

Cannabis Cultivation Ordinance Amendments ORD22-2

Board of Supervisors
January 10, 2023



Background

- **Cannabis Cultivation Ordinance adopted May 14, 2019**
 - In effect for 3+ years – approximately 207 permits issued to date
- **Board of Supervisors Workshop January 2022 Direction:**
 - Additional License Types and Adult Use
 - Accommodate Larger Canopy Sizes
 - Address Parcelization/Subdivisions
 - Onsite Residence requirement causing increased disturbance
 - Maintain Environmental Protection
 - Ensure Neighborhood Compatibility

Proposed Ordinance Amendments

- **Adult Use in addition to Medicinal Use**
 - No changes to land use impacts or farm operations
- **Eliminate Commercial Cannabis Permit (CCP) process**
 - Administrative change
 - All projects processed through Administrative Development Permit

Proposed Amendments-License Types

- **Non-Volatile Manufacturing**

- Extraction, infusion, packaging, labeling and storing of product
- No classified hazardous materials involved
- Compliance with Fire Department requirements
- Limited to 1,000 square feet of Support Area

- **Distribution**

- Relates to the movement of cannabis product between cultivation, distribution, storage and retail locations
- Limited to 1,000 square feet

Proposed Amendments-License Types

- **Retail Sales -**

- Non-Storefront Retail – conducting retail sales exclusively for delivery and closed to public
- Storefront Retail Sales – area open to the public for display and retail transactions
 - Requires a **Use Permit**: discretionary, public noticing and site specific CEQA analysis

- **Microbusiness – operation that engages in at least three activities**

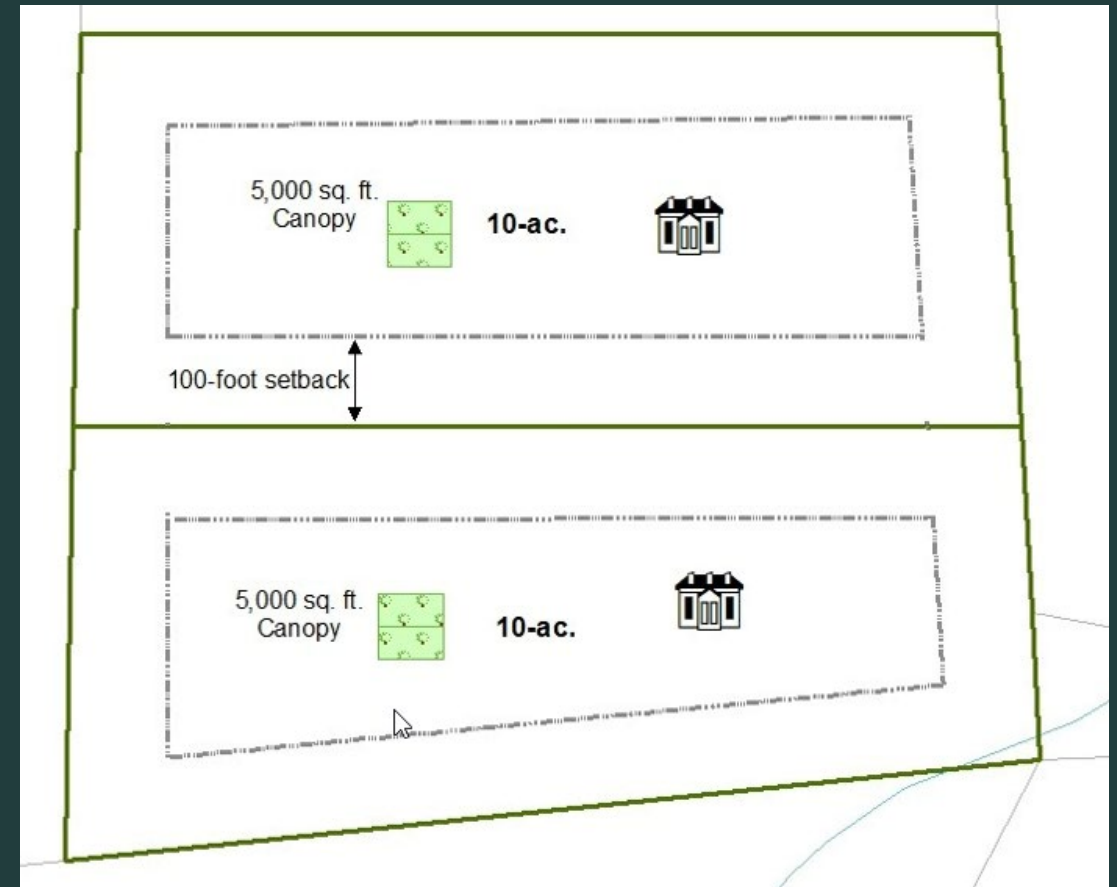
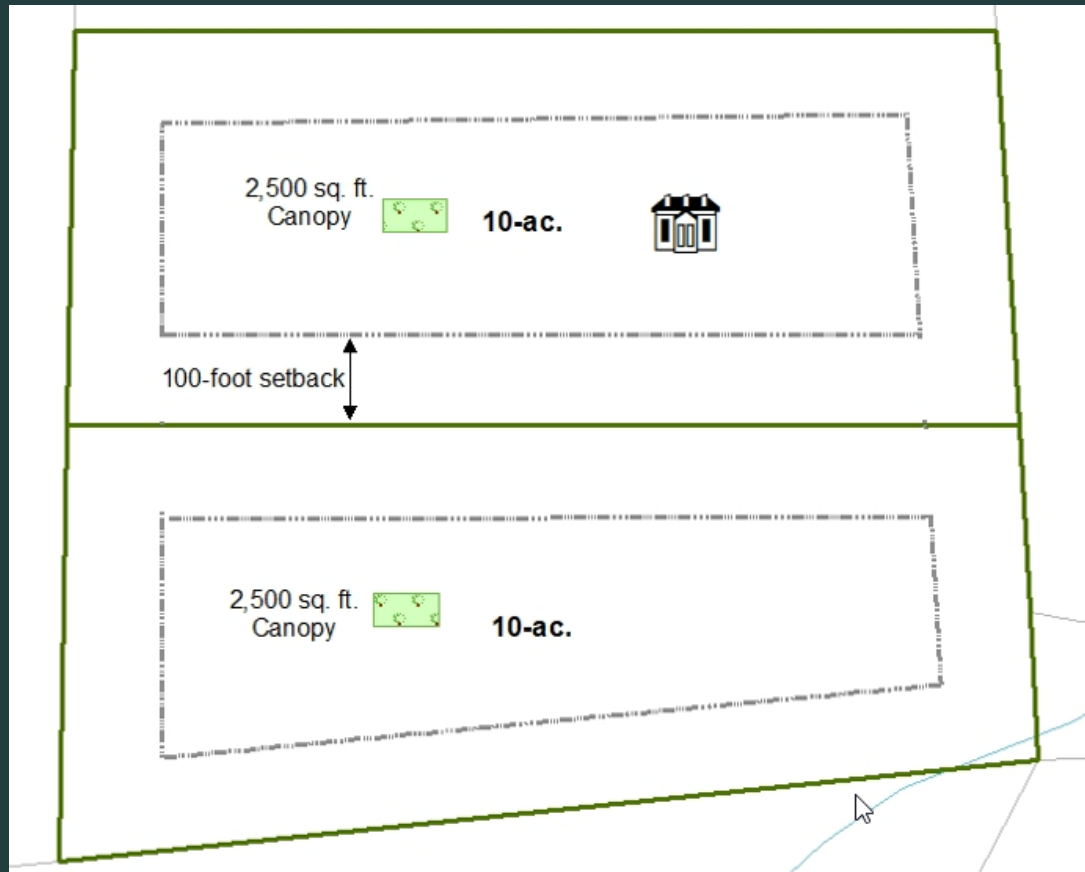
- Cultivation, manufacturing, distribution and/or retail sales

Onsite Residence Requirement-

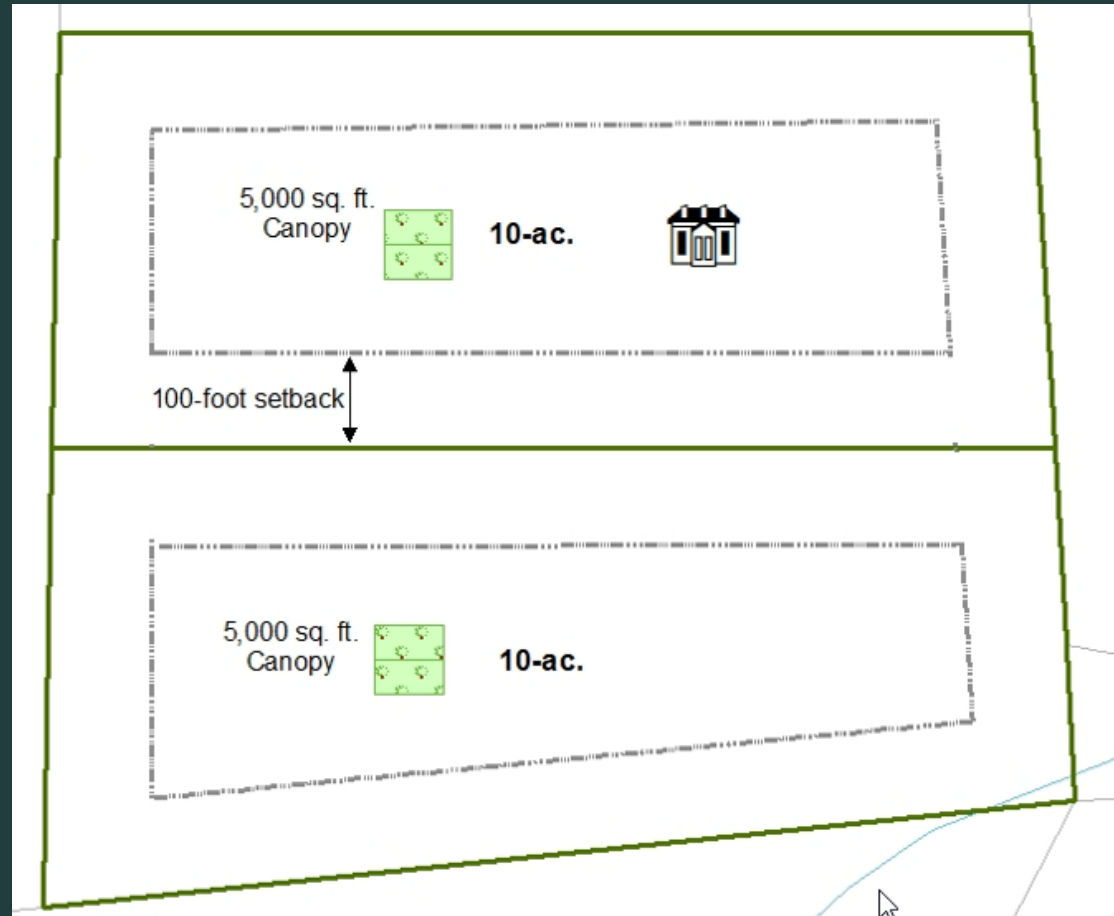
Unintended Result- Increased Development and Disturbance



Onsite Residence – Existing Ord



Onsite Residence Requirement Proposed Ord



Combined Acreage Example

- Existing Ordinance – limited to 5k of canopy
- Proposed Ordinance – allows combined acreage total for 10k canopy



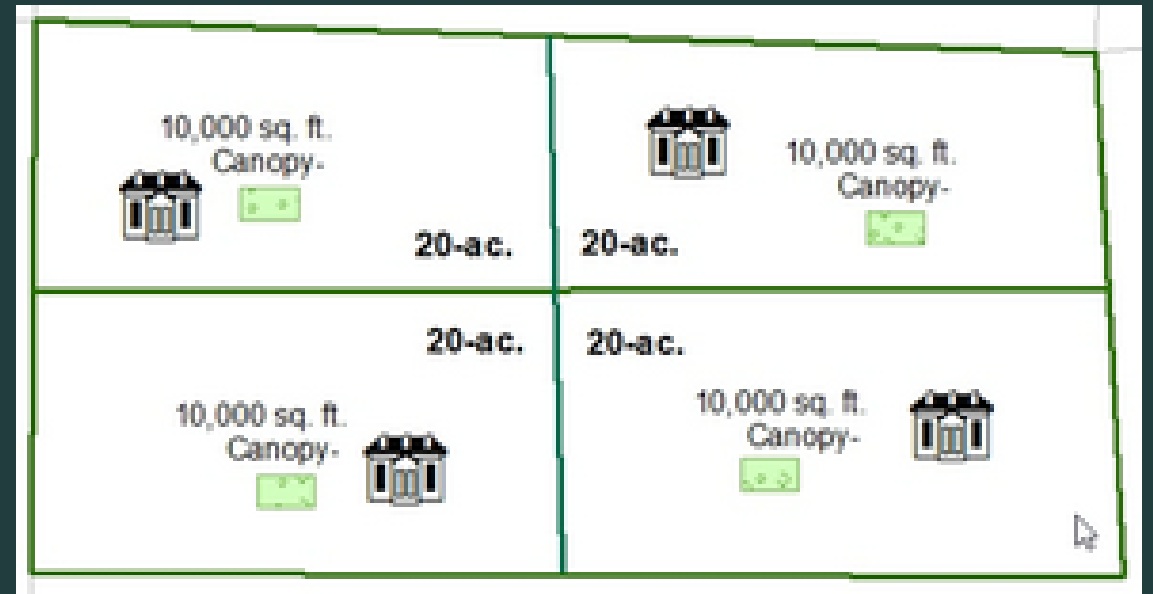
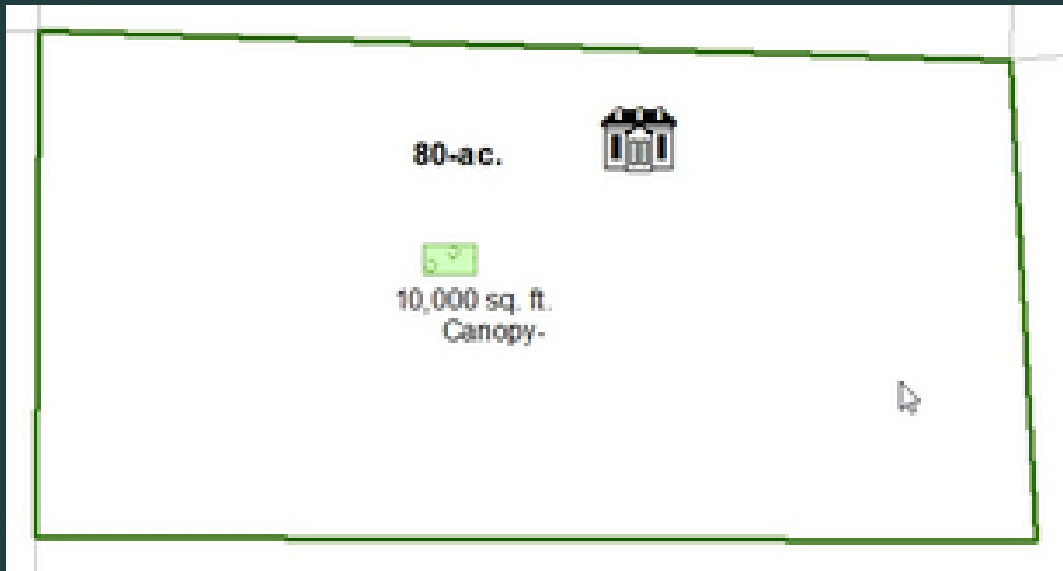
Aggregate Parcel and Canopy Sizes

- **Parcel Size (single or multiple parcels)**
 - 5 - 9.99 acres = 2.5K canopy (no change)
 - 10-19.99 acres = 5k canopy (no change)
 - 20-39.99 acres = 10k canopy (no change)
 - 40-59.99 acres = 20k canopy (with a 10k limit of indoor)
 - 60-79.99 acres = 30k canopy (with a 10k limit of indoor)
 - 80+ acres = 40k canopy (with a 10k limit of indoor)

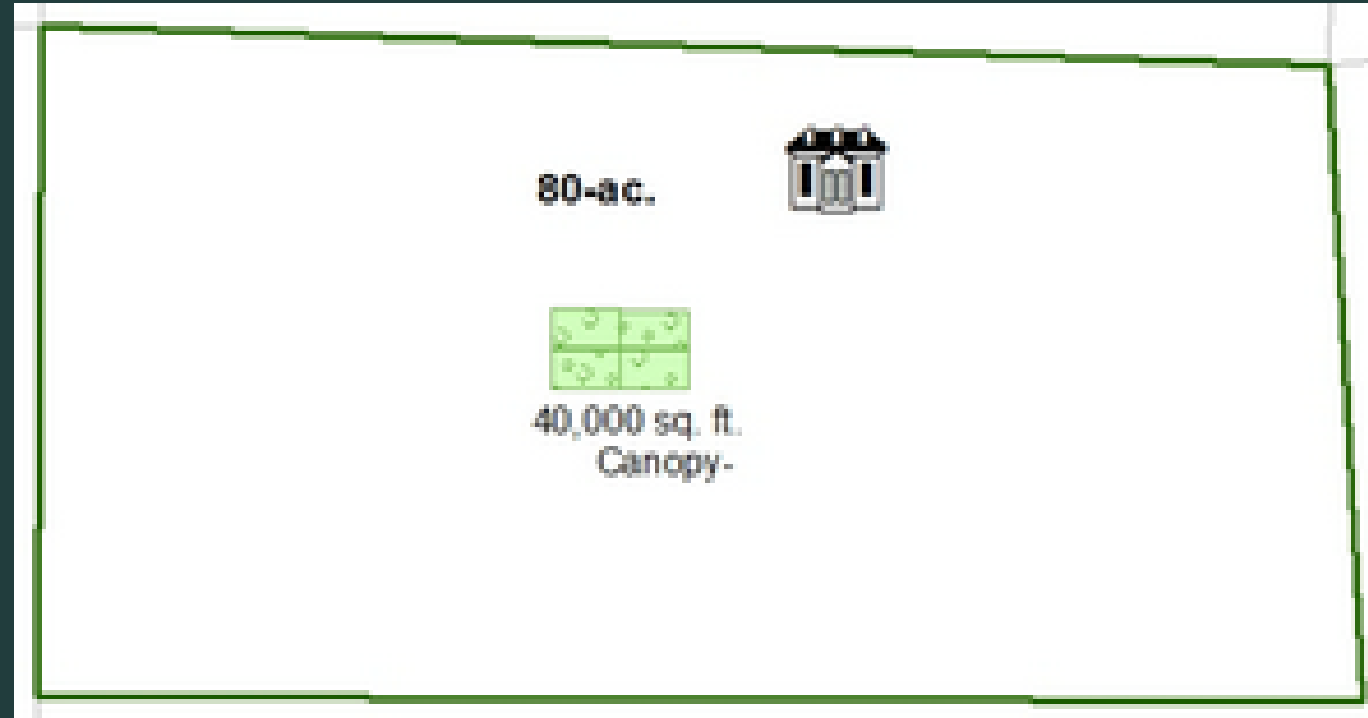
Subdivisions/ Parcelization



Subdivisions & Increased Canopy



Increased Canopy Size Proposed Ordinance



Setbacks

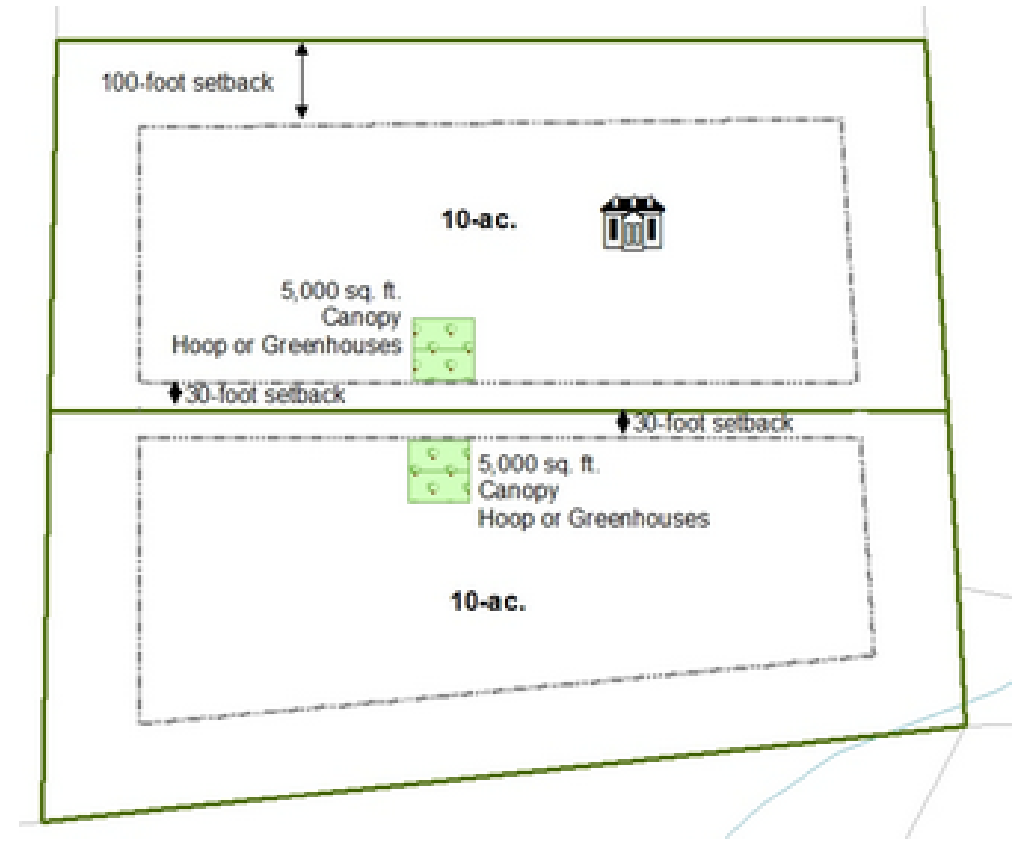
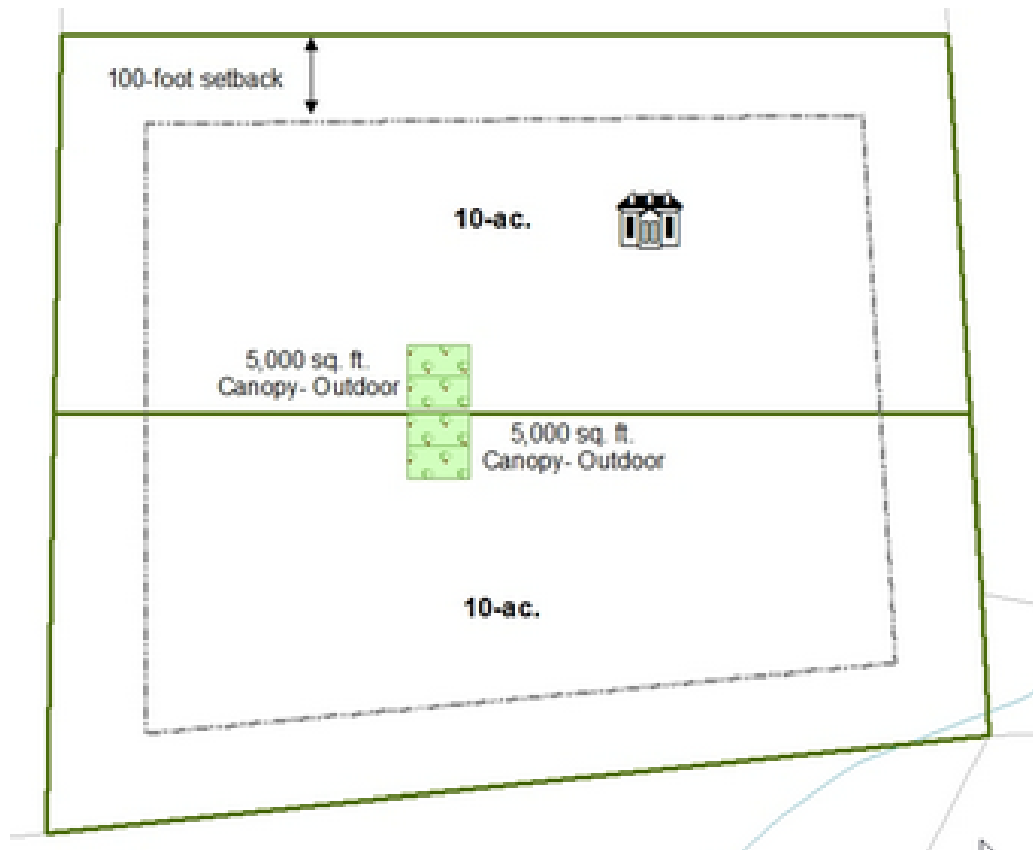
- **Current Ordinance**

- 100-foot setback including shared and external from all property lines for outdoor and all structures

- **Proposed Amendments**

- 100-foot setback from all external property lines
- 30-foot setback for structures internal shared property lines
- 0-foot setback for outdoor canopy with no structures
- Increase to 150 feet for 10k – 20K canopy
- Increase to 200 feet for 20K+ canopy
- 600 feet from sensitive sites

Setbacks – Proposed



Support Area Use

- **Current Ordinance**

- Allows up to 90% of canopy area to be used for support area activities
 - Storage of materials, processing area, drying area, infrastructure, etc.

- **Proposed Amendments**

- Support Area Use (only eligible for up to 10k of canopy)
- Up to 55% of allowed support area may be used for additional canopy
 - 2.5k – $(2,250 \times 55\%) = 3,737$ square feet canopy
 - 5k – $(4,500 \times 55\%) = 7,475$ square feet canopy
 - 10k – $(9,000 \times 55\%) = 14,950$ square feet canopy
- No net increase in total area dedicated to cannabis operations

Proposed Amendments

- **Add Parking Requirements**

- 1 space per employee onsite
- ADA spaces required based on California Building Code

- **Minor Changes and Clarification**

- Reformat layout of the ordinance section to be consistent with Zoning Ordinance
- Allow increase in liquified propane from 55 to 1,000 gallons
- Add language regarding Deed Restrictions and Codes, Covenants and Restrictions (CC&R's)

Planning Commission

- **Ordinance Discussed at the December 8, 2022, hearing:**
 - Direction was provided to add language regarding CC&R compliance
 - Language included in revised ordinance:
 - Requirement for a signed acknowledgement by the applicant placing the responsibility on the property owner to acknowledge compliance with any applicable CC&R requirements as part of application submittal.

California Environmental Quality Act (CEQA)

Kimley»»Horn

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CEQA Addendum

- **CEQA Guidelines § 15162 and § 15164**
- **Used for an approved project updated or modified**
- **May be prepared if updates/modifications:**
 - Only minor technical changes or additions are necessary
 - Changes do not result in new or more significant impacts
 - Substantial changes in circumstances and major revision
 - Substantially important new information
 - New or different mitigation or alternatives are now feasible, or would reduce impacts but are declined to be adopted

Addendum and Disclosures

- **Circulation is not required**
 - Attached to the final EIR or adopted negative declaration.
 - Explanation of the decision not to prepare a subsequent EIR,
 - Findings on the project,
 - Supported by substantial evidence.
- **The Addendum was posted on County website and notifications were made**

Resource Area Impact Evaluations

- **After modifications to the Ordinance Impacts were**
 - Consistent with previous disclosures – No Substantial Changes:
 - Projects occur within the same environment under same circumstances
 - Same 100-foot setback, but increased setbacks for 10k-20k cultivation and 20k plus –
 - No net increase of area used for cultivation
 - No inducement of subdivisions (leads to clustering of uses)
 - **Minimization Considerations**
 - Compliance with all County Codes and Development review process
 - Subsequent CEQA review (as required)
 - Maintains Mitigation Measures

Specific Issue Areas Examples

- **Air Quality and Greenhouse Gasses**
 - Project remains in Northern Sierra Air Quality Management District (NSAQMD)
 - Same emission thresholds apply
 - Result in similar construction and operations emissions
 - Prohibit Burning of Cannabis and Other Vegetation
- **Aesthetics**
 - Same visual environment
 - Protected Tree Avoidance
 - Light control plans, visual screening elements,
 - Setbacks increased for larger sites

Specific Issue Areas Examples

- **Biological Resources**

- Projects occur within the same areas with same biological resources
- No changes to wetland impacts, riparian, other habitats
- Generator and HVAC Noise minimization –
- Pre-Screening – Identify constraints – Biological Inventory, Habitat Management Plan (as required).
- Lighting Plan (previously noted in Aesthetics) help reduce nighttime lighting impacts.

Specific Issue Areas Examples

- **Transportation**

- Projects occur within the same roadway network
- Compliance with all County Codes and Development review process
- Same emergency access, parking, ADA compliance
- Compliance with Caltrans requirements for access as applicable
- Payments of fees/taxes could be used for road improvements
- Possible reduction in vehicle miles travelled
 - More efficient Delivery
 - More efficient shipping

Addendum Findings

Updated Ordinance is Consistent with 15162 and 15164

- No net increase in the areas of cultivation
- No substantial changes to the circumstances
 - Mostly administrative (e.g. conforms to regulation of by the Department of Cannabis Control)
- Updates do not result in new/substantially different impacts
 - Balanced by increased set-backs for larger canopy sizes
 - Remains limited to AG, AE, and FR zones
 - Rural land uses, less populated, fewer sensitive receptors
 - Retail/manufacturing/distribution comply with state law.

Addendum Findings (continued)

- Implement County Land Use and Development Code to reduce or avoid impacts
- Reduces potential for impacts from subdivisions
- Requires CEQA Review process
- All mitigation measures in the MMRP still applicable
- Conformance to Building Codes, Title 24 (green development)
- Maintains development review process

Recommendation

- I. **Environmental Action: Adopt a Resolution approving the Addendum to the Certified Final Environmental Impact Report (EIS18-0001, SCH# 2018082023) pursuant to Section 15162 and 15164 of the California Environmental Quality Act Guidelines.**
- II. **Project Action: Adopt Ordinance (ORD22-2) amending Chapter II of the Nevada County Land Use and Development Code Sections L-II 3.30.**

