



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

June 18, 2021

Re: Items 4ax & 5g Commercial Cannabis Activities Ordinance on 6/22/2021

Honorable Supervisors,

Thank you for this opportunity to make this comment on the ordinance before you.

We appreciate all of the commitments from this Board and Staff to first and foremost utilize the proposed CCAO to protect and prioritize existing operators in Phase 1 and 2 who require a discretionary land use based permit to ultimately receive their County Annual Cultivation Permit. We appreciate your commitment to disallow any expansion during the State of Emergency related to the current drought, and that you are directing staff to bring back an ordinance later in the summer to propose initial expansion caps for cultivation. However, given the full breadth of this conversation happening in the public square, and the substantial implications for our County, we believe that a more concrete solution is required at this time. We call on you, at this final moment before you adopt this ordinance, to truly consider the impacts of moving it forward as is.

We strongly suggest that you pass the more limited version of this ordinance as unanimously recommended by the Planning Commission, and conduct an EIR prior to any additional expansion.

We have grave concerns that the passage of this expansive ordinance, even with the stated intention of a phased implementation, with no EIR, may leave Mendocino County with no discretionary ordinance at all, through either referendum or lawsuit, either of which could cause great harm to the County and our existing operators. There has been a general sense among many of the impacted stakeholders that the unanimous recommendation of the Planning Commission for limited expansion within this ordinance is a fair compromise for expansion at this time.

Correcting Misconceptions of an EIR

We recommend implementing an EIR for NEW activity beyond the Planning Commission's recommendations. Unfortunately, there is currently a lot of misunderstanding in the community about the impact an EIR would have. Contrary to some publicly expressed concerns, an EIR will NOT limit or harm existing operators.

- First, by including Phase 1 and 2 operators in defining the baseline activity, along with any illicit cultivation to the extent it can be measured, an EIR would better gauge whether NEW activities will have a less than significant impact on the environment.
- Secondly, including illicit cannabis cultivation in defining a baseline for the level of impact for new activity is especially critical for a legacy producing region. With this information, an EIR could consider if and/or how the proposed zoning provision, for example, supports the mitigation of environmental production from illicit production.
- As a real world example, the EIR for Humboldt's cannabis ordinance¹ includes analysis of illicit/unpermitted cannabis production, in the context of looking at cumulative impacts - as did the MND for 10.a.17.² The CCAO as written proposes new cultivation and larger scale cultivation but further restricts opportunity for zoning districts where cultivation has historically or is currently happening, thereby neglecting the cumulative impact of such activities.

The Proposed Timeline Works in Favor of an EIR

Given the assurances from this Board that there will be no expansion until the drought is over, and that there is already a commitment in principle to initiate a cultivation cap for the first few years of the program once the drought ends, the unique opportunity exists to both adhere to the reasonable and publicly supported recommendations mentioned above while also committing to an EIR that will benefit the entire community prior to further expansion.

Should the County agree to conduct an EIR, and hire a firm to begin this summer, the EIR could likely be complete before or during the 2023 growing season, which is likely to be the earliest start of new cultivation activities in a post-drought reality. An EIR would give all applicants, including those in Phase 1 and Phase 2 who will have to transition to the new ordinance, significant legal footing in the discretionary land-use permit process.

This Board's inclination towards expansion of up to 10% on AG and limited RL parcels without an EIR has drawn considerable ire in the community, concern from CDFW, and as you are likely aware there are currently two referendums ready to spring into action on June 22 if the CCAO is adopted. As shown here, given the reality on the ground for implementation, there is no need to go this route.

The Benefits of an EIR for Mendocino County

An EIR funded from any number of available one-time funding sources, including the \$18 million in jurisdictional grant money from the State, would provide the scientific data that enables us as a County to set a true baseline. As long as the EIR advances the CEQA compliance for the existing State license holders, State money can be used for an EIR. Alternatively, under any new ordinance without an EIR, the financial and time burden to apply will substantially increase for operators to meet the level of environmental review that is necessary on a site-by-site basis. The costs and time associated with this process will potentially exclude many small local businesses from participating.

¹ <https://humboldt.gov/DocumentCenter/View/62689/Humboldt-County-Cannabis-Program-Final-EIR-60mb-PDF>

² <https://www.mendocinocounty.org/home/showpublisheddocument/41658/637520193205500000>

All of the above point to the wisdom in conducting an EIR prior to enabling any expansion beyond the limited expansion proposed by the Planning Commission. Removing the 10% expansion on AG and RL will address the concerns of a substantial number of community members who are considering the referendums. It will enable Mendocino to start the process of moving our existing operators who require conditioning through a new CCAO that truly addresses public input and bases decisions on environmental realities. To include the 10% expansion component of the ordinance at this time will only serve to further fuel public outcry and lead to continued difficulties for our licensed cannabis program and the County as a whole.

Finally, MCA recommends that the County allocate sufficient resources and upgrade all procedures for enforcement of regulations stemming from this EIR and pertinent to monitoring cumulative impacts. Members of the general public have voiced legitimate and strong concerns stemming from both the County's and the State's lack of enforcement of environmental regulations. Effective enforcement must be an essential component of the ordinance.

Thank you for your consideration of these recommendations.

Sincerely,

Mendocino Cannabis Alliance
e: info@mendocannabis.com