



COUNTY OF SANTA CRUZ

FISH AND WILDLIFE ADVISORY COMMISSION

701 OCEAN STREET, ROOM 312, SANTA CRUZ, CA 95060
(831) 454-3154 FAX: (831) 454-3128

AGENDA May 7, 2020 7:00 PM

This meeting will be conducted as a phone conference.

Please contact Kristen Kittleson at Kristen.Kittleson@santacruzcounty.us for the call in information with a last check for emails at 6:45 pm 5/7/2020.

Agenda Item #	Start Time	End Time	Description
1	7:00	7:00	Call to Order
2	7:00	7:15	Introduce Aggie Morrow, new commissioner Roll Call and Guest Introductions
3	7:15	7:20	Approval of Minutes
4	7:20	7:25	Public Comments
5	7:25	7:30	Update on grant funding to Salmonid Restoration Federation
6	7:30	7:40	Update on Funding for Coho Salmon Broodstock Program and discuss letter to Board of Supervisors
7	7:40	8:00	Discuss PG & E's draft Habitat Conservation Plan
8	8:00	8:20	Updates to the Cannabis Cultivation Ordinance
9	8:20	8:30	Elect New Chair and Vice Chair for year starting July 1, 2020
10	8:30	8:45	Commissioner Reports and Announcements
11	8:45	8:55	Staff Reports/test web sharing
12	8:55	9:00	Discuss June agenda / Review Correspondence
13	9:00		Adjourn

12. CORRESPONDENCE

Please see Fish and Game commission for regulatory announcements

<https://fgc.ca.gov/Regulations/2020-New-and-Proposed>

1. Notice of Finding for Clara Hunt's Milkvetch
2. Notice of proposed 90-day extension of emergency regulations for Klamath River Basin Chinook
3. Notice of meeting for April 16 on web platform

bThe County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. This online meeting is available to anyone with a telephone. If you are a person with a disability and require special assistance in order to participate in the meeting, please contact Kristen Kittleson at (831)454-3154 or TDD number (454-2123) at least 72 hours in advance of the meeting in order to make arrangements. Persons with disabilities may request a copy of the agenda in an alternative format. As a courtesy to those affected, please attend the meeting smoke and scent free.



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Meeting Minutes March 5, 2020

1. **CALL TO ORDER** – 7:05 pm
2. **ROLL CALL**

Present: Commissioners Berry, Somerton, Lee, Hoffman, Gómez, Wise, Buchwald, Michelsen
Excused: Baron,
Absent: none

Guests included Steve Schindler, California Dept of Fish and Wildlife and Larry Freeman.

3. **APPROVAL OF MINUTES** – Commissioner Hoffman made a motion to approve the minutes with the addition of the sentence: “Josh Reilly expressed interest in having an ongoing relationship with the commission”; Commissioner Gómez seconded the motion. All aye; the minutes were approved.
4. **PUBLIC COMMENTS.** None.
5. **Review of response from Bruce McPherson re: expanding Significant Tree Protection Ordinance outside Coastal Zone.** Commissioner Gomez wants to continue working on the recommendation to expand the Significant Tree Ordinance outside the Coastal Zone. Portions of the Coastal Zone are rural, forested areas and the implementation of the ordinance in these areas would inform how it could be implemented for the whole county. There was some interest in inviting Rich Sampson, CalFire, to a commission meeting; Chair Berry advocated for having a clear intention before inviting him. Staff shared that the Planning Dept plans to revise the suite of natural resource protection ordinances and would welcome specific recommendations from the commission. The subcommittee plans to reconvene and discuss.
6. **Update on Funding for Coho Salmon Broodstock Program and discuss letter to the Board of Supervisors.**
Staff reported that the State is committing to allocating \$1 million per year to fund the broodstock program as a joint venture between the NOAA lab and the Monterey Bay Salmon and Trout Project (MBSTP). There may still be a funding gap for the MBSTP of 2 months for 3 full-time employees. Commissioner Buchwald will contact Ben Harris and check on updates with the funding gap. Staff will prepare a letter and send it out for review to the subcommittee and Mandy Ingham, NMFS.
7. **Follow up from February presentation from IPM Advisory Group** –Commissioner Hoffman is very interested in the topic of second-generation rodenticides as a state-wide issue that affects predators, such as bobcats and owls, that prey on poisoned animals. The County’s IPM Advisory Group is only for County facilities. There was interest in reading the IPM Advisory Group 2019 annual report and follow up on practices at Emeline buildings, which are adjacent to a riparian corridor.
8. **Discuss Cotoni-Coast Dairies Public Access.** The Cotoni-Coast Dairies property is managed by the BLM and has not been open to the public. There was a discussion of issues related to public access, including parking, impacts to wetlands and littering. Three scenarios are proposed: (A) very limited access; (B) moderate access and (C) more extensive access. In B and C, youth hunting would be allowed on a very limited basis. Lt. Schindler clarified that it would be highly unlikely that turkeys would be imported for hunting. There is not enough time to go through the Board of Supervisors, so commissioners are encouraged to send comment letters on their own.

9. **Discuss possible action regarding shark fin legislation.** Commissioner Gómez shared an article that reported that, although most shark fins cannot legally be imported into the U.S., shark fins can pass through U.S. ports. Lt. Schindler said that Alameda County, where the Port of Oakland is located, has only 2 wardens and there is not a warden specifically assigned to the Port. Since this is proposed federal legislation, the commission will not follow up on it.
10. **Discuss 2020 Work Plan.** Commissioners agreed that Coho Salmon and Steelhead Recovery Planning is a priority and was not included in the voting. Staff passed around a list of topics and commissions indicated their top 3 choices for 2020 priorities. Topics with the most marks included: Wildlife Corridors and Open Space Conservation and Management (6) and Vision Santa Cruz Wild/County Wildlife Strategic Plan (6). Other topics included Marine Protection (3), Expand Significant Tree Ordinance (2), Riparian Corridor Enhancement (2), Monarch Butterfly Conservation (2), Cannabis Cultivation (1) and Wildfire Safety (1).
11. **Commissioner Reports:** Commissioner Hoffman is interested in coordinating with the Fire Safe Council for wildfire safety outreach and education. Commissioner Berry reported that the 2020 State of the San Lorenzo River Symposium was a success – the annual symposium was held at the Zayante Fire Station and included a variety of talks including on water quality, amphibians and the Upper Zayante Stream Enhancement Project.
12. **Staff Reports and announcements.** Staff reported that the Upper Zayante Stream Enhancement Project will be included in the County’s annual report. Staff gave a presentation on the Juvenile Steelhead and Stream Habitat monitoring program at the State of the San Lorenzo River Symposium.
13. **ADJOURNMENT.** The meeting adjourned at 9:01 pm.



County of Santa Cruz
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April 22, 2020

AGENDA: April 22, 2020
Item #1

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: Public Hearing to review and provide recommendation to the Board of Supervisors on proposed amendments to County Code regarding non-retail commercial cannabis operations.

Members of the Planning Commission:

The purpose of this item is for the Planning Commission to conduct a public hearing and provide a recommendation to the Board of Supervisors related to proposed changes to the Non-Retail Commercial Cannabis Program regulations contained in Santa Cruz County Code Chapter 13.10.

BACKGROUND

On January 28, 2020, the Cannabis Licensing Office (CLO) presented its quarterly update to the Board of Supervisors (Board). The CLO presentation consisted of status updates on compliance, enforcement, and licensing. The licensing update included various suggested amendments to Santa Cruz County Code (County Code) Chapter 13.10. Those suggestions included: (1) identifying cannabis cultivation as an agricultural activity within the County Code; (2) decreasing the approval level for cottage gardens (500 square feet maximum); (3) updating the approval process for cannabis cultivation in Commercial Agriculture (CA) zone districts once security plans are implemented; and (4) clarifying distribution license types. The Board then directed CLO to return with draft recommendations for code changes to simplify the approval process and generate more licenses.

The provisions in the County Code relating to non-retail commercial cannabis were first adopted by the Board in May 2018, with the goal of being an iterative regulatory program that evolved over time. Since adoption, Chapter 13.10 has been revised to provide clarity and reflect changes made at the state level. As the County's Non-Retail Commercial Cannabis Program evolved, a disconnect emerged between the Board's original stated goals and implementation of the program. This disconnect stemmed from the concept that all cannabis development was a commercial use rather than an agricultural use.

DESCRIPTION AND ANALYSIS

Under current processes, a cannabis operator must go through the same land use permit approvals as a commercial enterprise despite the agricultural activity involved being substantially similar to other crops that do not require such approvals. The County's Conditional Use Permit (CUP) process, as well as costly and complex conditions of approval (COA), continue to stymie operators within the CA zone district. Cannabis operators have faced, at times, insurmountable procedural obstacles that other agricultural operators do not face. Cannabis has been viewed as a commercial use largely due to state regulations referring to cannabis as "commercial" cannabis cultivation, manufacturing, distribution, etc. The fact that cannabis is defined as an agricultural product (i.e., a finished good) rather than an agricultural commodity (i.e., a raw material) further muddies the waters. This view point is widespread throughout California, but that view is changing as the state, specifically the California Department of Food and Agriculture (CDFA), has clarified the term "commercial cannabis cultivation" is only meant to define cannabis cultivated for commercial purposes. The CDFA also clarified that cannabis cultivation is an agricultural activity, not a commercial activity.

The federal government's legalization of industrial hemp and continued prohibition of cannabis, and the state's more relaxed regulation of industrial hemp further highlights the treatment of cannabis cultivation as a commercial use. Notably, industrial hemp and cannabis are the same plant genus and species. They look and smell identical with the only difference being the amount of tetrahydrocannabinol or intoxicant produced by the plant. In 2019, the County began registering industrial hemp cultivators, and we currently have 35 registered cultivation sites spread out across CA, Agricultural (A), and Residential Agricultural (RA) zone districts. These sites have provided the County valuable information regarding community concerns associated with smell. Currently, the CLO has not received any complaints about cannabis or industrial hemp odors.

The CLO inspects all operators quarterly, the Agricultural Commissioner's Office provides oversight via the pesticide program and the weighmaster program, the Water Board permits every cultivation site, the Department of Fish and Wildlife review every cultivation site for compliance based on their water source, and the state cannabis licensing agency has oversight on every operator. All cannabis business transactions are recorded via the state track and trace program. Environmental impacts from cannabis operations are and will continue to be mitigated through the County's Best Management and Operational Practices (BMOP) requirements¹ and state environmental regulations related to cannabis cultivation.²

The proposed amendments to the County Code aim to encourage the County's non-retail commercial cannabis industry, while continuing to refine the objectives the Board originally had envisioned for the program. Notwithstanding the code changes, Cannabis business licenses will continue to be considered a discretionary action of the Cannabis Licensing Official, and all cannabis businesses will continue to be subject to discretionary land use permits, except for cultivation and distribution operations within the CA zone district and cottage licensees.

¹ The purpose of the [BMOP Plan](#) is to ensure that all cannabis business activities conserve natural resources and have as minimal an impact as possible on the surrounding environment. The BMOP Plan addresses siting criteria, site design, construction requirements, operational requirements, and additional miscellaneous issues in order to meet this purpose.

² Compliance with the State Water Resources Control Board Cannabis General Order, which regulates discharges of water associated with cannabis cultivation (irrigation runoff, stormwater runoff, over fertilization, pond failure, road construction, grading activities, domestic waste, etc.); and the California Department of Fish and Wildlife's administration of the Lake and Streambed Alteration Permit Program and the California Endangered Species Act.

Summary of Proposed Program Revisions

The proposed amendments include changes to County Code's Agricultural Uses Chart, Commercial Uses Chart, Industrial Uses Chart, Residential Uses Chart, and Timber Production Uses Chart. A breakdown of the changes in every use chart is included below.

1. Agricultural Uses Chart

- Proposed changes include:
 - Allowing commercial cannabis cultivation and Class 1 and 2 distribution to be a principally permitted use in the CA zone district within:
 - Existing greenhouses;
 - Outdoor cultivation; and
 - Cottage gardens
- These changes are based on existing commercial agricultural operations being allowed to cultivate agricultural products and distribute or drive those products offsite. By defining outdoor cannabis cultivation and cultivation within existing greenhouses as an agricultural activity, the County Code will align with state regulations in regard to agricultural use rather than commercial use.

2. Commercial Uses Chart

- Proposed changes include:
 - Allowing cannabis cultivation and non-volatile manufacturing to occur via a level 1 change of use in the C-4 zone district's under if the proposed operation occurs within an existing legal structure;
 - Allowing cannabis distribution to occur as a principally permitted use in the C-4 zone district if the proposed operation occurs within an existing legal structure;
 - Allowing cannabis distribution to occur as a principally permitted use in the C-2 zone district if the proposed operation occurs within an existing legal structure and they occur in conjunction with a licensed dispensary; and
 - Allowing transport only cannabis distribution to occur as a principally permitted use within the PA, C-2, and C-4 zone districts.
 - Transport only distribution is limited to transport of cannabis goods between state licensed cannabis businesses, and licensees are prohibited from storing cannabis goods. Additionally, transport only licensees will be required to provide a designated off-street parking location.

3. Industrial Uses Chart

- Proposed changes include:
 - Allowing cannabis cultivation, distribution, and non-volatile manufacturing to occur via a level 1 change of use if the proposed operation occurs within an existing legal structure; and
 - Allowing transport only cannabis distribution to occur as a principally permitted use.
 - Transport only distribution is limited to transport cannabis goods between state licensed cannabis businesses, and licensees are prohibited from

storing cannabis goods. Additionally, transport only licensees will be required to provide a designated off-street parking location.

4. Residential and Timber Production Zone Uses Charts

- Proposed changes include:
 - Allowing cottage gardens to be principally permitted when they are limited to outdoor cultivation operations; and
 - Allowing transport only cannabis distribution to occur as a principally permitted use when the parcel has an existing residential structure.
 - Transport only distribution is limited to transport cannabis goods between state licensed cannabis businesses. and licensees are prohibited from storing cannabis goods. Additionally, transport only licensees will be required to provide a designated off-street parking location.
- The first proposed change is based on existing state law and the County Code, which allows medical cannabis cultivation gardens up to 500 square feet of canopy. The County Code's medical cannabis cultivation regulations provide the same allocation as the cottage garden license type. By allowing this license type as principally permitted for outdoor cultivation only, the County is increasing public safety by gaining insight to these small gardens by assuring they meet site security requirements, which are approved by the Sheriffs Office. By allowing these as principally permitted uses, it also aligns these operations with the County Home Occupation standards.
- The second proposed change is based on the County home occupation standards and the limitations on transport only distribution operations ensure public safety associated with these operations is not compromised.

Various proposed changes to limitations on non-retail commercial cannabis activities include:

- Reduction in the minimum parcel size from 2.5 to 1 acre for cottage gardens in the RA, SU, TP, and A zones. As stated above, state law and the County Code allow medical cannabis cultivation gardens up to 500 square feet of canopy. These medical gardens are not restricted by zone district or parcel size and do not require approval by the County. This change would result in the following increase in total parcels able to cultivate cannabis for commercial purposes in each zone district:
 - 2239 additional parcels in the RA zone district for a total of 4617 eligible parcels;
 - 976 additional parcels in the SU zone district for a total of 2727 eligible parcels;
 - 201 additional parcels in the TP zone district for a total of 671 eligible parcels; and
 - 245 additional parcels in the A zone district for a total of 1230 eligible parcels.
- Removal of the requirement in the RA, SU, and TP zone districts that a person show cannabis cultivation was occurring on the property since January 2013. This restriction is impractical to implement as there is not a clear method to ensure compliance. Additionally, this requirement has proven punitive to many former registrants who did not cultivate cannabis based on the legal uncertainties surrounding Proposition 215 and younger members of the County who may not have owned property in 2013.
- Setbacks for outdoor cultivation for cottage gardens has been reduced to 100 feet to align with the smaller minimum parcel size and the minimum setback which requires an exception request previously included in this section.
- Setbacks for indoor cultivation to an adjacent habitable structure have been removed based on:

- The small number of indoor cultivation sites in the Rodeo Gulch area and the non-conforming homes within that industrial area;
- The extensive security requirements, paired with no signage and odor controls.
- Setback measurement method has been altered to reflect the findings that are often required for various sites which share or have a parcel boundary within 600 feet of a municipal boundaries, schools, day care centers, youth centers, libraries, and drug treatment facilities, but the actual operations are often in excess of 1,000 feet from the property boundary or the operational area of the potential sensitive receptors facility.
- Transport only distribution and the restrictions associated with this license type have been added to this section. The restrictions are described above.
- The definition of cannabis cultivation as an agricultural activity has been added.

There are several small grammatical and code clean-up changes, which have been included for uniformity across the use charts and clarity within the limitations section.

CONCLUSION

The proposed changes to the Non-Retail Commercial Cannabis Program reflect the Board's direction and the challenges the program has encountered. Redefining cannabis cultivation as an agricultural activity supports the Board's direction to encourage cannabis cultivation in CA zone district. The challenges surrounding that direction have been based on the concept that any activity related to cannabis is commercial in nature. This concept has led many of the County's existing agricultural business to avoid cannabis because it is not feasible for them to bring their agricultural sites up to commercial standards. For the few agricultural operators who have completed the CUP process, only the operators who grow outdoors (no greenhouses, no hoophouses, no drying structures, no processing on-site) and sell their product wet have been able to meet the conditions of approval.

The strict discretionary land use requirements for large (>500 square foot) cultivation operations are maintained through this change for potential sites outside of the CA zone district and existing permitted structures in the C-4 and M zones. Existing permitted structures in the C-4 and M zones will require tenant improvements, and, at a minimum, mechanical permits for odor control and building permits for security related improvements.

An unknown number of cannabis cultivators have not sought permits from the County due the significant costs involved. However, the proposed changes to cottage gardens provides small cultivators the opportunity to test the commercial market. The changes align the cottage gardens with the maximum medical cannabis cultivation limits, which, notably, require no permitting at the County or State level. This change also aligns with the County's existing home occupation standards. By providing this option, the County will increase public safety through regulations while ensuring security protocols are met.

The proposed code amendments help further align the Non-Retail Commercial Cannabis Program with the initial goals set by the Board. The iterative nature of these changes further reflects the will of the Board and the recent direction the Board gave to staff to, "Identify potential changes to 7.128 (County code for non-retail cannabis licensing) and the County code (13.10), in order to simplify this (approval and licensure) process," via a 5-0 vote.

RECOMMENDED ACTION

It is therefore RECOMMENDED that the Planning Commission take the following action:

1. Conduct a public hearing on the proposed amendments to the Santa Cruz County Code; and
2. Adopt the attached Resolution (Exhibit A) recommending that the Board of Supervisors approve the CEQA Notice of Exemption (Exhibit B) and adopt the proposed amendments to Santa Cruz County Code (Exhibit C).

Sincerely,

SAM LOFORTI
Cannabis Licensing Office Manager

EXHIBITS

Exhibit A: Resolution

Exhibit B: CEQA Notice of Exemption

Exhibit C: Santa Cruz County Code 13.10 Amendments

Exhibit D: Santa Cruz County Code 13.10 Amendments Strikethrough - Underline