

Notes from February 24, 2022 Planning Commission Workshop
Agenda Item #2: Zoning Workshop Cannabis “Opt Out” Regulations

These notes were prepared by Contract Land Use Planner Heidi Tschudin. March 4, 2022.

Department of Transportation Interim Deputy Director David Colbeck introduced the item. Staff received direction from the Commission to provide an overview followed by discussion of each item, starting with Item #6, Variances, with opportunity for public input on each item.

Contract Land Use Planner Heidi Tschudin provided an overview of the staff report and workshop discussion questions.

Commissioners asked clarifying questions, including the numbers of: “legacy” license sites, legacy sites located within opt out areas currently, currently operating licensees, and pending Appendix C submittals.

Discussion Item #6: Tschudin presented information regarding discussion Item #6, cannabis cultivation setback variances. Public comment was received from 27 individuals. A high level summary of public comments is provided below:

- Various opinions about, and experience with, the County cannabis cultivation variance process
- Violations should not invalidate licenses
- Recognize economic benefits of cannabis
- Make sure all comments letters are considered
- Ensure fair and equitable process
- Focus on facts not fears
- Don’t make it more difficult to operate legally
- Setback requirements make parcels unusable
- Let neighbors decide
- Application of variances to pre-existing vs new operations
- Relevance of parcel size
- Health of the cannabis industry
- Cultivation as a commercial/industrial vs agricultural use

Following public comment , the Planning Commission engaged in discussion including the following summarized points:

- The variance process was developed to ensure a mechanism, with public, to allow for legacy cultivation sites to remain in their existing locations as they legalize.
- Variances should be available for legacy farms and for farms in existence before an opt out area is formed.
- Setbacks provide mitigation for impacts of cannabis cultivation.
- There was debate whether newer non-legacy farms should be able to seek variances.
- If neighbors within 350 feet support the variance, then it should be allowed.
- Cannabis farmers should be engaged with their neighbors.

On a 3:2 (McIntosh; Barrett) vote the Commission directed staff to consider how variances can be better used.

The Commission provided the following direction for each discussion question:

- a. *Should current licensees in the opt out areas be able to receive a variance?* The consensus of the Commission was “yes”.
- b. *Should variances be annual approvals through the Planning Commission?* The consensus of the Commission was “yes”.

Discussion Item # 1: Tschudin presented information regarding discussion Item #1, Area Specific Considerations. Public comment was received from 22 individuals. A high-level summary of public comments is provided below:

- Legal operators should not carry the burden of illegal operators
- Cannabis water use vs. water use by other agricultural operations
- General Plan update would provide relevant information
- Discussion of cannabis cultivation in RR zones
- Opinions of people in an area should matter
- Opt outs are not equitable
- Opt outs should be based on standard criteria
- Revised zoning controls are a solution
- County needs to process existing applications
- New ordinance will require new CEQA analysis
- Rules need to be consistently applied

Following public comments, the Planning Commission engaged in discussion including the following summarized points:

- Opt out areas are identified in EIR as reducing impacts.
- Some communities have older community plans.
- The EIR anticipated development/modification of opt out regulations.
- Discussion of the enforcement program for illegal cannabis.
- Use of cannabis funding in opt out areas
- Use of water resources.

The Commission provided the following direction for each discussion question:

- a. *Does the Planning Commission agree these considerations are relevant?* The consensus of the Commission was that some of these considerations are relevant. See the notes provided below for each item.
- b. *Are there other relevant area specific considerations?* The consensus of the Commission for each item is shown below in ~~strikeout~~/underline.
 - Clear, substantiated, consistent criteria
 - Unique to area under consideration
 - Consideration of social equity outcomes
 - ~~Water quality/quantity concerns~~ – The Commission felt this was addressed in EIR
 - Unique topography and/or geographic conditions
 - Infrastructure (including road conditions and capacity) and/or utility/service constraints
 - ~~Safety, crime, nuisance, compliance history, and/or illegal activity~~ – The Commission felt this was addressed in existing regulations and should not be allowed to adversely affect legal licensees
 - ~~Land use compatibility and/or~~ – The Commission felt this was addressed in EIR
 - Community character concerns and economic considerations
 - Population, density, and public input
 - Other appropriate factors

The workshop was continued to March 10, 2022 at 6:00 pm.