

ALAB Meeting – September 9, 2019

Review of the ALAB Subcommittee's actions regarding the Development of a Permanent Ordinance for Industrial Hemp Cultivation in San Luis Obispo County

I. BACKGROUND:

- On June 18, 2019, the San Luis Obispo County Board of Supervisors enacted an urgency ordinance placing a temporary moratorium on industrial hemp cultivation (with a few exemptions).
- On July 2, 2019, ALAB submitted a letter to the Board of Supervisors with concerns about the land use regulations imposed on industrial hemp production, emphasizing that hemp should not have land use restrictions different from other legal crops.
http://www.slocounty.ca.gov/Departments/Agriculture-Weights-and-Measures/All-Forms-Documents/Information/Meeting-Minutes/ALAB-Meeting-Agendas,-Minutes,-Presentations/2019/ALAB_2019_07_01-Draft-Mins-plus-Hemp-Letter.aspx
- On July 16, 2019, the Board of Supervisors voted to extend that same urgency ordinance through June 2020. At that same meeting in July, the Board also directed County Planning to develop a permanent ordinance that would allow industrial hemp cultivation within the county with certain restrictions, such as zoning limitations, minimum parcel sizes, and possible setbacks. The Board asked County Planning to prepare a potential permanent ordinance and return sometime in early 2020, with the intention that a permanent ordinance would be enacted by spring 2019 and supersede (e.g. replace) the urgency ordinance. The Board directed County Planning to work with the Agricultural Liaison Advisory Board (ALAB) through an ALAB subcommittee, the County Ag Department, hemp growers, and concerned citizens to develop the permanent ordinance.
- At the August 5, 2019 ALAB meeting, a subcommittee was established to work with County Planning on a draft permanent ordinance to regulate hemp cultivation.

II. ALAB SUBCOMMITTEE ON INDUSTRIAL HEMP

- OFFICIAL MEMBERS: (1) Dan Rodrigues (chair) – ALAB Vice-Chair and wine grape representative; (2) Tom Ikeda – ALAB member, District 3 Representative; (3) Brent Burchett – Farm Bureau Executive Director; (4) Brian Yengoyan – hemp industry; (5) Sean Donahoe – hemp industry; (6) Bob Schielbelhut – vineyard owner in Edna Valley/concerns with hemp cultivation
- OTHER MEETING ATTENDEES: (1) Kip Morais – County Planning; (2) Karen Nall – County Planning; (3) Jean-Pierre Wolff – ALAB Chair and vineyard owner; (4) Marc Lea – Assistant Agricultural Commissioner; (5) Mark Battany – Farm Advisor; (6) Kaylee Ellis – ALAB Member, Vegetable Industry Representative alternate; (7) Kirk Azevedo – hemp industry; (8) Jean Johnson – hemp industry
- SUBCOMMITTEE MEETING DATES: August 13, 2019; August 20, 2019; August 26, 2019

III. SUBCOMMITTEE GOALS

- Subcommittee Chair Dan Rodrigues emphasized that all input should be respectful and civil with the overarching goal of finding areas of consensus. Dan reminded the subcommittee members that the focus should be on addressing those items specifically identified by the Board of Supervisors: zoning requirements, setbacks, and minimum parcel sizes.

- Dan explained that the entire ordinance would get reviewed at future hearings at ALAB meetings, the Planning Commission, and the Board of Supervisors. Anything recommended could get changed several times prior to any permanent ordinance getting enacted so it makes sense to identify those areas where we can find common ground and not get bogged down in the discussion of very specific details.
- Dan also explained that any subcommittee recommendations that are agreed upon does not necessarily need to be the direction of the ALAB board itself. The full ALAB membership may come to different conclusions than the subcommittee.

IV. SUBCOMMITTEE – AREAS OF CONSENSUS

ZONING LIMITATIONS:

- Agriculture (AG) and Rural Lands (RL) zoned parcels: Hemp cultivation, both indoor and outdoor, should be allowed on these properties.
- On lands zoned Rural Residential (RR), cultivation of transplants should be allowed. Since transplants will be defined as only non-flowering plants, this cultivation should be allowed both indoors and outdoors. It's recognized that transplant growing will typically be done indoors in greenhouses on RR zoned properties, but they may need to move them outside to harden them off prior to shipping and there is no reason to disallow that ability.
- On lands zoned Rural Residential (RR), Industrial (Ind), and Commercial Services (CS), growers would have the option of going through the discretionary use permit process (Minor Use Permit) to grow full flowering plants. It was recognized that this isn't an ideal scenario, but due to concerns with trying to tackle this issue in the permanent ordinance and the detail needed to determine if a grower has an adequate closed system type greenhouse needed to alleviate odor issues, and the goal of staying on track with an expedited timeline, this was a mechanism of at least leaving the door open to those who wanted to grow indoor hemp on parcels zoned RR, IND, or CS.

SETBACKS or BUFFERS:

- The group agreed that any setbacks that may be established should be measured from a particular identified use off-site from the hemp grower's parcel and not from the hemp grower's property line. In other words, there is no need for setbacks from a grower's property line if the hemp cultivation is taking place well away from any potential conflicts.
- The group agreed that any setbacks or buffers that may be established should be measured from a "sensitive site" or "sensitive receptor". There was not an agreement established on exactly what those sensitive receptors should be. Items discussed included schools and state licensed daycares, residential zoned areas or properties (as opposed to a single residence or a couple of residences located on agricultural zoned lands), existing agricultural crops/commodities, wineries, and winery tasting rooms.

MINIMUM PARCEL SIZES:

- The group agreed that a minimum parcel size was not required. It was discussed that any setbacks or buffers developed would be geared toward alleviating land use conflict between

neighbors, and would be more effective than a minimum parcel size (e.g. if there was a minimum parcel size but no setback/buffer established than the grower could still plant in a corner of his property close directly adjacent to other residences or established crops and a required minimum parcel size would be ineffective). In addition, by not allowing full flowering hemp plants on those parcels zoned for residential land uses, that alleviates much of the need to establish minimum parcel sizes.

OTHER ITEMS:

- The issue of Agricultural Research Institution exemption growers was not discussed in detail due to the fact that it's likely getting addressed at the state level in the current SB 153 bill and was already addressed at the July 16, 2019 Board of Supervisors hearing through the approval of **Resolution 2019-209**.
- The issue of cross-pollination, specifically the potential for cross-contamination of different hemp varieties as well as hemp and legally grown cannabis, was considered but it was agreed upon that it was not an issue that could adequately be addressed in this subcommittee, especially considering the expedited timeline. It was also pointed out by several subcommittee members that cross-pollination issues in all other agricultural crops is addressed through peer-to-peer notifications and agreements and is not addressed through regulation or ordinance.

V. SUBCOMMITTEE – AREAS ADDRESSED BUT NO CONSENSUS REACHED

SETBACKS or BUFFERS:

- The group could not come to any consensus regarding what distance setbacks or buffers should be established. Due to the lack of any currently available science on hemp odor issues or potential grape taint, it was difficult to determine a logical rationale for a specific buffer distance.
- Setback/buffer distances discussed ranged from 50 feet to ½ mile. Using the current “Agricultural Buffer Policies” in the county’s Agriculture Element that is designed for proposed projects near, or adjacent to, existing agriculture was discussed. Those buffer distances range from 50 – 600 feet, but again no consensus could be made by the subcommittee.
- The potential for a tiered buffer system based on the acreage of a particular hemp cultivation site was also discussed with no consensus made.

OTHER

- The potential for an overlay disallowing hemp cultivation in the Edna Valley area was discussed. The rationale proposed for this particular overlay concerned the unique climatic factors that exist in this area, along with the long established wine grape growing region (and the concerns over potential conflicts such as odor affecting tasting room visitors and terpene taint of grapes in the field or in wineries/wine production facilities). No consensus was reached on this proposal.