



Mendocino County Farm Bureau

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

April 15, 2021

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

Via Email: bos@mendocinocounty.org

RE: *Agenda Item 3B: Noticed Public Hearing - Discussion and Possible Action Including Introduction and Waive First Reading of an Ordinance Adopting Mendocino County Code Chapter 22.18 - Commercial Cannabis Activity Land Use Development Ordinance and Making Corresponding Amendments to Chapter 10A.17 - Mendocino Cannabis Cultivation Ordinance and Chapter 20.242 - Cannabis Cultivation Sites*

Dear Chair Gjerde and Board Members,

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 therural community. MCFB would like to submit comments for agenda item 3B related to the proposed adoption of Mendocino County Code Chapter 22.18 –Commercial Cannabis Activity Land Use Development Ordinance.

Previous Comments

MCFB submitted previous comments to the Board of Supervisors (January 25, 2021) and to the Planning Commission (March 19, 2021) related to the consideration of Chapter 22.18. These previous comments remain relevant for the discussion at the Board meeting on April 19th.

The main points expressed in these previous comments were:

- **New Permits:** MCFB understands that limiting cannabis cultivation permits to those with proof of prior cultivation is not equitable and that there needs to be a pathway to allow for new permits.
- **Oversight:** The county has not demonstrated under Phase 1 that they have the capacity to provide adequate oversight for either assisting existing applicants with compliance or with verifying that applicants are following the county ordinance requirements. Because of this, there is a lack of faith that the county will provide an improved response through the implementation of Chapter 22.18.
- **Land Use/Appendix A:** The addition of RL back into Appendix A and the consideration for expansion (up to 10% on certain zonings) truly did not have a public review process when these amendments were approved by the Board at the end of 2020.
 - Within Appendix A, the two zoning designations that MCFB is most concerned with are RL and AG.
 - With Phase 1, a Mitigated Negative Declaration was performed by the county for CEQA compliance for existing cannabis cultivation on resource land designations such as RL, FL and TPZ. “New” cultivation was removed from consideration on these same resource lands due to concerns regarding environmental impact. However, new cultivation has been seen

on RL designations throughout the county. Without extensive compliance review, how does the public know if the county has followed the terms of the Mitigated Negative Declaration?

- What was the rationale for having RL included under every possible permit type? Driving indoor permit types onto RL will require the development of structures and related infrastructure on remote locations throughout the county. This does not seem advantageous to lessening the environmental impacts under 22.18.
- In relation to steering additional cannabis cultivation onto AG zoned property, MCFB has significant concerns premised on what has been seen to date. Acres of AG zoned property, some with prime soils, have been converted using aggregate groundcovers or permanent concrete pads for indoor grow structures. The loss and degradation of AG soils in the county is not something that should be taken lightly.
- There is also significant concern over verification of water source. Certain county water districts are already looking at creative ways of providing water to both municipal and agricultural customers. Water use for cannabis cultivation is not always truly accounted for as the district management may not be aware of where “permitted” cultivation is occurring. With 2021 looking to be another below average water year, the Board needs to be serious about verifying water source adequacy and being transparent with water purveyors about cannabis permitting. This is applicable to all zoning districts and it should not always be assumed that AG zoned properties have adequate water resources.
- Like RL, Appendix A proposes to allow for all permit types on AG zoned property and to even expand cultivation footprints to 10% of the parcel size. Acres of permanent structures on AG zoned property will be difficult to mitigate if the operations connected to the structures cease.
- CEQA specifically calls out the need to consider project impacts to agriculture and forestry resources. The county needs to be prepared to understand the CEQA checklist requirements (see below) related to agriculture and forestry resources to ensure that proposed projects are fully mitigating any potential impacts.

AGRICULTURE AND FORESTRY RESOURCES.

Would the project:

Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

Conflict with existing zoning for agricultural use, or a Williamson Act contract?

Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by PRC section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

Result in the loss of forest land or conversion of forest land to non-forest use?

Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forestland to non-forest use?

Additional Comments

Since the previous discussions at both the Board of Supervisors and the Planning Commission have not fully vetted the comments and concerns previously expressed by MCFB, the MCFB Board of Directors voted on April 8th to oppose the recommended action of adopting Chapter 22.18.

To be clear, the MCFB Board is not against the legal cultivation of cannabis nor are they opposed to the consideration of the allowance of new permits. The opposition to Chapter 22.18 is driven by the comments expressed previously to county leadership and to the additional comments below.

Oversight

Until the county can demonstrate the ability to mitigate the issues with Phase 1, MCFB does not see that additional permits will be processed any smoother. The county needs to have an honest assessment of the current capabilities within their departments to properly perform application review and processing.

CEQA

As proposed in Chapter 22.18, the new cannabis permitting system would be shifted to a discretionary process using zoning clearances, minor use permits or major use permits. The applicants would be responsible for undergoing project level CEQA review.

MCFB does not feel that the county has the capacity to be the lead agency in CEQA review. There has not been any demonstration that the county has the trained staff to adequately perform environmental review to either provide accurate recommendations to applicants or to recognize infractions during on the ground project review.

As proposed, Chapter 22.18 will pass CEQA review to the applicant and assumingly the consultants that are hired to assist with the process. If the county continues to not have properly trained staff to vet applications for consistent CEQA compliance, then the frustration from the public regarding environmental impacts related to cannabis cultivation will just continue. In addition, without adequately trained staff, the Planning Commissioners will be put into the difficult role of having to make determinations related to CEQA on a project-by-project level. This could also continue the inconsistent application of CEQA requirements for new cannabis cultivation permits.

Land Use/Appendix A

As an agricultural organization, MCFB is significantly concerned with the further allowance of the conversion of agricultural and range zoned lands for indoor or mixed light cultivation types under Phase 3. Phase 1 was supposed to not allow for any “new” cultivation on rangeland, however there are hoop houses and greenhouses that have gone up on rangeland throughout the county where they were never present before. Driving additional indoor permit types onto agricultural or range lands does not seem advantageous to lessening the environmental impacts as seemingly indicated under Chapter 22.18.

In terms of opening up RL for new cultivation, there has been limited conversation on how there will be adequate analysis and consistent application of CEQA review under Chapter 22.18. It is unknown if there will be consideration for limiting permits to RL that has been subject to prior conversion and can demonstrate appropriate water supply and existing infrastructure. Or, if Chapter 22.18 will simply lead to further conversion of RL in locations that are truly not appropriate.

Additionally, the recommendation in Appendix A connected to Chapter 22.18 to allow for expansion of cultivation beyond the 10,000 square foot limits currently seen in Chapter 20.242 on UR, AG and RL has not been justified. This is especially true when considering scenarios for large parcels (RL 160s) or for the ability to “stack” permits on commonly owned or adjoining parcels. It has been stated that the goal is not

to scale up, but to move cannabis cultivation to more appropriate locations. MCFB does not feel that this concept has been accurately represented in the proposed amendments to Appendix A.

The state currently has permit size caps of one acre, although there are multi acre grows occurring in various areas of the state. The state has currently planned to allow for the consideration of a Type 5 license (over 1 acre) in January of 2023. Is the county assuming that the proposed process put in place under Chapter 22.18 will not see finalized applications until January of 2023? Or will any approved permits under 22.18 be restricted from cultivating until after January of 2023 when the state Type 5 license guidelines are released?

New Permits

There is a current process in Chapter 10A.17 that allows for new permits under Phase 3. Not moving forward with the adoption of Chapter 22.18 will not prevent the process of accepting new applications from proceeding. Bifurcating the cannabis cultivation process under two separate county ordinance chapters at this time seems problematic for both implementation and application.

In conclusion, MCFB is not against the permitting of cannabis. However, permitting is a very loose term in Mendocino County. The goal should be to move cannabis cultivation from the black market to the legal market while preventing impacts to resource lands and ensuring compatible uses. If the county does not have the ability to adequately implement the permit process and provide the oversight that will be necessary with Chapter 22.18, then the county should not move forward with adopting this ordinance.

Sincerely,

A handwritten signature in cursive script that reads "George Hollister". The signature is written in black ink and is positioned to the left of the typed name and title.

George Hollister
President