



Mendocino County Farm Bureau

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Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

October 13, 2020

Via Email: bos@mendocinocounty.org

Mendocino County Board of Supervisors
501 Low Gap Road, Room 1010
Ukiah, CA 95482

RE: Comments on Agenda Item 3A) Discussion and Possible Direction to Staff Regarding the Mendocino Cannabis Cultivation Ordinance, Including Possible Changes to Phase Three

Dear Chair Haschak and Supervisors,

The Mendocino County Farm Bureau (MCFB) is a non-governmental, non-profit, voluntary membership, advocacy group whose purpose is to protect and promote agricultural interests throughout the county and to find solutions to the problems facing agricultural businesses and the rural community. MCFB would like to submit comments on agenda item 3A for the October 13, 2020 Board of Supervisors meeting.

CEQA for Expanded Cultivation Area and Changes to Zoning Allowances

- Back on February 25th, MCFB submitted oral comments specific to the need to clarify CEQA coverage for the existing cannabis ordinance prior to the consideration of expansion of cultivation area or changes to zoning allowances for any new permits. Clarification of the existing CEQA negative declaration for new permits or expanded permits on RL zoning was specifically requested.
- MCFB is not in support of allowing for additional cannabis cultivation permits on RL until the county can document: 1) that the current RL applications have been fully reviewed and either approved or denied (around 340 total applications on RL with 59 issued and 13 approved based on 6/5/20 workbook). 2) any issued/approved permits are in full compliance with the terms of the county cannabis ordinances, 3) an adequate review of potential impacts from new permits on RL, through a modified or supplemental environmental impact report, is performed and 4) any permits on Williamson Act contracted lands are in compliance with the terms of resolution 17-041 adopted on March 21, 2017 that amended the Mendocino County policies and procedures for agricultural preserves and Williamson Act contracts related to the cultivation of cannabis.

- The concerns with the use permit process to fulfill environmental review (CEQA) include: 1) the lack of verification of compliance with terms and conditions established as part of the use permit, 2) the project level inconsistencies that are often seen with use permits and 3) the ability of the county to process use permits efficiently.
- The memorandum from Planning and Building Services for the October 13, 2020 Board of Supervisors meeting states that, *“Incorporating RL and/or expansion above 10,000 square-feet will require additional analysis pursuant to the California Environmental Quality Act (CEQA) and may create delays to the start of the Phase Three program.”*
- MCFB agrees that there has not been sufficient clarification on the CEQA requirements related to the consideration of expanding cultivation area or changing zoning allowances for new cannabis cultivation permits under Phase Three. Until there is a clarification on what will be required under CEQA, the Board should defer any action on these items.

Status of Enforcement

- It has also been requested that more regular reports be provided from code enforcement or other staff to explain what actions have been taken/will be taken to bring more cannabis cultivators into the legal market or what enforcement actions have been taken for blatant violations. For the October 13th meeting, the question above still stands.
- It is understood that several recent incidents involving law enforcement and cannabis cultivation are not connected to those seeking cultivation permits. However, there are many shades of grey between the legal market and the black market.
- The county needs to continue to address how to provide resources to the Sheriff’s department and code enforcement for the purpose of contending with non-permitted cannabis cultivation. It is not fair to those cultivators who have been following the rules to move toward legal licensing and it is not fair to the other residents of the county to be subjected to dangerous situations.

Cannabis as Agriculture

Based on conversations seen on social media and in other comments related to the cannabis cultivation ordinance agenda items, MCFB would like to submit the following talking points.

- Cannabis is defined as an agricultural product only under the Business and Professions Code {BPC Div. 10. Section 26069 (a)} rather than the Food and Agricultural Code. That distinction was purposeful and intentional by the enabling state legislation.
- The CA Department of Food and Agriculture (CDFA) administers sections of division 10 related to the cultivation of cannabis, but cannabis is not regulated under the Food and Agricultural code like traditional agricultural commodities. As such, cannabis is not eligible as a qualifying use in the Williamson Act program, is not privy to the California Marketing Act, the California Seed Law, etc. because it is not a bona fide agricultural commodity.

- Cannabis remains federally illegal, which brings numerous complications into the conversation of comparing cannabis to traditional agriculture.
- The U.S. Department of Agriculture (USDA) does not recognize cannabis as an agricultural commodity which is why the county department of agriculture crop reports can include cannabis as an addendum, but not as part of the crop statistics reported to CDFA and then in turn to USDA. Similarly, cannabis is not recognized under the federal laws related to organic designation, incentive programs like EQIP, pesticide use/labeling, etc.
- Once the discussion moves forward at the federal level to legalize cannabis, then there could be opportunities to see more parity between cannabis and other agricultural crops. However, until this occurs, it is premature to have the county define cannabis as agriculture or to consider a full comparison between cannabis and other agricultural commodities. It is also contrary to state laws and regulations

The conversation related to the county cannabis ordinance has been ongoing for the past five years. MCFB feels that there is a need to streamline the overly complex process that has developed around cannabis permitting at the local and state levels. However, change should not sacrifice public input from various perspectives. MCFB requests that the Board of Supervisors consider all the points above in the process of discussing agenda item 3A. If there are any questions on any of the above points, please do not hesitate to contact the MCFB office.

Sincerely,

A handwritten signature in black ink that reads "George Hollister". The script is cursive and fluid, with the first name "George" and last name "Hollister" clearly legible.

George Hollister
President