DATE: October 6, 2021 and October 20, 2021

TO: Board of Supervisors

SUBJECT
AMENDMENT TO THE CODE OF REGULATORY ORDINANCES AND THE ZONING ORDINANCE TO FACILITATE ONGOING OPERATIONS OF FIVE EXISTING MEDICAL MARIJUANA COLLECTIVE FACILITIES AND UPDATE ON THE SOCIALEY EQUITABLE CANNABIS PROGRAM DEVELOPMENT (10/6/2021 – FIRST READING; 10/20/2021 – SECOND READING) (DISTRICTS: ALL)

OVERVIEW
On January 27, 2021 (4), the Board of Supervisors (Board) directed staff to develop a Socially Equitable Cannabis Program (Program) and increase enforcement of unpermitted and unlicensed cannabis facilities. Since that time, staff has begun work on the Program, while various County of San Diego (County) teams have increased enforcement of unpermitted cannabis facilities.

On June 9, 2021 (2), the Board directed staff to develop ordinance amendments that will allow the five existing dispensaries within the unincorporated region to (1) sell cannabis for adult use, (2) operate past their sunset date of April 14, 2022, (3) sell edible and drinkable cannabis products, (4) sell branded merchandise, (5) expand by up to 10,000 square feet, and (6) transfer business licenses among existing permit holders. As the County teams continue their enforcement against unpermitted cannabis facilities, the proposed ordinance amendments will increase access to licensed cannabis facilities in the unincorporated area. The ordinance amendments being considered today will allow cannabis customers to access legal cannabis at the five existing dispensaries in the unincorporated area, while the larger, more comprehensive Program is developed over the next two years.

The proposed updates to the County’s Code of Regulatory Ordinances (Regulatory Code) and the San Diego County Zoning Ordinance (Zoning Ordinance) for Board consideration today implement the Board direction from June 9, 2021, related to the five existing dispensaries.

Additionally, today’s actions include an update for the Board on the overall Program’s development, including an update from Planning & Development Services (PDS) on future Zoning Ordinance amendments, an update on work by the Office of Equity and Racial Justice developing the Social Equity component of the Program, and work by the Finance and General Government Group developing the County’s Cannabis Taxation Program.

Lastly, today’s update also includes the work by several County departments on enforcement of unpermitted and unlicensed cannabis facilities including the Sheriff’s Department, PDS, County Counsel, and the District Attorney’s Office.

RECOMMENDATION(S)
PLANNING COMMISSION
On August 6, 2021, the Planning Commission (PC) considered the proposed amendments to the San Diego County Zoning Ordinance for the five existing Medical Marijuana Collective Facilities and information contained in the Draft Notice of Exemption. The PC has specific authority to make recommendations regarding land-use decisions; other matters relating to the County of San Diego’s Code of Regulatory Ordinances are offered as opinions of the PC. A majority of Commissioners supported allowing the existing dispensaries to continue operating past the sunset date, sell cannabis for adult use, sell edible products, sell branded merchandise, and transfer Operating Certificates. They also added a recommendation to allow the use of groundwater to the same extent as cultivators of other crops. This action followed a request by owners of the existing dispensaries to be allowed to use groundwater resources in the same manner as other agricultural operations. However, it was further stated that existing dispensaries should not receive exemptions from Special Area Designators that may lead to a Site Plan review process, and no special concessions for any enlargement or expansion of the facilities. Special Area Designators are zoning ordinance tools that assure consideration is provided in areas of special interest. Three of the existing dispensaries have “B” designators, which refers to Community Design Standards. One existing dispensary has both a “B” designator and an “S” designator which refers to Scenic Design Standards. B and S designators often require discretionary permits, such as Site Plans, and additional environmental review for new development. On August 6, the PC voted to recommend that the Board of Supervisors (1) remove the sunset date of April 14, 2022, (2) allow adult use, (3) allow the transfer of operating certificates, (4) allow the sale of edibles and branded materials, (5) allow the use of groundwater, and (6) no concessions for any enlargement or expansion of these facilities.

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES
Planning & Development Services (PDS) concurs with the following recommendations of the Planning Commission (PC) to the Board of Supervisors (Board): (1) to remove the Sunset Date, (2) to allow adult-use sales, (3) to allow the transfer of Operating Certificates, and (4) to allow the sale of edibles and branded materials.

The PC’s recommendation to not allow special concessions for enlargement or expansion of the existing cannabis dispensaries and not allow an exemption from Special Area Designators to enable the use of a ministerial permit (i.e., a checklist-type permit rather than a full discretionary review by staff) is inconsistent with Board direction on June 9, 2021. The proposed amendments recommended by PDS staff create a ministerial process for up to 10,000-square-foot expansions and exempt the four existing dispensaries located in the Ramona and Valley Center Community

Planning Areas with Special Area Designators from discretionary Site Plan approval. Three of the existing dispensaries have “B” designators, which refers to Community Design Standards. One existing dispensary has both a “B” designator and an “S” designator, which refers to Scenic Design Standards. B and S designators often require discretionary permits and additional environmental review for new development. One existing dispensary has no “B” or “S” designator. To maintain a ministerial building permit process, the ordinances exempt expansions up to 10,000 square feet from the B & S designators. However, to accommodate the PC’s concern and maintain the ministerial process for up to 10,000-square-foot building expansions, the Board could direct PDS staff to meet with existing dispensaries to discuss design review checklists as part of the process. The design review checklists have been developed to provide guidance on meeting Special Area Designators and would provide a useful tool to aid in voluntary compliance.

All existing dispensaries have access to municipal water services. The proposed ordinances stipulate that only municipal water be used for cultivation, which is more consistent with language related to environmental review (CEQA Exemption Section 15301) requiring the project to be “in an area where all public services and facilities are available…” Since groundwater use was not previously directed by the Board, and its overuse is a concern raised by several stakeholders during outreach, the PDS staff recommendation does not include the PC recommendation to allow for the use of groundwater for cultivation. However, the Board could decide to remove the requirement that only municipal water be used for cultivation purposes from the proposed ordinance amendments and any new wells would require County well permits.

To summarize, the Board directed staff to draft ordinance revisions allowing the five existing dispensaries to:

1. Allow for commercial adult use cannabis sales (i.e., anyone over 21 regardless of a medical prescription; applies to Zoning Ordinance and Regulatory Code),
2. Continue operating past the April 2022 sunset date (applies to Zoning Ordinance),
3. Allow for the sale of edible and drinkable cannabis products (applies to Regulatory Code),
4. Allow for the sale of branded merchandise (applies to Regulatory Code),
5. Allow for up to 10,000-square-foot building expansions (applies to Zoning Ordinance), and
6. Transfer business licenses (which are also called Operating Certificates; applies to Zoning Ordinance and Regulatory Code).

PDS identified the following ordinance revisions that further the direction received from the Board and offers them as options:

A. Exempt expansions up to 10,000 square feet from Special Area Designators B (community design) and S (scenic) (applies to Zoning Ordinance).
B. Require the availability and use of municipal water for cultivation purposes (applies to Zoning Ordinance and Regulatory Code).

The action sheet (Attachment G) includes language for each option that the Board could use to amend the ordinance in today’s reading to enact their preferred choices.

PDS recommends that on October 6, 2021, the Board take the following action:

1. Find in accordance with California Environmental Quality Act (CEQA) Section 15061(b)(3), the Commonsense Exemption, that receiving staff reports and any direction from the Board regarding the overall Socially Equitable Cannabis Program is exempt from CEQA review, since it can be seen with certainty that there is no possibility that today’s actions may have a significant effect on the environment and no unusual circumstances or exceptions to the exemptions apply.

2. Find in accordance with CEQA Guidelines Sections 15301, 15303, and 15304, that adopting changes to the Zoning Ordinance and Code of Regulatory Ordinances are exempt from CEQA review since the ordinance amendments result in negligible or no expansion of use, all public services and facilities are available to allow for maximum development permissible in the General Plan, the area in which the project is located is not environmentally sensitive, expansions are limited to 10,000 square feet or less, there are no unusual circumstances, and no exceptions to the exemptions apply.

3. Consider, and adopt the ordinance entitled: AN ORDINANCE AMENDING THE SAN DIEGO ZONING ORDINANCE RELATED TO DEFINITIONS, MEDICAL MARIJUANA COLLECTIVE FACILITIES, AND PROHIBITION OF MARIJUANA FACILITIES – MEDICAL OR NON-MEDICAL, AND ADDING SECTION 6861 RELATED TO NONCONFORMING CANNABIS FACILITIES (POD 21-001) (Attachments B and C).

4. Approve the introduction of the Ordinance (first reading), read title and waive further reading of the Ordinance: AN ORDINANCE AMENDING TITLE 2, DIVISION 1, CHAPTER 25 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED TO MEDICAL MARIJUANA (POD 21-001) (Attachments D and E).

5. Receive the updates on development of the Socially Equitable Cannabis Program, including the Social Equity Program, Cannabis Taxation Program, and enforcement against unpermitted and unlicensed facilities.

If on October 6, 2021, the Board takes the actions recommended in Item 4, then on October 20, 2021:

1. Consider and adopt the attached Form of Ordinance amending the County of San Diego Code of Regulatory Ordinances to allow the sale of edibles and branded merchandise, and to allow the existing five nonconforming medicinal cannabis collective facilities dispensaries (existing dispensaries) to expand operations to commercial sales of medical and adult use cannabis: AN ORDINANCE AMENDING TITLE 2, DIVISION 1, CHAPTER 25 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED TO MEDICAL MARIJUANA (POD 21-001) (Attachments D and E).

EQUITY IMPACT STATEMENT
The amendments for the existing dispensaries address equity by allowing the existing dispensaries to continue operations so that they may later provide avenues for job training opportunities in the cannabis industry for potential new applicants to the County of San Diego’s Socially Equitable Cannabis Program (Program), if adopted. Representatives for some of the existing dispensaries committed in the June 9, 2021, Board hearing to provide internships, job training, and education to members of impacted communities. Experience in existing cannabis dispensaries in the unincorporated region will allow applicants to build relationships with residents and planning groups they will interact with while seeking necessary approvals for future businesses. Direct business experience in the industry will also improve their ability to navigate the licensure process and operate a successful business in the long term.

To develop the Program in conformance with the California Cannabis Equity Act of 2018, a comprehensive equity assessment will be conducted to (1) review and analyze local historical rates of arrests and convictions for cannabis law violations, (2) identify the impacts that the ban on cannabis has had on local communities, and (3) demonstrate how the population has been negatively impacted by cannabis criminalization. In April 2021, the Office of Equity and Racial Justice (OERJ) held two listening sessions to solicit community stakeholder feedback to guide the process for conducting the equity assessment and subsequent program design. Comments gathered from those meetings informed the development of a Request for Proposals for a consultant to develop and implement the Social Equity Assessment and Program. Data gathered through the equity assessment process will inform the research and development of the Program. Additional community and stakeholder engagement will be conducted on an ongoing basis to ensure that the Program adequately addresses and rectifies the injustices caused by cannabis criminalization. Consequently, this program will have a positive impact on economic development, jobs, and workforce equity. Planning & Development Services staff will collaborate with OERJ to align with OERJ’s social equity program.

On June 9, 2021 (2), the Board directed staff to begin a Program Environmental Impact Report (PEIR) to develop the Program. Staff heard from stakeholders who have suggested that the social equity program should be up and running six to twelve months ahead of the commercial

licensing program. Concurrently developing the social equity program and preparing an in-depth environmental review is one way to provide the lead time requested.

FISCAL IMPACT
There is no fiscal impact associated with these recommendations. There will be no change in net General Fund costs and no additional staff years.

The fiscal impact of the Socially Equitable Cannabis Program will be determined by the proposed future taxation of cannabis activities within the county. California laws require that voters approve taxation as part of a local ballot measure. The Finance and General Government Group has released a Request for Proposals to obtain a consultant to develop and design all aspects of the County of San Diego Cannabis Taxation Program, ballot measure, and ordinance. It is anticipated that the consultant will be on board by Fall 2021. The goal is to complete the development of the taxation program by Spring of 2022, with a goal of placing the measure on the ballot for the November 2022 general election.

BUSINESS IMPACT STATEMENT
If approved by the Board of Supervisors, the ordinance and regulatory code amendments will enable the continued operation and expansion of the five existing dispensaries operating in the unincorporated area. Therefore, the ordinance and regulatory code amendments will maintain jobs offered by the five dispensaries. Expansions of the existing dispensaries may also create new jobs to support the enhanced operations at the five facilities.

ADVISORY BOARD STATEMENT
All position letters received on the Socially Equitable Cannabis Program (Program) from Community Planning Groups (CPG) and Community Sponsor Groups (CSG) to-date are included as part of Attachment F. PDS staff contacted CPG and CSG Chairs in August through email and again in September through phone calls to personally extend an invitation to CPG/CSG Chairs and their members to attend public webinars held on September 9 and September 13, 2021.

Staff conducted outreach to the CPG and CSG Chairs regarding the ordinance amendments to facilitate existing dispensaries’ ongoing operations at the quarterly Chair’s meetings on March 13 and September 18, and at CPG and CSG Chair’s workshops on February 11 and May 26, 2021. The meeting held on May 26, 2021, was attended by chairs of the Campo/Lake Morena, Fallbrook, Ramona, Valley Center, Jamul/Dulzura, and Rainbow CPGs. Since receiving the Board’s direction on June 9, 2021 (2), staff has also engaged the CPGs with existing dispensaries in their Community Planning Areas, including the Ramona, Lakeside, and Valley Center CPGs. Staff attended the Ramona CPG meeting on July 1, 2021. Participants expressed concern over the S and B Designator exemptions, which would waive the requirement for the existing dispensaries to obtain discretionary Site Plan permit approval and have provided a position letter on cannabis. Staff presented to the Lakeside CPG meeting on July 7, 2021, but the presentation was done as part of

public commentary and could not be further discussed by the CPG at that time. Staff returned to the Lakeside CPG on September 1 and gave a brief overview of the ordinance changes, but meeting time constraints prevented a full discussion of the issue. Lakeside CPG members were invited to gain more information and submit comments regarding the Program and the ordinance changes at the public webinars on September 9 and September 13, 2021. Staff presented to the Valley Center CPG meeting on July 12, 2021, and participants expressed concerns about increasing access to cannabis in the unincorporated area, exempting the existing dispensaries from environmental review and the S and B Designators, and allowing the existing dispensaries to expand before the implementation of the comprehensive Program. The Valley Center CPG voted to oppose the proposed ordinance amendments for the existing dispensaries 12-3-0-0 (12 ayes, 3 noes, 0 abstain, 0 absent, 0 vacant).

Staff also presented the ordinance amendments to the Fallbrook CPG Ad-Hoc Cannabis Subcommittee on July 12, 2021, the full Fallbrook CPG on July 19, 2021, the Valle De Oro CPG on August 3, 2021, and the San Dieguito CPG on September 9, 2021. The Fallbrook CPG expressed concerns about exempting the existing dispensaries from Site Plan Permit requirements and review by local design review boards, and voted to send a comment letter to the Planning Commission expressing these concerns 13-0-0-2-0 (13 ayes, 0 noes, 0 abstain, 2 absent, 0 vacant). The Valle De Oro CPG voted 11-0-0-3-1 (11 ayes, 0 noes, 0 abstain, 3 absent, 1 vacant) to approve a letter with recommendations for consideration. The letter covered site selection and limits, protective measures for children, security measures for dispensaries, safety measures for local roads, and the need for CPGs to play an active role in the management of dispensary operations. The San Dieguito CPG expressed concerns regarding drugged driving and that the 10,000 square foot limit on expansions is too large. On August 3, 2021, the Jacumba CSG provided a position letter on the comprehensive Program. The group made no formal recommendation regarding the ordinance amendments for the existing dispensaries and expresses that further evaluation should be considered for these dispensaries.

Additionally, staff continues to conduct outreach for the comprehensive Program. Since receiving the Board’s initial direction on January 27, 2021 (4), staff has conducted outreach to the CPG/CSG Chairs and has appeared at several individual CPG/CSG meetings, including the Borrego Springs, Hidden Meadows, and Twin Oaks CSG, and the Campo/Lake Morena, Fallbrook Ad Hoc Cannabis Subcommittee, Lakeside, Rainbow, Ramona, Sweetwater, and Valle De Oro CPG.

INVOLVED PARTIES
N/A

PLANNING COMMISSION VOTE
On August 6, 2021, the Planning Commission voted 5-1-0 (Ayes: Ashman, Barnhart, Edwards, Hough, Pallinger; Noes: Hitzke; Absent: Calvo) to recommended that the Board of Supervisors (1) remove the Sunset Date, (2) allow adult use, (3) allow the transfer of operating certificates, (4)
allow the sale of edibles and branded materials, (5) allow the use of groundwater, and (6) no concessions for any enlargement or expansion of these facilities.

BACKGROUND
There are five existing Medical Marijuana Collective Facilities, or dispensaries, with valid Operating Certificates in the unincorporated area. Cannabis collectives are a form of medical cannabis organization permitted by the County of San Diego (County). A collective is a not-for-profit business that can only buy cannabis from and sell cannabis to collective members who have medical cards. On March 15, 2017 (2) and March 22, 2017 (6), the Board of Supervisors (Board) amended and repealed the County Zoning Ordinance (Zoning Ordinance) related to medical and non-medical cannabis facilities within the unincorporated area. Consequently, the five existing dispensaries’ permits are set to expire by April 14, 2022, and therefore the businesses must close by that date.

On January 27, 2021 (4), the Board directed the Chief Administrative Officer to develop a Zoning Ordinance amendment that would allow for various cannabis uses and a social equity program that provides greater opportunities for individuals negatively or disproportionately impacted by cannabis criminalization. On March 3, 2021 (11), the Board received an update on staff progress on the Socially Equitable Cannabis Program (Program). During the Board meeting, a representative of the five existing dispensaries submitted a public comment requesting the County support the existing dispensaries’ ongoing operations and allow expansions to improve access and ability to serve customers and patients. The Board then directed staff to work with stakeholders and return to the Board on June 9, 2021, with options and recommendations.

On June 9, 2021 (11), the Board received options for compliance with California’s environmental laws and directed staff to begin a Program Environmental Impact Report (PEIR) for the development of the Program. The Board also received options to facilitate the existing dispensaries’ ongoing operations and directed staff to draft ordinance revisions allowing the five existing dispensaries to:

1. Allow for commercial adult use cannabis sales (i.e., anyone over 21 regardless of a medical prescription; applies to Zoning Ordinance and Regulatory Code),
2. Continue operating past the April 2022 sunset date (applies to Zoning Ordinance),
3. Allow for the sale of edible and drinkable cannabis products (applies to Regulatory Code),
4. Allow for the sale of branded merchandise (applies to Regulatory Code),
5. Allow for up to 10,000-square-foot building expansions (applies to Zoning Ordinance), and
6. Transfer business licenses (which are also called Operating Certificates; applies to Zoning Ordinance and Regulatory Code).
PDS identified the following ordinance revisions that further the direction received from the Board and offers options for their consideration (Attachment G):

A. Exempt expansions up to 10,000 square feet from Special Area Designators B (community design) and S (scenic) (applies to Zoning Ordinance).
B. Require the availability and use of municipal water for cultivation purposes (applies to Zoning Ordinance and Regulatory Code).

Of the five existing dispensaries, one was permitted in the Lakeside Community Plan area, one in the Valley Center Community Plan area, and three in the Ramona Community Plan area.

The following section discusses existing regulations for the five dispensaries and describes the Board-directed changes to those regulations and provides an overview of the Socially Equitable Cannabis Program progress.

**PROJECT ANALYSIS**
To implement Board of Supervisors (Board) direction, changes are required to the Zoning Ordinance and the Code of Regulatory Ordinances (Regulatory Code) as described below. These proposed changes will apply only to the existing five dispensaries and will not allow the establishment of new cannabis businesses or allow the existing dispensaries to move to new locations. The five existing dispensaries will remain consistent with the restrictions that were in place at the time of their permitting, including being located 1,000 feet from residentially zoned properties, 1,000 feet from certain sensitive land uses, such as schools, churches, and playgrounds, and 1,000 feet from other dispensaries. All of the five existing dispensaries are located in industrial zones.

**Proposed Zoning Ordinance Changes**

**Remove Sunset Date**
Based on the June 9, 2021, Board direction, staff has prepared modifications to the Zoning Ordinance to eliminate the sunset date provided in Section 6935. If the amendments are adopted, the dispensaries will continue to operate as nonconforming since the ban on new facilities would still be in place until a new Socially Equitable Cannabis Program (Program) is adopted. The updated language would only remove the requirement that dispensaries must cease operations by April 14, 2022. The Sheriff’s Department would issue amended operating certificates to the existing dispensaries that decide to expand operations to align with those operational changes, but the Sheriff would not issue new operating certificates. Staff has prepared draft ordinance amendments for this allowance as reflected in Attachments B and D.

**Allow for Adult-Use (Recreational) Cannabis Sales**
Under the County of San Diego’s (County) current regulations, the five existing dispensaries can only operate under a collective membership model. This model involves qualified patients and

primary caregivers who form a membership and cultivate cannabis collectively or cooperatively for medical purposes. The existing dispensaries are operated on a not-for-profit basis, and only their members can buy cannabis from and sell cannabis to other members. However, as of January 1, 2018, California began issuing licenses to engage in for-profit commercial adult-use (sales to anyone over 21) or medicinal cannabis activity (sales to any cannabis patients, not just members of the dispensary).

The proposed modifications to the Zoning Ordinance and Regulatory Code comply with the Board’s direction on June 9, 2021, to allow for the sale of cannabis on a commercial adult-use basis for the five existing dispensaries. Staff also prepared the Zoning Ordinance and Regulatory Code amendments to allow for-profit medicinal cannabis activity since the State no longer requires dispensaries to follow the collective model. As part of this update, a change in Section 1110 of the Zoning Ordinance has been included that makes clear that personal cannabis cultivation consistent with State law is not included in the revised definition of a cannabis facility, as the County has never regulated personal cannabis cultivation. This language is reflected in Attachments B and D.

Expansion of Existing Facilities
Currently, Section 6935 of the Zoning Ordinance prohibits the expansion, enlargement, extension, or alteration of the existing dispensaries. Since 2017, this has prohibited existing dispensaries from obtaining building permits to expand their operations. To facilitate potential expansion, the proposed Zoning Ordinance amendment to Section 6935 and the addition of Section 6861, if adopted, will enable the existing dispensaries to expand their operations by applying for a ministerial building permit. The Board directed staff to allow expansions up to 10,000 square feet under a California Environmental Quality Act (CEQA) exemption. Two categorical exemptions allow for expansion of building floor area up to 10,000 square feet: CEQA Categorical Exemptions 15301, 15303. Additionally, exemption 15304 allows for minor alterations to land such as landscaping, minor grading, or temporary land uses. The proposed ordinance amendments allow for both additions to existing structures and new construction in accordance with the CEQA exemptions.

Some of the existing dispensaries are subject to either the Special Area Designator - B (“B Designator”) or Special Area Designator - S (“S Designator”), which are community design review and scenic designations. The B Designator, Community Design, ensures that site planning, architecture, landscape design, signage, and lighting are compatible with surrounding development and community goals. The S Designator, Scenic, prevents incompatible uses and ensures that structures preserve and enhance scenic resources in neighboring areas. Development on parcels subject to either B or S Designators often requires applicants to obtain discretionary Site Plan approval. However, the Site Plan process imposed by the B Designator can be avoided by compliance with the County’s Site Plan Design Review Checklist Exemption process (Form PDS-507). When applicants design their projects to satisfy a Design Review Exemption Checklist, a simple document with yes/no questions that ensures compliance with community design
requirements, they can exempt their projects from the discretionary Site Plan process. Compliance with the Design Review Checklist is determined by the County after seeking a recommendation from the local Design Review Board, and is considered a ministerial process. Many privately initiated land development projects utilize these checklists each year, in various communities. The County has no similar exemption process to satisfy Site Plan requirements imposed by the S Designator.

Of the five dispensaries, ReLeaf Meds in Ramona is subject to S (location on a scenic highway) and B Designators. Three others are subject to only the B Designator, and one is not subject to either designator. The B Designator would likely require the existing dispensaries to obtain a discretionary permit (i.e., a Site Plan) to expand. The S Designator would also require a Site Plan for any exterior alteration or new construction that would be visible from the street. The Board directed staff to prepare a Zoning Ordinance amendment to exempt the existing dispensaries for 10,000-square-foot expansions from discretionary review under a CEQA Exemption. Therefore, staff has drafted the ordinances to allow these expansions with a ministerial building permit and be exempt from B and S Designators (Attachment G, Alternative Option A.1).

During outreach events leading up to the August 6 Planning Commission hearing, several Community Planning and Sponsor Groups (CPSG) expressed concerns with exempting the five dispensaries from community design review. The Planning Commission also recommended that the Board not adopt this provision. To accommodate the CPSG’s and PC’s concerns, while maintaining the ministerial process for up to 10,000-square-foot building expansions, staff has identified several options for the Board.

The Board could direct PDS to provide the existing dispensaries with the community design and scenic guidelines and help them comply with the guidelines on a voluntary basis. Building permit review staff would make recommendations about design features (e.g., signage, lighting, aesthetics) that could help the expansions conform to the applicable community and scenic design review regulations. This modification, if directed, would help the five dispensaries comply with the existing community and scenic design guidelines while keeping the permit ministerial (Attachment G, Alternative Option A.2).

The Board could require compliance with applicable Community Design Review Area Regulations to satisfy both the Special Area Designator B and S requirements. PDS has existing Design Review Checklists (to qualify for a site plan exemption) for the design guidelines for Ramona and Valley Center Community Planning Areas. Projects can avoid the discretionary Site Plan review that often accompanies building on parcels with a B Designator by meeting the requirements of the checklist. Normally, the project applicant would present the plans to the local Design Review Board (DRB), and the DRB would make a recommendation to the County. The County would then determine that the project complies with the objective standards set forth in the Design Review Checklist for the applicable community in which the project is located. However, to streamline this process,
County staff would be the sole reviewer of the existing dispensaries’ projects to ensure the expansions satisfy the Design Review Checklist requirements. Since the County has no checklist exemption process for the S Designator, this option relies on the Design Review Checklists to satisfy the S Designator requirements. This will help ensure the one dispensary with an S Designator in the Ramona Community Plan Area also has a mechanism to exempt its future expansions by using the Ramona Design Review Checklist. However, if an existing dispensary’s expansion did not meet a requirement of the checklist, the existing dispensary would need to apply for a Site Plan permit and undergo additional environmental review (Attachment G, Alternative Option A.3).

Lastly, the Board could opt to not provide an exemption from B and S Special Area Designators for existing dispensaries to expand up to 10,000 feet. The existing dispensary with both a B and S Designator would likely need to obtain a discretionary Site Plan approval to expand. The three existing dispensaries with B Designators would be eligible to follow the County’s Site Plan Design Review Checklist Exemption process (Form PDS-507) to exempt expansions from the Site Plan review process (Attachment G, Alternative Option A.4). The proposed amendments also require existing dispensaries to comply with all applicable Special Area Designators for expansions over 10,000 square feet.

Each existing dispensary holds one of the following state licenses: Type 10 Commercial Retailer for Medical or Type 12 Commercial Microbusiness for Medical. A microbusiness is a “one-stop-shop” where a single business can grow, manufacture, distribute, and sell retail cannabis products. Expansions could be used for additional retail space for dispensaries that are licensed as retailers or could be used for indoor cultivation, manufacturing, storage for distribution, or retail for microbusinesses. The proposed ordinance amendments ensure that all cannabis activities will be conducted inside buildings and that no cannabis will be visible from outside each property. Expansions for on-site use or lounges are not permitted. Current regulations do not allow the smoking, consumption, or ingestion of cannabis on the premises of a dispensary, and these will be maintained.

Groundwater use is a concern raised by several stakeholders during outreach. All five existing dispensaries have access to municipal water service. The proposed ordinances stipulate that only municipal water be used for cultivation by the five dispensaries, which is more consistent with Section 15301 CEQA Guideline language requiring the project to be “in an area where all public services and facilities are available…” The existing dispensaries and a majority of the Planning Commissioners opposed this limitation, stating that the existing dispensaries should have the ability to use groundwater to the same extent as cultivators of other crops. The Board could decide to remove the requirement that only municipal water be used for cultivation purposes from the proposed ordinance amendments as recommended by the Planning Commission. The proposed Zoning Ordinance amendments in Attachments B (clean) and C (strikeout) and proposed Regulatory Code amendments in Attachments D (clean) and E (strikeout) limit cultivation

activities to municipal water use; the Board may remove this limitation by striking out the proposed Zoning Ordinance Section 6861(i) and Regulatory Code Section 21.2504(h) (Attachment G, Option B.2).

If the Board allowed the existing dispensaries to use groundwater, each dispensary would have to either (1) have a well in place already or (2) would have to obtain a ministerial well permit from the Department of Environmental Health and Quality (DEHQ) to use groundwater. One dispensary, Ramona Cannabis Company, has an expired permit and historical well drilling record from 1933; there is no record of active permits at any dispensary. One other dispensary, Jaxx Cannabis in Ramona, indicated that they also have a well on the property in the public comments of the Planning Commission Hearing. Once a well permit is issued, the County does not have authority over restricting use, and there is currently no federal or State authority tasked with monitoring or limiting the amount of water extracted from approved wells. If the owners of a well claim their groundwater supply is impacted by overuse in a neighboring well, it would be taken up as a civil matter between the property owners.

Transfer of Business Licenses
Currently, Section 6976 of the Zoning Ordinance states, no person shall cause or permit the transfer of ownership of a cannabis facility for medical or non-medical purposes. This requirement only applies to the existing nonconforming dispensaries. This requirement, along with Regulatory Code 21.105, has been interpreted to mean that the Sheriff’s Operating Certificate, which is a requirement to operate a cannabis facility in the unincorporated area, is not transferrable to new persons. On June 9, 2021, the Board directed staff to allow for the transfer of business licenses, i.e., allow for the transfer of the Sheriff’s Operating Certificate.

The transfer process will consist of the following: upon request of the transferor(s), the transferee(s) will apply for a new Operating Certificate from the Sheriff; upon issuance, the transferors’ Operating Certificate will expire. This will mirror the State process for change in ownership under Bureau of Cannabis Control regulations. To transfer an operating certificate, the Sheriff’s Department must first interview a new transferee, which includes conducting a background check. Therefore, transferors and new transferees must undertake a process with the Sheriff’s Department before a transfer can become official. The Sheriff’s Department must recover their staff costs for assisting Operating Certificate holders with transfers to others. Therefore, the ordinances will be amended to include a provision where the Sheriff’s Department will charge new Operating Certificate applicants its cost for facilitating a license transfer. The Sheriff has performed a fee study to establish the costs of several types of Operating Certificate transfers. These types include (1) processing an initial application, (2) processing a renewal application, (3) adding a new owner or changing corporation name on an existing Operating Certificate, and (4) adding new activities, such as cultivation or manufacturing, to an Operating Certificate. These fees will replace the Medical Marijuana Operation Certificate annual fee in the Regulatory Code, SEC. 21.1901. FEES (a) (18). While the Sheriff completes the necessary review processes for the
updated fees to bring to the Board for future consideration, these proposed Regulatory Code amendments clarify that the medical marijuana operation certificate fee will still apply to the existing dispensaries.

Regardless of who holds the operating certificate, they are subject to the same background check requirements, and the facilities are subject to the same Zoning Ordinance requirements, local regulations, and state regulations. The proposed amendments eliminate the language precluding transfer of ownership of a cannabis facility from Section 6976. This proposed change is reflected in Attachments B (clean) and C (strikeout).

**County Code of Regulatory Ordinances**

*Allowing Sales of Edible Cannabis Products and Branded Merchandise*

The State's Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), adopted in 2017, allows for the manufacture and sale of edible cannabis products, provided they are not designed to appeal to children and do not exceed certain tetrahydrocannabinol (THC) limits per serving (Business & Professions Code (B&PC) § 26130; 16 CCR § 5724). Section 21.2505(f) of the Regulatory Code states that "no food or drink containing Marijuana is allowed" to be sold in the unincorporated area. Based on the June 9, 2021, Board direction, staff has prepared amendments to the Regulatory Code to allow the sale of edible and drinkable cannabis products following the definition of an “Edible Cannabis Product” outlined in Business and Professions Code Section 26001(t). An edible cannabis product is intended to be used for human consumption. Staff has prepared ordinance amendments to add this new definition reflected in Attachments D (clean) and E (strikeout).

As currently written, Section 21.2505 of the Regulatory Code allows the sale of only specific cannabis products at the existing dispensaries, and does not explicitly allow for branded merchandise, such as clothing, devices, or other collectible or functional items bearing the logo of the dispensary. The proposed amendments to the Regulatory Code allow for the sale of branded merchandise as reflected in Attachments D (clean) and E (strikeout). In enforcing the County's regulations for existing dispensaries, the County has historically prohibited the sales of branded merchandise. MAUCRSA regulates the advertising and misbranding of commercial products (B&PC § 26121, 26150). State regulations also allow cannabis licensees to sell certain branded merchandise, such as clothing, hats, and water bottles (16 CCR § 5000(b)).

There are additional proposed amendments to the Regulatory Code. Updates to the definitions section include adding definitions (1) for the new expanded uses of “Commercial Cannabis Microbusiness” and “Commercial Cannabis Retailer” and (2) a new definition for “Edible Cannabis Products” as described above. Other amendments to the Regulatory Code are proposed to align language to the proposed Zoning Ordinance and update the terms to better follow State law. For example, language is proposed to clarify that Commercial Cannabis Microbusinesses and
COMMERCIAL CANNABIS RETAILERS are subject to the existing security and operating requirements that Medical Marijuana Collective Facilities must follow. Additionally, the term “Marijuana” would be updated to “Cannabis” throughout the Regulatory Code chapter to reflect the State’s vernacular. Also, age restrictions would be updated to include that nobody under the age of 21 would be allowed at a Commercial Cannabis Microbusiness or Commercial Cannabis Retailer that is licensed to sell adult-use (recreational) cannabis, per State law.

SOCIALLY EQUITABLE CANNABIS PROGRAM UPDATE

Apart from updates to existing ordinances for the five existing dispensaries, the County is also developing a Socially Equitable Cannabis Program (Program) that will allow various cannabis businesses to operate within the unincorporated area as cultivation, testing, manufacturing, distribution, microbusinesses, and retail. Development of the Program will take place over the next two years and is expected to be presented to the Board for consideration in the second half of 2023. If the Board approves the program presented in 2023, the County will then begin accepting applications for new cannabis businesses. The following is an update on the Program’s development.

Social Equity

On May 5, 2021 (11), the Board authorized the Office of Equity and Racial Justice (OERJ) to accept $75,000 in Local Jurisdiction Funding for Cannabis Equity Assessment and Program Development from the California Governor’s Office of Business and Economic Development. This grant award will support the County in hiring a qualified consultant to conduct a comprehensive equity assessment through extensive community engagement and research into the impacts that the historical criminalization of cannabis has had on local communities in the unincorporated area. The Request For Proposals (RFP) for consultant services to conduct an equity assessment and develop the Social Equity Program was informed with public feedback gathered across two community stakeholder listening sessions that were hosted in April 2021 and was published to the County’s procurement system in July 2021. The consultant would develop and conduct an equity assessment, and then based on the equity assessment, develop and assist with the implementation of the Social Equity Program. The expectation is that the consultant will conduct community outreach as part of the process.

To increase awareness, an announcement of the open procurement was shared broadly through email distribution lists from OERJ, PDS, and the Health and Human Services Agency’s Live Well Leadership Teams, social media posts from the County’s Twitter and Facebook accounts, and local printed news publications. OERJ staff is committed to engaging with all stakeholders, including various community groups, County departments and the consultant, on an ongoing basis to inform a comprehensive Program. It is anticipated that the full design of the social equity portion of the Program will be completed and ready for implementation in October 2022. This will involve
training and mentoring while environmental review of the licensing Program is ongoing and will allow impacted applicants to prepare for licensing once the full Program is implemented.

**Taxation**

In July 2021, the Finance and General Government Group released a Request for Proposals (RFP) to obtain a consultant to develop and design all aspects of the County of San Diego Cannabis Taxation Program, ballot measure, and ordinance. It is anticipated that the consultant will be on board by Fall 2021. California law requires that voters approve taxation as part of a local ballot measure. This may be done as part of the scheduled elections held in November of 2022, or March/November of 2024, or through a special election for voters to decide on taxation of the program. The ballot measure would be considered for a countywide vote. The County would be required to pay for participation in all election options. Participation in a regularly scheduled election is the most cost-effective option. The goal is to complete the development of the taxation program by the Spring 2022. Staff will return to the Board in late Spring 2022 for consideration of the taxation program and potential adoption of a resolution to place a ballot measure on the November 2022 general election.

**Enforcement Against Unpermitted Cannabis Activities**

**Code Compliance**

Planning & Development Services (PDS) Code Compliance staff continue to respond to complaints of unpermitted cannabis activities, including dispensaries and cultivation sites. Code Compliance staff collaborate with the Sheriff’s Department to close these facilities, typically by assisting with the service of search warrants. Since 2010, Code Compliance has closed 295 code compliance cases at unpermitted cannabis facilities. Code Compliance staff have recently been assisting the Sheriff’s Department with service of search warrants at unpermitted dispensaries and cultivation sites. During service of search warrants, Code Compliance staff document violations of County land use regulations and the building code. Staff then works with property owners and tenants to rectify these violations.

PDS will be using $250,000 allocated by the Board on January 27, 2021, for temporary staffing for increased enforcement efforts. In addition, staff is preparing an RFP to use a portion of the $250,000 for consultant services to examine additional tools for cannabis enforcement to increase compliance. The consultant will provide expertise on best practices for enforcement and recommend updates to existing regulations or procedures.

**Sheriff**

The San Diego County Sheriff’s Department continues to address the criminal aspects of unpermitted cannabis activities within the unincorporated areas. As described above, the Sheriff’s Department collaborates with PDS, the District Attorney, and other law enforcement agencies to investigate and pursue actions against unpermitted cannabis operations. In January of this year,
the Board allocated $250,000 to the Sheriff’s Department to assist with enforcement of unlicensed commercial cannabis. The funding supported investigations requiring advanced investigative techniques and hundreds of hours of surveillance. As part of their efforts to step up enforcement, the Sheriff’s Department has served more than 70 search warrants at unpermitted dispensaries, hazardous THC extraction labs, and illegal cultivation facilities throughout the unincorporated area. Cases have been referred with the District Attorney's Office on dozens of suspects for violations, including operating an unlicensed dispensary, drug sales and possession, and numerous firearms violations.

Cannabis Oversight Roles and Responsibilities
The Manufactured Cannabis Safety Branch of the California Department of Public Health recently merged with other State programs to form a single new department called the Department of Cannabis Control (DCC). DCC now licenses and regulates all commercial cannabis activity in California. DCC requires all cannabis goods to be tested before they can be sold. Labs test cannabis goods to ensure they are free of contaminants and labeled with accurate amounts of tetrahydrocannabinol (THC) and cannabidiol (CBD). Regulations establish THC limits per serving for some cannabis products that must be verified by testing (B&PC § 26130; 16 CCR § 5724). Cannabis testing labs in California must maintain ISO/IEC 17025 accreditation. ISO accreditation is a measure of quality and competency for testing methods used by universities, laboratories and research centers worldwide. Within one day of finishing testing, the testing lab must upload the results to the track and trace system. Per DCC regulations, cannabis products that fail any test performed by a licensed testing laboratory will fail regulatory compliance testing and may not be transported to any retailer for sale.

In compliance with MAUCRSA and DCC regulations, cannabis goods are required to be in packaging that is child-resistant, tamper-evident, resealable (if more than one serving), and opaque (if an edible cannabis product). Per the DCC, cannabis packaging must not use designs attractive to children. This includes cartoons, images popularly used to advertise to children, imitations of candy labeling, and the words “candy” or “candies.” The Health and Human Services Agency, Behavioral Health Services, notes that labeling edible and drinkable cannabis products, including THC and CBD content descriptions, can help protect consumers from harm, including unintentional over-consumption. The DCC has the ability to inspect and test cannabis goods at any licensed facility without prior notice to ensure, among other things, labels are accurate. The DCC also oversees licensing of retail, cultivation, manufacturing, microbusiness, and distribution operations, including branded merchandise and is the sole regulator of requirements related to advertising, labelling, and packaging. The DCC uses regular inspections and referrals from other agencies to identify targets for investigation and coordinated enforcement actions. There is also a system in place for filing complaints through the DCC website.

At the local level, the San Diego County Sheriff’s Department handles licensing of the five dispensaries for the county’s single license type, the Operating Certificate. The County Department of Environmental Health and Quality has no oversight over edible cannabis products,
as this is currently the role of the State DCC. The County Department of Agriculture,Weights and Measures has oversight over pesticide use for all operations using pesticides in the county, but has no additional role in the enforcement or oversight over the cultivation, manufacturing, or retail of cannabis products. The County’s Finance and General Government Group will have oversight over the taxation of cannabis products in the future if a taxation program is implemented.

ENVIRONMENTAL STATEMENT
Receiving direction from the Board of Supervisors (Board) regarding the overall Socially Equitable Cannabis Program is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3), the Commonsense Exemption, since it can be seen with certainty that there is no possibility that today’s actions may have a significant effect on the environment and no unusual circumstances or exceptions to the exemptions apply (see Attachment A, Environmental Documentation, for more information).

Adopting changes to the Zoning Ordinance and Code of Regulatory Ordinances is exempt from CEQA pursuant to Sections 15301, 15303, and 15304 of the CEQA Guidelines since the ordinance amendments result in negligible or no expansion of use, all public services and facilities are available to allow for maximum development permissible in the General Plan, the area in which the project is located is not environmentally sensitive, expansions are limited to 10,000 square feet or less, and no unusual circumstances or exceptions to the exemptions apply.

The existing dispensaries have been in operation for more than four years, and the Zoning Ordinance and Regulatory Code amendments involve negligible or no expansion of ongoing and continued uses. The “up to” 10,000-square-foot potential expansions will still leave the existing facilities below the 50,000 square foot threshold under the County’s adopted transportation screening guidelines to be considered locally-serving with a less than significant impact. Additionally, as enclosed buildings, the existing dispensaries continued operations would not expose people to, nor would it generate potentially significant noise levels which exceed the allowable limits of the County of San Diego Noise Element of the General Plan, County of San Diego Noise Ordinance, and other applicable local, State, and federal noise control regulations.

The five existing dispensaries obtained fire safety approval from their respective districts (San Diego County Fire Protection District and San Miguel Consolidated Fire Protection District) at the time of their Primary Commercial Building, Commercial Alteration, and Commercial Accessory Building Permits. Any new building permits would require compliance with safety codes (including updated automatic sprinkler systems, access requirements, etc.). Additionally, the existing dispensaries are located within the County Water Authority with connections to existing water districts. During the building permit review phase for any expansions, a Water Service Availability Form will be required by the appropriate water district.

The existing structures on the five existing dispensaries’ parcels are not designated as historical. Though cultural resources are in the area of some of these facilities, there are protections in place

for historical and cultural resources through both the ministerial and discretionary permitting process. The discretionary permitting process would require the applicant to obtain a site plan and undergo a cultural study. In the case of a project with a ministerial action, if the project required excavations of 200 cubic yards of earth, a grading permit with additional environmental (including cultural) review would be required. Additionally, Health and Safety Code §7050.5 requires that a contractor who finds human remains stop work and contact the County Archaeologist and the County Coroner. The Coroner then contacts the Native American Heritage Commission to determine the most likely descendant, including steps to preserve the remains. Non-compliance is punishable by a misdemeanor. Additionally, Penal Code 622.5 makes injury or destruction of any object or thing of archaeological or historical interest or value a misdemeanor.

PUBLIC INPUT
Staff continues to conduct stakeholder outreach in developing the Socially Equitable Cannabis Program (Program) since receiving the Board of Supervisors’ (Board) initial direction in January 2021. Staff met with various stakeholders, including community organizations, academic institutions, public health organizations, tribal governments, legal professionals, cannabis industry members and advocates, federal and State agencies, farmers, environmental stakeholders, and other California cities and counties with cannabis ordinances. In February 2021, several stakeholders were concerned the initial 180-day timeline for the Program’s adoption was not long enough. In March, staff returned to the Board to consider lengthening the Program implementation timeframe. In June, after some analysis, the Board opted for a comprehensive environmental review for the Program that effectively extended the Program implementation by several years, allowing for continued robust stakeholder engagement.

At the same meeting in June, the Board directed staff to amend the County’s ordinances related to the five existing dispensaries to expand access to regulated cannabis. Since that time, staff has been speaking to the various community members regarding the Board’s direction. Several stakeholders expressed concern over exemptions from the Special Area Designators. To accommodate these concerns, while maintaining the ministerial process for up to 10,000-square-foot building expansions, staff has created an option for the Board to consider where PDS provides the existing dispensaries with the community design and scenic guidelines and helps them comply with the guidelines on a voluntary basis. Building permit review staff would make recommendations about design features (e.g., signage, lighting, aesthetics) that could help the expansions conform to the applicable community and scenic design review regulations. This modification, if directed, would help the five dispensaries comply with the existing community and scenic design guidelines while keeping the permit ministerial.

Staff discussed the proposed ordinance amendments with the San Diego Regional Chamber of Commerce’s Cannabis Working Group and the Building Industry Association. No major comments or concerns were shared by either group. Staff also met with the San Diego County Fire Protection District and the San Miguel Consolidated Fire Protection District. They indicated that
the existing facilities would be required to comply with updated automatic sprinkler systems, access requirements, and other related fire code compliance measures should they choose to expand their facilities.

Staff met with drug prevention and youth advocates such as the Marijuana Prevention Initiative (MPI) and Social Advocates for Youth San Diego (SAY) who were supportive of a slower and more measured approach to the development of the Program and the existing dispensary ordinance amendments. Staff met with cannabis advocates, such as Americans for Safe Access (ASA), who advocate for safe consumption practices and secure access to medicine from their homes. Though the County is moving at a more deliberate pace on the existing facility ordinances due to the April 2022 expiration (or “sunset date”) of the ordinances, the pace of the overall program has been slowed by the implementation of the Programmatic Environmental Impact Report (PEIR). Stakeholders like MPI and SAY were also interested in subjects related to: drug prevention language for youth, youth buffers from sensitive resources, a limitation on licensing, social equity, and responsible messaging and advertising as part of the Program. For the Program in the long term, staff from multiple departments including PDS and Health and Human Services Agency (HHSA) are examining drug prevention and youth protection measures. Much of the advertising messaging regarding cannabis is regulated by the State, and cannabis goods are required by the State to not advertise their products to children. As staff develops the Program over the coming two years, it will look into including broad inspection rights in the County’s ordinances to ensure local cannabis businesses comply with State and local regulations. The use of buffers from sensitive resources like youth centers will also be considered as part of the overall Program, as various stakeholders have expressed preferences for either larger (e.g., 1000-foot) or smaller (e.g., 600-foot) buffers from sensitive resources. Additionally, staff plans for the social equity program to be up and running in preparation for the overall Program implementation.

Some stakeholders like the National Cannabis Industry Association (NCIA) and the Cannabis Stakeholders Group (CSG), have indicated that the five existing dispensaries should contribute to Social Equity as part of the existing facility ordinance updates. While the NCIA shared that the implementation of the Social Equity Program should not fall behind the overall Program and that the five existing dispensaries should contribute to the push for Social Equity, the CSG communicated that the ordinances for the existing facilities should incorporate social equity requirements. The ordinance amendments presented here today do not incorporate social equity requirements for the existing dispensaries to follow. However, the Office of Equity and Racial Justice (OERJ) is developing the Social Equity component of the overall Program over the next year.

Staff engaged with representatives of the existing dispensaries who reiterated their thoughts and opinions provided as public testimony and commentary submissions to the Board on June 9, 2021. Members of the existing dispensaries and their representatives attended the August 6 Planning Commission hearing where they expressed concerns with the restrictions on groundwater usage
and requested that staff allow for the possibility of less impactful, more temporary alterations to their lands. As a result, staff has incorporated an additional CEQA exemption 15304 into the environmental documentation for the existing dispensary ordinances, which allows for minor alterations to land such as landscaping or minor grading.

OERJ has begun an array of stakeholder engagement activities to gather information to develop a comprehensive Social Equity program. Initial community outreach and engagement efforts to further inform the development of the program included two community stakeholder input sessions hosted virtually by OERJ on April 23 and April 26, 2021. Interpretation services were offered in Arabic, Chinese, Filipino, Vietnamese, and Spanish for each meeting. A total of 82 individuals participated throughout the two feedback sessions and were directly engaged in thoughtful discussions and polling to inform the scope of a successful Program and to inform the prioritization of criteria to develop it.

Staff’s most recent public webinars were held on September 9 and 13, 2021, which were each attended by approximately thirty people. Attendees included members of the public, Community Planning Groups in their personal capacities, drug prevention and youth advocacy groups, and cannabis advocacy groups. Representatives from PDS, Finance and General Government Group (FG3), and OERJ were in attendance. Public comments ranged from supportive of efforts to expand access to regulated cannabis to concerned that allowing adult-use sales normalizes cannabis use and threatens public health. There were concerns that the timeframe for the overall Program was too long and would result in continued reliance on unlicensed dispensaries and delay business opportunities for potential new dispensaries which could hinder social equity applicants. Attendees suggested that communities should be able to decide whether cannabis businesses could operate or that this decision should reside in the respective Community Planning or Sponsor Group. Many of the public health concerns raised at the public webinars focused on the relationship between cannabis use and mental health, and the lack of data and coordinated messaging to potential cannabis users. Finally, there were concerns raised about enforcement, both of restrictions on the activities of licensed dispensaries and on potential users who might pose a risk of drugged driving. Public health issues and enforcement issues are being considered by several County departments, including HHSA and the Sheriff’s Department, as part of the overall Program. The public will have opportunities to raise these issues directly to the Board on October 6, 2021, and over the coming two years as various County departments return to the Board to obtain direction on their respective components of the overall Program.

DEPARTMENT REASONS FOR RECOMMENDATION
This Project reflects the County of San Diego’s (County) changing needs as identified by the Board of Supervisors and responds to new State cannabis laws in a manner that furthers the Board’s policies calling for overall social equity of the county’s residents. PDS recommends that the Board of Supervisors adopt the proposed County Zoning Ordinance and Code of Regulatory Ordinances changes impacting the five existing cannabis facilities. Adopting the changes will remove the

restrictions on these facilities and give them the same business opportunities as other cannabis facilities once the moratorium on cannabis businesses in the unincorporated area is lifted and the overall Socially Equitable Cannabis Program is in place.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN
Today's actions support the County of San Diego's (County) 2021–2026 Strategic Plan of Building Better Health, Living Safely, Operational Excellence, and Sustainable Environments/Thriving by providing social equity for individuals and neighborhoods impacted by cannabis criminalization in the unincorporated area. These measures promote the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.

Respectfully submitted,

SARAH E. AGHASI
Deputy Chief Administrative Officer

ATTACHMENT(S)
Attachment A Environmental Documentation
Attachment B AN ORDINANCE AMENDING THE SAN DIEGO ZONING ORDINANCE RELATED TO DEFINITIONS, MEDICAL MARIJUANA COLLECTIVE FACILITIES, AND PROHIBITION OF MARIJUANA FACILITIES – MEDICAL OR NON-MEDICAL, AND ADDING SECTION 6861 RELATED TO NONCOMFORNING CANNABIS FACILITIES (POD 21-001) (CLEAN COPY)
Attachment C AN ORDINANCE AMENDING THE SAN DIEGO ZONING ORDINANCE RELATED TO DEFINITIONS, MEDICAL MARIJUANA COLLECTIVE FACILITIES, AND PROHIBITION OF MARIJUANA FACILITIES – MEDICAL OR NON-MEDICAL, AND ADDING SECTION 6861 RELATED TO NONCOMFORNING CANNABIS FACILITIES (POD 21-001) (STRIKE-OUT/UNDERLINE COPY)
Attachment D AN ORDINANCE AMENDING TITLE 2, DIVISION 1, CHAPTER 25 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED TO MEDICAL MARIJUANA (POD 21-001) (CLEAN COPY)
Attachment E AN ORDINANCE AMENDING TITLE 2, DIVISION 1, CHAPTER 25 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATED

TO MEDICAL MARIJUANA (POD 21-001) (STRIKE-OUT/UNDERLINE COPY)

Attachment F  Community Planning and Sponsor Group Letters Received
Attachment G  Action Sheet

AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

BOARD POLICIES APPLICABLE:
A-99 – Tobacco and Electronic Smoking Device Use, Prevention and Cessation
I-133 – Support and Encouragement of Farming in San Diego

BOARD POLICY STATEMENTS:
In accordance with Board Policy A-99, parts of the update to the regulatory code reduce the use of electronic smoking devices by providing dispensaries with the ability to make edible and drinkable cannabis products available. The board policy is to discourage the use of electronic smoking devices for nicotine or other substances. Allowing cannabis users to substitute edibles and drinkables for electronic smoking devices is consistent with Board Policy A-99.

In accordance with Board Policy I-133, this update to the Regulatory Code supports and encourages farming in San Diego County by streamlining expansions to existing businesses that will support on-site, indoor cultivation of cannabis crops. This update would help those existing dispensaries that do not currently cultivate on-site begin cultivation more quickly by making building expansions a ministerial process. These changes will support and encourage expanded farming operations consistent with Board Policy I-133.

MANDATORY COMPLIANCE:
N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S): 
N/A

ORIGINATING DEPARTMENT: Planning & Development Services

OTHER CONCURRENCE(S):  Department of Agriculture, Weights, and Measures
Department of Environmental Health and Quality
Finance and General Government Group
Health and Human Services Agency
Office of Equity and Racial Justice
San Diego County Sheriff’s Department

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