



8-3-2020

Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

RE: BOS meeting 8-4-2020 Agenda Item 5b

Dear Honorable Board of Supervisors,

The Covelo Cannabis Advocacy Group has reviewed the documents pertaining to Agenda Item 5b. The issues raised in the attachments for this item are of great concern to our community of cultivators and the County at large. Based on the summary of the Staff memo that was provided for Agenda Item 5b, we face a very challenging problem with limited solutions.

Given our collective CEQA issues, we need for, and respectfully request, that the Board and Staff focus their collective energy to find a workable solution that will get ALL operators to the finish line before the Provisional State deadline on Jan 1, 2022. We realize that this is not an easy quick fix. We also recognize that as the issues of CEQA compliance are worked out, the County may need to offer several different options because everyone's situation is not the same.

Though the Board and Staff should primarily focus on solving the County's CEQA issues, especially given the time sensitivity, our community also deserves to know what expansion opportunities will be available with respect to the zoning table. With knowledge of these limitations, applicants can decide if it makes sense to expand their operation size, if available, and then begin the process to complete CEQA compliance. We would hate to see an applicant go through all the steps to

get approved under the current zoning table, only to find new zoning changes adopted later down the road, possibly causing an applicant to start the SSR process all over again and pay additional fees. We also want to be sure that any changes to our ordinance do not negatively impact Appendix G.

We have identified a mix of recommendations, concerns and questions regarding the Staff memo and all of the supporting attachments for your consideration, outlined below.

RECOMMENDATIONS

1. Form an Ad Hoc Committee to address the varied issues for CEQA compliance

If an Ad Hoc is formed, we request that it include Supervisors that will be able to serve past the 2020 year. We need the committee to form as quickly as possible so that the CEQA issues can be resolved. We must also be assured that there will be stakeholder involvement to help tackle these complex issues with organizations like MCA and small farm groups like CCAG.

2. Prioritize current applicants and permit holders in Phase 1 & 2 before adding Phase 3

Organize the applications in order of when they were received to make sure those that have been waiting the longest are prioritized first.

3. When Phase 3 opens, re-open Phase 1 for legacy operators with proof of prior

Given the fact that Mendocino County was awarded an Equity Grant, the County should continue to create a pathway for legacy cultivators who will help create more viable business opportunities in our County, which translates to tax revenue. If we do not provide opportunities for people to come into the legal space, the illicit market will continue to flourish. That said, CCAG wants to make clear that new Phase 1 legacy applicants should not be handled until the current applications and permit holders have been processed first.

4. CCAG recommends that the zoning table include an allowance of up to 22,000 sq ft of cultivation for Outdoor operators on ALL zoning types that are allowed in Phase 1

It should be noted that whenever the board has discussed expansion in the past, it has always been framed around needing to “compete” with the rest of the State etc. So if the County is concerned about allowing people to do just that, then it needs to be an opportunity for everyone. Not just the few lucky operators that happen to be in the right zoning. Right now the Ordinance recommendation is to only allow 1 acre

*permits for those in AG and UR zoning. We have always been concerned for the pace and type of growth our community might face and so after much deliberation we settled on the allowance of up to 22,000 sq ft for everyone in the current Phase 1. Mixed light and Indoor was excluded from our recommendation mainly for environmental reasons due to electricity use and plastic tarping. Plus those growing styles have an opportunity to grow multiple times in the year, whereas Outdoor has only 1 growing season... We should note that this recommendation was a very divided issue among our group. Out of **29** members surveyed:*

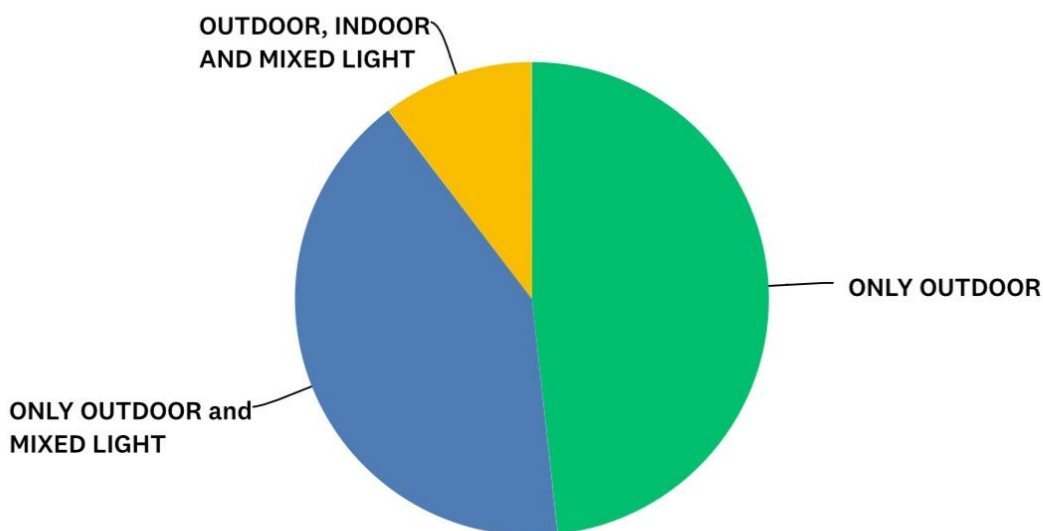
14 votes were in favor of Outdoor Only

12 Votes were in favor of Outdoor and Mixed Light Only

3 Votes were in favor of Indoor, Outdoor AND Mixed Light

CCAG is advocating to allow 22,000 sq ft for ALL zoning types. Which cultivation style should be allowed to expand?

Answered: 29 Skipped: 0



ANSWER CHOICES	RESPONSES	
ONLY OUTDOOR	48.28%	14
ONLY OUTDOOR and MIXED LIGHT	41.38%	12
OUTDOOR, INDOOR AND MIXED LIGHT	10.34%	3
TOTAL		29

This is a touchy subject and we want to see something that works for everyone not just a select few. We feel our recommendation is a fair balance and still allows room for those wishing to scale up to double their operation size. We don't want to lose sight of our history as legacy small scale producers, and what has put us on the map in the first place. Many distribution companies in our community are looking for biomass with much lower price offerings to reflect this quality of product. We are not biomass producers and the desire to allow for more cultivation in our County should not

compromise our values and legacy growing practices. We are already struggling to find retail shelf space with the limited amount of retailers in the State. Yes, other counties are allowing larger permits, but are they producing AAA grade flower? If we intend to allow large 1 acre permits and those farms do intend to produce AAA flower, how will that impact smaller family farms that will not be able to compete with lower pricing? Many small farms will find difficulty scaling up because of production costs, lack of labor and housing, water limitations, etc. There must be a clear distinction between biomass production and craft cannabis and the intent behind expanding. We also want to be certain that these types of zoning changes will not impact the use of Appendix G for all of the existing cultivators in the program.

5. Allow all 275 current permit holders to utilize Appendix G to obtain CEQA Compliance

These permit holders have already fulfilled the SSHR requirement for CDFW, since it is a requirement of our County 10A.17 Ordinance in order to obtain a Mendocino Cannabis Permit. These permit holders only need to pass the checklist of Appendix G and then they can get an Annual license.

6. Re-evaluate the number of hours identified by Staff for Appendix G

In the previous memo, Staff determined that it would take approx 2 hours to complete Appendix G for each applicant. In the most recent memo, Staff states it will take up to 40 hours per applicant! Did Staff complete the additional requested information from CDFA on the 2 test cases to determine this jump in hours? If not, then how did Staff determine the amount of hours needed to complete this document? How could it possibly take an additional 38 hours to complete the “project description” when the sample document provided by the State in Attachment C shows project description samples that are less than 4 pages? In reviewing the sample, it seems reasonable that the information could be provided by a cannabis applicant which would reduce staff time, costs and streamline the process. The provisional deadline is ticking. Running out of time is the single most important aspect of the County’s CEQA problem.

Re-evaluating and determining a realistic number of hours it takes Staff to complete this work will determine how many planners will be needed to complete ALL applications for cultivators. This information is crucial for the Board and Staff to accurately articulate as this number of hours will ultimately apply to both the CEQA checklist and a project description, as well as the Discretionary Permit.

7. Work with CDFA to reduce unnecessary duplicative work for Appendix G Checklist Requirements

In Attachment C with reference to the Project Description for the Appendix G Checklist Requirements, the County should request that CDFA consolidate some of the information to only include things that are not already identified in the State application. By working to further refine this document, it can help streamline the process by not requiring things that are already provided in the cultivator's State application.

8. Direct Staff to complete a sample SSHR to determine the hours needed for completion especially if the CDFW Pilot Program is launched

Just like with the Appendix G Checklist for Site Specific Review, we need to clearly understand how many hours are needed to fill out these applications for CDFW SSHR so that we know what kind of Staff is needed and if it's even possible to complete within the given deadline with respect to the Provisional State License expiration date.

9. Continue to work with CDFW to negotiate refinements that will help to make the Pilot Program proposal more streamlined

10. CCAG recommends that the Jan 1, 2016 date in the Exhibit A Pilot Policy be renegotiated. It currently states:

“that NO expansion of project footprint, grading, or vegetation removal is proposed beyond what existed on Jan 1, 2016”

A project definition in CDFW's Pilot Program includes existing or proposed access roads, cultivation areas and ancillary structures and activities related to cannabis. If the applicant is not able to meet this policy, then the application would have to be referred to CDFW for further review. If the intent was to alleviate a bottleneck with CDFW reviewing these applications, this proposed language does not achieve that goal. Many cultivators applied for and obtained an Administrative Permit to expand up to 10,000 sq ft after Jan 1, 2016. Many cultivators have also had to build proper storage or apply for Ag-exempt structures since the cannabis ordinance went into effect. If all necessary permits were obtained for expansion or ancillary structure needs and approved by the County and agencies such as Cal-Fire, why does CDFW need to review the application further? We understand the County may not have a say in this policy with CDFW but if so, a more streamlined approach should be negotiated to fulfill the intent of creating a Pilot Program.

11. Add an additional checkbox option for #2 of the Questionnaire Sensitive Species Habitat Application to state that no LSA was required for the site.

Every applicant, even if they have no LSA projects, are still mandated to apply for an LSA. After the site inspection by CDFW, if a determination is made that an LSA is not needed or required, a letter is issued to the applicant stating this information and a refund is issued. This should also be included in the checkbox options.

12. Direct Staff to report an estimation of how many discretionary permits could be processed before the Provisional State License deadline with 8 full time planners

CCAG was hoping to hear a report from Staff about a possible streamlined discretionary review process using an administrator that was mentioned at a previous BoS meeting. Without fully understanding how many applicants the County can actually process under a discretionary permit review, we still have no clear indication that this permit switch will help cultivators receive an Annual License before the Jan 1, 2022 deadline.

13. Allow cultivators the option to apply for a discretionary permit if they are unable to successfully meet the requirements through the ministerial process

Some cultivators may find it very challenging to meet the standards of the Appendix G checklist and may need to have conditions placed on their permit in order to satisfy the requirements. In that instance, those applicants need to have the option to apply for a discretionary permit. However, 275 cultivators in our cannabis program have already satisfied the requirements of the SSHR and may likely meet the remaining requirements to obtain an Annual State License. They need to have this option available. It does not seem wise to funnel everyone into a discretionary permit when some are so close to the finish line using the ministerial route already in place.

14. Modify the language in the Recommended Land Use Ordinance Re-Direction For Cannabis, regarding discretionary permits. As written the language currently states:

“ A discretionary permit could be conditioned to mitigate or avoid environmental impact to less than significant levels through conditions or mitigation measures placed on the permit. It also can be conditioned so that it is NOT effective unless or until an applicant demonstrates they have obtained an Annual license...”

This language needs to be modified because as written it implies that you must have an Annual State license before you can receive a discretionary permit. However, in

order to obtain an Annual State License, the applicant must have a County permit and CEQA requirements fulfilled. Therefore, you would not be able to ever get a Discretionary permit if you have to obtain a State Annual license first since you need to have CEQA fulfilled which wouldn't be met until after you completed the discretionary review process. This is a merry go round of steps as written as well as this answer to explain it!

15. Allow current permit holders to apply their application or renewal fees toward discretionary permits

The Staff recommendation only provides fee relief to Annual permit holders as they transition to a discretionary permit if that process is adopted, but does not offer relief to anyone else in the program. Shouldn't everyone be offered an opportunity to apply their fees to a discretionary permit if that is the only option that will be allowed moving forward?

16. Phase 1 or 2 permit holders should not be forced to transition to a discretionary permit if they can obtain an Annual license through the ministerial process

If these operators choose to continue working towards a Phase 1 or 2 permit and can meet the requirements of Appendix G and the CDFW pilot program if adopted, why should they then have to switch to a discretionary permit in 3 years if they will have already satisfied the necessary requirements to obtain an Annual State license? This makes no sense and is just another unnecessary fee to be placed on the applicant and should absolutely not be required. This highlights the need to keep both a ministerial and a discretionary permit option available. The compromise here would be to not require any more fees for the applicant if required to switch over since essentially all of the requirements will have already been fulfilled. It is just the title of the type of permit that will change and the allowance for the permit to be valid for 10 years.

17. If a discretionary review permit is adopted, CCAG recommends that the County choose Option #3 from the Staff memo to absorb the costs associated with the checklist review etc.

The County should absolutely allocate funds from the millions of tax dollars that have been collected from all the commercial operators and invest it back into the program to help cultivators obtain their Annual State Licenses. It will be a big investment upfront but what the County will receive in return is over 1,000 operating cannabis businesses throughout our rural County that can provide job opportunities for people. As well as provide a steady stream of tax revenue that can be used to help fund

necessary projects and infrastructure for the health and vitality of our communities throughout this County.

18. Grant County sales tax relief if cultivators are unable to operate due to the County's inability to resolve CEQA compliance

If the process to obtain CEQA compliance drags on long enough to cause an operator to be unable to grow a crop for the year, some sort of relief of taxes should be applied to an applicant that is not able to conduct any business during the transition period. We hope this will not be an issue but just in case we feel it's important to mention now.

QUESTIONS

1. Why does CDFW believe ALL Phase 1 permittees and applicants would require changes to their cultivation activities in order to achieve a less than significant impact to Sensitive Species?

Why is this determination applicable for Phase 1 permittees? They already had to get Sensitive Species Review clearance in order to receive a County Permit. So why is CDFW now saying they would have to make changes to their cultivation activities? What is the basis for this statement? Furthermore, if the 275 current permit holders already obtained SSHR clearance, will they be required to also participate in the Pilot Program? If so, this would be back tracking these applications even further.

2. Why does Staff believe that most discretionary review permits will require some form of Biological or Botanical analysis for CEQA determination?

How long will this type of review take and what are the estimated costs that an applicant can anticipate to have to pay?

3. If moving to a discretionary permit, what would the Administrative violation costs be for those not operating with a State Annual license? What would enforcement actions look like?

INSIGHTS

1. Staff states that moving to a discretionary permit will allow planners to build on their skills as land use planners

This should not be a reason to stop our program. More planners will inevitably be needed to process all of the cannabis operators in our County, whether or not we use a discretionary permit process or a ministerial one. It should be very clear to any planner that applies for a job in our County what the job description will be so that they understand clearly what their scope of work will include. This is crucial to

reducing Staff turnaround time. We have lost many employees since the beginning of the cannabis program and it's imperative that the County has a well trained planning team that won't leave mid way through the process.

The County can't wait on the State to amend the Provisional License deadline. We don't have the crystal ball to know if that will happen and so it's imperative that Mendocino County works expeditiously to find viable pathways for ALL of the applicants and current permit holders that have come forward to be legally licensed. We know this is complicated and there are many points to consider. We understand that our memo is lengthy but we felt it was important to touch upon all of the materials presented with this complex agenda item. We would also like to add our support for the MCA memo that was submitted. As always, the Covelo Cannabis Advocacy Group appreciates the opportunity to make public comments and offer our feedback and we hope you will consider everything we have stated in our memo.

With Regards,

Monique Ramirez

For the Covelo Cannabis Advocacy Group

With support from the following farms:

Ventoso Farms

Radicle Herbs

Reign Trough Farms

Tuff-n-Tendergrass

Kerberos LLC

Mountain High Farms

Flying Emu Ranch

Mendocino Natural Farms Inc.

Covelo Seed and Scion

The North Fork Garden Society

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