



Date October 19, 2017

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

**SUBJECT: ORDINANCE AMENDMENT PLN2017-0119 – COMMERCIAL CANNABIS
 ACTIVITIES**

RECOMMENDATION

Based on the discussion below and on the whole of the record, Staff is requesting that the Planning Commission provide a recommendation of approval to the Board of Supervisors for Ordinance Amendment Application No. PLN2017-0119 – Commercial Cannabis Activities, as presented in this staff memo. If the Planning Commission decides to provide a recommendation of approval, Exhibit A provides an overview of all of the findings required for project approval.

PROJECT DESCRIPTION

Stanislaus County is proposing amendments to Chapter 21.08 - General Provisions, Chapter 21.12 - Definitions, Chapter 21.20 - General Agriculture District (A-2), Chapter 21.42 - Planned Industrial District (PI), Chapter - 21.56 General Commercial District (C-2), Chapter - 21.60 Industrial District (M), and Chapter - 21.64 Limited Industrial District (LM) of the Stanislaus County Zoning Ordinance (Title 21 of the County Code) to allow for commercial cannabis activities subject to approval of a discretionary land use entitlement (e.g. use permit or rezone). When applicable, discretionary entitlement requests involving property located within a Local Agency Formation Commission (LAFCO) Sphere of Influence (SOI) may not be approved by the County unless first approved by the city within whose sphere of influence it lies.

A summary of the proposed amendments to the Zoning Ordinance is attached as Exhibit B. Specific amendments consisting of additions are reflected in bold and underlined text.

Two separate ordinance amendments addressing commercial cannabis activities will ultimately be presented to the Board of Supervisors for consideration. The proposed ordinance amendment being presented to the Planning Commission deals only with amendments to the Zoning Ordinance intended to specify the zoning districts where each commercial cannabis activity may be permitted, subject to the discretionary review process. A separate ordinance amendment addressing general regulations for commercial cannabis activities is proposed to be contained in Title 6 of the County Code, which will include operating standards such as required setbacks from specific uses, odor control, and security measures. The Planning Commission's recommendation on the proposed Zoning Ordinance amendment will be considered by the Board of Supervisors in conjunction with the Regulatory Ordinance and a commercial cannabis permit fee schedule on December 5, 2017.

PROJECT LOCATION

The proposed Zoning Ordinance amendments will apply Countywide, with the exception of areas within the incorporated cities. The proposed changes apply to both specific zoning district chapters where commercial cannabis activities may be permitted subject to discretionary entitlement and to the General Provisions and Definitions chapters.

BACKGROUND

Cannabis was first legalized for medical use in 1996 with the passage of Proposition 215, known as The Compassionate Use Act of 1996. The passage of this act exempted patients and defined caregivers who possessed or cultivated marijuana (cannabis) for medical treatment, recommended by a physician, from criminal laws which otherwise prohibit possession or cultivation of cannabis.

In October 2015, Governor Jerry Brown approved the Medical Cannabis Regulation and Safety Act (MCRSA), which consisted of three separate bills. The approval of this act crafted a comprehensive licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis. Additionally, MCRSA added a section to the Business and Professions Code authorizing counties to impose a tax on specified cannabis activities.

Approximately a year later, on November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA immediately legalized the use and cultivation of cannabis for personal consumption and legalized the commercialization and taxation of cannabis, including medical cannabis, beginning January 1, 2018. Additionally, AUMA allowed the Legislature to adopt laws to license and tax commercial cannabis activities; and permitted local regulation of cannabis possession, cultivation and consumption.

Most recently, on June 27, 2017, the Governor approved Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill consolidates provisions from MCRSA and AUMA and creates one regulatory system for commercial cannabis activity. The new system under MAUCRSA prioritizes consumer safety, public safety and tax compliance.

Cannabis activities are currently prohibited in the unincorporated areas of Stanislaus County. On January 26, 2016, Chapter 9.86 of the Stanislaus County Code was adopted prohibiting cannabis cultivation, dispensaries, testing, manufacturing, labeling and packaging. Additionally, cooperatives/collectives were also prohibited.

Despite a County prohibition of cannabis activities, multiple dispensaries and cultivation activities have been established within the unincorporated area of Stanislaus County. Research of existing retail establishments has shown that there are currently at least 14 active retail storefronts in the unincorporated area. Although the exact number is unknown, multiple reports of outdoor, greenhouse, and indoor cultivation operations have also been reported. Using a similar methodology developed by Yolo County, staff conducted an early analysis of the costs associated to enforce a full ban of cannabis activities in Stanislaus County and found those costs to exceed \$3.1 million annually. There is no current identified funding source to support the costs associated with enforcement activities and accordingly Stanislaus County has not had success in enforcing such activity. Additionally, the decriminalization of cannabis in California has shifted the methods and staffing required for enforcement action against those operating outside of local jurisdictional regulations.

Knowing that cannabis is a rapidly growing business industry and is currently occurring in the County today, county Staff recognized that an enforcement strategy is necessary to effectively contain this industry in the community. However, funding to properly enforce these business activities must be identified. In an effort to both provide a regulatory framework for commercial cannabis to legally operate within the County and to provide a revenue source for enforcement against cannabis operators acting outside of such a regulatory framework, the Board of Supervisors on September 26, 2017, approved a conservative commercial cannabis allowance strategy for retail, cultivation, and other related cannabis business activities in the unincorporated area of Stanislaus County, and directed staff to:

- Return to the Board of Supervisors with a Regulatory Ordinance for cannabis, a Zoning Ordinance Amendment, and fee schedule for cannabis related permitting and enforcement activities.
- Open a 15 business day initial application interest period from October 2, 2017 through October 20, 2017 3:00 p.m. with a non-refundable deposit of \$4,359 consistent with the established development agreement fee schedule.

The approved strategy allows up to 61 cannabis activities permits, prohibits outdoor cannabis cultivation, and limits retail to no more than seven establishments in the unincorporated area, based on a population calculation of one retail establishment for every 16,000 persons. The Board Report for the September 26, 2017, approval is included as Exhibit D of this report. Although the State will be issuing licenses for commercial cannabis as of January 1, 2017, local approval is required for a state license to be issued. If a local permitting process is ultimately adopted, the County estimates no Commercial Cannabis Activity Permits will make it through the entire approval process until May or June of 2018. The following is an overview of the timeline for implementation of the approved strategy:

Step	Date	Activity
Registration	October 2, 2017	Open Cannabis Registration Interest
	October 20, 2017	Close Cannabis Registration Interest (3:00 p.m.)
Program Development	October 19, 2017	Planning Commission to consider Zoning Ordinance Amendment
	December 5, 2017	Hold Public Hearing to consider Regulatory Ordinance, Zoning Ordinance Amendment, and Fee Schedule Ordinance
	December 19, 2017	Second reading of Regulatory and Fee Ordinances
Applicant	January 18,	Open Cannabis Permit Application

Selection Process	2018	period
	February 9, 2018	Close Cannabis Permit Application period (3:00 p.m.)
	Feb-Mar 2018	Selection process to determine which applicants will move forward with the permitting process
Permitting	Mar 2018	Begin discretionary land use and development agreement process (min. 90-120 days)
	May-June 2018	Regulatory Permit
Annual Review	On-going	Annual review of Commercial Cannabis Permits to ensure compliance with operational requirements

A 15-day registration period for interested applicants was opened on October 2, 2017 and will close on October 20, 2017 at 3:00 p.m. The Commercial Cannabis Registration form includes property information, applicant/owner information, and commercial cannabis business permit type(s) requested, and a background questionnaire. This registration form does not guarantee a permit and does not grant authorization to conduct commercial cannabis activities in the County. The registration will allow the County to understand the magnitude of interested applicants and desired permit types while establishing a list for consideration of the 61 available cannabis activity permits.

As of October 11, 2017, the County has received a total of 8 complete registrations, including a combined total request for 29 permits. These include:

- A-2 (General Agriculture) zoning district
 - 3 properties
 - 4 permit requests – All cultivation
- M (Industrial) zoning district
 - 2 properties
 - 14 permit requests
 - 6 retailer
 - 4 cultivation
 - 4 manufacturing
- PI (Planned Industrial) zoning district
 - 2 properties
 - 9 permit requests
 - 3 cultivation
 - 2 retailer
 - 2 manufacturing
 - 2 distribution

- P-D (Planned Development) zoning district
 - 1 property
 - 2 permit requests – Both cultivation

An update on the registrations received will be provided at the October 19, 2017, Planning Commission meeting.

If there are less than 61 permit interests received during the 15-day registration period, applications will move directly to the land use and regulatory permit review process. If more than 61 permit applications are received a review committee consisting of Chief Executive Office, County Counsel, and Planning Staff will review and rank the applications based on a set scoring criteria, to be approved by Board of Supervisors. A background investigation performed by the Sheriff's Department is a requirement before any permitting or ranking is conducted.

Those applicants ranked in the top 61 allowable permit spots will move forward to the land use entitlement process in conjunction with a Development Agreement, which requires a Planning Commission hearing and Board of Supervisors approval. The process involves environmental review, public notification, and public hearings.

The development agreement will be a contract between Stanislaus County and the property owner(s)/project applicant(s), which details the standards and conditions for the development of the property and activity. The proposed development agreements will include a Community Benefit Fee, which is in addition to application and permit fees, which can be used for enforcement and essential services currently supplied by the County. It is anticipated the Community Benefit Fee, which is still under development, will raise a similar amount of revenue as a general tax.

Following approval of the land use entitlement and Development Agreement, a Regulatory permit must be obtained (similar to a business license). Following issuance of the Regulatory permit a State License may be obtained.

County regulatory permits will be renewed on an annual basis to ensure compliance with all operational requirements. If a permitted business is determined to be out of compliance, the commercial cannabis permit may be amended or revoked.

COMMERCIAL CANNABIS REGULATORY ORDINANCE

The Regulatory Ordinance will identify specific operating standards for all commercial cannabis activities within the unincorporated County. A summary of the operating standards included in the Regulatory Ordinance are provided below:

- General Operating Regulations (applies to all permit types)
 - Setbacks from schools, youth centers, and daycares
 - Odor Control
 - Site Control
 - Security Measures
 - Signage and notices
 - Records and record keeping
 - Employee background checks
 - Track and Trace Program (more detail below)

- Specific operating criteria for Retail/Dispensaries Storefront and Delivery
 - Limited to seven County wide
 - Limits on hours of operation
 - Specific security measures
- Specific operating criteria for cultivation
 - Only permitted in an enclosed structure such as a greenhouse
 - Documentation required for all pesticides used
 - Water conservation measures required
 - Visual screening required
- Specific Manufacturing regulations
 - Hazardous materials handling rules
 - Explosion or fire safety rules
 - Required certification of engineer that system is safe
- Testing Facilities regulations
 - Required to obtain ISO/IEC 1725 accreditation
- Cannabis Distribution regulations
 - Record keeping and quality control
 - May only use zero emissions vehicles within unincorporated County areas.
- Renewals and Transfers
 - Annual renewals required
 - Non-transferrable between permittees - transferrable between permitted properties.
- Suspension and Revocation
 - Violation of law, rules or regulations
 - Breach of Development Agreement
 - Suspension or revocation of State license
- Enforcement
 - Nuisance and misdemeanor
 - Nuisance Injunction
 - Criminal penalty of \$1,000 per violation
 - Breach of Contract

Required Setbacks

The Regulatory Ordinance includes a requirement, consistent with State law, than any commercial cannabis activity not be located within a 600 foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued. Definitions of the terms “school”, “day care”, and “youth center” will be included in the regulatory ordinance.

Track and Trace Program

As required by the State for administering and, enforcing regulations for cannabis the County, through the Agricultural Commissioner’s office, will be implementing a track and trace system.

The focus of a track and trace system is to capture and reconcile activity at any point in the cannabis supply chain, from initial production through retail sale, tracking all movements within the chain of custody. The system will include secure provenance stamps that provide unique identifiers that will be affixed to plants at production, bulk product, semi-finished, and retail level packaging as a proof of provenance for Stanislaus County. The secure provenance stamp will link to information in the track and trace system. The track and trace system will provide the County with a robust control and enforcement framework for tracking and tracing of cannabis while enabling patients/consumers to uniquely verify the safety and security of products produced and manufactured in Stanislaus County. As a condition to approving any cannabis permit, the permit holder will be required to participate in the County's track and trace system and bear the costs of such participation.

COMMERCIAL CANNABIS ZONING ORDINANCE AMENDMENT

This purpose of this zoning ordinance amendment is to specify where commercial cannabis activities may be located. Commercial cannabis activities have been incorporated as *conditionally permitted* uses (i.e. subject to obtaining discretionary land use entitlements) in the following chapters of the zoning ordinance: Chapter 21.20 - General Agriculture District (A-2), Chapter 21.42 - Planned Industrial District (PI), Chapter - 21.56 General Commercial District (C-2), Chapter - 21.60 Industrial District (M), and Chapter - 21.64 Limited Industrial District (LM). Additionally, Chapter 21.08 - General Provisions is proposed to be amended to incorporate a requirement that commercial cannabis activities operate in compliance with the regulatory ordinance, to incorporate a finding which must be made by the decision making body in order to approve a commercial cannabis activity, and to include a requirement for an expanded public hearing notification area for all commercial cannabis activity permits. Chapter 21.12 – Definitions is also proposed to be amended to include the definition of “commercial cannabis activity”. (See Exhibit B - *Summary of Draft Amendments to Stanislaus County Zoning Ordinance*).

The proposed zoning ordinance amendment has been developed with input provided by the Stanislaus County General Plan Update Committee. A General Plan Update Committee meeting was held on October 5, 2017, to get input on Staff's proposed land use allowances by zoning district. Committee input indicated that greenhouses would be appropriate in the M (Industrial) or PI (Planned Industrial) zoning districts and that the LM (Limited Industrial) zoning district should be considered for commercial cannabis activities similar to those considered for the PI (Planned Industrial) zoning district.

The Committee indicated a preference that no commercial cannabis business be located anywhere near houses or schools and suggested that the public notification area should be increased for commercial cannabis project referrals. State law requires public notification of 300 feet and two parcels out in all directions for all discretionary projects. The County has adopted an expanded public notification area of ¼ mile (or 1,320 feet) and two parcels out in all directions for all discretionary projects located in a rural area. In response to the Committee's comment Chapter 21.08 - General Provisions is proposed to be amended to include a requirement for an expanded public hearing notification area for all commercial cannabis activity permits.

The Committee also agreed that given the limited number of commercial cannabis permits being issued, that they did not object to allowing commercial cannabis cultivation on Williamson Act properties. The Committee indicated that existing agricultural storage buildings in the A-2 zoning district also seem appropriate for commercial cannabis cultivation activities, and that new agricultural storage type buildings may also be appropriate. Two meeting attendees, from the

commercial cannabis industry, provided input that high quality construction will allow for odors and security to be controlled within greenhouses and that locating the nursery (non-flowering) part of a cultivation operation outdoors would not be an appealing option due to the risk of damage from weather and pests.

Staff incorporated the General Plan Update Committee's comments into the proposed zoning ordinance amendment, with the exception of the suggestion of buffering from specific uses. A more detailed discussion surrounding buffers is included under the Issues Section of this report.

Commercial cannabis activities are proposed to be permitted subject to the discretionary land use process, which requires environmental review, and a public hearing, and is subject when applicable to written city support when located within a sphere of influence of a city. Staff is proposing a ban on commercial cannabis activities in all R (Residential) zoning districts, C-1 (Neighborhood Commercial), and H-1 (Highway Frontage) zoning districts. Below is a description of each license type along with Staff's recommendation for commercial cannabis activity types by zoning district. A draft land use chart for the permitting of commercial cannabis is included as Exhibit C – Commercial Cannabis Permitting Land Use Chart:

Retailer Storefront - Involves the retail sale and delivery of cannabis or cannabis products to customers at a licensed physical location *open* to the public, from which commercial cannabis activities are conducted.

Commercial cannabis retailers (dispensaries) are limited to zoning districts which allow for retail type uses easily accessible to the general public, generally on parcels with a higher parking ratio, including the C-2 (General Commercial) and M (Industrial) zoning districts, when a use permit is obtained. A maximum of seven retailers (storefront and non-storefront combined) may operate in the unincorporated areas of the County at one time.

Retailer Non-Storefront - Involves the retail sale and delivery of cannabis or cannabis products to customers at a licensed physical location *closed* to the public, from which commercial cannabis activities are conducted.

Non-store front (delivery only) retailers may be permitted in the M (Industrial) and the PI (Planned Industrial) zoning district when a use permit is obtained. A maximum of seven retailers (storefront and non-storefront combined) may operate in the unincorporated areas of the County at one time.

Manufacturing Non-Volatile – Facility which manufactures cannabis products using nonvolatile solvents, or no solvents.

Non-volatile manufacturing activities may be permitted in the PI (Planned Industrial), M (Industrial), and LM (Limited Industrial) zoning districts, when a use permit is obtained.

Manufacturing Volatile – Facility which manufactures cannabis products using volatile solvents, which involves the use of solvents which produce a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

Volatile manufacturing activities may be permitted in the M (Industrial) zoning district only, when a use permit is obtained.

Microbusiness – Involves a combination of activities including, an area less than 10,000 square feet of cultivation, distribution, non-volatile manufacturing, and retail. Each separate activity counts as a separate permit for the purposes of the County's caps on licensing.

Microbusinesses, which allow for the cultivation of cannabis on an area less than 10,000 square feet in combination with distribution, manufacturing, and a retail component, will be permitted provided the zoning district the business is located in permits each requested activity. The retail component of any microbusiness activity would count as one of the seven retail permits. Each of the activity types included in the microbusiness would be considered a separate permit, subject to the discretionary land use entitlement process. For example, if an operator requests to conduct a microbusiness which includes cultivation, distribution, manufacturing, and retail that would count as a total of four, of the 61 maximum, commercial cannabis permits, and would only be permitted in the M or PI zoning districts where all four of the proposed activity types are permitted. Microbusiness may also be located in a PD zoning district if a rezone is obtained.

Testing laboratory – A licensed laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products which has been accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state.

Testing labs are proposed to be permitted in the PI (Planned Industrial), M (Industrial), LM (Limited Industrial), and C-2 (General Commercial) zoning districts, when a use permit is obtained. In order to maintain independence, a testing lab operator cannot hold any other permits or be associated with any other permit type.

Distribution - Involves the distribution of cannabis and cannabis products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

Distributors are proposed to be permitted in the PI (Planned Industrial), M (Industrial), LM (Limited Industrial) zoning districts, when a use permit is obtained.

Cultivation – Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. The County will only be permitting cultivation activities that take place inside of an enclosed structure.

The A-2 (General Agriculture) zoning district is proposed to allow natural and mixed-light cultivation activities, when enclosed in a structure such as a greenhouse, regardless of whether the property is enrolled in a Williamson Act Contract, subject to a use permit. However, if under contract the property will be required to demonstrate that the operation can meet the Williamson Act Principals of Compatibility, which is discussed in more detail in the General Plan and Zoning Consistency Section of this report. No cultivation activities which utilize solely artificial light are allowed in the A-2 zoning district.

Mixed-light and artificial light cultivation activities are proposed to be permitted in the PI (Planned Industrial), M (Industrial), LM (Limited Industrial) zoning districts, when a use permit is obtained.

All cultivation related activity, including cannabis plants, are required to be out of public view and enclosed in a structure, such as a greenhouse.

Nursery Only – Involves the production of only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

Similar to cultivation activities, nursery-only activities which use mixed-light or natural light are proposed to be allowed in the A-2 (General Agriculture) zoning district, when enclosed in a structure such as a greenhouse, regardless of whether the property is enrolled in a Williamson Act Contract, subject to a use permit. No nursery-only activities which utilize solely artificial light are allowed in the A-2 zoning district.

Mixed-light and artificial light nursery-only activities are proposed to be permitted in the PI (Planned Industrial), M (Industrial), LM (Limited Industrial) zoning districts, when a use permit is obtained.

Like cultivation, all nursery-only related activity, including cannabis plants, are required to be out of public view and enclosed in a structure, such as a greenhouse.

The Planned Development zoning district is a land use designation reserved for land which, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effects on other property. No specific uses are included in the Planned Development zoning district. Rather through submission of specific development plans, uses, building intensity, and development standards are determined by the County on an individual basis, depending upon the nature and location of the proposed planned development. As there is no specific list of uses included with the Planned Development zoning, there is also no specific list of prohibited uses. Although no proposed amendments to the Planned Development zoning ordinance are proposed, due to the nature of the P-D zoning district any property is at least open to apply for a commercial cannabis activity permit. Each request will be evaluated on a case-by-case basis through the discretionary permitting process. However, P-D zoning district's permitting residential uses are considered to be Residential zoning districts, and therefore no commercial cannabis activities will be considered in these zoning districts. The biggest known issue for rezoning to a P-D for retail use is on-site parking. While the P-D zoning district does provide for greater flexibility in establishing a parking standard, a full parking analysis of the entire property will need to be conducted to make sure on-site parking is adequate for all customers and employees.

Similarly, no amendments to the H-S (Historical Site) zoning designation are proposed as the H-S district already allows for all uses, unless specifically prohibited, to be permitted subject to first obtaining a Historic Site Permit. The Historic Site Permit is a discretionary permit, similar to a use permit, which requires findings, that the use will not be detrimental to the unique historical character of the community or to the residents of the community. All commercial cannabis license types have been included in the H-S zoning district as being potentially compatible. However, each of these requests would be considered for compatibility with the historic character of the area on a case-by-case basis.

Like the P-D and H-S zoning districts, no changes to the S-P (Specific Plan) zoning district are proposed. The uses permitted in an S-P district are unique with each Specific Plan approved.

Combining license types is permitted. However, combining license types is limited to those types which may be permitted in each zoning district. For example, indoor cultivation may be combined with manufacturing and distribution in the M (Industrial), and the PI (Planned Industrial) zoning districts, when a use permit is obtained. But, cultivation may not be combined with other license types, with the exception of nursery only, in the A-2 (General Agricultural) zoning district.

ISSUES

As of October 13, 2017, Staff has received four email comments from the general public in response to the proposed ordinance amendment. (See Exhibit E – *Correspondence Received*.) Three of the comments include a request for a 100-yard (300-foot) buffer from all houses, schools, and parks. Another comment requested that Commercial Cannabis Activities not be permitted along Pirrone Road, in the Salida area.

In response to the request for the 100-yard (300-foot) buffer from all houses, schools, and parks, the State is requiring that all commercial cannabis activities be buffered 600 feet from all schools, daycares, and youth facilities. This State requirement will be specifically incorporated as a standard within the County's Regulatory Ordinance. At this time, Staff is not proposing to include any specific buffer for houses or any other types of use, in either the Zoning Ordinance or Regulatory Ordinance. Incorporation of such buffers may create a situation where there are no available sites for commercial cannabis activities throughout the entire unincorporated County, despite the activities being subject to an individual case-by-case discretionary review. Review and consideration of each application for a discretionary land use entitlement will provide the decision making body an opportunity to make findings that the location and operation of the activity, as conditioned, will not have an adverse impact on people or property. All discretionary land use entitlement applications require a public hearing which will be noticed to surrounding property owners and advertised in a newspaper of general circulation. Included in this proposed ordinance amendment is an added provision requiring public notification to surrounding property owners for any commercial cannabis activity to be provided at a distance of 600 feet, unless a greater distance is required by adopted County policy.

The northern Pirrone Road area, along HWY 99, in the community of Salida is made up of mostly Planned Development and a few Planned Industrial zoning districts. For a commercial cannabis permit to be issued in a PI or P-D zoning district a use permit or rezone is required. This discretionary process for consideration of a use permit or rezone is subject to the public notification, public hearing, and findings (which are discussed in more detail below). When located within one of the County's unincorporated areas with an established Municipal Advisory Council (MAC), such as the Pirrone Road area, the discretionary permit is also sent to the MAC for input. This process will allow an opportunity for surrounding property owners and all community members to weigh in on the project and voice their concerns on a site specific basis. As stated earlier in this report no changes to the Planned Development ordinance are proposed as part of this project because any use, provided it is not banned or illegal, can already be requested as part of a Planned Development zoning district request.

GENERAL PLAN AND ZONING CONSISTENCY

All amendments to the Zoning Ordinance must be consistent with the General Plan. Several goals and policies within the General Plan are evaluated below in terms of consistency with the proposed ordinance amendments.

The Land Use Element's Goal 2, to ensure compatibility between land uses, is directly related to the proposed ordinance amendment by requiring each commercial cannabis permit be processed through a discretionary permit. Additionally, the determination of which commercial cannabis activities were conditionally permitted, subject to discretionary approval, in each zoning district was based on compatibility.

The Land Use Element's Goal 3 emphasizes fostering stable economic growth through appropriate land use policies. Goal 3, Policy 18 emphasizes promoting the diversification and growth of the local economy and Policy 19 to accommodate the siting of industries with unique requirements, which aligns with the intent of this ordinance amendment.

The ordinance amendment is also consistent with Goal 5 of the Land Use Element, to complement the general plans of cities within the County, as each applicable commercial cannabis application will require obtaining discretionary land use entitlements which requires written approval from a city when located within a city's Sphere of Influence.

Many of the goals, policies, and implementation measures included throughout the General Plan require specific issues to be evaluated when considering a discretionary project.

The Land Use, Conservation and Open Space, and Agricultural Elements all include goals which require that all development proposals that require discretionary action be carefully reviewed to ensure that approval will not adversely affect an existing agricultural area.

The Conservation and Open Space and Agriculture Elements both include goals and policies aimed at conserving and protecting water quality and water availability throughout the County.

The Conservation and Open Space Element also includes goals and policies (Goal 1, Policy 2, 3, and 4; and Goal 10, Policy 29) which requires that all development requests are reviewed to ensure that sensitive areas (e.g., riparian habitats, vernal pools, rare plants), endangered fish and wildlife, and oak woodlands or other native hardwood habitat are left undisturbed or that mitigation measures acceptable to appropriate state and federal agencies are included in the project.

The Open Space and Conservation Element (Goal 6, Policy 18 & 19) also requires discretionary projects to include reasonable air quality mitigation measures.

All discretionary projects must comply with both the Noise Element and Chapter 10.46 Noise Control Ordinance of the Stanislaus County Code.

The Safety Element (Goal 1, Policy 2 & 4; and Goal 5, Policy 16) restricts development within the 100-year flood boundary, west of I-5 in areas susceptible to landslides, and discourages development on lands that are subject to flooding, landslide, faulting, or any natural disaster to minimize loss of life and property. Goal 2, Policy 6 & 7 of the Safety Element requires all new development to be designed to reduce safety and health hazards and that adequate fire and sheriff protection shall be provided.

In December of 2007, Stanislaus County adopted an updated Agricultural Element which incorporated guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 zoning district. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. This requirement will also be reviewed through the discretionary permit process. Alternatives may be approved provided the Planning Commission finds that the alternative provides equal or greater protection than the existing buffer standards.

Consistency, with these General Plan policies must be evaluated when processing each commercial cannabis project request. Findings specific to the project type are required to be made by the decision making body in order to recommend approval of the project. Rezone

requests must be found to be consistent with the General Plan. Use permits must be found to be consistent with the General Plan and not to be detrimental to the health, safety, and general welfare of the neighborhood or to the general welfare of the county. Amendments proposed to Chapter 21.08 General Provisions also include the following requirements/findings for approval of any commercial cannabis activities:

- Operation shall be in compliance with all the requirements of Title 6 of the Stanislaus County Code any other local requirements applicable to commercial cannabis activities.
- Public notification required for the consideration of any discretionary action authorized by this Title for the permitting of commercial cannabis activities shall be provided at a distance of 600 feet from the boundaries of the project site, unless a greater distance is required by adopted County policy or state requirement.
- Proposed activity shall be found to not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

Currently commercial cannabis cultivation permits are proposed to be permitted on land zoned A-2 (General Agriculture), when enclosed in a structure such as a greenhouse, regardless of whether the property is enrolled in a Williamson Act Contract. Properties under contract will be required to provide findings showing that the proposed cultivation operation can meet the Williamson Act Principals of Compatibility, which include the following:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

If the proposed ordinance amendment is adopted, each application will be evaluated for consistency with each of the general plan goals, policies, and implementation measures listed above through the use permit or rezone process.

Staff believes that with these amendments to the zoning ordinance in place, the County will be providing a path for operators who wish to pursue a commercial cannabis permit in Stanislaus County to obtain a permit to operate after all potential land use conflicts have been mitigated. The findings required for approval of a use permit or rezone will limit the placement and intensity of commercial cannabis activities within the allowable zoning districts and will provide a method, through the discretionary process, to apply operating conditions to limit possible nuisance or safety conditions from the operation of commercial cannabis businesses. The annual permit renewal process, combined with zoning ordinance provisions for amendment and revocation of

permits will also provide a means of adjusting operational standards, to address nuisance concerns, while still retaining the ability for full permit revocation, if needed.

Staff believes this amendment request is consistent with the General Plan, as described above. The proposed ordinance amendments will provide a process for commercial cannabis activities to go through a discretionary land use approval process, when located within the zoning districts determined to be conditionally compatible as described above.

ENVIRONMENTAL REVIEW

Senate Bill 94 the Medical Cannabis Regulation and Safety Act (MCRSA) exempted from the California Environmental Quality Act, until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity. All commercial cannabis activities will be subject to obtaining discretionary land use approval, and accordingly this project has been determined to be generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Code of Regulations.

A Notice of Public Hearing was circulated to all interested parties and responsible agencies for review and comment. (See Exhibit G- *Distribution List for Notice of Public Hearing*.) A Notice of Exemption has been prepared for approval as the project will not have a significant effect on the environment. (See Exhibit F – *Notice of Exemption*.) There are no conditions of approval for this project.

Contact Person: Kristin Doud, Senior Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Summary of Draft Amendments to Stanislaus County Zoning Ordinance Chapter 21.08 General Provisions, Chapter 21.12 Definitions, Chapter 21.20 General Agriculture District (A-2), Chapter 21.42 Planned Industrial District (PI), Chapter 21.56 General Commercial District (C-2), Chapter 21.60 Industrial District (M), and Chapter 21.64 Limited Industrial District (LM)
- Exhibit C- Commercial Cannabis Permitting Land Use Chart
- Exhibit D - Board Report, September 26, 2017
- Exhibit E- Correspondence Received
- Exhibit F - Notice of Exemption
- Exhibit G - Distribution List for Notice of Public Hearing

Exhibit A
Findings and Actions Required for Project Approval

1. Conduct a public hearing to consider the Planning Commission's recommendation for approval of Ordinance Amendment Application No. PLN2017-0119 – Commercial Cannabis Activities, an update to the Stanislaus County Zoning Ordinance, covering the entire Stanislaus County unincorporated area.
2. Find the project is generally Exempt for the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Code of Regulations and order the filing of a Notice of Exemption with the Stanislaus County Clerk-Recorder pursuant to CEQA Guidelines Section 15062.
3. Find that there is no substantial evidence the project will have a significant effect on the environment and that the General Exemption reflects Stanislaus County's independent judgment and analysis.
4. Find the project is consistent with the overall goals and policies of the Stanislaus County General Plan.
5. Approve Ordinance Amendment Application No. 2017-0119 – Commercial Cannabis Activities and adopt the revised ordinances.
6. Introduce, waive the reading, and adopt the ordinance amending Title 21 of the Stanislaus County Code relating to Commercial Cannabis Activities.

Commercial Cannabis Activity – Proposed Ordinance Amendment

Amended Section 21.08.020 of Chapter 21.08 - GENERAL PROVISIONS to read as follows:

- D. Commercial Cannabis Activities as authorized by this title shall be operated in compliance with all the requirements of Title 6 of the Stanislaus County Code and any other local requirements applicable to commercial cannabis activities.**
- 1. Public notification required for the consideration of any discretionary action authorized by this title for the permitting of commercial cannabis activities shall be provided at a distance of 600 feet from the boundaries of the project site, unless a greater distance is required by adopted County policy or state requirement.**
 - 2. Any discretionary action taken for the permitting of a commercial cannabis activity shall be subject to a finding by the decision making authority that the establishment, maintenance, and operation of the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.**

Add Section 21.12.151 of Chapter 21.12 – DEFINITIONS to read as follows:

21.12.151 COMMERCIAL CANNABIS ACTIVITY

“Commercial Cannabis Activity” means the cultivation, possession, manufacturing, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of cannabis or a cannabis product. For the purposes of this title, “commercial cannabis activity” does not include the activities defined in Section 11362.1 and Section 11362.2 of the California Health & Safety Code. All commercial cannabis activities shall be operated in compliance with all the requirements of Title 6 of the Stanislaus County Code.

Amend Section 21.20.030 of Chapter 21.20 – GENERAL AGRICULTURE DISTRICT (A-2) to read as follows:

21.20.030 USES REQUIRING USE PERMIT

- H. Commercial cannabis cultivation or nursery activities, subject to Section 21.08.020(D) of this title, may be allowed when the following criteria are met:**
- 1. All activities shall be conducted within a building and cannabis plants shall not be visible from off-site.**
 - 2. No visual markers indicating that cannabis activities are conducted on-site shall be visible from off-site.**
 - 3. Activities shall be limited to natural or mixed-light growth.**
 - 4. Activities shall occur only within the following type of structure:**
 - a. Greenhouse meeting the following definition:**

- i. For the purpose of this section, a greenhouse shall mean a structure with transparent or translucent roof and/or wall panels, in which temperature or humidity can be controlled for the cultivation or protection of plants. Structures of a temporary or non-secure nature, including but not limited to movable greenhouses, tents, and hoop houses, are not considered a greenhouse for purposes of this definition.
- b. Accessory agricultural storage building issued a certificate of occupancy prior to October 1, 2017, may be determined by the Planning Commission to meet the definition of a greenhouse subject to a change of occupancy.

Add Section 21.42.025 of Chapter 21.42 – PLANNED INDUSTRIAL DISTRICT (PI) to read as follows:

21.42.025 USES REQUIRING A USE PERMIT

- A. Commercial cannabis retail (non-storefront only), manufacturing (non-volatile), testing labs, distribution, and cultivation or nursery activities (mixed-light or indoor), subject to Section 21.08.020(D) of this title.
 - 1. Where a Planned Industrial zoning district is adopted after January 4, 2018, the adoption of the zoning district may authorize the uses permitted by Section A, in-lieu of a use permit, provided the uses are specifically identified in the development plan required by Section 21.42.040 of this Chapter.

Amend Section 21.56.030 of Chapter 21.56 – GENERAL COMMERCIAL DISTRICT (C-2) to read as follows:

21.56.030 USES REQUIRING USE PERMITS

- I. Commercial cannabis retail (storefront only), or testing activities, subject to Section 21.08.020(D) of this title.

Amend Section 21.60.030 of Chapter 21.60 – INDUSTRIAL DISTRICT (M) to read as follows:

21.60.030 USES REQUIRING A USE PERMIT

- J. Commercial cannabis retail (storefront or non-storefront), manufacturing (volatile or non-volatile), testing labs, distribution, and cultivation or nursery activities (mixed-light or indoor), subject to Section 21.08.020(D) of this title.

Amend Section 21.64.030 of Chapter 21.64 – LIMITED INDUSTRIAL DISTRICT (LM) to read as follows:

21.64.030 USES REQUIRING USE PERMIT

- E. Commercial cannabis manufacturing (non-volatile), testing labs, distribution, and cultivation or nursery activities (mixed-light or indoor), subject to Section 21.08.020(D) of this title.

DRAFT

10/13/2017

*COMMERCIAL CANNABIS PERMITTING	**ZONING DISTRICT															
	RESIDENTIAL				COMMERCIAL			INDUSTRIAL					OTHER		***AGRICULTURE	HISTORICAL
LICENSE TYPE	R-1	R-2	R-3	R-A	C-2	C-1	H-1	M	LM	LI	PI	IBP	PD	SP	A-2	H-S
RETAILER																
<i>(Max of seven commercial cannabis Retailers permitted in all zoning districts combined)</i>																
RETAILER STOREFRONT	NP	NP	NP	NP	UP	NP	NP	UP	NP	NP	NP	NP	DP	SP	NP	HSP
RETAILER NON-STOREFRONT	NP	NP	NP	NP	NP	NP	NP	UP	NP	NP	UP	NP	DP	SP	NP	HSP
MANUFACTURER																
MANUFACTURER (NON-VOLATILE)	NP	NP	NP	NP	NP	NP	NP	UP	UP	NP	UP	NP	DP	SP	NP	HSP
MANUFACTURER (VOLATILE)	NP	NP	NP	NP	NP	NP	NP	UP	NP	NP	NP	NP	DP	SP	NP	HSP
TESTING LAB																
TESTING LAB	NP	NP	NP	NP	UP	NP	NP	UP	UP	NP	UP	NP	DP	SP	NP	HSP
DISTRIBUTOR																
DISTRIBUTOR	NP	NP	NP	NP	NP	NP	NP	UP	UP	NP	UP	NP	DP	SP	NP	HSP
CULTIVATOR (May include nursery)																
ENCLOSED GROW ONLY	CULTIVATION	NP	NP	NP	NP	NP	NP	UP	UP	NP	UP	NP	DP	SP	UP	HSP
	NURSEY ONLY	NP	NP	NP	NP	NP	NP	UP	UP	NP	UP	NP	DP	SP	UP	HSP

***ALL ACTIVITIES SUBJECT TO BOARD OF SUPERVISORS APPROVED DEVELOPMENT AGREEMENT**

**** SUBJECT WHEN APPLICABLE TO WRITTEN CITY APPROVAL WHEN LOCATED WITHIN A LOCAL AGENCY FORMATION COMMISSION (LAFCO)**

SPHERE OF INFLUENCE

***** WILLIAMSON ACT CONTRACTED LAND INCLUDED IN PROPOSED A-2 CULTIVATION ALLOWANCE.**

NP = NOT PERMITTED

UP = USE PERMIT REQUIRED (ENVIRONMENTAL REVIEW/PLANNING COMMISSION REQUIRED)

DP = DEVELOPMENT PLAN SPECIFYING USE REQUIRED (ENVIRONMENTAL REVIEW/PLANNING COMMISSION/BOARD OF SUPERVISORS)

SP = SPECIFIC PLAN SPECIFYING USE REQUIRED (ENVIRONMENTAL REVIEW/PLANNING COMMISSION/BOARD OF SUPERVISORS)

HSP = HISTORIC SITE PERMIT REQUIRED (ENVIRONMENTAL REVIEW/PLANNING COMMISSION APPROVAL REQUIRED)

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Chief Executive Office

BOARD AGENDA #: B-15

Urgent Routine

AGENDA DATE: September 26, 2017

CEO CONCURRENCE:



4/5 Vote Required: Yes No

SUBJECT:

Approval of a Limited Commercial Cannabis Allowance Strategy for Retail, Cultivation, and other Related Cannabis Business Activities in the Unincorporated Area of Stanislaus County, Open a 15 Business Day Initial Application Interest Period Beginning October 2, 2017, and Set a Public Hearing on December 5, 2017

STAFF RECOMMENDATIONS:

1. Approve the development of a conservative commercial cannabis allowance strategy for retail, cultivation, and other related cannabis business activities in the unincorporated area of Stanislaus County.
2. Direct staff to return to the Board of Supervisors with a Regulatory Ordinance for cannabis, a Zoning Ordinance Amendment, and fee schedule for cannabis related permitting and enforcement activities.
3. Authorize staff to open a 15 business day initial application interest period from October 2, 2017 through October 20, 2017 3:00 p.m. with a non-refundable deposit of \$4,359 consistent with the established development agreement fee schedule.
4. Set a public hearing on December 5, 2017 at 9:05 a.m. to consider a regulatory ordinance, zoning ordinance amendment, and a fee schedule ordinance.

DISCUSSION:

Background

Cannabis was first legalized for medical use in 1996 with the passage of Proposition 215, known as The Compassionate Use Act of 1996. The passage of this act exempted patients and defined caregivers who possessed or cultivated marijuana for medical treatment, recommended by a physician, from criminal laws which otherwise prohibit possession or cultivation of marijuana.

In October 2015, Governor Jerry Brown approved the Medical Cannabis Regulation and Safety Act (MCRSA), which consisted of three separate bills. The approval of this act crafted a comprehensive licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis (marijuana). Additionally, MCRSA added a section to the Business and Professions Code authorizing counties to impose a tax on specified cannabis activities.

Approval of a Limited Commercial Cannabis Allowance Strategy for Retail, Cultivation, and other Related Cannabis Business Activities in the Unincorporated Area of Stanislaus County, Open a 15 Business Day Initial Application Interest Period Beginning October 2, 2017, and Set a Public Hearing on December 5, 2017

Approximately a year later, on November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). AUMA immediately legalized the use and cultivation of cannabis for personal consumption and legalized the commercialization and taxation of cannabis, including medical cannabis, beginning January 1, 2018. Additionally, AUMA allowed the Legislature to adopt laws to license and tax commercial cannabis activities; and permitted local regulation of cannabis possession, cultivation and consumption.

Most recently, on June 27, 2017 the Governor approved Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). This bill consolidates provisions from MCRSA and AUMA and creates one regulatory system for commercial cannabis activity. The new system under MAUCRSA prioritizes consumer safety, public safety and tax compliance.

Cannabis activities are currently prohibited in the unincorporated areas of Stanislaus County. On January 26, 2016 Chapter 9.86 of the Stanislaus County Code was adopted prohibiting cannabis cultivation, dispensaries, testing, manufacturing, labeling and packaging. Additionally, cooperatives/collectives were also prohibited. As part of the 2016 General Plan Update, cannabis activities were banned in all zoning districts.

Stanislaus County has reviewed the effects of commercial cannabis on local services, and contracted with HdL, a consulting group on the forefront of implementing cannabis regulatory policies and programs. Despite a County prohibition of cannabis activities, multiple dispensaries and cultivation activities have been established within the unincorporated area of Stanislaus County.

The County has engaged all nine cities in hopes of formulating a coordinated approach. A survey of all nine cities was conducted, receiving responses from six of the cities. A single countywide approach to commercial cannabis taxation failed to materialize as several cities have begun exploring individual solutions.

Using a similar methodology developed by Yolo County, staff conducted an early analysis of the costs associated to enforce a full ban of cannabis activities in Stanislaus County and found those costs to exceed \$3.1 million annually. There is no current identified funding source to support the costs associated with enforcement activities. Beginning January 1, 2018, commercial cannabis activities will be legal in California, and as such staff has developed a conservative allowance strategy to address cannabis activities in the unincorporated area to provide a funding source to enhance a regulatory environment.

Allowance Strategy

Cannabis is a rapidly growing business industry and is currently occurring in the County today. An enforcement strategy is necessary to effectively contain this industry in the community, however funding to properly enforce these business activities must be identified.

In 2016 the California Department of Food and Agriculture (CDFA) surveyed interest about cannabis licenses. Stanislaus County registered 172 permit interests across different

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permitting categories: cultivation, nurseries, manufacturers, testing, dispensaries, distribution, and transporters. The recommended allowance strategy would allow up to 61 cannabis activities permits, which is approximately 35% of the stated interest.

The recommended strategy prohibits outdoor cannabis cultivation and limits retail to no more than seven establishments in the unincorporated area, based on a population calculation of one retail establishment for every 16,000 persons. According to HdL, this population calculation approach is consistent across the State. Research of existing retail establishments show that there are currently at least 14 active storefronts in the unincorporated area. County staff is working with the aforementioned HdL to develop the regulatory and land-use ordinances necessary to implement a rigorous strategy.

If the Board approves this strategy, the Planning Department will prepare an amendment to the County's Zoning Ordinance, Title 21 of the County Code, to specify which commercial cannabis activities are permitted by zoning district. All commercial cannabis activities will be subject to some level of discretionary land use permitting, in addition to meeting the requirements set forth in the commercial cannabis regulatory ordinance. All discretionary land use permitting will occur through the use permit or rezone (development plan adoption) process and will require project level environmental review. For example, commercial cannabis retail activities may be permitted by use permit in the C-2 (General Commercial) and Industrial (M) zoning districts and commercial cannabis manufacturing may be permitted by use permit in the M (Industrial) zoning district. Retail involving delivery only, no storefront, and manufacturing, non-volatile, may be permitted in the Planned Industrial (PI) zoning district with adoption of a development plan specifying the use(s). Various types and intensities of cannabis activities may also be permitted within the Planned Development (PD) zoning district through the adoption of a development plan. Cannabis cultivation, indoor grow only, may be permitted by use permit in the A-2 (General Agriculture) zoning district when utilizing a greenhouse or by development plan adoption in the PI and PD zoning districts when utilizing a warehouse building. The Zoning Ordinance amendment will be reviewed by the Planning Commission for a recommendation to the Board of Supervisors. The Zoning Ordinance amendment will be presented to the Board of Supervisors for consideration at the same time as the regulatory ordinance.

If approved, all permitted uses will be required to enter into a development agreement. A development agreement is a contract between Stanislaus County and the property owner(s)/project applicant(s), which details the standards and conditions for the development of the property and activity. The proposed development agreements will include a Community Benefit Fee, which is in addition to application and permit fees, which can be used for essential services currently supplied by the County. It is anticipated the Community Benefit Fee would raise a similar amount of revenue as a general tax.

Track and Trace Program

An effective compliance and enforcement approach is comprised of three elements; statutory enablement (a framework to take action); enforcement resources (boots on the ground); and track and trace (information to support decisions). The State of California has identified

Approval of a Limited Commercial Cannabis Allowance Strategy for Retail, Cultivation, and other Related Cannabis Business Activities in the Unincorporated Area of Stanislaus County, Open a 15 Business Day Initial Application Interest Period Beginning October 2, 2017, and Set a Public Hearing on December 5, 2017

requirements for administering and, enforcing regulations for cannabis through the MAUCRSA (SB 94). This act has specifically identified the use of track and trace technology as the means for supporting appropriate regulatory and enforcement regimes.

The focus of a track and trace system is to capture and reconcile activity at any point in the cannabis supply chain, from initial production through retail sale, tracking all movements within the chain of custody. The system will include secure provenance stamps that provide unique identifiers that will be affixed to plants at production, bulk product, semi-finished and retail level packaging as a proof of provenance for Stanislaus County. The secure provenance stamp will link to information in the track and trace system. The track and trace system will provide the County with a robust control and enforcement framework for tracking and tracing of cannabis while enabling patients/consumers to uniquely verify the safety and security of products produced and manufactured in Stanislaus County.

County staff has reached out to other Counties that have piloted successful track and trace systems using a third party vendor system. Additionally, the research included consulting with several vendors that provide a track and trace system. As a condition to approving any cannabis permit, the permit holder will be required to participate in the County's track and trace system and bear the costs of such participation.

Process Approach

After approval of this strategy by the Board, staff would open a 15-day registration window for interested applicants that would require a Commercial Cannabis Registration form describing property information, applicant/owner information, and commercial cannabis business permit type(s) requested. This would be submitted to the Treasurer/Tax Collectors Office with a deposit of \$4,359, which is consistent with the existing board approved development agreement fee schedule. This registration form does not guarantee a permit and does not grant authorization to conduct commercial cannabis activities in the County. The 15 business day period to submit registration forms is anticipated to commence on October 2, 2017 and end on October 20, 2017 3:00 p.m. This would allow the County to understand the magnitude of interested applicants and the desired permit types.

A Zoning Ordinance amendment, along with the draft regulatory ordinance for commercial cannabis activities, be will be presented to the Planning Commission for a recommendation to the Board of Supervisors. Staff would return to the Board of Supervisors with the Planning Commission's Zoning Ordinance amendment recommendation, the regulatory ordinance, and fee schedule for consideration in a December Public Hearing. If approved, the ordinance and fees would become effective 30 days after adoption of the second reading of the ordinances. The following page outlines the proposed timeline:

Approval of a Limited Commercial Cannabis Allowance Strategy for Retail, Cultivation, and other Related Cannabis Business Activities in the Unincorporated Area of Stanislaus County, Open a 15 Business Day Initial Application Interest Period Beginning October 2, 2017, and Set a Public Hearing on December 5, 2017

Date	Activity
October 2, 2017	Open Cannabis Registration Interest
October 19, 2017	Planning Commission to consider Zoning Ordinance Amendment
October 20, 2017	Close Cannabis Registration Interest (3:00 p.m.)
December 5, 2017	Hold Public Hearing to consider Regulatory Ordinance, Zoning Ordinance Amendment, and Fee Schedule Ordinance
December 19, 2017	Second reading of Regulatory and Fee Ordinances
January 18, 2018	Open Cannabis Permit Application period
February 9, 2018	Close Cannabis Permit Application period (3:00 p.m.)

The cannabis permit application process will first consist of a background investigation performed by the Sheriff’s Department. An application packet may be obtained from the county website and will include the application form, list of compliance regulations, check list, required permits, and a draft Development Agreement. This application package will be due with a fee no later than February 9, 2018 by 3:00 p.m. to be considered for a permit type. The application package will include a business plan, security plan, environmental plan (water, wastewater/ sewer), and a traffic plan.

If there are less than 61 permit interests received during the 15-day registration period, applications will move directly through the land use and regulatory permit review process. If more than 61 permit applications are received a review committee consisting of Chief Executive Office, County Counsel, and Planning staff will review and rank based on a set scoring criteria. Those applicants ranked in the top 61 allowable permit spots will be forwarded through the land use and regulatory permit process. Once approved a Development Agreement will be completed per the permit type for each successful applicant and forwarded to the Board of Supervisors for approval.

POLICY ISSUE:

Board of Supervisors’ approval is required to establish commercial cannabis regulations that promote and protect the health, safety, and general welfare of persons and property, and that is in conformance with the Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code, Division 10, Sections 26000 – 26001.

FISCAL IMPACT:

If an allowance strategy is approved enforcement is estimated to cost \$4.5 million based on an initial staffing analysis described below in staffing impacts, which will be funded with the revenue derived from the approved cannabis activity development agreements. It is estimated to cost \$3.1 million to fully enforce an ordinance prohibiting all cannabis activities, with no identified revenue source other than the General Fund to absorb the cost.

The potential annual revenue generated by the mandatory community benefit fee is dependent on the number and mix of permitted commercial cannabis businesses. Based upon the

Approval of a Limited Commercial Cannabis Allowance Strategy for Retail, Cultivation, and other Related Cannabis Business Activities in the Unincorporated Area of Stanislaus County, Open a 15 Business Day Initial Application Interest Period Beginning October 2, 2017, and Set a Public Hearing on December 5, 2017

recommended strategy, revenue is estimated between \$4 million and \$7 million annually. If approved, the revenue from commercial cannabis activities in the unincorporated areas of the County would be used primarily to offset the cost impacts Proposition 64 and commercial cannabis business have on general county services.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Boards' priorities of A Safe Community, A Strong Local Economy, A Well Planned Infrastructure System and Efficient Delivery of Public Services by developing a strategy to regulate cannabis activities in the unincorporated area of Stanislaus County, and that provides potential funding for those essential government services required to safely and effectively administer.

STAFFING IMPACT:

Staffing resources to enforce an allowance strategy is estimated to be 19 full-time equivalent (FTE) positions, and if approved will be further evaluated as the County moves forward with an allowance strategy. Staffing necessary to enforce cannabis activities impacts the following departments: Sheriff, Ag Commissioner, Animal Services, Chief Executive Office, County Counsel, District Attorney, Environmental Resources, Planning and Community Development, Probation Department and Public Health. Staffing impacts will be funded by revenue collected from the approved cannabis activities, and will have no General Fund impact. If an allowance strategy is not approved, staffing necessary to enforce a complete ban of cannabis activities impacts is estimated to be at least 14 FTEs, which includes adding eight full-time positions to the District Attorney's Office and Sheriff's Department and has no identified funding source.

If approved, existing County staff from the Chief Executive Office, County Counsel, and Planning and Community Development will lead a multi-departmental effort to draft a regulatory ordinance, zoning ordinance amendment, application process, and fee schedule to bring back to the Board of Supervisors for consideration and approval in December.

CONTACT PERSON:

Keith D. Boggs, Assistant Executive Officer
Thomas Boze, Assistant County Counsel

Telephone: (209) 652-1514
Telephone: (209) 525-6376

ATTACHMENT(S):

- A. Draft Flow Chart
- B. Draft Timeline
- C. Draft Commercial Cannabis Registration Form

Attachment A

NOTES:

* If applicant passes background screening but is failed during subsequent screening - application is denied.

** Full application fee is required upon EACH and every application submittal REGARDLESS of prior submittal failures.

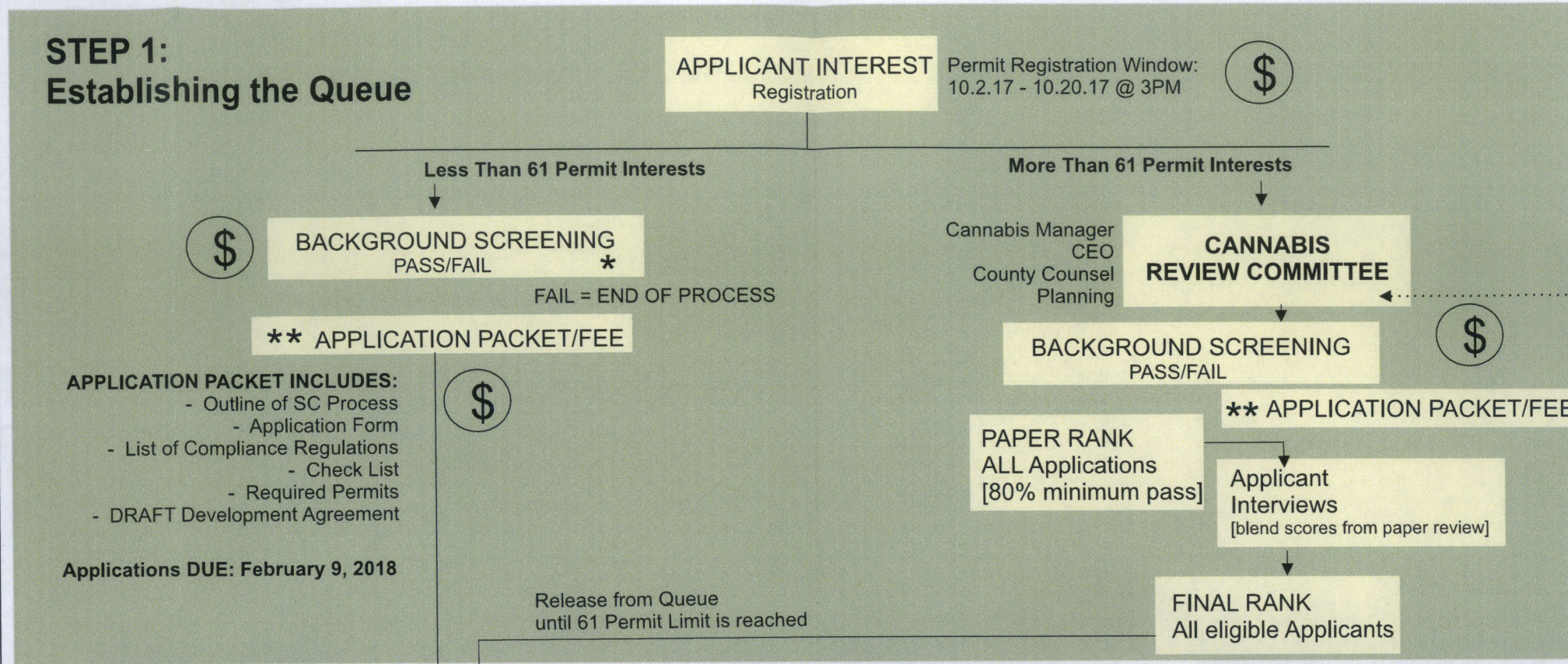
*** Similar to SGMA (ground water program) One (1) Manager as Cannabis Program Manager may be required to oversee this new program and to interface with Enforcement via the Cannabis Oversight Committee. [CEO Office initially Dept. based ultimately. Will review @ Mid-Year]

**** A Use Permit or Re-Zone WILL be required which adds 60 - 90 Days to the permitting process. Rezone = 120 - 180 Days

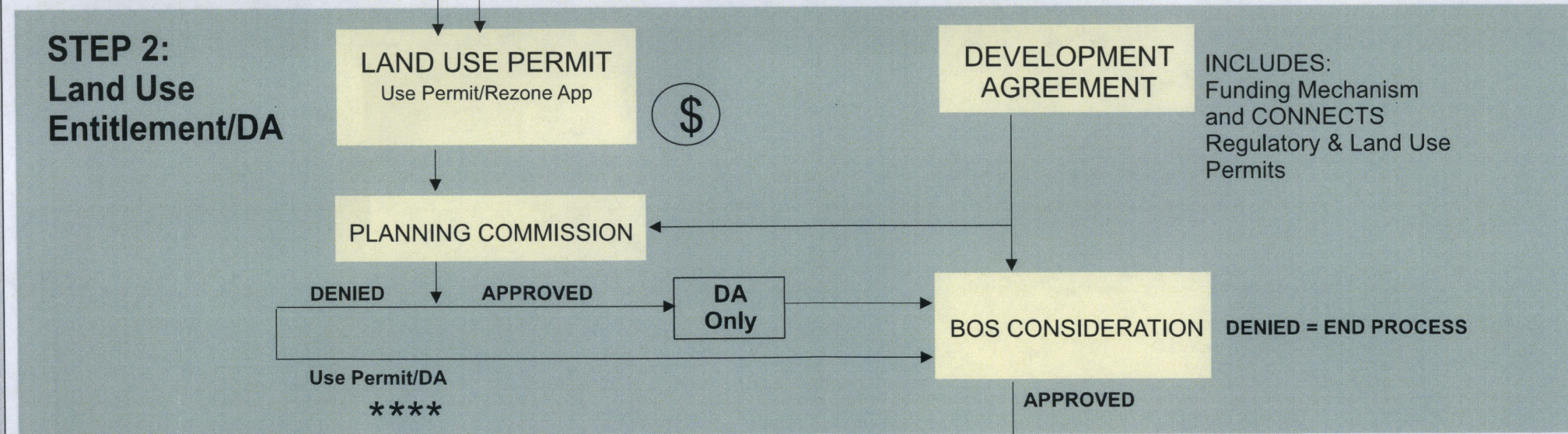
***** Sign off on State Permit w/ Local Compliance will NOT occur until ALL application tracks have been reviewed and approved.

Ⓢ Signifies process cost points

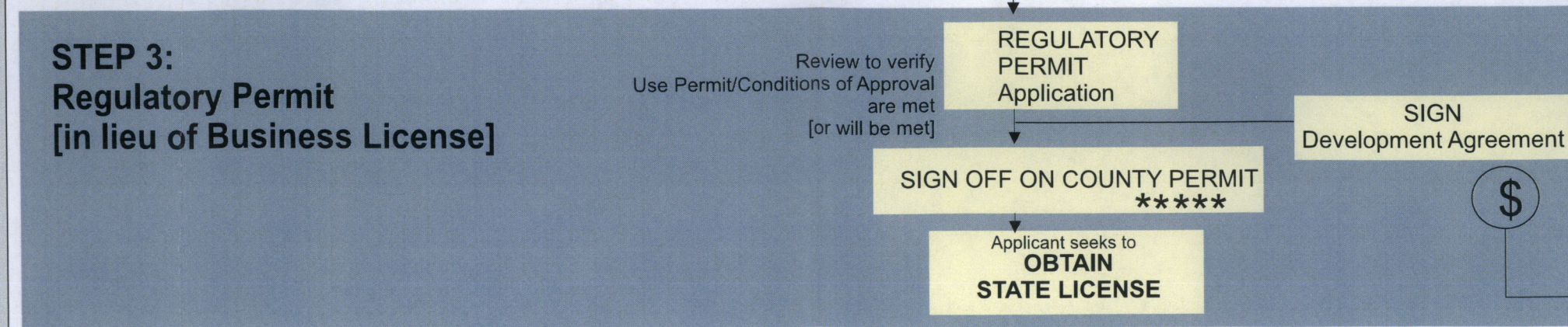
STEP 1: Establishing the Queue



STEP 2: Land Use Entitlement/DA



STEP 3: Regulatory Permit [in lieu of Business License]



ENFORCEMENT CANNABIS OVERSIGHT

CANNABIS *** Program Manager

Department of Environmental Resources (DER)
 - Code Enforcement
 - HAZ MAT
 - Water
 - Environmental Health

Sheriff's Office

District Attorney

CEO

County Counsel

Planning / Community Development
 - Planning
 - Building

AG Commissioner
 - Pesticide Compliance
 - Weights and Measures

HSA/Public Health

Probation Department

DEVELOPMENT AGREEMENT Revenue to fund ENFORCEMENT program [Staff/Equipment/Resources] + Discretionary Community Development

Attachment B

Cannabis Program Implementation Timeline September 2017

- September 26th** **Board of Supervisors**
Present staff recommendation
to consider a conservative allowance strategy
- 61 permits total
 - Potential land use/zoning
 - Application Process
 - Development Agreement
- If approved – also request to open
Permit Registration Window: 10.2.17 – 10.20.17 @ 3PM (\$)
- September 27th – October 18th** Final Cannabis Regulatory Ordinance
Final Zoning Ordinance Amendment
Develop Cannabis Fee Schedule
Final Development Agreement Template
- October 19th** **Planning Commission**
Present Regulatory Ordinance and Zoning Ordinance Amendment
- December 5th** **Board of Supervisors**
Hold Public Hearing to consider:
- Regulatory Ordinance
 - Zoning Ordinance Amendment
 - Cannabis Program Fee Schedule
 - Provide Status Report on number of Permit Registrants
- December 19th** **Second Reading (consent item)**
- 30 Days to GO LIVE**
- January 18, 2018** **Ordinance Live**
- Fee Schedule Active
 - Request Background Checks (\$) IF PASS/
 - Share Application Packet (\$)
 - Applications and Fee Due (2.9.18 @ 3PM) (\$\$)

Attachment C



DRAFT

Commercial Cannabis Registration Application

TREASURER/TAX COLLECTOR • COUNTY OF STANISLAUS
1010 10TH STREET, SUITE 2500 • MODESTO • CA • 95354 • (209) 525-6388

PROPERTY INFORMATION OF PROPOSED LOCATION

Assessor Parcel Number(s): _____ Size of Parcel: _____ Zoning: _____

Address: _____

PROPERTY OWNER / APPLICANT INFORMATION

Property Owner Name _____ Phone: _____
 Mailing Address _____
 Email Address _____

Applicant Name _____ Phone: _____
 Mailing Address _____
 Email Address _____

Consent of Property Owner will be required for Applicants who are not the Property Owner.

Commercial Cannabis Activity Permit Type Requesting *(please fill out this section completely; check or mark all that apply)*

Check **M** for Type M-License and/or for **A** for Type A-License

Type 10 – Retailer: **M** **A** Store Front **M** **A** Non-Store Front
Manufacturing: **M** **A** Type 6 (Non-Volatile) **M** **A** Type 7 (Volatile)
Type 11- Distributor **M** **A** **M** **A** Type 12 – Microbusiness

Cultivation Type:

<input type="checkbox"/> M <input type="checkbox"/> A Type 1	<input type="checkbox"/> M <input type="checkbox"/> A Type 2	<input type="checkbox"/> M <input type="checkbox"/> A Type 3	<input type="checkbox"/> M <input type="checkbox"/> A Type 4	<input type="checkbox"/> M <input type="checkbox"/> A Type 5
<input type="checkbox"/> M <input type="checkbox"/> A Type 1A	<input type="checkbox"/> M <input type="checkbox"/> A Type 2A	<input type="checkbox"/> M <input type="checkbox"/> A Type 3A		<input type="checkbox"/> M <input type="checkbox"/> A Type 5A
<input type="checkbox"/> M <input type="checkbox"/> A Type 1B	<input type="checkbox"/> M <input type="checkbox"/> A Type 2B	<input type="checkbox"/> M <input type="checkbox"/> A Type 3B		<input type="checkbox"/> M <input type="checkbox"/> A Type 5B
<input type="checkbox"/> M <input type="checkbox"/> A Type 1C				

Cultivation Site Type: Indoor Canopy Size (square feet): _____
 Greenhouse
 Mixed Light
 Natural

Total No. Permits Requested: _____

REGISTRATION NUMBER (STAFF ONLY): CCRA 2018- _____

DATE RECEIVED: _____

Deposit Received Cash Check Credit Card

BY MY SIGNATURE BELOW, I CERTIFY TO EACH OF THE FOLLOWING:

- I am the property owner or am authorized to act on the property owner's behalf, and the information I have provided above is correct. I acknowledge that I have read and understand the information contained herein.
- I agree to comply with all applicable county ordinances and state laws relating to building construction and SB 94 (MAUCRSA).
- I authorize representatives of this county to enter the above-identified property for inspection purposes.
- My commercial cannabis business registration application is public record. All references to names, addresses, telephone numbers, and project information will be part of this public record and I acknowledge that the County has informed me that I may use an alternate contact address and telephone number.
- I acknowledge my registration does not grant me the authorization to conduct commercial cannabis activity on these premises until I am issued a Commercial Cannabis Business permit from the County of Stanislaus.
- I understand that registration does not entitle me to commence or continue the operation of a commercial cannabis business in the County nor does it guarantee that I will be issued a permit under Stanislaus County Code or under any state or local law.
- I hereby consent to and authorize the Stanislaus County Sheriff's Office (Sheriff) to conduct a background investigation pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes County authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee or volunteer, of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Sheriff or his/her designee(s) for a background check by the Stanislaus County Sheriff's Office. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a Commercial Cannabis Activity unless they have first cleared the background check, as determined by the County Sheriff or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the Stanislaus County to conduct the background investigation as it deems necessary and appropriate, which is my obligation to pay.

Signature of Property Owner	Date
Signature of Property Owner	Date
Signature of Property Owner	Date
Signature of Applicant	Date
Signature of Applicant	Date
Signature of Applicant	Date

INSTRUCTIONS
FOR COMPLETION OF THE
COMMERCIAL CANNABIS REGISTRATION APPLICATION

1. The registration application is for one parcel or property. Indicate all the activities you plan to conduct on the parcel or property. If your activities will be conducted on more than one property complete a registration form for each property indicating the activities to be conducted on each property on their respective registration forms.
2. Assessor Parcel Numbers for your property, size of the parcel, and zoning designation may be found at: http://gis.stancounty.com/giscentral/public/js/Public_app.html
3. Complete the Property Owner and Applicant information completely, listing all owners of the property and all owners of the commercial cannabis activity to be conducted at that property. If additional space is needed attach a separate page.
4. Each M-Type or A-Type license is a separate activity. For example, if you plan a single Type- 2B Mixed Light Greenhouse activity and you will be engaging in Medical cannabis as well as Adult-Use cannabis activities at the property, select both M and A Type 2B, and count two (2) permits requested.
5. Microbusiness shall also indicate all activities that are planned to be conducted, such as cultivation type, distributor, manufacturer (level 1), and retailer type. Count each activity to be conducted within the microbusiness separately, do not count the microbusiness itself as a separate activity.
6. All property owners shall sign the Registration Application.
7. All owners of the commercial cannabis activity shall sign the Registration Application.

I'm writing to join the group of neighbors that are petitioning to locate cannabis businesses at least 100 yards from homes, schools and parks.

I have 3 children, and our street is filled with young families. Some of our children have asthma complications and we are worried that the new fumes may be released to the environment that may affect them. The smell of cannabis consumption is already present and overwhelming everywhere, parks, parking lots, etc. Please have some consideration to our children that deserve to grow in a clean environment.

--

Salvador Rodas Guinea
Artist/General Contractor
www.widepalette.com

To whom it may concern,

I am concerned that the ability to place cannabis stores near schools, homes and parks in Stanislaus county will provide more temptation for children and young adults and provide a possibility that they can make cannabis purchases when they should not be able to.

I request that you vote or make a motion to ensure these cannabis stores are not allowed to be located within 100 yards (300 feet) of homes, schools or parks.

I desire to keep these types of stores away from children and those that are at risk. Please ensure they are kept away from the schools, homes and parks.

Please contact me if you would like to discuss this issue.

I thank you for your time.

From: Bill
To: <WITHROWT@stancounty.com>
Date: 10/10/2017 9:06 AM
Subject: Proposed ordinance allowing cannabis businesses along Salida Blvd and Pirrone Rd.

I am opposed to the ordinance you are reviewing allowing a cannabis business along Pirrone Road. I understand that there are a number of vacant buildings in this area, but do not support a cannabis business to be located on Pirrone Road, Salida.

There are a number of school bus stops near the proposed location, which often requires many students to walk home near the proposed cannabis business.

Thank you for your consideration,

William Parks
5525 Pleasant Grove Ct.
Salida, CA 95368

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: ORDINANCE AMENDMENT PLN2017-0119 – COMMERCIAL CANNABIS ACTIVITIES

Applicant Information: Stanislaus County, 1010 10th Street, Modesto, CA 95354

Project Location: Stanislaus County (APN: County wide)

Description of Project: Request to amend Chapter 21.08 – General Provisions, Chapter 21.12 Definitions, Chapter 21.20 General Agriculture District (A-2), Chapter 21.42 Planned Industrial District (PI), Chapter 21.56 General Commercial District (C-2), Chapter 21.60 Industrial District (M), and Chapter 21.64 Limited Industrial District (LM) of the Stanislaus County Title 21 Zoning Ordinance to allow for commercial cannabis activities, subject to obtaining a discretionary land use permit.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Kristin Doud, Senior Planner

Telephone: (209) 525-6330

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: 26055(h)
- General Exemption.

Reasons why project is exempt: Senate Bill 94 the Medical Cannabis Regulation and Safety Act (MCRSA) exempted from the California Environmental Quality Act, until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity. All commercial cannabis activities will be subject to obtaining discretionary land use approval, and accordingly this project has been determined to be generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 26055(h) of the California Code of Regulations.

October 16, 2017
Dated _____

Signature on file
Kristin Doud, Senior Planner

**ORDINANCE AMENDMENT APPLICATION NO. PLN 2017-0119 - COMMERCIAL
CANNABIS ACTIVITIES**
Attachment A

Distribution List

X	CA DEPT OF CONSERVATION Land Resources / Mine Reclamation		STAN CO ALUC
X	CA DEPT OF FISH & WILDLIFE	X	STAN CO ANIMAL SERVICES
X	CA DEPT OF FORESTRY (CAL FIRE)	X	STAN CO BUILDING PERMITS DIVISION
X	CA DEPT OF TRANSPORTATION DIST 10		STAN CO CEO
	CA OPR STATE CLEARINGHOUSE		STAN CO CSA
X	CA RWQCB CENTRAL VALLEY REGION	X	STAN CO DER
X	CA STATE LANDS COMMISSION	X	STAN CO ERC
X	CEMETERY DISTRICT	X	STAN CO FARM BUREAU
	CENTRAL VALLEY FLOOD PROTECTION	X	STAN CO HAZARDOUS MATERIALS
X	CITY OF: All		STAN CO PARKS & RECREATION
X	COMMUNITY SERVICES/SANITARY DIST	X	STAN CO PUBLIC WORKS
X	COOPERATIVE EXTENSION		STAN CO RISK MANAGEMENT
X	COUNTY OF:SAN JOAQUIN, MERCED, CALAVERAS, TUOLUME, SANTA CLARA	X	STAN CO SHERIFF
X	FIRE PROTECTION DISTRICTS	X	STAN CO SUPERVISORS
X	HOSPITAL DISTRICTS ALL	X	STAN COUNTY COUNSEL
X	IRRIGATION DISTRICTS ALL		StanCOG
X	MOSQUITO DIST: EASTSIDE, TURLOCK	X	STANISLAUS FIRE PREVENTION BUREAU
X	MOUNTIAN VALLEY EMERGENCY MEDICAL SERVICES	X	STANISLAUS LAFCO
X	MUNICIPAL ADVISORY COUNCILS :ALL		SURROUNDING LAND OWNERS
X	PACIFIC GAS & ELECTRIC		TELEPHONE COMPANY: AT&T
X	POSTMASTER: ALL		TRIBAL CONTACTS (CA Government Code §65352.3)
X	RAILROAD: ALL	X	US ARMY CORPS OF ENGINEERS
X	SAN JOAQUIN VALLEY APCD	X	US FISH & WILDLIFE
X	SCHOOL DISTRICT: ALL		US MILITARY (SB 1462) (7 agencies)
	SCHOOL DIST 2:	X	USDA NRCS
	STAN ALLIANCE	X	WATER DIST: ALL
X	STAN CO AG COMMISSIONER	x	Interested Persons of Record
	TUOLUMNE RIVER TRUST		