Chair Reynolds and Members of the Commission  
Ms Susan Strachan, Cannabis Program Manager

Yolo County Farmers and Ranchers, and Rural Residents, have been dealing with outdoor cannabis grows located in the unincorporated parts of the County since 2016. Yolo County Farm Bureau represents and advocates for our members; we have been working with them to ascertain whether or not these cannabis grows impact their farming/ranching activities or in other ways impact their lives.

Several concerns based on numerous incidents require accommodation when the CLUO is finalized and adopted. There are incompatibilities between “traditional agriculture” (in this context we mean typical Yolo County crops whether conventionally or organically farmed”) and outdoor cannabis grows.

Summarized briefly, these incompatibilities are described as follows: each is based on factual situations described to us.

Farmers create dust during normal agricultural activities: this dust can itself damage the value of nearby cannabis blossoms. If this dust becomes airborne (as it frequently does) and carries with it residue from pesticides lawfully applied on a traditional crop, it can render the cannabis crop valueless due to rigorous state testing standards. This can place the traditional farmer at risk of being sued: Lawsuits, whether won or lost, take time and increase costs. And, please consider the vastly different economics of the cannabis grow vs. the traditional grow: an acre of cannabis can be worth over $500,000 and an acre of canning tomatoes - perhaps $4,000.

Farmers have to apply pesticides during certain “time windows” (pest vulnerability, weather, etc.) In some counties Pest Control Operators refuse to treat crops when there is a cannabis grow in the vicinity that could potentially be impacted. The traditional farmer then is forced into a situation where he cannot spray: his crop may be devalued or even destroyed.

Farmers occasionally plant crops, i.e., rice, that can pick up the odor of a cannabis grow in the vicinity. Rice that has a cannabis odor is valueless. Thus, cannabis limits the options Yolo County farmers have to put their ground to best use.

Quality of life issues are also involved: rural residents who live in the ag zoned areas of our County are not considered “sensitive receptors”. Many rural residents including our members have let us know that the smell from the outdoor cannabis grows has impacted their appetite and their sleep, their ability to enjoy their family and friends in their homes and gardens, and caused them great anxiety and stress. This is a new, unpleasant characteristic of their lives. They receive no benefit from the cannabis grow or related economic activity. They want relief.

Fortunately, there is a planning solution that will accommodate the cannabis grower, the rural resident and the farmer/rancher. The CLUO should require all cannabis grows and related
activities to be enclosed in buildings where the air is managed: odorous air does not leave the building unless it has been scrubbed and air - carrying dust or? cannot come in. This is the one solution, the key feature of Alternative 4, that the DEIR points to as having the best chance of confining odors and also isolating the grow from the neighboring traditional farmer, thus insulating the grow from any chemical or dust contamination. We strongly urge that the County adopt the requirement that all grows be enclosed as described above. Yolo County should not allow any outdoor grows or related cannabis activities.

YCFB will provide additional written comments before the comment period ends on December 23rd. However, requiring grows to be contained in closed off interior spaces is so critical to the continued success of Yolo County traditional agriculture that it merits your immediate focus and attention.

Thank you.

Yolo County Farm Bureau
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Response to Comment 11-1  
CLUO Comment. Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO. The commenter expressed an opinion that outdoor cannabis farming is not compatible with non-cannabis farming. This position is acknowledged for the record. Please also see responses to Letter 12 (starting with Comment 12-24) and Letter 71.

Response to Comment 11-2  
CLUO Comment. The comment expresses concern about the effects of dust from neighboring non-cannabis farming on cannabis cultivation. This concern is noted for the record. Air quality and dust are analyzed in Section 3.3 of the Draft EIR.

Health and Safety Code Section 41704(g) provides agricultural operations with exceptions from the Ringelmann requirements (opacity) in Section 41701, and from District Rule 2.3 - Ringelmann of the Yolo-Solano Air Quality Management District (District).

The District does have authority to regulate dust from agricultural operations if it becomes a public nuisance pursuant to District Rule 2.5, and the Compliance Manager with the District has indicated that they do so as appropriate on a complaint basis (Pinnow, pers. comm., 2020). They have confirmed that dust from normal agricultural practices under normal weather conditions does not generally result in nuisance conditions. Please see MR-5, “Cannabis as an Agricultural Crop.”

The District confirmed that agricultural activities creating significant dust concerns affecting identified sensitive land uses (e.g., during high wind conditions) might be advised to temporarily cease activities or face citation. The Compliance Manager also indicated that most cultivators have been quick to make corrections upon notice.

This comment raises two distinct concerns. The first is that the Draft EIR should analyze effects of the environment (existing conditions) on the project. Because CEQA in generally is statutorily focused on the effects of a project on the environment and not the reverse, this is sometimes referred to as “reverse CEQA” analysis. Except in very limited circumstances which would not apply here, analysis of the effects of the environment (in this case dust from neighboring farmers) on the project (assumed to be a future cannabis CUP applicant under the CLUO) are not required in the Draft EIR. While the Board of Supervisors may consider this if they find it to be relevant to their deliberations, it is not required under CEQA. Please see MR-6, “Economic Effects and Property Values.”

The second distinct economic/legal concern raised by this comment is that the off-site effects of one farmer’s operations should be made the responsibility of a neighboring farmer to accept and accommodate, even in circumstance where the latter might experience economic harm. The comment suggests that such a consideration should both be considered by
the Board and reflected in the form of modifications in the CLUO. Yolo County has a history of supporting all agricultural endeavors, and this approach would arguably reflect a departure from that long-standing approach in effect favoring one crop over another. The staff does not propose changes to the CLUO embody this approach. Local government cannot reasonably solve all problems between property owners through regulatory means. Appropriate resolution of this concern would be for neighboring farmers to work collaboratively to accommodate one another or to request the assistance of the CTF, Agricultural Commissioner, the Farm Bureau, or other industry leadership to help achieve a mutually beneficial outcome. As a last result mediation services may also be appropriate. Ideally neighbors are able to work out conflicts between themselves, but when this does not occur, the courts are available as a last result. Please see MR-5, “Cannabis as an Agricultural Crop.”

Response to Comment 11-3 CLUO Comment. The commenter expresses concern that a non-cannabis farmer may face difficulties finding pest control applications services if located near a cannabis farmer, and that that difficulty could result in devaluation or destruction of a non-cannabis crop. This concern is acknowledged for the record and discussed in MR-5, “Cannabis as an Agricultural Crop.” Similar to Comment 11-2, this comment suggests that the off-site effects of one farmer's operations should be made the responsibility of a neighboring farmer to accept and accommodate. Please also see Response to Comment 11-2 above and MR-12, “Expression of Opinion/Preference.” This dynamic is not an unusual agricultural concern. The potential for conflicts between organic and non-organic crops is similar if not identical.

Response to Comment 11-4 EIR Comment. This comment suggests that neighboring cannabis crop could adversely affect the smell of a neighboring rice crop. This is often referred to as “taint” where the smell or taste of one product affects the smell or taste of another. The County is not aware of evidence of this occurring in Yolo; nevertheless, this concern is acknowledged for the record. Similar to Comment 11-2, this comment suggests that the off-site effects of one farmer's operations should be made the responsibility of a neighboring farmer to accept and accommodate. Please see Response to Comment 11-2 above and MR-12, “Expression of Opinion/Preference.” This dynamic is not an unusual agricultural concern and the staff does not believe that a regulatory solution is required. Please note odor is analyzed in Section 3.3 of the Draft EIR.

The concern that organic compounds released by cannabis plants will adversely affect the flavor of wine produced nearby has been raised elsewhere in California and in other states that support both industries. Available research supports that, despite anecdotal accounts, the concern is unlikely. The reasons for this include: cannabis oils are not strong enough to have the effect; cannabis harvest is not long enough to allow for taint to occur; cannabis and wildfire smoke do not share similar characteristics that would lead to taint; cannabis and eucalyptus do not share similar characteristics that would lead to taint; and buffers of over 200 feet appear to be beneficial. Research continues and more analysis of whether the size of the cannabis crop and other situational facts (like proximity, grape type, climate, etc.) have an effect will be useful and could be used to support future modifications of the proposed CLUO. At this time, proximity between
various crops with strong characteristics, using various methods of pest control, appears manageable through cooperation between farmers as has occurred for years. Common examples in California include onion and garlic crops, which have strong odor characteristics, and organic and conventional pest control, which require drift considerations.

In May of this year, at the request of a local farmer, County CTF staff reached out to the California Association of Winegrape Growers regarding concerns over cannabis and wine grapes. A keyword search of the association’s website revealed no articles or positions on the matter. No response from representatives from the California Association of Winegrape Growers has been received.

Assuming the proposed CLUO includes controls such as caps on cannabis by use type, acreage maximums, and/or overconcentration thresholds, this concern is even less likely to materialize. The summary below provides an overview of applicable opinions and research conclusions:


  This study by Dr. Vizuete examined the potential for cannabis odor to transfer to wine grapes and concluded it would take over 1,120 days of continuous interaction between the flowering cannabis plants and grape vines for the vapor transfer to meet the threshold level that would affect the fruit’s flavor. This is substantially longer than the typical 21- to 56-day period (depending on the type of plant) the plants are mature and emitting odors.


  This wine industry article concludes that cannabis does not share similarities with eucalyptus tree leaves or wildlife smoke, and dismisses as rumor and anecdote that cannabis odor could influence wine grapes.


  This article describes that when wood burns, it releases aroma compounds called volatile phenols. In the vineyard, these compounds can permeate the grape skins and rapidly bond with the sugars inside to form molecules called glycosides. This process, called glycosylation, renders the phenols no longer volatile, meaning their smokiness cannot be detected by smell or taste. However, once the grapes are fermented, the acidity in the resulting wine begins to break these bonds, rendering the phenols volatile once again. This typically happens during fermentation but can continue to occur after the wine has been bottled. It can even happen right as you drink the wine. The enzymes in your mouth break down any glycosides that remain, and the undesirable aromas can be vaporized as you taste—a wine might smell fine
but taste off. This article concludes that smoke effects on wine from fires in California are unlikely and notes that expected smoke taint from past fires has not resulted in reports of tainted wine.


The research conducted by the Australian Wine Research Institute examines the effects on wine of the active organic compound in eucalyptus oil called eucalyptol. Eucalyptus oil has been shown to attach itself to the waxy surface of grapes where it can then make its way into the wine when the grapes are crushed. The closer the vineyard to the eucalyptus trees, the more likely it is the compound will be found. Eucalyptus leaves and nuts that fall into a grape bin during harvest can also contribute eucalyptol. In the industry this is called “matter other than grapes.” This study, and related research, concluded that grapes harvested within about 160 feet (50 meters) of eucalyptus trees produced wine with notable levels of eucalyptol. In particular the study identified that the inclusion of even a few eucalyptus leaves in the grape bunches results in very high levels of eucalyptol that affect the character (flavor and aroma) of wine. The research also indicates that the effect dissipates during fermentation when skins are removed and can be effectively eliminated by blending the grapes with a batch harvested from a location further from the trees and/or with no leaves mixed with the grapes. While eucalyptus trees are ubiquitous in Australia, they are much less so in Yolo County.

Response to Comment 11-5  CLUO Comment. The comment refers to buffers for individual homes in agricultural areas. Please refer to Response to Comment 9-8 and MR-9, “Buffers.”

Response to Comment 11-6  EIR Comment. The commenter indicates support for Alternative 4 with odor control. This preference is noted for the record. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 11-7  CLUO Comment. The commenter notes that they will be providing additional comments. Please see responses to Letters 12 and 71.
Yolo County Planning Commission
Staff Prepared Summary of Meeting
December 3, 2019

ITEM #9 – ORAL COMMENTS ON DRAFT CANNABIS LAND USE ORDINANCE AND DRAFT ENVIRONMENTAL IMPACT REPORT:

Staff Presentation:
Staff Presentation by Cannabis Policy and Enforcement Manager, Susan Strachan and Contract Planner, Heidi Tschudin.

**Commissioner Questions during Staff Presentation:**

Commissioner Elisabeth Dubin - Questioned the purpose of the ‘ceiling’ with respect to the overconcentration issue in Guinda (upper Capay Valley).

**Contract Planner Heidi Tschudin** - Responded that for 23 (cultivation sites) and above, the DEIR identifies this as overconcentrated. The mitigation measure indicates that you cannot add any more businesses within a cluster that has that many sites. It becomes a ceiling because it limits the number of future use permits that can be issued within an identified cluster so it becomes a new cap based on overconcentration.

Commissioner Dubin – Replied, what is the reasoning for the overconcentration thresholds selected in the EIR? For example, 6 to 22 is potentially overconcentrated, and less than 5 is ok? Where do the numbers come from?

**Contract Planner Tschudin** – The numbers were derived from a GIS analysis and observing where there are identifiable clusters that were unusually dense compared to other parts of the County. The areas of concentration and numbers are based on that analysis.

Commissioner Dubin - Responded to clarify she meant the ‘qualitative’ part, the judgment that 5 is some kind of threshold and 22 or 23 is another threshold. Was a qualitative analysis used for concluding overconcentration numbers?

**Contract Planner Tschudin** - Explained that since 23 is approximately 30% of the total licenses concentrated within one area, the DEIR concluded this particular area as overconcentrated. When compared to other parts of the County, the numbers (in the upper Capay Valley) are significantly higher. The lower number (5) is the number below where there were any other identified clusters. The EIR looked at how the clustering occurred and then derived the bottom (low) and top (high) numbers.

Commissioner Darin Hall - Questioned if it would be better to set the bar lower for purposes of conducting an analysis to address overconcentration, i.e., why a 6-mile radius, why not 3?

**Contract Planner Tschudin** - Responded that the GIS analysis looked for where there were clusters in any size area. The 6-mile diameter was identified as the size of the area within which you started to see clustering occur. It was a repetitive exercise by doing multiple looks at varying cluster sizes, identifying densities that stood out or that were unusual when compared to the overall number of total licenses throughout the County.
**Commissioner Dubin** - Questioned if this process was only in reference to Yolo County; in other words, did any of these thresholds come from looking at other counties?

**Contract Planner Tschudin** - Clarified that the thresholds only reference Yolo County sites. She indicated that this DEIR is the only one we are aware of that delves into the issue of overconcentration in these smaller areas. This analysis addresses an interest of the Board and was identified as a task to be accomplished through the EIR analysis. In short, the DEIR only looks at Yolo County.

**Commissioner Hall** – Could a cap be applied to address overconcentration by allowing no new sites within a concentrated area, such as required relocations?

**Contract Planner Tschudin** - Responded yes, the overconcentration analysis is proposed to be a part of the implementation of the CLUO over time. Each CUP application will be analyzed against the overconcentration thresholds that are ultimately set. Staff will be processing the existing or eligible 78 sites first. If the Board does not increase or open up any other license types, then once the 78 sites are done, the process will be complete. However, if we assume the Board does allow more cultivation and non-cultivation uses to occur, or that there are relocations, the 6-mile diameter analysis will be conducted in all future use permits. Any time a use permit application is received, staff will perform an analysis of whether or not there is an overconcentration within a 6-mile diameter area around the use permit application site, based on the threshold set in the adopted ordinance. It is not so much that the circle moves but that there would be new circles, which would allow for a discussion of density of the existing businesses in particular areas over time.

**Commissioner Hall** - Expressed concern regarding cannabis uses moving outside of a circle resulting in new overconcentration areas. Can the overconcentration circles move around? Would new circles be developed? Questioned if staff envisions that the circles would overlap?

**Contract Planner Tschudin** – Responded, yes, they could. In effect, that is what happened in area #1 (Guinda/Rumsey). There is such a large cluster that it is actually two clusters, two 6-mile diameter circles overlapping one another. Ms. Tschudin pointed out that another part of the same mitigation measure is to identify a process for implementation. The CLUO is the ordinance that will set up the performance standards and regulatory requirements, but it is a complicated issue. One way to accomplish this is to develop protocols for both implementing the mitigation measures to address the 78 existing and eligible sites first and for subsequently processing additional use permits, if allowed. This creates consistency and certainty regarding the process over time.

**Commissioner** – Regarding the existing 78 licenses, would there be any provisions for those to change, to increase or decrease the size of their cultivation areas? Or, does that stay fixed in time?

**Contract Planner Tschudin** - Responded by stating that at the state level there are limits on sizes (regarding license types) and at the County there are limits on sizes, so the two work together. What applies at the local level is the most stringent. In 2023 large cannabis sites would be allowed under state law. The proposed ordinance refers to these large state licenses, but those would be evaluated in 2023 when the County would determine how to handle them. A change to the CLUO will be required to allow for them.

**Commissioner** - Questioned if the County was assuming if the 78 sites would remain as is?
Contract Planner Tschudin - Indicated no, that may not be the case. The final decision by the Board may reduce the 78; however, the same process would still take place.

Cannabis Policy Manager Susan Strachan – Added a caveat regarding cultivation site sizes: As an example, Santa Barbara County is in the news a lot for the volume and size of cannabis grows in their jurisdiction. The state has different types of cultivation licenses and they have allowed businesses to stack small licenses; stacking small licenses has enabled cultivators to grow more than one acre. Ms. Tschudin is correct – the local government dictates what is allowed, and in Yolo County the limit is one acre.

Commissioner Chuck Dudley – Asked if the state increased license size in 2023 is defined?

Manager Strachan – Responded yes; however, specific regulations for the larger grow sites have not yet been promulgated by the state. She indicated that is what is envisioned.

Commissioner Dudley – Asked what is a larger license size – is it an acre and a half?

Manager Strachan – Answered it is unlimited in terms of size.

Commissioner Dubin – Can you help me understand “process simultaneously?” Is this just in regard to the initial processing of the 78 existing licenses?

Contract Planner Tschudin – Responded, yes. Within the clusters, for example Willow Oaks where we have 13 of the 78 current licenses, assuming the ordinance is put into place and assuming that all 13 submit an application (some may choose not to submit or some may be precluded due to buffer or zoning restrictions, depending on what is adopted), those applications will be evaluated individually, but they will be processed as a batch.

Commissioner Muller – Questioned who gets to decide who stays in a concentrated area and how will overconcentration and reductions in uses be determined?

Contract Planner Tschudin: - Responded that overconcentration will be analyzed with each CUP application. If the number of compliant CUP applications exceeds the overconcentration limit then some will not receive approvals. The process will be guided primarily by the requirements of the land use ordinance and the ability to make the findings, not just the basic use permit findings, but the expanded findings (outlined in the DEIR).

Commissioner Muller – Questioned what happens to existing cannabis businesses during the EIR/CLUO process?

Contract Planner Tschudin – They would continue to operate under the existing licensing regulations and that would be the case up until a land use ordinance is in place. Once the land use ordinance is in place, depending on what features it contains, the transition process would start by integrating the existing licensing process into the new required use permit process, with timeframes for how that would occur over time, and specific deadlines for applications, starting with the cluster areas and then eventually encompassing all 78 of the existing/eligible licenses. If the ordinance is adopted with caps that allow other uses or additional cultivation, that process would be also integrated.

Commissioner Muller – Replied, that means they could still be operating for another couple of years. Will businesses be allowed to continue to operate while they are going through the process?
Responses to Comments

Contract Planner Tschudin – Responded yes. The proposed CLUO addresses that issue and staff will be adding additional detail in the form of procedures.

Commissioner Dudley – Questioned if wind patterns can identify that a site is not suitable for cannabis operations? One can evaluate the wind pattern, but is there action to determine that depending on the wind pattern the site is not suitable?

Contract Planner Tschudin – Responded that the wind rose evaluation is identified as another tool for looking at the fit between the proposed application and the requirements of the ordinance. It is one more piece of information that would be evaluated for a permit but would not necessarily be determinative. It is something that would be considered on a site-specific basis as part of each application review.

Commissioner Trini Campbell – Questioned whether or not terms could be applied to individual CUPs? I understand that the license is valid for a year and renewed annually if the grower is compliant. How long are the use permits valid?

Contract Planner Tschudin – Responded that use permits traditionally have no end point. The permit runs with the land and so long as one is compliant with the requirements of the use permit, one can enjoy the benefits. The Board does have the discretion to limit the life of use permits, so that is something they can consider. The Planning Commission could also consider this as part of their recommendations on the final CLUO.

Commissioner Campbell – It was determined that the interim cannabis ordinance was exempt from CEQA. Why is that?

Senior Deputy County Counsel Eric May – Answered that the licensing ordinance was not a discretionary process, it was ministerial and therefore not subject to CEQA.

Commissioner Campbell – Questioned whether or not each Use Permit would have to undergo additional environmental analysis? For whatever alternative is selected, how would the environmental analysis be conducted? At what point does another EIR get triggered?

Contract Planner Tschudin – Responded that yes, each CUP will require CEQA compliance but they may be able to rely on the programmatic EIR and demonstrate compliance through site-specific studies. One goal in doing such a rigorous programmatic document (EIR) for the CLUO is to facilitate streamlining as much as possible, so we can focus on site specific issues during the use permit review. If a site doesn’t satisfy the criteria or performance standards, then it wouldn’t be able to move forward or would need additional review or revision. That decision will be made on an individual permit application basis, similar to what happens with use permits now. There will be a lot of use permits to process at the front end (once the ordinance is adopted).

Commissioner Muller – Expressed concern that sensitive receptors (i.e., rural residents) were not addressed in the EIR. The original list of sensitive receptors included school bus stops, but was lifted from the CLUO and was not analyzed in the EIR – why was it removed?

Contract Planner Tschudin – Responded that “sensitive receptor” is identified in the County General Plan, and does not include individual rural residences. The CLUO describes “identified sensitive uses”, which is different than a sensitive receptor (as defined in the General Plan), and it does include individual rural residences. This is a more conservative approach, which is something to keep in mind. The original list of
sensitive uses (as defined in the Interim Ordinance) included bus stops and other features. The main reason that list was pared down and revised in the CLUO is because we have to be able to have a data base of these characteristics in order to assess whether or not a permit is too close or far enough away. School bus stops move every year or within a year and there isn’t a data base or way to look at them as a buffering issue. That doesn’t mean that it wouldn’t be a consideration, however, in an individual use permit analysis.

**Commissioner Hall**—Asked if a sensitive use would be allowed to move in next to a permitted cannabis site. If the buses were used as a buffer, then they could never put a bus stop there — would it work both ways?

**Contract Planner Tschudin**—Responded that no, it wouldn’t. The way the ordinance is written, once a permit is issued that permit gives ‘protection’ — that’s my own term — to the user. For instance, if a resident moves next door to a cannabis use, and/or a bus stop is located right in front, the cannabis use is protected in the sense that they do not have to relocate.

**Commissioner Campbell**—Stated that for those interested in the traffic impact analysis, it is important for people to know that it is available electronically only. It is not in the hard copy document.

**Contract Planner Tschudin**—Indicated that is correct. It is also on the website accessible through a link.

**Commissioner Hall**—Asked if it would be a viable solution to say this is a cap, wherever we are right now, this cap could be applied to future licenses?

**Contract Planner Tschudin**—Responded, as a mechanism, yes, this could be done. It is the same concept as ‘grandfathering’. The Planning Commission could consider this and make it part of the recommendation, if it felt this is a good way to resolve the concentration issue.

**Public Comments:**

**Nancy Lea**—Commented representing the Farm Bureau that outdoor cannabis farming is incompatible with “traditional Agriculture”.

Soothing dust can damage nearby cannabis grows. Dust may carry residue from pesticides legally applied which can lead to damage to the cannabis crop. This will lead to lawsuits. One acre of cannabis can yield $500,000. One acre of canning tomatoes will yield $4,000. Pesticide applicators will not spray crops if cannabis is nearby because of concerns regarding liability. Rice crops can pick up the odor of a cannabis grow and be rendered unsuitable for market.

Rural residential is not considered a sensitive receptor, but rural lifestyles are affected by introduction of a new crop and the unpleasant experience without receiving any benefit.

The solution is an enclosed grow in a managed building. She urges adoption of Alternative 4. Don’t allow outdoor grows. This is critical to the continued success of traditional agriculture.

**Meg Hehner**—Guinda resident in cluster and mini cluster around her with one being particularly problematic. Buffer is extremely important. Site is within 300 feet of her back door.

Suggestions: If a grow has had violations or complaints, that should be a reason to have the site removed.
There was a felon at one site who staged an armed robbery. There have been dog issues. There are armed guards. On Nov. 4th fences and hoop houses were removed and put in a large pile. It is still sitting there. They decided to grade property for greenhouses with backing of $10 million. It was previously an organic farm.

She is concerned about water discharge.

She is concerned that there was no EIR for the greenhouse development. She is afraid the County will be persuaded by the investments made on the property.

**David Gray** – Wants 1,000 feet as minimum buffer.

It’s hypocritical to ask for monitoring on hemp. This is a very divisive issue.

Should consider adding an “opt out” option for certain parts of the County.

Some Counties just say no (Glenn Co is an example).

The County Agricultural Commissioner thought he was the sheriff and allowed all of this.

**Michael Hicks** – There have been no issues regarding dust contamination in Yolo or in California. Cannabis is passing testing where pesticides are being applied next door. Dust does not cause cannabis crop failure and there are no lawsuits regarding such failures. Pesticide restrictions are stricter for cannabis, but things can still be workable.

Terpenes are a natural protectant and are emitted from many plants that are the same as cannabis. Odor can be a nuisance but it is not toxic and does not create a public health concern. This is more of a cultural issue. Indoor cultivation is backwards. It’s putting us back in prohibition.

Outdoor grow is most sustainable and has smallest carbon footprint. Indoor growing has huge issues regarding power use. Allowing outdoor grow supports the legal market and helps with costs for poor people.

What is the definition of “traditional agriculture”? New ag commodities are introduced every day. Does this mean the Farm bureau does not support new crops? Then why is Farm Bureau supporting hemp? Its inconsistent and hypocritical.

**Timour Khoussoudinov** - He lives in Davis and been in cannabis for over 5 years. Cannabis is an important issue – provides job growth opportunities. Concerns that have been stated are based on biases or lack of information.

There are not currently 78 licensed - it’s more like 54. State requirements are very prohibitive.

The CLUO could be detrimental to cultivators. Going indoors is terrible. Yolo Co has some of the best soils and air – we should use them.

There is no serious regulatory structure in place to regulate hemp. The moratorium is to allow time to figure out the best way to proceed.

**Rob Reed** – Resident of Yolo Co and co-owner of F Street Dispensary in Davis. His comments are from a retailer’s perspective. F Street is the first licensed dispensary in Davis – he would like to be one of Yolo
County’s first. CLUO provides an opportunity to bring new licenses for retail and supportive cannabis uses to Yolo County. We need to look at what is needed to support the base of cultivators in the County. We should keep the money and the product in the County. Invited people with questions about retail to get tour of dispensary.

**Mel Smith** – Resident of Dunnigan. He is on CAC in Dunnigan. They have a meeting scheduled for 12/11 to provide their comments on DEIR.

He wanted to provide verbal comments discussed by CAC. He is concerned about the impact a cannabis grow in area has on neighboring farmer who uses pesticides. Cannabis doesn’t use pesticides that affect farmer but farmer’s pesticides could affect cannabis. Cannabis pesticide testing levels are so low. Cannabis crop has to be destroyed if it tests positive for pesticide and neighboring traditional farmer would be held responsible and could be held liable for value of crop that had to be destroyed. This is an impact that was not addressed in the DEIR. Solution is to limit cultivation to indoor grows. CUPs should include AQ requirements for intake and exhaust air. Then if cannabis tests positive for pesticides, the responsibility would fall on the cannabis grower.

**Tim Schimmel** – Wish Farm Bureau speaker was still here in order to address her comments. His property is on 89. Neighbors don’t spray when wind is blowing in the direction of his site. Are there any cases of pesticide drift?

He is not against hemp, just need to look at pollination issues more. Terpenes are everywhere — they are not harmful Farm Bureau newsletter front page had info on why cannabis is bad yet they are advocating hard for hemp. They have the same odor – this makes no sense.

Growing indoors is not a good solution – adds too much cost. The black market is biggest issue due to high taxes, regulation. Being required to grow indoors is going to make this worse. We need to be able to grow for as low a price as possible.

**Response to Public Comments**

Contract Planner Tschudin provided responses/clarification to some public comments:

- Could violations and complaints on a specific grower be considered as part of the process? Response: Yes. The additional findings of fact identified in mitigation measure for overconcentration addresses this issue. It is Mitigation Measure OVC-1C on page 4-47 of the DEIR.

- A concern was raised that in the consideration of issuance of use permits, the County may be persuaded by the sizeable investments made by cultivators. Response: There are signs posted in the planning department notifying licensed cultivators that they are proceeding at their own risk and there is no guarantee that their investments will be realized beyond the one year their licenses are valid. They also have to sign a document attesting that they fully understand this issue.

- A commenter suggested that pesticide drift is not addressed in the DEIR. Response: There is considerable discussion on this issue in the Agriculture Section 3.2 of the DEIR.
**Planning Commission Comments and Discussion:**

**Commissioner Darin Hall** – There has been a change in direction regarding indoor grows. Industry is now saying indoor-only is not viable. He is confused about this.

He has concerns regarding violations and complaints – anybody can complain. Complaints need to be viable complaints. Need to make sure what complaint actually is and how that process will play out. Individuals have put time and money into their business.

Related to setting caps, existing operations should be grandfathered in, then get to lower numbers through attrition. Otherwise process doesn’t seem fair and equitable.

Alternative 4 (indoors) fits well and covers a lot of concerns. It’s the best of both worlds.

The Board of Supervisors clearly supports cannabis so how can we make it a place where people can live and cannabis operators can have a business.

**Commissioner Elizabeth Dubin** – Compelled by concern about energy use – why move grows indoors. And if we move them indoors then why allow in Agricultural zone at all? She would like more info on this. How does growing indoors compare to growing outdoors in terms of electricity use? Seems like energy issues are more of an indoor issue. Also growers don’t use native soil so why is that important?

Legal issues are plaguing her. We cannot make decisions based on a threat of litigation. What is real versus what is fear in terms of how farmers can be negatively impacted? She will reread Section 3.2 (Agricultural Resources, Pesticide Drift). Wants to hear from Eric May.

She is concerned about the 75-foot versus the 1000-foot buffer. The 75-foot is small -- not a lot of value. But 1000 feet may be excessive. A number in between could be chosen as a buffer. Doesn’t like 75-foot buffer.

**Commissioner Trini Campbell** - In Section 3.2 (Agricultural Resources) DEIR she would like to see the effect of cannabis on the inventory of parcels available for the ag. conservation easements. She understands that cannabis cannot go into a conservation easement.

The no project alternative concerns her – it’s based on a false premise.

The baseline should be before the 78 licenses were issued and before the interim ordinance. Otherwise you can’t tell effect on traffic, noise, etc. This needs to be addressed in Section 3.14 (Transportation and Circulation). The licensed sites are in remote areas with limited access.

LOS and traffic patterns should be analyzed. There already has been impacts to these roads. The number of trips has increased on these roads.

On page 3.14-13 regarding the Vehicle Miles Traveled (VMT) significance threshold and the bottom bullet – would any increase be presumed to be significant? We need to count trips to show this impact.

She also wants to see impacts on property values near and adjacent to cannabis operations. This may fall outside the EIR.

At the top of page 3.14-18, it notes that a traffic assessment is required of applications if over 100 new trips will be generated. It is piecemeal to analyze these individually; traffic should be considered
cumulatively when Use Permits are required. This is a real impact that needs to be addressed. Her biggest concern is the traffic issue.

**Commissioner Marcia Gibbs** – Has concerns similar to Commissioner Campbell. Overconcentration triggered most concern for her. Feels like something needs to be done but hard to figure out how you would undo those business licenses that already exist.

One of the problems is what happens to property values. This concerns her because it is not addressed in DEIR.

As a member of Yolo Agricultural Alliance, they considered cannabis a viable option for farmers. Impacts from dust, drift, and pesticides are common problems farmers are used to dealing with. Good communication and proper application can address these issues. Peoples’ views about cannabis could change overtime. Commissioner Gibbs agreed with the comment contract planner Tschudin made on this topic. We should think about it as a viable crop that could bring revenue to farmers and retailers. Our biggest goal should be finding ways to make it work.

**Commissioner Amon Muller** – He has issues with the document. Traffic was under analyzed. Some of the roads with two or three grows will be highly impacted due to employee traffic. Trips are high during harvest and trimming season. Some roads that may only see 20 trips per day will see increased use. These new trip levels are likely to be significant. As a whole, traffic may not be increased; but for individual sites more traffic analysis is needed. In areas of overconcentration more data is needed.

Safety of neighbors is a significant concern – security is over the top. The security features negate the benefits of living in rural areas. Gave an example of resident with a site 100-feet from her home. She gets followed up her driveway each night. Security lights, cameras, guards, affects rural nature of area. A 1000-foot buffer would address this. Regular crops don’t have security all around them. The impacts of theft are real. He has 6 or 7 grows within a mile of where he lives.

Likes the way overconcentration is analyzed. He does not think the Board of Supervisors will kick people out.

The 1000-foot buffer is a reasonable buffer that will address these concerns.

**Commissioner Chuck Dudley** – Echoes others comments on road impacts. Overconcentration needs to be addressed by applying adequate buffers.

Concerned about concentrating production in certain rural areas. Use permits could be stacked and located in least intrusive areas. Doesn’t know where this area would be but maybe there is one.

**Chair Patrick Reynolds** – Appreciates the process. Back on track with a good public process. Both sides’ opinions have been taken into account. It is a good detailed DEIR. Having projects tier off DEIR makes sense. Voters passed cannabis so it is here to stay so we need to find a way to make it happen for most people.

We should move forward slowly. Alternative 1 is a good starting place. Stay within the limits we have today. After a couple of years we could add more uses to capture tax revenue and economic development.
**Commissioner Campbell** – Regarding overconcentration, especially in the Capay Valley, it would be helpful to consider the placement of existing residences. Most are zoned A-N. This should be considered in the CUPs.

**Staff Responses to Planning Commission Comments:**

**Contract Planner Tschudin** – The alternatives analysis does have an alternative that is “no cannabis” and that alternative was considered and rejected from further analysis in the DEIR because the County has moved forward with allowing cannabis and the voters have supported cannabis. There are other reasons that are identified in the DEIR.

Regarding baseline, both the statute and case law for CEQA define what we are supposed to use as the baseline and the analysis used in the DEIR is consistent with those requirements. We can provide more detail in our formal responses.

The no project alternative looks at how the project will change the environment from what exists today. Baseline is defined as existing conditions.

EIRs are required by state law to look at required issue areas. EIRs do not look at social or economic issues.

**Commissioner Dubin** – It is my understanding that the No Project Alternative is defined within the CEQA process as what would happen if you did nothing. However, I think Commissioner Campbell’s comment regarding baseline was something different.

**Contract Planner Tschudin** – The purpose of it is to show how a particular project or proposal, in this case a regulation, would create a different environmental effect than what is currently being experienced. I understand that as a decision maker you may be looking at it from a different perspective and that is OK. However, for CEQA review the baseline is defined as the existing conditions. EIRs only look at the environmental aspects of the project and do not look at other issues that may be legitimate or factors for you to consider in your decision making such as social, cultural, or economic issues.

**County Counsel Eric May** – Regarding the issue of dust drift, EIRs look at the project’s effect on the environment not the environment’s effect on the project. Staff report will include information on this issue. We can also research the issue of cannabis impact on property values and report on this in the staff report.

**Commissioner Muller** – He is concerned that this document will set the bar differently for other agricultural operations in terms of impact analysis and litigation.

**County Counsel May** – This process shouldn’t affect other agricultural crops because they don’t require a discretionary approval. It should not set a precedent. The discretionary permit is what triggers the scrutiny. Cannabis is being treated differently from other agriculture in this regard. Other agricultural products are not subject to same requirements. Just because cannabis is subject to more scrutiny doesn’t mean other agricultural crops would be also. The permit is what triggers the more detailed scrutiny.

**Commissioner Muller** – Inquired regarding the buffer analysis and what it means for availability of land to conduct cannabis activities.

**Contract Planner Tschudin** – We generally looked at the effect of buffers and zoning on a programmatic basis. There were slides presented earlier in the presentation that noted how many sites might be
removed based on those assumptions. We did not conduct a detailed site specific analysis. Until we know the direction of the Board we don’t know what the exact results would be. The analysis was conducted at a high level. A grower could change the location of their grow and this could affect the results. The level of this analysis did not include detailed site-specific measuring. However, this would happen with a use permit application. We have the capability to conduct a GIS analysis of buffers that explores at a gross level how many acres are not eligible depending on different buffer distances. We can do an analysis of what is kicked out.

Commissioner Muller – As part of the staff report, this analysis would be helpful for both existing and future grows.

Commissioner Dudley – If someone has to move, is there anything that prohibits someone that has permitted and gone through the process to relocate somewhere else in a suitable location?

Contract Planner Tschudin – No. The act of operating once you have the appropriate approvals is a business decision. You could secure approvals and not utilize them. The CLUO has language about use permits going stale if they are not used.

Commissioner Dudley – In the Guinda/Rumsey area could someone move from that area without prejudice? Could there be a grace period for someone who has to move.

Contract Planner Tschudin – Yes to both. The CLUO includes a proposed transition process for operations that need to move.

*The discussion of this item ended at approximately 10:45 am. These staff summary minutes were prepared by Susan Strachan as part of the CEQA process for the CLUO Final EIR. They are not the official minutes of the Planning Commission.*
<table>
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<tbody>
<tr>
<td>Response to Comment 12-1</td>
<td><strong>EIR Comment.</strong> These comments were prepared by staff to have a more detailed summary of the Planning Commission meeting in the record.</td>
</tr>
<tr>
<td>Response to Comment 12-2</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-3</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
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<tr>
<td>Response to Comment 12-4</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-5</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-6</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-7</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-8</td>
<td><strong>EIR Comment.</strong> The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”</td>
</tr>
<tr>
<td>Response to Comment 12-9</td>
<td><strong>CLUO Comment.</strong> The Commissioner requested clarification regarding the assumption of 78 existing and eligible licensees. A response was provided by staff at the meeting. Further clarification is not needed.</td>
</tr>
<tr>
<td>Response to Comment 12-10</td>
<td><strong>CLUO Comment.</strong> The Commissioner requested clarification regarding the assumption of 78 existing and eligible licensees. A response was provided by staff at the meeting. Further clarification is not needed.</td>
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</tbody>
</table>
Response to Comment 12-11  CLUO Comment. The Commissioner asked about the future new state cultivation license category called “Large.” A response was provided by staff at the meeting. Further clarification is not needed.

Response to Comment 12-12  EIR Comment. The Commissioner asked for clarification about the overconcentration mitigation measure (OVC-1). A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”

Response to Comment 12-13  EIR Comment. The Commissioner asked for clarification about the overconcentration analysis. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”

Response to Comment 12-14  EIR Comment. The Commissioner asked about existing cannabis businesses during the transition to the CLUO. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”

Response to Comment 12-15  EIR Comment. The Commissioner asked about existing cannabis businesses during the transition to the CLUO. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-10, “CUP Process and Overconcentration.”

Response to Comment 12-16  EIR Comment. The Commissioner asked about assessment of wind patterns. A response was provided by staff at the meeting. Draft EIR Mitigation Measure AQ-1 modifies Section 8-2.1408(DD) of the proposed CLUO to require wind pattern evaluation for each cannabis application. The measure specifies that this evaluation will consider wind from multiple directions over a specified period of time.

Response to Comment 12-17  CLUO Comment. The Commissioner asked about setting terms for the life of the permits. A response was provided by staff at the meeting. Further clarification is not needed.

Response to Comment 12-18  EIR Comment. The Commissioner asked about CEQA compliance for the Licensing Ordinance. A response was provided by staff at the meeting. Further clarification is not needed. Please see MR-16, “Cannabis Licensing Program.”

Response to Comment 12-19  EIR Comment. The Commissioner asked whether each CUP will require CEQA compliance. A response was provided by staff at the meeting. The County has described on pages ES-7 through ES-8 of the Draft EIR the obligation under CEQA to activate applicable CEQA streamlining and expressed County intent to incorporate this into the cannabis CUP process. Each CUP application will require individual analysis to determine appropriate CEQA compliance. Provided appropriate site-specific analysis is undertaken and that the applicant can demonstrate full compliance with the CLUO, some applications will be able to rely on the CLUO EIR for CEQA compliance, thus making them statutorily exempt. Others may trigger a negative declaration and/or possibly a focused project-level EIR. This will be determined with each CUP application on a case-by-case basis.

Response to Comment 12-20  CLUO Comment. The Commissioner asked about sensitive receptors. A response was provided by staff at the meeting. Further clarification is not needed. Please also see MR-9, “Buffers.”
Response to Comment 12-21  CLUO Comment. The Commissioner asked for clarification regarding buffers, in the situation where an identified sensitive land use locates next to a cannabis site after that site is in place and operating. A response was provided by staff at the meeting. Section 8-2.1404(K) of the proposed CLUO addresses this issue.

Response to Comment 12-22  EIR Comment. The Commissioner clarified that the Draft EIR traffic analysis is available online. Staff confirmed this at the meeting. The CLUO Draft EIR including all attachments is available at the following e-location:

https://www.yolocounty.org/community-services/cannabis/cannabis-land-use-ordinance/-fsiteid-1

Response to Comment 12-23  CLUO Comment. The Commissioner asked whether a cap could be set at the current number of existing and eligible licenses. Staff confirmed this is a possible approach. This aligns with the assumptions embodied in Alternative 1.

Response to Comment 12-24  CLUO Comment. The commenter expressed an opinion that outdoor cannabis farming is not compatible with non-cannabis farming. This position is acknowledged for the record. Please see Response to Comment 11-2 and MR-12, “Expression of Opinion/Preference.”

The written comments from this commenter are identified as Letter 11 and a second written submittal from this commenter is identified as Letter 71.

Response to Comment 12-25  CLUO Comment. Please see Responses to Comment 11-2, 11-3, and 11-4.

Response to Comment 12-26  CLUO Comment. Please see Response to Comment 11-5.

Response to Comment 12-27  CLUO Comment. Please see Response to Comment 11-6.

Response to Comment 12-28  CLUO Comment. Please see MR-7, “Code Enforcement and Crime.” The commenters support for buffers is noted for the record. Please see MR-9, “Buffers.”

Response to Comment 12-29  CLUO Comment. The commenter suggests that an operation’s history of violations or complaints should be relevant. Please see MR-10, “CUP Process and Overconcentration.” Findings 11 and 12, listed under “Findings Required for Approval of a Cannabis Condition Use Permit,” address this issue.

Response to Comment 12-30  CLUO Comment. The County’s CTF investigates all cannabis related complaints to ensure compliance with applicable rules. The CLUO will establish a discretionary use permit requirement and new requirements for all operators. Please see MR-7, “Code Enforcement and Crime,” and MR-10, “CUP Process and Overconcentration.” As stated in MR-7, pursuant to Code Section 5-20.11(A)(11) of the Interim Ordinance, as amended in November 2017:

Upon the occurrence of three verified violations or hearing officer determinations of violation of any of the License requirements or standards issued to the owner or operator at any property or combination of properties of the same owner or operator within a two-year period, all Licenses for marijuana cultivation held by said owner or operator shall be automatically deemed nullified, voided and revoked.

The Cannabis Task Force issues Notices of Violation when warranted and has utilized this provision while enforcing the Interim Ordinance.
Response to Comment 12-31  EIR Comment. The commenter expresses concern for water discharge from cannabis sites. Section 8-2.1408(J) of the proposed CLUO addresses Drainage and Storm Water Discharge and requires compliance with existing state and local requirements for discharge and water quality. Also, within the existing Licensing Ordinance Section 5-20.04 (B)(1), Additional Prohibitions, states as follows:

Notwithstanding compliance with the provisions of this chapter, cultivation of marijuana is prohibited if cultivated in any amount or quantity, upon any premises, that discharges from any source whatsoever such quantities of air contaminants, odor or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons, to the environment or to the public or which endanger the comfort, repose, health, or safety of any such persons or the public or which cause to have a natural tendency to cause injury or damage to business or property.

Response to Comment 12-32  CLUO Comment. The commenter expresses concern that there was no EIR prepared for greenhouse development occurring within approximately 300 feet of her residence. The commenter refers to a previously licensed cultivation site that had engaged in grading activities to develop the site with greenhouses. Please see MR-7, “Code Enforcement and Crime.”

As indicated in other responses to comments, including Responses to Comments 28-6, 39-1, and 39-3, greenhouse development for agricultural purposes is an allowed use on agriculturally-zoned property so long as the structures, including site preparation, are properly permitted. In instances where the size of a greenhouse exceeds 100,000 square feet, a Site Plan Review is required, which is a non-discretionary administrative review conducted by the Planning Division to ensure consistency with all applicable County standards (Yolo County Code Section Table 8-2.304[a]). The greenhouse development associated with the site referenced by the commenter did not meet the criteria that would have required a Site Plan Review.

The commenter also expressed concern that investments made by licensees will become a consideration for CUP applications. Please see MR-14, “County Cannabis Disclosures.” While consideration of existing investments in property is not prohibited, an applicant would nevertheless be required to demonstrate compliance with the requirements of the CLUO. As pointed out in MR-14, the County has ensured that licensees who construct greenhouses or make other improvements in advance of adoption of the CLUO are aware of the risk that they may not be allowed to continue cannabis activities at their site, and/or that they may not be granted a CUP.

Response to Comment 12-33  CLUO Comment. The commenters support for 1,000-foot buffers is noted for the record. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-34  CLUO Comment. Please see MR-8, “Marijuana and Hemp.”

Response to Comment 12-35  CLUO Comment. The commenters recommendation regarding an “opt out” for certain parts of the County is acknowledged for the record. The CLUO will apply countywide; however, the Board of Supervisors will deliberate whether to apply aspects of the CLUO differently in different geographic areas of the County. For example, overconcentration thresholds are anticipated to apply only in certain areas of the County.
Response to Comment 12-36 **CLUO Comment.** This information regarding Glenn County is acknowledged. Thank you.

Response to Comment 12-37 **CLUO Comment.** The comment regarding the Agricultural Commissioner is noted. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-38 **CLUO Comment.** The commenter provides information regarding issues raised in Comments 12-24 through 12-27. This information is noted for the record.

Response to Comment 12-39 **EIR Comment.** The comments regarding terpenes are noted for the record.

Response to Comment 12-40 **EIR Comment.** The commenters support for outdoor cultivation is noted. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-41 **CLUO Comment.** The commenter requests clarification from the Farm Bureau regarding their position on cannabis.

Response to Comment 12-42 **CLUO Comment.** The commenter expressed support for cannabis. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-43 **CLUO Comment.** The clarification regarding the current number of licensees is acknowledged. As explained in the Draft EIR, there are 78 existing and eligible licensees. There are 51 who have applied to renew their licenses in 2020. As of June 30, 2020, there are 47 who are currently licensed.

Response to Comment 12-44 **CLUO Comment.** The commenters support for outdoor cultivation is acknowledged.

Response to Comment 12-45 **CLUO Comment.** Please see MR-8, “Marijuana and Hemp.”

Response to Comment 12-46 **CLUO Comment.** The commenters support for retail activity is acknowledged. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-47 **CLUO Comment.** The commenter notes that they are the Citizens Advisory Committee for Dunnigan that has a meeting to go over the Draft EIR on December 11, 2019. Please see responses to Comment Letter 23.

Response to Comment 12-48 **CLUO Comment.** The commenter reflects concern about the effects of neighboring non-cannabis farming operations on adjoining cannabis cultivation. Please see Response to Comment 11-2 and MR-5

Response to Comment 12-49 **CLUO Comment.** The commenter requests clarification from the Farm Bureau regarding their position on cannabis.

Response to Comment 12-50 **CLUO Comment.** Please see MR-8, “Marijuana and Hemp.”

Response to Comment 12-51 **CLUO Comment.** The commenters support for outdoor cultivation is acknowledged. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 12-52 **CLUO Comment.** This comment addresses whether violations or complaints can be considered as part on a CUP application. A response was provided by staff at the meeting. See also Response to Comment 12-29.
Response to Comment 12-53  **CLUO Comment.** This comment addresses whether investments made by licensees will become a consideration for CUP applications. A response was provided by staff at the meeting. See also Response to Comment 12-32 and MR-14, “County Cannabis Disclosures.”

Response to Comment 12-54  **EIR Comment.** The comment identifies where pesticide drift is addressed in the Draft EIR. Further response is not needed.

Response to Comment 12-55  **CLUO Comment.** The Commissioner observed that cannabis industry is now promoting outdoor cultivation and not indoor.

Response to Comment 12-56  **CLUO Comment.** The Commissioner encouraged that complaints be verified when undertaking code enforcement. The County’s CTF investigates all cannabis related complaints to ensure compliance with applicable rules. Verification of the facts is a component of that process. Please also see MR-7, “Code Enforcement and Crime.”

Response to Comment 12-57  **CLUO Comment.** The Commissioner suggested that existing operations be grandfathered into any caps on permits. Please see MR-14, “County Cannabis Disclosures.” While consideration of existing investments in property is not prohibited, an applicant would nevertheless be required to demonstrate compliance with the requirements of the CLUO. As pointed out in MR-14, the County has ensured that licensees are aware of the risk that they may not be allowed to continue, and/or that they may not be granted a CUP.

Response to Comment 12-58  **CLUO Comment.** The Commissioner expressed preliminary support for Alternative 4 which allows for indoor cultivation only. This comment is acknowledged.

Response to Comment 12-59  **CLUO Comment.** The Commissioner expressed that the Board of Supervisors supports cannabis and therefore the goal is to balance competing interests. This comment is acknowledged.

Response to Comment 12-60  **EIR Comment.** The Commissioner expressed concern about increased energy usage associated with indoor cultivation. Draft EIR Table 3.6-2 identifies energy use by cannabis use type (see Draft EIR page 3.6-13). This table identifies that cannabis cultivation in a building (mixed-light and indoor) uses electricity at a rate 1.8 to 4.6 greater than outdoor cultivation. The energy estimates provided in the Draft EIR for cannabis cultivation in a building are similar to the Sacramento Municipal Utility District’s (SMUD’s) experience with the range electrical demands for indoor cultivation (McGregor, pers. comm., 2019). SMUD was consulted for electrical energy demand data because of its experience with indoor cannabis facilities in its service area and SMUD’s proximity to Yolo County.

The commenter also suggested that cannabis cultivators do not use native soil. Actually, almost half of the currently active cultivators are growing in native soil. Of 47 active licensees as of June 30, 2020, 17 are cultivating entirely in native soil, and another nine are growing partially in native soil. Together, this reflects about 55 percent of the total.

Response to Comment 12-61  **CLUO Comment.** The Commissioner expressed concerns regarding liability issues between farmers. This comment is understood to be in response to comments made by the Farm Bureau representative (see Response to Comment 11-2, and see also responses to letters 11 and 71). The issue is
whether the off-site effects of one farmer’s operations should be made the responsibility of a neighboring farmer to accept and accommodate, even in circumstance where the latter might experience economic harm. Yolo County has a history of supporting all agricultural endeavors and this would arguably reflect a departure from that long-standing approach. It also suggests that the County favor one agricultural crop over another which has not historically been the County’s practice.

The staff does not propose any changes to the Draft EIR or the proposed CLUO to embody these perspectives. The concerns raised involve the potential effects of existing conditions on the project. Because CEQA in general is statutorily focused on the effects of a project on the environment and not the reverse, this is sometimes referred to as “reverse CEQA” analysis. Except in very limited circumstances which would not apply here, analysis of the effects of the environment (e.g., pesticides and dust from neighboring farmers) on the project (assumed to be a future cannabis CUP applicant under the CLUO) are not required in an EIR. While the Board of Supervisors may consider this if they find it to be relevant to their deliberations, it is not required under CEQA. Please see MR-6, “Economic Effects and Property Values.”

Local government cannot reasonably solve all problems between property owners through regulatory means. Appropriate resolution of this concern would be for neighboring farmers to work collaboratively to accommodate one another or to request the assistance of the CTF, Agricultural Commissioner, the Farm Bureau, or other industry leadership to help achieve a mutually beneficial outcome. As a last result mediation services may also be appropriate. Ideally neighbors are able to work out conflicts between themselves, but when this doesn’t occur, the courts are available as a last result.

Response to Comment 12-62  CLUO Comment. The Commissioner indicates that a buffer between 75 feet and 1,000 feet might be ideal. This perspective is acknowledged. Please see MR-9, “Buffers,” for more information about buffers.

Response to Comment 12-63  EIR Comment. The Commissioner requests information regarding how cannabis cultivation would affect parcels available for agricultural conservation easements. There are no known general prohibitions on placing an easement on a parcel that contains cannabis cultivation; however, the funding for purchase of the easement may be relevant. A summary of the main forms of conservation easement, or similar protection with respect to agricultural land, is provided below.

Contracts Pursuant to Williamson Act – The Williamson Act (California Land Conservation Act of 1965: Government Code Section 51200 et seq.) is a state agricultural land protection program in which local governments elect to participate. The intent of the program is to preserve agricultural lands by discouraging their premature and unnecessary conversion to urban uses. Landowners may apply to contract with the County to voluntarily restrict their land to agricultural and compatible uses. Restrictions are enforced through a rolling 10-year term contract. Unless the landowner or the County files a notice of nonrenewal, the 10-year contract is automatically renewed at the beginning of each year. In return for the voluntary restriction, contracted parcels are assessed for property tax purposes at a rate consistent with their actual (agricultural) use, rather than potential market value. While sometimes referred to as an “easement” the instrument used to effectuate the Williamson Act is actually a contract. Senate Bill 527 (Chapter 527, Statutes of 2019) amended the
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Williamson Act to clarify that cannabis cultivation may constitute a compatible use on contracted or non-contracted land within an agricultural preserve thus clarifying that cannabis can be grown on a parcel under Williamson Act.

Conservation Easements (general) -- Conservation Easements are enabled through Sections 815–816 of the California Civil Code, Division 2, Part 2, Title 2, Chapter 4 (Conservation Easements) which is also often referred to as the California Conservation Easement Act of 1979. These sections establish that conservation easements are restrictions on the use of real property, entered into voluntarily, perpetual in duration, the purpose of which is to retain the land “predominantly in its natural, scenic, historical, agricultural, forested, or open-space condition.” These regulations contain no restrictions on the placement of a conservation easement on a property on which cannabis is being grown.

Conservation Easements Pursuant to a habitat conservation plan/natural community conservation plan (HCP/NCCP) – It does not appear that the US Fish and Wildlife Service has taken an official position or established official policy regarding cannabis on HCP reserve lands. Nevertheless, because cannabis is illegal under federal law, the County presumes that parcels with cannabis activities would not be eligible to join an HCP reserve system. There are many agricultural crops that are not viewed as desirable for conservation easement purposes based on incompatibilities with special species needs and success. In addition to cannabis, examples include vineyards and orchards. The Yolo HCP/NCCP was effective January 11, 2019, and relies on the creation of a conservation reserve totaling 33,362 acres. Based on the assumptions for each alternative the following maximum acreage associated land disturbance could result (see Table 2-4 on page 2-32 of Chapter 2 of the Draft EIR):

- Alternative 1 and No Project – 156 acres
- Alternative 2 and 4 – 260 acres
- Alternative 3 – 517 acres
- Alternative 5 – 259 acres

Using the high end of 517 acres associated with Alternative 3 this is overall a relatively minute percentage (0.0008) of the overall County acreage which totals 653,550 acres. This underscores that the effects of cannabis under the CLUO would be too small to have any material effect on the ability of the Yolo HCP/NCCP to be successfully implemented.

Response to Comment 12-64  EIR Comment. The Commissioner expresses concern about the assumptions underlying the No Project Alternative. Please see MR-1, “No Project Alternative and No Cannabis Alternative.”

Response to Comment 12-65  EIR Comment. The Commissioner expresses a concern regarding the impact baseline used in the Draft EIR. Please see MR-2, “Baseline Conditions Used in the Draft EIR.”

Response to Comment 12-66  EIR Comment. The Commissioner expressed concern about the impact of vehicle trips on local roads. This issue is addressed in Draft EIR Section 3.14, “Transportation and Circulation” (see Draft EIR pages 3.14-12 through 3.14-18), and Draft EIR Appendix G. Please see MR-15, “Traffic Analysis.”
Response to Comment 12-67  
**EIR Comment.** The Commissioner asks about text on the bottom of page 3.14-13. The last paragraph and bullet on page 3.14-13 are in error and should be deleted. This edit to the Draft EIR is provided below. The text on Draft EIR pages 3.14-12 and 3.14-13 under the heading “VMT Significance Threshold Methodology” provides a discussion of the applicability of this section to the subject land use ordinance and to cannabis activities in general. The impact threshold for VMT is identified on page 3.14-16 as: “Conflict or be inconsistent with CEQA Guidelines Section 15064.3.”

Section 15064.3 of CEQA is focused on urban residential and transportation projects that generate significant VMT and does not apply to the CLUO or outdoor cultivation. It is possible, that it could apply to other future cannabis uses (e.g., retail or manufacturing). This will be assessed with each cannabis CUP application. Projects that generate 100 new trips per day or more would be required by the County to prepare a traffic operations analysis (see draft CLUO Section 8-2.1408[J]). As noted in the Draft EIR text, this is generally consistent with the 110-trip threshold referenced in the OPR Technical Advisory as a likely threshold for less-than-significant transportation impacts. Cannabis uses in the various zones in which they would be allowed per draft CLUO Section 8-2.1407, are not expected to differ materially from the non-cannabis uses assumed within those zones under the General Plan and General Plan EIR. Please refer also to MR-15, “Traffic Analysis.”

The following text deletion is made to the last paragraph of Draft EIR page 3.14-13:

Thus, taking into consideration the four criteria detailed in Section 15064.3(b) for analyzing the transportation impacts and their applicability to the CLUO, state policy, and the recommendations of the OPR Technical Advisory, the following threshold was determined as conservative but appropriate for the purpose of analyzing the potential for change in VMT under each CLUO alternative:

- An increase in countywide VMT as compared to existing conditions shall be presumed to result in a significant effect.

Response to Comment 12-68  
**CLUO Comment.** The Commissioner inquired regarding effects on property values. Please see MR-6, “Economic Effects and Property Values.”

Response to Comment 12-69  
**EIR Comment.** The Commissioner expressed concern regarding cumulative traffic impacts. The analysis undertaken for Section 3.14, “Transportation and Circulation,” of the Draft EIR was a cumulative analysis of all cannabis uses assumed under each alternative. The draft CLUO also requires individual project level traffic operations analyses for any projects that would generate 100 trips or more. This approach ensures that both cumulative, and future project-specific, impacts are addressed and demonstrates that the analysis that was undertaken was not piecemeal in its approach. Cumulative traffic conditions and associated impacts of the five alternatives is provided in Draft EIR Chapter 4, “Cumulative Impacts and Overconcentration” (Draft EIR pages 4-35 and 4-36).

Response to Comment 12-70  
**EIR Comment.** The Commissioner expressed concern for existing cannabis businesses and the issue of overconcentration. Please see MR-10, “CUP Process and Overconcentration,” and MR-14, “County Cannabis Disclosures.”
Response to Comment 12-71  **CLUO Comment.** The Commissioner expressed concern regarding effects on property values. Please see MR-6, “Economic Effects and Property Values.”

Response to Comment 12-72  **CLUO Comment.** The Commissioner expressed that cannabis related problems are common agricultural issues that can be resolved. Please see MR-5, “Cannabis as an Agricultural Crop,” and MR-11, “Cultural Change.” The proposed CLUO contains new rigorous regulations that would provide many additional controls and enforcement abilities to the County with respect to cannabis activities.

Response to Comment 12-73  **EIR Comment.** The Commissioner expressed concerns regarding the traffic analysis and conclusions in the Draft EIR. Section 3.14, “Transportation and Circulation,” and Appendix G of the Draft EIR contain the transportation and circulation impact analysis. Please also see MR-15, “Traffic Analysis.” Local roadways are important public infrastructure paid for and maintained by the County using public funding. Increased use of those roadways for legal conforming by-right uses is not in and of itself an adverse environmental impact. Staff acknowledges that the experience and concerns of adjoining property owners must be considered, but that is a policy matter more than a matter of environmental impact.

The Commissioner indicates that analysis of traffic operations associated with individual sites merits additional review especially in areas of over-concentration. This position is reflected in the proposed CLUO. Projects that generate 100 new trips per day or more would be required by the County to prepare a traffic operations analysis (see draft CLUO Section 8-2.1408(JJ)). Draft EIR Mitigation Measure OVC-1 requires among other things that all applications within areas of overconcentration be processed at the same time to allow for consideration of effects over the entire affected area. Please see MR-10, “CUP Process and Overconcentration.”

Response to Comment 12-74  **CLUO Comment.** The Commissioner expressed concerns about security associated with some of the cannabis operations. The draft CLUO requirements for security are found in Section 8-2.1408(LL). Staff is contemplating additional modifications to this section and to the Licensing Ordinance to require professional security staff as a component of the required security plan.

Response to Comment 12-75  **EIR Comment.** The Commissioner’s support for the overconcentration analysis and concern regarding existing licensees is acknowledged.

Response to Comment 12-76  **CLUO Comment.** The Commissioner’s support for 1,000-foot buffers is noted.

Response to Comment 12-77  **CLUO Comment.** The Commissioner’s concerns regarding road impacts is noted. Section 3.14, “Transportation and Circulation,” and Appendix G of the Draft EIR contain the transportation impact analysis. Please also see MR-15, “Traffic Analysis.”

Response to Comment 12-78  **CLUO Comment.** The Commissioner expressed concerns regarding locations for cannabis activities is noted. Please see MR-10, “CUP Process and Overconcentration” and MR-17, “Consolidated Cannabis Campus.”

Response to Comment 12-79  **CLUO Comment.** The Chair’s support for the process and the Draft EIR is noted.

Response to Comment 12-80  **CLUO Comment.** The Chair proposes support for Alternative 1 is acknowledged.
Response to Comment 12-81 EIR Comment. The Commissioner expressed that CUPs should consider the placement of existing residences. Individual legal residences under separate ownership are identified as a sensitive land use in Section 8-2.1408(E) of the proposed CLUO relating to the application of buffers. Also, the expanding findings of fact identified in Draft EIR Mitigation Measure OVC-1c include “proximity of cannabis operations...to other identified sensitive uses” and “adjoining/nearby land uses” both of which would allow for consideration of existing residences.

Response to Comment 12-82 EIR Comment. This comment is a staff response to questions and comments made by Planning Commissioners. No response is necessary. Please also see MR-1, “No Project Alternative and No Cannabis Alternative,” and MR-3, “Range of Alternatives Evaluated in the Draft EIR.”

Response to Comment 12-83 EIR Comment. This comment is a staff response to questions and comments made by Planning Commissioners. No response is necessary. Please also see MR-2, “Baseline Conditions Used in the Draft EIR.”

Response to Comment 12-84 EIR Comment. This comment is a staff response to questions and comments made by Planning Commissioners. No response is necessary. Please also see MR-1, “No Project Alternative and No Cannabis Alternative,” and MR-2, “Baseline Conditions Used in the Draft EIR.”

Response to Comment 12-85 EIR Comment. This comment is a staff response to questions and comments made by Planning Commissioners. No response is necessary. Please also see MR-6, “Economic Effects and Property Values.”

Response to Comment 12-86 EIR Comment. The Commissioner made a clarification regarding questions related to “baseline” conditions. A response was provided by staff at the meeting. Further response is not needed. Please also see MR-1 through MR-4.

Response to Comment 12-87 EIR Comment. This comment is a staff response to questions and comments made by Planning Commissioners. No response is necessary. Please also see MR-5, “Cannabis as an Agricultural Crop,” and MR-6, “Economic Effects and Property Values.”

Response to Comment 12-88 CLUO Comment. The Commissioner expressed concern regarding setting a precedent through this process for other agricultural crops. A response was provided by staff at the meeting. Further response is not needed.

Response to Comment 12-89 CLUO Comment. The Commissioner expressed concern regarding availability of land under various buffer assumptions. A response was provided by staff at the meeting.

Response to Comment 12-90 CLUO Comment. The Commissioner asked whether cannabis operators can relocate. A response was provided by staff at the meeting. Cannabis licenses are issued to individuals. Cannabis CUPs run with the land. If a cannabis licensee relocates, they must also have a cannabis CUP for the new location. Please see draft CLUO Section 8-2. 1405(B, C, D, and E).

Response to Comment 12-91 CLUO Comment. The Commissioner asked about the transition process for the CLUO. A response was provided by staff at the meeting. Please see Section 8-2.1404(B). Staff anticipates recommending modifications to this section to incorporate the process necessary to implement Draft EIR Mitigation Measure OVC-1(a.V). Please also see MR-10, “CUP Process and Overconcentration.”
Yolo County Board of Supervisors

and

Yolo County Planning Commision

Subject: Cannabis Regulation

1. To my knowledge there are as yet no tests of drivers for possible use of the

stuff... and little funded research on the affects on young minds (25 years or less).

2. A few years ago these negatives caused me to oppose legalize sale of the material in the county.

3. That was short sighted and limited thinking. The stuff is available for people who want it any way. Prohibition strengthens a present criminal network who can offer for more serious drugs. As an example the 40,000 heroin related drug deaths in the U.S. last year were not all prescription use. The many caused by finding that surely with not prescribed. A recent magazine noted another wave of meth overdoses in some areas again the leading drug, metha.

4. Last last ear I listened to a broadcast on Kqed about problems with developing a legal system of pot sales within California. Estimates of 75-85% of sales are still black market. So instead of material tested for presence of hazardous mold...
and other potentially hazardous materials, including
fungus, are supporting the large criminal drug
system.

5. Our task now is to protect the public.
One item from the reader discussion. Legal
sellers, vetted and regulated, can not offer
the convenience or privacy of the outlaw sellers.
Do we need to record date and amount
of sales beyond some small amount? If we can
live with that, do we need the model of medical
prescription. For a small amount, no. If there
are great concerns about resale, why? This stuff
has been inspected and regulated for sellers. If
the concern is for abuse by young people, care. Then,
if they use minors restrict the amount purchase for
those less than 21 years and older than 16. If less
than 18 years old restrict them for life coaching to
include active exercise daily - maybe required to meet
a week. There would be cost to the county for this
program. Life coaching opportunities should be encourag-
for those 18 to 21 years and strongly recommended - along
with available services program participation 5 times a week.
Groups like YMCA, YWCA, Sure! could maybe helpful.
For young people trips to the coast and mountains - Nat'l
Parks, etc., should be supplemental to restorative services
for the young people. Some might chose to work in
community gardens.

Exercise is therapeutic itself. Connect to groups and
goals, very positive.
We've determined that legal pot is better than outlaw stuff.

So what can we do to clean up the legal crop?

Answer: Whatever we can do to make it more profitable—lower taxes for a while?

Encourage the pot farms to be part of garden markets for fruit, vegetables, honey, chickens and eggs. Allow them to sell their own or other local inspected product—without the multi-layer of "medical" outlaw. Good pot is basically great medicine. They can market from their farm or at other markets.

Minimize recording and qualifying documents. In a world of competition, the outlaw are expert.

Our dream is a parity valid—but we can be better off with clear products & perhaps less of a gateway to whatever the pusher has to offer. Any counties sale/purchase records or required info. site should be destroyed after a year of collection.

We need more legal growers to win the contest. I hope folks at town meetings talk about it.

My neighbor (Across 8% and northwest about a block) has never created any scent that I can smell. Perhaps age related (nearly 85) but fruit & flowers still amazed great. Best wishes to you!

Erch Line 2023
Response to Comment 13-1  **CLUO Comment.** Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The concerns of the commenter regarding cannabis research are noted for the record.

Response to Comment 13-2  **CLUO Comment.** Thank you for this background information. This is acknowledged for the record. Please also see MR-11, “Cultural Change.”

Response to Comment 13-3  **CLUO Comment.** The commenter’s summary of challenges related to legalization of cannabis is noted for the record.

Response to Comment 13-4  **CLUO Comment.** The commenter offers a number of comments and suggestions regarding the current cannabis legal system. Please see MR-12, “Expression of Opinion/Preference.” The Board of Supervisors may wish to consider some of these ideas for program funding from the cannabis tax revenue. Please also see MR-13, “Cannabis Tax Revenue.”

Response to Comment 13-5  **CLUO Comment.** The commenter offers additional suggestions and marketing ideas in support of legal cannabis. These ideas are noted for the record. The commenter also summarizes his experience with a neighboring cannabis farm noting that he did not experience odor impacts.
From: Collins, Elizabeth [mailto:collins@ohio.edu]
Sent: Monday, December 9, 2019 9:56 AM
To: cannabis <cannabis@yolocounty.org>
Cc: Meg Hennet <meghennet@gmail.com>
Subject: Re: Permits for Cannabis Grow Sites in Capay Valley

I am writing on behalf of Nicholas Collins, Claramarie Collins and Elizabeth Collins, owners of ENC Collins Farm at the end of Road 45 off Highway 16 just past Guinda.

We are bewildered at the haphazard way in which the Yolo County Supervisors have permitted cannabis grows in Capay Valley. Within a half-mile of our small family farm we have four large scale grows. The Capay Valley, a scenic location that is becoming known for organic produce, is being transformed into a site for industrial production and processing of cannabis. An Environmental Impact Report should be required before permits are approved.

We have been told the cannabis growers just one small field over from our home has been given several red tag violation notices. This suggests the impunity of this particular grower, who is now requesting permits for four year-round greenhouse operations with four full time employees. In the last year vicious guard dogs from this property have repeatedly escaped onto Road 45 threatening small children and adults. The odor from the cannabis greenhouse forced guests and our new neighbors to flee the area. They have an armed guard from having been robbing in the middle of the night at gunpoint and thus threaten the safety of their neighbors. Further, now we have a view of the unsightly garbage heap produced when greenhouses were dismantled so that a structure for industrial processing of the cannabis crop can be built. If a permit is issued for the expansion of cannabis production at this site, in addition to the odor and the guard dogs we will have to contend with constant traffic of trucks transporting cannabis on Road 45, a road that is already in very poor condition with over 17 potholes.

We understand that currently there is no setback requirement for growing or processing. Our neighbors have flattened and prepared their entire property in anticipation of building new greenhouses and a processing facility that will clearly abut the edges of their property. Aside from the eyesore this gargantuan project entails, the proximity to neighbors, many of whom have small children, represents a threat to the health of the community. Marijuana grows and industrial processing require setbacks in every other county and are likely to be required even in Yolo in the future. This project and others like it should not be grandfathered in before such requirements become law. We insist on a minimum 100' setback from the sides of the property, as is the standard in many other counties.

Industrial processing of cannabis for sale belongs in an area zoned for industrial use, not in prime agricultural land. Indoor grows of cannabis should also be permitted only in areas zoned for industrial use. The demand for power from such grows will overwhelm the power infrastructure of Capay valley, already a concern due to the high danger of fire. We urge the supervisors to develop a plan for permitting cannabis production in suitable sites, rather than in agricultural communities where a sustainable, organic farming is now thriving and expanding.

Nicholas Collins
Claramarie Collins
Elizabeth Collins
**Response to Comment 14-1**  
**CLUO Comment.** Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The concerns of the commenters regarding four nearby cannabis operations are acknowledged for the record.

**Response to Comment 14-2**  
**CLUO Comment.** The commenters express concerns regarding the code enforcement process and conditions at the operations. The County CTF investigates all complaints to ensure compliance with the requirements of the Licensing Ordinance and available enforcement tools. The proposed CLUO contains new rigorous regulations that would provide many additional controls and enforcement abilities to the County with respect to cannabis activities. Please also see MR-7, “Code Enforcement and Crime.”

**Response to Comment 14-3**  
**CLUO Comment.** The commenters recommend that existing operations not be “grandfathered” into the CLUO process and that 100-foot property line setbacks be required. These recommendations are noted for the record. Please see MR-9, “Buffers,” regarding setbacks and MR-14, “County Cannabis Disclosures,” regarding cannabis disclosures. The proposed cannabis CUP process will be discretionary. No existing cannabis operations are proposed to be grandfathered into the new regulations. Please also see MR-10, “CUP Process and Overconcentration,” regarding the CUP process.

**Response to Comment 14-4**  
**CLUO Comment.** The commenters propose that cannabis activities be restricted to industrially zoned land and not be allowed on prime agricultural land. This recommendation is noted for the record and will be considered as a part of the process. Please see MR-12, “Expression of Opinion/Preference.”

The commenters express concern regarding power use for cannabis activities and fire danger. The Draft EIR analyzes energy in Section 3.6, public services in Section 3.13, and utilities and service systems in Section 3.15. The potential for impacts in these topical areas is demonstrated to be less than significant.

The commenters support cannabis in restricted areas and not in agricultural areas with organic farming. Please see MR-17, “Consolidated Cannabis Campus,” regarding the concept of a cannabis campus. Cannabis is considered an agricultural crop. Please see MR-5, “Cannabis as an Agricultural Crop.” The use of restricted pesticides on cannabis cultivation/production is prohibited. This is similar to organic crops that are covered under the Yolo Certified Organic Agriculture program which prohibits the use of restricted pesticides, includes a notification process for adjoining agricultural uses that organic crops are nearby, and limits soil inputs to materials approved as an organic input by CDFA (see page 3.2-9 of the Draft EIR). Cannabis is restricted to pest controls that rely on active ingredients exempt from registration requirements. These are comprised primarily of food-grade essential oils such as peppermint oil or rosemary oil.
From: Robin Testa [mailto:acrohc@me.com]
Sent: Tuesday, December 10, 2019 4:08 AM
To: Julie Dachtler <Julie.Dachtler@yolocounty.org>; Duane Chamberlain <Duane.Chamberlain@yolocounty.org>; Evelyn Tamayo- Arias <Evelyn.Tamayo-Arias@yolocounty.org>; April Meneghetti <AMeneghetti@yolocounty.org>; Webmaster <webmaster@yolocounty.org>; Susan Strachan <Susan.Strachan@yolocounty.org>; Trini Campbell <trini@riverdogfarm.com>;
Clerkoftheboard <clerkoftheboard@yolocounty.org>

Subject: Cannabis production facilities in Rumsey

To the Yolo County Board of Supervisors, The Cannabis Task Force, Environmental Health Department and the Capay Valley Citizen’s Advisory Committee

As owners of a home in the old township of Rumsey with three Cannabis production facilities in close proximity, we appeal to you to reconsider the licensing of these facilities.

As we have come to know through bitter experience, Cannabis production is in fact an industrial activity that operates 24/7, produces constant noxious fumes and is completely inappropriate near residences.

The fumes from the nearby Cannabis production facilities are not limited to a single, annual “harvest season” because Cannabis producers aim for 3 or more harvests per year. This, plus the associated processing activity, means that the fumes are a constant presence rather than an occasional “nuisance”. The health impacts of these fumes are as yet unknown.

Cannabis production and processing with its attendant noise, lights, fumes and traffic goes on day and night. The Cannabis production and processing facility closest to our home, Cache Creek Cannabis on Manzanita St., has been allowed to operate a large number of refrigerator/generator units 24 hours a day, seven days a week, for months. Their noise and vibration have deprived us of sleep and the ability to enjoy our home in peace. Why has this been allowed? Why was this industrial facility licensed in such close proximity to residences in the first place?

A more sinister aspect of the Cannabis production industry is the need for patrols by armed guards to defend against theft. This has changed our once peaceful neighborhood into a place where we no longer feel safe.

All of this has taken a measurable toll on local property values.

The county’s lack of rigor in enforcing its existing Cannabis ordinance and its dismissive response to complaints from the public has eroded confidence in the integrity of its institutions.

Cannabis production and processing are an industrial activity. Yolo County should not allow Cannabis production facilities in any proximity to residences and should ensure that those previously licensed near residences are relocated.

Sincerely,
Robin & Serge Testa
3520 Madrone Street
Rumsey, CA 95679
Response to Comment 15-1  
**CLUO Comment.** Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The concerns of the commenters regarding three nearby cannabis operations are acknowledged for the record.

Response to Comment 15-2  
**CLUO Comment.** The commenters consider cannabis activities to be an industrial activity that is inappropriate near residences. This position is noted for the record and will be considered as a part of the process. Please see MR-5, “Cannabis as an Agricultural Crop,” and MR-12, “Expression of Opinion/Preference.”

Response to Comment 15-3  
**EIR Comment.** This comment expresses concern regarding the health effects of odors from multiple annual harvests. As identified in Draft EIR page 3.3-9, an evidence brief prepared by Public Health Ontario (Public Health Ontario, Canada 2018) identified that “most substances responsible for odors in the outdoor air are not present at levels that can cause long-term health effects. However, exposure to unpleasant odors may affect an individual’s quality of life and sense of well-being.” This statement was in reference to odors in general and not specific to cannabis odors. The City of Denver prepared a Cannabis Environmental Best Management Practices Guide (City of Denver, Colorado 2019), which states that while “the rate of VOC [volatile organic compound] emissions from cannabis cultivation facilities is relatively unknown.... [T]hese VOCs from the cannabis industry typically do not pose a direct threat to human health.” Although research is limited, it is generally agreed that concentrated cannabis odors do not create a public health concern for receptors.

We did not find scientific research indicating that plant-based VOC emissions, whether from cannabis or other plants, leads to adverse health effects. A study from Norway examined whether there were health effects from exposure to pine trees which emit high VOCs (172 ppb monoterpenes) as compared to exposure to spruce trees which emit very low VOCs (1 ppb monoterpenes). The study concluded there were no inflammatory reactions or sensory irritations that resulted (Skulberg et at. 2019). There is also some research substantiating the importance of VOCs to plant ecosystems, that VOCs may be a sustainable way to enhance crop production, and that some plants absorb VOCs (Vivaldo et at. 2017, Brilli et al. 2019, and Lafond 2019). See also Response to Comment 11-4.

Response to Comment 15-4  
**EIR Comment.** The commenters identify noise and vibration experienced from refrigerator generators and inquire why the County allowed this facility at this location. The cannabis activities at this location were approved under the County’s Licensing Ordinance which is a ministerial process with 75-foot buffer requirements for individual residences. The proposed CLUO contains new rigorous regulations that would provide many additional controls and enforcement abilities to the County with respect to cannabis activities. The CLUO would establish a discretionary permit process in addition to the required ministerial cannabis license. The Board of Supervisors is considering appropriate buffers to apply under the CLUO. The Draft EIR examines a range
Impacts from light and glare are analyzed in Section 3.1 of the Draft EIR. Impacts from air and odor emissions are analyzed in Section 3.3 of the Draft EIR. Impacts from noise and vibration are analyzed in Section 3.12 of the Draft EIR. Traffic impacts are analyzed in Section 3.14.

Section 8-2, 1408(T) of the proposed CLUO addresses generator use. The County staff is proposing further modification of this section to clarify that a permanent power source is required and that interim use of generators is restricted to power outages and emergencies, and under no circumstances can exceed 80 hours of use per year (see Appendix D). Generator use would also be subject to the noise controls identified in Mitigation Measure NOI-1 and summarized in Response to Comment 9-3.

Response to Comment 15-5 **CLUO Comment.** The commenters express concerns about security associated with some of the cannabis operations. The draft CLUO requirements for security are found in Section 8-2.1408(LL). Staff is contemplating additional modifications to this section and to the Licensing Ordinance to require professional security staff as a component of the required security plan.

Response to Comment 15-6 **CLUO Comment.** The commenters express concern about property values. Please see MR-6, “Economic Effects and Property Values.”

Response to Comment 15-7 **CLUO Comment.** The commenters express concerns about the County code enforcement process. The County’s CTF investigates all cannabis related complaints to ensure compliance with applicable rules. The CLUO will establish a discretionary use permit requirement and new requirements for all operators. Please see MR-7, “Code Enforcement and Crime,” and MR-10, “CUP Process and Overconcentration.”

Response to Comment 15-8 **CLUO Comment.** The commenters consider cannabis activities to be an industrial activity that is inappropriate near residences. This position is noted for the record and will be considered as a part of the process. Please see MR-5, “Cannabis as an Agricultural Crop,” and MR-12, “Expression of Opinion/Preference.”
Sent Via E-Mail

December 10, 2019

Susan Strachan
Yolo County
292 W. Beamer Street
Woodland, CA 95695
cannabis@yolocounty.org

Subject: Yolo County Cannabis Land Use Ordinance / DEIR / 2018082055

Dear Ms. Strachan:

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the Draft Environmental Impact Report (DEIR) for the Yolo County Cannabis Land Use Ordinance (Project, SCH 2018082055). While SMUD is not the primary energy provider for the proposed Project area, we do have assets in this area. SMUD’s vision is to empower our customers with solutions and options that increase energy efficiency, protect the environment, reduce global warming, and lower the cost to serve our region. As a Responsible Agency, SMUD aims to ensure that the proposed Project limits the potential for significant environmental effects on SMUD facilities, employees, and customers.

It is our desire that the Project DEIR will acknowledge any Project impacts related to the following:

- SMUD owns and maintains a high-pressure natural gas transmission pipeline in Yolo County. SMUD will require continued right-of-way access to the pipeline for regular patrols and maintenance. Areas that may be proposed for cannabis operations and are located along the gas pipeline have potential to become an “identified site” in accordance with Pipeline and Hazardous Materials Safety Administration 49 CFR 192 and would therefore require interviews with the tenant/owners, and additional patrols to meet Federal Requirements.

- The potential need to relocate and or remove any SMUD infrastructure that may be affected in or around the project area

SMUD would like to be involved with discussing the above areas of interest as well as discussing any other potential issues. We aim to be partners in the efficient and sustainable delivery of the proposed Project. Please ensure that the information included in this response is conveyed to the Project planners and the appropriate Project proponents.
Environmental leadership is a core value of SMUD and we look forward to collaborating with you on this Project. Again, we appreciate the opportunity to provide input on this DEIR. If you have any questions regarding this letter, please contact SMUD's Environmental Services Supervisor, Ammon Rice, at Ammon.Rice@smud.org or 916.732.7466.

Sincerely,

Nicole Goi  
Regional & Local Government Affairs  
Sacramento Municipal Utility District  
6301 S Street, Mail Stop A313  
Sacramento, CA 95817  
nicole.goii@smud.org

Cc: Ammon Rice
Response to Comment 16-1

**CLUO Comment.** Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

Response to Comment 16-2

**CLUO Comment.** The comment identifies that SMUD owns and maintains a high pressure natural gas pipeline within the County and cannabis uses may have the potential to become an “identified site” (see below) as set forth in Title 49 of the Federal Code of Regulations Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimal Federal Safety Standards. SMUD also notes potential concerns regarding the future relocation or removal of SMUD infrastructure.

As an owner/operator of a high-pressure gas transmission pipeline, SMUD is required to develop an integrity management program for its pipeline. As part of this program, SMUD must determine if there are “identified sites” within 660 feet of the pipeline. As stated in the comment, areas that may be proposed for cannabis operations and are located along the gas pipeline, have the potential to become an identified site.

Title 49 of the Federal Code of Regulations Part 192, Section 192.903 defines an identified site as follow:

An **identified site** means each of the following areas:

(a) An outside area or open structure that is occupied by twenty (20) or more persons on at least 50 days in any twelve (12)-month period. (The days need not be consecutive.) Examples include but are not limited to, beaches, playgrounds, recreational facilities, camping grounds, outdoor theaters, stadiums, recreational areas near a body of water, or areas outside a rural building such as a religious facility; or

(b) A building that is occupied by twenty (20) or more persons on at least five (5) days a week for ten (10) weeks in any twelve (12)-month period. (The days and weeks need not be consecutive.) Examples include, but are not limited to, religious facilities, office buildings, community centers, general stores, 4-H facilities, or roller-skating rinks; or

(c) A facility occupied by persons who are confined, are of impaired mobility, or would be difficult to evacuate. Examples include but are not limited to hospitals, prisons, schools, day-care facilities, retirement facilities or assisted-living facilities.

Commercial cannabis uses under each of the five CLUO alternatives could be located along the SMUD natural gas pipeline. In order to determine if a cannabis use is an identified site, SMUD prefers to conduct interviews with the tenant/owner. SMUD could also consult with the CTF.
In addition, SMUD maintains an easement for its pipeline which provides SMUD access to regularly patrol the pipeline to conduct inspections, ensure easement requirements are being followed, perform maintenance, and/or mow or clear the pipeline easement. The patrols also provide SMUD inspectors the opportunity to educate tenant/owners about the importance of keeping the easement unobstructed and to contact USA North 811 prior to conducting excavations. In addition to these regular patrols, should a cannabis cultivation site meet the definition of an identified site, more frequent patrols may be required due to the number of people and/or occupied buildings that may be near the pipeline. (Segura 2020).

Response to Comment 16-3

CLUO Comment. SMUD requested discussing comments regarding the pipeline and related issues. CTF staff and the EIR consultant discussed the pipeline with SMUD staff. SMUD staff provided additional documents regarding federal requirements, allowed activities and unsafe and restricted activities along the pipeline right-of-way, and general pipeline information (Rice and McGinnis, pers. comms., 2020). The CTF is aware of the location of the pipeline and will work with SMUD should any cannabis sites be proposed on property on which the pipeline is located.
December 11, 2019

Susan Strachan, Cannabis Program Manager
Yolo County Department of Community Services
292 West Beamer Street
Woodland, CA 95695

Re: Comments of the Yocha Dehe Wintun Nation to the Draft Environmental Impact Report Regarding Yolo County's Cannabis Land Use Ordinance

Dear Ms. Strachan:

On behalf of the Yocha Dehe Wintun Nation ("Yocha Dehe" or "Tribe"), a federally recognized Indian tribe with a historically productive government-to-government relationship with the County of Yolo ("County"), we offer our comments on the Draft Environmental Impact Report ("DEIR") for the County’s proposed Cannabis Land Use Ordinance ("CLUO" or "Ordinance").

As detailed below, Yocha Dehe has deep concerns about both the DEIR and the CLUO itself. The CLUO does not represent a reasonable approach to the regulation of cannabis land uses in Yolo County. And the DEIR ignores many of the CLUO’s environmental consequences while failing to address feasible alternatives that would minimize unnecessary environmental damage.

**Background and Global Comments**

As the historical inhabitants of the Capay Valley, Yocha Dehe and its people possess a uniquely sacred connection to the land. The land remains our most important link to our traditional lifeways, and it constitutes our most sacred resource. We are committed to protecting it, and ensuring environmental balance remains throughout the Valley.

This commitment to stewardship and sustainability can be seen in our farming operation, which is among the most diverse in Yolo County, featuring 2,000 acres cultivated with a variety of crops, and 250 acres certified organic. We use only sustainable farming practices, which include biological controls, cover crops, drip irrigation and crop rotation. Sensitive to water scarcity, we employ a variety of water restoration and recycling practices, and, where appropriate, we have incorporated the use of crops that tolerate dry conditions, temperature variations, and non-prime soils.

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Ascent Environmental

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Naturally, given Yocha Dehe’s deep and longstanding connection to the land, our cultural values, and our existing agricultural interests in the Capay Valley, the Tribe has actively engaged with the County from the outset of its effort to authorize and regulate cannabis. That effort began in earnest in 2016, when the County unleashed a regulatory process authorizing interim cannabis grows throughout its jurisdiction and the Capay Valley in particular. As a result of that process, by early 2017, the County had issued 78 interim licenses, with an estimated 32 (or 40 percent) granted for cannabis grows between Highway 505 and the community of Rumsey. For the Capay Valley alone, the County issued 23 permits, representing 33 percent of all permits issued for the entire county.

The Tribal leadership has expressed its strong opposition to the over-concentration of cannabis emerging in the Capay Valley, which is among the most breathtakingly beautiful and pastoral areas in the County, and a growing destination for agri-tourism. As a result of this interim regulatory process initiated by the County, we have seen the deleterious effects of cannabis come to pass within our very homeland — with increased criminal activity, and of course, wafting odors of marijuana.

Now, after having developed an interim ordinance and regulatory scheme that drew much criticism (in part because of the over-concentration described above), the County has issued a draft CLUO. The Tribe provided a comment letter during the scoping period in June 2019, highlighting points of concern and issues needing consideration. The County issued its Draft Environmental Impact Report (DEIR) for the CLUO on October 23, 2019. We enclose all of our prior comment letters here to ensure a complete record.

When we initially told the County of our concern about the over-concentration of cannabis in our homeland, we were specifically told the County would deal with this problem through the development of the CLUO. This was possible, we were told, because the County — in its rush to authorize cannabis — had issued licenses that were interim only, and applicants were advised they should not assume those licenses would be renewed.

Unfortunately, as detailed below, the CLUO does nothing to reduce what the County has acknowledged to be an over-concentration of cannabis in the Capay Valley. To the contrary, the proposed Ordinance exacerbates the problem, potentially opening the door to even more cannabis grows and related businesses in our homeland. (See attached map of Alternative 3 proposed Cannabis Uses.) The Ordinance also minimizes other protections once offered, including buffers that provide some measure of insulation for our lands, and meaningful tribal involvement in the protection of cultural resources. This is unacceptable. And, as detailed below, the environmental analysis prepared for the DEIR is replete with deficiencies. In short, the DEIR would not survive challenge under CEQA.

Specific Comments

1. Alternatives

The California Environmental Quality Act (“CEQA”) requires careful consideration of potentially feasible alternatives to the proposed project. The DEIR fails miserably in this regard. For example:
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- The County has repeatedly asserted that it retains the right to increase or decrease existing numbers of cannabis operations within the County. In our discussions after the first round of permits were issued, County staff advised our own staff that landowners were told the permits were interim only and they should not be relied upon, as they might not be granted again when up for renewal. Likewise, the Notice of Availability for the DEIR explicitly states that the County General Plan and County Code can be amended “to continue to regulate, and potentially reduce or expand, allowed cannabis activities.” But none of the alternatives evaluated in the DEIR involves any reduction in cannabis operations. On the contrary, each and every alternative contemplates increases over current cannabis operations. This fundamental error contaminates the entire DEIR. The document must be revised to include alternatives that would reduce the number of cannabis operations in Yolo County and then recirculated to the public for additional review and comment.

- The DEIR suggests that “the final CLUO may combine elements of more than one alternative.” While this may accurately describe the County’s broad legislative authority, it reveals a fundamental deficiency in the DEIR. The document does not, in fact, evaluate the impacts of all possible combinations of elements/alternatives. And if the final version of the CLUO includes a combination of elements that was not specifically identified and evaluated in the DEIR, the public will have been denied an opportunity to review and comment on the impacts of those combinations. In short, to the extent the County elects some combination of the alternatives not collectively or cumulatively evaluated in the DEIR, it will not have a legally defensible basis to approve the CLUO under CEQA.

- The DEIR recognizes that over-concentration of cannabis operations is already starting to cause significant environmental consequences in the Capay Valley. But the only alternatives that would allow the County to address over-concentration (i.e., Alternatives 2, 3, and 4) are those that would also increase the total number of permitted cannabis operations in the same area. Such an approach to the alternatives analysis is contrary to CEQA and defies common sense.

- Some of the alternatives considered in the DEIR provide for “buffers” between outdoor cannabis operations and certain other land uses. There is no meaningful variation in the width of the proposed buffers, however. The DEIR must be revised to include at least one alternative providing for more conservative (i.e., wider) buffers. As Yocha Dehe has explained in prior comments, the proposed buffer of 1,000 feet would be adequate to protect tribal lands (and land uses), tribal cultural resources, and sensitive environmental features. The Tribe had requested these buffer zones as a sovereign government charged with protecting and regulating its own territory and people, and to ensure sufficient distance from an activity inconsistent with its own laws and cultural values. Given that the Tribe’s territory is not static, these buffers would apply to lands already held in trust by the federal government for the Tribe’s benefit (“trust land”), or lands subject to becoming trust land. The County agreed to those protections in the interim regulatory regime, but the new proposed Ordinance scales it back, applying the tribal buffers only to whatever is in trust (or subject to becoming trust land) as of the date of CLUO’s enactment. That change was made

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1 Even Alternative 1, which is characterized as a continuation of existing permitted uses, contemplates that cannabis operations will eventually be approved on presently unpermitted “development agreement sites.”
without any consultation with the Tribe. The original language to which the County agreed during consultation should be restored.

- As evidenced by the public outcry at several Citizens Advisory Committee meetings and the special Planning Commission meeting held on December 3, 2019, the community shares the Tribe’s concerns regarding over-concentration and adequate buffer zones between the controversial activity and people’s lands. Local residents repeatedly complained about the impacts of the over-concentration of marijuana in the Valley, and the DEIR’s failure to present an alternative that would reduce the impacts of such.

- One of the stated purposes of producing a Programmatic Environmental Impact Report is to streamline the environmental review process for future applicants. Because the Board of Supervisors has not provided input to finalize several of the policy areas associated with the various alternatives presented in the DEIR, the document does not provide an accurate cumulative analysis of the specific policies that will make up the final CLUO. Only after those decisions are made, and the DEIR is revised to include a specific cumulative analysis of those policies, can the Tribe and the public provide meaningful input on the CLUO. Otherwise, individual environmental analyses will be necessary for each and every application received by the County.

2. Over-concentration

Yocha Dehe has attempted to work collaboratively with the County to address the increasing problem of over-concentration of cannabis uses in the Capay Valley. As noted above, the County directly assured the Tribe that, with the CLUO’s enactment, it would be in a position to resolve the over-concentration of cannabis uses in the Capay Valley. As you can surely imagine, the Tribe was surprised and disappointed to find that the DEIR fails to include any measures that would address over-concentration at all, let alone in a meaningful way.

- As noted above, the only alternatives that would allow the County to address over-concentration are those that would also permit a substantial increase in the total number of cannabis operations in the Capay Valley and elsewhere. There is simply no sound basis for such an approach. It is, in fact, nonsensical.

- Although Alternatives 2, 3, and 4 allow the County to address over-concentration through the subsequent issuance of a separate resolution of the Board of Supervisors, none of the three alternatives ensures the issuance of such a resolution. Nor do they explain why a separate, subsequent resolution is needed in the first place. The Board will serve as the ultimate decision-maker on the CLUO. Presumably, it also has the authority to include in the CLUO meaningful safeguards protecting against over-concentration, and moreover, reducing the over-concentration that already exists under an interim regulatory scheme adopted in haste. If the County is serious about addressing this issue, it should revise the CLUO to include firm prohibitions on over-concentration and ensure that the DEIR reflects this revision. Otherwise, the DEIR must be revised to clarify that the County has chosen not to address — or even to consider — limitations on over-concentration at this time.
Moreover, the substance of the County’s approach to over-concentration (even if implemented) appears far too weak to solve the problem. Rather than identifying and enforcing a firm limitation on — or prohibition against — over-concentration in any particular geographic area, the County’s approach allows more cannabis operations to be established in already-over-concentrated areas so long as pro forma findings about the development of a legal cannabis market are made. There is no reasonable basis to conclude that such an approach will meaningfully reduce or prevent over-concentration.

In fact, the DEIR does not even quantify what constitutes over-concentration. Instead, it attempts to duck the issue as a “policy” question, arbitrarily setting thresholds for the number of grows that constitute over-concentration, but then declaring that the metrics are flexible and the Board of Supervisors should set the governing standards when making its decision. In effect, the County has acknowledged the standards of significance for over-concentration are arbitrary, and can be defined by the Board after the environmental analysis is complete. (See DEIR, p. 4-37, noting that “five or fewer sites within a six-mile diameter area is not considered over-concentration, and 23 or more sites is considered over-concentrated [sic],” but, “that determination is a matter of policy rather than science and will be made by decision of the Board.”) Because the DEIR does not provide a clear, well-supported definition of an acknowledged problem, the County has deprived the public of a meaningful opportunity to review and comment.

3. Cultural Resources

Neither the CLUO nor the DEIR properly addresses cultural resources. This is a serious shortcoming, for the areas of the County where cannabis land use is projected to be most intensive are also among the areas where the greatest concentrations of tribal cultural resources exist. Specific errors include the following:

- The CLUO contains certain performance standards addressing cultural resources (among other things). The performance standards require cannabis permit applicants to submit a “preliminary site survey to determine the potential for archeological, historical, or paleontological resources.” The DEIR concludes that this requirement is sufficient to prevent any significant impact on cultural resources. But neither the performance standard nor the DEIR provides for any tribal involvement (or explicit consideration of tribal cultural resources) in the preparation or review of a "preliminary site survey." And without tribal involvement, there is simply no way to effectively avoid or minimize impacts to tribal cultural resources.

- The CLUO’s performance standard also addresses unanticipated discovery of Native American human remains. The performance standard (and relevant provisions of the DEIR) should be clarified to specify that a treatment plan (or treatment agreement) must be negotiated, entered, and implemented before ground-disturbing activity in the area of the discovery can resume.

- Although not entirely clear, the DEIR (at p. 3.5-25) appears to suggest that additional safeguards are unnecessary because subsequent environmental reviews will involve tribal consultations. But the explicit purpose of the DEIR is to provide a programmatic analysis
that limits — or even eliminates — subsequent environmental reviews. Therefore, this EIR process must either (a) include a robust government-to-government consultation addressing each and every location at which a cannabis land use may occur in the future or (b) result in enforceable requirements mandating appropriate consultations and protections before any site-specific decisions about cannabis land uses are made.

- The DEIR's over-concentration analysis fails to acknowledge that the areas where actual and potential over-concentration of cannabis uses are greatest are also among the areas of greatest sensitivity for cultural resources. Section 4.2 of the document must be revised and expanded to address this issue.

- More generally, we note that the DEIR relies heavily on the County’s 2030 General Plan, which was prepared more than a decade ago. Since that time, knowledge and understanding of the tribal cultural resources present in Yolo County has advanced significantly, as have relevant regulatory requirements. Under these circumstances, it would be most appropriate to comprehensively update the cultural resources analysis in the DEIR.

That update must include — but should not be limited to — the following:

- There is now documentation of finds from the Holocene era in the County. These should be properly explained.

- The discussion of Public Resources Code section 5097 should be clarified and corrected. For example, the Native American Heritage Commission lacks “jurisdiction” over the disposition of remains as stated on page 3.5-12. In addition, the process for and significance of naming a Most Likely Descendant should be explained.

- State Water Resources Control Board (SWRCB) Order WQ 2019-0001-DWQ allows for the SWRCB to set a 600-foot buffer zone for cannabis cultivation if a tribe rejects a cannabis cultivation proposal.

- We understand that the 2030 General Plan relies on a County map of archaeologically sensitive areas. Yocha Dehe does not have access to this map, and we cannot speak to its accuracy as a tool for identifying areas likely to contain cultural resources. But we are surprised that the County would have prepared such a map without then using it to identify areas that may be unsuitable for cannabis land uses.

4. Aesthetics

Section 3.1 of the DEIR notes the importance of open views from State Route 16 through the Capay Valley (both toward Blue Ridge and toward Cache Creek). Other sections of the document note that (a) this area will have a massive concentration of cannabis operations; and (b) the CLUO’s proposed performance standards require that such operations be fenced or screened. Taken together, these pieces of information suggest that important components of the visual and aesthetic environment will be substantially impacted, or even lost. But the DEIR fails to specifically address the impact of additional cannabis-related fencing and/or screening in this viewed. Nor does it propose any alternative that would minimize or avoid the impact.
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5. Odors

The DEIR confirms that there have been numerous odor complaints arising from cannabis operations in and near the Capay Valley. But the document does not explain in detail the nature of the complaints or the distance between the affected receptors and the offending cannabis operations. In the absence of that information, there is no basis to conclude that the CLUO’s proposed design standards would be effective in minimizing odor issues.

6. Agricultural Resources

- As noted above, the CLUO would require fencing or screening around areas of cannabis cultivation. Although fencing effectively screens views (see comment 4, above), it does not address the issue of pollen dissemination. This is an issue of particular concern in the area of over-concentration between Guinda and Rumsey in the Capay Valley. The DEIR fails to fully address this problem.
- Some forms of cannabis cultivation, production, and manufacturing tend to involve heavy use of chemicals. This is inconsistent with many existing agricultural operations in the Capay Valley, which is a hub for organic farming. Again, the DEIR does not squarely address the issue.

7. Biological Resources

In previous comments on the CLUO (including comments on the Notice of Preparation for the DEIR), Yocha Dehe noted that pesticide use related to cannabis cultivation can impact special status species (including species of particular cultural importance to the Tribe) even if applied in a manner that is consistent with labeling restrictions. This issue is not meaningfully addressed in the DEIR either.

8. Hazards and Hazardous Materials

The DEIR acknowledges that the area between Rumsey and Guinda in the Capay Valley contains an over-concentration of cannabis operations, and is projected to have still more cannabis uses added in the future. Those uses include manufacturing facilities using volatile and highly flammable substances such as butane, propane, ethanol, and/or carbon dioxide. The introduction of these substances into an area of “very high” fire hazard (Exhibit 3.9-8) and limited public services is a recipe for disaster. The DEIR fails to specify appropriate mitigation for this impact.

9. Utilities and Services

There are no community service districts serving the cannabis-laden area between Rumsey and Guinda. The DEIR identifies this as a significant impact, but (again) fails to identify any mitigation.
10. Mitigation for Cumulative and Over-concentration Impacts

The DEIR concludes that several cumulative and over-concentration impacts will be significant. But it does not propose effective mitigation for those impacts. Without appropriate mitigation, the requirements of CEQA cannot be satisfied.

11. Tribal Consultation

The DEIR states that consultations with YDWN are “ongoing.” That is not entirely accurate. While it is true that Yocha Dehe has received notices and invitations to comment during the scoping period of the CEQA process, meaningful government-to-government consultation requires something more than pro forma compliance with generally-applicable notice-and-comment requirements. As described above, the Tribe has devoted substantial time and effort, over the course of nearly four years, developing proposals that would accommodate both the County’s interest in permitting cannabis land uses and Yocha Dehe’s interest in safeguarding the environmental and cultural resources for future generations. But those suggestions — alternatives, mitigation measures, necessary environmental analyses, etc. — have not been meaningfully incorporated into the County’s proposed Ordinance or DEIR. Nor has the County identified any reason why Yocha Dehe’s proposals cannot feasibly be addressed. Under these circumstances, it cannot reasonably be said that consultation is “ongoing.”

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The Tribe respectfully submits the County of Yolo has mishandled cannabis regulation, by rushing into the approval of an entire new “agricultural” industry without sufficient thought and planning. It has effectively created a situation in which one part of Yolo County, and all of its residents, has borne most of the burden of this new and controversial industry. The CLUO as currently proposed is not likely to alter that unfair dynamic. The people of Yolo County deserve better.

The Capay Valley and all communities west of Interstate 505 along State Route 16 have a rich, diverse history, one rooted in agriculture and protecting the natural environment and vistas. The County’s top priority should be to protect this unique area’s rural culture, while promoting the Capay Valley as a destination for events and supporting economic opportunities for local residents and businesses. A policy of placing the majority of marijuana grows here runs counter to these goals. Moreover, the willingness to concentrate the marijuana industry in the Capay Valley, in spite of residents’ deep and serious concerns, reveals a basic lack of regard for the people who live here.

The socioeconomic injustice of the County’s preferred alternative — maintaining a status quo the County created, with the majority of cannabis grows in the Capay Valley — must be underscored. Why not concentrate these businesses in urban areas, near cities that have a greater ability to manage the negative impacts of these all-cash, federally-outlawed businesses? While the Tribe and our neighbors are already subject to the most significant impacts of this industry due to the disproportionate number of grows in the Capay Valley, how can the County even begin to consider options that could further increase marijuana-related businesses in this area? This includes the potential for authorized production and manufacturing facilities, which would increase fire hazards.
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in a remote area already subject to heightened fire risk. And, where is all the funding and oversight that Supervisors promised would flow from the revenue to be generated from marijuana?  

Rural Yolo County faces many challenges, none of which will be alleviated (but certainly exasperated) with the over-concentration of marijuana businesses. This area needs health and mental health services, job and educational training, school infrastructure, healthy food options, increased fire protection, and other governmental services. None of these critical needs will be addressed by prioritizing the financial interests of a few marijuana profiteers over the interests of Capay Valley residents.

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As is undoubtedly clear, cannabis land use regulation in the Capay Valley is an issue of great importance to Yocha Dehe, and indeed all residents and landowners who live in this rural area. We look forward to the opportunity to discuss this issue with the County, on a government-to-government basis, in an effort to resolve our differences.

Should you have any questions in the meantime please contact Gayle Totton at gtotton@yochadehe-nsn.gov or 530-796-2048.

Wile lo,

Anthony Roberts  
Tribal Chairman

ccs: Oscar Villegas, Yolo County Board of Supervisors  
Duane Chamberlain, Yolo County Board of Supervisors  
Jim Provenza, Yolo County Board of Supervisors  
Gary Sandy, Yolo County Board of Supervisors  
Don Saylor, Yolo County Board of Supervisors  
Patrick Blacklock, Yolo County Administrator  
Phil Pogledich, Yolo County Counsel  
John Young, Agricultural Commissioner & Sealer  
Tom Lopez, Yolo County Sheriff  
Omar Carrillo, Yocha Dehe Director of Public Affairs  
Gayle Totton, Yocha Dehe Tribal Resources Manager  
Emily Drewek, Yocha Dehe Director of Environmental Department  
Isaac Bojorquez, Yocha Dehe Director of Cultural Resources  
Paula Yost, Esq.  
Matthew Adams, Esq.
October 11, 2016

The Honorable Members of the Board of Supervisors
County of Yolo
625 Court Street, Room 204
Woodland, CA 95695

RE: Yolo County Medical Cannabis Ordinance – STRONG CONCERNS

Dear Supervisors:

On behalf of the Yocha Dehe Wintun Nation, a federally recognized tribal government located in the Capay Valley in Yolo County, I write to voice strong concerns regarding the current medical cannabis ordinance under consideration by the Board of Supervisors. Yocha Dehe respectfully requests that the Board pursue Option 2 in Section 3 of the staff report dated October 11, 2016, which directs staff to bring back an amended interim ordinance prohibiting any additional medical cannabis activity until further analysis, input, and public process can occur. If and when the County moves forward with this process, we also submit comments and proposed amendments to any further ordinance development.

REQUEST TO STOP ACTIVITIES AND COMMENTS ON EXISTING ORDINANCE

On March 22, 2016, the Board of Supervisors adopted Ordinance No. 1467 adding Chapter 20 to Title 5 of the Yolo County Code regarding medical cannabis cultivation which provides guidelines for the cultivation of medical cannabis. Respectfully, this Ordinance was enacted hastily as an interim measure purportedly in response to the Medical Marijuana Regulation and Safety Act (MMRSA) package of three bills: AB 266 (Bonta, Ch. 689, Stat. 2015), AB 243 (Wood, Ch. 688, Stat. 2015), and SB 643 (McGuire, Ch. 719, Stat. 2015), which was passed by the California Legislature and signed into law by Governor Brown in late 2015—a full 19 years after the voters of California approved the Compassionate Use Act of 1996.

The State is conducting a rulemaking process that will enable the California Department of Food and Agriculture to issue state licenses to conduct commercial medical cannabis activities, and enable other various state agencies to regulate the industry. The State is expected to complete the aggressive regulatory development process by January 1, 2018, at which time entities that are licensed or permitted by a local government, and who file an application for state licensure, are to be deemed state-licensed until the agency makes a final licensing decision, with a one-year grace period.

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Yolo County
Cannabis Land Use Ordinance Response to Comments Document 3-123
The MMRSA established a comprehensive state-level regulatory framework for the cultivation, production, transportation, testing, sale, and taxation of medical cannabis in California. It established 17 types of licenses, including ten different cultivation licenses and two manufacturing licenses [AB 266 (19300.7)] and SB 643 (19331(g)]. Yolo County’s existing interim ordinance, and proposed amendments attached to the staff report dated October 11, 2016, address only cultivation activities, and does not follow or acknowledge the ten cultivation licenses created by the State. Nor does the interim ordinance address the two types of manufacturing licenses available under the MMRSA, even while it is common to have both cultivation and manufacturing activities within a single business. This was envisioned by the State as evidenced by provisions that generally allow for the holding of up to two state licenses while prohibiting vertical integration (AB 266, 19328).

A comprehensive licensing and regulatory ordinance should include provisions and licenses for all commercial activity licenses enacted by the State. The existing interim ordinance fails to address processing, manufacturing, transportation, sales and taxation of medical cannabis by Yolo County. Provisions of the MMRSA also clarified that counties may levy a tax on the cultivating, dispensing, producing, processing, distributing, etc., of medical cannabis subject to standard voter approval requirements (SB 643, 19348).

The interim ordinance, and proposed amendments attached to the staff report dated October 11, 2016, also fail to actually issue any licenses or permits, and instead permissively allows only cultivation activity if certain requirements are followed. This jeopardizes the ability of operators to be compliant with MMRSA requirements, and may deem them ineligible to receive a State license since a prerequisite of the MMRSA licensing statutes is possession of a local license or permit [AB 266, 19320(a); AB 243, 11362.777 (b)].

Yocha Dehe believes that the existing interim ordinance and amendments proposed in the staff report dated October 11, 2016, are incomplete and for the reasons identified above, that the Board direct staff to bring back an amended interim ordinance prohibiting any additional commercial cultivation or activity. We urge you to pursue a clear and comprehensive regulatory and licensing or permitting program that protects patients, the public, commercial operators, as well as environmental and public resources.

COMMENTS AND REQUESTED AMENDMENTS

If and when the Board of Supervisors moves forward to amend the existing interim ordinance, or approve a comprehensive medical cannabis ordinance, Yocha Dehe respectfully submits the following comments and request for amendments:

1. Further ordinances should create a complete and robust regulatory program that addresses all commercial medical cannabis activity. This includes cultivation, production/manufacturing, transportation, testing, sale, and taxation of medical cannabis in Yolo County.

2. Further ordinances should also include actual licenses or permits that are formally issued in order to engage in these activities, instead of the current language that allows for permissive
cultivation. Abatement measures to address problems are fine, but provisions to revoke a license should also be included, as well as provisions to appeal a revocation to ensure due process.

3. A county tax should be included, or at a minimum be proposed to be put before the voters, in conjunction with any licensed or permitted commercial medical cannabis activity in Yolo County. While there were some previous questions regarding the ability of a county to impose a tax, provisions in the MMRSA clarified this issue subject to standard voter approval requirements. Economic activity that is created by the expansion of these commercial activities should contribute to the tax base and provide reasonable revenues for Yolo County.

4. The imposition of fees should also be included. While a fee schedule may not be necessarily written into the ordinance, it would make sound policy sense to include the ability of Yolo County to impose fees, in accordance with applicable laws, in order to alleviate the fiscal burden of a regulatory and licensing or permitting program on county resources.

5. Fiscal impacts upon county resources to implement and enforce a regulatory and licensing or permitting program should be analyzed and included in future discussions and staff reports. Other impacts that result from commercial medical cannabis activities should also be included in future discussions and reports.

6. Cultural resource protection is among the highest priorities for Yocha Dehe, and we work diligently and aggressively to defend such resources and our lands. Existing limitations on commercial cannabis activities should be expanded, and we will strongly oppose any ordinance unless the following amendments to Section 5-20.5 of the County Code are included:

"Section 5-20.05 Limitation on Location to Cultivate Marijuana of Medical Cannabis Activities.
A. The cultivation of medical marijuana, in any amount or quantity, Medical cannabis activities or facilities, with the exception of transportation, shall not be allowed in the following areas:
1. Within 1,000 feet of a youth-oriented facility, a school, a school bus stop, a park, a church, tribal cultural resources as defined by Section 21074(a)(1)(A)-(B) of the California Public Resources Code, or federal lands including but not limited to land held in trust by the federal government for a federal recognized tribal government or lands held in fee by a federally recognized tribal government.
   a. Such distance shall be measured in a straight line from the boundary line of the premises upon which marijuana is cultivated to the boundary line of the premises upon which the youth-oriented facility, school, school bus stop, park, church or residential treatment facility, tribal cultural resource, or federal and tribal lands are located."

Again, Yocha Dehe respectfully requests that the Board direct staff to bring back an amended interim ordinance prohibiting any additional commercial cultivation or other activities, until further and appropriate analysis is conducted, and public input sought and secured. In the event the
County ever elects to pursue a comprehensive ordinance, we respectfully request the enclosed amendments be included. The State established a regulatory framework with the enactment of the MMRSA, and provided local governments the ability to regulate and license or permit commercial medical cannabis activities with local standards and communities in mind. A local ordinance should strive to be as congruent as possible with this framework, with sound and clear policy in anticipation of state MMRSA implementation.

Thank you in advance for your consideration. Should you have any questions, please contact Curtis Notsinneh, Director of Public Affairs; or Omar Carrillo, Government Affairs Manager at 530.796.3400.

Wile bo,

Leland Kinter
Tribal Chairman

cc:       Yocha Dehe Wintun Nation Tribal Council
          Patrick Blacklock, County Administrator
          Philip Pogledich, County Counsel
          John Young, Agricultural Commissioner Sealer of Weights and Measures
          Taro Echiburu, Director of Planning, Public Works & Environmental Services
          Hon. Ed Prieto, Sheriff-Coroner of Yolo County
          Hon. Dan Reisig, District Attorney of Yolo County
October 19, 2017

Duane Chamberlain, Chairman
Yolo County Board of Supervisors
625 Court Street, Room 204
Woodland, California 95695

Re: Yolo County Interim Marijuana Ordinance

Dear Chairman Chamberlain:

On behalf of the Yocha Dehe Wintun Nation, I write concerning Yolo County’s efforts to develop common-sense regulations governing the authorized cultivation of marijuana for medicinal purposes, without intruding on the Tribe, which owns or controls considerable acreage within the Capay Valley. We appreciate your good faith efforts and willingness to respectfully engage with Yocha Dehe on a government-to-government basis, to consider our concerns about the legalization of cannabis cultivation so close to our lands.

As the Tribe has made clear, it generally opposes the use and cultivation of cannabis near and within its territory. For that reason, the County had earlier proposed an Ordinance that would restrict the ability of anyone to secure a permit to cultivate cannabis within 1,000 feet of the Tribe’s lands, whether such lands were held in fee or trust. We submit this restriction was eminently reasonable, in part because of the limited acreage that could be cultivated under any single permit (meaning a buffer would have limited adverse effect anyway), but also because the Tribe is not like a private landowner. Rather, the Tribe is a sovereign native government that governs its own land and people. Subject only to the authority of the United States, Yocha Dehe possesses strong moral and legal opposition to the use and cultivation of marijuana, a drug that also remains illegal under federal law. In addition, as a sovereign tribal government, Yocha Dehe seeks to expand its territory from time to time, through fee-to-trust applications filed with the United States, meaning land that is owned in fee today can become Yocha Dehe’s federally-owned trust land in the future. As such, Yocha Dehe stands in a different stead.

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than private individuals who seek nothing more than to commercially profit from the cultivation of marijuana — again, from a drug that has been legalized by the action of California voters, but that remains illegal under federal law.

While we submit the buffer for all Tribal lands, whether held in fee or trust, was reasonable, Yocha Dehe understands there exists significant opposition from the community for a blanket restriction as applied generally to tribally-owned fee land. Accordingly, Yocha Dehe is amenable to a compromise position that limits the 1,000-foot buffer restriction for tribal lands that are held in federal trust — or to fee lands subject to a pending trust application — at the time the permit is sought. In this way, the landowner and would-be cannabis grower is aware of known conditions when a permit is sought, and fully on notice that a buffer could be imposed if and when contiguous lands become sovereign. Against this backdrop, there can be no legitimate claim of detrimental reliance on the part of the landowner, or that the landowner was somehow deprived of reasonable expectations of an investment in medical marijuana cultivation, at least along boundaries contiguous to lands for which Yocha Dehe has sought trust acquisition when the permit is sought. Of course, the instances of such restrictions would be relatively few, applicable only to those lands in trust today, or publicly known as targeted for trust acquisition when the permit is sought. If there is no pending trust application, or if the federal trust application is denied, then no buffer would be imposed.

Yocha Dehe also requests the County provide a 1,000-foot buffer for “cultural resources” and “sacred lands” as defined by existing state law. The protection of these areas of sensitive and sacred import is required by California law, which imposes a 600-foot buffer from the cultivation of cannabis. (See State Water Resources Control Board, Cannabis Cultivation Policy, Definitions and Requirements for Cannabis Cultivation; and see Public Resources Code Sections 5097.9, 5097.93-5097.96.) By requesting a 1,000-foot buffer for these areas of tribal cultural significance within Yolo County, as opposed to the minimum 600-foot buffer the State now requires, Yocha Dehe simply seeks to bring consistency within the County Ordinance itself.

Yocha Dehe appreciates the County’s effort to respect the Tribe’s own laws, culture and values, and to work with the Tribe so that it can protect its own territory as well as the cultural sites and lands throughout the County. We do lament the extent to which cannabis is infiltrating the sacred Capay Valley, as we understand that an estimated 35-40% of the permits that the County has issued to date are for grows here. We would submit authorized grows should be more evenly distributed throughout the County, lest the beautiful Capay Valley, a long cherished enclave for organic and sustainable food, becomes a center for cannabis cultivation, with all of its attendant impacts on the
environment and communities. That said, we have noticed the County has increased law enforcement efforts against unlawful growers in the Valley, and we applaud that effort.

We thank you for considering our proposal, and we are happy to answer any questions you may have.

Wile bo,

\[signature\]

Leland Kinter
Tribal Chairman

cc: Honorable Members of the Board of Supervisors
Patrick Blacklock, County Administrator
Philip Pogledich, County Counsel
John Young, Agricultural Commissioner Sealer of Weights and Measures
Taro Echiburu, Director of Planning, Public Works & Environmental Services
Hon. Ed. Prieto, Sheriff-Coroner of Yolo County
Hon. Dan Reisig, District Attorney of Yolo County
September 21, 2018

Susan Strachan, Cannabis Program Manager
Yolo County Department of Community Services
292 W. Beamer Street
Woodland, CA 95695

Submitted electronically to cannabis@yolocounty.org

RE: Comment Letter on Notice of Preparation for the Draft Program
Environmental Impact Report for the Yolo County Cannabis Land Use Ordinance

Dear Ms. Strachan:

The Yocha Dehe Wintun Nation, a federally recognized tribal government whose ancestral territory includes Yolo County (and beyond), appreciates the opportunity to provide input on the Notice of Preparation (NOP) for the Draft Environmental Impact Report (EIR) for the proposed Yolo County Cannabis Land Use Ordinance (Proposed Cannabis Ordinance).

Sustainability and responsible stewardship of the Earth are critical to our agricultural operations in Yolo County and, more fundamentally, to our culture and identity as Native people. For thousands of years, we have tended the land, protected plant and animal species, and preserved environmental balance. Cannabis cultivation has the potential to significantly alter the natural environment in myriad adverse ways. We strongly urge the County to fully and adequately assess each of these potential environmental impacts — and alternatives thereto — through the EIR process.

The following areas are of particular interest to Yocha Dehe, and we ask that they be studied in sufficient detail.

_Alternatives Analysis_

Yocha Dehe is a sovereign tribal government that exercises jurisdiction over approximately 1,122 acres of tribal trust land within Yolo County. The Tribe has also proposed to have 256 additional acres placed in trust. As you know, tribal trust land is not subject to State or County land use regulations at all, including regulations pertaining to cannabis.

_Yocha Dehe Wintun Nation_
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Yocha Dehe is committed to working collaboratively with the County, on a government-to-government basis, to minimize the potential for jurisdictional conflicts with respect to land use and other, similar issues. To that end, we have worked collaboratively with the County to develop a 1,000-foot buffer requirement separating cannabis cultivation operations (on the one hand) from current and proposed Tribal trust lands (on the other). Yocha Dehe firmly believes that this buffer should apply to all five alternatives identified for analysis in the EIR. Currently, Alternatives 3 and 4 are contrary to the buffer requirement, and their potential selection would detrimentally affect the Tribe. Furthermore, we urge the County to correct the statement regarding buffers so that it refers to lands held in trust or proposed to be taken into federal trust prior to issuance of a Cannabis Use Permit.

**Aesthetics**

Cannabis farming, including fencing and infrastructure, which may remain in place and deteriorate once an operation has been abandoned, has the distinct potential to adversely affect the aesthetics of its surroundings. The potential for these impacts to be significant must be acknowledged and appropriate mitigation measures required.

**Agriculture**

Cannabis is distinct from other agricultural crops, and thus should be regulated and licensed more strictly. Among other things, cannabis cultivation often involves substantial applications of pesticides and other agricultural chemicals. Such applications are inconsistent with many of the existing agricultural operations in the Capay Valley, which is a hub for organic farming. With a disproportionate number of permitted cannabis operations located here, the potential for adverse impacts to our local farming operations and partners should be thoroughly evaluated.

**Air Quality and Odors**

Odor is one factor that distinguishes cannabis from other crops. People and business owners residing and operating in the vicinity of a cannabis operation cannot open their windows without being adversely affected. The EIR should address such impacts.

**Biological Resources**

Protection of wildlife is of great importance to Yocha Dehe. We are particularly concerned about raptors, as well as various game species, including deer and wild turkey. We understand that many of the chemicals commonly used in cannabis cultivation can harm wildlife (including, in particular, protected raptor species) in an area extending well beyond the boundaries of the operation, even when used in a manner consistent with product labeling. We are also concerned about the illegal take of game and other animals by growers protecting their crops. These concerns require a thorough evaluation based on the best available science, to maximize the Proposed Cannabis Ordinance’s effectiveness at protecting biological resources.
Cultural Resources

For Yocha Dehe and all tribes, the protection of cultural resources is both sacred and essential. Pursuant to their government-to-government relationship, Yocha Dehe and the County have collaboratively developed a 1,000-foot buffer between cannabis operations (on the one hand) and “cultural resources” and “sacred lands” (on the other). This buffer is in addition to State law requiring a 600-foot setback from the cultivation of cannabis. (See State Water Resources Control Board, Cannabis Cultivation Policy, Definitions and Requirements for Cannabis Cultivation; and see Public Resources Code Sections 5907.9, 5097.93-96.) None of the five alternatives the NOP describes include a buffer or setback for cultural resources. In order to be consistent with State law and County policy, each proposed alternative should include appropriate buffers. And if these buffers are smaller than those imposed by existing State law and County policy, the EIR must identify, evaluate, and consider all potentially feasible alternatives to the significant impacts associated with reducing existing protections for cultural resources and sacred sites.

Hazards and Hazardous Materials

Cannabis cultivators should not be allowed to mix, prepare, over-apply, or dispose of agricultural chemicals/products (e.g., fertilizers, pesticides, and other chemicals) in any location where they can negatively affect public health, or contaminate ground and surface water. The effectiveness of the Proposed Cannabis Ordinance in this regard should be thoroughly evaluated.

Hydrology and Water Quality

Of particular concern to the Tribe are impacts to water quality and surface water flows from the diversion of water and discharge of waste. The potential for such impacts associated with cultivation and other cannabis operations should be thoroughly studied, and appropriate mitigated required, in the EIR.

Land Use and Planning

The EIR should evaluate the effectiveness of the Proposed Cannabis Ordinance in terms of addressing overconcentration in particular areas. The Proposed Cannabis Ordinance’s provisions for Tribal and public input on individual permit applications must also be studied. The EIR should address whether appropriate taxation is in place to ensure that sufficient resources can be provided to affected communities.

Public Services

The EIR should study whether the Proposed Cannabis Ordinance adequately addresses the potential for impacts to public health, including possible requirements related to youth education and drug abuse prevention.
The cultivation of cannabis remains illegal under federal law. Yocha Dehe has experience navigating a complex framework of local, federal, and Tribal law, and we urge the County to study the potential impact on local and Tribal law enforcement of inconsistent regulation regarding cannabis.

The EIR should evaluate whether the Proposed Cannabis Ordinance will positively or negatively affect illegal cannabis cultivation, and identify measures to prevent robberies and other crime associated with both legal and illegal operations.

The Yocha Dehe Fire Department (YDFD) plays a vital role in emergency response and life safety throughout the Capay Valley and Yolo County by providing fire protection, technical rescue, and paramedic emergency services. YDFD proudly serves as a community partner through mutual aid agreements with other fire departments to protect the citizens, property, and land in Yolo County.

The EIR must thoroughly study potential impacts to public health, law enforcement, as well as State, local, and Tribal emergency services.

Recreation

While it is included as an environmental factor on the CEQA Checklist, recreation was omitted from the Areas of Potential Impact identified in the NOP. In the Capay Valley and elsewhere, agriculture and recreation coexist, and must continue to do so unimpeded by changes in crop types. The Proposed Cannabis Ordinance’s potential impact to recreation should be thoroughly evaluated in the EIR.

Yocha Dehe appreciates the opportunity for continued communication with the County on this topic. Should you have any questions regarding our comments, please contact Emily Drewek, Director of Yocha Dehe’s Environmental Department, at edrewek@yochadehe-nsn.gov or 530-796-0176.

Wile bo,

Anthony Roberts
Tribal Chairman

cc: Leland Kinter, Chairman, Cultural Resources Department
    Emily Drewek, Director of Environmental Department
    Jim Elters, Director of Land Management
    Omar Carrillo, Director of Public Affairs
    Paula Yost, Legal Counsel, Yocha Dehe Wintun Nation
June 4, 2019

Honorable Members of the Board of Supervisors
Yolo County
625 Court Street, Room 204
Woodland, CA 95695

Re: Yolo County Cannabis Land Use Ordinance Draft

Dear Supervisors:

On behalf of the Yocha Dehe Wintun Nation, I write to thank you for this opportunity to provide early feedback on Yolo County’s most recent draft of Cannabis Land Use Ordinance ("CLUO") dated April 24, 2018. We appreciate your good-faith efforts to engage with Yocha Dehe on a government-to-government basis, and we trust you will agree that this early feedback helps advance mutually-agreeable solutions to the complex problems posed by cannabis regulation.

As you know, Yocha Dehe generally opposes the use and cultivation of cannabis within and adjacent to its lands. That position is grounded in legal, moral, cultural, and practical concerns, including the fact that marijuana remains illegal under the federal laws applicable to tribal trust land; our sovereign authority to regulate land-use and environmental quality on our reservation; our longstanding commitment to and investment in creating a safe, drug-free environment for our young people; and the potential for cannabis cultivation to impact the irreplaceable cultural and environmental resources we work so hard to protect.

With those concerns in mind, we offer the following comments and suggestions:

1. Cultural Resources

Cannabis cultivation threatens the stunning beauty of the Capay Valley, and disrupts the land use and regulatory balance which gives the Valley its unique sense of place. We agree that CLUO section 8-2.1402 ("Purpose") should explicitly acknowledge the importance of thoughtful balancing; but, in light of the potential for cannabis land uses to impact cultural resources, we think it is important to add a reference to those resources to subpart B. The resulting text would read, “Protect environmental, historic, and cultural resources and minimize impacts to these resources.”

Yocha Dehe also appreciates and supports the attention to cultural resource issues in section 8-2.1407(F) of the draft CLUO. We respectfully submit that this section could be rendered clearer and more effective by incorporating the following language:

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Honorable Members of the Board of Supervisors
June 4, 2019

- Subsection 1 should specify that the preliminary site survey must include CHRIS record and Sacred Lands File searches.
- Subsection 1 and 3 should specify that if cultural resources are identified during construction or operation, a 100-foot buffer must be established until the find has been evaluated by a trained cultural resource monitor and any statutory or regulatory requirements (including, without limitation, those set forth in Section 5097.98 of the Public Resources Code).

2. Over Concentration

Yocha Dehe appreciates the County’s effort, as apparent in the most recent draft of the CLUO, to address the over-concentration of cannabis licenses the County has already granted for the Capay Valley. As the Tribe has previously expressed, the County’s land use and policy decisions under its Interim Cannabis Ordinance have adversely impacted the Capay Valley. As it stands today, nearly half — 26 out of 59 — of the County’s cannabis operations are located in the Capay Valley. We understand these licenses are temporary, but the problem needs to be resolved.

Like many who have made the Capay Valley their home, Yocha Dehe has a deep and abiding connection to the area. It is demonstrably committed to the communities in this region, having partnered with local organizations and invested millions of dollars in order to revitalize the local economy and enhance the overall quality of life for Valley residents. The concentration of cannabis cultivation threatens this community effort, risking the economic progress we have made, and interfering with a collective effort to mark the Capay Valley as an agri-tourism destination. As you know, Yocha Dehe is a major supporter of the County, with tribal funding that accounts for 10 percent of its annual budget, and so we submit the County’s success is tied to our own.

In sum, a disproportionate concentration of cannabis cultivation in the Capay Valley is neither sustainable nor equitable, and it threatens to overwhelm our small valley’s sensitive natural resources and undermine the Valley’s fledgling agri-tourism industry. Unfortunately, the text of the draft CLUO (section 8-2.1405(H)) does little to solve this problem. It is essential the CLUO be revised to do so, and at a minimum, explicitly incorporate the following concepts:

- Subregions must be defined — and so-called “caps” allocated — to reduce the current concentration of cannabis operations in the Capay Valley and to avoid future over-concentration in any area of the County over others.
- Consistent with the above, “caps” should not be “based primarily on population size and density, with higher caps in less populated, less dense subregions,” as the notes to the draft CLUO suggest. This necessarily places rural areas like ours at a distinct disadvantage, disregarding the values that set the Capay Valley apart. Accordingly, the caps should instead reflect thoughtful consideration of the sensitivity of natural and cultural resources, other localized land use and constraints, and the need to equitably balance the costs and benefits of cannabis land uses throughout the County. People are
Honorables Members of the Board of Supervisors
June 4, 2019

3. Buffer

Yocha Dehe appreciates and supports the draft CLUO’s 1,000-foot buffer between outdoor cannabis uses and tribal trust lands. However, the 1,000-foot buffer should also (and for many of the same reasons) apply to tribal cultural resources. To that end, we suggest that the first sentence of section 8-2.1407(F) be revised to read, “A buffer of 1,000 feet is required from off-site individual legal residences, residually designated land, licensed day cares, public parks, recognized places of worship, public or licensed private schools, licensed treatment facilities for drugs or alcohol, tribal trust lands, tribal cultural resources (as defined in the California Public Resources Code), and licensed youth centers that are in existence at the time a use permit is issued.”

4. Right-to-Farm Protections

The draft CLUO does not specify the relationship between cannabis cultivation and the County’s “right-to-farm” ordinance. The CLUO should be amended to clarify that right-to-farm protections do not — and were never intended to — apply to cannabis cultivation.

5. State Water Board Compliance

Section 8-2.1407(K) of the draft CLUO should clarify that compliance with State Water Board requirements is additional — and not alternative — to the County’s own requirements.

6. Functionally Equivalent Standards

Section 8-2.1407(U) of the draft CLUO threatens to undermine each of the tribal lands and resources protections described in this letter. We cannot support the CLUO unless this section is (a) revised to prohibit “functional equivalence” and “substitution” with respect to the protection of tribal lands and resources; or (b) removed entirely.

7. Public Comment Period

The rural nature of Capay Valley communities makes it difficult for residents to learn and weigh-in when new grow permits are proposed for the area. For these reasons, the Tribe and rural residents near a proposed cultivation site must be given a meaningful opportunity to weigh in on any particular application before decisions are made. This would require adequate advance
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notice, preferably shortly after an application is submitted to the County. A clear process must be
in place for the Tribe and rural residents to raise objections and seek resolution of issues that may
arise with a particular application or cultivator. In addition, an application should be denied if
concerns raised by the Tribe and the neighboring community cannot be mitigated.

Thank you for this opportunity to submit preliminary comments on the draft Cannabis Land
Use Ordinance and for considering our proposals for the same. Should you have any questions,
please contact Omar Carrillo, Director of Public Affairs, at ocarrillo@yochaedehe-nsn.gov or
530.796.3400.

Wile ko,

[Signature]

Anthony Roberts
Tribal Chairman

cc: Tribal Council, Yocha Dehe Wintun Nation
Exhibit 2-6

Alternative 3 Cannabis Uses

Legend
- Existing and Eligible Cannabis Cultivation Sites
- Yolo County Boundary

Uses
- Distribution
- Manufacturing
- Cultivators
- Retail
- Microbusiness
- Testing
- Processing

Note: This alternative also includes 57 new cultivation sites that are assumed to be spread evenly across County land areas east of I-505.

Source: Data provided by Yolo County in 2018

USGS Base Map X17010510_0111

Public Roy

Wolfe

17-54 cont.

Sacramento

Clarkburg
Exhibit 3.13-4

Alternative 3 Cannabis Uses and Fire Protection Districts
Exhibit 3.13-5

Alternative 4 Cannabis Uses and Fire Protection Districts
Exhibit 3.9-11: Alternative 4 Cannabis Uses and Fire Hazard Designations
Response to Comment 17-1  **CLUO Comment.** Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The concerns of the commenter regarding the CLUO and Draft EIR are noted. The County believes that the Draft CLUO which would result in a discretionary, performance-based use permit process for all cannabis uses provides a rigorous regulatory approach and gives the Board of Supervisors unlimited leeway in making final modifications to the regulations. Please see MR-4, “CEQA Alternatives and County Decision-Making.”

MR-3, “Range of Alternatives Evaluated in the Draft EIR,” describes the span of impact analysis covered by the five alternatives analyzed at equal weigh in the Draft EIR.

The CLUO would supplement the ministerial licensing process with the proposed cannabis CUP process, which would include discretionary review and analysis of each individual CUP application. Please see MR-10, “CUP Process and Overconcentration.” Please see individual responses to comments below.

Response to Comment 17-2  **CLUO Comment.** The commenter provides background on the Yocha Dehe Wintun Nation. The County appreciates the commenter’s connection and commitment to the land, and approach to farming.

Response to Comment 17-3  **CLUO Comment.** The commenter identifies the involvement with the County on cannabis cultivation permitting that started in 2016. The Draft EIR provides a summary of County cannabis regulations on pages 2-11 through 2-13 of the Draft EIR. The proportion of cannabis cultivation licenses in the Guinda/Rumsey area is identified and analyzed on page 4-32 of the Draft EIR. Section 4.2 of the Draft EIR contains an analysis of the issue of overconcentration in any location in the County and concludes that the Guinda/Rumsey area is currently overconcentrated. This section identifies Draft EIR Mitigation Measure OVC-1 to mitigate this concern. Please see MR-10, “CUP Process and Overconcentration.”

Response to Comment 17-4  **CLUO Comment.** The commenter identifies opposition to the overconcentration of cannabis uses in Capay Valley. The commenter’s opposition is respectfully noted. Please see MR-12, “Expression of Opinion/Preference.” Please see MR-7, “Code Enforcement and Crime,” regarding the County’s code enforcement program and efforts. Odor is addressed in significant detail in Section 3.3 of the Draft EIR, and Draft EIR Chapter 4, “Cumulative Impacts and Overconcentration,” and Chapter 5, “Alternatives.”

Response to Comment 17-5  **CLUO Comment.** The commenter references several attached prior letters. These letters have been received by the County and considered during this process. These prior letters are acknowledged in Responses to Comments 17-50 through 17-53.
Response to Comment 17-6

CLUO Comment. The comment states that CLUO does not address overconcentration and that the Draft EIR is inadequate. Section 4.2, “Overconcentration,” of the Draft EIR contains an analysis of the issue of overconcentration in any location in the County and concludes that the Guinda/Rumsey area is currently overconcentrated. The commenter is correct that each cannabis license is reevaluated each year. CUP applicants that do not secure approval will be unable to retain a license. Please see MR-14, “County Cannabis Disclosures.” The County does not agree with, nor does the record support, the suggestion that the Draft EIR is inadequate.

Considerations regarding the appropriate number of cannabis CUPs to allow, and where, are entirely within the jurisdiction and authority of the Board of Supervisors. The commenter’s opposition is respectfully noted.

The commenters assessment of the Draft CLUO and Draft EIR is inaccurate and not supported by the facts. The Draft EIR fully analyzes the issue of overconcentration in Section 4.2, “Overconcentration,” and identifies mitigation measures in the form of modifications to the proposed CLUO. Please see MR-9, “Buffers”; MR-10, “CUP Process and Overconcentration”; and MR-11, “Cultural Change.”

Proposition 64 (The Control, Regulate and Tax Adult Use of Marijuana Act) passed overwhelmingly throughout California in November 2016. In Yolo County it passed by a margin of 60.5 percent to 39.5 percent. County Measure K (Yolo County Marijuana Tax) passed by an even greater margin in June 2018 with 79 percent in favor and 29 percent opposed. In response to the will of the voters, the County has taken a measured and deliberate approach to developing, implementing, and modifying cannabis regulations. Please see MR-16, “Cannabis Licensing Program.”

As described in Chapter 5, “Alternatives,” of the Draft EIR and further in MR-4, “CEQA Alternatives and County Decision-Making,” the Draft EIR examines seven alternatives. The analysis of alternatives is a requirement of CEQA. The County’s approach of examining an extensive number of alternatives allows the public and the Board to understand the environmental impact implications of multiple options related to number of cannabis operations, and types and locations of cannabis activities. This supports transparency and rigorous decision-making.

Response to Comment 17-7

EIR Comment. The comment expresses concern that CEQA alternatives are not adequately addressed. Please see MR-3, “Range of Alternatives Evaluated in the Draft EIR,” and MR-12, “Expression of Opinion/Preference.” The commenter’s opinion is noted.

Response to Comment 17-8

EIR Comment. The commenter states that the Draft EIR must examine alternatives that would decrease the number of cannabis operations in the County and that the Draft must be recirculated. As noted in Chapter 5, “Alternatives,” of the Draft EIR, Alternative 1 results in less impact than the No Project Alternative while both alternatives would retain the current extent of existing and eligible cannabis cultivation sites. The Board of Supervisors retains full authority to reduce/ regulate the number of allowed cannabis activities. This policy option is available to the Board and would be unlikely to trigger a requirement to recirculate the Draft EIR. Regarding disclosures related to the cannabis licensing program please see MR-14, “County Cannabis Disclosures.” Please see MR-1, “No Project Alternative and No
Ascent Environmental Responses to Comments

Yolo County Cannabis Land Use Ordinance Response to Comments Document 3-157


The comment regarding recirculation of the Draft EIR is speculative and not substantiated by facts or evidence. Requirements for recirculation of a Draft EIR are specified in Section 15088.5 of the CEQA Guidelines. The fundamental threshold for recirculation is not whether the Draft EIR specifically analyzes some precisely worded aspect of the final CLUO, but whether any aspect of the final CLUO would result in new environmental impacts not already adequately considered. Whether these requirements are met cannot be determined until the Board articulates an intended decision and the County undertakes this assessment. However, the range of alternatives and considerable detail in the Draft EIR were structured to preclude this need.

Response to Comment 17-9 EIR Comment. The commenter believes that if the final CLUO reflects elements of more than one of the CEQA alternatives, the EIR will be legally deficient. The fact that the Draft EIR alternatives support decision-making options for the Board is not a deficiency in the document – the County views it as a benefit. It was not a goal of the County to evaluate “all possible combinations of elements/alternatives.” The intent of including multiple alternatives evaluated at equal weight was to broaden the base of knowledge for participants in the process. As noted above and in MR-4, “CEQA Alternatives and County Decision-Making,” once the Board signals their decision-making direction, the staff will analyze any pertinent requirements for recirculation and ensure that the Final EIR provides adequate coverage under the law for the decision.

Response to Comment 17-10 EIR Comment. The commenter indicates that only Draft EIR alternatives 2, 3, and 4 would address overconcentration, yet each of those alternatives assumes new cannabis uses. The alternatives are analytical constructs to explore impacts associated primarily with changes to number, type, and location of cannabis activity. They expand the knowledge of all parties and support better decision-making. The commenter’s opposition to the approach is acknowledged. Please see Section 4.2, “Overconcentration,” of the Draft EIR, and MR-4, MR-9, MR-10, and MR-12.

Response to Comment 17-11 EIR Comment. The commenter questions the range of buffers considered. The buffers widths specifically analyzed in the alternatives range from 0 to 1,000 feet. The Board has full discretion to choose any appropriate buffer for various or all identified uses. The Board may choose a greater buffer distance. As described in MR-4, “CEQA Alternatives and County Decision-Making,” the County will ensure that the Final EIR provides adequate coverage under the law for the final decision/direction of the Board. The fundamental threshold for recirculation is not whether the Draft EIR specifically analyzes some precisely worded aspect of the final CLUO, but whether any aspect of the final CLUO would result in new environmental impacts not already adequately considered.

Response to Comment 17-12 CLUO Comment. The commenter expresses support for the 1,000-foot buffer. The commenter’s support for a 1,000-foot buffer from Tribal lands and other features is noted and will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO. Please see MR-12, “Expression of Opinion/Preference.”
Response to Comment 17-13  CLUO Comment. The commenter identifies concerns regarding the language related to buffers and future trust land. The relevant wording in the proposed CLUO is as follows (proposed CLUO Section 8-2.1408(E)):

... federal lands held in trust by the federal government or that is the subject of a trust application for a federally recognized tribal government, ...

This wording ensures that a buffer of a distance determined by the Board of Supervisors in the final CLUO will be required from Tribal lands as described above. Both existing trust land and potential trust land subject to a duly filed application would be applicable for each CUP, based on conditions at the time the CUP application is deemed complete. However, in the event a cannabis CUP receives approval and is operated in full compliance with the County regulations and their CUP conditions of approval, and a Tribal trust application is subsequently duly filed, the CUP would be “vested” at that point and there would be no obligation of the cannabis operator to make further adjustment to their lawfully approved and conducted operation. This is reinforced by the following language within the same section quoted above:

... Approved cannabis uses, operating within the terms of their approvals and conditions, shall be exempted from the buffer requirement as applicable to later new uses within the categories identified above, that locate within the described buffer distance.

Response to Comment 17-14  CLUO Comment. The commenter identifies concerns regarding the language related to buffers and future trust land. There is no material difference between the relevant language in the current Licensing Ordinance and the proposed new language. Please see MR-9, “Buffers,” for a word-for-word comparison. The intent of the language in both sections of both regulations is described above.

Response to Comment 17-15  EIR Comment. The commenter believes there is alignment between community concerns and the Tribe’s concerns regarding overconcentration and buffers. The County has held multiple rounds of workshops and public forums through the unincorporated area. In each case the public has been fully heard and all comments have been taken into account. The County staff in attendance at these meetings have reported that these meeting were civil, robust, and informative.

Concerns regarding overconcentration and buffers are shared by staff and the Board of Supervisors. This has been expressed in their direction regarding the wide span of alternatives explored in the Draft EIR. The Board is charged with making the final decision regarding appropriate buffers. This decision must balance multiple perspectives, a range of County goals and objectives, and the interests of all parties.

The Draft EIR goes well beyond a typical EIR in the depth and range of analysis it provides to support informed decision-making. At the “project-level” it analyzes the effects of the proposed CLUO over the entire unincorporated area – see Draft EIR Sections 3.1 through 3.15. At the “cumulative level” it analyzes the effects of the CLUO in combination with other planned land uses allowed under the County General Plan – see Draft EIR Section 4.1, “Cumulative Impacts.” In addition to these two large geographies, the Draft EIR also analyzes the effects of the proposed CLUO in
particular geographic sub-areas of the County – see Draft EIR Section 4.2, “Overconcentration.”

Response to Comment 17-16 EIR Comment. The commenter states that the policy areas associated with the alternatives have not been finalized and this has resulted in an inaccurate cumulative impact analysis. The County does not agree that the cumulative analysis lacks accuracy and the commenter does not describe why they believe this to be true nor provide evidence in support of their opinion. The alternatives are clearly defined to include an assumed number, type, and location of cannabis uses and the analysis was structured to explore the potential environmental impacts associated with these assumptions. This is a responsible and feasible method for exploring in detail the proposed adoption and implementation of a new jurisdiction-wide zoning regulation.

The County has described on pages ES-7 and ES-8 of the Draft EIR the obligation under CEQA to activate applicable CEQA streamlining, and expressed County intent to incorporate this into the cannabis CUP process. Each CUP application will require individual analysis to determine appropriate CEQA compliance. Provided appropriate site-specific analysis is undertaken and that the applicant can demonstrate full compliance with the CLUO, some applications will be able to rely on the CLUO EIR for CEQA compliance, thus making them statutorily exempt. Others may trigger a negative declaration and/or possibly a focused project-level EIR. This will be determined with each CUP application on a case-by-case basis.

Response to Comment 17-17 EIR Comment. The commenter identifies efforts to work with the County on overconcentration issues in Capay Valley. The County values and appreciates continued dialog with the Tribe. The Draft EIR contains a mitigation measure for addressing overconcentration which County staff recommend the Board adopt. Please see MR-10, “CUP Process and Overconcentration.”

Response to Comment 17-18 EIR Comment. The commenter states that there are no measures to address overconcentration in the Draft EIR. Draft EIR Mitigation Measure OVC-1 directly addresses overconcentration.

Response to Comment 17-19 EIR Comment. The commenter identifies that the only alternatives that allow the County to address overconcentration would include new cannabis uses. Unless rejected by the Board of Supervisors, which will not be the recommendation of staff, Draft EIR Mitigation Measure OVC-1 applies to all of the five equal-weight alternatives or any combination thereof. Pursuant to the conclusions of the Draft EIR, staff will recommend integration of all identified mitigation measures as a part of the final CLUO. Mitigation Measure OVC-1 would replace the Draft CLUO language of concern to the commenter in Section 8-2.1406(H).

Response to Comment 17-20 CLUO Comment. The commenter expresses concern that alternatives 2, 3, and 4 do not ensure resolution to concerns regarding overconcentration. The alternatives are analytical constructs to explore impacts associated primarily with changes to number, type, and location of cannabis activity. The mitigation measures replace and/or modify the language in the proposed Draft CLUO. Please see Response to Comment 17-19.
Response to Comment 17-21 CLUO Comment. The commenter identifies that the Board of Supervisors would be the ultimate decision-makers on the CLUO. County staff agrees with this comment. This is consistent with the anticipated process of adoption of the final CLUO. Please see MR-4, “CEQA Alternatives and County Decision-Making.”

Response to Comment 17-22 EIR Comment. The commenter states that the draft CLUO and Draft EIR do not address overconcentration. Section 8-2.1406(H) of the Draft CLUO would be revised to reflect the new proposed language in Draft EIR Mitigation Measure OVC-1.


Response to Comment 17-24 EIR Comment. The commenter states that the Draft EIR does not quantify what constitutes overconcentration. The Draft EIR does quantify a ceiling (23) and floor (5) for overconcentration. The analysis also identifies a range of potential overconcentration (6 to 22) and concludes that the precise threshold for over-concentration within that range are not driven by the quantified results of the GIS analysis but rather are policy driven, to be determined by the Board of Supervisors. In the staff report to the Planning Commission and Board of Supervisors, the staff will propose a recommendation for this threshold. The Board may accept the staff recommendation or define a different threshold. In either event, the Board of Supervisor’s final decision in this matter will be included in the CLUO as a firm quantified threshold. Please see MR-4, “CEQA Alternatives and County Decision-Making,” and MR-10, “CUP Process and Overconcentration.”

Contrary to the comment, the County has ensured the public, including the Yocha Dehe Wintun Nation, an early, fact-based, transparent opportunity to express opinions and recommendations for consideration by the Board.

Response to Comment 17-25 EIR Comment. The commenter provides introductory comments that the draft CLUO and Draft EIR do not properly address cultural resources. The concerns of the commenter regarding cultural resources are respectfully acknowledged. The County does not concur that the analysis is flawed or inadequate. More detailed responses are provided below.

Response to Comment 17-26 EIR Comment. The commenter states that the CLUO performance standards do not provide for Tribal involvement regarding cultural resources. Tribal involvement in the analysis of cultural resources is an important part of the CUP and CEQA process and will be implemented with each cannabis CUP application. This is the County’s current practice and it would apply under the CLUO as well. The following clarifications to draft CLUO Section 8-2.1408(H), Cultural Resources, are proposed to reinforce the cultural resource obligations required under the CLUO (see Appendix D):

8-2.1408(H) Cultural Resources

1. General – In accordance with Policies CO-4.12 and CO-4.13, and Actions CO-A63 through CO-A66, of the Cultural Resources chapter of the Conservation and Open Space Element of the
County General Plan, applicants shall submit a Cultural Resource Survey to determine the potential for Tribal cultural, archeological, historical, or paleontological resources to be located on the project site, and/or impacted by the proposed project. The County shall provide the Cultural Resource Survey to appropriate State agencies and Tribal representatives for review and comment. The County will undertake appropriate coordination (including formal consultation if required) with Tribal representatives. Based on the recommendations in the Cultural Resource Assessment and comments received from reviewing parties, the County will identify appropriate requirements to avoid or minimize impacts to cultural resources. These requirements will be included as proposed conditions of approval for the subject application. If onsite resources are identified, a mitigation plan is required to protect identified resources in accordance with General Plan Actions CO-A63 and CO-A64 before issuance of permits. If cultural resources (Tribal cultural, archaeological, historic, paleontological) are encountered during construction or operations, workers shall not alter the materials or their context until an appropriately trained cultural resource consultant has evaluated the find. A 100-foot buffer around the find shall be established upon its discovery. Project personnel shall not collect cultural resources. Prehistoric resources include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits often in old wells and privies.

2. Tribal – If Tribal cultural resources are encountered all work in the area shall cease, resources shall be accorded culturally appropriate dignity, removal, reinternment, or other protection/disposition shall be as directed by the culturally affiliated tribe(s) pursuant to a Treatment Plan or Treatment Agreement (or other comparable arrangement).

3. Human Remains – If human remains are discovered, permittees shall comply with Section 7050.5 of the California Health and Safety Code (CHSC). Cultivation, grading/excavation, or other soil disturbance activities shall be immediately halted at the site and in the nearby area until the County Coroner has determined that the remains are not subject to the provisions of Section 27491 of the California Government Code (CGC) or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, in the manner provided in Section 5097.98 of the Public Resources Code (PRC). If the coroner determines that the remains are not subject to his or her authority and the remains are recognized to be those of a Native American, the coroner shall contact the Native American Heritage Commission within 24 hours and disposition shall be as specified by Commission and in accordance with applicable requirements of State law. Native
American remains shall be accorded culturally appropriate dignity, removal, reinternment, or other protection/disposition shall be as directed by the culturally affiliated tribe(s) pursuant to a Treatment Plan or Treatment Agreement (or other comparable arrangement) completed and appropriately implemented before commencement of ground-disturbing activity in the affected area.

4. Confidentiality – Cultural and Tribal resource information and records are confidential (see Section 6254(r) and 6254.10 of the CGC; Section 21082.3(c)(1) of the PRC; and Section 15120(d) of the California Environmental Quality Act (CEQA) Guidelines.

5. Tribal Consultation – Pursuant Section 21080.3.1 of the PRC any applications for which a negative declaration, mitigated negative declaration, or EIR is prepared must first comply with Section 21080.3.1(b) of the PRC related to Tribal consultation.

6. SWRCB Cannabis Cultivation Policies – Applicants and site operations that require coverage under waste discharge requirements (WDRs) or a waiver of WDRs discharge waste shall comply with applicable provisions and requirements of the SWRCB Cannabis Cultivation Policies (Terms 19 through 23 of Order WQ 2019-0001-DWQ) which prohibits cannabis cultivation within 600 feet of a tribal cultural resource and includes protection measures for discovered resources.

Response to Comment 17-27 EIR Comment. The commenter states that a treatment plan or agreement should be included for discovery of Native American human remains. This is already a part of the County’s process. Please see Response to Comment 17-26.

Response to Comment 17-28 EIR Comment. The commenter states that either a government-to-government consultation for each future cannabis use site or additional enforcement requirements are needed to address impacts. It is not possible to predict all locations where a CUP application may be submitted. This would be speculative and is not necessary in light of existing and proposed regulatory safeguards that will be a part of the process for every application. See Response to Comments 17-26.

CEQA streamlining that could potentially occur would not eliminate the requirement that each cannabis CUP be examined for compliance with County requirements, the CLUO, and CEQA. Please see MR-10, “CUP Process and Overconcentration.”

Response to Comment 17-29 EIR Comment. The commenter states that the Draft EIR fails to identify areas where actual and potential overconcentration of cannabis uses are also among the areas with the greatest cultural resource sensitivity. The commenter does not provide information to support the statement regarding cultural sensitivity in identified areas of overconcentration and potential overconcentration. Nevertheless, the proposed clarifications to the draft CLUO provided in Response to Comment 17-26 ensure that cultural resources will be appropriately considered and coordinated with appropriate parties.
Response to Comment 17-30  **EIR Comment.** The commenter notes that the Draft EIR cultural resource analysis relies on the County General Plan and that the Draft EIR should update the General Plan cultural resources analysis. An update of the County’s General Plan is not underway at this time nor a component of this project. The proposed CLUO CUP process would not rely on the County’s General Plan for site-specific cultural resource information. The Draft EIR uses information from the State Office of Historic Preservation as well as information from the General Plan EIR. The proposed CLUO requires a Cultural Resource Assessment for every CUP application (Section 8-2-1410[C][1]).

Response to Comment 17-31  **EIR Comment.** The commenter identifies that there is documentation of finds from the Holocene era in the County. This would be addressed if applicable in the required site-specific Cultural Resource Assessment. Please see Response to Comment 17-30.

Response to Comment 17-32  **EIR Comment.** The commenter states that the Draft EIR discussion of PRC Section 5097 should be clarified and corrected. The NAHC process is described in more detail in the last full paragraph on Draft EIR page 3.5-15 associated with Term 23 under SWRCB Order WQ 2019-0001-DWQ.

Response to Comment 17-33  **EIR Comment.** The commenter refers to the buffering requirements under SWRCB Order WQ 2019-0001-DWQ. The 600-foot buffer is discussed in multiple places throughout Section 3.5 of the Draft EIR, including 3.5-12 through 3.5-13, and on page 3.5-26.

Response to Comment 17-34  **EIR Comment.** The commenter states that the General Plan relies on a map of archaeologically sensitive areas that has not been provided to the Yocha Dehe Wintun Nation. The County General Plan does not rely on a sensitivity map. However, it does contain Action CO-A58 stating that such map should be developed. This action has not yet been implemented.

The General Plan was prepared based on numerous records searches, analysis of cultural resources, and coordination with appropriate entities including relevant state agencies and tribal consultation (including with the Yocha Dehe Wintun Nation) as described in Section I (starting on page 515) of EIR Volume I of the certified 2030 Countywide General Plan Final Environmental Impact Report.

Section F (Cultural Resources) of the Conservation and Open Space Element of the General Plan contains the background information, and adopted goals, policies, and actions of the County relevant to this topic, and is appropriately referenced and summarized starting on page 3.5-16 of the Draft EIR.

Response to Comment 17-35  **EIR Comment.** The commenter summarizes the information provided in Draft EIR Section 3.1, “Aesthetics,” and states that the Draft EIR identifies a “massive concentration” of cannabis operations that would be required to be fenced or screened. Based on the assumptions for each alternative the following maximum acreage associated land disturbance could result (see Table 2-4 on page 2-32 of Chapter 2, “Description of the Preferred Alternative and Equal Weight Alternatives,” of the Draft EIR):

- Alternative 1 and No Project – 156 acres
- Alternative 2 and 4 – 260 acres
- Alternative 3 – 517 acres
- Alternative 5 – 259 acres
Using the high end of 517 acres associated with Alternative 3 this is overall a relatively minute percentage (0.0008) of the overall County acreage which totals 653,550 acres. Despite the small overall area potentially associated with cannabis uses, Section 3.1, “Aesthetics,” of the Draft EIR addresses aesthetic impacts including fencing and other issues. Impact AES-1 addresses scenic vistas and viewscape, including “SR 16 through the Capay Valley” (Draft EIR page 3.1-23). The discussion of each alternative identifies new assumed cannabis activity along SR 16 for each alternative:

- Alternatives 2, 4, and 5 – 13 new cannabis uses
- Alternative 3 – 29 new cannabis uses

Section 4.2.1, starting on page 4-37 of the Draft EIR, looks exclusively at the issue of overconcentration, particularly in the Guinda and Rumsey area of the Capay Valley, identifying it as the most concentrated area in the County. On Draft EIR pages 4-39 through 4-47, Impact OVC-1 focuses exclusively on aesthetic impacts from overconcentration of cannabis uses, including fencing (Draft EIR page 4-40). The analysis of Draft EIR Impact OVC-1 concludes that aesthetic impacts of overconcentration (including fencing) are significant and unavoidable.

Table 5-1 on pages 5-8 through 5-11 of the Draft EIR provides a comparison of the relative level of aesthetic impact associated with each of the alternatives for each identified impact area.

**Response to Comment 17-36 EIR Comment.** The commenter indicates that without more detail regarding odor complaints conclusions regarding effectiveness cannot be reached. Cannabis odor complaints are described on page 3.3-10 of the Draft EIR. There were 17 complaints received in the 16-month period of available data. The nature of the complaints is summarized in the text. Because the complaints are confidential more information is not provided.

The commenter suggests that a conclusion regarding the effectiveness of the CLUO cannot be reached without more information about the complaints. The County does not share this perspective. The conclusions in the Draft EIR are based on the assessment of the proposed process, odor thresholds, and the performance standards in the draft CLUO. The draft CLUO would require buffers between outdoor cannabis uses and identified sensitive land uses. Draft CLUO Section 8-2.1408(E) establishes odor control requirements that would prohibit odors from leaving the cannabis site in excess of a 7:1 dilution-to-threshold, identifies a process of corrective actions for nuisance odor conditions, and requires the development of an Odor Control Plan (draft CLUO Sections 8-2.1408(CC) and 8-2.1408[DD]).

Among other things, Draft EIR Section 3.3, “Air Quality and Odors,” includes information about odor, odor control, and odor in the cannabis environment. It was prepared with oversight and peer review by Trinity Consultants with extensive expertise in odor analysis, monitoring, and control.

Draft EIR Impact AQ-4 (see pages 3.3-29 through 3.3-38) concludes that odor impacts will be significant and unavoidable (see Draft EIR page 3.3-38).

**Response to Comment 17-37 EIR Comment.** The commenter indicates that pollen dissemination is an issue of concern related to over-concentration in the Guinda/Rumsey area but does not provide additional information necessary to provide a response. More information would be needed about the source of the pollen, the potential...
harm of the pollen, the CEQA relevance, and how it factors into overconcentration.

There is a known concern relating to hemp pollen adversely affecting female cannabis (marijuana) plants. Hemp is wind-pollinated and is known to have considerable pollen drift which could result in cannabis pollination. Cannabis cultivation relies on female plants for marketable crops. If a female cannabis plant is pollinated it begins producing seeds instead of THC which can significantly impact the crop value. Yolo County has placed a moratorium on hemp cultivation while it explores these issues. Please see MR-8, “Marijuana and Hemp.”

Impacts on agriculture are analyzed in Section 3.2 of the Draft EIR. Overconcentration is analyzed in Section 4.2.

Response to Comment 17-38  EIR Comment. The commenter suggests that cannabis cultivation, production, and manufacturing involve “heavy use of chemicals.” This is not correct for cultivation/production. The use of restricted pesticides on cannabis cultivation/production is prohibited. This is similar to organic crops that are covered under the Yolo Certified Organic Agriculture program which prohibits the use of restricted pesticides, includes a notification process for adjoining agricultural uses that organic crops are nearby, and limits soil inputs to materials approved as an organic input by CDFA (see page 3.2-9 of the Draft EIR). Cannabis is restricted to pest controls that rely on active ingredients exempt from registration requirements. These are comprised primarily of food-grade essential oils such as peppermint oil or rosemary oil.

Similar to other manufacturing activities, cannabis manufacturing may involve common solvents (e.g., ethanol) and gases (e.g., carbon dioxide). These processes are licensed and regulated through the California Department of Health Services and rely on the California Division of Occupational Safety and Health, local building and fire codes, and certification by a licensed professional engineer. Licensees must have written standard operating procedures, ensure compliance with equipment manufacturer specifications, employee operator training, and regular maintenance. See Section 3.9, “Hazards and Hazardous Materials,” of the Draft EIR, including in particular Draft EIR pages 3.9-9 through 3.9-11, and the impact analysis commencing on Draft EIR page 3.9-17. Please also see the discussion of Impact PS-1 relating to fire protection services, commencing on page 3.13-23 of the Draft EIR.

Response to Comment 17-39  EIR Comment. The commenter states that the Draft EIR fails to address cannabis cultivation pesticide use impacts on biological resources. Please see Response to Comment 17-38 above. The use of restricted pesticides on cannabis cultivation/production is prohibited. Draft EIR Impact BIO-1 starting on page 3.4-42 of the Draft EIR analyzes impacts of cannabis activities (including pesticides) on special status species (see Draft EIR page 3.4-45) and concludes that the potential for impact is mitigated through implementation of Draft EIR Mitigation Measure BIO-1 which clarifies the requirement for a biological resource survey, compliance with the Yolo HCP/NCCP, and/or compliance with state mitigation and permitting for incidental take of state special status species.
Response to Comment 17-40  
**EIR Comment.** The commenter expresses concern regarding fire hazard in Capay Valley associated with cannabis manufacturing facilities. Please see the discussion of Draft EIR Impact PS-1 relating to fire protection, commencing on page 3.13-23 of the Draft EIR, Impact HAZ-6 relating to wildfire hazards, commencing on page 3.9-34 of the Draft EIR, and Response to Comment 17-38 above. Fire protection demands for cannabis operations are generally no different than for similar land uses within the cannabis use categories identified in Section 8-2.1405 of the proposed CLUO. The draft CLUO provides performance standards that address fire safety (see Draft EIR pages 3.13-24 and -25). Based on communications with fire departments throughout the County and the analysis provided under Draft EIR Impact PS-1, this impact was demonstrated to be less than significant.

Response to Comment 17-41  
**EIR Comment.** The commenter provides a summary of the community service district analysis in the Draft EIR. The commenter’s summary of the analysis of Draft EIR Section 3.15, “Utilities and Service Systems,” is not correct. Utilities and service systems are analyzed in Section 3.15 of the Draft EIR and potential impacts are demonstrated to be less than significant.

Response to Comment 17-42  
**EIR Comment.** The commenter states that the Draft EIR identifies that overconcentration impacts would be significant and does not provide effective mitigation to address this impact. Draft EIR Mitigation Measure OVC-1 identifies thresholds and mitigations for overconcentration. The County believes, and the evidence supports, that this mitigation will be effective.

Response to Comment 17-43  
**EIR Comment.** The commenter takes issue with the description of Tribal consultation provided in the Draft EIR. The County proposes no changes to the discussion of Tribal communications and consultation that is summarized on page 3.5-8 of the Draft EIR and under Impact CULT-4 starting on page 3.5-25. The County appreciates and supports the continuing communications with Yocha Dehe Wintun Nation which are correctly described in the Draft EIR as “still underway.”

Response to Comment 17-44  
**CLUO Comment.** The commenter expresses their opinion regarding the CLUO process. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 17-45  
**CLUO Comment.** The commenter expresses their opinion regarding how the County should consider the Capay Valley. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 17-46  
**CLUO Comment.** The commenter expresses their concerns regarding the Alternative 1, the CEQA Preferred Alternative. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 17-47  
**CLUO Comment.** The commenter inquires regarding funding and oversight of cannabis tax revenue. Please see Response to Comment 17-40 and MR-13, “Cannabis Tax Revenue.”

Response to Comment 17-48  
**CLUO Comment.** The commenter expresses opinions regarding services needed in rural areas in Yolo. Please see MR-12, “Expression of Opinion/Preference.”
Response to Comment 17-49  **CLUO Comment.** The commenter expresses continuing interest in discussions with the County regarding the CLUO. The County appreciates the comments provided by the Yocha Dehe Wintun Nation and continuing discussions of these issues.

Response to Comment 17-50  **CLUO Comment.** The County acknowledges receipt of this letter from the commenter dated October 11, 2016 regarding the County’s marijuana cultivation regulations. This letter was considered with regard to the adoption of amendments to Chapter 20 (Marijuana Cultivation) in Title 5 of the County Code. Please also see MR-11, “Cultural Change,” and MR-12 “Expression of Opinion/Preference.”

Response to Comment 17-51  **CLUO Comment.** The County acknowledges receipt of this letter from the commenter dated October 19, 2017 regarding the County’s marijuana cultivation regulations. This letter was considered with regard to the adoption of amendments to Chapter 20 (Marijuana Cultivation) in Title 5 of the County Code. Please also see MR-11, “Cultural Change,” and MR-12 “Expression of Opinion/Preference.”

Response to Comment 17-52  **EIR Comment.** The County acknowledges receipt of the NOP comment letter dated September 21, 2018. The CEQA Guidelines note that comments received during the NOP scoping process can be helpful in “identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR and in eliminating from detailed study issues found not to be important” (CEQA Guidelines Section 15083). Neither the CEQA Guidelines nor Statutes require a lead agency to respond directly to comments received in response to the NOP, but they do require they be considered. Consistent with these requirements, this comment has been carefully reviewed and considered by the County and is reflected in the analysis of impacts in the Draft EIR. Draft EIR Appendix A includes all NOP comments received.

Response to Comment 17-53  **CLUO Comment.** The County acknowledges receipt of this letter from the commenter dated June 4, 2019 providing early comments on the CLUO. Please also see MR-11, “Cultural Change,” and MR-12 “Expression of Opinion/Preference.”

Response to Comment 17-54  **EIR Comment.** The County acknowledges receipt of the attached figures and exhibits from the Draft EIR.
----- Forwarded Message -----  
From: candice.schaer@yahoo.com <candice.schaer@yahoo.com>  
To: clerkoftheboard@yolocounty.org <clerkoftheboard@yolocounty.org>  
Cc: Anna Brail <martinek.brail@gmail.com>; Trini Campbell <trini@riverdogfarm.com>; Lauren Ayers <lauren.yolocounty@gmail.com>; Camilla Barry <camilla@rumseyhouse.com>; Sally Fox <sally@vreseis.com>; Judith Redmond <judith@fullbellyfarm.com>; Wyatt Cline <knothammer@gmail.com>  
Sent: Monday, September 23, 2019, 10:59:39 AM PDT  
Subject: Fw: house break-in and robbery last week --> We need a resident deputy  

To our most esteemed district supervisors:

Apparantly the hierarchy and budget need to be amended to allow resident deputies to be set up again.

Out here in Capay Valley, we were very happy to have a deputy to call on when we needed him/her. Someone we knew that we could count on. Someone who sympathized with neighbors and was motivated to act in our behalf - not on behalf of budget constraints. Someone who lived here and could respond within minutes.

Wouldn't it be wonderful to have that again!

Thank you.

Candice Schaer  
Guinda, CA  
858.232.1005
Response to Comment 18-1  

CLUO Comment. Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The commenter expresses support for a resident deputy to serve the Guinda community. The Sheriff’s Office has hired a resident deputy to serve the Capay Valley, including Esparto and Madison. Please see MR-7, “Code Enforcement and Crime.”
A Quick Look at Cannabis

December 12, 2019

Dear Supervisors and Citizens of Yolo County

A few years ago, John Young, the Agricultural Commissioner for Yolo County, woke up and thought he was the Sheriff. He devised a plan that has been reverberating throughout the County ever since. In short, he proposed that legalizing cannabis growing in Yolo County would eliminate illegal grows. Yes, he believed this and even convinced the Board of Supervisors to do so.

Never mind that commercial growing of medicinal pot was already permitted.

Never mind that anyone could grow six plants anywhere in the county by state law.

Never mind that anyone who could not grow could buy with or without a card.

Never mind that the actual sheriff at the time, Prieto, was adamantly against the idea.

Never mind that the County had absolutely no idea what it was getting into.

As soon as word got out that Yolo was open for business there was a land rush of real estate dealing and an avalanche of license and permit requests. So overwhelmed was the County that it was forced to declare a moratorium on new applications, which became capped at seventy-eight and remains so as the County is putting the final touches on its third attempt to take control.

However, the horse is out of the barn and there are significant adverse effects on citizens that will likely be ongoing. Many people in several parts of the County are angry about the arrival of cannabis operations next door or across the road. So far, they have had little recourse or path for redress.

By now the Supervisors have heard extensively about the many negatives of legalizing cannabis here. The following is a bullet list.

2. Black market cannabis remains strong and is surging.
3. Destruction / degradation of topsoil and native plants has occurred.
4. Farmers fear lawsuits from growers.
5. Impacts on the energy grid, water resources, waste management, housing, roads, etc.
7. Odor is perceived as disruptive and pernicious.
8. Property values of neighbors are diminished as well as quality of life.
9. Tax revenues from cannabis sales is too small to achieve such goals as youth education, illicit grow abatement, road repairs, etc.

Against all these and other negatives the County seems to see one plus: Revenue.
So, where do we go from here? Besides never having gone down this path, the Supervisors have skipped right by some logical and economical approaches to help make cannabis palatable to those many citizens who have made their anger and suffering clear in public comments to the Planning Commission and Board of Supervisors. The simplest would have been to declare a couple of development zones. Indoor grows could be in an industrial warehouse zone and outdoor grows on remote acreage. In both cases grows could be monitored easily and at low cost. Instead we have sites all over the county causing complaints and many manhour and mileage costs by County personnel.

So far, the County has been reactive not proactive. The trend has been to listen to the growers now in place. When they wanted a moratorium against large scale hemp growing, they got it. So much for ‘Right to Farm’.

When citizens complain about any of the issues listed above, and others, not much happens.

The latest attempt to deal with the outfall of the Board’s decision to allow commercial grows does not seem poised to satisfy the folks living next to grows, let alone the growers themselves, who are divided. Some desire outdoor growing for its economy and natural allure. Others might be content with indoor growing as they can grow year-round.

It seems clear the Supervisors cannot turn back the clock, nor can they please everybody. Their latest plan remains to be finalized, but it contains poison pills for all parties. The Board gets to craft whatever they want out of the clay lump that is the Cannabis Land Use Ordinance and will retain the right to change it over time, so predicting how it will look is a fool’s game.

I support a minimum of a thousand-foot setback for residences, such as is accorded to schools and churches. To do less would be inequitable as well as hypocritical......the Tribe gets a thousand feet already and so should a child at home as well as in school or church.

Permits should be fairly distributed across the entire county with no new permits allowed in already overly dense areas. Each district should bear a proportionate burden.

Only indoor grows should be allowed in areas identified as clusters. Outdoor grows could be allowed on large acreages where other crops are farmed also. Farmers who wish to monetize their land should be able to do so (it is not likely they would sue themselves). Regular farmers using regular farming practices must not feel liable for possible impacts on cannabis grows nearby.

There are more such solutions, but I will leave it to the board to figure them out. They appear to be in it for the money, but so far, they have reaped only $700,000 to use at their discretion, a pittance compared to expectations.

So far, the only clear winners in this whole debacle are illegal growers, the very people the county was trying to stop. Instead, the black market is surging.

Respectfully submitted,

David Gray

3-171
Letter 19  David Gray  12/12/2019

Response to Comment 19-1  CLUO Comment. Thank you for submitting comments during the Draft EIR review period. These will be considered by the staff, Planning Commission, and Board of Supervisors in their deliberations regarding the final CLUO.

The concerns of the commenter regarding cannabis cultivation are noted for the record. Please also see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-2  CLUO Comment. The commenter identifies concerns regarding absentee landlords, chains of responsibility, and unvetted employees. These concerns are noted for the record. Section 5-20.06 of the Licensing Ordinance requires that cultivators either own the property on which they are cultivating or have entered into a lease with the owner including written consent to cultivate cannabis. It is not clear what the commenter is advocating regarding “chains of responsibility”; however, the County currently has a strong enforcement program that will continue and be strengthened with the CLUO. Please see MR-7, “Code Enforcement and Crime.” Regarding vetting of employees, the staff will be recommending a modification to the Licensing Ordinance to expand background checks to include employees.

Response to Comment 19-3  CLUO Comment. The concerns of the commenter regarding black market cannabis cultivation are noted for the record. Please also see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-4  EIR Comment. The commenter indicates that destruction and degradation of topsoil and native plants has occurred. Without more information it is not possible to address this claim. Please see MR-7, “Code Enforcement and Crime,” regarding the County’s CTF and code enforcement program. All complaints submitted to the Task Force are investigated and appropriate enforcement is pursued. Impacts on agriculture are analyzed in Section 3.2 of the Draft EIR. Impacts on soils are analyzed in Section 3.7.

Response to Comment 19-5  CLUO Comment. The commenter indicates that farmers fear lawsuits from “growers.” The comment is not specific but understood to be referencing application of pesticides. The common meaning of “farmer” and “grower” are generally synonymous; however, the term “farmer” in this comment is understood to refer to someone who cultivates non-cannabis crops and the term “grower” is understood to refer to someone who cultivates cannabis. In this context, provided the non-cannabis farmer is legally and responsibly applying pesticides the situation is common between farmers, and no different from an organic crop being grown next door to a non-organic crop. Please see Responses to Comments 11-2, 11-3, 12-61, and MR-5, “Cannabis as an Agricultural Crop.”

Response to Comment 19-6  EIR Comment. The commenter is concerned regarding impacts on energy, water, waste, housing, and roads. These topics are analyzed in detail in the Draft EIR. Energy is addressed in Draft EIR Section 3.6, “Energy”; water in Section 3.10, “Hydrology and Water Quality”; solid waste in Section 3.15, “Utilities and Service Systems”; and roads in Section 3.14, “Transportation and...
Circulation.” Housing is not addressed in the Draft EIR because it was scoped out during the NOP period. The NOP documents on page 8:

...The Proposed Ordinance would not involve the generation of substantial new employment or the need for housing that could result in significant new impacts. Therefore, these issues will not be analyzed in the EIR.

Impacts associated with induced growth are addressed in Draft EIR Impact LU-3 on Draft EIR pages 3.11-12 through 3.11-16. No significant growth impacts were identified.

Response to Comment 19-7 CLUO Comment. The comment expresses concern regarding crime and attractive nuisance. The County relies on the services of the Sheriff Department and CTF to address cannabis related crime. The Cannabis Tax allows for revenues from the tax to be used to supplement crime enforcement for illegal cultivation. Please see MR-13, “Cannabis Tax Revenue.”

Response to Comment 19-8 EIR Comment. The commenter expresses concerns regarding odor. The County recognizes odor as an impact. It is addressed throughout the proposed CLUO including primarily Sections 8-2.1408 (CC) and (DD). It is addressed in the Draft EIR in Section 3.3, Chapter 4, and Chapter 5. All CUP applicants for any cannabis activity, including outdoor cultivation, will be required to submit an Odor Control Plan (see Section 8-2.1410[D][2]) as a component of their application. Please also see Responses to Comments 5-2 and 8-10.


Response to Comment 19-10 CLUO Comment. The commenter identifies concerns regarding tax revenues. Please see MR-13, “Cannabis Tax Revenue,” regarding revenues from the first year of the cannabis tax, and how that revenue was spent. The comment is noted for the record. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-11 CLUO Comment. The commenter states that the only benefit to cannabis is revenue. Please see MR-13, “Cannabis Tax Revenue,” and MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-12 CLUO Comment. This comment expresses support for indoor cultivation in industrial zones and outdoor cultivation in remote areas. Please also see MR-17, “Consolidated Cannabis Campus.”

Response to Comment 19-13 CLUO Comment. The commenter expresses opinions regarding cannabis and hemp. The comments are noted. Please see MR-8, “Marijuana and Hemp,” regarding hemp. Pease also see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-14 CLUO Comment. The commenter expresses an opinion regarding the CLUO. This comment is noted for the record. Please see MR-12, “Expression of Opinion/Preference.”
Response to Comment 19-15  **CLUO Comment.** The commenter provides an opinion regarding the CLUO. This comment is noted for the record. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-16  **CLUO Comment.** The comments support for 1,000-foot buffers is noted. MR-9, “Buffers,” further explains buffers including why different buffers for farm dwellings on large agricultural parcels are proposed and in alignment with the County’s General Plan.

Response to Comment 19-17  **CLUO Comment.** The comment expresses support for distribution of cannabis activities across the county and caps in areas with greater densities. This comment aligns with the approach proposed in the CLUO including Draft EIR Mitigation Measure OVC-1.

Response to Comment 19-18  **CLUO Comment.** The comment recommends that only indoor cultivation be allowed in areas experiencing overconcentration. The comment also recommends that cultivation should only be allowed for farmers that also cultivate non-cannabis crops. This position is noted. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 19-19  **CLUO Comment.** The concerns of the commenter regarding black market cannabis cultivation are noted for the record. Please also see MR-12, “Expression of Opinion/Preference.”
MINUTES – REVISED DRAFT
ESPARTO CITIZENS ADVISORY COMMITTEE
December 17, 2019
7:00 p.m.
Esparto Regional Library
17065 Yolo Ave, Esparto, CA 95627

Attending: Babs Beckwith, Pat Harrison, John Hulsman Jr, Randy Jacobs, Giacomo Moris

Absent: Sandie Reed, Susan Cooper, Jesus Veloz

MEETING ADMINISTRATION

1. CALL TO ORDER at 7:00 by Chair J. Hulsman

2. APPROVAL OF AGENDA
   a) **Motion** to approve the agenda by B. Beckwith second by G. Moris. Vote: all in favor, none opposed.

3. APPROVAL OF MEETING MINUTES
   a) **Motion** by P. Harrison to approve the minutes of November 19, 2019. Second by B. Beckwith. Vote: all in favor, none opposed.

4. CORRESPONDENCE AND ANNOUNCEMENTS
   a) G. Moris – Candidate debate for 5th District Supervisor race will likely be 2/11/20. The High School auditorium was recommended as the venue.
   b) G. Moris – There will be a Hub summit planning meeting on 1/13/20 – contact Jack if you are interested in participating.
   c) J. Hulsman - Fire Department is saying Orciuli is moving forward and apartment units part of the project now. RISE is moving forward on the Health Center construction as a contractor has been selected.
   d) J. Hulsman Fire Departments have been trying to get the share of 1993's Proposition 172 funds promised during the election. Currently most is going to the Sheriffs. The departments met, but County staff wants to look at all the challenges facing volunteer fire protection districts, including the trouble getting volunteers. They are looking at other counties to see what they are doing. Volunteer fire department may not be volunteer in the future.
   e) R. Jacobs – The annual Christmas party for the Chamber is this Friday at Yocha Dehe golf course 6-9pm. Open to public, $20 at door.

PUBLIC FORUM

5. PUBLIC COMMENTS (none)

6. COUNTY UPDATE
   a) Supervisor Duane Chamberlain was curious what we think about the new road (Highway 16 SIP). Those present responded positively and felt it was safer. Duane added the reason for elevated center in the round-a-bout is to keep people's headlights from shining at oncoming traffic.
7. ACTION ITEMS


a) Gretchen Paddock – There are 4 pot farms within a 2 mile radius of their house. She doesn’t want more. Most Supervisors don’t live in the country near these farms. She is concerned about smell and they open windows at night in the summer. One pot farmer assured her they were not selling on site – They saw a car go to the pot farm and come back full of smoke. She suspected that they were retailing and is concerned about the hazard of drivers under the influence.

b) Duane – other complaint was about lights. G. Moris understood if greenhouses had lights, they had to be blocked at night. Duane added that while visiting an indoor grow in a warehouse building there was no smell outside.

c) G. Moris mentioned that his comments in the EIR NOP were not specifically responded to (like in an EIR) and asked if he should reiterate them for the EIR? Trini suggested probably.

d) Trini Campbell (Planning Commissioner) - The gist of comments at the Planning Commission hearing regarding traffic was that it was a significant impact despite being shown as no impact with mitigation. They are hearing about people living near operations who are claiming their property values are going down. EIR doesn’t analyze economic impacts but the Board of Supervisors can take it into consideration. People are also concerned about the LTS (less than significant) ratings not being accurate.

e) J. Hulsman added – so many zoning districts are included in each alternative, a single LTS may not be accurate for all of them (for example building in industrial vs out in the county with processing etc.). State considers almost anything associated with the cannabis operation as farming (except retail).

f) G. Moris agreed and expressed concern about preserving agriculture as is the County’s stated interest, and this could be wasting prime farmland. Regarding installation of features that are more permanent construction like concrete/gravel he suggests they create a deposit requirement ensuring the property can be restored to ag.

g) B. Beckwith concerned about tax payers footing the bills. Her opinion is no retail, no new permits, indoor only, medical only, and no smell. Banks still don’t take their cash so that is a concern (incentive for crime).

h) J. Hulsman noted that the process has likely assured the black market continues due to red tape and cost of compliance.

i) G. Moris asked residents regarding the smell – how much is offensive due to stigma vs intolerable. More the latter was the response.

j) B. Beckwith – How is the black market? At the time of the initial ordinance, there were about 800 illegal grows. Trini noted ranchers say there is a decrease in illegal grows on their lands now.

k) Duane noted at the Board of Supervisors meeting today they talked about hemp. Big farmers like Heidrick, Beeman, etc. want to get into hemp. Marijuana farmers don’t want hemp because it cross pollinates. He has heard of people trying to steal it from the fields in Solano County and by boat in Sutter County at farm by the river. Duane then discussed the costs associated with inspections, fees used to pay for them, and tax revenue for illegal grow enforcement (See minutes of 11/19/19 items 6-e,k). Duane stressed the other end is what costs tax payers, when users of cannabis transition to meth, and mental health costs, etc.
l) Duane stated his opinion is that he was ok with medical marijuana, but wants to see UCD do basic research (however they are concerned about jeopardizing federal funding they receive). He is against recreational cultivation but was out voted. The County’s medical advisor says brains are still developing and affected under the age of 25.

m) J. Hulsman added a Scientific American article in the 1960’s found it less harmful than alcohol; however the social use and perceptions cast alcohol in a more positive light.

n) G. Moris – Duane’s comments about cross pollination with hemp are interesting, and could be solved with grows going indoor – which seems to be the trend anyway as growers want more control – he expects small farms are going to lose to big conglomerates that can afford the costs to go indoors.

o) Trini – People at the Planning Commission hearing also brought up Ag conservation easements as an issue since Yolo Land trust receives federal funds, this reduces available parcels. This will have an overall environmental impact for the County.

p) G. Moris – Contrary to impact Hydro-2, there could be an impact to groundwater resources as growing in containers can use areas traditionally dry farmed – same could be said for olives and almonds these days.

q) J. Hulsman concerned that the regulations are making cannabis growers do more than regular farming which could be a dangerous precedent. He doesn’t think they should be singled out and referenced impacts Bio-1,2,3,4, GHO-1, and NOI-1.

r) G. Moris the density issue is a social impact (community lost/changed). Trini – they look at this point in time. In the future, forecasting out, how will it restrict potential for building houses where they are allowed – decrease property value?

s) Trini – pointed out a statement in the CLUO – ‘needs to be adopted for neighborhood compatibility’. It will be for the Planning Commission to consider if the proposed use will not impair character of neighborhood.

t) G. Moris – how is “no project” not environmentally superior? Trini: because no environmental review for each project if it stays as is. The report should have had the “no project” baseline be three years ago before the grows began.

u) R. Jacobs – Many industrial buildings are 5 acres and could house the grows. Trini – added collocating permits as a possibility.

v) G. Moris read his comment concerning incentive for subdivision of ag land.

w) P. Harrison feels the operations should be moved to the warehouses.

x) Chris – What does this cover – here or Woodland? Entire County. He grew up here. Yes, smell is issue but is strongest when processing it. In regards to the buffer zone, is that State? No County can be more restrictive. He doesn’t necessarily agree with the buffer. He questions what is smell like when it is just growing vs when it is cut down.

y) Claudia – Five years ago on Stevens street there was a 5 bedroom house with 400+ marijuana plants and no one noticed. She doesn’t agree with it. She has lived here for 13 years, and feels it was more quiet back then. The last two years, there are more people we don’t know. People trying to steal things, selling drugs, more problems at school too. If we say yes, we make it easier for them to get those kind of drugs. She doesn’t want it allowed.
z) CLUO process will be Use Permits—once it is granted, it is done. Not year to year like current process through Ag Commissioner.
aa) Duane stated he reminds growers that the permit is one year at a time, and some wanted to build inside. He had suggested 5 year—to encourage investing in buildings to bring the grows indoors.

bb) Duane—some farmers he knew used to have 300 acres in production, now just a small marijuana patch. A sunflower farmer had to delay harvest due to dust that may harm the marijuana patch. The State makes the laws that the County must live by.

c) P. Harrison—Can anything be done about the abandoned parcels that have existing dead crops? Duane—they are supposed to be farming it and they are not.

d) Trini—Marin County is allowing only 4 retail stores, on-line orders only and delivery.

ee) The committee discussed issues and opinions where they had consensus to provide a recommendation.

ff) Motion by G. Moris that the Committee’s recommendations to the Cannabis Program Manager, Susan Strachan, are as follows:

i) Indoor only in industrial zoning.

ii) No retail in unincorporated areas.

iii) No new permits (beyond 78 allowed currently) until program is evaluated for effectiveness and adverse impacts.

iv) Regarding the DEIR, significance indicators (LTS for example) is an oversimplification and not accurate for a number of impacts that could be associated with numerous zones and conditions. What is significant in one area might not be in another.

v) Second by R. Jacobs

vi) Vote: All in favor, none opposed.

8. DISCUSSION ITEMS (None)

9. FUTURE AGENDA ITEMS (Not discussed)

10. ADJOURNMENT

a) Motion by P. Harrison to adjourn, second by R. Jacobs.

i. Vote: All in favor, none opposed.

ii. Meeting adjourned at 9:15 pm.

COMMUNITY FORUM

GLM
12/18/19
<table>
<thead>
<tr>
<th>Letter 20</th>
<th>December 17, 2019 Esparto Citizens Advisory Committee Meeting Minutes – Revised Draft 12/17/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Response to Comment 20-1</strong></td>
<td><strong>CLUO Comment.</strong> The commenter expressed concern about smell and illegal on-site sales. These concerns are noted for the record. Neighbors are encouraged to report illegal activity to the Sheriff’s Office and/or the CTF.</td>
</tr>
<tr>
<td><strong>Response to Comment 20-2</strong></td>
<td><strong>EIR Comment.</strong> The Supervisor expressed concern about lights and noted absence of smell at an indoor cultivation facility. Light and glare impacts are discussed in Section 3.1 of the Draft EIR. Section 8-2.1408(Z) of the proposed CLUO addresses lighting and requires that exterior lighting be controlled and directed downward. Lighting is prohibited in hoop houses. Light bulbs must be LED or more efficient technology. As identified in draft CLUO Section 8-2.1408(Z), the proposed CLUO would require all cannabis uses to provide shielding of exterior lighting and containment of mixed-light and indoor cultivation lighting within buildings to avoid off-site impacts.</td>
</tr>
<tr>
<td><strong>Response to Comment 20-3</strong></td>
<td><strong>EIR Comment.</strong> The commenter asked about responses to NOP comments. All NOP comments were considered in preparation of the Draft EIR, but responses were not prepared nor are they required. NOP comments received are provided in Draft EIR Appendix A. Draft EIR Sections 3.1 through 3.15 contain a summary of NOP comments received for each environmental issue area. All comments received during the Draft EIR comment period, whether on the Draft EIR or on the proposed CLUO, have received written responses in this Final EIR.</td>
</tr>
<tr>
<td><strong>Response to Comment 20-4</strong></td>
<td><strong>EIR Comment.</strong> The commenter indicated that traffic impacts will be significant. Traffic impacts are addressed in Draft EIR Section 3.14, “Transportation and Circulation” (see Draft EIR pages 3.14-16 through 3.14-23), and Draft EIR Appendix G. Please see Response to Comment 12-73 and MR-15, “Traffic Analysis.”</td>
</tr>
<tr>
<td><strong>Response to Comment 20-5</strong></td>
<td><strong>CLUO Comment.</strong> The commenter expresses concern about property values. Please see MR-6, “Economic Effects and Property Values.”</td>
</tr>
<tr>
<td><strong>Response to Comment 20-6</strong></td>
<td><strong>EIR Comment.</strong> The commenter expresses concern regarding conclusions of less than significant in the Draft EIR. The Draft EIR conclusions are based on a technical assessment of environmental conditions under the draft CLUO verses under existing conditions existing conditions. A determination of the relative level of significance is provided based on the identified significance thresholds. The conclusions in the Draft EIR are based on substantial evidence and the County believes them to be sound. Please see MR-12, “Expression of Opinion/Preference.”</td>
</tr>
<tr>
<td><strong>Response to Comment 20-7</strong></td>
<td><strong>EIR Comment.</strong> The commenter expresses concern regarding conclusions of less than significant for all zoning districts. This comment is noted. Please see Response to Comment 20-6 and MR-12, “Expression of Opinion/Preference.”</td>
</tr>
</tbody>
</table>
Response to Comment 20-8  EIR Comment. The commenter expresses concern for impacts on agriculture from cannabis activities and suggests a deposit for restoration in the event of an enforcement or abatement action. Section 5-20.04(A)(2)(a)(4)(v) of the Licensing Ordinance requires a surety bond to cover abatement costs and/or administrative penalties. The staff is investigating expanding this section to apply to site restoration costs. However, it should also be noted that legal conforming uses and activities in the AG zone would not necessarily trigger restoration in the event of a cannabis enforcement or abatement action. For example, a graveled road or lot in support of agricultural activities (including cannabis) is not an illegal or inappropriate activity on AG land. In the event of a cannabis abatement, the graveled road or lot may not necessarily be removed.

Response to Comment 20-9  CLUO Comment. The commenter expresses support for no retail, no new permits, indoor only, medical only, and no smell. Concerns were also expressed for costs to taxpayers and constraints on banks to serve cannabis operations. These concerns and comments are noted for the record. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 20-10  CLUO Comment. The concerns of the commenter regarding black market cannabis cultivation are noted for the record. Please also see MR-12, “Expression of Opinion/Preference.”

Response to Comment 20-11  EIR Comment. The comment reflects an exchange with members of the audience at the meeting regarding odor. Odor is addressed in the Draft EIR in Section 3.3.

Response to Comment 20-12  CLUO Comment. The comment reflects a dialog between attendees at the meeting regarding black market cannabis cultivation. No response is necessary.

Response to Comment 20-13  CLUO Comment. The Supervisor summarized activities related to hemp. Please see MR-8, “Marijuana and Hemp.” No further response is necessary.

Response to Comment 20-14  CLUO Comment. The Supervisor expressed concerns about taxpayer and mental health costs. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 20-15  CLUO Comment. The Supervisor stated his opposition to recreational cannabis. This comment is noted. Please see MR-12, “Expression of Opinion/Preference.”

Response to Comment 20-16  CLUO Comment. The comment relates to perceptions regarding effects of cannabis vs alcohol. No response is necessary.

Response to Comment 20-17  CLUO Comment. The comments notes that conflicts between hemp and cannabis (marijuana) can be solved by requiring indoor cannabis cultivation, and further notes that small cannabis cultivators are likely to be taken over by large cultivators that can afford the increased costs of indoor cultivation. These observations are noted. No response is necessary.

Response to Comment 20-18  EIR Comment. The comment expresses concern that cannabis cultivation will adversely affect implementation of the HCP/NCCP. County staff does not believe this will be the case. Please see Response to Comment 12-63.
Response to Comment 20-19  
**EIR Comment.** The commenter expresses disagreement with the Draft EIR conclusions for Impact Hydro-2. The commenter indicates that growing in containers will adversely affect groundwater by using land traditionally used for dry farming.

Impact Hydro-2 is discussed starting on page 3.10-38 of the Draft EIR. The analysis analyzes groundwater that would be used for cannabis crops and compares that to average groundwater use for other non-cannabis crops. The analysis demonstrates that the amount of groundwater used for cannabis activities under each of the CEQA Alternatives would be similar to the amount used for other crops likely to be grown on the property in the absence of contemplated cannabis uses. For Alternatives 1 through 5 the range of groundwater estimated to be used is 132 acre-feet per year (under Alternative 1 on 156 acres) to 424 acre-feet per year (under Alternative 3 on 517 acres). The high end of this range equates to approximately the average groundwater used by an orchard of about 131 acres, thus substantiating the impact conclusion for all alternatives of less than significant.

Based on the assumptions for each alternative the following maximum acreage associated land disturbance could result (see Table 2-4 on page 2-32 of Chapter 2 of the Draft EIR):

- Alternative 1 and No Project – 156 acres
- Alternative 2 and 4 – 260 acres
- Alternative 3 – 517 acres
- Alternative 5 – 259 acres

Using the high end of 517 acres associated with Alternative 3 this is overall a relatively minute percentage (0.0008) of the overall County acreage which totals 653,550 acres and would not have any material effect on acreage available for non-cannabis activities countywide.

Response to Comment 20-20  
**EIR Comment.** The commenter expresses concern that cannabis farmers are being held to different standards than other farmer which could create a precedent for non-cannabis farming. Please see Response to Comment 12-88.

Response to Comment 20-21  
**CLUO Comment.** The comment inquires as to how cannabis activities will restrict potential for building houses where they are allowed an affect property values. Section 8-2.1404(K) of the proposed CLUO clarifies that notwithstanding any buffers the County may ultimately establish, non-cannabis property owners are not precluded from locating allowable land uses in proximity to neighboring cannabis uses. In other words, the buffers would apply to the cannabis use only at the time of approval, and not to other later uses or to the cannabis use at a point later in time. Regarding property values, please refer to MR-6, “Economic Effects and Property Values.”

Response to Comment 20-22  
**CLUO Comment.** The comment references a section of the proposed CLUO that addresses neighborhood compatibility and indicates that the Planning Commission will make this determination. “Neighborhood compatibility” is addressed in two sections in the proposed CLUO: Section 8-2.1402(C) which addresses the purpose of the ordinance and 8-2.1406(L)(4) which identifies findings required for approval or denial of a cannabis CUP.
For any cannabis CUP application, neighborhood compatibility will be one of many factors to be considered. The staff will provide initial analysis of this and other issues, and the Planning Commission will consider that information and take action accordingly. For cannabis CUP applications that are not in areas of over-concentration the Planning Commission decision would be final unless appealed to the Board of Supervisors. For cannabis CUP applications in areas of over-concentration, the Planning Commission recommendation would be advisory, and the Board of Supervisors decision would be final.

**Response to Comment 20-23**  
EIR Comment. The comment asks about the “no project” alternative. Please see MR-1, “No Project Alternative and No Cannabis Alternative.”

**Response to Comment 20-24**  
CLUO Comment. The comment expresses that existing industrial buildings are large enough to accommodate currently allowed cultivation, and that co-locating cultivation should be considered. This opinion is acknowledged. Section 8-2.1408(G) of the proposed CLUO does allow co-location. Please also see MR-12, “Expression of Opinion/Preference.”

**Response to Comment 20-25**  
The commenter expresses concern that cannabis will create an incentive for subdivision of agricultural land. As a part of the proposed CLUO, the County is also proposing several amendments to the General Plan. These are described on page 2-42 of the Draft EIR. The proposed amendment to General Plan Policy LU-2.3 would clarify that the division of land for cannabis crops or activities is prohibited.

**Response to Comment 20-26**  
CLUO Comment. The commenter prefers that cannabis operations be conducted in warehouses. This recommendation is acknowledged. Please also see MR-12, “Expression of Opinion/Preference.”

**Response to Comment 20-27**  
EIR Comment. The commenter expresses several questions about the proposed CLUO which are answered in the exchange. The proposed CLUO would apply to the entire unincorporated County area – it would not apply within the four incorporated cities. It is accurate that the odor from cannabis is strongest prior to and during harvest and processing (see Draft EIR pages 3.3-10 and 3.3-29). The state regulations include buffer requirements that are summarized in MR-9, “Buffers.” Section 26054(b) of the California Building and Professions Code allows jurisdictions to establish different standards that may be more or less stringent that the state requirements. The County’s Licensing Ordinance which is in effect currently establishes buffers in Section 8-2.1408(E), which are summarized in MR-9. The proposed CLUO will include buffers that supersede both the state and current County regulations and may differ. Please see MR-9, “Buffers.” Cannabis odor is analyzed in Section 3.3, “Air Quality and Odors,” of the Draft EIR (Draft EIR pages 3.3-29 through 3.3-38).

**Response to Comment 20-28**  
CLUO Comment. The commenter expresses opposition to cannabis. This recommendation is acknowledged. Please see MR-12, “Expression of Opinion/Preference.”

**Response to Comment 20-29**  
CLUO Comment. The comment indicates that the CLUO cannabis CUP process will replace the current cannabis licensing process. This is not correct. The CLUO CUP process will be in addition to the current licensing process. While it is true that the County may decide to issue CUPs with no expiration period, any CUP approvals would nevertheless be contingent on compliance with the County’s regulations and with the conditions and terms of the CUP. The annual licensing
process, which is administered through the CTF not the Agricultural Commissioner's Office, will continue including mandatory annual inspections.

**Response to Comment 20-30**  
**CLUO Comment.** The Supervisor indicates his support for a 5-year permit. Proposed CLUO Section 8-2.1406(I), Revocability, and Section 8-2.1406(J), Expiration, allow the Board of Supervisors to establish a maximum term for the approval period for a CUP.

**Response to Comment 20-31**  
**CLUO Comment.** The Supervisor expresses concerns regarding the effects of cannabis on acres in production, and the effects of dust from a neighboring farmer on a cannabis cultivation site. Section 8-2.1408(B) addresses Agricultural Maintenance and requires cannabis operators to use their agricultural property for agricultural activities and/or properly maintain it. Regarding the effects of neighboring non-cannabis farming operations on adjoining cannabis cultivation, please see Response to Comment 11-2.

**Response to Comment 20-32**  
**CLUO Comment.** The commenter asks whether anything can be done regarding abandoned parcels with dead crops. The comment is understood to be related to cannabis operators with cultivation on only a portion of their land. Adoption of the CLUO would establish additional regulations that do not currently exist to address this concern. See Section 8-2.1408(B) of the proposed CLUO which addresses Agricultural Maintenance and requires cannabis operators to use their agricultural property for agricultural activities and/or properly maintain it.

**Response to Comment 20-33**  
**CLUO Comment.** The commenter summarizes the regulations of Marin County regarding retail cannabis activities. No response is required.

**Response to Comment 20-34**  
**CLUO Comment.** The comment provides the position of the Committee that cannabis activities should occur indoor only, in industrial areas, with no retail allowed in the unincorporated area, and no new permits beyond the 78 currently allowed. The Committee also expressed that the Draft EIR significance indicators are oversimplified when you apply them across the entire County. What is significant in one area might not be in another area.

These comments are acknowledged for the record. Please also refer to MR-12, "Expression of Opinion/Preference." The issue of impacts being different in different areas of the County is in fact recognized in the Draft EIR, particularly in Draft EIR Section 4.2, "Overconcentration," which examines whether any of the impacts affect certain areas worse than others. The analysis concludes that this could occur in four identified areas of the County, as related to aesthetics and odor.