

M E M O R A N D U M

TO: San Miguel County Planning Commission
FROM: Kaye Simonson, AICP, Planning Director
RE: Amendment to the San Miguel County Land Use Code Section 5-29 to Allow Outdoor Cultivation at a Medical or Retail Cultivation Facility
DATE: August 12, 2020
[Z:\Applications\2020_Marijuana_LUC Amendment\1 Staff Memo(s) and Resolutions(s)]

Background

Beginning in fall of 2019, Nolan Murphy of Alpine Wellness began discussions with Planning staff regarding the possibility of allowing outdoor cultivation areas for medical and retail marijuana facilities. On January 28, 2020, the matter was discussed with the Board of County Commissioners who indicated they were willing to consider a Land Use Code Text Amendment and directed staff to research and prepare a draft for their consideration. A Planning Commission Worksession was held on March 11, 2020.

The Board of County Commissioners Local Disaster Emergency Declaration authorized the Planning Director to “grant temporary use permits for modification of existing special use permits for essential businesses that would otherwise require one-step or two-step approval pursuant to Land Use Code Chapters 3 and 5. Development standards as set forth in Chapter 5 may be modified, provided the modification allows the minimum necessary relief and is not detrimental to the public good.” On May 28, 2020, a Temporary Use Permit was issued to Alpine Wellness to allow a 20,000 s.f. outside cultivation area for the 2020 season. The standards contained within this draft Code Amendment were used as guidance in reviewing and issuing that permit. Colorado Marijuana Enforcement Division did not approve Alpine Wellness’s request for a variance to state standards for fencing until mid-July. (The request was to use the existing welded wire mesh instead of chain link.) Because of the lateness in the season, Alpine Wellness was only able to fence and plant an area of about 5,400 s.f.

Proposed Amendment

The draft amendment to the San Miguel County Land Use Code for the purpose of allowing outside cultivation of marijuana for medical and retail operations is attached. Currently, San Miguel County allows commercial and medical marijuana cultivation to occur only in buildings or greenhouses. On properties less than 35 acres in size, one 3,000 square-foot building or greenhouse is allowed. That is not proposed to be changed. On properties 35 acres or larger, facilities may have a total of three 3,000 square-foot buildings or greenhouses. Outdoor growing operations and “insubstantial” greenhouses such as hoop houses are not permitted under the current Code. About 200 plants can be grown in a 3,000 square-foot greenhouse.

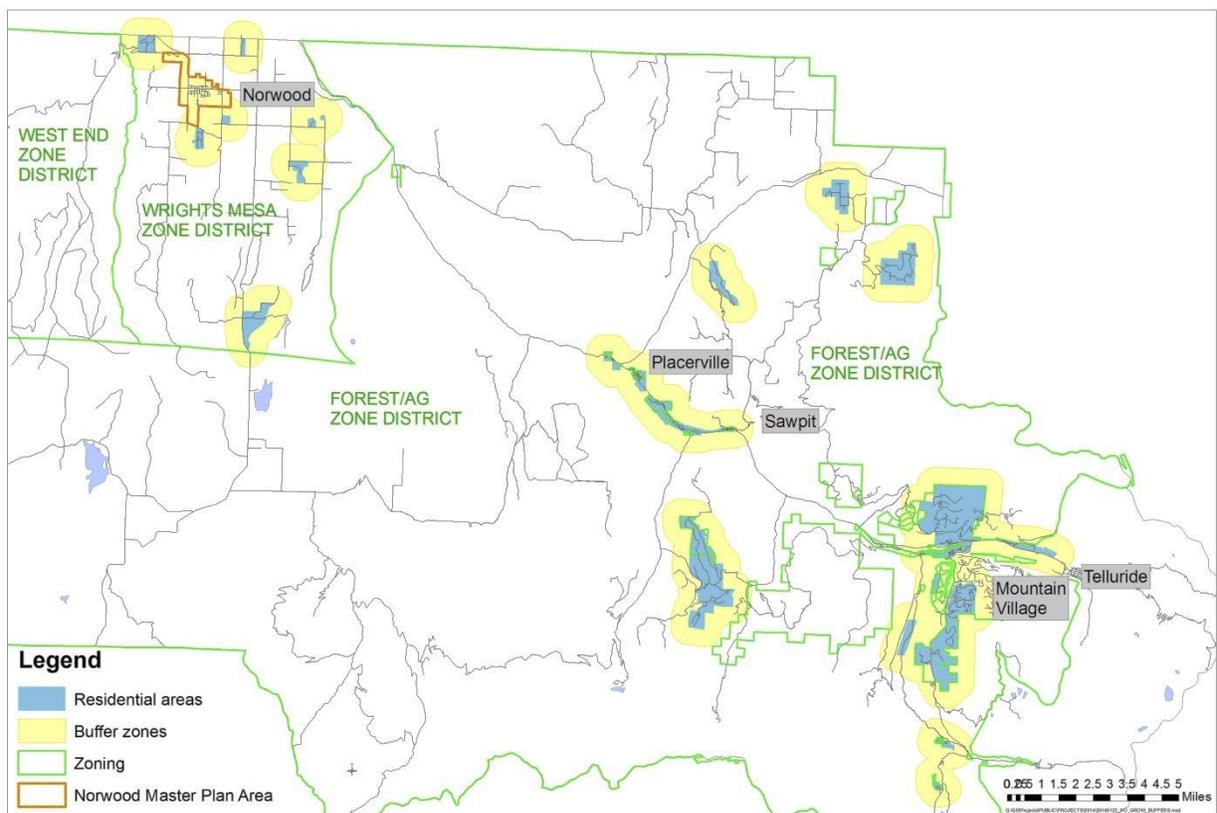
The draft amendment would allow Outdoor Cultivation Areas of 20,000 square feet (about half an acre) on properties 35 acres or larger as an alternative to a greenhouse. Because plants grown outside are larger than those grown in a greenhouse, this is still equivalent to about 200 plants. The draft amendment has two options. The first keeps the limit of three cultivation areas – inside, outside, or a combination of the two, which

would allow about 600 plants in total. The second would allow an operator to propose as many cultivation areas as their state license would permit. For example, a facility that holds a Tier 1 State license that allows up to 1,800 plants could request nine cultivation areas, which could cover over 4 acres.

Proposed setbacks to outdoor cultivation areas would be 100 feet to the property line and 500 feet to any existing residence. The areas would have to be fenced. One additional 3,000 square-foot building would be permitted for hanging, trimming, etc. Other buildings would be permitted for storage of equipment and supplies. These buildings could not be used for cultivation. Hoop houses could be approved on a temporary basis, to allow the operator time to construct permanent improvements.

This amendment would have no effect on the regulations regarding plant count limits for personal, non-commercial cultivation and use. The following map indicates areas where retail and medical marijuana facilities are not permitted.

Residential Areas and Residential Area Buffer Zones Map



Public Noticing

There are no noticing requirements for Land Use Code amendments. A display ad has been published in the Telluride Daily Planet on August 7 and August 9, 2020.

Referral Agencies

The proposed Land Use Code text amendment was sent to the County Attorney; County Building Department; County Sheriff; Town of Telluride; Town of Mountain Village; Town of Sawpit; Town of Ophir, Town of Norwood; Colorado Parks and Wildlife (CPW); Colorado Marijuana Enforcement Division (MED), and Colorado Division of Water Resources. Additionally, e-mails were sent as a courtesy to marijuana business owners who are not referral agents but could be affected or have insight, including Nolan Murphy, Alpine Wellness; Dahlia Mertens, Mary Jane's Medicinals; and Greg Viditz-Ward, Telluride Green Room.

Responses were received from the San Miguel County Sheriff, CPW, Division of Water Resources, Town of Norwood, Greg Viditz-Ward, and Dahlia Mertens. Staff has also had conversations with Nolan Murphy, Sgt. Dan Covault of San Miguel County Sheriff's Office, and with Colorado MED staff regarding the temporary use permit that was informative in regards to the proposed amendment.

Sheriff Bill Masters noted that security, and specifically keeping gates secured, will be a concern. The location and reliability of the operator may be a factor in considering requests. The Town of Norwood did not have any comments on the proposed Code amendment but asked that they continue to be included in the review of this text amendment and future development proposals. Greg Powers, Well Commissioner for Division of Water Resources, noted that there are limited time frames within which surface irrigation water is available that operators must consider. Augmentation plans may be necessary, and those plans may limit whether water use is for indoors or outdoors cultivation. Mark Caddy of CPW provided a number of suggestions to be considered when approving an outdoor cultivation area, including requiring the ability to remove fence sections when outdoor cultivation is not occurring to allow wildlife to move through; the cleanup of hoop house materials and weed barriers to limit its spread off the property; treatment of irrigation runoff to prevent chemicals from leaving the property; and potential impacts on wildlife habit by large outdoor operations. The proposed amendment has been revised to address most of these concerns.

Dahlia Mertens, Mary Jane Medicinals, noted that a number of counties have permitted outside growing operations without issues. Staff contacted several counties regarding their regulations and outdoor cultivation and none reported issues. Ms. Mertens was also in support of the second option, allowing consideration of a larger number of cultivation areas if allowed under the state license. Greg Viditz-Ward, Telluride Green Room, asked that solid wood fences, slats and screen be permitted. The draft amendment has been amended to allow screening, where determined necessary to screen the cultivation area from the public view. He also noted that his county approval allows a 50-foot setback from the property line. The amendment proposes a 100-foot setback for outdoor cultivation areas; the setback to enclosed cultivation areas would remain at 50 feet.

Public Comments

As of the writing of this report, no public comments have been received.

Review Standards

Review Standards for Land Use Code Amendments are contained in LUC Section 5-1802 and state, "Land Use Code Amendments may be initiated by the County or by persons who are residents of, or own property in, San Miguel County subject to compliance with the following standard." This amendment was requested by an individual and the BOCC directed staff to prepare the draft amendment. The only review standard, LUC Section 5-1802 A., states "Land Use Code Amendments shall be drafted in a form consistent with the organizational format and style of the code." The proposed amendment has been drafted in the format and style of the code. As needed, the amendment may correct formatting errors that do not change the substance of the Code.

In addition, Section 1-4, Purposes of the Land Use Code, should be considered.

1-402 Implement Policies

To implement the policies of San Miguel County regarding land use and development, housing, growth and related issues, as adopted and amended from time to time.

1-403 Create Common System of Administration and Regulation

To combine the regulation of all aspects of land use and development and the use of land and natural resources into a common system of administration and regulation.

1-404 Simplify the Land Use Regulatory Process

To simplify the application and review process for such regulatory system.

1-405 Protect Health, Safety and Welfare

To protect the health, safety and public welfare of San Miguel County.

Section 5-2903, Department of Revenue Marijuana Enforcement Division (DOR MED) and Local Licensed Medical and Retail Marijuana Facilities and Establishments, states in part, "These general standards are intended to cause such licensed establishments to be located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public."

Discussion

When the marijuana regulations were first being developed, there was a significant amount of uncertainty regarding community impacts. Therefore, cultivation was limited

to within buildings and greenhouses. The most significant concerns included visual, lighting and odor impacts, as well as security. For those reasons, medical and retail marijuana facilities were prohibited near residential areas (see map, above), and the number and size of buildings and greenhouses were limited, even on large parcels. Since adoption of the County's regulations, a number of other counties have allowed outside cultivation. Staff's research found no reports of significant issues related to that activity. Additionally, most counties focus on the licensing of facilities. Few were found to have development standards as comprehensive as that in the San Miguel County Land Use Code.

Colorado Department of Revenue – Marijuana Enforcement Division (MED) licenses and regulates retail and medical marijuana cultivation, processing and sales. Those regulations allow outside cultivation, subject to certain standards that include fence material and design, size of premises, and security. With the temporary use permit granted to Alpine Wellness, MED approved an alternative fence design. Instead of an 8-foot chain link fence, they permitted using the property's existing elk fence (the site was previously a domestic elk farm), with an additional layer of welded wire mesh added to the inside and topped by two strands of barbed wire. They did limit the area of the approved premises for better security and control.

The proposed text amendment is intended to alleviate impacts, by setting clear limits on the size and location of outdoor cultivation areas. Greenhouses and buildings housing cultivation areas will continue to have a 50-foot setback to property lines. Outdoor cultivation areas would have a required setback of 100 feet to the property plus a 500-foot setback to the closest dwelling in existence at the time of application. The proposed amendment would allow the use of hoop houses (non-substantial greenhouses) for two years, which would allow an operator to begin cultivation before making the substantial investment in a permanent greenhouses. The use of other buildings for equipment storage and hanging, trimming and drying would be clarified.

The draft text amendment contains two options. The first retains the LUC's current limitation on a total of 3 cultivation areas on a parcel greater than 35 acres in size, which would allow about 600 plants total, whether indoors or outdoors. Most premises are licensed by the State for more plants. The second option would allow the applicant to request the number of cultivation areas that would allow them to grow the number of plants allowed under their State license. When considering the request, the Planning Commission and BOCC would still be able to take into account whether the impacts of a cultivation operation of that size could be adequately mitigated. Alpine Wellness has a Tier 1 Retail State license, which allows up to 1,800 plants. Telluride Green room has a Tier 1 Retail license (1,800 plants), as well as a Class 1 Medical license that allows up to 500 plants, for a total of up to 2,300 plants.

With respect to comments received from review agencies and from other operators, the draft amendment was changed. This included a requirement for a drainage and stormwater management plan, in order to evaluate irrigation water runoff as recommended by CPW. A provision under fencing was added to consider opening up

fences during periods when there is no cultivation, to allow wildlife to move through. This would have to be balanced with overall site security. A number of people noted that screening may be desired. Some cultivation areas are remote enough that they cannot be seen from other properties and do not need screening. The draft specifies that wood fences, slats, or screens may be required if necessary. Comments from Division of Water Resources staff noted that there may be limits on surface water availability. Additionally, permits for wells and augmentation ponds may specify whether the water can be used for indoor or outdoor cultivation. An irrigation plan and identification of water sources is required to be submitted as part of the application. As with any Special Use Permit, applications for outdoor cultivation will be submitted to review agencies, including the Sheriff's Office, CO DOR-MED, CPW, Division of Water Resources, local municipalities, fire districts, and any other department or agency determined to have an interest.

It has been noted that commercial hemp operations have similar impacts to that of marijuana, primarily visual and odors, but hemp operations, once licensed by the State Department of Agriculture, require no additional permitting by the County.

Sample Motion:

I move to recommend to the Board of County Commissioners to adopt the amendment to San Miguel County Land Use Code Section 5-29 to allow Outdoor Cultivation at a Medical or Retail Cultivation Facility and to allow the temporary use of Non-substantial Greenhouses, based on the finding that the proposed amendment complies with the standards of Land Use Code Section 5-1802, Land Use Code Amendments, is consistent with Land Use Code Section 1-4, Purposes of the Land Use Code, and meets the intent of the marijuana regulations and standards as stated in Section 5-2903, Department of Revenue Marijuana Enforcement Division (DOR MED) and Local Licensed Medical and Retail Marijuana Facilities and Establishments, in that the standards will ensure that licensed establishments are located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public. It is further recommended to adopt:

Pick one of the following:

Option 1 as set forth in the proposed amendment, which retains the existing limit of a maximum of three cultivation areas on a property that is 35 acres or larger.

OR

Option 2 as set forth in the proposed amendment, which allows a facility on a property that is 35 acres or larger to seek approval for the number of cultivation areas necessary to achieve the plant count limits of the State license.

Additions are shown with red underline. Deletions are shown with ~~red strike-through~~.

SECTION 5-29 MEDICAL AND RETAIL MARIJUANA FACILITIES & ESTABLISHMENTS – INCLUDING PLANT COUNT LIMITS FOR BOTH PERSONAL USE/RECREATIONAL AND MEDICAL MARIJUANA CULTIVATION ON RESIDENTIAL AND NON-RESIDENTIAL PROPERTIES IN ALL ZONE DISTRICTS IN UNINCORPORATED SAN MIGUEL COUNTY

5-2903 Department of Revenue Marijuana Enforcement Division (DOR MED) and Local Licensed Medical and Retail Marijuana Facilities and Establishments

These general standards are intended to cause such licensed establishments to be located and developed so they blend into the rural ranching and agricultural landscape, are not highly visible or have the location of these facilities readily apparent to neighboring landowners and the general public. This is proposed to be accomplished by requiring a Two-Step Special Use Permit Review process, requiring increased noticing requirements, including specific time, place and manner, restrictions limiting the location, prescribing distance requirements from Schools, and residential areas, setting size and scale limits on the operations, prohibiting signage, and potentially limiting the number of allowed marijuana establishments within the unincorporated areas of the county. Section 5-29, with the exception of Section 5-2910 Definitions, does not apply to licensed marijuana establishments within the Ilium Industrial Park where Marijuana Facilities and Establishments are allowed by right subject to the applicable provisions in the Lawson Hill PUD Land Use Matrix and Section 5-2910 Definitions.

5-2904 General

Medical Marijuana Optional Premises Cultivation Operations, Medical Marijuana Infused Products Manufacturing, Medical Marijuana Centers and Retail Cultivation Facility, Retail Production Manufacturing, Retail Testing Facility and Off Premises Storage of Retail Marijuana Facility are uses allowed in the Low Intensity Industrial (I) Zone District in the Ilium Valley portion of the Lawson Hill PUD by Administrative Review.

Medical Marijuana Optional Premises Cultivation Operations Medical Marijuana Infused Products Manufacturing and Retail Cultivation Facility and Retail Production Manufacturing may be allowed subject to approval of a Two-step Special Use Permit application in the Forestry, Agriculture and Open (F) Zone District, the Wright's Mesa (WM) Zone District and the Wright's Mesa Rural Agricultural (WMRA) Zone District.

Marijuana Facilities/Establishments are not allowed within the Wright's Mesa Master Plan Norwood Future Land Use Plan area.

A Medical or Retail Marijuana establishment may not operate until it is duly licensed by the state licensing authority and approved and licensed by San Miguel County.

The County Retail and Medical Licensing Standards, which are separate documents, shall establish the number of marijuana facilities allowed in the F, WM, and WMRA at any given time.

5-2905

Review Procedures

All applications for Facilities or Establishments to be located within the Forestry, Agriculture and Open (F), Wright’s Mesa (WM) and Wright’s Mesa Rural Agricultural (WMRA) Zone Districts are subject to a Two-step Planning Commission and Board of County Commissioner review. The process will consider the zoning, type, location, size and scale, the proximity to a Residential Area, and will be reviewed for compliance with the provisions and the standards set forth herein, as well as the standards of the applicable Zone District. Future phases of expansion of the facility, either outdoors or indoors, may be approved administratively through a development permit, provided the initial Special Use Permit (SUP) identified conceptual future phases and included conditions to mitigate impacts of the expanded facility.

5-2906

Application Requirements

A. Pre-application Conference with Staff

Prior to the submittal of an application for a marijuana facility the applicant shall schedule a pre-application conference with the Planning Department staff. The applicant will provide information on the proposed facility, including the location. Staff may conduct a site visit to the proposed location to determine what specific issues may need to be addressed in addition to the following General Requirements.

B. General Requirements

1. The use must comply with all applicable county and state regulations including but not limited to state and local licensing regulations for Facilities and Establishments.
2. Retail Marijuana Stores and Medical Marijuana Centers are prohibited within the unincorporated areas of the County, except as an Accessory Use to a permitted and licensed Retail Marijuana or Medical Cultivation facility or Retail or Medical Production Manufacturing facility within the Ilium Industrial Park.
3. The use shall be located within a building or Substantial Greenhouse, or in an approved Outdoor Cultivation Area, and shall be designed to blend into the surrounding rural landscape. Non-substantial Greenhouses, i.e. “hoop-houses,” may be allowed on a temporary basis. Such structures will be

reviewed on an annual basis to ensure proper maintenance. These structures will have a two (2) year maximum life. Non-substantial Greenhouses shall be subject to all requirements and limitations of this Section 5-2906.

4. Storage of Equipment. All equipment, with the exception of conventional farm equipment that is normally stored outside, must be stored inside the structure or within an enclosed fenced area.
5. Water. The applicant must demonstrate a legal and physically adequate water supply for the proposed use. Applicant must complete the State of Colorado, Office of the State Engineer Water Supply Information Summary form and submit this form with the application for a Special Use Permit. This completed form will be referred by staff to the Office of the State Engineer, Division of Water Resources for review and comment.
6. The following must be addressed as part of any application:
 - a. Site Plan: The site plan shall show the location of the building Cultivation Areas containing the licensed premises and provide distances from the building or Cultivation Area to adjacent buildings, describe all existing uses within the building or Cultivation Area and all adjacent buildings, parking spaces, property lines, and physical land features, such as streams, existing vegetation, driveways, and roadways. If the applicant proposes an Outdoor Cultivation Area, the site plan shall provide distances from the Cultivation Area to property lines and also from the Cultivation Area to surrounding residences. The site plan shall also show all fences, waste storage, irrigation and utilities.
 - b. Location Plan. The location plan shall show all uses located within one-half (½) mile of the property boundary line of the premises on which the Retail or Medical Marijuana Establishment is located, including, but not limited to: any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or residential child care facility; or a drug or alcohol rehabilitation center. The distance measurement shall be a direct line between the closest point of the ~~premises' boundary~~ Cultivation Area and the closest point on the neighboring lot or parcel containing the specified use.
 - c. Building Plan. The plans for the interior of the Marijuana Establishment shall include a detailed floor plan layout and information needed to demonstrate compliance with the Local Licensing standards and the applicable requirements of the County's adopted Building Code(s). For Outdoor Cultivation Areas, a detailed site layout of the growing area shall be provided with information needed to demonstrate compliance with the Local Licensing standards and the applicable requirements of the County's adopted Building Code(s).
 - d. Location of existing residential structures within ½ mile.
 - e. Number of proposed employees, both permanent and temporary.

- f. A waste disposal plan.
- g. A noxious weed control plan.
- h. An odor abatement plan designed to keep all odors from the proposed use from emanating beyond the subject property lines to prevent impacts on adjacent properties.
- i. Proposed plant count for each Cultivation Area.
- j. Fence design, including layout, height and materials.
- k. Water source for irrigation.
- l. Drainage and stormwater management plan.

C. Scenic Quality Mitigation Plan

- 1. A plan for mitigation of visual impacts or other appropriate aesthetic impacts of the proposed access, structure(s), fencing, landscaping, and ancillary site improvements and use to achieve the goal set forth in Section 5-2101 A. Purpose.
- 2. Visual mitigation techniques such as coloring, screening and landscaping. Use of natural colors and native vegetation is encouraged. If an Outdoor Cultivation Area is proposed, an exterior fence shall be erected around the cultivation area (i.e. a chain link fence or the like) that complies with state standards. Solid wood, slats, or screens may be required if necessary to screen the view of the cultivation area from adjacent roadways or properties.
- 3. Provide a lighting plan. All exterior lighting shall be either directed toward the ground or the surface of a building. Lighting shall be shielded to prevent direct visibility of light bulbs from off-site. Motion detector security lighting may be approved if the lights are fully shielded and down lighted. High intensity sodium vapor and similar lighting is prohibited.
- 4. Signs. No advertising or business identification sign is permitted anywhere upon or attached to the facility or property. Warning or advisory signs related to security may be allowed.
- 5. The level of mitigation required will depend on the location of the proposed facility in relation to topographic features, important visual features, proximity to residential neighborhoods and other sensitive visual areas. Placement of structures in treed or screened areas rather than open meadow areas is preferred in order to reduce the visibility of such facilities to the public to the maximum extent reasonably feasible.

OPTION 1: This option maintains the existing limit of 3 cultivation areas. A 3,000 s.f. greenhouse or a 20,000 s.f. outdoor area can grow about 200 plants, resulting in a maximum of 600 plants.

D. Area and Bulk Requirements

- 1. Minimum Lot Area: Five (5) acres. The minimum lot area requirement for a Medical Marijuana Infused Product Manufacturer and/or a Retail

Marijuana Products Manufacturing Facility shall conform to the Area and Bulk requirements of the underlying zone district. Marijuana Product Manufacturing may also be considered through a Two-step SUP Review process on legally created substandard sized parcels if the application meets all other applicable Land Use Code requirements.

2. Maximum Size for a Proposed ~~Building or Greenhouse~~ Cultivation Area:

a. Parcels less than thirty-five (35) acres: Three thousand (3,000) square feet within a building or Greenhouse. The maximum square footage includes all marijuana related uses, whether a single use or combined uses.

b. Parcels thirty-five (35) acres or larger: ~~may be allowed up~~ Up to three (3) separate Cultivation Areas may be allowed, 3,000-square-foot structures depending on the parcel location, size and the applicant's ability to comply with all applicable standards and the limits of the operation's state license. Cultivation Areas may be located in a building, Greenhouse, or Outdoor Cultivation Area, subject to the following restrictions:

(i) Buildings or Greenhouses: three thousand (3,000) square feet each; or

(ii) Outdoor Cultivation Area: twenty thousand (20,000) square feet per area, for the growing of female/female clone plants only; or

(iii) Any combination of buildings, Greenhouses, and/or Outdoor Cultivation Areas, for a total of three (3) Cultivation Areas.

(iv) One additional three thousand (3,000) square foot building may be permitted for the hanging, trimming and processing of marijuana or any related products. The additional building shall not be used as a Cultivation Area.

(v) Additional structures may be allowed for the storage of materials and equipment related to the cultivation and operation business, but not for the storage or processing of any marijuana or related products.

OPTION 2: This option allows the facility to seek approval for the number of cultivation areas necessary to achieve the plant count limits of the State license. For example, if a cultivation area (greenhouse or outside) can support 200 plants and the license authorizes 1,800 plants, the applicant could request approval of up to 9 cultivation areas.

D. Area and Bulk Requirements

1. Minimum Lot Area: Five (5) acres. The minimum lot area requirement for a Medical Marijuana Infused Product Manufacturer and/or a Retail

Marijuana Products Manufacturing Facility shall conform to the Area and Bulk requirements of the underlying zone district. Marijuana Product Manufacturing may also be considered through a Two-step SUP Review process on legally created substandard sized parcels if the application meets all other applicable Land Use Code requirements.

2. Maximum Size for a Proposed ~~Building or Greenhouse~~ Cultivation Area:

a. Parcels less than thirty-five (35) acres: Three thousand (3,000) square feet within a Building or Greenhouse. The maximum square footage includes all marijuana related uses, whether a single use or combined uses.

b. Parcels thirty-five (35) acres or larger: The maximum Cultivation Area(s) shall be dependent ~~may be allowed up to three separate 3,000 structures depending~~ on the parcel location, size and the applicant's ability to comply with all applicable standards and the limitations of the operation's state license. Cultivation Areas may be located in a building, Greenhouse, or Outdoor Cultivation Area, subject to the following restrictions:

(i) Buildings or Greenhouses: three thousand (3,000) square feet each; or

(ii) Outdoor Cultivation Area: twenty thousand (20,000) square feet per area, for the growing of female/female clone plants only; or

(iii) Any combination of buildings, Greenhouses, and/or Outdoor Cultivation Areas, to the maximum allowed.

(iv) One additional three thousand (3,000) square foot building may be permitted for the hanging, trimming and processing of marijuana or any related products. The additional building shall not be used as a Cultivation Area.

(v) Additional structures may be allowed for the storage of materials and equipment related to the cultivation and operation business, but not for the storage or processing of any marijuana or related products.

End Option 2

3. Setbacks:

a. ~~A~~ The minimum setback for an indoor marijuana cultivation facility is fifty (50) feet from all property lines regardless of zone district. Outdoor Cultivation Areas shall have a minimum setback of one hundred (100) feet from the property line. Additionally, the Outdoor Cultivation Area shall be at least five hundred (500) feet from the closest dwellings existing on neighboring properties at time of application. The distance measurement shall be a direct line between

the closest point of the Outdoor Cultivation Area and the closest points of the dwellings on the neighboring properties.

- b. In addition, the following setbacks shall also apply:
- (i) Any public or private preschool or elementary, middle, junior high, or high school; the campus of any college, university, seminary, or licensed residential child care facility; or a drug or alcohol rehabilitation center must be located a minimum of one-half (½) mile from the nearest property line of the parcel. The distance measurement shall be a direct line between the closest point of the ~~structure~~ Cultivation Area and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
 - (ii) Setbacks from a private camp or recreational facility frequented by minors: a minimum of one thousand (1,000) feet from the nearest property line of the land. The distance measurement shall be a direct line between the closest point of the ~~structure~~ Cultivation Area and the closest point on the neighboring lot or parcel upon which any of the above uses are located.
 - (iii) Setbacks from Residential Areas: New facilities may not be located within one-half (½) mile of a Residential Area.
- c. Setbacks may be increased or decreased during the review and evaluation of the Special Use Permit.

4. Fences:

- a. Outdoor Cultivation Areas area shall be properly fenced for security with a minimum eight (8) foot chain-link fence or six (6) feet of chain-link material with two (2) foot security arms with barb wire or razor wire or equivalent type of fencing for security. Alternative fence materials, such as woven field fence, may be considered if approved by the State. Solid wood, slats, or screens may be required if necessary to screen the view of the cultivation area from adjacent roadways or properties.
- b. Portions of the fence may be required to be removable during periods when Outdoor Cultivation is not occurring, to allow the seasonal movement of wildlife through the property and where such removal would not compromise the security of the facility.

5-2907 Noticing Requirements

Two-step reviews require that the notice to adjacent and affected property owners include the date, location and contact information for the time of the public meeting. The notice

shall also include a provision that encourages the adjacent and affected property owners to provide written comments no later than one- ~~(1)~~ week prior to the meeting date in order to be included in the meeting packets, although comments will be accepted up to the public meeting date.

The following noticing procedures shall apply:

~~1~~A. The owners, as recorded in the records of the county, of any land adjacent to or located within one-half (1/2) mile of any portion of the boundary of the parcel or tract containing the subject site and owners of each parcel of real property adjacent to or through which the designated Access Road extends from the nearest public road. Such notice shall be sent by the applicant or Planning Department at the applicant's expense at least ~~twenty~~ (20) days prior to the scheduled meeting date. Email notice to adjacent and affected property owners is encouraged if Email addresses are available from the County Assessor's Office. Persons notified and the distance of notice may be increased at the discretion of the County based upon size and scale of the proposed Facility, surrounding land use pattern and perceived impacts.

In addition to the required written notice under this provision, the applicant shall make a good faith effort (at a minimum contacting the County Planning Department and checking the records of the County Clerk and Recorders Office) to ascertain if any of the landowners required to be provided written notice, as part of an application, are also members of a condominium association or homeowner's association. If the result of the good faith examination identifies the existence of such condominium association or homeowner's association, the applicant shall provide written notice to these associations in the same manner as other landowners. Email notice to these associations is encouraged if Email addresses are available from the County.

~~2~~B. The public notice shall include the following:

~~(a)~~1. A description of the location of the facility (including a legal and practical locational description and a vicinity map), a general site plan, a vicinity map which includes the designated Access Road to the facility, and the proposed activity under review.

~~(b)~~2. Time and place of the public meeting.

~~(c)~~3. The name and address of the applicant and/or its designated agent, and a statement that additional information may be obtained from the Planning Department.

~~3~~C. Posting of notice shall be made by the applicant by posting a sign (to be obtained from the County) in a conspicuous place on the property or closest public roadway at least ~~twenty~~ (20) days prior to the scheduled meeting date.

~~4~~D. The applicant shall present proof of such notice by submitting a copy of the letter and a list of the landowners notified, together with an affidavit attesting to the mailing of such notice executed by the person responsible for providing such written notice, to the Planning Department.

5-2908 Commencement, Duration and Modification of Special Use Permit

The Special Use Permit shall become effective on the date of written approval by the County.

Special Use Permits are issued to the applicant and do not run with the land.

If an applicant desires to modify the subject Facility by changes to equipment, site layout, approved operating plan, etc., an amendment to the original application shall be submitted for review and approval. The Planning Department shall determine whether the modification has substantial impacts or is considered a minor amendment pursuant to County adopted standards for Medical and Retail Marijuana uses.

Special Use Permit approval shall only be valid as long as the applicant holds a current State and County License for the approved use.

5-2909 Disposal of Marijuana

Marijuana waste shall be stored, secured, and managed in accordance with applicable state laws, including but not limited to rules promulgated by the Colorado Medical Marijuana Enforcement Division and the Colorado Department of Revenue-Marijuana Enforcement Division (DOR-MED) in effect and as amended from time to time hereinafter.

5-2910 Definitions

Cultivation Area

Means a building, Greenhouse, or Outdoor Cultivation Area used for the growing of marijuana.

Enclosed

Means a permanent or semi-permanent area covered and surrounded on all sides. Temporary opening of windows and doors or the temporary removal of a wall or ceiling panels does not convert the area into an unenclosed space.

Extended Plant Count

Means County approval given to either a Medical Marijuana Patient or a Primary Caregiver to allow a plant count over twelve (12) marijuana plants but not more than twenty-four (24) plants on a Residential property, which shall only be applicable for Patients whose physicians have recommended such an extended plant count as being medically necessary to address the Patient's debilitating medical condition.

Local Licensing Standards

Means Local Licensing Standards as adopted and amended by the Board of County Commissioners.

Locked Space

Means secured at all points of ingress or egress with a locking mechanism designed to limit access, such as a key or combination lock.

Medical Marijuana

Means marijuana that is grown and sold pursuant to the Medical Code and includes seeds and Immature Plants.

Medical Marijuana Business

Means a Medical Marijuana Center, a Medical Marijuana Infused Product Manufacturer, or an Optional Premises Cultivation Operation.

Medical Marijuana Center

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-402 C.R.S., and sells medical marijuana to registered patients or primary caregivers as defined in Article XVIII, Section 14 of the Colorado Constitution, but is not a primary caregiver.

Medical Marijuana Infused Product

Means a product infused with Medical Marijuana that is intended for use or consumption other than by smoking, including but not limited to edible product, ointments, and tinctures. Such products shall not be considered a food or drug for purposes of the “Colorado Food and Drug Act,” part 4 of Article 5 of Title 25, C.R.S.

Medical Marijuana Infused Product Manufacturer

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-404, C.R.S.

Medical Marijuana Patient (Patient)

Means a person who has applied for and is entitled to receive a registry identification card with the Colorado Department of Public Health and Environment.

Non-residential Property

Means all other property than Residential Property as defined herein.

Non-substantial Greenhouse

Means a hoop house, high tunnel or other similar structure that is covered or uses a membrane or a soft pliable sheet, i.e. plastic sheeting, visqueen, tarps, canvas, polyethylene films or similar materials, to be used on a short-term basis.

Optional Premises Cultivation Operation

Means a Person licensed pursuant to the Medical Code to operate a business as described in section 12-43.3-403, C.R.S.

Outdoor Cultivation Area

Means a designated and approved outdoor area to grow marijuana.

Primary Caregiver

Means a person who is 18 years of age or older who has significant responsibility for managing the well-being of a patient who has a debilitating medical condition. Primary caregivers who cultivate medical marijuana for their patients must register with CDPHE and the DOR-MED. In order to be a primary caregiver who cultivates medical marijuana for his or her patients or transports medical marijuana for his or her patients, he or she shall also register with the state licensing authority and comply with all local laws, regulations, and zoning and use restrictions.

Personal Use/Recreational Marijuana

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated and/or consumed by a person twenty-one years of age or older for personal use by persons twenty-one years of age or older, but not for resale to others. Such Marijuana does not include industrial hemp.

Residential Area

Means an area as depicted on the maps attached as Exhibit I to this Section. These mapped areas may be amended as necessary by the County. New licensed marijuana facilities may not be located within one-half (½) mile of a Residential Area. A Residential Area may be zoned something other than WM, WMRA and F.

Residential Property

Means a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. “Residential Property” also includes the real property surrounding a structure, owned in common with the structure that includes one or more single units providing complete independent living facilities.

Retail Marijuana

Means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate that is cultivated, manufactured, distributed, or sold by a licensed Retail Marijuana Establishment. “Retail Marijuana” does not include industrial hemp, nor does it include fiber produced from stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

Retail Marijuana Cultivation Facility

Means an entity licensed to cultivate, prepare, and package Retail Marijuana and sell Retail Marijuana to Retail Marijuana Establishments, but not to consumers.

Retail Marijuana Establishment

Means a Retail Marijuana Store, a Retail Marijuana Cultivation Facility, a Retail Marijuana Products Manufacturing Facility, or a Retail Marijuana Testing Facility.

Retail Marijuana Product

Means a product that is comprised of Retail Marijuana and other ingredients and is intended for use or consumption, such as, but not limited to, edible product, ointments and tinctures.

Retail Marijuana Products Manufacturing Facility

Means an entity licensed to purchase Retail Marijuana, manufacture, prepare, and package Retail Marijuana Product, and sell Retail Marijuana and Retail Marijuana Product to other Retail Marijuana Products Manufacturing Facilities and to Retail Marijuana Stores, but not to consumers.

Retail Marijuana Store

Means an entity licensed to purchase Retail Marijuana from a Retail Marijuana Cultivation Facility and to purchase Retail Marijuana Product from a Retail Marijuana Products Manufacturing Facility and to sell Retail Marijuana and Retail Marijuana Product to consumers.

Retail Marijuana Testing Facility

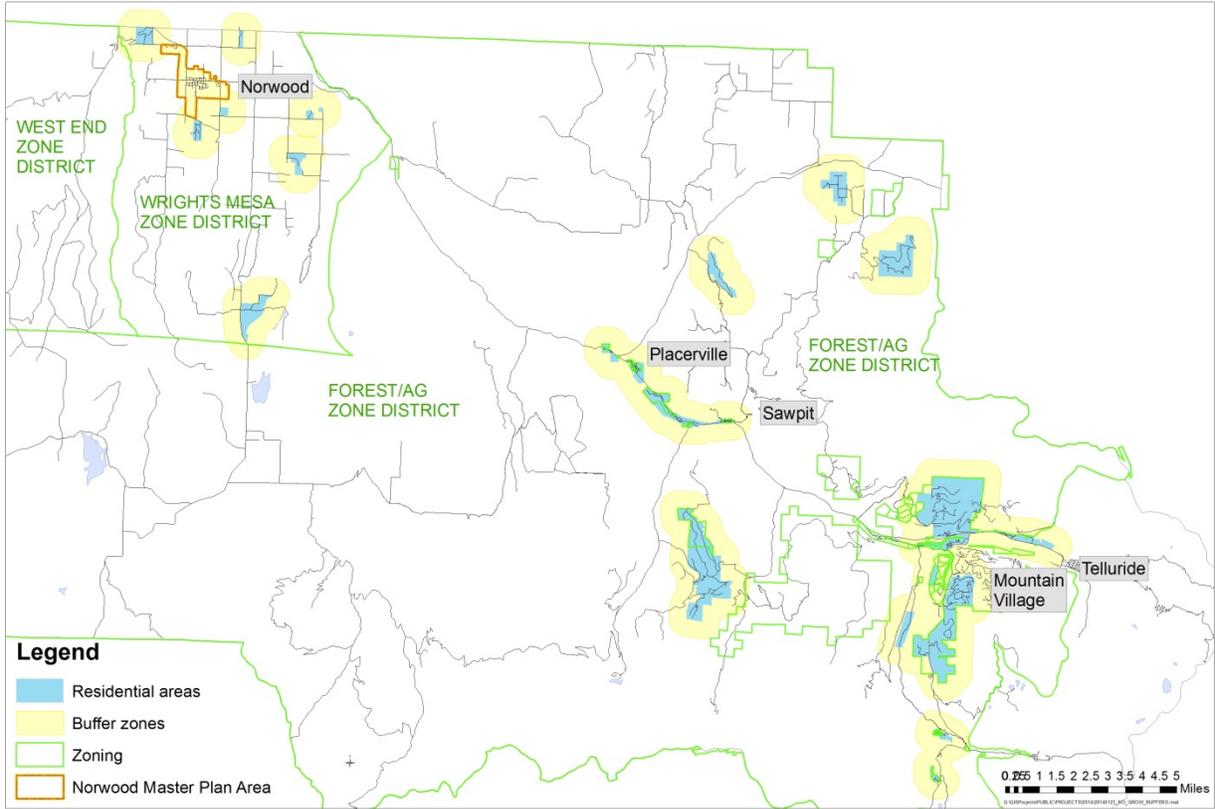
Means a public or private laboratory licensed and certified, or approved by the Division, to conduct research and analyze Retail Marijuana, Retail Marijuana Products and Retail Marijuana Concentrate for contaminants and potency.

Substantial Greenhouse

Means a solid, secured structure constructed to the design requirements for imposed loads (e.g., wind, snow, seismic activity) as required by the International Building Code. The exterior wall and roof coverings must be materials such as concrete, glass, metal, wood, polycarbonates or any such material that is tested and approved for such use.

EXHIBIT 1

Residential Areas and Residential Area Buffer Zones



A full size version of this map may be viewed on the County webMap at www.sanmiguelcounty.org



Kaye Simonson <kayes@sanmiguelcountyco.gov>

Agency Referral: proposed SMC LUC Amendment - Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow limited outside commercial cultivation operations

1 message

John Huebner <johnh@sanmiguelcountyco.gov> Mon, Apr 6, 2020 at 12:28 PM
To: Amy Markwell <amym@sanmiguelcountyco.gov>, Todd Herman <toddh@sanmiguelcountyco.gov>, Bill Masters <wsmasters@gmail.com>, Dan Covault <danc@sanmiguelsheriff.org>, Nolan Murphy <nolan@alpinewellness.co>, Dahlia Mertens <dahlia@maryjanesmedicinals.com>, Greg Viditz-Ward <gregv_w@hotmail.com>, Ross Herzog <rherzog@telluride-co.gov>, Kim Montgomery <kmontgomery@mtnvillage.org>, Patti Grafmeyer <grafmyer@norwoodtown.com>, Mike Kimball <michaelnjoyce@msn.com>, Ken Haynes <manager@ophir.us>, Kelly Crane <kelly.crane@state.co.us>, rachelle.redmond@state.co.us, gregory.powers@state.co.us
Cc: Kaye Simonson <kayes@sanmiguelcountyco.gov>, Troy Hangen <troyh@sanmiguelcountyco.gov>

All,

Please find attached memorandum and a draft amendment to the San Miguel County Land Use Code for the purpose of allowing outside cultivation of marijuana for medical and retail operations. Thank you for reviewing this draft amendment and providing your feedback.

The Planning Department requests that you please provide your review comments by April 27, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountyco.gov. Please contact the Planning staff if you have any questions.

John

John Huebner
Senior Planner
San Miguel County
P:970-728-3083
[333 W Colorado Ave, 3rd Flr](http://333.W.Colorado.Ave,3rd.Flr)
Telluride, CO 81435

www.sanmiguelcountyco.gov



2 attachments

- Memos to Review Agencies 040620.pdf**
305K
- 5-2903 Marijuana WORKING DRAFT v2.pdf**
580K

MEMORANDUM

TO: Review Agencies
FROM: Kaye Simonson, Planning Director
DATE: April 6, 2020
RE: Land Use Code Amendment – Section 5-2903, Marijuana

Please find attached a draft amendment to the San Miguel County Land Use Code for the purpose of allowing outside cultivation of marijuana for medical and retail operations. Currently, San Miguel County allows commercial and medical marijuana cultivation to occur only in buildings or greenhouses. On properties less than 35 acres in size, one 3,000 square-foot building or greenhouse is allowed. That is not proposed to be changed. On properties 35 acres or larger, facilities may have a total of three 3,000 square-foot buildings or greenhouses. Outdoor growing operations and “insubstantial” greenhouses such as hoop houses are not permitted. About 200 plants can be grown in a 3,000 square-foot greenhouse.

The draft amendment would allow Outdoor Cultivation Areas of 20,000 square feet (about half an acre) on properties 35 acres or larger. Because plants grown outside are larger than those grown in a greenhouse, this is still equivalent to about 200 plants. The draft amendment has two options. The first keeps the limit of three cultivation areas – inside, outside, or a combination of the two, which would allow about 600 plants in total. The second would allow as an operator to propose as many cultivation areas as their state license would permit. For example, if licensed for up to 1,800 plants, they could request nine cultivation areas.

Proposed setbacks to outdoor cultivation areas would be 100 feet to the property line and 500 feet to any existing residence. The areas would have to be fenced. One additional 3,000 square-foot building would be permitted for hanging, trimming, etc. Other buildings would be permitted for storage of equipment and supplies. These buildings could not be used for cultivation. Hoop houses could be approved on a temporary basis, to allow the operator time to construct permanent improvements.

This amendment would have no effect on the regulations regarding plant count limits for personal, non-commercial cultivation and use.

Thank you for reviewing this draft amendment. We appreciate your feedback. Please let us know if you have any questions.



Kaye Simonson <kayes@sanmiguelcountyco.gov>

Fwd: Proposed Land Use Code Amendment

1 message

Bill Masters <billm@sanmiguelsheriff.org>

Fri, May 8, 2020 at 9:22 AM

To: "From: Troy Hangen" <troyh@sanmiguelcountyco.gov>, "To:" <grafmyer@norwoodtown.com>, Amy Markwell <amym@sanmiguelcountyco.gov>, mark.caddy@state.co.us, Dan Covault <danc@sanmiguelsheriff.org>, John Huebner <johnh@sanmiguelcountyco.gov>, Kaye Simonson <kayes@sanmiguelcountyco.gov>

Troy, Sorry I missed this email. It was sent to my personal email and I overlooked it. Please note my work email billm@sanmiguelsheriff.org

The outdoor grow with the restrictions stated is ok with this particular operator. The fencing designed to exclude intruders is important together with an operation that makes certain the gate is locked, someone is checking on the property routinely, etc.

Sgt Covault may have more comments and I would defer to his expertise on the subject.

----- Forwarded message -----

From: **Troy Hangen** <troyh@sanmiguelcountyco.gov>

Date: Wed, Mar 4, 2020 at 11:41 AM

Subject: Proposed Land Use Code Amendment

To: <grafmyer@norwoodtown.com>, Amy Markwell <amym@sanmiguelcountyco.gov>, <mark.caddy@state.co.us>, <wsmasters@gmail.com>, <danc@sanmiguelsheriff.org>, John Huebner <johnh@sanmiguelcountyco.gov>, Kaye Simonson <kayes@sanmiguelcountyco.gov>

Good Morning,

My name is Troy Hangen and I am the new Senior Planner for San Miguel County. Kaye Simonson and I have worked on a new amendment to our Land Use Code for outdoor marijuana grow possibilities for the County and we have created this proposal that we will be presenting to the Planning Commission next Wednesday in Norwood.

Feel free to join us or send comments to me beforehand and I will gladly present them to the Planning Commission.

--

Troy Hangen

Senior Planner

San Miguel County

P:970-728-3083

333 W Colorado Ave, 3rd Flr

Telluride, CO 81435

www.sanmiguelcountyco.gov



--

*Respectfully,
Sheriff Bill Masters*

billm@sanmiguelsheriff.org

Direct 970.728.7948 | Cell 970.729-2025 | 24hr Dispatch 970.728.1911

Physical and Mailing Address 684 CR 63L | Telluride, CO 81435

Under the Colorado Open Records Act (CORA) all messages sent by or to me on this county-owned email account may be subject to public disclosure.

2 attachments

 **01 CPC Workshop Memo 031120.pdf**
75K

 **02 CPC Staff Report.pdf**
601K



TOWN OF NORWOOD

*P.O. Box 528
1670 Naturita Street
Norwood, Colorado 81423
www.norwoodtown.com*

April 21, 2020

San Miguel County Planning Dept.
Attn. Kaye Simonson, Planning Director
P.O. Box 548
Telluride, CO 81435

RE: Land Use Code Amendment to Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow outside commercial cultivation operations.

Dear Kaye:

The Norwood Board of Trustees would like to thank the San Miguel County Planning Department for giving us the opportunity to comment on the proposed Land Use Code Amendment to Section 5-29. At this time the Norwood Board of Trustees does not have a comment, but would greatly appreciate being kept apprised of all decisions and or developments that may arise regarding the above mentioned LUC amendment. Please contact our staff with any questions you may have.

Sincerely,


E. Kiether Parrino, Mayor
Town of Norwood



Kaye Simonson <kayes@sanmiguelcountyco.gov>

Proposed SMC LUC Amendment-Section 5-29 Medical and Retail Marijuana Facilities and Establishments

1 message

Powers - DNR, Gregory <gregory.powers@state.co.us>
To: kayes@sanmiguelcountyco.gov

Thu, Apr 16, 2020 at 9:59 AM

Hello Ms. Simonson.

My name is Greg Powers and I am the Well Commissioner for Division 4 of the Colorado Division of Water Resources. I have reviewed the memorandum and draft amendment for the proposed outside cultivation of marijuana.

In reference to the portion of this project that concerns our office, as stated in the General Requirements section 5, the applicant would need to demonstrate both the physical and legal availability of water for this project. The concerns in this area would include the timeframe when surface water would be used and the approved uses for groundwater if a well were used to supply water for this project.

As the irrigation season is from April 1 through October 31 each year, diversion of water outside these dates may require augmentation water to be released to make up for depletions. Similarly, depending on the conditions under which the well permit was issued, groundwater depletions may also be required to be augmented under an approved augmentation plan.

Please keep me apprised as to the progress on this project so that once the applicant defines their proposed source of water these issues can be appropriately addressed.

--

Greg Powers
Well Commissioner
Division 4



Cell: 970-234-7733
2730 Commercial Way, Montrose, CO 81401
Gregory.Powers@state.co.us | www.water.state.co.us



COLORADO

Parks and Wildlife

Department of Natural Resources

Montrose Office
2300 S. Townsend Avenue
Montrose, CO 81401
P 970.252.6000 | F 970.252.6053

April 16, 2020

Kaye Simonson, Planning Director
kayesimonson@sanmiguel county.gov

RE: Land Use Code Amendment to Sec. 5-29 Medical and Retail Marijuana Facilities and Establishments to Allow limited outside commercial cultivation operations

Dear Ms. Simonson;

Thank you for allowing Colorado Parks and Wildlife (CPW) to review and comment on the potential changes to your land use code. Having reviewed the draft proposals for Sec. 5-29, CPW has the following concerns and/or suggestions.

1. Even though the outside cultivation areas are limited to 20,000 square feet (not quite a half acre), there is potential that, depending upon the shape of the area, the fencing could exceed 142 feet along one side. Depending upon the location of the cultivation area(s) within the property and the overall number of cultivation areas, there is potential that wildlife movement, primarily large ungulates, could be impacted. CPW would suggest that such movement be considered when constructing the cultivation areas and that the fencing, if necessary, be removable as to adapt to seasonal wildlife movement.
2. CPW suggests the inclusion of wording that requires the cultivation area(s) owners be required to collect and dispose of plastic covering from hoop houses or weed barriers that maybe carried from the property by prevailing winds. Such material can have detrimental impacts on some wildlife species.
3. While CPW understands that the majority of such operations use a drip irrigation system for maximum water conservation, there is concern regarding waste water from the operations pooling outside the outside cultivation area(s) without knowing what chemicals, if any, are being used in the growing process. Perhaps some kind of treatment or holding pond within the fence would be appropriate if there will be runoff.
4. CPW is also concerned about the potential overall number of outside cultivation area(s). Realizing that size and number are limited by the licensing process, there is still the potential that a fairly significant amount of wildlife habitat could be remove from landscape without mitigation to improve or protect the remaining habitat.

In closing CPW would point out that since fencing is a legal requirement at both the state and county level for these operations, CPW is not providing fencing. Again, thank you for allowing CPW to comment on these land use code changes.

Sincerely,

Mark W. Caddy
P.O. Box 532
Norwood, CO 81423
970-209-2368
mark.caddy@state.co.us





Kaye Simonson <kayes@sanmiguelcountyco.gov>

Fwd: Agency Referral: proposed SMC LUC Amendment - Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow limited outside commercial cultivation operations

1 message

John Huebner <johnh@sanmiguelcountyco.gov>
To: Kaye Simonson <kayes@sanmiguelcountyco.gov>
Cc: Dahlia Mertens <dahlia@maryjanesmedicinals.com>

Tue, Apr 14, 2020 at 9:06 AM

forwarded comments.

John Huebner
Senior Planner
San Miguel County
P:970-728-3083
333 W Colorado Ave, 3rd Flr
Telluride, CO 81435

www.sanmiguelcountyco.gov

----- Forwarded message -----

From: **Dahlia Mertens** <dahlia@maryjanesmedicinals.com>
Date: Mon, Apr 13, 2020 at 4:56 PM
Subject: Fwd: Agency Referral: proposed SMC LUC Amendment - Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow limited outside commercial cultivation operations
To: John Huebner <johnh@sanmiguelcountyco.gov>

Hey John,

I just emailed Kaye in response to the proposal to allow outdoor grows. But it got bounced back saying her email was undeliverable. I emailed it to the email you listed in your email- kayesimonson@sanmiguelcountyco.gov
Not sure what the issue is here. Can you please forward my comments to her? Thanks!

----- Forwarded message -----

From: **Dahlia Mertens** <dahlia@maryjanesmedicinals.com>
Date: Mon, Apr 13, 2020 at 3:50 PM
Subject: Re: Agency Referral: proposed SMC LUC Amendment - Section 5-29 Medical and Retail Marijuana Facilities & Establishments, to allow limited outside commercial cultivation operations
To: <kayesimonson@sanmiguelcountyco.gov>

Hello Kaye,

I am in support of allowing outdoor grows. I think it makes sense when considering environmental impacts. I also think that solid fencing can be just as effective a barrier (or better) as greenhouse walls so in this regard I feel it makes perfect sense too. Also, there are many counties in the state that already allow outdoor grows, and it has worked well in other counties so I think it could work well here too.

I support the second structure for this proposal that allows the grow to grow as many plants as their license permits. "The second would allow as an operator to propose as many cultivation areas as their state license would permit. For example, if licensed for up to 1,800 plants, they could request nine cultivation areas."

Thank you, and I hope you are staying healthy and happy.

On Mon, Apr 6, 2020 at 11:28 AM John Huebner <johnh@sanmiguelcountyco.gov> wrote:

All,

Please find attached memorandum and a draft amendment to the San Miguel County Land Use Code for the purpose of allowing outside cultivation of marijuana for medical and retail operations. Thank you for reviewing this draft amendment and providing your feedback.

The Planning Department requests that you please provide your review comments by April 27, 2020 to Kaye Simonson, Planning Director, kayesimonson@sanmiguelcountyco.gov. Please contact the Planning staff if you have any questions.

John

John Huebner
Senior Planner
San Miguel County
P:970-728-3083
[333 W Colorado Ave, 3rd Flr](https://www.sanmiguelcountyco.gov)
[Telluride, CO 81435](https://www.sanmiguelcountyco.gov)

www.sanmiguelcountyco.gov



--
Sincerely,

Dahlia Mertens
Owner- Mary Jane's Medicinals
(970)729-0071
dahlia@maryjanesmedicinals.com
maryjanesmedicinals.com

PO Box 2842 Telluride, CO 81435

--
Sincerely,

Dahlia Mertens

4/14/2020

San Miguel County Mail - Fwd: Agency Referral: proposed SMC LUC Amendment - Section 5-29 Medical and Retail Marijuana Facilities ...

Owner- Mary Jane's Medicinals
(970)729-0071
dahlia@maryjanesmedicinals.com
maryjanesmedicinals.com

PO Box 2842 Telluride, CO 81435



Kaye Simonson <kayes@sanmiguelcountyco.gov>

Fw: Marijuana Land Use Code Change

1 message

greg ward <gregv_w@hotmail.com>

Mon, Apr 27, 2020 at 11:18 AM

To: "kayes@sanmiguelcountyco.gov" <kayes@sanmiguelcountyco.gov>

Cc: John Huebner <johnh@sanmiguelcountyco.gov>

From: greg ward**Sent:** Monday, April 27, 2020 11:15 AM**To:** kayesimonson@sanmiguelcountyco.gov <kayesimonson@sanmiguelcountyco.gov>**Cc:** John Huebner <johnh@sanmiguelcountyco.gov>**Subject:** Marijuana Land Use Code Change

Hello Kaye and SMC Staff,

My name is Greg Viditz-Ward. I am the owner of Telluride Green Room. I have an approved OPC License from SMC to grow Medical and Recreational Cannabis on Wrights Mesa, 268 Beaver Canyon Lane. I have a single 3,000 sq ft greenhouse, and 1,800 sq ft indoor facility that I use for an office, as well as starts, drying, curing, trimming and storage. I was originally approved for 2, 3,000sq ft greenhouses, and 1, 1,800sq ft indoor facility. I am on a parcel that is above 35 acres. I have no residential homes other than my own near my location and am located at the end of a private road so I have do not have residents/people driving by. I do live on this property full time. I am in favor of Outdoor Cultivation.

I have a couple questions/comments/concerns on the proposed new land use codes regarding Cannabis Cultivation.

Section 5-2906,C,2- last line states that **Solid wood, slats, and screens are not permitted**. Currently I have green screen wrapped around my exterior 8 ft tall chain link fencing. Will this no longer be required under the new land use code? Or is this a new interior fence system just for the Outdoor cultivation, like a fence inside a fence? I would be fine with removing the fence screen since it has to be constantly repaired due to high winds ripping it.

5-2906,D,3,a(Setbacks)

Proposed code states:

- a. **Outdoor Cultivation Areas shall have a minimum setback of one hundred (100) feet from the property line.**

I was approved by county to be 50ft from property line. Fencing is closer to 70ft from property line. My fencing is not movable. I would prefer this read that a setback of 50ft from property line.

Thank you for your time and consideration of changes to the Land Use Code,

4/27/2020

San Miguel County Mail - Fw: Marijuana Land Use Code Change

Gregory Viditz-Ward
Telluride Green Room