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

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Re: 8/22/17 Board Meeting Cannabis Ordinances Amendments

Dear Supervisor Hamburg:

I have culled from my prior memos some of the most important points below, but I also ask that you consider applying the following two questions to each and every additional requirement or disqualifier being proposed in the amendment process: **Will it prevent people from coming forward to be regulated and subject to compliance? AND, does it serve a necessary purpose (to impose an additional requirement or disqualifier)?** In addition to the issues below, the issue of transferability of permits is an economic time bomb and should be brought forward again soon. I don't expect for there to be much appetite for it now, but it is a huge issue for baby boomers who have put their life's savings into their homesteads and now into compliance efforts.

1. Two Separate Proofs of Prior Cultivation: one for property, one for applicant cultivator in Mendocino County. Tying the two together on the same property severely disadvantages folks that have had to move either because they are renters, or have only recently been able to purchase land but have been here for years and also disadvantages people who have moved to environmentally superior locations. The environmental impact is the same since the property itself must have proof of prior cultivation. ALSO, setbacks should NOT be any part of proof of prior cultivation. To now insist that the prior cultivation had to be within or capable of being within a setback is absurd. The point is to bring folks INTO compliance NOW. If every prior cultivation site had to be lawful, we would have not permitting program. What is the purpose of adding this new restriction? Is it another example of a way to prevent one particular bad actor from getting a permit? Is that really the way to create public policy?
2. Tree Removal: Again, the point is to bring INTO compliance those that were not previously lawful. So long as no new cutting (after 5/4/17) has been done, it should not matter (for purposes of an Ag Permit) whether the prior cutting was lawful. I am not in favor of illegal tree removal, but everyone knows that there has always been a lot of confusion of landowners about their rights to remove trees on their own property. More importantly, CDF, F&W and other agencies will ALWAYS investigate and prosecute cases civilly or sometimes even criminally for ANY illegal tree removal they find out about. In fact, CDF has said that it is through the Ag application process that they are even finding out about some of these unlawful tree removals and as such, they are finally able to have it redressed. If we don't allow folks who may have had prior illegal tree removal on their property to apply for an Ag Permit, it arguably will reduce the quantity of properties that will be remediated as well as the number of fines (that act as a deterrent) that would be assessed. Denying the eligibility of an Ag Permit based on prior illegal tree removal serves no purpose but not using it as a barrier could



improve the remediation and the awareness to not conduct tree removal (of any kind) without a permit. Finally, are vineyards and other agricultural businesses held to the same standards?

3. Building Permit Issues:

- a. Expand from PBS's suggested 60 days to 180 day the "delayed submission" of plans. Chair McCowen originally suggested 90 or 180 days and Staff suggested 60. When I met with Mike Oliphant, he specifically said he had no problem with expanding it to 180 days, but he failed to bring it up at the last Board meeting.
  - b. The Hoop House policy needs to be modified to allow for a greater range of hoop houses AND must NOT expire on 12/31/17 (according to Mike Oliphant, not needed or added by him, but inserted by County Counsel).
  - c. Require progress reports at every meeting on the status of any working group or other staff exploration of other problem solving techniques related to many of the various building issues (for example, if we treat existing unpermitted structures as existing rather than treat them as "new", the hardship analysis of the accessibility regulations may more easily be applied, or the exploration of modifying the cargo container policy to better meet the needs of the current situation, or other creative solutions that staff will not explore unless ordered to do so by the Board).
  - d. Ensure that no one with outstanding building issues (especially during this very unsure time about what is and is not required for drying sheds, greenhouses, trimming sheds, etc.) will be prevented from getting an Ag Permit so long as they deal with the issues within a given period of time (at least a year).
4. Ensure a mechanism for folks whose Ag Permits are pending (as well as for those issued already) to obtain verification of local "good standing" as required by the state, even if they have building issues or Aps or Ups that have not yet been processed or resolved.
5. For folks who might (in the future) be eligible for an exception to one of the eligibility requirements, allow them to apply NOW for an Ag Permit (with an Administrative Permit perhaps) so they don't have to shut down but also can be safe from raids. The original RFP was to create 2 separate processes: One was for a process for folks who needed some kind of review for an exception to one of the eligibility requirements (such as a setback reduction when a neighbor doesn't care, or a permit when one is on a 1 acre Ag zoned parcel surrounded by big parcels, etc.). The 2<sup>nd</sup> was for an "overlay zone" or other process for neighborhoods to "opt-in." It was only recently that the concept of adding a process for a neighborhood to "opt-out" was added to the RFP. It has take more than 6 months for the issue to move from concept (for an exceptions process) to a point where a consultant will start to study the issue. At this point, it is doubtful anyone in that situation will see a process before the end of the year. This means they remain unsafe and risk getting busted, or, they shut down and will be unable to show continuous cultivation, which may be something that needs to be shown for certain zoning.

A final point would be to insist on clear criteria for rejection of a permit as well as a review process. County Counsel argues that there is no discretionary review and therefore it is not necessary. I strongly disagree. The ordinance is replete with discretionary decisions and applicants ought to have an appeals/review process on those decisions.

Respectfully submitted, Hannah L. Nelson