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From: Courtney Taylor <me@courtneyetaylor.com>
Sent: Friday, March 29, 2019 6:25 AM
To: sbcob
Subject: Comment RE 4/2/2019 Agenda Item #2
Attachments: BOS 2019-03-28 Ltr RE Cannabis Ordinance Amendments w Attachments.pdf

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Clerk of the Board:

Please find attached a letter from this office regarding Board of Supervisors Departmental Agenda Item #2 for April 2, 2019 regarding further amendments to cannabis regulations.

Thank you,
Courtney Taylor

Courtney E. Taylor

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Legal Counsel to the **Alcohol Beverage Industry**

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VIA EMAIL

sbcob@co.santa-barbara.ca.us

March 28, 2019

Clerk of the Board
County Santa Barbara, Board of Supervisors
105 East Anapamu Street
Santa Barbara, CA 93101

RE: Proposed Amendments to Cannabis Regulations

Dear Supervisors:

This office represents various winery and vineyard owners residing in Santa Barbara County agricultural zones, namely on AG-II zoned parcels, many of whom are signatories to this letter. Based on the number, proposed acreage, and location of pending cannabis cultivation permits, the unconditioned cultivation of cannabis on AG-II parcels will have significant impacts on the viability and living conditions of the surrounding vineyards, wineries, other agricultural operations, and rural neighborhoods.

As you are likely already aware, Santa Barbara County now represents 32% of all active temporary cultivation permits issued by the State. Without regulations to reasonably curtail the total acreage that may be cultivated in our region, cannabis growers are able to accumulate multiple cultivation permits for single parcels. Mendocino County is second in the State to Santa Barbara County for issuance of cultivation licenses, with only 11% of the State's issued licenses. Due to setbacks and caps on the total canopy for cultivation on a single parcel, these licenses are spread amongst 665 parcels, averaging just one cultivation license per parcel. This is similar to our nearest neighboring county, San Luis Obispo County, which averages 1.5 licenses per parcel. In contrast, as of March 22, 2019, Santa Barbara County has only 116 parcels amassing 2,113 temporary licenses, averaging 18 licenses per parcel (with some having over 200 licenses for a single parcel).

Enclosed please find three depictions that more plainly demonstrate not only the large number of licenses within Santa Barbara County compared to the rest of the State, but also two examples of how cannabis grows can be concentrated near existing businesses and residential uses when projects in AG-II zones lack case-by-case review and there are no limitations on grow sizes (particularly within non-EDRN areas that have proximate residential uses).



Based on the foregoing, we believe it is apparent that Santa Barbara County is destined to host the majority of our State's cannabis cultivation, well beyond the objective stated in the PEIR to "help meet local demands" for cannabis in our County. Existing regulations exempt AG-II parcels from both discretionary review by County Planning & Development and odor abatement requirements. Based on these exemptions, we expect (and are finding true when reviewing pending land use permits) that the majority of the cultivation will occur on AG-II parcels without input from or assessment as to compatibility with existing surrounding uses, including businesses and residential uses.

While we are pleased to see changes to regulations in AG-I, we remain deeply concerned as to the direction the Board has taken regarding this issue in AG-II and believe that immediate clarifications and changes to the cannabis regulations are necessary to preempt the significant impacts of cannabis cultivation on neighboring uses. Despite an express intent to protect the health, safety and general welfare of County residents (including its agricultural resources) in Section 50-1 of Chapter 50, the existing permitting system is not adequate.

We therefore request your consideration of the following:

1. **Require a CUP in AG-II zones.** The PEIR specifically acknowledges that "*land use compatibility review would be part of the CUP process to address any public concern regarding the compatibility of commercial cannabis cultivation proximate to mixed residential, residential ranchette, and agricultural uses...*" The public process is completely circumvented in AG-II zones with the requirement of a Land Use Permit, which is a ministerial approval by the Department that does not require a public hearing. This is true despite a project's close proximity to residential and agricultural uses that are impacted by cannabis cultivation. We urge adoption of an amendment that requires a CUP even on AG-II parcels to allow meaningful dialogue regarding the impacts to the residents that reside on neighboring AG-II parcels.

The PEIR purported to justify the failure to require odor control in AG-II zones as follows: "The OAP would not apply to AG-II areas, given the extensive protections for agricultural practices within these areas, the absence of urban, inner-rural, or EDNR areas with associated residential uses, and the prevalence of more intensive agricultural practices already allowed within this zoning district." However, the PEIR failed to recognize the potential for overconcentration of grows in discrete areas in the AG-II zones, and the conflicts with existing agricultural practices on existing parcels. We continue to strongly believe that the odors resulting from such large cannabis sites will result in significant interference with existing businesses and residences on AG-II parcels, many of which are directly adjacent to numerous cannabis cultivation sites.

In order to take into account the potential that odor abatement alone does not entirely eliminate odors from traveling beyond property boundaries when there are numerous licenses



allowed on a single parcel, in addition to continuing to encourage the Board to adopt odor abatement measures, we urge the Board to adopt the following amendments:

1. **Implement setbacks:** An amendment that requires setbacks from the property line of the cultivation site of 1,500 feet. This setback requirement acknowledges that residential development is not always classified as an Existing Developed Rural Neighborhood (EDRN) or as an urban-rural boundary, which require discretionary review. Any neighborhoods not formally designed as EDRN or urban-rural boundary have no forum to voice concerns through the ministerial approval process.
2. **Limit canopies:** An amendment setting the maximum acreage for outdoor cultivation on AG-II parcels between 20 and 100 acres, to 5 acres, and on AG-II parcels over 100 acres, 5 acres for each additional 100 acres (i.e. 200 acre parcel canopy can be up to 10 acres).
3. **Require inspections for permit renewal:** An amendment specifying that use permits do not run with the land and expire after one (1) year after date of issuance. On the anniversary date each year thereafter, the County conducts an annual compliance inspection to confirm compliance with permit conditions. If a licensed operation is not in compliance, the land use permit is revoked and the State licensing authority is notified.

The above is a non-exhaustive list of measures that can and should be taken to protect the existing businesses and residents on AG-II parcels. We urge you to direct staff to conduct a comprehensive review of the cannabis ordinance and license provisions to address the impact of unconditioned cannabis cultivation on AG-II parcels, and to avoid costly litigation that will result.

Sincerely,

Courtney E. Taylor, on behalf of:

Bubba Hines

Brian Strange

James Dierberg

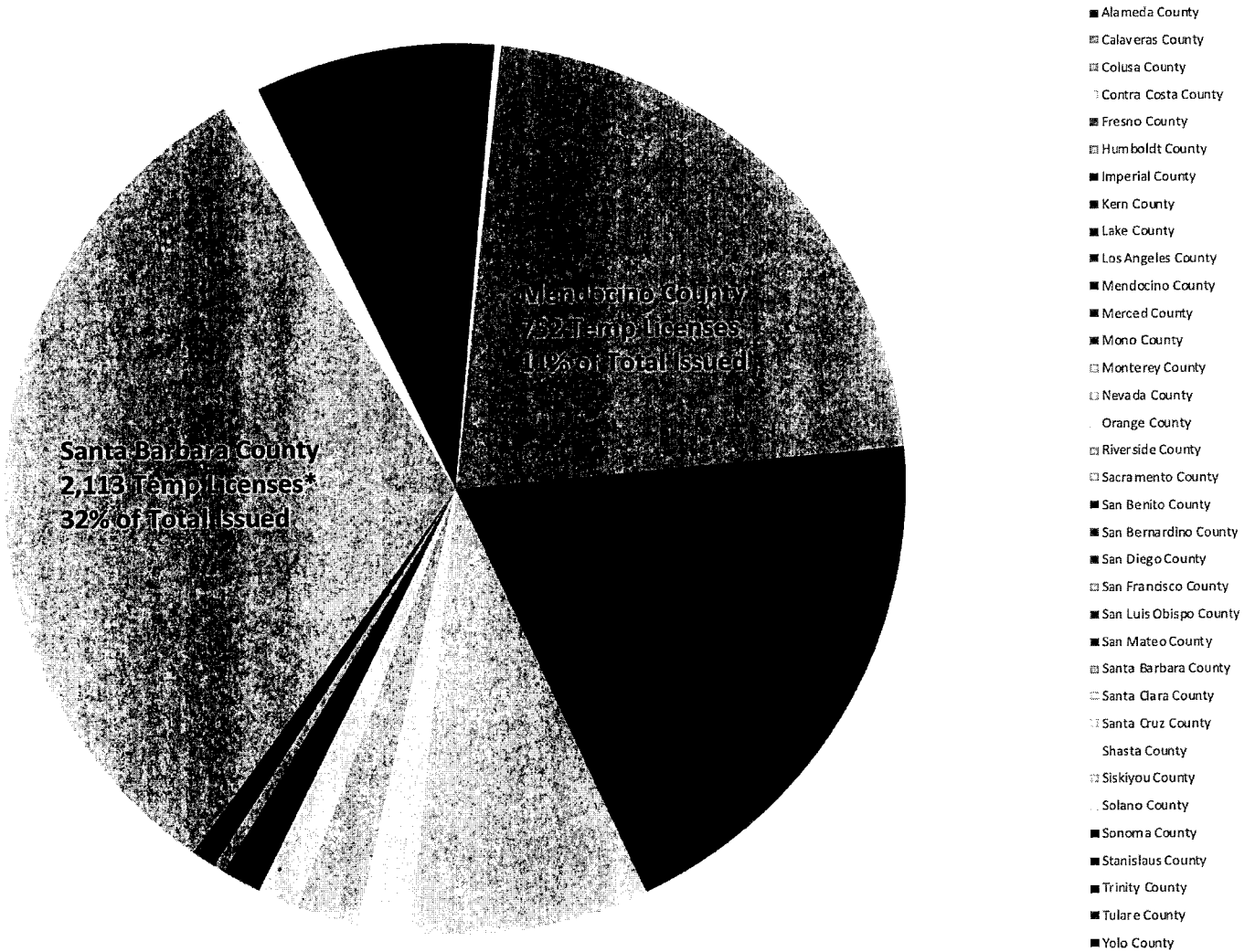
Rick Grimm

Aurora Grimm

Blair Pence



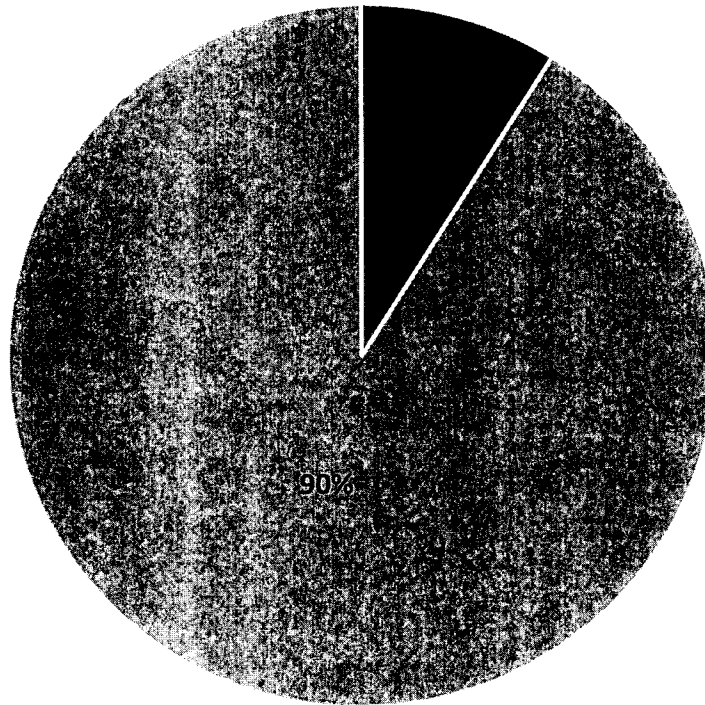
Total Licenses in SB County Compared to State



*Does not include applicants applying for cultivation land use permits that have not yet obtained State licenses, so the percentage will likely be higher.



Total Licenses for One Parcel (Coyote Hills) Compared to SB County



■ Coyote Hills Licenses ■ Total SB County

The Coyote Hills cannabis cultivation site is located at 5300 Kentucky Road in Happy Canyon in an AG-II zone. Under current regulations, cannabis cultivation is not a conditional use and only a ministerial land use permit is required. No setbacks or odor control are required despite the project's proximity to nearby residences and its owners holding 10% of Santa Barbara County's State cultivation licenses.

Map Depicting Coyote Hills Cultivation Site



Note: There are nearby residences that will be significantly impacted by this project, however, only an LUP is required. Thus, there is no discretionary review and no setbacks, acreage caps, or odor abatement required to mitigate impacts.

