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April 10, 2018

Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

Re: Board Meeting 4/10/18 Agenda Item 5g

Dear Honorable Supervisors:

I am simultaneously submitting the Memo I wrote to the Planning Commission for the 3/15 Meeting. I have organized my comments around the various Staff Memos.

Supplemental Staff Memo (MLH Memo to PC on 3/15 re: Additional Items)

1. One year period for non-cultivation:

- a. Please ensure that permit applicants in ALL zoning have a process to take off time.
 - i. People in Zones such as UR and Ag also need to be able to register a time off even if their properties can later be permitted again (in 2020) since Phase 3 has different setbacks than Phase 1 and since they need to register time off in order to not be subjected to minimum cultivation taxes. Perhaps these folks should not have a time limit of how long they can take off since their properties already qualified and are not being phased out of future permitting.
- b. People in TPZ, FL & RL should be allowed to take off up to two years. Most families that I know who deal with medical crisis or other factors that might compel one to stop cultivating, are not able to turn things around so quickly. If they stepped forward and went through all the effort to get permitted and are in compliance, there is no reason why they should not be given more time off if they feel they need it and be able to resume where they left off. Those in other zoning should be allowed to take whatever time they need so long as they still meet the Phase 1 requirements.

2. Administrative Permit for Setbacks:

In addition to APs for reduction in setbacks for sensitive receptors (10A.17.040 (A)(1), I am pleased to see the allowance for a reduction in the setback to property lines (10A.17.040 (A) (5). I respectfully request that a reduction process is also established for the nearest occupied legal residential structure (10A.17.040 (A)(2) and that for property and legal residential structure setbacks with permission from the affected neighbor, the process be streamlined as follows while keeping the AP process for cases where no written permission has been submitted:

- a. Reduction from property line or nearest occupied dwelling on neighboring property with a Zoning Clearance IF the applicant submits the written permission from the affected neighbor.
- b. Reduction from property line or nearest occupied dwelling on neighboring property with an Administrative Permit IF applicant does not present affirmative written



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permission from affected neighbor, but affected neighbor's comments in AP process are given considerable weight.

Staff Memo Dated April 10 (MLH & MK)

Registration Requirement: I am in full support of removing this as a requirement but request that a VOLUNTARY process remain. As we know from prior history, law enforcement may not fully understand the nuances of 10A.17. Allowing personal use medical cultivators to register would give them some way of proving to law enforcement that they are legit.

Type of Permit Required in TPZ & FL: It is imperative that we do not move backwards. Administrative Permits were **ONLY REQUIRED FOR EXPANSION**. There were lawful cultivators throughout the years in different permitted programs that lawfully grew more than 2500 square feet. In fact, none of the prior permitted programs dealt with square footage at all! **It is not right to penalize those cultivators, who already are complying with all State Water Resource Control Board and CDFW requirements as well as all of the additional state and local requirements, by making them now spend extra money and time getting an AP when their cultivation size had, under lawful programs, been the same as it is now.**

Proof of Prior Cultivation: I continue to advocate for renters and owners who had to move sites to be able to prove prior cultivation in Mendocino County on property that is different than the property they are now on and trying to permit SO LONG AS THE PROPERTY ALSO HAS PROOF OF PRIOR CULTIVATION. This would NOT create any additional inventory of permitted properties but would fix a social justice issue that is stacked against renters and also punished landowners who moved from an environmentally inappropriate site. Extinguish and Transfer is NOT available for those people and they are not trying to permit property that had not been cultivated on previously. The Planning Commission was extremely sympathetic to fixing this plight, which is why it was listed as an issue to discuss.

Phase One and Extinguishment of a Cultivation Site: I am a little confused by this section since it seems to merge the year off issue and the extinguish the site issue. Please see my comments above regarding time off. With respect to extinguishment, it seems unnecessary to "extinguish" anything. If a permit is terminated, either a new applicant is eligible or not. If still in Phase 1, they would need to show proof of prior cultivation. If in Phase 2, they would need to be in a zoning allowed for Phase 3. There is no need to "extinguish" anything other than that permit holder's permit if it is terminated.

Comments on Amendments Not Mentioned in Memos: I greatly appreciate the effort that staff undertook to incorporate many of my prior recommendations. Here are a few more requests based on the current proposed amendments not discussed above.

10A.17.060 2nd Paragraph: Please remove reference to A or M (p.13). We are lobbying the State to remove the A and M designation for cultivators. Since the provision would allow for a combination of both types under the permit, there is no need to require cultivators to specify which type they are



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cultivating. It is anticipated that there will be changes to State law regarding this issue and so it would be one more thing that we would have to go back in and change in this ordinance if we suddenly add this new requirement.

10A.17.060 : Please mention here (it is mentioned in 10A.17.070 (D) (2), but should probably be mentioned in 060 as well) the allowance for "Mix and Match" of different cultivation styles ONE permit (except for Nursery), so long as the total of all cultivation styles (indoor, outdoor, mixed, light) do not exceed the total limit for the parcel and so long as all requirements for each cultivation style engaged in are complied with including discretionary review through an AP or UP if necessary.

10A.17.110 (P): Please clarify that the "no new disturbance" applies only to areas not already included in the total square footage. In other words, if the propagation area is not being counted in the total square footage for the permit, this requirement is enforced but if the starts are being propagated in the area already included in the square footage of the permit, then this requirement should not be applied.

Thank you for all of your hard work and for consideration of these issues.

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