

Ramirez, Angelica

## Public Comment

**From:** TROY WHITE <twhite@twlandplan.com>  
**Sent:** Thursday, May 21, 2020 7:48 PM  
**To:** sbcob  
**Cc:** Melekian, Barney; Plowman, Lisa; Wilson, Jeffrey; Seawards, Travis  
**Subject:** Cannabis Ordinance Amendments - June 2, 2020 BOS Hearing  
**Attachments:** LTR-No-CUP-Cannabis-TW-Land-PD-ADAM-2020-05-21.pdf; LTR-No-CUP-Cannabis-TW-Land-PD-HART-2020-05-21.pdf; LTR-No-CUP-Cannabis-TW-Land-PD-WILLIAMS-2020-05-21.pdf; LTR-No-CUP-Cannabis-TW-Land-PD-LAVAGNINO-2020-05-21.pdf; LTR-No-CUP-Cannabis-TW-Land-PD-HARTMANN-2020-05-21.pdf

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Please see the attached. I've also emailed each BOS independently.

Thanks,

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May 21, 2020

Hon. Supervisor Gregg Hart  
Board of Supervisors, 4th Floor  
105 East Anapamu Street  
Santa Barbara, CA 93101

VIA EMAIL

SUBJECT: Cannabis – Conditional Use Permit Concerns

Dear Hon. Supervisor Hart,

Good afternoon. My name is Troy White and I have been providing professional planning and permitting services in Santa Barbara County for over 20 years now and have worked locally on some of the largest projects in the County over the course of my career. My firm, TW Land Planning & Development, LLC, currently represents clients on nine (9) separate cannabis outdoor cultivation/ processing/ nursery applications within the Inland areas of Lompoc and Buellton. I write to you today to express my concerns about Planning Commission's recommendation that all outdoor cannabis applications be subject to a Conditional Use Permit (CUP) and to further express my support for this emerging industry. I hope you will consider other more effective means, if deemed necessary, in addressing any remaining concerns the County has related to the permitting of this already highly-regulated industry.

### **REAL POLICY CONCERNS REQUIRE REAL SOLUTIONS**

Within the Inland area, most cannabis complaints/ appeals registered to date can generally be distilled to the following three (3) issues areas:

- 1) Odor
- 2) Agricultural Compatibility
- 3) Tourism

Potential solutions to these three general issue areas, which might be more effective than a broad-based CUP policy directive, are explored below.

### *Odor*

For outdoor cultivation sites within the Inland area, cannabis odors will be generated 2-3 times a year, with each period lasting 2-3 weeks. This is unlike a greenhouse cultivation which can have multiple grows/plant cycles in any given year. To address these occasional and temporal odor concerns, the County should consider the following options:

- **100' Residential Buffer:** For outdoor cultivation, reasonable buffers can be implemented to address short-term odor emissions that might sometimes be experienced. For projects that I am involved in, we are voluntarily establishing a minimum 100' buffer zone between all cannabis cultivation areas and any off-site residence.
- **Ornamental/ Fragrant Vegetative Screening:** Ornamental/ fragrant plants can also be utilized to further screen cannabis activity from neighboring residences.

### *Agricultural Compatibility*

**Farmer Communication/ Cooperation:** Agricultural compatibility with respect to cannabis terpenes tainting grapes and/or pesticide drift affecting cannabis are concerns that are truly best addressed not by the Planning Commission, but by neighboring property owners. Neighboring farmers have the ability to work together to adjust planting locations and spraying times such that further regulation on the farming compatibility issues can be avoided.

**Cannabis/Vineyard Buffers:** If there is a need to formally establish a buffer, both the cannabis and non-cannabis farmer should share the buffer equally. For instance, if after further study, it is determined that a buffer of 200' (for instance) between cannabis grow areas and grapevines should be established, the cannabis farmer should be responsible for 100' of buffer and the non-cannabis farmer the same distance on his or her property. The cannabis Land Use Permit (LUP) would immediately establish the cannabis buffer, while the vineyard owner could choose to voluntarily establish a vineyard buffer if he/she is immediately concerned about terpene tainting grapes and/or pesticide drift. If the vineyard owner chooses not to immediately implement the buffer, that portion of the property would become legal non-conforming, which would need to be rectified should that landowner need to seek any additional permits from the County. This would be an equitable solution.

### *Tourism*

With respect to tourism, wine and cannabis tourism are compatible. Both the wine and the cannabis connoisseur are looking for ways to relax, socialize, and/or enjoy the subtleties and taste profiles of different varietals and blends. I tend to think over time, if not already, the wine and cannabis industries will attract the same types of customers. A major concern expressed by the wine industry is that customers at tasting rooms will not be able to taste/smell the wines.

**Tasting Room Buffer:** Minimum buffers of 200' between cultivation grow areas/ processing buildings and wine tasting rooms would create the necessary separation desired by some in the wine industry. This would appear to be a potential solution worth exploring.

### **CANNABIS HEARING OFFICER**

If after exploring any and all alternatives, the County BOS still feels like the only appropriate remedy is that every cannabis project be subject to a CUP, County P&D staff should be directed to create a cannabis-specific expedited CUP process with its own set of findings. The CUPs could be considered at weekly hearings by a Cannabis Hearing Officer (CHO). The CHO would have the technical background to evaluate cannabis applications and in rendering discretionary-level decisions, would be tasked to fairly weigh cannabis projects in light of staff, applicant, and any opposing testimony. Any appeals could be taken up directly by the BOS, which allow the PC the time to continue to deliberate on planning policies and other non-cannabis discretionary land use applications. The CHO could be an existing staff person, such as the highly-qualified Mr. Barney Melekian or one of his staff, who is already involved in the Cannabis Business Licensing and Enforcement programs.

### **PLANNING COMMISSION CUP PARALYSIS**

As a seasoned planning practitioner, I believe the implications of requiring all outdoor cannabis cultivation projects to be subject to a CUP have not been thoughtfully considered. I participated in and/or watched almost all of the Planning Commission (PC) hearings on the topic of LUDC revisions that the Board of Supervisors (BOS) had directed the PC to explore. As you may recall, it was the Board of Supervisors' direction (July 16, 2019) that the PC consider:

- Recommendations/strategies to mitigate odor and other impacts of cannabis operations
- Impacts along the urban-rural boundary
- Conflicts with existing agricultural operations

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There is no guarantee that CUPs would address the issues the BOS originally had concerns with. Further, requiring all cannabis applications to be subject to a CUP, at least under the current regulations, would literally paralyze land use permitting and subdivision activity within the County.

It appears there are currently approximately 169 separate pending cannabis applications. With each PC hearing for a cannabis project requiring a minimum of 3-6 hours, it would take approximately 507-1,014 hours to process just the existing +/- 169 cannabis applications. Assuming that there are NO OTHER PROJECTS requiring PC review (which is, of course, impracticable and impossible) and assuming that 8 hours of each 9-hour PC hearing is devoted to cannabis, it would take approximately 64-127 PC hearings to clear the back-log of EXISTING cannabis cases.

**Assuming 3 hearings per month, it would take approximately 22-42 months, or approximately 2-4 YEARS to clear the back-log of EXISTING cannabis cases, and this is without the PC reviewing any other land use projects during this time.**

Clearly, having cannabis applicants wait 2-4 years to be heard at PC for what in effect is a “permit to farm a different crop” on already agriculturally designated land would delay and frustrate all other applicants seeking approvals for non-cannabis development plans, conditional use permits, tentative parcel maps, tentative tract maps, etc. This is not an outcome that I think anyone desires.

#### **ISOLATED GROWS ARE NOT A “SOLUTION”**

A vocal minority, for those who purport to support cannabis at all, has indicated that cannabis grows should occur in “isolated” areas away from other farms/vineyards and/or rural developed neighborhoods. The problem with these isolated areas is that they are isolated and undeveloped for a reason. These isolated areas, generally, can be characterized as follows: 1) have not been previously developed, 2) have steep terrain, 3) are located in environmentally sensitive habitat areas, 4) have lack of suitable soils, 5) have no water, 6) have no utilities, 7) are nowhere near where employees live, 7) have limited access/roads, and 8) have no nearby support vendors (e.g., irrigation supplies, fertilizer, well equipment, etc.). Cannabis farmers have largely chosen to locate in areas where other farmers are located (or have historically been located) as these areas have the necessary resources and infrastructure that will allow for a farming operation to be and remain viable.

### **ODORS/ TERPENES WILL BE MINIMAL IN THE INLAND RURAL AREAS**

The LUDC already relegates cannabis cultivation to primarily AG-II rural areas (and to a lesser extent, a small number of larger AG-I properties). Properties adjacent to EDRNs already require CUPs. Odors and terpenes within Inland rural areas (i.e., AG-II areas) that were meant to be farmed with any variety of crops or animal husbandry have historically been associated with some “odors” which some might consider objectionable.

Cannabis odors and terpenes are generally only detectable during each crop’s 2-3 week flowering period and outdoor cannabis cultivation can only feasibly be grown in 2-3 crop cycles per year. Even then, odor/terpene dispersal is highly dependent on climatic and topographical conditions. We have scientific evidence that cannabis terpenes in the field environment do not have the ability to taint wine. In Dr. William Vizueté’s (Pacific Environmental Analytics, LLC) 2019 study of this issue (and his review of the Australian eucalyptol study), he reported that it would take 1,121 days of continual emissions from cannabis plants, continually interacting with grapes, to result in grape absorption of terpenes at any meaningful level.

Changing the LUDC to address non-hazardous odors/ terpenes which only occur a few times a year, making it harder to farm, would create a new County precedent that most farmers/ ranchers should be concerned with.

### **NO PERMIT TIME LIMITS**

I should also state emphatically that given the millions of dollars spent in securing land, entitlements, licenses, staffing, as well as developing the necessary water well/treatment, access, security, and processing infrastructure (and the years it requires to establish such), any attempt to put a time limit on a cannabis CUP would be the death knell for the industry.

The County already reviews cannabis projects on an annual basis; project review under the business license should be more than adequate. Any deficiencies or inadequacies identified in the business license process can be remedied, as needed, on an annual basis.

### **PERCENTAGE LOT COVERAGE IS AN IMPRECISE TOOL**

The use of percentage of cannabis lot coverage has also been identified as a possible regulatory solution. Unfortunately, this does not really address in any meaningful way the specific concerns of Odor, Agricultural Compatibility, or Wine Tourism. If a cannabis site is 20 acres, with 80%

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coverage, but is located away from residential areas, wine tasting rooms, and vineyards, what purpose would a maximum percent coverage really serve?

If the BOS determines that percentage coverage is a policy worthy of further pursuit, I believe the percentage coverage should be based on the actual acreage of cannabis being grown (whether under hoop or open sun) as well as any related building square footage related to processing/packaging/nursery operations. This method of quantifying cultivation acreage is consistent with recent approvals/ precedent established by the BOS, PC, and CEO's office regulation of cannabis acreage under the 1,575-acre cap. It should be noted that the acreage does not take into account access roads, water tanks, landscaped areas, parking areas, etc, which would seem to be appropriate, as the County is looking to limit the amount of acres physically under cultivation (and any related impacts) and not the infrastructure serving basic farming/ ranching operations. For example, one project that I am working on has 58% cannabis hoop coverage, but if the dirt roads and water infrastructure serving the hoops (which will be fenced as part of the cannabis security plan) is included with the "cultivation" area, that percentage dramatically increases to 89%.

Should the County pursue percentage coverage as a regulatory option, there should be an effort to better define and limit that which truly qualifies as "cultivation" for purposes of the cap as well as percentage lot coverage.

## **ECONOMIC STIMULUS**

And finally, a word on economics. With many retail businesses struggling even prior to COVID-19, and with farmers and ranchers increasingly being asked to compete in international agricultural commodities markets, traditional sources of income generation within the County (and the related employment and tax benefits) are being challenged. The cannabis industry appears to offer an economic remedy in that cannabis farmers are able to produce a high-value agricultural commodity that is generally recession-proof and which is not currently subject to national or international competition (at least, legally).

As a result, in comparison to other agricultural commodities, cannabis farmers are able to generate more income per acre. This translates into cannabis farmers being able to pay their employees and laborers a decent "living" wage and, in some cases, being able to offer insurance and retirement benefits. **Through market-based forces, I believe that agricultural wages and benefits, across the board, will increase as a result of the County's continued support of the cannabis industry.**

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With a recession on the horizon, the County will increasingly need to rely on the tax income that cannabis can generate. Every month and every year that cannabis operators are without permits/licenses is a lost opportunity cost. It is doubly injurious in that farmers are not currently allowed to plant any other agricultural commodity on agriculturally-zoned properties while projects are going through the cannabis entitlement process. Thus, even in the interim, agricultural lands sit fallow and no income to either the farmer or County is being derived.

## CONCLUSION

The County prepared and adopted the Cannabis Land Use Ordinance and Licensing Program (and certified the EIR) in an effort to license and regulate cannabis businesses consistent with required State of California licensing regulations. The LUDC and Licensing Program regulations are already robust. We need to be looking to streamline and expedite cannabis processing in an effort to bring this industry out of the shadows, in compliance with State/ County regulations, and in order to realize more jobs, higher wages, and increased taxes.

There are better ways to address any remaining cannabis concerns other than relying on CUPs, which is really not addressing the underlying issues. In summary, the County should consider the following solutions:

- **100' Residential Buffer:** Minimum 100' buffer zone between all cannabis cultivation areas and any off-site residence.
- **Ornamental/ Fragrant Vegetative Screening:** Ornamental/ fragrant plants between all cannabis cultivation areas and any off-site residence.
- **Better Farmer Communication/ Cooperation:** Encourage neighboring farmers to work together to adjust planting locations and spraying times.
- **Cannabis/ Vineyard Buffers:** If there is a need to formally establish a buffer, both the cannabis and non-cannabis farmer should share the buffer equally—an equitable solution.
- **Tasting Room Buffer:** Minimum buffers of 200' between cultivation grow areas/ processing buildings and wine tasting rooms.



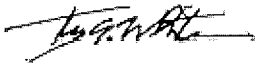
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Moving forward with CUPs for all cannabis projects would be rewarding the vocal minority (who have no interest in a successful cannabis industry and its positive economic contribution to the County) and penalizing the cannabis operators who have sought to play by the rules from day one. Please consider ways to expedite and not slow down the processing of cannabis permit and license applications.

Should you wish to discuss these topics further and/or require any additional information, please do not hesitate to give me a call at (805) 698-7153. I may also be e-mailed at [twhite@twlandplan.com](mailto:twhite@twlandplan.com).

The cannabis industry looks forward to your support and thoughtful deliberations.

Most sincerely,



Troy A. White  
Principal

CC: Barney Melekian, Assistant CEO  
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