

October 30, 2017

TO: County Planning Department

cc: Board of Supervisors and Analysts

RE: Comments on Draft EIR

FROM: Kathy Toner, resident of Bonny Doon

As a resident of Santa Cruz county living in the wildland-urban interface, and directly impacted by the explosion of cannabis growing in recent years, I am writing to express my profound disagreement with the findings and the approach of the Draft Environmental Impact Report (DEIR) submitted to the Board of Supervisors on the proposed Commercial Cannabis Ordinance SCCC 7.128. At the same time, I want to express my strong support for the comments submitted on the DEIR from the Committee for Environmental Santa Cruz (CESC), and similar inputs being made by environmental and community groups and leaders who are shocked and deeply troubled by the DEIR's methodology and findings.

Like the CESC—which has done an exhaustive and fact-based review of the DEIR and is posing significant questions that must be addressed—I **am extremely disappointed by the quality of this report, which often relies on faulty and inconsistent logic, unreliable or no data, weak analysis and just plain wishful thinking to reach conclusions that are not only unsupported, but contradicted by available evidence and our local experience. While I understand the political costs in doing so, this report must be deemed inadequate and its central finding that a much more permissive policy framework is environmentally sound rejected. In some way, this EIR needs to be replaced.** The stakes are too high to look the other way and accept the findings of such an inadequate report. It would be an abuse of public trust, public resources and public trust to do so.

I join with many others in respectfully demanding that the **Board of Supervisors disregard the central conclusions of this draft EIR, and replace it.** I still hope that this county with your leadership, will develop a reasonable policy proposal that takes commercial cannabis cultivation out of our neighborhoods—or at least controls it carefully—along with our precious timber-zoned properties and watersheds, and put reasonable restrictions on this industry to protect our natural resources, public safety and neighborhood integrity.

The fundamental flaw in this report is its embrace of the supposition being promulgated by the cannabis lobby that “full participation” of the most number of existing growers (and inevitably others) will somehow stop or mitigate the very well-documented harms being done by cannabis growing to safety, environment, wildlife, residential neighborhoods, local economy and public health. The authors conclude, with little to no evidence that by adopting the most permissive policy cannabis growers will be enticed to obtain licenses, abandon illegal growing and harmful practices, and become fully compliant with the law. To do so would mean increasing the cannabis commercial ventures on RA (Residential Agricultural) zoned properties, by reducing the minimum parcel size from the alternative proposal of 5 acres to 2.5 acres, while doubling the amount of canopy per parcel allowed (again versus the alternative policy proposal). This, they assert, will lead to a greater number of growers turning away from the

lucrative black market stopping harmful practices that endanger their neighbors, wildlife and water supplies. **This argument falls apart on many levels and defies common sense and available evidence.**

First, there is no data to support that the growers will step out of the shadows and participate in licensing. The economics push against it. The DEIR's own cost data (table 7, 3.2 – 1) indicates that small outdoor grows are the most expensive to run, and would be the least profitable under licensing requirements. Numerous sources, including cannabis news outlets and the NY Times estimate that only 20% of the cannabis grown in California is consumed here, while 80% is exported to states or areas where it is illegal—and where they can get a better price presumably. Why would a small grower, tucked away in the mountains, sacrifice a substantial percentage of their income and take on the paper work and increased requirements and visibility to make less money when they have been able to operate with impunity (and likely still will) in the black market? The cannabis industry's own publications assert as much. The analysis in the DEIR cites no meaningful evidence nor addresses any incentives towards participation. This county's experience with registering growers is illustrative; many growers—hundreds perhaps (no one really knows) failed to register (a required first step towards licensing) during the county's voluntary, anonymous, and welcoming preliminary registration process last year. If perhaps hundreds of growers failed to step forward, then why would they step forward now?

Even if this weak assumption holds and many more growers participate in licensing, there is no reason to believe they would adhere to licensing regulations or even if they did, that these would be sufficient, under this more permissive model, to mitigate the many impacts not only on the environment but on neighborhoods. In fact, impacts on neighborhoods received little real attention in the analysis.

The ability to enforce and monitor these more permissive regulations in this highly diffused model of commercial cultivation is realistically going to be next to impossible even in the best of scenarios. As noted by the CESC in their comments:

“...the areas emphasized by the most permissive alternative are concentrated in locations with the least infrastructure and least law enforcement presence. This is also where the black market grows will continue to have a presence with co-mingling of licensed facilities with black market operations, making it easier for licensed facilities to siphon off excess product to the black market....”

The same DEIR which states that enforcement and inspections will somehow mitigate the negative consequences of extensive cannabis cultivation, later recognizes that funding for enforcement is dependent on an annual budgeting process that, we all know, will be subject to many pressures. As noted, we have already seen an effort by the cannabis industry to reduce taxes before a comprehensive policy framework is in place. This will continue. The budget required to both prevent and mitigate environmental, social and health damages and to regulate this diffused model of cultivation will be very high. **At the end of it all, the DEIR fails to address how enforcement will prevent illegal operations from hiding in the shadow of licensed operations.**

Finally, the report assumes the only way forward is to move the goal post and legalize this highly untenable and unsustainable model of cultivation. Simply legitimizing this model and ignoring the evidence that this will not change behavior or be truly enforceable—or that in fact this model itself is

flawed—is disappointing and invalid. The same DEIR acknowledges a range of many “significant and unavoidable” impacts in this model to safety, neighborhoods, the environment, etc. it simply concludes that somehow these negative impacts will be lessened or somehow made worth it.

Perhaps due to the pressure of time or other factors, the report has many other flaws that contributed to this conclusion. Clearly, the authors were hampered by a lack of data. The DEIR bases much of its analysis on the number of growers who voluntarily registered, i.e. 760. The same DEIR at various points admits that this is likely a gross under-representation of current reality. Frankly the county has no reliable data on the extent of cultivations, their operations, their motivations, their business models or their practices. Yet, relying on this number the DEIR focused its analysis on potential impact of only about 200 acres. The “more permissive alternative” that the DEIR recommends adopting could potentially open up 8,888 parcels in the county, totaling 164,721 acres. Even if a fraction of this total is cultivated, the county’s ability to regulate and monitor such a model would be nil.

The DEIR failed to take advantage of many data sources and experts readily available in our county or consulted them in only a cursory manner. Most of the DEIR findings are based on self-reporting from certain sectors of the cannabis industry. While their input is vital, and many of these sources believe firmly in the vision they are promoting, by no means can a sound and fair policy be crafted on such a limited sample of self-interested sources. This over-reliance on industry sources is troubling.

There were plenty of other local sources that the authors could have called on to fine tune their analysis. For example, the authors failed to use geographic information sources (GIS) data such as the Conservation Blueprint available from the Land Trust of Santa Cruz County to identify and disclose relationship of the proposed project (i.e., the permissive policy alternative) to sensitive natural communities. Nor was the high-quality research into devastating impacts of rodenticides on wildlife that the CESC produced and provided to the County (which was presumably given to the authors of the DEIR) referenced in the EIR’s list of Preparers and References. The DEIR used an assessment standard for sensitive plant species that is significantly less rigorous than that published by the California Native Plant Society, which is the generally accepted standard for rare plant surveys.

In sum, this DEIR threatens to undermine the hard-fought progress that had been made towards a compromise policy that went a very long way towards accommodating the interests of the cannabis growers, while providing a basic level of protection for the community. Acting on the findings of this DEIR would be a huge mistake, and would I believe fundamentally undermine the trust of many in the community in our local government’s ability to provide the leadership we need on this issue. I believe though that this is not so; I do believe the county can provide the leadership we need and find the way forward that allows the cannabis industry to exist and thrive in this county--but it is not the findings of this **DEIR, which must be rejected and replaced.**