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**Lia Graham**

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**From:** Marc Chytilo <marc@lomcsb.com>  
**Sent:** Friday, August 12, 2022 7:59 AM  
**To:** sbcob  
**Subject:** SBCRC letter to BOS LUDC Amendments CUP 8-12-22 rev.pdf  
**Attachments:** SBCRC letter to BOS LUDC Amendments CUP 8-12-22 rev.pdf



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Clerk – please substitute the attached for the letter submitted earlier this morning on item # 2 – the earlier version had an incorrect date

Thank you for your courtesy.

Marc

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# COALITION

for responsible cannabis

August 12, 2022

Santa Barbara County Board of Supervisors  
105 E. Anapamu Street, Fourth Floor  
Santa Barbara, California 93101

By Email to: [sbcob@co.santa-barbara.ca.us](mailto:sbcob@co.santa-barbara.ca.us)

Re: Cannabis Zoning Ordinance Amendments, Hearing of August 16, 2022, Item # 2  
Support Planning Commission Recommendations

Chair Hartmann and Honorable Supervisors:

Please accept this letter on behalf of the Santa Barbara Coalition for Responsible Cannabis (“Coalition”) concerning the proposed minor revisions to the County’s Cannabis Ordinance, item # 2 on your August 12 agenda.

The Coalition is a non-profit, community benefit organization seeking to ensure that odor and other impacts from commercial scale cannabis operations in Santa Barbara County do not significantly and adversely impact surrounding land uses. The Coalition has appealed numerous permits; supported the research, testing and implementation of promising odor detection and control technologies; worked with responsible growers who agree that pervasive offsite cannabis odors are not acceptable; and appeared before the Planning Commission and your Board of Supervisors to seek the imposition of enhanced conditions on individual projects as well as revisions to the County’s cannabis permitting and licensing ordinances.

As we all have experienced, the legal authority, and associated findings required for approval of a Land Use Permit are often insufficient to ensure that the impacts from cannabis operations can be mitigated and conditioned to ensure that impacts to surrounding land uses are avoided. This problem is ameliorated when a CUP is required. Specifically, the CUP’s finding of compatibility of a project with surrounding land uses<sup>1</sup> both authorizes the County to condition projects and encourages applicants to plan, permit and operate their projects in ways that don’t conflict with uses in the surrounding areas.

We address several issues that arose during the prior proceedings.

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<sup>1</sup> “The proposed project will not be detrimental to the comfort, convenience, general welfare, health, and safety of the neighborhood and will be compatible with the surrounding area.”  
LUDC, Sec. 35.82.060.E.1.e.

1. When Should the New Rules Take Effect - Projects Affected

Staff has proposed that the new rules apply immediately to all projects that had not yet received final approval. Since these projects will be heard by the Planning Commission on appeal, the only material difference is which set of findings apply, and staff apparently reasoned these projects should be subject to the CUP's findings and standards for approval. **The Coalition supports applying the CUP standards to all projects that have not received final approval, including projects under appeal.**

2. Odor Abatement Plans on AG-II

Currently, the LUDC provides that all cannabis projects that require a CUP must also prepare and Odor Abatement Plan (OAP) that controls odors such that they will not be detected in a residentially zoned area, including AG-II zoned projects. Sec. 35.42.075.C.6. Under this authority, along with the Santa Ynez Valley Community Plan, Busy Bee, Westcoast Farms and Central Coast Agriculture, each AG-II zoned, submitted OAPs.

Staff has proposed an OAP exemption for most AG-II zoned projects, except those adjacent to an EDRN, urban rural boundary, or if the cultivation exceeded 51% of the lot. This initial exemption would severely limit the number of AG-II grows that would prepare OAPs. **Staff's proposed language arguably prohibits staff or the Planning Commission from requiring an OAP if the project fits within staff's OAP exemption.** In so doing, staff's proposal will continue and exacerbate regional odor issues and create substantial uncertainties and exacerbate delays in permitting of AG-II zoned cultivation projects.

**The Planning Commission unanimously recommended these exemptions be eliminated, and that all AG-II grows should submit an OAP.** Each such OAP will be location- and context-dependent – the LUDC requires only that the OAP prevent odor from being detected in residentially zoned areas, so the OAP for a remote and rural grow will not need to include the same level of control as an OAP in a developed area.

The Commission discussed whether all AG-II projects should prepare an OAP, and considered amendments that would vest staff with discretion to impose an OAP when appropriate as part of project review. This was rejected because this would create additional uncertainties for applicants, and delays if an OAP is not initially required, but then imposed later in the process, holding up approvals until the OAP could be prepared, reviewed and submitted. The Commission recognized that OAPs would be relied on to make compatibility findings. A level playing field, where all applicants must make some effort to control odors, is the best approach.

The reasons for requiring OAPs for all cannabis cultivation projects include:

- Odor is typically the most significant compatibility issue for cannabis projects, and the OAP is the primary tool for reducing odor-based land use conflicts.
- Cannabis odors have been experienced throughout agricultural areas and in downwind cities like Buellton, Solvang and Lompoc, reflecting a regional problem that requires uniform rules applying to all sources.

- Requiring OAPs for all grows, regardless of underlying zoning, levels the playing field.
- OAPs are already required for outdoor cannabis cultivation projects located within the Santa Ynez Valley Community Plan boundaries.
- Outdoor cultivation OAPs are feasible. They typically utilize setbacks and buffer zones, low odor strains, vegetative screens, limits on the number and duration of harvests, and in some instances, vapor phase deodorant systems.
- Although odor control technology for outdoor grows is in its infancy when compared to greenhouse odor control technology, the OAP requirement will stimulate research efforts to improve techniques for odor control from this type of cannabis operation.

The AG-II exemption from OAPs was inserted late in the County's ordinance process, appearing for the first time in the 2018 Final PEIR. The only justification for the exemption was "[d]ue to the innate need for protection of agricultural land." FPEIR 3.3-24. Ironically, the exemption from odor control on AG-II lands has had the reverse effect. The wide-ranging odors released from cannabis cultivation sites actually inhibits the viability of other AG-II agriculture such as vineyards, wineries and tasting rooms. In their March 6, 2020 letter to the Board of Supervisors, the Grower-Shippers Association of Santa Barbara and San Luis Obispo Counties noted various conflicts between cannabis and other crops, including "harvest crews reporting concerns from strong odors sometimes several miles away." At page 2. Many vintners report experiencing strong cannabis odors at their wineries, including at tasting rooms that deter visitation for customers that are a central element of winery profitability. Allowing one crop to evade reasonable odor control at the expense of another is unjustified, particularly when the odorous crop is an annual with many growers focused on short-term returns, and the other entails years of investment before reaching profitability. Your Board recognizes that cannabis revenues are fickle, and the industry vulnerable to dramatic swings. Odor control is needed to preserve existing agriculture, whose economy is more stable but threatened by excessive odor.

Many residents and visitors to the County's agricultural regions during cannabis harvest periods in recent years have experienced pervasive cumulative cannabis odors in areas far from individual cannabis cultivation operations. Cannabis odors are already a regional problem, which will increase in severity as more cannabis is planted under recently approved permits. OAPs are an essential tool to controlling both facility-specific odors and regional odors, and it is thus inappropriate to exempt AG-II grows from acting to control their odors.

In summary, odor control should be a fundamental element of the planning and permitting of any cannabis project, and the OAP is the County's established tool for addressing odor. The benefit of requiring a CUP is substantially weakened if most AG-II projects are not required to control odors. An OAP is necessary to advance compatibility with surrounding areas, one of the CUP Findings. OAPs for cannabis projects on AG-II lands are feasible, and will get increasingly effective once they are regularly required as an enforceable permit condition and the techniques and systems for controlling odor from outdoor cannabis cultivation projects are refined.

**The Coalition supports the proposed amendments, including OAPs on all lands and application of the new rules to all unapproved projects, including those on appeal, and urges the Board's adoption on August 16.**

**IF A PROJECT IS EXEMPT FROM AN OAP, THE PERMIT CONDITIONS WILL BE SILENT AS TO ODOR AND THE COUNTY HAS NO AUTHORITY TO ADDRESS FUTURE ODOR ISSUES AT THE SITE.** Staff's proposed OAP exemptions were rightfully rejected by the Planning Commission and should also be rejected by the Board of Supervisors.

### 3. Require CUPs for Processing Facilities

A CUP should be required for all cannabis processing facilities, not a LUP, for all of the reasons the CUP is to be required of cannabis cultivation projects. County decisionmakers should have the same discretion to ensure that processing facilities are compatible with surrounding land uses and adequately mitigated to address traffic, lighting, visual as well as odor impacts.

The nature of cannabis processing facilities has changed, as exemplified with the proposed expanded Westcoast Farms processing facility. Initially proposed and approved in 2020 as a 3,000 square foot building for 50 acres of cannabis, this year the operator has proposed a 24,900 square foot processing building. The nearly ten-fold increase in size qualifies the project as a regional processing facility, sized to process as much as 415 acres of cannabis, over one-quarter of the county's total inland acreage. Yet under the proposed ordinance, the County will process this application with a LUP, with narrow discretion to condition its impacts.

While the annual cultivation of cannabis outdoor will come and go with market fluctuations, water availability, weather and climatic conditions, wildfire smoke and a host of other variables affecting annual production, processing facilities are permanent, year-round facilities capable of processing cannabis from across the state, irrespective of local cultivation. The County's authorization of cannabis processing facilities include both structural and operational elements, and thus require adequate conditioning not only of structures, but also conditioning of operations. Given the demonstrated potential conflicts with surrounding land uses, a Conditional Use Permit, with findings of neighborhood compatibility, gives the County the necessary discretion to ensure cannabis processing facilities are conditioned to protect existing businesses and agriculture.

The Coalition urges the Board to revised 35.02.075.B.7 to simply state:

Permit requirements for commercial cannabis cultivation processing activities on lots zoned AG-I, AG-II, M-RP, M-1, and/or M-2. On lots zoned AG-I, AG-II, M-RP, M-1, and/or M-2, new processing activities—excluding manufacturing—of cannabis shall require approval of a Conditional Use Permit (section 35.82.060).

Table 4-10 and 4-12 should be adjusted accordingly.

### 4. Minor Changes

The County's LUDC imperfectly addresses changes to approved projects, and Staff presented the Planning Commission and your Board changes that circumvent the Substantial Conformity

Determination and Minor Changes to Land Use Permits procedures in LUDC Appendix C & F. While these procedures have been identified as impediments to beneficial changes and generally the revisions authorized by staff's proposal are beneficial, the proposed changes enable a process that lacks transparency and authorizes "closed door" project changes. **The Coalition encourages the Board to add a provision notifying surrounding landowners and parties interested in the initial approval with notice of the permit revisions.**

5. AG-I 20 Acre Requirement

The Coalition supports the "clean-up" provision prohibiting cannabis on AG-I lots less than 20 acres in size.

Conclusion

The exhaustion of the acreage cap triggers an opportunity to define a "next generation" of cannabis cultivation permits that better manages these projects to avoid and minimize adverse impacts to surrounding land uses, and the community as a whole. Clear permit requirements, including enhanced mitigation of odor, is a critical element of these permits, essential to the compatibility required for CUP approvals. The Coalition urges the Supervisors to better manage impactful cannabis projects and preserve the character of our community, including agricultural areas, by adopting the CUP proposal but amending the proposal to require OAPs for all projects and CUPs for all cannabis processing projects.

Thank you for your time and consideration.



Blair Pence, President  
Santa Barbara Coalition for Responsible Cannabis