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To: Lavagnino, Steve; Williams, Das; Hartmann, Joan; Adam, Peter; Hart, Gregg
Cc: sbcob
Subject: First Quarter Update on Cannabis - Board Hearing January 28, 2020 - Departmental Item 1
Attachments: CARP Growers Letter to PC (01-21-20).pdf

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Honorable Supervisors,

Regarding Departmental Item 1 on your agenda tomorrow - First Quarter Update on Cannabis, please see the attached letter which was submitted to the Planning Commission on behalf of the CARP Growers last week regarding the Cannabis Ordinance Changes Workshop Item. Feel free to contact the undersigned if you have questions or wish to discuss. Thank you for your time and attention to this important matter.

-Peter



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January 21, 2020

Via Email: dvillalo@co.santa-barbara.ca.us

Santa Barbara County Planning Commission
c/o Planning & Development
County of Santa Barbara
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**Re: Cannabis Zoning Ordinance Amendments
County Planning Commission Hearing January 22, 2020
Agenda Item No: 2**

Dear Chair Bridley and Honorable Commissioners:

This office represents the Cannabis Association for Responsible Producers (CARP), also known as CARP Growers. CARP Growers is a non-profit public benefit organization consisting of 12 member farms operating in the Carpinteria Valley. The mission of CARP Growers is to foster a positive relationship with the Carpinteria community, by promoting the use of best management practices on local cannabis farms, as well as through community education and outreach programs.

CARP Growers believe that the existing Cannabis Land Use Ordinance and Licensing Program, as it applies to the Carpinteria Valley Coastal Zone, is more than adequate to address the land use compatibility concerns expressed by the Carpinteria community. CARP Growers do not believe major changes to the regulatory program are necessary. Instead, the County should focus its efforts on getting existing projects through the permit application bottleneck, so that the legal nonconforming grows operating in the Valley pursuant to Article X can be issued permits and transitioned over to the cannabis regulatory program adopted by the Board for the Coastal Zone in 2018 (Chapter 35, Article II, Section 35-144U of the Coastal Zoning Ordinance, and Chapter 50 of the Business License Ordinance).

Each member of CARP Growers has invested hundreds of thousands of dollars processing development applications (and concurrent business license applications) for their properties in reliance on the existing requirements of the cannabis regulatory program. The

organization opposes any change that would fundamentally alter the regulatory program for the Carpinteria Valley before it has a chance to take effect. Moreover, the organization opposes any change which would fundamentally thwart the reasonable investment-backed expectations that members have made in their properties in reliance on the regulatory program already in place.

1. Background on CARP Growers

CARP Growers is a group of forward-thinking cannabis operators in the Carpinteria Valley that have come together as an organization to dedicate their collective energy and effort to two primary tasks: (1) establishing best management practices for all cannabis operations in the Carpinteria Valley; and (2) engaging the local community in outreach programs and philanthropic partnerships intended to educate the public, open communication channels, and build strong community relationships.

To become a member of CARP Growers, a landowner or operator must demonstrate compliance with the organization's rigorous internal operating standards. These standards exceed the standards by which the vast majority of Carpinteria farms are currently operating pursuant to Article X:

- Safe and effective odor abatement
- Blackout screens to prevent light pollution
- Water conservation practices
- Biological pest control
- Fair labor practices
- Full compliance with all state licensing and county regulatory requirements
- Local ownership or management
- Payment of association dues for dedication to local charitable organizations

CARP Growers believe that the best way they can serve the Carpinteria community is through leadership by example. Each of the members have voluntarily adopted and agreed to abide by the organization's best management practices. The hope is that these practices will be adopted by all cannabis operators in the Carpinteria Valley. CARP Growers feel this would go a long way to ameliorate concerns the local community is having toward cannabis operations, given the time it is taking to transition existing operations away from Article X and over to the regulatory program adopted by the Board in 2018.

2. The Adequacy of the Existing Program As Applied to the Coastal Zone

Cannabis operations located in the Coastal Zone are required to meet a strict set of policies, development standards, and licensing requirements adopted by the Board in 2018. The land use policies and development standards are codified in Chapter 35, Article II, Section 35-

144U of the County Code (the Coastal Zoning Ordinance), and the licensing requirements are codified in Chapter 50 of the County Code (the Business License Ordinance). The regulatory program was adopted through a robust public process – open to all stakeholders – consisting of more than 30 public meetings and innumerable hours of public comment. The regulatory program was intended to address all of the negative concerns normally associated with commercial cannabis operations, including those related to odors, enforcement, compatible land uses, and eliminating the underground cannabis economy. The problem to date has not been with the efficacy or adequacy of the adopted regulatory program, but rather the fact the program has not yet had a chance to take effect.

Article II, Section 35-144U addresses visual resources, aesthetics, noise, traffic, habitat protection, wildlife movement, water efficiency and, most importantly, odor. Article II, Section 35-144U addresses odors by prohibiting outdoor cultivation within two miles of an urban-rural boundary within the Coastal Zone. In addition, Article II, Section 35-144U requires an Odor Abatement Plan for all cannabis activities occurring on AG-I zoned properties, which is effectively all properties located within Areas A and B of the Carpinteria (CA) Agricultural Overlay zoning designation. Unlike the regulatory program that applies to inland areas, Article II, Section 35-144U imposes a strict “no tolerance” standard that prohibits odors from being experienced anywhere within residential zones. (Section 35-144U.C.7.)

In conjunction with the Article II amendments, the Board established a 186-acre cap on cannabis cultivation within the CA Overlay Zone. The 186-acre cap was adopted as part of the Chapter 50 Business Licensing Ordinance as an additional measure to control odor and other impacts associated with cannabis activities in the Carpinteria Valley. When the cap is applied together with the requirements of the CA Overlay designation put in place by the Board in 2004, the effect on operators is significant. The CA Overlay restricts the amount of development cannabis operators can dedicate to their cannabis operations, by imposing strict limits on square footage, setbacks, and lot coverage allowed in Areas A and B.

Also keep in mind the fact the Coastal Development Permit (CDP) process enables decision-makers to consider a broader range of factors and apply project-specific conditions to project approvals in order to ensure consistency with Coastal Zone land use policies. Your Commission has already exercised its discretion in this manner to impose specific conditions on the G&K project increasing monitoring requirements to ensure the efficacy of the project’s proposed odor control system. This tool is available in the Coastal Zone and will likely be used by your Commission in the future as additional CDP approvals work their way through the permit appeal process.

In light of the foregoing, CARP Growers encourage your Commission to differentiate the situation that exists in the Carpinteria Valley from the situation that exists in the inland areas of the County. Properties located within the CA Overlay **already** face much more restrictive

standards related to odor, setbacks, lot coverage, limitations on new development, and discretionary permitting authority, than those properties located within inland areas of the County. If given the chance, the Article II Section 35-144U regulatory program, when implemented in conjunction with the 186-acre cap imposed by the Chapter 50 business license ordinance, is more than adequate for decision-makers to ensure cannabis operations within the Carpinteria Valley are compatible with the surrounding community.

3. The Current Problem Facing the Carpinteria Valley

The vast majority of cannabis cultivation operations that currently exist in the Carpinteria Valley (well over 90%) are legal nonconforming operations existing pursuant to Article X. As such, these farms are allowed to operate under the more generalized nonconforming regulations of the zoning ordinances, not the more specific and directed cannabis regulatory program designed to control the adverse impacts of commercial cannabis activities on surrounding land uses. Because these legal nonconforming grows are not currently subject to the 2018 cannabis regulatory program, the County's ability to implement controls and enforce requirements remains limited.

There is a backlog of Carpinteria Valley cannabis applications currently working their way through the permitting process. CARP Growers have been working on their land use approval applications since roughly February 2018, when the Board first adopted the regulatory program. The primary impediment has turned out to be the CA Overlay zoning designation, put in place by the Board in 2004. Operators that are able to demonstrate their properties can be brought into compliance (with CA Overlay restrictions on square footage, setbacks, and lot coverage) are required to make the necessary improvements as a pre-condition to obtaining a land use entitlement. Those that are not able to demonstrate compliance are being forced to remove existing infrastructure, greenhouses, boiler sheds, packing houses, and paved surfaces that have been in use for decades. This is causing significant delays in permit processing, a backlog of permit applications, and a lack of permits being issued. In the meantime, these farms continue to operate pursuant to Article X and the more generalized nonconforming regulations of the zoning ordinances. The sooner these permit applications can move through the permitting bottleneck, the sooner the adopted cannabis regulatory program can take effect.

4. Conclusion

The staff memorandum prepared for the January 22nd hearing recommends that your Commission, when considering the efficacy of the commercial cannabis zoning regulations, focus attention on examples of commercial cannabis activities that are operating in compliance with the 2018 cannabis regulations put in place by the Board - not legal nonconforming activities operating pursuant to Article X. Unfortunately, there are not many examples of this in the Carpinteria Valley. All but about 10 acres of cannabis farms in the Carpinteria Valley continue to

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operate under Article X. CARP Growers believe it would be premature for your Commission to recommend changes to the existing Article II regulatory program when such a small number of land use permits and business licenses have been issued. CARP Growers instead urge your Commission to focus staff resources on moving existing applications for Carpinteria Valley through the permit process. Until these applications are approved and the regulatory program has a chance to take effect, it will be impossible to know how the program is working, whether unforeseen issues exist, and what changes if any might be needed.

Thank you for your time and attention.

Respectfully submitted,

HOLLISTER & BRACE,
A Professional Corporation

By 

Peter L. Candy

PLC:cr

cc: