



CONSULTING AND FACILITATION SERVICES

NEVADA COUNTY

CANNABIS REGULATION COMMUNITY PLANNING
PROCESS

CAG MEETING #3



431 I STREET, SUITE 108, SACRAMENTO, CA 95814
(530) 753-9606 | www.migcom.com

in association with:
ECONorthwest | Sam Kamin

CAG #3 AGENDA

1. Welcome and Introductions
2. Review of Basic County Land Use and Zoning Concepts
3. Review of Land Use and Zoning Issues Related to Cannabis Cultivation in the County Today
4. Review and Discussion of Current Land Use and Zoning Parameters for Cultivation Areas in the County and Identification of Potential Adjustments
5. Summary and Next Steps
6. Public Comment

CAG Process Update: Phased Discussions

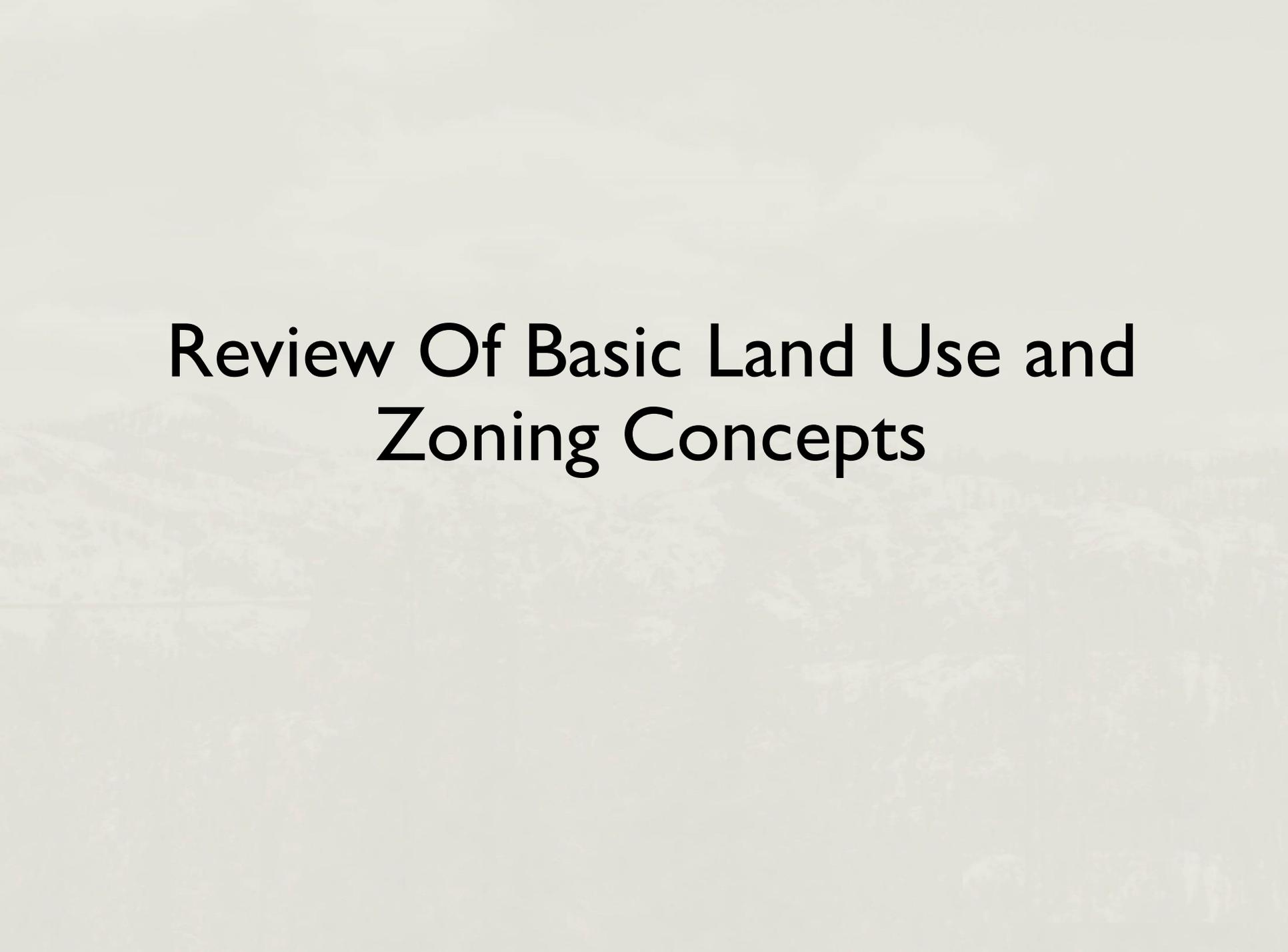
1. Potential Allowable Activities at Cultivation Sites

2. Land Use and Zoning Requirements

3. Permitting Process

4. Inspections, Monitoring and Enforcement

5. Other: Public Health, Tax Revenue, etc.

An aerial photograph of a mountain range with a valley in the foreground. The mountains are covered in dense green forest, and the valley floor is a mix of green fields and brownish soil. The sky is a pale, hazy blue.

Review Of Basic Land Use and Zoning Concepts

Planning Department Roles

- **Current Planning**
 - Review Site Plans and Development Applications
 - Implement General Plan Goals/Policies
 - Implement Zoning Ordinance Standards
 - CEQA
- **Advance Planning**
 - Maintain General Plan Policies
 - Create Area Plans
 - Zoning Ordinance Revisions
 - CEQA

Zoning Purposes

- Land Use Compatibility - Separates uses that are incompatible.
 - A system to prevent development/land uses from harming neighboring properties.
- Began in late 1800's and early 1900's – keep industrial uses out of residential areas
 - 1916 New York City adopted Zoning Regulations as a reaction to a 500 foot tall commercial building that towered over adjacent residences
 - 1926 U.S. Supreme Court upheld Zoning Regulations as constitutional in *Village of Euclid, Ohio v. Amber Realty Co.*

Zoning Implementation

- Zoning District Types
 - Residential
 - Agricultural
 - Commercial
 - Industrial
 - Special Purpose (Open Space, Recreation)
- Allowed Uses vs. Permitted Uses vs. Not Allowed
- Setbacks

Nevada County Zoning

- Residential – Single Family
 - R1- Single Family, intended to provide for single family dwellings up to 4 units per acre
 - RA- Residential Agriculture, establishes provisions for low density single-family dwellings keeping with rural character of the area at densities equivalent to 1.5 acre minimum parcel size or 3 acre parcel size depending on public water or public sewer.
- Residential – Multi Family
 - R2 – Medium Density, intended to provide for moderate density multiple-family dwellings at 6 units per acre
 - R3- High Density, intended to provide for high density multiple-family dwellings at up to 15 units per acre

Nevada County Zoning

- Rural Districts
 - AG – General Agriculture, provides areas for farming, ranching, agricultural support facilities and services, low intensity uses and open space.
 - AE – Agricultural Exclusive, provides for the preservation and protection of important agricultural lands that are being used for commercial agricultural productions
 - FR – Forest, provides for protection, production and management of timber, timber support uses, recreational uses and open space
 - TPZ – Timber Production Zone, provides for prudent and responsible forest resource management and the continued use of timberlands for the production of timber products.

Nevada County Zoning

- Commercial Districts
 - C1, C2, C3 – Neighborhood, Community and Service Commercial
 - CH - Commercial Highway
 - OP - Office and Professional
- Industrial Districts
 - BP - Business Park
 - M1 – Light Industrial
 - M2 – Heavy industrial

Zoning Uses

- Allowed Uses vs. Permitted Uses vs. Not Allowed
 - Allowed Use - Clearly consistent with the purpose of the zoning district (i.e. house in a residential zone) but require a building permit and must meet development standards (setbacks)
 - Permitted Uses – Those uses that may be compatible with the base zoning depending on the design of the project and the characteristics of the property and surrounding area
 - Not Allowed – Determined to be incompatible with the purpose and intent of the zoning district.

Setbacks

- Setbacks
 - Purpose is to provide open areas around structures for visibility and traffic safety, access to and around structures for fire safety and convenience purposes, access to natural light, ventilation and direct sunlight, separation of incompatible land uses, space for privacy and landscaping, protection of natural resources and defensible space against encroaching wildland fire.
- Measured from Property Lines
- Measured from Natural Resources
 - water bodies, wetlands, steep slopes, oak woodlands

General Plan Land Uses

- General Plan Land Use Designations
 - Broader definitions and purposes
 - Zoning Districts implement the General Plan Land Use designations with more specificity
 - Every parcel has a Zoning District and a Land Use Designation
 - Land Use Designations and Zoning must be compatible

General Plan Land Uses

- Urban Land Uses
 - High, Medium and Single-family residential compatible with R3, R2 and R1
- Residential Land Use
 - Provides for low density residential use within or near community regions and is compatible with RA and R1 zoning
- Estate Land Use
 - Provides for low density residential use in rural character areas but near Community Regions consistent with AE, AG, and RA zoning (transition between Residential and Rural)
- Rural Land Use
 - Provides for development of compatible uses within a rural setting compatible with AE and AG zones

Review Process

- Review applications/land uses for consistency with General Plan and Zoning Requirements
 - Ensure all existing structures are permitted
 - Check legal status of property
 - Parcel that was created by subdivision map or certificate of compliance
 - Ensure use is allowed by zoning district
 - Ensure setbacks, height limits for fencing are met

Review Of Land Use and Zoning Issues Related to Cannabis Cultivation in the County Today

Community Outreach

On April 25 and 26, 2017, Daniel Iacofano and Joan Chaplick, of MIG, conducted small group discussions involving 39 community members to develop a better understanding of community member perspectives on the regulation of cannabis in Nevada County. Discussion participants included Nevada County community members from:

- Education
- Public safety and law enforcement
- Nevada Irrigation District
- Nevada County Cannabis Alliance
- Environmental organizations
- Community Development Agency
- Nevada County Contractors Association
- Nevada County Association of Realtors
- Health and Human Services Agencies and Providers

Key Themes – Environmental Impacts

- Impacts from use of pesticides, fertilizers and rodenticides
- Algae growth in creeks and water bodies
- Increased demand for water
- Illegal water diversions and water theft
- Deforestation and soil erosion
- Trespassing and related damages
- Improper disposal of waste, butane tanks, and debris from production and processing operations
- Substandard buildings and structures, electrical utilities, and safety concerns, fire danger and other hazards for industry workers, nearby residents and the environment.

Key Themes – Public Health and Safety

Participants described the following impacts:

- Offensive odors for extended periods of time
- Increased local traffic and impacts on local roads
- Increased crime (real, perceived or the potential for)
- Intimidating presence of guard dogs, specifically pit bulls
- Uncertainty with respect to future landowners and their views
- Landlord and tenant rights regarding cannabis on their property
- Occupational safety and health of cultivation site workers

Key Themes – Neighborhood Quality of Life

Other concerns and impacts

- Indoor growing and related energy consumption
- Size and scale of site improvements
- Size and scale of equipment needed for growing in relation to surrounding residential developments and single family homes

General Criteria for Zoning Requirements:

- They must be shown to protect the public health, safety and welfare.
- They must not be arbitrary.
- They must be consistent.
- They cannot reduce property value to zero.
- They must be applied consistently.
- They must be enforceable.

**Review and Discussion of
Current Land Use and Zoning
Parameters for Cultivation Areas
in the County and Identification
of Potential Adjustments**

Indoor/Outdoor Land Use and Zoning Requirements are Designed to:

- Guide future development actions in a community
- Protect neighbors and adjacent properties from unwanted impacts
- Direct cultivation to the less populated, lower density, more rural outlying areas
- Provide a path to compliance

ZONING: INDOOR/OUTDOOR

#	CODE	DESCRIPTION	POTENTIAL ADJUSTMENTS				CAG MEMBER COMMENTS																																																																																																																					
1	G-IV 5.4.(E)(1) (2) (F)(1)	<table border="0"> <thead> <tr> <th></th> <th>Total Maximum Plants</th> <th>Maximum Indoor Plants</th> <th>Maximum Outdoor Plants</th> <th>Maximum Outdoor Area</th> </tr> </thead> <tbody> <tr> <td colspan="5">Parcel Zoned R1, R2 or R3</td> </tr> <tr> <td>Parcel Size</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>2 acres or less</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 2 acres and up to 5 acres</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 5 acres and up to 10 acres</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 10 acres and up to 20 acres</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Over 20 acres</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td colspan="5">Parcel Zoned RA</td> </tr> <tr> <td colspan="5">GP designation Residential (RES) or Estate (EST)</td> </tr> <tr> <td>2 acres or less</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 2 acres and up to 5 acres</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 5 acres and up to 10 acres</td> <td>12</td> <td>12</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 10 acres and up to 20 acres</td> <td>16</td> <td>12</td> <td>16</td> <td>800</td> </tr> <tr> <td>Over 20 acres</td> <td>25</td> <td>12</td> <td>25</td> <td>1,000</td> </tr> <tr> <td colspan="5">Parcel Zoned RA</td> </tr> <tr> <td colspan="5">GP designation Rural (RUR)</td> </tr> <tr> <td colspan="5">or</td> </tr> <tr> <td colspan="5">Zoned AG, AE, FR or TPZ</td> </tr> <tr> <td>2 acres or less</td> <td>6</td> <td>6</td> <td>0</td> <td>N/A</td> </tr> <tr> <td>Greater than 2 acres and up to 5 acres</td> <td>6</td> <td>6</td> <td>6</td> <td>300</td> </tr> <tr> <td>Greater than 5 acres and up to 10 acres</td> <td>12</td> <td>12</td> <td>12</td> <td>600</td> </tr> <tr> <td>Greater than 10 acres and up to 20 acres</td> <td>16</td> <td>12</td> <td>16</td> <td>800</td> </tr> <tr> <td>Over 20 acres</td> <td>25</td> <td>12</td> <td>25</td> <td>1,000</td> </tr> </tbody> </table> <p>On any parcel size, if over 6 plants, compliance with medical cultivation provisions is required.</p>		Total Maximum Plants	Maximum Indoor Plants	Maximum Outdoor Plants	Maximum Outdoor Area	Parcel Zoned R1, R2 or R3					Parcel Size					2 acres or less	6	6	0	N/A	Greater than 2 acres and up to 5 acres	6	6	0	N/A	Greater than 5 acres and up to 10 acres	6	6	0	N/A	Greater than 10 acres and up to 20 acres	6	6	0	N/A	Over 20 acres	6	6	0	N/A	Parcel Zoned RA					GP designation Residential (RES) or Estate (EST)					2 acres or less	6	6	0	N/A	Greater than 2 acres and up to 5 acres	6	6	0	N/A	Greater than 5 acres and up to 10 acres	12	12	0	N/A	Greater than 10 acres and up to 20 acres	16	12	16	800	Over 20 acres	25	12	25	1,000	Parcel Zoned RA					GP designation Rural (RUR)					or					Zoned AG, AE, FR or TPZ					2 acres or less	6	6	0	N/A	Greater than 2 acres and up to 5 acres	6	6	6	300	Greater than 5 acres and up to 10 acres	12	12	12	600	Greater than 10 acres and up to 20 acres	16	12	16	800	Over 20 acres	25	12	25	1,000		
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Residency Requirements:

- Encourage locally-owned, locally grown cannabis
- Encourage more vested stakeholders by requiring a residence
- Provide a basis for permitting, inspection, monitoring and enforcement
- Address the fact that cultivation on vacant lands tends to result in more code violations

RESIDENCY REQUIREMENTS

#	CODE	DESCRIPTION	POTENTIAL ADJUSTMENTS	CAG MEMBER COMMENTS
1.	G-IV 5.4.(B) G-IV 5.4(C)(3)	Cultivation must occur on a legal improved parcel with a legally established, permitted Residence .		
1.	G-IV 5.4(C)(1) G-IV 5.4(C)(2)	Cultivation for medical purposes requires that the grower be the resident on the property and either the patient or the caregiver of a patient(s).		
1.	G-IV 5.4(D) G-IV 5.4(D)	Indoor Cultivation can occur within a legal structure that meets all code provisions. Cultivation shall not take place in a kitchen, bathroom, bedrooms, common areas or any other space in the structure which is used as, designed or intended for human occupancy		

Setbacks Are Needed to:

- Reduce proximity to schools, youth-serving facilities, churches and related community uses
- Provide a buffer for adjacent properties
- Increase safety and privacy
- Protect sensitive environmental resources

SETBACKS FOR ALL PARCELS: OUTDOOR

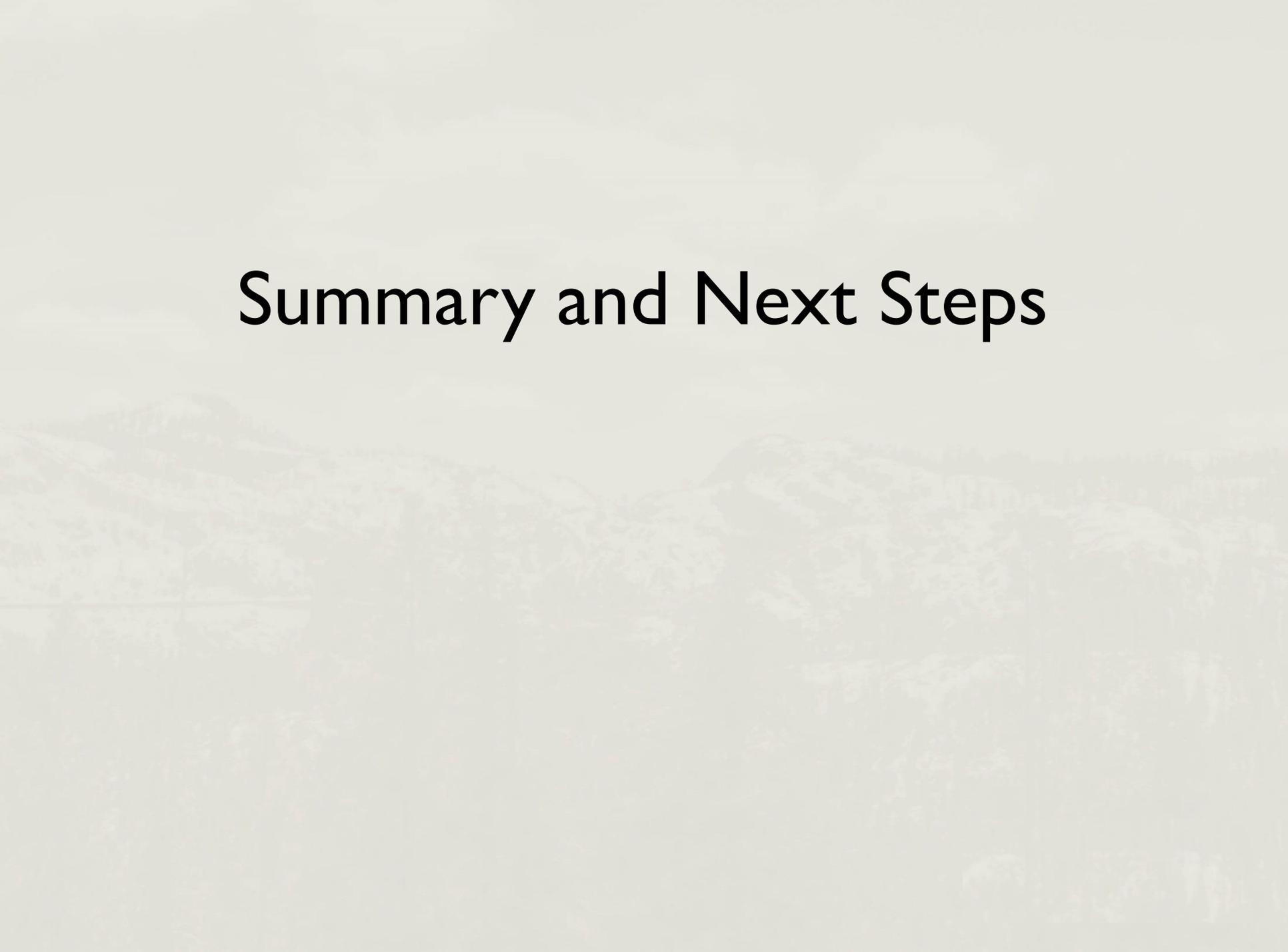
#	CODE	DESCRIPTION	POTENTIAL ADJUSTMENTS	CAG MEMBER COMMENTS
1.	G-IV 5.4 (F)(1)a	Parcels of greater than 2 acres up to 5 acres : 100 ft.		
1.	G-IV 5.4 (F)(1)b	Parcels of greater than 5 acres up to 10 acres : 150 ft.		
1.	G-IV 5.4 (F)(1)c	Parcels of greater than 10 acres up to 20 acres : 200 ft.		
1.	G-IV 5.4 (F)(1)d	Parcels of greater than 20 acres : 300 ft.		
1.	G-IV 5.4 (G)(1)	The perimeter of the grow area must be 600 feet from any School, School Bus Stop, School Evacuation Site, Church, Park, Child Care Center, or Youth-Oriented Facility.		

Additional Code Requirements:

- Protect public health, safety and welfare
- Ensure quality site planning, building construction, infrastructure, utilities, fire prevention, etc.
- Protect sensitive environmental resources
- Draw on existing regulations that apply to all uses other than cultivation

ADDITIONAL CODE REQUIREMENTS

#	CODE	DESCRIPTION	POTENTIAL ADJUSTMENTS	CAG MEMBER COMMENTS
1.	G-IV 5.4 (H)(1)	All Cultivation areas shall be adequately secure to prevent unauthorized entry, including a secure locking mechanism that shall remain locked at all times.		
1.	G-IV 5.4 (H)(1) G-IV 5.4 (H)(2)	There shall be no exterior evidence of Cultivation in public view and/or from a public right-of-way or publicly traveled private road at all stages of growth. An obscuring fence can be used to address this requirement.		
1.	G-IV 5.4 (H)(3)	Cultivation shall not adversely affect the health, safety, or general welfare of persons at the Cultivation site or at any nearby residence by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, or vibration, by the use or storage of hazardous materials, processes, products or wastes, or by any other way.		
1.	G-IV 5.4 (H)(4)(5)	All new structures used or intended for Indoor Cultivation shall submit complete construction plans and obtain permits. All electrical, mechanical, and plumbing used for Indoor Cultivation shall be installed with valid electrical, mechanical, and plumbing permits.		
1.	G-IV 5.4 (H)(6)	All structures used for Cultivation shall contain adequate ventilation, air filtration and odor control filters to prevent odor, mold and mildew in any area used for Cultivation.		
1.	G-IV 5.4 (H)(7)	Indoor grow lights shall not exceed one thousand two hundred watts (1,200 W) and meet code. CO2, butane, propane and natural gas, or generators shall not be used within any structure used for Indoor Cultivation.		
1.	G-IV 5.4 (H)(8)	All lights used for the Cultivation shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the Parcel.		
1.	G-IV 5.4 (H)(9)	Noise levels generated by Cultivation shall not exceed the standards set forth in Table L- II 4.1.7 (Exterior Noise Limits) of the Nevada County Zoning Ordinance applicable to the Land Use Category and Zoning District for the Premises on which the Cultivation occurs.		
1.	G-IV 5.4 (H)(10)	Wherever Medical Cultivation is grown, a copy of a current and valid, State-issued Medical identification card, physician recommendation or Affidavit must be displayed.		
1.	G-IV 5.4 (H)(11)	Anyone cultivating on a parcel who is not the legal owner(s) of the parcel must give written notice to the legal owner(s) prior to cultivating by obtaining a signed and notarized letter from the legal owner(s) consenting to the cultivation and a letter of consent annually thereafter.		
1.	G-IV 5.4 (H)(12)	The use of Hazardous Materials shall be prohibited in the Cultivation except for limited quantities of Hazardous Materials that are below State of California threshold levels of 55 gallons of liquid, 500 pounds of solid, or 200 cubic feet of compressed gas. Any Hazardous Materials stored shall maintain a minimum setback distance of 100 feet from any private drinking water well, spring, water canal, creek or other surface water body, and 200 feet from any public water supply well.		
1.	G-IV 5.4 (H)(13)	All Premises used for the Cultivation shall have a legal and permitted water source on the Parcel and shall not engage in unlawful or unpermitted drawing of surface water or permit illegal discharges of water from the Parcel.		
1.	G-IV 5.4 (I)(1)(2) (3)(4)(5)	Accessory structures must be constructed meeting all permitting, setbacks, odor control, filtration, and ventilation. Greenhouse panels must be glass or polycarbonate and opaque for security and screening.		



Summary and Next Steps

Public Comment

The background of the slide is a faded, light-colored image of a mountain range. The mountains are covered in dense evergreen forests. A road or path is visible, winding through a valley between the mountain peaks. The overall tone is soft and natural.



Thank You!

CONSULTING AND FACILITATION SERVICES

NEVADA COUNTY



CANNABIS REGULATION COMMUNITY PLANNING PROCESS



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