

CITY of CARPINTERIA, CALIFORNIA



June 24, 2019

Members of the City Council

California Coastal Commission
Dayna Bocho, Chair
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Wade T. Nomura - *Mayor*
Al Clark - *Vice Mayor*
Fred Shaw
Gregg A. Carty
Roy Lee

Re: Santa Barbara County Cannabis Regulations – Request for Action

Dear Chair Bochco and Honorable Commissioners,

The City of Carpinteria (“City”) is deeply concerned about the ongoing negative impacts of cannabis cultivation within the Carpinteria Valley. While the County of Santa Barbara’s (“County”) Cannabis Land Use Ordinance (“CLUO”) and Local Coastal Plan Amendment (“LCPA”) were recently certified, the ongoing negative impacts to residents, services, infrastructure, agriculture, and other coastal resources requires the Coastal Commission’s (“Commission”) immediate attention.

As discussed in previous comment letters submitted by the City on this matter, the County’s regulations are of great concern to the City because the Carpinteria Valley shares a boundary with the City (including directly abutting residential neighborhoods, Carpinteria and Rincon High Schools, and other sensitive receptors) and has proven to be a hotbed for the cannabis industry due to favorable local regulations, climatic conditions, and the availability of existing infrastructure.

As a result of these impacts, the City respectfully requests that the Coastal Commission direct the County to clarify its enforcement policies so that the issues and impacts arising out of cannabis activities are appropriately addressed, and in the event the County is unresponsive, investigate the numerous complaints that have been filed with the County and take any all actions necessary to ensure the County implements and enforces its regulations. Such action is necessary to ensure that the goals and policies of the Coastal Act and Santa Barbara County’s certified Local Coastal Program are upheld, and that the Carpinteria Valley continues to be home to a variety of coastal dependent industries, not solely commercial cannabis operations.

Areas of Concern

The City’s entire northeastern boundary abuts agricultural lands in the Carpinteria Valley within the County’s jurisdiction, which have become an epicenter of commercial cannabis cultivation. Many neighboring jurisdictions, including Ventura County, have significantly restricted or even prohibited commercial cannabis cultivation. This has essentially funneled all interested cannabis cultivators to Santa Barbara County and resulted in turning the Carpinteria Valley into a prime producing location for cannabis products for all of Southern California. Much of the City’s shared boundary with the County is characterized by residential housing developments

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located immediately adjacent to large-scale greenhouse and packing facilities. Along this border sit multiple schools, daycare centers, youth clubs, public parks, residential neighborhoods, and other sensitive receptors. Ultimately, this positions the City's residents to absorb most of the unintended negative impacts of the expanding cannabis industry within the Carpinteria Valley, including criminal activity, odor impacts, greenhouse construction, and conflicts with other agricultural uses due to incompatible practices.

The County's program treats cannabis cultivation as equal with or preferred over other agricultural activities, allowing for its unique impacts to remain largely unregulated. For instance:

Although cannabis cultivation has proven to instigate unique complaints regarding odor, light, and criminal activity, the County has designated cannabis as a principally permitted use, preventing appeal to the Coastal Commission. In the County, cannabis has been designated as a principally permitted use, which precludes the ability to appeal coastal development permits issued by the County to the Coastal Commission. Unlike traditional coastal dependent agriculture that usually has benign cultivation requirements and limited impacts, cannabis cultivation presents unique issues that have proven to threaten the health, safety and welfare of residents, other coastal dependent uses, and sensitive habitat throughout the Coastal Zone. Without the ability to appeal, the City and its residents have no way of securing proper oversight concerning conditions for approval to address the numerous documented odor, lighting, health, and safety impacts that have resulted from cannabis cultivation in the Carpinteria Valley.

The County appears poised to mirror the mistakes that occurred during the proliferation of the cut flower industry. In the past, the original proliferation and boom of the cut flower industry threatened prime soils and unique coastal resources by crowding out other preexisting agricultural uses. The Carpinteria Agriculture Overlay ("CAO") District was adopted in recognition of the threats in allowing the Carpinteria Valley to be inundated by a single agricultural industry. In response, limitations were placed on new greenhouse development to check the growth of a homogenous industry to avoid the risk of losing the diverse open field agricultural resources that made the Carpinteria Valley unique. Despite the CAO District's recognition of the importance of a diverse agricultural industry, County regulations have once again allowed a single crop—this time cannabis—to overwhelm the Carpinteria Valley to the detriment of maintaining agricultural diversity and protecting existing crop types. This is significant considering that cannabis cultivation practices are largely incompatible with other agricultural producers and can lead to increased conflict due to their extreme sensitivity to contaminants, including but not limited to, pesticides being used on adjacent parcels.

As you are likely aware, the County currently leads all other California counties in the number of issued temporary and/or provisional cannabis licenses, a large percentage of which are already concentrated in the Carpinteria Valley. In addition to the concerns outlined in the paragraph above, this result squarely contradicts the Coastal Commission's September 27, 2018 recommendation to the County that cannabis regulations must "avoid a proliferation of this type of crop in the Carpinteria area." By liberally allowing cannabis operations within the Carpinteria Valley without additional limitations and/or enforcement, the County's regulations threaten the viability of other coastal dependent open field agricultural uses, loss of prime soils, impaired coastal view

sheds, and threats to sensitive coastal habitats. (See Coastal Act §§ 30240, 30241, 30255).

Additionally, although the County is now acknowledging that further restrictions should be applied to cannabis cultivation to address the above-described impacts, it has only suggested applying such restrictions to the inland zone, leaving the coastal zone subject to more permissive rules. In particular:

The County's recent consideration of amendments to its CLUO threatens to cluster cannabis production in the Coastal Zone and exacerbate the impacts already experienced by the City's residents and other coastal dependent industry and uses. The County currently holds 12% of the temporary and/or provisional cannabis licenses issued by the state, 30% of which are clustered in the Coastal Zone. Although the County recently initiated amendments to its cannabis regulations concerning allowances for cannabis cultivation on AG-I zoned parcels smaller than 20 acres in size, it only requested the County Planning Commission to consider implementation of these amendments *outside* of the Coastal Zone. Possible amendments to be considered include (1) prohibiting cannabis cultivation on all AG-I parcels less than 20 acres in size located in the inland areas of the County ("Alternative A"), and (2) requiring a Conditional Use Permit ("CUP") for cannabis cultivation on such properties subject to a public hearing by the County Planning Commission ("Alternative B"). The County Planning Commission considered both alternatives at its May 1, 2019 meeting and, on a 3-2 vote, recommended that the County Board of Supervisors pursue Alternative B (i.e., the CUP requirement). Importantly, as an advisory motion, the County Planning Commission also voted unanimously to recommend that the Board of Supervisors draft the regulations implementing Alternative B to apply uniformly throughout the County, including within the Coastal Zone. In making this motion, the County Planning Commission recognized that treating inland areas differently than areas in the coastal zone (and adding additional restrictions for inland cultivation) would result in further concentrating cannabis production in the Coastal Zone.

Furthermore, while the County appears to be taking steps to control the growth and impacts of the cannabis industry by rule, it has not made the same strides with its enforcement policies. The following issues, if not addressed, will only tend to exacerbate the concerns identified above:

The County's failure to implement an enforcement protocol to address illegally expanded nonconforming uses allows impacts to continue. Santa Barbara County Code, Chapter 35, Article X prohibited cultivation in the unincorporated area of Santa Barbara County except for two limited exemptions carved out for small personal cultivation sites and legal non-conforming medical marijuana cultivation sites existing prior to January 19, 2016. After Proposition 64 was adopted, the County subsequently allowed these exempted cannabis cultivators existing before implementation of Proposition 64 to continue their operations under a temporary and/or provisional cannabis license subject to section 35.101.020 of the County Land Use and Development Code governing nonconforming uses of land and structures. Under this regulation, cannabis producers are prohibited from enlarging and/or expanding the existing nonconforming use. Growers, however, were only required to self-certify through an

affidavit that they met one of the County’s exemptions and the County has done very little to ensure or confirm compliance with this restriction. Instead, the County has the incorrect impression that it cannot abate illegal nonconforming uses until cultivators have proceeded through the permit process, ignoring the reality that its self-certification procedures make it impossible to identify the bad actors when complaints are lodged.

Request for Action

Over the past two years, the City has actively advocated for the interests of Carpinteria residents through the CLUO adoption process by providing numerous written comments and public testimony. Unfortunately, many of the City’s concerns and complaints have gone unaddressed, and it is unclear if the County’s current enforcement structure is capable of controlling ongoing negative impacts. In light of these concerns, the City of Carpinteria respectfully requests that the Coastal Commission consider pursuing the following actions:

Support The Uniform Application of Amended County Cannabis Regulations. As discussed above, although the County appears to recognize the need to address the various impacts resulting from cannabis activities, its recently initiated amendments to its cannabis regulations only considered implementation of these amendments *outside* of the Coastal Zone. Such a result could further concentrate cannabis production—and exacerbate the existing impacts documented above—in the Coastal Zone, particularly the Carpinteria Valley which already holds 30% of the cannabis permit applications pending or issued Countywide. In a letter to the County dated June 24, 2019, the City has strongly urged the County to apply any amendments uniformly throughout the County to avoid further clustering cannabis activities (and the resulting impacts) in the Carpinteria Valley. The City respectfully requests that the Coastal Commission notify the County of its support for the County Planning Commission’s recommendation to amend the County’s cannabis regulations to require a CUP for cannabis cultivation on all parcels zoned AG-I (referred to by the County Planning Commission as “Alternative B”) and require that this amendment be applied uniformly throughout the County, including within the Coastal Zone.

Challenge Designation of Cannabis as Principally Permitted Use. The County currently designates cannabis as a principally permitted use, which precludes the ability to appeal coastal development permits issued by the County to the Coastal Commission. Without the ability to appeal, the City and its residents have no way of securing proper oversight concerning conditions of approval to address the numerous documented odor, lighting, health, and safety impacts that have resulted from cannabis cultivation in the Carpinteria Valley. The City respectfully requests the Coastal Commission to request that the County consider amending the designation of cannabis as a principally permitted use in order to allow appeals to the Coastal Commission.

Direct County to Investigate and Terminate Illegal Expansion of Nonconforming Uses. To the City’s knowledge, the County has not established a systematic process to investigate and terminate the illegal expansion of nonconforming uses. The City has once again raised these enforcement concerns with the County in a letter dated June 24, 2019, which calls for appropriate investigations into the numerous complaints lodged with the County regarding cannabis operations that (1) are inconsistent with County regulations,

and (2) have expanded beyond their self-certified scope of operations. The City respectfully requests that the Coastal Commission direct the County to review all self-certified affidavits and set hearings to determine whether grounds exist to terminate the nonconforming uses due to either (1) a material misrepresentation of fact to obtain a temporary and/or provisional state license; or (2) the nonconforming use having been unlawfully expanded or altered.

Thank you for your consideration of the above issues. Should you have questions or wish to discuss with us our concerns in more detail, we would be happy to meet with you at your convenience.

Sincerely,



Wade Nomura
Mayor, City of Carpinteria

Cc: City Council Members
Dave Durlinger, City Manager
Michelle Kubran, Coastal Program Analyst
Jack Ainsworth, Coastal Commission Executive Director
Steve Hudson, Coastal Commission, South Central Coast Division, Deputy Director
Steve Lavagnino, Chair of the Santa Barbara Board of Supervisors

Attachments: June 24, 2019 Letter to the Santa Barbara County Board of Supervisors
City of Carpinteria Resolution No. 5901

