

## Lenzi, Chelsea

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**From:** Dave Clary <templeclary@gmail.com>  
**Sent:** Monday, February 26, 2018 10:51 AM  
**To:** Lenzi, Chelsea  
**Cc:** Dave Clary; Renee O'neill; Steve O'Neill; Steve Junak; Andrew Hazi; Alyssa Moffitt; Kathryn Donovan; Linda Tunnell  
**Subject:** Comments and related documents for the BOS meeting of 2 27 2018  
**Attachments:** CANNABIS - BOS 2 27 18 - DTC COMMENTS REGARDING AGENDA ITEM XXX SCHEDULED TO BE HEARD AT THE FEBRUARY 27.docx; CANNABIS - LUDC - PART001.pdf; CANNABIS - LUDC - PART002.pdf; CANNABIS - LUDC - PART003.pdf; CANNABIS - LUDC - PART004.pdf; CANNABIS - LUDC - PART005.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Mz Lenzi ...

I am requesting your assistance in circulating the attached comments and related documents (highlighted) among the supervisors, and then attaching them to the public comments section of the agenda for the meeting 2/27/2018.

I would also like to have them sent to Dennis Bozanich and Dan Klemann and Michael Ghizzoni. If you forward them for me I would appreciate it. I understand Jessica Metzger is out of the office until 3/5.

Please note that my comments are attached, but reduced to a thumbnail. The attached documents are all reprinted in the Email itself, though smaller in size. As a result my comments thumbnail tends to be lost among the various pages. Once aware of the issue, however, the thumbnail is easy to find.

Thank you for your assistance.

David Clary

COMMENTS REGARDING AGENDA ITEM 1 OF THE DEPARTMENTAL AGENDA PLANNING ITEMS AND PUBLIC HEARINGS SECTION\_SCHEDULED TO BE HEARD AT THE FEBRUARY 27, 2018 MEETING OF THE SANTA BARBARA COUNTY BOARD OF SUPERVISORS

SUBMITTED BY DAVID CLARY

TO THE BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY  
And to  
THE PLANNING COMMISSION OF SANTA BARBARA COUNTY

(REFERENCED DOCUMENTS ARE ATTACHED)

I, David Clary, along with my wife Lillian, have been a resident of Tepusquet Canyon for 21 years. We are both active members of the Tepusquet Canyon Crisis Committee.

I support the Planning Commission and the Board of Supervisors for the restrictions applied to cannabis operations, principally cultivation, aimed to protect the wellbeing of the residents of Tepusquet Canyon.

I have noticed an issue set forth in the current version of the proposed Land Use Development Code Ordinance, Case Number 17ORD-00000-00004, set forth as Attachment 2B on the list of forms relevant to the hearing of 2/27/2018. Copies of the specific pages thereof cited below are attached hereto.

The issue is that on page 36 of said document, in the chart that sets forth the permit requirements for Cannabis in the Agricultural Zones, the EDRN limitations are incorporated therein by reference to footnote 3. However, footnote 3 is listed as applying only to Ag I parcels and not to Ag II parcels. Footnote 6 is listed only in Ag II parcels. Footnote 6 applies only to parcels adjacent to an EDRN, not the more broad listing in footnote 3 which requires a CUP for any parcel for which the sole access to the parcel is through an EDRN. Footnote 6 was added to resolve a concern raised by Supervisor Wolf in a different part of Santa Barbara County.

The referenced footnotes, 3 and 6 are explained on page 37 of the document.

Page 46 of the document, Section D thereof, states

“All commercial cannabis activities shall comply with the following development standards specific to the applicable permit type.”

Subsection 1 c thereof states,

“Cultivation sites located within an EDRN, or cultivation that requires the use of a roadway located within an EDRN as the sole means of access to the cultivation lot, shall require approval of a Conditional Use Permit by the Planning Commission and compliance with applicable standards in Chapter 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits).”

ATTACHMENT 2B:  
LAND USE DEVELOPMENT CODE

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 35-1, THE SANTA BARBARA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE TO IMPLEMENT NEW DEVELOPMENT STANDARDS, PERMIT REQUIREMENTS AND PROCEDURES REGARDING COMMERCIAL CANNABIS ACTIVITIES, AND MAKE OTHER MINOR CLARIFICATIONS, CORRECTIONS, AND REVISIONS.

Case No. 17ORD-00000-00004

The Board of Supervisors of the County of Santa Barbara ordains as follows:

**SECTION 1:**

ARTICLE 35.2, Zones and Allowable Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change the Agricultural, Mining, & Energy Facilities, Retail Trade, Transportation, Communications, Infrastructure sections of Table 2-1 Allowed Land Uses and Permit Requirements for Agricultural Zones, of Section 35.21.030, Agricultural Zones Allowable Land Uses, of Chapter 35.21, Agricultural Zones, to read as follows:

Table 2-1 Allowed Land Uses and Permit Requirements for Agricultural Zones	E	Allowed use, no permit required (Exempt)	
	P	Permitted use, Land Use Permit required (2)	
	MCUP	Minor Conditional Use Permit required	
	CUP	Conditional Use Permit required	
	ZC	Zoning Clearance	
	S	Permit determined by Specific Use Regulations	
	—	Use Not Allowed	
LAND USE (1)	PERMIT REQUIRED BY ZONE		Specific Use Regulations
	AG-I	AG-II	
<b>AGRICULTURAL, MINING, &amp; ENERGY FACILITIES</b>			
Agricultural accessory structure	P	P	35.42.020
Agricultural processing - On-premise products	P	P (3)	35.42.040
Agricultural processing - Off-premise products	—	CUP (3)	35.42.040
Agricultural processing – Extensive	—	CUP (4)	35.42.040
Animal keeping (except equestrian facilities, see RECREATION)	S	S	35.42.060
Aquaculture	—	CUP	35.42.070
Aquaponics	—	S (5)	35.42.060
Cannabis – Cultivation and nursery	S	S	35.42.075
Cannabis – Microbusiness	—	S	35.42.075
Cultivated agriculture, orchard, vineyard	E	E	
Grazing	E	E	
Greenhouse	P	P (6)	35.42.140
Mining - Agricultural soil export	—	MCUP	35.82.160
Mining, extracting & quarrying of natural resources, not including gas, oil & other hydrocarbons	CUP	CUP	35.82.160
Mining- Surface, less than 1,000 cubic yards (7)	P	P	35.82.160
Mining- Surface, 1,000 cubic yards or more	CUP	CUP	35.82.160
Oil and gas uses	S	S	35.5
Utility-scale photovoltaic facilities	—	CUP	35.59
Winery	S	S	35.42.280
<b>INDUSTRY, MANUFACTURING &amp; PROCESSING, WHOLESALING</b>			
Cannabis – Manufacturing	S	S	35.42.075
Cannabis – Testing	—	—	
Composting facility	MCUP	MCUP	35.42.100

(2) An enclosed, legally established, secure building that is accessory to a dwelling.

Outdoor cultivation is prohibited.

- c. Possession, storage, and/or cultivation of cannabis shall only be exclusively for the cultivator's personal use, and the cannabis shall not be provided, donated, sold, and/or distributed to any other person, except as allowed by and as described in State law and the Compassionate Use Act for primary caregivers who cultivate medicinal cannabis.
- d. Personal cultivation of cannabis is limited to six plants per legally established dwelling, unless otherwise allowed by State law in the Compassionate Use Act for medicinal cannabis.
- e. The area dedicated to cultivation shall not be located in an area that is designated for a use that is required in order to comply with a regulation of this ordinance (e.g., in a garage if the growing area would occupy required parking spaces for the residential use of the property).
- f. None of the cannabis cultivation or consumption activities shall be detectable (e.g., due to odor or lighting) outside of the dwelling or building in which the activities occur.

3. **Noticing for Commercial Cannabis Activities.** Entitlements for commercial cannabis uses and/or development shall be subject to the applicable noticing requirements set forth in Chapter 35.106 (Noticing and Public Hearings), except that a mailed notice regarding a pending action or hearing regarding a commercial cannabis entitlement shall be provided to all owners of property located within a 1,000-foot radius of the exterior boundaries of the subject lot.

4. **Permit Requirements for commercial cannabis activities.** The below tables identify the commercial cannabis land uses allowed by this Development Code in each zone, and the planning permit required to establish each use.

Permit Requirements for Cannabis in Agricultural Zones	P	Permitted use, Land Use Permit required (2)	
	MCUP	Minor Conditional Use Permit required	
	CUP	Conditional Use Permit required	
	—	Use Not Allowed	
	PERMIT REQUIRED BY ZONE		
LAND USE (1)	AG-I	AG-II	
<b>CANNABIS CULTIVATION AND MICROBUSINESS</b>			
Cultivation – Outdoor	P(2)(3)	FOOTNOTE 3 RE ZONING	P(2)(6)
Cultivation – Mixed-light	P(2)(3)		P(2)(6)
Cultivation – Indoor	P(2)(3)	IS NOT LISTED	P(2)(6)
Nursery	P(3)(5)		P(5)(2)
Microbusiness	—		CUP(2)(4)
<b>CANNABIS DISTRIBUTION, MANUFACTURING, AND TESTING</b>			
Distribution	P(2)	AG II	P(2)
Non-volatile Manufacturing	P(2)		P(2)
Volatile Manufacturing	CUP(2)	CATEGORY	CUP(2)
Testing	—		—

**CANNABIS RETAIL**

Retail	—	—
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**Key to Zone symbols**

<b>AG-I</b>	Agriculture I	<b>AG-II</b>	Agriculture II
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**Notes:**

- (1) See Article 35.11 (Glossary) for land use definitions.
- (2) The cannabis operation shall not be located within 750 feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the premise, without regard to intervening structures.
- (3) Commercial cannabis cultivation on lots located in an Existing Developed Rural Neighborhood (EDRN), or commercial cannabis cultivation that requires the use of a roadway located within an EDRN as the sole means of access to the lot on which cultivation will occur, require a CUP.
- (4) Microbusiness - only allows non-storefront retail.
- (5) Nursery operation shall not be located within 600-feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the closest premise of the cannabis activity is to be located, without regard to intervening structures.
- (6) ~~Outdoor~~ Cultivation on lots located adjacent to an Existing Developed Rural Neighborhood and/or Urban Rural boundary shall require approval of a Conditional Use Permit.

<b>Permit Requirements for Cannabis in Commercial Zones</b>	P	Permitted use, Land Use Permit required (2)	
	MCUP	Minor Conditional Use Permit required	
	CUP	Conditional Use Permit required	
	—	Use Not Allowed	
	<b>PERMIT REQUIRED BY ZONE</b>		
<b>LAND USE (1)</b>	<b>CN</b>	<b>C-1</b>	<b>C-2</b>

**CANNABIS CULTIVATION AND MICROBUSINESS**

Cultivation – Outdoor	—	—	—
Cultivation - Mixed-light	—	—	—
Cultivation – Indoor	—	—	—
Nursery	—	—	—
Microbusiness	—	CUP(2)	CUP(2)

**CANNABIS DISTRIBUTION, MANUFACTURING AND TESTING**

Distribution	—	—	—
Non-volatile Manufacturing	—	—	—
Volatile Manufacturing	—	—	—
Testing	—	P(2)	P(2)

**CANNABIS RETAIL**

Retail	—	P(2)	P(2)
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**Key to Zone Symbols**

<b>CN</b>	Neighborhood Commercial	<b>C-2</b>	Retail Commercial
<b>C-1</b>	Limited Commercial		

**Notes:**

- (1) See Article 35.11 (Glossary) for land use definitions.
- (2) The cannabis operation shall not be located within 750 feet from a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of the lot on which the sensitive receptor is located to the premise, without regard to intervening structures.

abatement requirements of this Section 35.42.075.C.7. Upon the Department's request, the Permittee shall submit a written statement that sets forth the corrective actions and timing of implementation of each corrective action, subject to the Department's review and approval. The department may require the corrective actions to be re-certified by a Professional Engineer or a Certified Industrial Hygienist. Notwithstanding the requirements of this Section, the Department may take additional enforcement actions pursuant to Chapter 35.108 (Enforcement and Penalties) which may include, but are not limited to, initiating proceedings to revoke the applicable cannabis land use entitlement(s).

7. **Signage.** All signs shall comply with Chapter 35.38 (Sign Standards).

8. **Tree Protection, Habitat Protection, and Wildlife Movement Plans.** The applicant for any cannabis permit for a site that would involve the removal of native vegetation or other vegetation in an area that has been identified as having a medium to high potential of being occupied by a special-status wildlife species, nesting bird, or a Federal or State-listed special-status plant species, shall prepare and submit to the Department for review and approval a Tree Protection, Habitat Protection, and/or Wildlife Movement Plan in accordance with Appendix J: Cannabis Activities Additional Standards. The Tree Protection, Habitat Protection, and Wildlife Movement Plan shall be implemented prior to the issuance of final building and/or grading inspection and/or throughout operation of the project as applicable.

D. **Specific use development standards.** All commercial cannabis activities shall comply with the following development standards specific to the applicable permit type.

1. **Cultivation.**

a. **AG-I Lots 20 acres or less; Lots zoned AG-I-5; and/or Lots zoned AG-I-10.** Outdoor cannabis cultivation, including cannabis cultivation within hoop structures, is prohibited on lots zoned AG-I that are 20 acres or less in size; lots zoned AG-I-5; and/or lots zoned AG-I-10.

b. **Avoidance of prime soils.** All structures for cannabis cultivation operations, including, but not limited to, greenhouses that do not rely on in-ground cultivation, that are located on premises that contain prime soils shall be sited to avoid prime soils to the maximum extent feasible.

Ancillary use facilities shall not be located on prime soils unless the Director determines that an alternative location on nonprime soils does not exist within a reasonable distance of the proposed site.

c. **Cannabis cultivation within an Existing Developed Rural Neighborhood (EDRN).** Cultivation sites located within an EDRN, or cultivation that requires the use of a roadway located within an EDRN as the sole means of access to the cultivation lot, shall require approval of a Conditional Use Permit by the Planning Commission and compliance with applicable standards in Chapter 35.82.060 (Conditional Use Permits and Minor Conditional Use Permits).

- 2) Rainwater capture and reuse.
- 3) Recirculated irrigation water (zero waste).
- 4) Timed drip irrigation.
- 5) Soil moisture monitors.
- 6) Use of recycled water.

- l** On lots zoned AG-I, outdoor cultivation shall not be located within 1,500 feet of a residential zone and/or a school providing instruction in kindergarten or any grades one through 12, day care center, or youth center.
- m** ~~Outdoor e~~Cultivation on lots zoned AG-II located adjacent to an Existing Developed Rural Neighborhood and/or Urban Rural boundary, shall require approval of a Conditional Use Permit.

### 3. Distribution.

- a. Cultivation limits.** Distribution on a lot zoned AG-I or AG-II shall only be allowed as an accessory use to cannabis cultivation and shall comply with the following requirements:
  - 1) A minimum of 10% of the cannabis product distributed shall be sourced from cannabis plant material cultivated on the same lot on which the distribution activities will occur.
  - 2) Distribution shall be subordinate and incidental to the cultivation use of the lot, and the area designated for distribution shall occupy a smaller footprint than the area that is designated for cultivation on the lot.

### 4. Manufacturing.

- a. Cultivation limits.** Manufacturing (volatile and non-volatile) on a lot zoned AG-I or AG-II shall only be allowed as an accessory use to cannabis cultivation and shall comply with the following requirements:
  - 1) A minimum of 10% of the cannabis product manufactured shall be sourced from cannabis plant material cultivated on the same lot on which the manufacturing activities will occur.
  - 2) Manufacturing shall be subordinate and incidental to the cultivation use of the lot, and the area designated for manufacturing shall occupy a smaller footprint than the area that is designated for cultivation on the lot.
- b. Home Occupation.** No cannabis manufacturing shall be permitted as a Home Occupation including Cottage Food Operations and In-home Retail Sales in accordance with Chapter 35.42.190 (Home Occupations).