**Progress Report for March 2018 CAG Meeting from Inclusion/Exclusion Sub-Group**

The Sonoma County Board of Supervisors passed a set of ordinances to regulate the cultivation, manufacturing, sale, and taxation of medical cannabis in December 2016. At that time there was little experience in other counties within the State of California upon which to base the ordinance, and there was a lively public debate over many parts of the regulations. This is especially true regarding the decision over zoning: what cannabis cultivation permits would be available for parcels in what land use zones. Because the Supervisors recognized that their December 2016 decision on cannabis zoning would likely not be optimal in all cases, they adopted a provision that allowed inclusion and exclusion combining overlay zones, which would essentially allow for exceptions to their broad zoning decisions.

In early 2017, a new Supervisor ad hoc committee on cannabis was formed, and this ad hoc decided to convene a citizen's advisory group as a source of ideas and input for issues surrounding the existing medicinal cannabis regulations and upcoming adult use cannabis regulations. This advisory group was selected from volunteers who applied to be in the group…mostly interested parties who were active in the process of creating the regulations in 2015-2016. This group, the Cannabis Advisory Group (CAG), was convened not as a decision-making body, but as a body that could provide input and ideas to the Supervisors (through the county cannabis staff and ad hoc) from a variety of perspectives. It was decided early that this group would not vote on ideas to pass on, because that would limit the breadth of ideas being developed/offered and be subject to the group's specific demographics. Instead the group was encouraged to work on ideas that met the goals of as many of the county's citizens as possible, and where priorities of different group members diverged, offer a variety of ideas and possible solutions that the Supervisors might consider.

In early 2018 a working sub-group of the CAG was formed to evaluate the use of inclusion and exclusion zones to see if they could be used to help the existing cannabis regulations better meet the needs and desires of Sonoma County citizens. This working group consists of seven members which is less than a CAG quorum, enabling the team to have private working meetings to develop its initial ideas. These initial ideas would then be brought back to the entire CAG in a public forum, where additional input could be gathered from both CAG members and from the public. Because of the varied points-of-view and priorities of the CAG and the working sub-group, we expect that a consensus recommendation regarding inclusion and exclusion zones will not be reached, but instead a range of options will be forwarded to county staff for further analysis and possible presentation to the Board of Supervisors. Thus the idea will not be to present a single recommendation, but instead to provide a wide range of possible solutions to zoning-related problems perceived by county residents both within and outside the cannabis industry. The Board of Supervisors will then decide what its own priorities are and what issues it in fact wants to address using inclusion and exclusion zones, and then it will vote to choose one or more solutions to those issues.

The objective of the use of inclusion and exclusion zones is to better meet the needs of Sonoma county residents relative to the existing December 2016 zoning regulations. Thus the first job of the working sub-group was to evaluate what groups are not being well-served under the zoning regulations as they currently exist. Overwhelmingly two issues were identified which are causing significant consternation to different county residents. First, small-scale cannabis growers (that are purported to number in the thousands) who have for the past number of years raised their crops on small residential plots have found that they have very limited options to join the new legal California cannabis market. These growers have little capital, and most of what they do

have is invested in their home and land. When the 2016 regulations did not allow for commercial cannabis cultivation in RR and AR parcels, their path to the legal market became the lease or purchase of a second (likely larger) parcel of land zoned DA, LIA, or LEA. With the rush to the more limited supply of agricultural-zoned properties by these small-scale growers as well as outside businesses looking to join the market in Sonoma County, land prices have escalated and the local growers have felt crowded out of the market. That is, crowded out of both the land market and the legal cannabis market.

The second issue identified is that of the resistance to commercial cannabis cultivation by rural county residents who live in areas that have become primarily residential over the years despite being zoned agricultural. These are mostly owners of DA parcels, and mostly of parcels less than 10 acres in proximity to RR neighborhoods, but also include owners of larger parcels in more spread-out tracts. These residents feel that movement of commercial cannabis grow operations into their areas will impact the quality of life in their neighborhoods through visual impacts, odors, the risk of violent crime, and the general bustle of commercial activities around their homes. They are also wary about the impacts of cannabis on their roads, soil, and water supplies; some of these areas are quite environmentally sensitive. They feel that they live in rural residential neighborhoods despite the inherited agricultural zoning of their land, and as such deserve the same isolation from commercial activity as RR and AR zones.

Having recognized these two issues brought about by current zoning regulations, we have tried to identify possible solutions that may resolve or at least ease them. We recognize that the Board of Supervisors may not feel that one or either of these issues are high on their list of priorities, but these are the issues that up to now this working group has felt justified to provide input on.

In discussing these issues it became clear that the idea of inclusion zones was not going to be as simple to implement as exclusion zones. Exclusion zones are areas where normally by zoning regulation the cultivation of cannabis would be allowed, but where instead it is prohibited (or at least restricted) by virtue of exclusion zone status. In this case the “benefit” of exclusion zone status is shared equally by all landowners who don’t want cannabis cultivation allowed in the area. This evenly shared “benefit” makes for a relatively simple process of agreement and banding together among like-minded landowners to share political and financial costs to request exclusion zone status. The “benefits” of inclusion zone status, in contrast, would generally not be shared evenly by all landowners within the zone, but only by those who are actually cultivating cannabis. This would lead to a group of landowners within the zone that is split between those who benefit and those who are at best indifferent to inclusion zone status. It would be difficult to drum up widespread support for creation of an inclusion zone, and would likely result in few large inclusion zones being created unless there happened to be a very dense concentration of growers. It is more likely that very small inclusion zones (or even individual inclusion parcels) would be applied for and created, where the “benefits” of inclusion zone status would be more universally appreciated by the smaller group of landowners. This processing of tiny inclusion zones or inclusion parcels would result in a logjam within the county zoning process and be an additional financial burden on inclusion zone applicants, in large part defeating the original purpose of the inclusion zones (attempting to make it easier for small-scale growers to enter the regulated market). For this reason the discussion of small-scale growers below strays from a strict discussion of inclusion zones and considers other alternatives as well.

**Small-Scale Growers**

A range of possible solutions to this problem have been discussed, trying to make more land available to bring small-scale growers into the regulated market. Some of these potential solutions involve inclusion zones and other options do not. These options include: allowing permits to multiple individual growers on large agricultural and/or industrial sites so that many small-scale growers can share the costs and infrastructure of a single large property (this may take the form of either co-operatives or private leasing arrangements); allowing non-flowering cannabis propagation and cultivation (nurseries) in RR/AR; allowing cottage-scale cultivation in larger RR/AR parcels through limited inclusion zones; and allowing countywide cottage-scale cultivation in larger RR/AR parcels by incorporating Staff's suggestions from November 2016.. These various options would not all have an equal impact on improving access of small-scale growers to the regulated market, and they would obviously have varying impacts on rural residents who are not growers.

Multiple Leases on Large Parcels

With small parcels generally unavailable to small-scale growers because of the prohibition of cultivation in RR/AR and the minimum lot sizes for agricultural parcels, we see a possible solution in the use of large agricultural (or industrial, for indoor cultivation) properties by multiple individuals. As examples, a 20-acre agricultural property might be used by 6-8 growers at the cottage or specialty level, or a 100 acre property might be used by a dozen growers at the small or medium level. In these cases, each of the individual growers would have her own permit to cultivate on this shared land. These growers would be able to share the cost of the studies needed in the permit process, to share noise-, odor-, traffic-, and waste disposal plans, to share water and security infrastructure, and still have a relatively low development density on the property. Particularly attractive land for this approach might be the large parcels that are currently used for disposal of treated county wastewater. While this approach wouldn't give the growers the convenience of growing at home, it could be a way to lower the cost of entry into the market for small-scale growers and allow them to continue intensive small-scale farming.

This approach is not possible under current county regulations because the regulations limit permits on a single property to a cumulative one acre. This limit was enacted in 2016 because of an anticipated one acre limit in California law. However, California has lifted that restriction, and the county could do so also if it is interested in this approach to aiding small-scale growers.

Nurseries in RR/AR

Two of the largest impacts of cannabis cultivation on neighbors in rural residential settings are the odor and the security risk around harvest time from having significant quantities of high-value flowering crop on location. In cannabis nurseries only a few plants are allowed to flower, and the vast majority of the material on site is in the propagation and juvenile plant stage. This material does not emit much odor and is not typically the target of thieves. Cannabis nurseries can be the locations where the valuable, creative process of development of new useful medicinal strains occurs, and this has been an important part of the cannabis industry in Sonoma County. Perhaps cannabis nurseries would be acceptable on certain RR/AR properties without the odor and security risks associated with the cultivation of mature plants. This could provide additional opportunities for small-scale growers on RR/AR properties within the county.

Cottage-Scale Cultivation in RR/AR

Another way of making land easier to acquire for small-scale growers in the county is opening up some RR/AR parcels to cottage-scale cannabis cultivation. Of course, the primary land use

in RR/AR is residential, and so this would only apply to growers who live on the land they are cultivating. This could be done in two ways:

1. By creating inclusion zones in certain areas where cannabis is more readily accepted, or where RR/AR land is used more agriculturally than residentially. Within the inclusion zones, the restrictions and minimum lot sizes that are used to govern DA could be adopted, or even more stringent lot size and setback requirements could be used. As discussed earlier, developing support for large inclusion zones may be difficult, as only a minority of landowners are likely to apply for cultivation permits. Also, it may be challenging to get cultivators currently working in the unregulated market to come forth to apply for an inclusion zone they may not, in the end, qualify for.

2. By allowing cultivation on select RR/AR parcels countywide by adopting the November 2016 recommendation of Staff to allow cannabis cultivation on parcels larger than 2 acres. This would open up approximately 9000 parcels in the county to cultivation. If a larger minimum parcel size were chosen, fewer parcels would be available (for example, with a 10-acre minimum, about 1000 parcels would become available). In this scenario, the November 2016 Staff recommendations that RR/AR cultivation must not be detectable by neighbors could be adopted - nothing seen, smelled, or heard. This additional requirement would potentially increase the required setbacks from neighboring residences and would also remove most impact on neighbors. It would also further limit the number of parcels eligible for outdoor and mixed light cultivation in these zones.

In general, the smaller the size of RR/AR parcels that are opened to cultivation and the more that are opened, the easier it would be for small-scale growers to join the regulated market. The trade-off to this would be the additional impact on surrounding residences as cultivation is more widely distributed.

**Rural Landowners**

Many rural landowners are upset with the influx of cannabis operations and permit applications in their neighborhoods. They are upset for a variety of reasons: environmental concerns, access concerns, concerns about odor, crime, aesthetics, and the onset of commercial activity in a serene rural residential setting. Exclusion zones can be an effective solution to these issues, separating these residential areas from cultivation facilities. They would, however, decrease the number of parcels available in the county to small-scale growers. In order to address these issues, a suggestion for exclusion zone criteria might include the following:

Allow creation of exclusion zones in areas that are not suitable for commercial cultivation of cannabis because of any the following:

1) There is inadequate access, water, or electrical service
2) Cannabis cultivation would be incompatible with the biotic character of the area
3) There is a significant fire hazard due to topography, vegetation, and/or accessibility
4) The residential character of the area would be significantly compromised by the installation of a commercial cannabis cultivation operation.

Proposed exclusion zones should be contiguous with relatively uniform current land usage, but all parcels need not all have the same zoning. Another potential exclusion criterion that was discussed relates to existing study areas: parts of the county with area-specific development plans. These areas could be considered for exclusion zone status if commercial cannabis cultivation is seen as inconsistent with the area-specific plans.