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de la Guerra, Sheila

From: Alison Laslett <Alison@sbcountywines.com>
Sent: Sunday, January 27, 2019 11:01 PM
To: sbcob
Subject: Letter for distribution to BOS
Attachments: Letter to BOS from SBV 1-27-2019.pdf



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Dear Clerk,

Kindly print and distribute this letter to all members of the Board of Supervisors in advance of the meeting on Tuesday regarding cannabis.

Many thanks,

Alison Laslett

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January 27, 2019

Dear Board of Supervisors,

Cannabis is upon us. I'm not sure anyone understood the impact of the arrival of this commodity, yourselves included. I appreciate the challenge at hand and request that you take the time to thoroughly understand the complexity of cannabis licenses and regulations at both the State and County levels. As with any political issue, it is easy to spin, pitch, slant or influence perception based on the information presented. I encourage you to dig until you reach the truth. I joke that I might know more about cannabis than wine at this point, but that is because I have invested significant time to suss out the moments of mis-information, many of which came from County offices. I believe some of it was just simple misunderstandings – the complexity of a new issue – and some of it was due to the fact that cannabis has found allies and advocates within the County itself.

For example, I was told in the same breath by a county staff member that cannabis only flowers twice a year. Ten minutes later, the same person told me about “the little clock” inside auto-flowering plants that trigger a bloom every 12 weeks, so robust that even after they have been weed-whacked, they reliably grow back. The cannabis industry itself gave a bloom range of 4-5 times per year. Within the course of a day, I heard that cannabis can flower two, four and five times a year. This is a great case of all facts being truthful, but only one might be presented. Your County and your constituents deserve a solid understanding on your part of the details during this political process: consider your sources, talk to all industries, seek the truth. As you engage in this process, please check your facts and ask multiple stakeholders their opinion or understanding.

Because cannabis has worked hard to become legalized, the industry is well-organized, skilled at lobbying, and capable of influence. I am not sure the State understood the impact of the midnight decision to allow license stacking – the practice that allows no limit on how large a single cannabis operation can be. But people resigned and a lawsuit was brought against the state by the California Growers Association itself for the loophole. Now the CEO of the growers organization has resigned, too, the lawsuit has been dropped, and the cannabis association has a new leader. The lawsuit represented an initial swing of support towards small growers, and now a swing back towards large growers. The political machine is alive and well.

For example, I wonder if you understood the impact of your own decision to go against the advice of the SBC Planning Commission and Agricultural Advisory Committee, and the EIR, and not require odor abatement on AG-II land? I wonder if you understood the state loophole that SBC regulations borrowed, allowing super-grows to arrive immediately, and remain unregulated and unrestricted for a year? And now, that a decision you make might extend that

lack of regulation for a second year? Although it was difficult to predict the impact of cannabis in our County before it arrived, we all have a better understanding now. Please ensure you are absolutely clear on the impact of your decisions as we move forward collectively.

These questions are not rhetorical or meant to be critical. They are genuine. I do not believe that anyone (many cannabis growers included) intended the sudden growth of cannabis, or the economic impact on nearby businesses, or the anger of residents, but who were the growers to turn away from such an opportunity? I think you instead meant for legal operators to be grandfathered in so that they could conduct business while Santa Barbara County got the cannabis industry up to speed. I think you meant to protect the small medicinal growers who had been here all along until the County LUPs and the Business Licenses were in place. Once these were issued, the cannabis ordinance would take hold and you would see where you were.

As with many things, what we intend is not always what occurs, and a few significant decisions affected how cannabis would manifest in the County:

- 1) The aforementioned license stacking loophole that allowed limitless growth was not closed by the County. Almost all other counties in California caught this loophole and established a cap on cannabis – either on the number of licenses or on the amount of acreage;
- 2) The lack of odor abatement on AG-II land;
- 3) The lack of adjudication of the medicinal marijuana affidavits, which would have contained the size of the grows to historical levels.

Below are more details about specific areas of concern and recommendations made on behalf of the Santa Barbara Vintners, a trade association of the winemakers of Santa Barbara County. The wine industry contributes almost \$2 billion annually to the local economy through the sale of wine and the support of tourism. We have several federally recognized AVAs that produce award-winning wine. Our members have worked diligently for several decades to produce wines of distinction, and to encourage hundreds of thousands of tourists to visit our vineyards and tasting rooms every year. Please help us continue this by protecting our wine industry and our attendant hospitality industries from unfettered growth of cannabis mega-grows.

Please see our concerns below.

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AREAS OF CONCERN – CANNABIS
SANTA BARBARA VINTNERS

I. ODOR CONTROL

The primary area of concern for winemakers is odor. In order to taste wine, you must be able to smell. While cannabis and wine can peacefully co-exist, they cannot do so when they are grown next door to each other.

SBC does not require odor abatement on AG-II land.

The odor of cannabis was studied by the Santa Barbara County Environmental Impact Report (EIR).

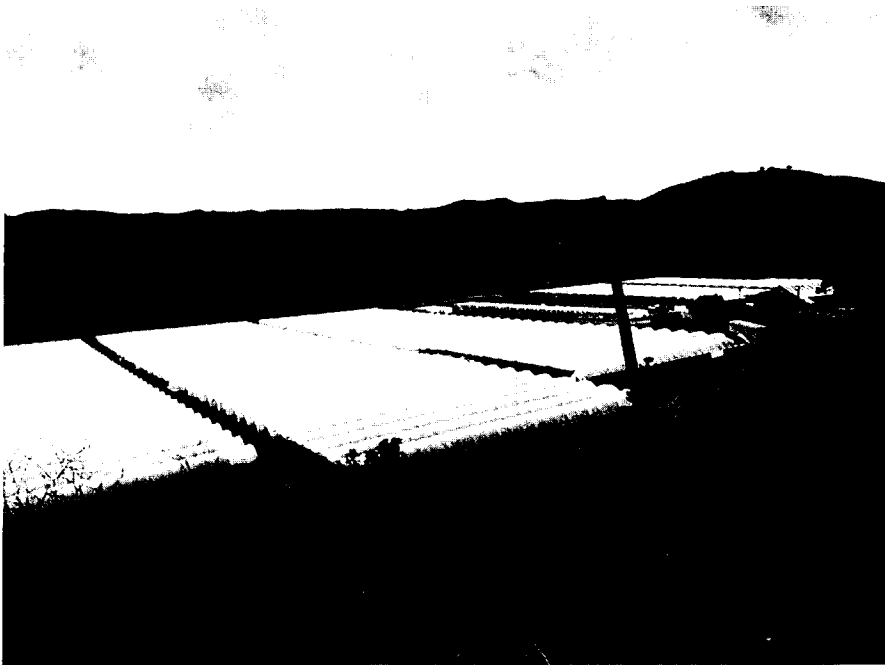
- 1) The EIR noted that: “The EIR has deemed odor a nuisance due to the amount of public concern, and persistent, intrusive, and pervasive odor associated with certain cannabis activities including cultivation.” (EIR 8.4.1-MCR-2)
- 2) The Planning Commission and Ag Advisory Committee BOTH recommended that ALL cannabis grows, on both AG-I and AG-II require odor abatement.
 - a. The Board of Supervisors removed this recommendation and did NOT require odor abatement on AG-II. WHY?
- 3) Only two “sensitive receptors [significantly affected areas]” were considered: Schools and EDRNs. **Why were places of business not considered?**
 - a. Schools – 750 foot setback
 - b. EDRN (Existing Developed Rural Neighborhood) requires CUP permit.
- 4) Setbacks are ineffective when it comes to cannabis odor.
 - a. A tasting room that is one mile from a small (8 acre, not fully planted), outdoor grow suffered a decline in visitation as well as public comments regarding the odor. Both are damaging the economic viability of the business.
 - b. Another tasting room had to send employees home due to headaches from cannabis smell coming from a 30+-acre grow next door.
 - c. The owners of a property next door to a 35-acre cannabis grow also suffered persistent headaches.
- 5) Three complaints against a cannabis operation within a year will merit corrective action – BUT “the operator shall provide the complaint tracking system.” The COUNTY should track the complaints.
- 6) The EIR also assumed that AG-II would be protected under the Right to Farm. Agriculture has rights, so the impact of odor was not specifically studied on the larger properties. However, cannabis was specifically excluded from the Right to Farm which means that the

impact of odor must be studied on the location and scale that cannabis is actually being planted.

Therefore, the Santa Barbara Vintners recommends:

- 1) Odor abatement on ALL agriculturally zoned cannabis;
- 2) An EIR be completed on the impact of cannabis planted on a large scale on AG-II land.

II. ESTABLISH A CAP ON GROW SIZE:



Santa Barbara County does not have any size limit or “cap” on cannabis grows. This has allowed SBC to become a destination for large cannabis growers to plant 25, 50 or even 70 acres of contiguous cannabis.

If you have not had a chance, please drive to the end of Mail Road off Rt. 246 and/or the Santa Rosa Road and look down on the valley floor below the Sta. Rita Hills. You will see the largest grows in the state, all without odor control, which are on track to become the largest grows in the world.

How did this happen?

CA initially proposed a Small (10,000 SF) license and a Medium (1 acre) license. A Large license will be established in 2023. The logic behind different license sizes was obviously to regulate the size of a grow. Essentially, CA was going to allow one small and one medium

license per property. This would allow the state and the counties to understand the impact of cannabis at this scale, which is presumably why the CA EIR only studied up to one acre. The large license was meant to be enacted years later once small growers had a foothold and counties learned to regulate the industry effectively. THEN, commercial and corporate grows could come in on a large scale.

Instead, CA was lobbied by the cannabis industry to remove the Small License size limit, and let the Counties decide what limits to put in place. All other counties did, capping most plantings at 1 acre. However, Santa Barbara County did not close the loophole, and now we have the largest grows in the state. In a review of neighboring or similar counties (chart below), we see that all of them have aligned themselves with limitations similar to the size of the CA licenses. Without this, unstudied, unlimited, odorous cannabis grows were allowed to move into SBC and establish themselves without a firm understanding of the impact on the environment, the residents, or the nearby businesses.

The SBC EIR study was done on around 1,000 acres of planted cannabis with 100 of those hooped. With over 500 acres of cannabis currently planted, the majority of them hooped, we are already on track to exceed the limits of our own study.

Finally, a phone call and email exchange with the County offices determined that the County does not itself track the number of acres an operator grew prior to January, 2016, nor does it have a system in place to track acreage now. The County relies on the number of active state licenses to determine the number of acres that should be growing in SBC and a complaint from the neighbor to determine if it was not.

Email from SBC Planning Dept:
January 16, 2019 – 9:32am
Ms. Laslett,

The cannabis regulations in the Land Use & Development Code does not have any requirements on a cap for acreage or tracking of acreage for cannabis cultivation sites.

Name Redacted
Supervising Planner
Planning & Development

Therefore, the Santa Barbara Vintners recommends:

- 1) Align SBC regulations to the license sizes issued by the state of CA, limiting cannabis grows to:**

- a. One medium license per property for a maximum outdoor grow size of 1 acre;
- b. Two small licenses per property for a maximum indoor grow of 22,000 SF.

Cannabis Cultivation Restrictions by Neighboring and Similar Counties

	Odor Control	Minimum parcel size to grow cannabis	Maximum grow size INDOOR per property	Maximum grow size OUTDOOR per property
SBC Current	Required on Ag-I; NOT required on Ag-II	Varies	None	None
Humboldt	Required on indoor, not outdoor	5-10 acres	10,000SF	10,000SF - 1 acre* depending on parcel size
Mendocino	Required	Varies	10,000SF	10,000 SF
Monterey	Required		Existing greenhouses only	Prohibited
Santa Cruz		Varies	22,000SF	2 acres
SLO	Required	10 acres	22,000SF	3 state licenses = 1.5 acres
Sonoma	Required on indoor, not outdoor	10 acres	22,000 SF	1 acre
Kern	Prohibited Cannabis			
Napa	Prohibited Cannabis			
Ventura	Prohibited Cannabis			
Propose for SBC	Required		22,000 SF	1 acre

* on sites of 320 acres or larger, for every 100 acres over, they allow 1 more acre of cannabis, up to a total of 8 acres per 1100 acre properties.

Sources:
Mendocino
Humboldt
Sonoma
Santa Cruz
Monterey
SLO

https://library.municode.com/ca/mendocino_county/codes/code_of_ordinances?nodeId=MECOOD_TIT10AAG_CH10A.17MECACUOR
<https://humboldt.gov/DocumentCenter/View/63734/Ord-No-2599-CCLUO-inland-certified-copy-PDF>
<https://sonomacounty.ca.gov/Cannabis/Legislative-Updates/County-Ordinances/>
<http://www.counties.org/post/monterey-county-cannabis-ordinances>
http://www.counties.org/sites/main/files/file-attachments/monterey_county_-_sent_121417_-_ord_5292_12-05-17.pdf
[https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Inland-Land-Use-Ordinance-\(Title-22\).aspx](https://www.slocounty.ca.gov/Departments/Planning-Building/Forms-Documents/Ordinances/Inland-Land-Use-Ordinance-(Title-22).aspx)

III. SANTA BARBARA COUNTY HAS ONE OF THE MOST IMPRESSIVE WINE REGIONS IN THE STATE AND THE WORLD, AND IT MUST BE PROTECTED.

Containing more than half the American Viticultural Areas (AVAs) in the United States, California has established itself as one of the premiere wine-growing regions in the world. This did not happen by accident as California has the rare and necessary combination of soil, geology and weather to produce exceptional wines. Grapes are a notoriously fickle crop and while you can try grow them anywhere, the AVAs producing the national and international award-winners are few. Santa Barbara County is lucky to be one of them.

After its own struggle, the SBC wine region finally has a foothold and its wines are receiving international acclaim. You need look no further than the documentary Somm III, currently the most popular documentary on iTunes, to see first-hand the quality and reach of Santa Barbara County wines. After 50 years of commitment, our wines are coming into their own. Santa Barbara County has the rich and rare gem of a thriving wine region. It should be protected for the gift that it is, as well as one of the largest economic drivers of tourism in the County.

Across the board, more than 60% of a winery's revenue in SBC is generated through tasting room sales. Tourists come from around the world to taste our wines and power our local economy. In a rare agricultural dynamic, people like to visit their "crop." The wine industry relies on clean air, bucolic landscapes and a welcoming environment. Cannabis cultivation is in direct opposition to these physical and cultural requirements, with its odorous plants, armed guards and necessary culture of high-security. It is not that wine and cannabis cannot co-exist in the same County, but they will struggle significantly as long as they try to grow next door to each other without size limits or odor control.

Therefore, the Santa Barbara Vintners recommends:

- a. If the Board of Supervisors cannot see its way to limiting the size of cannabis grows for the entire County, then the Vintners respectfully request the above size limits within the federally designated American Viticultural Areas (AVA), with a 2 mile setback, as is in effect in the Coastal Zone.**

IV. COUNTY REGULATIONS AND ENFORCEMENT ARE INSUFFICIENT:

Santa Barbara County staff repeatedly references in public forums the high number of regulations involved in the permitting and licensing processes, as well as the local cannabis ordinance. What is omitted from the comments and is misleading to the listener is the lack of actual restrictions on cannabis.

With no odor abatement requirement, no cap on grow size, no active county permits or licenses, and no cannabis ordinance in effect, SBC currently emerges as the LEAST regulated or restricted County in California that allows cannabis.

Two Main Areas of Regulatory Concern:

1. Affidavits

As mentioned above, when recreational cannabis was legalized in January, 2016, medical marijuana operators were allowed to sign an affidavit affirming that they had grown cannabis on their property for medical purposes prior to the new legalization. These affidavits were not adjudicated in any way – which is to say they were not checked for truth.

Of note:

- Lying on the affidavits is considered perjury and a felony.
- Any of the grows that currently exist which were not present prior to January 2016 currently exist under falsified affidavits.
 - It is grossly inaccurate to say that the current cannabis grows were all present, and were present at this size, prior to January 2016..
 - The majority of these affidavits are false, but the County has not investigated them, allowing operators a free-for-all in growth unless a resident or citizen specifically complains.
- The only way the public can get the County to investigate a false affidavit is to file a specific complaint with the County alleging that the grow did not previously exist.

Therefore, the Santa Barbara Vintners recommends that the County adjudicate ALL affidavits to determine who has perjured themselves and therefore, who is operating legally vs. illegally. The information necessary is easily accessible via simple software image searches.

1. Temporary State Licenses

Once signed, the operator was then able to apply for as many State Temporary Licenses as they desired. These licenses were not required to conform with the SBC permitting and licensing process, or the cannabis ordinance. Effectively, SBC allowed cannabis operators to come in and be entirely unregulated, unless complaints were made.

Operators have, among other concerns:

- Cultivated in California Tiger Salamander protected areas

- Graded and cultivated the land without a buffer for oak trees and on steep hillsides
- Caused significant erosion
- Flooded neighboring land and collapsed walls
- Allowed the odor to drift significantly off property
- Erased riparian areas

These are some results of the nonconforming licenses. Without a Land Use Permit in place, there is no control over what is happening to the land.

The State is now offering the option to extend the Temporary State License holders by one year to something called a Provisional License. The Provisional License allows the grower to continue to operate, unregulated, for another year if they have submitted applications for a Land Use Permit and a Business License. The County staff has requested that the BOS allow this extension.

The above affidavit and corresponding Temporary State License were intended to provide a grandfathered system for legally operating cannabis growers until they could apply for their LUP and Business License during the 15 month window available to them. Instead, the uninvestigated untruthful affidavits and the issuance of nonconforming Temporary State Licenses allowed massive, unregulated and often illegal cannabis grows to establish themselves throughout the County.

Therefore, the Santa Barbara Vintners recommends that SBC maintain the original deadline for the Temporary State License holders and require that they come into compliance with the County. SBC is under absolutely no obligation to tie itself to the State's delay, which will allow for another year of unregulated cannabis activities. Growers have had 15 months to bring themselves into compliance, and another year is unnecessary.

V. COMPLAINT DRIVEN COMPLIANCE IS INEFFICIENT

According to the County itself, the current regulatory system is complaint driven, and thus considered reactive. The public has heard from the County many times, "If we haven't received a complaint, it is not a priority right now." To respond only to complaints puts the burden of monitoring the industry on the shoulders of the public.

Additionally, multiple complaints have been filed regarding lesser concerns of lighting, electricity, inappropriate cultivation and nuisances. Many have gone without response. The

County staff is extremely touchy on the subject of enforcement, taking offense at criticism or the request for information. This is an inappropriate response to a new, untested and unregulated industry entering the County that is causing constituents significant distress. While it is understood that the County is scrambling to regulate an industry that was not properly paced, responding with a condescending tone and shifting the blame onto the complainants reveals the county's bias toward cannabis and lack of control over the resulting consequences.

Therefore, the Santa Barbara Vintners recommend that:

- 1. The County adopt a PROACTIVE method of enforcement;**
- 2. Employ enough staff to respond to the level of complaints in a timely fashion;**
- 3. Establish a communication system with complainants;**
- 4. Recognize that many complainants are remaining anonymous due to fear.**

VI. WITHOUT RESTRICTIONS ON GROWTH, SBC IS SUPPLYING THE CANNABIS BLACK MARKET

Some statistics:

- 2.6M pounds of cannabis are consumed each year in CA; 15M pounds are produced (CA Growers Association and SBC staff).
- 10,000 sq feet (1/4 acre) will yield 2,000 pounds with 5 turns (blooms) per year [Marijuana Business Daily, Sept 22, 2016] which equals 400 pounds per turn.
- Yields can range from 3,000 - 5,000/acre/year
 - i. Taking the high side of consumption (2.6M) with the low side of production (3,000 pounds per acre) in an attempt to not overstate the numbers, CA needs a total of 867 acres per year of cannabis in order to satisfy CA's legal and illegal consumption demands. SBC currently has 514 acres of temporary active state licenses, providing almost 60% (59.28%) of the cannabis consumed in CA.

At what point does SBC recognize and regulate the contribution to the black market?

VII. CANNABIS REQUIRES SECURITY THAT IS A DETERRENT TO TOURISM

Cannabis is a highly-valuable commodity. It has been described like a jewelry store: eligible for smash-and-grab theft that requires armed guards.

The previously sleepy hills of many of the areas near cannabis grows are now disrupted by nightly patrols, sky-high search lights, noisy generators and racing vehicles performing patrols.

By day, armed guards patrol high fences and do not create an inviting area for tourists to explore. By night, more than one resident is disturbed by light pollution, generator noise or a sense of unease. These security issues are not inviting to tourists or reassuring to residents.

Cannabis and its security needs would be more successfully placed away from working businesses and local residents.

Many thanks for your consideration and kind attention to these issues.

Alison Laslett
SBV, CEO