



Monterey County Cannabis Committee Meeting Agenda

Government Center- Board
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Monday, March 22, 2021

11:30 AM

Board Chambers

Chair Chris Lopez and Supervisor Luis Alejo

IMPORTANT NOTICE REGARDING COVID 19

Based on guidance from the California Department of Public Health and the California Governor's Office, in order to minimize the spread of the COVID 19 virus:

1. You are strongly encouraged to join the Cannabis Committee meeting via Zoom:
[https://montereycty.zoom.us/j/94054072455?](https://montereycty.zoom.us/j/94054072455?pwd=d0s0bW5waXIjYlFsT1lyeWJ2THorZz09)
[pwd=d0s0bW5waXIjYlFsT1lyeWJ2THorZz09](https://montereycty.zoom.us/j/94054072455?pwd=d0s0bW5waXIjYlFsT1lyeWJ2THorZz09)

If you do not have access to a computer, you may call into the meeting and participate by calling 1-669-900-6833 and entering the meeting ID: 929 3275 0911.

2. If you choose not to attend the Cannabis Committee meeting but wish to make a comment on a specific agenda item, please submit your comment via email by 5:00 p.m. on the day prior to the meeting. Please submit your comment to Heather Miller at millerhe@co.monterey.ca.us. Your comment will be placed into the record at the meeting.

3. If you are watching the live stream of the Cannabis Committee meeting and wish to make either a general public comment or a comment on a specific agenda item as it is being heard, please select the "raise hand" option on the Zoom screen, and your microphone will be unmuted so you can speak.

To select the "raise hand" option, click on the 'participants' icon at the bottom of your Zoom screen, then click the "raise hand" icon next to your name.

4. If you attend the Cannabis Committee meeting in person, you will be required to maintain the appropriate social distancing of a 6-foot distance between yourself and other individuals.

Pursuant to Governor Newsom's Executive Order No. N-25-20, Supervisors may participate in the meeting by telephone or video conference.

NOTE: All agenda titles related to numbered items are live web links. Click on the title to be directed to the corresponding Committee Report.

Call to Order**Additions and Corrections**

Continuance of Closed Session to be held at the conclusion of the Board's Regular Agenda, or at any other time during the course of the meeting announced by the Chairperson of the Board.

Public Comment Period

This portion of the meeting is reserved for persons to address the Committee on any matter not on this agenda but under the jurisdiction of the Committee.

Approval of Action Minutes

Approval of Minutes from the February 26, 2021 Cannabis Committee "Special" meeting.

Attachments: [MINUTES February 26 2021 Cannabis Standing Committee final](#)

Regular Agenda

1. a. **Receive a verbal update on Cannabis Assignment as it relates to CARES funding.**
- b. **Provide direction to staff.**

Presenter: Ezequiel Vega, Budget Director

2. **Receive a report on the findings of the Cannabis Business Permit fee study, and support a recommendation that the Board of Supervisors adopt a resolution to amend Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution to update fees for processing Cannabis Business Permits.**

Presenters: Joann Iwamoto, Cannabis Program
Jerry Wolf, MGT Consulting

Attachments: [Board Report](#)
[Attachment A Draft BoS Resolution Amending Articles Monterey County Master Fee Resolution](#)
[Attachment B Monterey County Report DRAFT Report](#)

3. a. **Receive a Cannabis Program memorandum on current cannabis cultivation square footage, land use permits, cannabis business permits, and other updates.**

b. Provide direction to staff.

Presenter: Myles Echenique, Cannabis Analyst

Attachments: [Memorandum of Cannabis Program](#)

4. a. Receive a report on the process required to amend Monterey County Code to allow construction

of new greenhouses to be used for commercial cannabis cultivation.

b. Provide direction to staff.

Presenter: Craig Spencer, Housing and Community Development Planning Services Manager

Attachments: [CC Report Amend 21.67](#)

5. a. Receive a verbal presentation of the Cannabis Distribution Tax.**b. Provide direction to staff.**

Presenters: Kristina Parson, Deputy Treasurer-Tax Collector
Lynnette Beardsall, Management Analyst III

6. a. Receive a verbal presentation of the CA Cannabis Authority Administrative Fees.**b. Provide direction to staff.**

Presenter: Mary Zeeb, Treasurer-Tax Collector

Adjournment

The next meeting is scheduled for April 21, 2021.



Monterey County

Item No.

Board Report

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

Legistar File Number: MIN 21-015

March 22, 2021

Introduced: 3/16/2021

Current Status: Agenda Ready

Version: 1

Matter Type: Minutes



Monterey County Action Minutes Cannabis Standing Committee

Friday, February 26, 2021

10:00 AM

Government Center, Board Chambers

Call to Order

Meeting was called to order at 10:01am.

Additions and Corrections

- The next Cannabis Committee meeting has been rescheduled to March 22, 2021, 11:30 AM.
- On the January 29, 2021 Minutes, there are corrections for item number 3.
 - Henry Gonzales, Agricultural Commissioner should have been stated instead of Jose Chang.
- Titles to Agenda Items Number 2 and Number 3 have been slightly edited to match the exact wording in the report titles.
- On Agenda Item Number 4, the presenters have been revised to Myles Echenique and Joann Iwamoto.
- Attachment B has been corrected.
- John Cumming’s PLN # recorded from public comments during the January 29 Cannabis Committee meeting was incorrect; the correct PLN # is PLN240143.

Public Comment Period

- John Cumming asked that the Monterey County Cannabis Program make an exception on his Application PLN240143. Mentioned that Outdoor Grow is a one-shot/one-crop annual activity where pre-planning begins late winter to have a successful mid-fall crop, so time is of the essence. He added that he is willing to take full responsibility for his time and money spent.

Regular Agenda

1. Receive a Cannabis Program memorandum on current cannabis cultivation square footage, land use permits, cannabis business permits, and other updates.

Presenter: Myles Echenique, Cannabis Analyst

ACTION:

- Supervisor Alejo asked if local staff has joined the CAMRA Association.
 - Myles Echenique clarified that at the time it is exclusively opened to state level jurisdictions but will offering opportunities to local regulators in the near future.



Monterey County Action Minutes Cannabis Standing Committee

Friday, February 26, 2021

10:00 AM

Government Center, Board Chambers

- Chair Lopez encouraged staff to approach the board and committee about resources needed to make any changes before July 1st and added that it will become more difficult to do so thereafter.
 - Chair Lopez and Supervisor Alejo deemed the report as received.
2. Receive a report on cannabis assignment allocations and their relation to the 2018 Spring Community Focus Group Priorities and receive recommendations and direct staff to present to the Board of Supervisors

Presenters: Joann Iwamoto, Cannabis Program Manager
Analyst

Myles Echenique, Cannabis

ACTION:

- Supervisor Alejo expressed his appreciation for the analysis done and added that it is good for the public to see our transparency and how we are spending those dollars.
- Supervisor Alejo asked for Program Manager's thoughts on the potential to grow additional funding if permits are able to get expedited.
 - Joann Iwamoto responded that a general estimate of cannabis tax revenue for FY22 is about \$22.9million and clarified that it doesn't include the Tax Escalator, new business that we see coming online, or the potential for Outdoor Grow. Joann added that every week she receives at least 2-3 calls of individuals inquiring about how they can become a Cannabis Business Operator in Monterey County.
- Supervisor Alejo was pleased to hear that there is continued interest and stated that is a healthy sign of Monterey County's Cannabis Industry.
- Chair Lopez shared Supervisor Alejo's interest on what the future looks like for the industry. He reiterated the ability that our County has had to set models for others throughout the state. He added that a lot of the funding to support different programs in our County has been afforded thanks to the Cannabis Industry. Chair Lopez expressed his goal to keep Monterey County an attractive place for others to come and invest and wants to make sure we continue to bring competitive jobs.
- Chair Lopez and Supervisor Alejo deemed the report as received.



Monterey County Action Minutes Cannabis Standing Committee

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3. Receive an update on Cannabis Program Resource Augmentation Proposals for the Budget Year 2021-22 and receive recommendations and direction to present to the Budget Committee

Presenter: Joann Iwamoto, Cannabis Program Manager

ACTION:

- Chair Lopez stated he is not supportive of continuing with CCA and their escalating cost, but he is ok with it moving forward for additional conversation. He reminded everyone that last year the Board underfunded this line item knowing that it wasn't something they were completely supportive of so it's a tough point for him to look at again.
- Supervisor Alejo too shared his concern with CCA's growing cost and stated he understands the importance from being part of CCA and the valuable tools it provides, but feels we should ask why their administrative costs are growing so rapidly.
 - Mary Zeeb explained that the amount CCA invoices has a direct correlation with the amount that is transacted by the Industry. The more successful our industry becomes, the higher the fees will be.
 - Supervisor Alejo responded there isn't a direct correlation and that the success of our industry doesn't mean more costs to CCA; it is just how their formula is set up that if counties do well, they get more. Supervisor Lopez instead suggested that CCA should have a fixed cost to run and that cost should then be shared among the participating counties. He believes CCA's formula should be re-evaluated now as industries are growing.
 - Mary Zeeb explained that there is a fixed cost by CCA itself in addition to variable transactional costs. Added that every transaction creates additional work that needs to be processed so the more transactions, the higher the cost.
 - Supervisor Alejo concluded by saying that he believes all 5 Supervisors need to be educated on where the money is going to and understand if there is a real increase in cost or if it is just a result of CCA's formula. He added that it would be good to be transparent on how CCA is doing financially.
 - Chair Lopez mentioned that at one-point CCA was supposed to have its own income stream so it was seen as an opportunity in its early stages. However, now seeing their increased costs and some of the duplicate



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work with METRC leaves him continuing to want to seek access to METRC instead and focus on getting the State to open that source to us. Chair Lopez concluded by stating that redundancy is something he is not supportive of.

- Supervisor Alejo stated that the existing funding provided for Consultants was to expedite permits to in turn have more funds that would allow for Augmentation Requests. He added that he hopes if the Board continues to fund it, it will serve its purpose. Supervisor Alejo asked if the current amount provided for Consultants has been utilized this FY and how it is envisioned to help more businesses get online in the coming FY.
 - Joann Iwamoto answered that it hasn't yet been utilized but is hopeful it will be by the July 1st deadline that Chair Lopez emphasized.
- Supervisor Alejo reiterated the importance of utilizing the resources provided and added that this is part of the frustration from industry partners.
- Supervisor Alejo gave direction to further analyze if the Chronic Health Specialist Position merits a full-time position or if it can be done with a half-time position before coming to the Budget Committee.
- Chair Lopez asked for a future presentation that gives a better understanding of what the turnaround timeframe looks like if someone was to come in today wanting to apply for a Commercial Cannabis Business Permit.

Adjournment

Meeting adjourned at 11:12am

Next meeting scheduled for March 22, 2021 @ 11:30am.



Monterey County

Item No.

Board Report

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

Legistar File Number: 21-248

March 22, 2021

Introduced: 3/16/2021

Current Status: Agenda Ready

Version: 1

Matter Type: General Agenda Item

Receive a report on the findings of the Cannabis Business Permit fee study, and support a recommendation that the Board of Supervisors adopt a resolution to amend Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution to update fees for processing Cannabis Business Permits.

RECOMMENDATION:

It is recommended that the Board of Supervisors Cannabis Committee:

- a. Receive a report on the findings of the Cannabis Business Permit fee study; and
- b. Support a recommendation that the Board of Supervisors adopt a resolution to amend Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution to update fees for processing Cannabis Business Permits; and
- c. Provide direction to staff as appropriate.

SUMMARY

In December 2020, the Board of Supervisors adopted a resolution to approve and fund a Cannabis Business Permit (“CNB”) study to establish a fee intended to reduce staff time required to process and issue CNBs. Monterey County (“County”) retained MGT Consulting LLC (“MGT”) to determine the cost of issuing CNBs for commercial cannabis operators including cultivators, distributors, processors, manufacturers and and retailers. MGT has previously assisted the County on many cost of service analyses. MGT has also assisted many cities, counties and states on determining the costs of cannabis licensing and enforcement, as well as numerous other types of user fees.

The County currently has two deposits for the CNBs

Deposit	Deposit Amount
Initial Permit	\$4,653
Renewal Permit	\$1069

Findings from the fee study have supported the implementation of a standard fee for initial and renewal applications.

DISCUSSION

Approach to the Project

Four departments are involved in issuing CNBs:

1. County Administrative Office (“CAO”) Cannabis Program (“Program”)

2. Office of the County Counsel
3. Health Department, Environmental Health Bureau (“EHB”)
4. Housing and Community Development Department (“HCD”) formerly Resource Management Agency

During this project, MGT determined the costs of each departments through the following analyses.

Review Historical Fee Structure & Fee Collection Data

The County has two permit deposits: Initial and Renewal. The Initial permit is valid for one year and all permits must be renewed annually.

The Program has issued 14 CNBs and there are an additional 101 in the queue as Initial permits. Annual renewal volume would range from 120 to 150 as the Program anticipates a moderate amount of new permittees to submit applications in the future.

Conduct Cost Analysis

To establish costs on a unit basis, MGT reviewed the following areas with each department:

- Allocations in the Fiscal Year 20-21 Adopted Budget.
- Staff involved in the permit review and issuance process.
- Staff time required for review and issuance of permits.
- Budgetary units in the department and how to allocate non-staff costs.
- County’s Central Services Cost Allocation Plan (CAP) to determine how to incorporate allocations for central service and direct service departments.
- Cost-of-service model.
- Findings.

MGT reviewed the following types of costs in each department:

1. Direct Labor

MGT interviewed County department supervisors to identify staff involved in the CNB process and the estimated time needed to process applications. Labor rates by individual include salaries and benefits.

EHB staff indicated that the budget provides for a total of 72 positions, however 11 of the positions are currently vacated. These vacant positions do not impact CNB processing.

Staff costs (salary and benefits) are usually the largest cost component for any service department. Estimates for staff time required for each CNB application are provided below in minutes and hours:

	CAO	Counsel	HCD	EHB	Total Minutes	Total Hours
Initial Permit	760	60	95	951	1,866	31.10
Renewal Permit	760	60	95	471	1,388	23.13

2. Allocated Non-Staff Costs

These costs were allocated to direct services on the basis of direct labor by service. For example, if CNB activities represent 5% of total salaries and benefits, 5% of non-salary expenses were allocated to CNB activities.

3. Indirect Expense Allocation

Each year, the County prepares a central services cost allocation plan (CAP). Central administrative costs (e.g., annual audit, CAO, Contracts & Purchasing, etc.) are allocated to direct service departments. MGT allocated the amounts charged to each department on the same basis as Allocated Non-Staff costs. Indirect expenses for County Counsel was included with other appropriated expenses.

Simulate Different Scenarios

Based on the types and volume of permits (initial versus renewal), MGT recommends CNB fees should all be paid at time of application, not when the County issues the permit. This means that the permit fee would be based on the average cost for issuing a CNB as opposed to the cost of issuing each individual permit. This would eliminate the need to track staff time for individual permit applications in addition to the preparation of invoices or refunds to applicants when the permit is ready to issue.

MGT recommends the County should have one fee that applies to all permit applications. While the Initial permit fee is 4.35 times the Renewal fee, the overall estimated cost for renewal permits is not significantly less than for an initial permit.

MGT calculated that the overall cost for all permits is \$4,355 per application. The total costs per unit below are reflected in the proposed amendments to departmental articles of the Monterey County Master Fee Resolution (Attachment A, Exhibits 1 through 4):

	CAO	Counsel	HCD	EHB	Total
Direct Labor	\$122,430	\$17,802	\$16,797	\$65,878	\$222,907
Allocated Non-Salary	\$21,659	\$26,769	\$3,312	\$3,867	\$55,607
Indirect Expense	\$232,346	\$2,647	\$9,085		\$244,078
Total	\$376,435	\$44,571	\$22,756	\$78,830	\$522,592
Units	120	120	120	120	120
Total Cost per Unit	\$3,137	\$371	\$190	\$657	\$4,355

The cost per permit in the table below reflects the cost to process one permit, with only EHB renewal costs calculated at less than initial permits:

	CAO	Counsel	HCD	EHB
Initial Permit	\$3,086	\$365	\$185	\$1,274
Renewal Permit	\$3,086	\$365	\$185	\$633
Percent Difference	0.0%	0.0%	0.0%	-50.3%

Total costs across each department were \$4,910 for an Initial permit and \$4,269 for a Renewal permit.

While the total cost of \$517,155 is based on 120 applications, increasing the application volume to 150 would not impact the \$4,355 cost to process each permit. Should the County want to base this fee on the cost, the fee would be \$4,355, the weighted average of the above costs. A 2.5% Cost of Living Adjustment (“COLA”) was applied to the direct labor of the personnel directly involved in the CNB and is reflected in this \$4,355 cost. MGT also calculated the County cost of administering modifications to permits or fiscal year registration forms at \$1,070.

Recommendations

MGT has determined the cost of issuing CNBs and recommends the following:

- Adopt a single fee that would apply to all CNBs, both Initial and Renewal.
 - Collect fee at the time of application and eliminate subsequent billings to applicants or permit holders unless there are lengthy appeals, litigation or enforcement issues.
 - Retain option of imposing a higher fee in unusual cases.
- Add a fee for processing modifications to existing permits or registration forms.

Additional Considerations

The County also pays administrative fees to the California Cannabis Authority (“CCA”). These administrative fees are based on gross sales and are estimated at \$280,000 for the current year. This fee equates to 0.3% of gross sales, which are expected to increase from \$54 to \$97 million. Compared to total cannabis revenues (estimated at \$15.4 million next year), the fee is 1.8% of total revenues. If added to the costs of the CNB permit, the additional cost per permit would be \$2,333. The County Board may want to balance the impact on permittees by adding a percentage of the total CCA administrative fees to the CNB fee.

The Program receives requests from individual commercial cannabis business information related to other miscellaneous items, such as compliance questions. The Program recommends amending the the Cannabis Program Fee Article XXI to include a research fee of \$74 per hour, which aligns with similar fees charged by County departments for processing such requests.

Staff concurs with the findings of the MGT Consulting report and recommends the following.

- A single fee of \$4,355 for an initial or renewal Cannabis Business Permit.
- A modification fee of \$1,070 for each modification request to the Cannabis Business Permit or Fiscal Year Registration form which is the process used prior to the issuance of a CNB. A Research Fee of \$74 for a request for individual commercial cannabis business information.

OTHER AGENCY INVOLVEMENT:

The Cannabis Program, Housing and Community Development Department, Office of the County Counsel, Health Department, Environmental Health Bureau were involved in the Cannabis Business Fee Study analysis.

FINANCING:

Monterey County’s Cannabis Program is funded in County Administrative Office - Department 1050, Intergovernmental and Legislative Affairs Division - Unit 8533, Cannabis. The approval of this report will not incur additional expenses at this time.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Monterey County Cannabis Program addresses each of the Strategic Initiative Policy Areas that promote the growth of a responsible and legal Monterey County cannabis industry.

Mark a check to the related Board of Supervisors Strategic Initiatives

- X Economic Development
- X Administration
- X Health & Human Services
- X Infrastructure
- X Public Safety

Prepared by: Joann Iwamoto, Program Manager II, x3017

Approved by: Nicholas E. Chiulos, Assistant CAO, x5145

Attachments:

- A: Draft Resolution of the Monterey County Board of Supervisors Amending Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution to update fees for processing Cannabis Business Permits.
- B: MGT Consulting Final Report



Monterey County

Item No.

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Legistar File Number: 21-248

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- X Infrastructure
- X Public Safety

Prepared by: Joann Iwamoto, Program Manager II, x3017
Approved by: Nicholas E. Chiulos, Assistant CAO, x5145

DocuSigned by:
Joann Iwamoto
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**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____

A Resolution of the Monterey County Board of Supervisors to:

Amend Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution effective **TBD**, to update the fees for processing the Commercial Cannabis Permit.

WHEREAS, On July 19, 2016, the Monterey County Board of Supervisors adopted an ordinance adding Chapter 7.90 to the Monterey County Code;

WHEREAS, Chapter 7.90 requires commercial cannabis businesses to obtain an annual Commercial Cannabis Business Permit to conduct commercial cannabis activities, including cultivation, manufacturing, distribution, testing, and dispensaries in accordance with state and County law;

WHEREAS, Cannabis Program staff have received a substantial volume of requests to modify existing permits or registration forms to justify the implementation of a new modification fee as calculated by the fee study;

WHEREAS, Cannabis Program staff have received a substantial volume of requests for information to justify the implementation of a new research fee similar to those charged by County departments for such requests;

WHEREAS, previous amendments to Articles I.E, IX, XVII, and XXI became effective August 22, 2019;

WHEREAS, Section 1.40.010 of Chapter 1.40 of Monterey County Code provides that all fees, penalties, refunds, reimbursements and charges of any kind by the County may be specified in the Monterey County Fee Resolution;

WHEREAS, This action to adjust these fees and other charges to meet operational expenses is statutorily exempt from environmental review [Pub. Res. Code § 21080(b)(8)];

WHEREAS, Any and all adjustments to fees for services reflect no more than the actual and reasonable cost of the service or benefit received by the payor and burdened on the County;

WHEREAS, By definition, these user fees are not a “tax” and are exempt from voter approval pursuant to Article XIII C, section 1(e)(3) of the California Constitution (charges imposed for the reasonable regulatory costs to a local government for issuing licenses and permits); and

WHEREAS, The purpose of this action is to establish a standard fee to reduce the staff time required to process and issue Commercial Cannabis Business Permits and internally reallocate disbursements to departments.

NOW, THEREFORE, BE IT RESOLVED, the Board of Supervisors of the County of Monterey does hereby adopt a resolution to:

- I. Find that the foregoing recitals are true and correct.
- II. Articles I.E, IX, XVII, and XXI of the Monterey County Master Fee Resolution are amended, as set forth in the attached Attachment B, incorporated herein by reference, and fees for processing the Commercial Cannabis Business Permit, modification fees for permits or registration forms, and research fees for processing information requests set forth in the attachment hereto are hereby adopted.
- III. All prior resolutions regarding such fees are hereby repealed.
- IV. The effective date of the fees approved in this Resolution is **TBD**.

PASSED AND ADOPTED on **TBD** by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board Supervisors duly made and entered in the minutes thereof of Minute Book _____, for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors,
County of Monterey, State of California.

By _____
Deputy

EXHIBIT 1 (Environmental Health Bureau)

AMENDMENT TO ARTICLE I.E
HEALTH DEPARTMENT FEES

Subdivision C (Miscellaneous Permits and Fees) of Section 5 of Article I.E is amended to revise the following fees:

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT</u>
Cannabis Business Permit	\$657	Each

DRAFT

EXHIBIT 2 (Housing and Community Development)

AMENDMENT TO ARTICLE IX
HCD-PLANNING DEPARTMENT FEES

Subdivision A (Various fees pursuant to Government Code Section 65104 for planning services provided by the Department) of Section 2 of Article IX is amended to revise the following fees:

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT</u>
Cannabis Business Permit	\$190	Each

DRAFT

EXHIBIT 3 (Office of the County Counsel)

AMENDMENT TO ARTICLE XVII
COUNTY COUNSEL FEES

Subdivision D (Fees for Miscellaneous Services) of Section 1 of Article XVII is amended to revise the following fees:

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT</u>
Cannabis Business Permit	\$371	Each

DRAFT

Exhibit 4 (CAO)

AMENDMENT TO ARTICLE XXI
CAO-CANNABIS PROGRAM FEE

Section 1 of Article XXI is amended to revise the following fees:

<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>UNIT</u>
Cannabis Business Permit	\$3,137	Each
Permit/Registration Form Modification Fee	\$1,070	Each
Research Fee (1 hour minimum)	\$74	Hour

DRAFT



CANNABIS FEE STUDY

MONTEREY COUNTY, CALIFORNIA

Draft Report

March 2, 2021



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DRAFT

CHAPTER 1. BACKGROUND

Monterey County (County) retained MGT Consulting LLC to determine the cost of issuing licenses for commercial cannabis permittees including cultivators, distributors, processors, manufacturers and retailers. The permits are called Cannabis Business Permits (CNB). MGT has assisted the County on many cost of service analyses. We have also assisted many cities, counties and states on determining the costs of cannabis licensing and enforcement, as well as numerous other types of user fees.

This project focused on Cannabis Business Permits. The County currently has two fees for the CNBs:

Fee	Fee Amount
Initial Permit	\$4,653
Renewal Permit	\$1,069

CHAPTER 2. Approach to the Project

The County indicated that four departments are involved in issuing CNBs:

- County Administrative Office (“CAO”) Cannabis Program
- Office of the County Counsel
- Health Department, Environmental Health Bureau
- Housing and Community Development Department (“HCD”) formerly Resource Management Agency

During this project, MGT determined the cost in each of the four departments. We used the following tasks for this assignment:

- Review Historical Fee Structure & Fee Collection Data

The County has two permit deposits: Initial and Renewal. The Initial permit is good for one year. All permits are renewed each year on the anniversary date of the issuance.

Given the current rates and renewal activity, estimated fee collections would be approximately:

Fee	Fee Amount	Annual Activity	Potential Revenue
Initial Permit	\$4,653	1	\$ 4,653
Renewal Permit	\$1,069	120	\$ 128,280
Total		121	\$ 132,933

The Cannabis Program Manager indicated they have issued 14 CNBs and 99 are in the queue as an Initial Permit. Annual renewal volume would range from 120 to 150 as the Program anticipates new operators onboarding.

For both types of permits, we asked the four departments about the time needed to issue one of each permit. Regardless of how many initial or renewal permits the County might issue, we wanted to understand what it would cost on a unit basis. Therefore, the number of renewals, whether 120 or 150, impacts total revenue, not necessarily the cost per individual permit.

- Conduct Trend Analysis of License Types, Counts and Fees

According to the Cannabis Program, there should not be any material changes in the number of license applications.

- Estimate Future License Counts by Type

According to the Cannabis Program, there should not be any material changes in the number of license applications.

- Conduct Cost Analysis

MGT reviewed the costs in the four departments. We followed the following steps:

- Identified the costs in the 2020/21 budgets
- Identified the staff in each department who are involved in the permit issuance process.
- Interviewed the staff to determine the time commitments for issuance initial or renewal permits
- Discussed other budgetary units in the department and how to allocate non-personnel costs
- Reviewed the County’s Central Services Cost Allocation Plan (CAP) to determine how to incorporate allocations for central service and direct service departments ¹
- Prepared a cost-of-service model for each department
- Reviewed the model with each department.
- Summarized findings

We reviewed the following types of costs in each department:

- **Direct Labor**
We interviewed supervisors to identify the personnel involved in the CNB process and the estimated time needed to process applications. We applied labor rates by individual. These rates incorporated salaries and benefits.

For the Environmental Health Bureau , staff indicated that the budget provides for a total of 72 positions. However, 11 of the positions are not filled. The vacant positions do not impact CNB processing.

Personnel costs (labor and benefits) are usually the largest cost component for any service department. The time estimates in minutes and hours for the four departments for each CNBP application are:

	Total Minutes Per Transaction				Total Minutes	Total Hours
	CAO	County Counsel	HCD	HD-EHB		
Initial Permit	760	60	95	951	1,866	31.10
Renewal Permit	760	60	95	473	1,388	23.13

¹ MGT prepared the most recent CAP for Monterey County

- **Allocated Non-Salary expenses**
This included non-labor costs in each department. These costs were allocated to direct services on the basis of direct labor by service. If CNB activities were 5% of total salaries and benefits, then 5% of non-salary expenses were allocated to CNB activities.
- **Indirect Expense Allocation**
Each year, the County prepares a central services cost allocation plan (CAP). Central administrative costs (e.g., annual audit, CAO, Contracts & Purchasing, etc.) are allocated to direct service departments. We allocated the amounts charged to each of the four departments above on the same basis as Allocated Non-Salary expenses.
- Simulate Different Scenarios
 - We discussed different scenarios with the Cannabis Program. Based on the types and volume of permits (initial versus renewal), we recommend the following:
 - The County's permit fees should all be paid at **time of application**, not when the County issues the permit.
 - This means that the permit fee would be based on the average cost for issuing a Cannabis Business Permit, not the cost of issuing each individual permit
 - This would reduce staff effort in several departments as they would no longer report time by individual permit application
 - This would also eliminate the time spent in sending additional invoices to applicants as well as in processing refunds to applicants
 - The County should have one permit fee that applies to all applications. While the Initial permit fee is 4.35 times the Renewal fee, the overall estimated cost for renewal permits is not significantly less than for an initial permit.

MGT calculated that the overall cost for all permits is \$4,310 per application.

	CAO	County Counsel	HCD	HD-EHB	Total
Direct Labor	\$ 119,444	\$ 17,368	\$ 16,387	\$ 64,271	\$ 217,470
Allocated Non-Salary	21,659	26,769	3,312	3,867	55,607
Indirect Expense	232,346		2,647	9,085	244,078
Total	\$ 373,449	\$ 44,137	\$ 22,346	\$ 77,223	\$ 517,155
Units	120	120	120	120	120
Total Cost Per Unit	\$ 3,112	\$ 368	\$ 186	\$ 644	\$ 4,310
Note:					
Indirect Expense for County Counsel was included with other appropriated expenses					

- The only department that indicated that renewal permits cost less than initial permits was Environmental Health Bureau:

Permit Type	CAO	County Counsel	HCD	HD-EHB
Initial	\$3,086	\$365	\$185	\$1,274
Renewal	\$3,086	\$365	\$185	\$633
Percent Difference	0.0%	0.0%	0.0%	-50.3%

- Propose New Fee Structure
 - MGT calculated the cost of current permits as follows:

Permit Type	CAO	County Counsel	HCD	HD-EHB	Total
Initial	\$3,086	\$365	\$185	\$1,274	\$4,910
Renewal	\$3,086	\$365	\$185	\$633	\$4,269

The cost for the Renewal permit in Environmental Health Bureau was about half of the Initial permit. Total costs across all four departments were \$4,910 for an Initial permit and \$4,269 for a Renewal permit. Note that the number of Renewal permits may range from 120 to 150. The cost per permit in the above table is the “cost to process one permit”. The “cost per one” would not vary based on the total number of permits.

Different numbers of permit would impact revenues, not necessarily the cost for one permit. Given that there may be only one Initial permit per year, MGT recommends the following:

- The County adopt a single fee that would apply to all permits, initial and renewal. The County should collect the fee at the time of application and that there should not be any subsequent billings to applicants or permit holders unless there are lengthy appeals, litigation or enforcement issues.

While the total cost is \$517,155 based on renewal license activity of 120 applications, increasing the application volume to 150 would not impact the total cost per license of \$4,310. MGT recommends combining the initial and renewal fees into a single fee. Should the County want to base this fee on the cost, the fee would be \$4,310, the weighted average of the above costs.

The CAO Program Manager requested that we estimate the impact of:

- A 2.5% Cost of Living Adjustment (COLA) on the cost per CNB. We only applied the COLA to the direct labor of the personnel directly involved in the CNB. MGT estimates the COLA adjustment would increase the Total Cost Per Unit from \$4,310 (shown above) to \$4,355 (shown below).
- Adding a new fee to recover the cost of Modifications to existing permits.

The impact of including the 2.5% COLA factor is in the following table. It adds \$86 to the total cost.

	CAO	County Counsel	HCD	HD-EHB	Total
Direct Labor	\$ 122,430	\$ 17,802	\$ 16,797	\$ 65,878	\$ 222,907
Allocated Non-Salary	21,659	26,769	3,312	3,867	55,607
Indirect Expense	232,346		2,647	9,085	244,078
Total	\$ 376,435	\$ 44,571	\$ 22,756	\$ 78,830	\$ 522,592
Units	120	120	120	120	120
Total Cost Per Unit	\$ 3,137	\$ 371	\$ 190	\$ 657	\$ 4,355
Note:					
Indirect Expense for County Counsel was included with other appropriated expenses					

An overall County-wide COLA would effect the Indirect Expense as well but only a portion of Indirect Expense is personnel related.

MGT calculated the cost of Modifications as \$1,070 per Modification.

Permit Type	CAO	County Counsel	HCD	HD-EHB	Total
Initial	\$3,086	\$365	\$185	\$1,274	\$4,910
Renewal	\$3,086	\$365	\$185	\$633	\$4,269
Modifications	\$1,070				\$1,070

- Provide Final Report

In progress.

CHAPTER 3. Recommendations

MGT determined the cost of issuing CNBs. The County Board is responsible for establishing the fee structure and fees. MGT recommends the following:

- Adopt a single fee that would apply to all Cannabis Business Permits, Initial and Renewal.
- Add a fee for Modifications of existing permits or fiscal year registration form.
- The County should collect the fees at the time of application and that there should not be any subsequent billings to applicants or permit holders unless there are lengthy appeals, litigation or enforcement issues. The County would have the option of imposing a higher fee in unusual cases.
- The Board of Supervisors Cannabis Committee should recommend the amount of the fee and gain approval of the full Board.

The County also pays administrative fees to the CA Cannabis Authority (“CCA”). The administrative fee is based on gross sales and is estimated at \$280,000 for the current year. This fee would be about .3 percent (.003) of gross sales (gross sales are expected to increase from \$54 to \$97 million). Compared to total cannabis revenues (estimated at \$15.4 million next year), the fee is 1.8% of total revenues.² If added to the costs of the CNB permit, the additional cost per permit would be \$2,333 (based on 120 total permits). The County Board may want to balance the impact on permittees by adding a percentage of the total CCA administrative fees to the Cannabis Business Permit fee.

² Page 58 of the FY 20-21 Budget



Monterey County

Item No.

Board Report

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

Legistar File Number: 21-251

March 22, 2021

Introduced: 3/17/2021

Version: 1

Current Status: Agenda Ready

Matter Type: General Agenda Item



MONTEREY COUNTY

County Administrative Office

co.monterey.ca.us/CannabisProgram
168 West Alisal St., 3rd Floor
Salinas CA 93901-2680
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Nicholas E. Chiulos
Assistant County Administrative Officer

Joann Iwamoto
Cannabis Program Manager
Intergovernmental & Legislative Affairs

March 22, 2021

To: Board of Supervisors Cannabis Committee

Fr: Joann Iwamoto

cc: Nicholas E. Chiulos

Re: Monthly Performance Outcomes on Cannabis Land Use Permits, Cannabis Business Permit Applications, Cannabis Cultivation Square Footage, and Program updates.

At the request of the Board Cannabis Committee, please find the Month-Over-Month (MOM) summaries for commercial cannabis land use permits, business permits, cultivation square footage, and tax revenue.

Month Over Month Recap of Cannabis Land Use Permits:

Status	10/30/2020	11/19/2020	12/10/2020	1/29/2021	2/26/2021	3/22/2021
Applied	76	77	77	73	75	74
Issued	20	20	20	21	21	21
	96	97	97	94	96	95

Month Over Month Recap of Cannabis Business Permits:

Status	10/30/2020	11/19/2020	12/10/2020	1/29/2021	2/26/2021	3/22/2021
Not Applied	1	1	1	2	2	2
Applied	1	2	1	1		
Incomplete	98	94	92	99	99	98
Complete	4	7	10			
Issued	14	14	14	14	14	14
	118	118	118	116	115	114

Month Over Month Recap of Annualized Cannabis Cultivation Square Footage:

Type	10/30/2020	11/19/2020	12/10/2020	1/29/2021	2/26/2021	3/22/2021
Mixed Light	2,920,438	2,948,502	2,948,166	2,948,066	3,040,816	3,068,836
Indoor	93,807	93,807	93,807	93,807	93,824	93,824
Nursery	1,164,303	1,155,143	1,152,948	1,202,798	1,231,694	1,342,862
Outdoor						
	4,178,548	4,197,452	4,194,921	4,244,671	4,366,335	4,505,523

Month Over Month Recap of Annualized Cannabis Cultivation Acreage:

Type	10/30/2020	11/19/2020	12/10/2020	1/29/2021	2/26/2021	3/22/2021
Mixed Light	67	68	68	68	70	70
Indoor	2	2	2	2	2	2
Nursery	27	27	26	28	28	31
Outdoor	0	0	0	0	0	0
	96	96	96	97	100	103

Fiscal Year Over Year Recap of Cannabis Tax Revenue Collected:

FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21 YTD
\$3,143,037	\$14,533,062	\$15,768,705	\$16,878,601	\$9,737,025

Calendar Year Over Year Recap of Cannabis Sales by Type:

Type	2019	2020	2021 YTD
Retail	\$12,538,000	\$18,712,939	\$2,604,555
Cultivation	\$27,000,943	\$128,803,226	\$4,778,050
Manufacturing	\$277,548	\$367,576	\$1,189,162
Total	\$39,816,491	\$147,883,740	\$8,571,767

Calendar Year Over Year Recap of Search Warrant Outcomes:

Type	Calendar Year 2019	Calendar Year 2020	Calendar Year 2021
Cannabis Plants	31,938	32,888	0
Cannabis Processed (lbs)	3,981	5,476	6
Firearms	13	105	6
Currency	\$100,815	\$28,146	\$3,000
Clandestine Lab	0	2	0
Wholesale Market Value	\$35,919,000	\$38,364,000	\$0

Balance of Allocation for Unlicensed Cannabis Enforcement and Land Use/Construction Permit processing:

Item	Allocation	Current Balance
CAO Program – Sheriff’s Office Overtime/Blade Time and Land Use/Construction Permit consultants	\$236,400.00	\$236,400.00
Sheriff’s Office – Unlicensed Enforcement Overtime	\$200,000.00	\$98,300.20

Cannabis Program Updates

Equity Grant

CSUMB launched the community survey on March 1, 2021, which is available on the Cannabis Program webpage. A response rate has not been calculated for the community survey as it is open ended and there was not a finite distribution list. The business survey was distributed to 318 individuals currently involved or interested in working in the industry, of which 69 have responded for a response rate of approximately 22%. After the survey closes, CSUMB and staff will analyze the results and return to this Committee in June 2021 to present results and recommendations.

Industry Meeting

An industry meeting was held on March 1, 2021 with County representatives. Approximately 145 business owners were invited; 51 owners/industry representatives participated with 18 county and external agency staff. The County received input from our industry in the following subject matters: breakdown in communication; differences in agility of the industry versus the County; other jurisdictions’ ordinances; and cannabis tax rates and escalators. We are planning to schedule monthly industry meetings to continue building collaboration and a process to receive input and County responses.

Other Updates

At the February 26, 2021 Committee meeting, an item was presented on proposed cannabis resources for FY 2021-22. At the direction of the Budget Officer, the Program will not present the report to the Budget Committee on March 31, 2021 and departments will work within the budget process to request all augmentations.



Monterey County

Board Report

Legistar File Number: 21-255

Item No.

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

March 22, 2021

Introduced: 3/18/2021

Version: 1

Current Status: Agenda Ready

Matter Type: General Agenda Item

Cannabis Committee
March 17, 2021

Receive a report and provide direction to staff on potential amendments to Chapter 21.67 of the Monterey County Code (Inland Zoning Ordinance) to allow the construction of new greenhouses on properties that already contain greenhouses that could be used for commercial cannabis cultivation.

RECOMMENDATION:

It is recommended that the Board of Supervisors Cannabis Committee (“Committee”):

- a. Receive a report from staff on policy and timing considerations associated with preparation of an ordinance that would amend current cannabis regulations that limit commercial cannabis cultivation to occur only within greenhouses that were legally established prior January 1, 2016 within Farmland zoning districts. Potential revisions to the regulations would allow construction of new greenhouses on properties that already contain greenhouses to be used repurposed for commercial cannabis cultivation; and
- b. Provide additional direction to staff as appropriate.

SUMMARY

On January 29, 2021, the Cannabis Committee requested staff explore options for amending cannabis regulations that would allow construction of new greenhouses for commercial cannabis use and report back to the Committee on timing and policy considerations. Current cannabis regulations attempt to protect productive agricultural soils from conversion to greenhouses for cannabis use by requiring cannabis cultivation occur only within a greenhouse or industrial building that was permitted or legally established prior to January 1, 2016 (Section 21.67.050.B, Title 21). An ordinance amending the current regulations would need to be prepared and adopted by the Board of Supervisors to allow construction of new greenhouses for commercial cannabis cultivation in the Farmland Zones. This report provides a background, as well as the issues, benefits, and factors to consider that may arise from an ordinance amendment, including existing regulations that limit greenhouse construction, CEQA considerations, timelines, and competing policies.

DISCUSSION

In 2016, the County adopted regulations pertaining to commercial cannabis cultivation in the inland and coastal areas of unincorporated Monterey County. Commercial cannabis activity includes the cultivation, possession, manufacture, processing, storing, laboratory testing, packaging, labeling, transporting, distribution, or sale of cannabis or a cannabis product. Cannabis cultivation is allowed with an administrative permit in four zoning districts: Farmland (F), Light Industrial (LI), Heavy Industrial (HI), and Agricultural Industrial (AI) zoning districts. In all of these districts, cannabis cultivation is only allowed within a greenhouse or industrial building that was permitted or legally established before January 1, 2016. Greenhouses and industrial buildings may be improved for cannabis activities, provided that the footprint of the existing greenhouse(s) do not change. This regulation precludes the ability to build new greenhouses for commercial cannabis cultivation purposes with the intent of protecting productive soils from conversion to non-soil dependent greenhouses.

The County of Monterey received 106 applications for land use entitlements to allow commercial cannabis operations since inception of the Cannabis program in 2018. Of the 106 applications, 75 were for commercial cannabis cultivation within existing greenhouses or industrial buildings. Thirteen of the permits were found to be Categorical Exempt pursuant to CEQA and were approved. This left 62 remaining cultivation permits pending. Nearly all the greenhouses within the County that were legally

established as of January 1, 2016 have or are proposed to have commercial cannabis cultivation. With little to no stock of greenhouse space left, there is an interest in the construction of new greenhouses for cannabis cultivation.

There are some limitations outside of the cannabis regulations that affect the ability to develop greenhouses on agricultural properties which are discussed in more detail below.

Current Regulatory Considerations

Protection of soil-dependent agricultural lands

The 2010 Monterey County General Plan and the Zoning Ordinances implementing the General Plan contain policies that are intended to protect productive agricultural soils for soil dependent agriculture (primarily row crops and facilities that support row-crop production). Cannabis cultivation is primarily done in pots and plants are not planted directly in the ground. This creates a situation where non-soil dependent greenhouse construction for commercial cannabis cultivation would represent conversion of productive agricultural lands.

Site Coverage Limitations

The majority of established greenhouses within the County are located on properties that are zoned Farmlands. Within the Farmland Zoning district, the total site coverage for greenhouse properties is now 50% of the total lot area. The 50% coverage limitation applies to all Farmland zone properties and is not specific to cannabis uses. Some of the current greenhouse properties are at or above the 50% coverage limitations with existing greenhouses. Staff has identified the need for additional research to determine the number and size of properties with the potential to add additional greenhouses given the 50% coverage limitations.

CEQA Considerations and Timing

The Board has recently adopted an Initial Study/Mitigated Negative Declaration for 45 cannabis cultivation sites in the Salinas area. A separate Initial Study is underway in the North County. The potential for additional greenhouse space has not been analyzed in the adopted or pending Initial Studies. If the Cannabis Committee directs staff to revise the ordinance to allow additional greenhouse space to be constructed, the County could either:

1. Prepare a CEQA analysis with the ordinance; or
2. If the ordinance is adopted prior to July 1, 2021*, the ordinance could be statutorily exempt from CEQA provided the individual permits are themselves subject to CEQA. This approach would shift CEQA considerations from the programmatic ordinance level to the individual permits.

* Legislation has been introduced (Senate Bill 59) that would extend the statutory CEQA exemption for cannabis regulations until 2028.

There is currently a statutory exemption [California Business and Professions Code Section 26055(h)] in the state legislation that allows local governments to exempt cannabis regulations from CEQA provided the regulations include a requirement for the discretionary review of individual cannabis permits that are themselves subject to CEQA. The current County code does include the required discretionary review for those types of individual applications. Therefore, the County can obtain that statutory exemption. That statutory exemption is set to expire on June 30th of this year, 2021. After June 30, 2021, any action by the Board on regulations would be subject to CEQA review. The proposed changes to the Ordinance must be considered and approved by the Board of Supervisors prior to July 1, 2021, in to apply the exemption to the ordinance; although there is legislation pending that

could, if signed into law, extend the statutory exemption through 2028.

If the ordinance is revised before July 1, it would save the County time and steps in the drafting of changes to the Ordinance. It would streamline the ordinance adoption and cut back the layers of approval, analysis, and time. For the potential projects directly affected- those that seek to increase greenhouse coverage, it would also cut back time on the cannabis permit review process.

However, this still does not completely cut back the layers of approval and time involved in reviewing cannabis cultivation projects because the statutory exemption still requires that the regulations provide for the discretionary review of individual applications that are themselves subject to CEQA. In certain situations, it is possible that permits under the revised ordinance would still need individual CEQA review. For example, for projects covered by the multi-site Salinas MND, if there were major changes in one of projects and circumstances since the 45-site cannabis MND was adopted, that one project may still be subject to CEQA review.

Priorities

Staff is requesting direction for the ordinance preparation if the Cannabis Committee would like to proceed with the greenhouse coverage amendments. The amendment(s) to the ordinance would need to be a priority to meet the July 1st time constraint. Making this effort a priority would mean that other long-range and current planning items would be delayed.

The ordinance amendments would need to be adopted by June 2021, meaning that a draft would be needed to complete and reviewed in April for Planning Commission consideration in May then Board action in June. Any amendment to regulations in the Coastal Zone would also require review and certification by the California Coastal Commission following a decision by the Board of Supervisors. For that reason, if so directed, staff would bring the ordinance to the Board for adoption subject to certification in the Coastal Zone, rather than adopting a resolution of intent to approve the ordinances. A resolution of intent provides the flexibility for the Coastal Commission to suggest modifications prior to adoption. If adopted subject to certification, the Coastal Commission would be required to approve or deny the ordinance as presented.

Due to limited staffing resources, if this cannabis ordinance is made a priority it would compete one or more of the other priorities of Housing & Community Development and the Board of Supervisors. These other priorities including:

- Development Review and processing timelines (including cannabis permit processing, housing permit processing, subdivisions, and affordable housing projects);
- The outdoor cannabis ordinance revisions and the renewable energy generation revisions;
- The Moss Landing Community Plan;
- Big Sur Land Use Plan;
- General Plan implementation;
- Vacation Rental Ordinance; and
- Grant funded projects with timelines.

Direction from the Cannabis Committee is needed on prioritizing the amendment to allow an expansion to greenhouse footprint for cannabis cultivation. It should be noted that state law has changed before and in the past the County has had to adapt to those changes before, re-shift priorities, amend the ordinance, and change procedure.

This report has been prepared by Housing & Community Development.

FINANCING:

Funding for staff time associated with development of the Ordinance update is included in the FY20-21 Adopted Budget for each of the involved Departments/Agencies. The drafting, approval and implementation of new regulations is anticipated to impact services, which staff believes will necessitate additional staff or consultants to assist with the possible rapid growth of cannabis permit applications. Increases in potential cannabis cultivation are likely if the ordinance is updated to allow new greenhouse construction which could lead to an increase in revenue collected through the cannabis cultivation tax. Additional information about the potential increase will need further study.

Prepared by: Sandra Villatoro, Assistant Planner

Reviewed by: Craig Spencer, Planning Manager

Approved by: Erik Lundquist, AICP, Chief of Planning

Attachments: None