

CITY of CARPINTERIA, CALIFORNIA



July 23, 2018

Michelle Kubran, Coastal Program Analyst
South Central Coast District
California Coastal Commission
89 S California Street #200
Ventura, CA 93001

Re: Santa Barbara County Cannabis Land Use Ordinance
Local Coastal Plan Amendment No. LCP-4-STB-18-0039-1-Part C

Dear Ms. Kubran,

The City of Carpinteria ("City") is deeply concerned about the potential for the County of Santa Barbara's ("County") proposed Cannabis Land Use Ordinance (CLUO) Local Coastal Plan Amendment (LCPA) to result in serious negative impacts to residents, services, infrastructure, agriculture and other coastal resources of the Carpinteria Valley Coastal Zone. The City requests the Commission and staff consider the following revisions to the County's proposed CLUO LCPA:

- Include an acreage cap on commercial cannabis activities and prohibit outdoor cultivation in the Carpinteria Agricultural Overlay District; and
- Revise regulations related to accessory cannabis uses to be consistent with regulations for accessory uses applicable to "traditional" agricultural crops in the Coastal Zone.

Specific proposed text changes are included in the attachment to this letter.

Background

The City actively participated in the County's CLUO adoption process, providing numerous written comments and public testimony concerning suggested ordinance revisions and additional feasible mitigation measures to better address concerns of importance to residents of the Carpinteria Valley. Included amongst the City's recommendations was the adoption of an acreage cap limiting the amount of commercial cannabis activity within the Carpinteria Valley, the imposition of more stringent operating standards for cannabis cultivators in the AG zones, and the adoption of meaningful limitations for non-cultivation accessory activities (e.g., manufacturing, processing, distribution, etc.) occurring on agriculturally-zoned (i.e., AG-I/AG-II) properties within the Coastal Zone. We believe such measures are necessary to maintain consistency with Coastal Act policies and existing County of Santa Barbara Local Coastal Plan (LCP) policies and regulations, as well as to address many of the City's stated concerns by limiting the possible extent and incompatible growth of the commercial cannabis industry in the Carpinteria Valley.

Ultimately, the County chose not to include such regulations in the CLUO itself. The County did however opt to impose a cap of 186 acres on indoor and mixed-light cultivation (only) within the Carpinteria Agriculture Overlay (CAO) District, and a cap of zero (0) acres for outdoor cultivation within the county-wide Coastal Zone, as part of their Cannabis Business License regulations. While the City is pleased with the County's decision to limit the type and extent of cannabis cultivation within the Coastal Zone,

and specifically within the Carpinteria Valley through the imposition of these caps, we believe such caps would be more appropriately made part of the CLUO itself rather than imposed through the administrative Cannabis Business License program.

With respect to allowed accessory uses on AG zoned properties, the County's adopted CLUO designated accessory cannabis uses (e.g. non-volatile manufacturing, and distribution) as permitted uses in AG-I and AG-II zones, and volatile manufacturing as a conditionally permitted use in AG-I and AG-II zones.¹ Standards for accessory distribution and manufacturing only require a minimum of 10 percent of the cannabis product handled by these accessory uses to be sourced from the onsite cultivation operation on the agricultural property and place no limitations on the source of the remaining 90 percent of cannabis product. Further, the criteria used for defining what qualifies as accessory use simply states the accessory use must be subordinate to the cultivation use and must have a smaller footprint than the cultivation use and does not account for the cumulative impact of multiple accessory uses on a lot. The City of Carpinteria believes these standards are overly permissive in allowing non-agricultural and potentially intensive industrial processing activities to become established in areas of prime soils on agriculturally designated properties within the Coastal Zone.

In light of these concerns, the City of Carpinteria respectfully requests the Commission and staff consider requiring the following revisions to the County's proposed CLUO LCPA application in order to better protect coastal resources in the Carpinteria Valley:

- **Commercial Cannabis Acreage Caps**: Adopt a broadly-defined commercial cannabis cap allowing no more than 186 acres of all commercial cannabis activity (inclusive of cultivation and all accessory uses) within the Carpinteria Agriculture Overlay District; and a prohibition on outdoor growing within the Carpinteria Agriculture Overlay District.
- **Stringent Accessory Use Regulations**: Establish more effective limits on accessory cannabis uses on agriculturally-designated lands within the Coastal Zone. Such limits should prohibit or, at minimum, further restrict the extent to which commercial cannabis accessory uses are allowed to be established on agriculturally-designated lands, particularly those containing prime soils. To the extent that accessory uses are permitted to be located in the AG-I or AG-II zones, such limits should also treat the processing, manufacturing, and/or distribution of cannabis grown off premises in a manner that is consistent with those regulations already established in the County's LCP for other agricultural products grown off premises.

In support of these recommendations, we offer the following analysis:

1. Proposed CLUO regulations are inconsistent with the California Coastal Act.

Several aspects of the County's proposed CLUO regulations as currently drafted are inconsistent with Coastal Act policies intended to protect agriculture and unique communities within the Coastal Zone. The overly permissive allowances for commercial cannabis activities will almost certainly increase pressure for further conversion of open field, prime agricultural lands to industrialized, indoor agricultural operations and their allowed accessory uses including packing houses, distribution facilities, and manufacturing facilities. This expansion and proliferation of industrialized agriculture activities and their accessory uses is inconsistent with multiple coastal policies, including:

- Coastal Act § 30241 requires "[t]he maximum amount of prime agricultural land shall be maintained in agricultural production..."

¹ All agriculturally zoned land in the Carpinteria Valley is zoned AG-I.

The County's proposed LCPA would require all structures for cannabis cultivation operations, including greenhouses that do not rely upon in-ground cultivation, that are located on premises that contain prime soils to be sited to avoid prime soils to the maximum extent feasible. It is not clear however, who is responsible for making this determination, nor is there any criteria provided for determining what constitutes "the maximum extent feasible." Likewise, the proposed LCPA provides allowances for accessory uses to also be located on prime soils when the Director finds that no alternative location on nonprime soils exists within a reasonable distance of the proposed site. Again, the criteria for what constitutes a reasonable distance is not spelled out or defined. Poorly defined and vaguely worded regulations are not adequate to protect prime agricultural lands or to maintain agricultural production as a priority use within the Coastal Zone. We believe accessory uses should be prohibited entirely on agricultural lands with prime soils in the Coastal Zone.

The County's policy consistency analysis misconstrued the proposed LCPA's consistency with this Coastal Act policy by stating that the proposed LCPA, which allows for new greenhouse construction and multiple cannabis accessory uses on agricultural land, including prime soils, would not allow the conversion of agricultural land to non-agricultural uses since the allowed accessory uses would be considered supportive of agriculture. However, this Coastal Act policy specifically requires prime farmland be maintained in agricultural *production*, not just in agricultural uses. Thus, allowing the conversion of prime farmland to non in-soil production activities and/or accessory uses is inconsistent with Coastal Act § 30241.

The proposed regulations for accessory uses simply require that the accessory use be incidental to the on-site cultivation operations, and have a smaller footprint than the cultivation operations on the premises. Paradoxically, the proposed regulations also only require a minimum of 10 percent of the cannabis product handled in the accessory use to be sourced from onsite cultivation and place no limitations on the source of other cannabis products. An "accessory" distribution or manufacturing facility that processes up to 90 percent of its product from offsite sources hardly qualifies as an incidental, accessory use. Considering the size of some of the cultivation facilities already existing in the Carpinteria Valley, the proposed regulation could accommodate large-scale processing facilities that contribute to the ongoing conversion of agricultural lands to non-agricultural production uses more closely aligned with the types of uses expected in a manufacturing or light industrial zone district. Allowing such intensive non-agricultural activities in agricultural zones, and potentially even on prime soils, will not maintain the maximum amount of agricultural land or agricultural production in the Coastal Zone. Sufficient non-agricultural lands are available in the unincorporated County or surrounding jurisdictions to accommodate all non-cultivation cannabis activities, such that there is no compelling reason to allow the conversion of prime farmland into non-cultivation uses.

- Coastal Act § 30250(b) requires, "*where feasible, new hazardous industrial development shall be located away from existing developed areas.*"

The LCPA proposes to allow volatile manufacturing with a use permit in AG-I zones, most of which are in close proximity to developed, urban areas of the City of Carpinteria. The proposal to allow volatile manufacturing, which includes use of hazardous and volatile chemicals in manufacturing processes in AG-I zones, particularly in the Carpinteria Agricultural Overlay District adjacent to the City of Carpinteria, is inconsistent with Coastal Act § 30250(b).

- Coastal Act § 30253(e) requires new development to, “*where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*”

The proposed LCPA is overly permissive by design in order to meet the County’s stated top project objective to accommodate and allow for a “*robust and economically viable legal cannabis industry to ensure production and availability of high quality cannabis products to help meet local demands, and as a public benefit, improve the County’s tax base.*” The resultant proliferation of cannabis cultivators in the Carpinteria Valley, and the expected continued expansion of these uses runs the risk of threatening some of the very qualities that make the Carpinteria Valley such a unique and special community.

The Coastal Zone boundary was purposely drawn to include the entire Carpinteria Valley within its boundary in recognition of the unique coastal resources that exist in the area, including but not limited to viable agriculture on prime soils, scenic ocean and coastal mountain views, important habitat areas, and the small beach town charm of the City of Carpinteria. Many of these attributes contribute to the popularity of this area as a visitor destination. To the extent that loosely regulated or overly permissive County cannabis regulations allow for an inundation of commercial cannabis uses within the Valley, some of the very qualities that make the Carpinteria area so unique and valuable are at risk of being impacted. Numerous complaints have been filed, and continue to be filed, citing objectionable odors, lighting impacts, and security/crime concerns with the commercial cannabis industry that, cumulatively, degrade the quality of life for surrounding areas. Stringent regulatory acreage caps on cannabis activities and limitations on allowed accessory uses are needed to ensure that the commercial cannabis industry does not materially detract from what makes the Carpinteria Valley a highly attractive coastal tourism area.

2. Proposed CLUO regulations are inconsistent with the County’s existing LCP.

The County’s proposed CLUO LCPA treats commercial cannabis activities in a manner that is significantly more permissive than how other “traditional” agricultural crops are regulated in the LCP. Given the particularly unique demand for and economic value of this crop compared to other crops grown in the area, as well as the documented nuisance impacts and land use conflicts associated with cannabis activities, such an approach is inappropriate and inconsistent with the existing LCP. At minimum, commercial cannabis cultivation activities should be treated in a manner that is the same as other agricultural crops. In some cases, cannabis activities that are more intensive or that create additional impacts beyond those typically associated with other agricultural products or practices should be more restrictively regulated. Specifically, we identified the following discrepancies:

- Cannabis Accessory Activities (e.g., distribution, non-volatile manufacturing) are proposed to be allowed as permitted accessory uses within AG-I and AG-II zones so long as the processing activities include a minimum of 10 percent of materials sourced from on-site (e.g., up to 90 percent sourced from off-site), despite the fact that similar processing activities for other agricultural products within the Coastal Zone are required to obtain a Major Conditional Use Permit (see Coastal Zoning Ordinance (CZO) §35-68.4(3) and CZO §35-69.4(4)), and are subject to an extensive list of standards and limitations.
- Volatile Cannabis Manufacturing is proposed to be a permitted use subject to a Major Conditional Use Permit in the AG-I and AG-II zone districts, despite the fact that no similar agricultural processing activities involving the use of flammable or explosive materials and processes are similarly permitted in AG-I zone districts (see CZO §35.68.4 and 35-68.5).

- Parking requirements for commercial cannabis activities are not specified in the proposed CLUO LCPA, nor is the provision of onsite parking required to be addressed as part of the mandated Site Transportation Demand Management Plan. Presumably this means the existing parking standards for agricultural activities as specified in CZO §35-113 (i.e., two parking spaces per acre of land in such use) would be applied to commercial cannabis cultivation. It is also unclear whether permitted agricultural accessory uses (cannabis distribution, manufacturing, etc.) would be subject to the agriculture parking rate or some other parking rate (e.g., industrial). Cannabis cultivation activities have been shown to have a much higher labor demand compared to other agricultural products (i.e., greenhouse cannabis cultivation uses approximately 595 square feet per worker (FTE), compared to (conservatively) 38,314 square feet per worker for cut flower growing).² This difference in employee demands can anecdotally be observed by driving through the Carpinteria Valley and observing the recent uptick in employee vehicles parked along road shoulders in the vicinity of premises that have recently undertaken cannabis cultivation activities. These figures and observations suggest specific parking requirements unique to commercial cannabis cultivation and accessory uses are warranted in an effort to not detract from the rural character and scenic quality of the Carpinteria Valley and to ensure public access to coastal resources, including existing and planned public trails in the Coastal Zone, is not impacted by cannabis uses.

3. Protection of coastal resources can be more effectively achieved through robust LCP policies and implementation measures.

The adoption of acreage caps as part of the CLUO LCPA would provide for stronger regulatory control within the Coastal Zone and diminish the likelihood of said caps being made more permissive or even withdrawn entirely without public or Coastal Commission review of the impacts on coastal resources. Currently the County's caps are adopted through an administrative process that can be expediently changed when, or if, it suits the County's current political environment. This arrangement offers no permanent or meaningful long-term protection for coastal resources in the Carpinteria Valley from continued cannabis industry growth or expansion. Likewise, consistent and meaningful limitations on accessory uses ensure important coastal resources are better protected for the public's benefit.

Carpinteria has been witness to the impacts of a rapidly expanding agricultural industry in the past with the original proliferation of greenhouses throughout the Valley during the cut flower industry boom. In response to the very real threat that the prime soils and unique coastal resources of the Carpinteria Valley could have been irreplaceably lost to ever-expanding greenhouse development, the Coastal Commission wisely directed the County to develop and adopt what eventually became the Carpinteria Agriculture Overlay (CAO) District. The CAO recognized the threats in allowing the Carpinteria Valley to be inundated by a single agricultural industry, and the resultant loss of valuable coastal resources, including but not limited to, prime soils with excellent climatic growing conditions, unimpaired coastal viewsheds, sensitive coastal habitats, and even the semi-rural, small beach town charm of the Carpinteria Valley that makes it a popular visitor destination area. Appropriate limitations were placed on new greenhouse development to check this growth, and avoid the risk of losing those resources that help make the Carpinteria Valley unique in Southern California. Similar limitations on the commercial cannabis industry are necessary for the same reasons.

² Matthews, William A.; Sumner, Daniel A.; Medellín-Azuara, Josué; Hanon, Tristan. "Economics of the California Cut Flower Industry and Potential Impacts of Legal Cannabis." University of California Agricultural Issues Center. August 30, 2017.

The Carpinteria Valley is favorably located to be one of the primary producers of cannabis products for the entire Southern California cannabis market. Many of the jurisdictions in Southern California have significantly restricted or even prohibited commercial cultivation, such that demand is being largely met through imported cannabis from other parts of the state, including Santa Barbara County. This is already borne out by a review of the numbers of State licenses issued for cannabis cultivation, where currently Santa Barbara County leads all other California counties in the number of issued cannabis licenses, a large percentage of which are concentrated in the Carpinteria Valley.³ A well-reasoned regulatory cap and clear, enforceable limitations on accessory uses that allow the cannabis industry to have a viable presence in the Carpinteria Valley agricultural areas without overwhelming nearby residents, visitors, other land uses, and coastal resources with the negative or undesirable impacts of the industry is warranted.

It is also worth noting that there is nothing inherently unique about cannabis that requires it to be grown within the Coastal Zone generally or the Carpinteria Valley specifically. The favorable climate and generally high quality soils of the Carpinteria Valley are however, an important resource for in-soil cultivation practices of other valuable agricultural products that cannot be as easily grown in other climates or conditions (e.g., avocados, cherimoyas, etc.). The productive, prime soils of the Carpinteria Valley should thus be largely preserved for those crops that actually require the unique qualities found on Carpinteria Valley agricultural lands.

In light of the important coastal resources found in the Carpinteria Valley and the unique impacts of the commercial cannabis industry, we believe more stringent regulations are necessary in order to successfully preserve and protect the Carpinteria Valley. For these reasons, we strongly urge Commission staff to consider incorporating our recommended revisions into the County's LCPA for the CLUO.

Should you have further questions or wish to discuss with us our concerns in more detail, we would be happy to meet with you at your convenience.

Sincerely,



Steve Goggia, Community Development Director
(805) 755-4414

Cc: Dave Durlinger, City Manager

Attachment: Proposed Modifications to Santa Barbara County CLUO LCPA

³ Staggs, Brooke. "So far, California has 6,000 licensed cannabis businesses. Here's what that looks like." *The Orange County Register*. April 27, 2018. <https://www.ocregister.com/2018/04/27/so-far-california-has-6000-licensed-cannabis-businesses-heres-what-that-looks-like/>

**City of Carpinteria Proposed Modifications
to
Santa Barbara County Proposed Cannabis Land Use Ordinance (CLUO)
Local Coastal Plan Amendment (LCPA)**

City of Carpinteria proposed text changes to Coastal Zoning Ordinance LCPA shown in strike-through and underline.

1. Cap and restrict cannabis activities in the Carpinteria Agricultural Overlay District.

Revision to Sec. 35-144U.D.1.a:

a. AG-I Lots 20 acres or less; Lots zone AG-I-5; and/or Lots zone AG-I-10; and or Lots in Carpinteria Agricultural Overlay District. 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; and/or lots in the Carpinteria Agricultural Overlay District.

Addition to Sec. 35-144U.D as 7.:

7. Carpinteria Agricultural Overlay Cap. No more than 186 acres of commercial cannabis activity shall be permitted within the Carpinteria Agricultural Overlay District.

2. Accessory Use Regulations

Revision to Sec. 35-68.3 (Permitted Uses):

~~13. Cannabis, Distribution, subject to the provisions of Section 35-144U.~~

~~14. Cannabis, Non-volatile Manufacturing, subject to the provisions of Section 35-144U.~~

Addition to Sec. 35-68.4 (Uses Permitted with a Major Conditional Use Permit):

7. Cannabis, Distribution, subject to the provisions of Section 35-144U.

8. Cannabis, Non-volatile Manufacturing, subject to the provisions of Section 35-144U.

Revision to Sec. 35-144U.B.4 Allowed Cannabis Uses and Permit Requirement by Zone Table to correspond to above changes to permit requirements.

Revision to Sec. 35-144U.D.3 (Specific use development standards – 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. All other cannabis product shall be sourced from other local agricultural land (defined as lands located within 25 miles of the boundaries of Santa Barbara County).
- 2) Distribution shall be subordinate and incidental to the cultivation use of the lot, and the area designated for distribution and all other accessory uses on the lot, including paved driveways and parking areas, shall cumulatively occupy a smaller footprint than the area that is designated for cultivation on the lot.
- 3) The primary intent of the development of the distribution use shall be to serve residents of Santa Barbara County.
- 4) Distribution uses shall be prohibited on prime soils.
- 5) Parking for distribution uses shall be provided at the rate specified for wholesaling, warehousing, and storage facility uses in Sec. 35-111 of this ordinance.

Revision to Sec. 35-144U.D.3 (Specific use development standards – 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. All other cannabis product shall be sourced from other local agricultural land (defined as lands located within 25 miles of the boundaries of Santa Barbara County).
- 2) Manufacturing shall be subordinate and incidental to the cultivation use of the lot, and the area designated for manufacturing and all other accessory uses on the lot, including paved driveways and parking areas, shall cumulatively occupy a smaller footprint than the area that is designated for cultivation on the lot.
- 3) The primary intent of the development of the manufacturing use shall be to serve residents of Santa Barbara County.
- 4) Manufacturing uses shall be prohibited on prime soils.
- 5) Parking for manufacturing uses shall be provided at the rate specified for research and development, manufacturing, and processing uses in Sec. 35-111 of this ordinance.

3. Prohibit volatile manufacturing in the Carpinteria Agricultural Overlay District.

Proposed addition to Sec. 35-144U.D.4:

d. Volatile manufacturing is prohibited on lots located within the Carpinteria Agricultural Overlay District.

