinance will need to be certified by the Coastal Commission before it can take effect.