



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

April 18, 2021

Re: Agenda Item 3b – Commercial Cannabis Activity Land Use Development Ordinance (CCAO)

Dear Chair Gjerde and Members of the Board:

The Cannabis Business Association of Mendocino County offers our continued wholehearted support for the proposed “Phase 3” Cannabis Cultivation Ordinance and appreciation for the thoughtful consideration that has gone into developing a path forward for local operators and designing a workable, enforceable ordinance. In short, without it we have no viable future for a legal, regulated cannabis industry in Mendocino.

We would like to address two things that are not well understood about the CCAO:

First, this is the most restrictive cannabis ordinance that the County has ever considered.

While we hope that as many legal operators as possible can get into the program, we understand that it will be difficult. As an association of licensed cannabis businesses, we are well aware of the challenges that lie ahead and that it won't be fast or easy to obtain discretionary use permits. We support the more rigorous discretionary land use approach because it will meet state CEQA requirements, and offer a proven pathway to annual licenses which Phase 1 has been unable to achieve. It will also allow for neighborhood input on proposed projects, helping heal our county's divided past over unfettered cannabis cultivation.

Secondly, this will not allow conversion of 10% of the county's land into cannabis cultivation.

The 10% is *not* an entitlement, it is a cap on the maximum allowable area limited to specific zones, on a case by case basis. Every project will be subject to site specific review, and a Use Permit hearing. The discretionary process will allow the land to decide how much scale is appropriate based on environmental conditions and water availability. Because of Mendocino's unique topography and the rigorous environmental regulations that cannabis is subject to, very few

projects will even come close to 10% of parcel size - especially in Rangeland. It will simply allow the optimization of appropriate and a transition to more efficient and sustainable practices. Allowing scale will mean that we don't have to maximize production in small areas with hoop houses, and sungrown outdoor cultivation in native soil will become the norm. This means less plastic and artificial light, and more open fields and true Mendocino terroir.

Waiting another two years to revisit our ordinance to allow scale simply won't work. We would find ourselves behind the curve once again. As it stands, it may take 1-2 years or more for operators to obtain discretionary Use Permits, and further delays will only stunt economic growth and leave local cultivators unprepared to compete when interstate commerce opens up. Growth will not be an overnight process; it will occur over many years.

Please see our enclosed inline comments on the Planning Commission's recommendations. In brief, we support all of the proposed measures to help Phase 1 applicants transition to Phase 3, and agree with allowing Phase 1 applicants to apply via Administrative Permits.

Thank you for your consideration.

Sincerely,

Sarah Bodnar, Policy Director
Cannabis Business Association of Mendocino County (CBAMC)

Joshua Keats
President, CBAMC & Co-CEO Henry's Original

Jamie Warm, Co-CEO
Henry's Original

Ian Powell, President
Mendocino Grasslands & Sungrown Consulting

Micah Anderson, CEO
LEEF Holdings

Dennis Hunter, Co Founder
CannaCraft

CBAMC's response to Planning Commission Resolution re: Phase 3 Ordinances

Inline responses below in red.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission, based on the evidence in the record before it and all the findings and determinations provided in the staff report, makes the following report and recommendation to the Mendocino County Board of Supervisors regarding Ordinance Amendment OA_2021-0002:

1. The Planning Commission recommends that the Board of Supervisors find that the adoption of Ordinance Amendment OA_2021-0002 is consistent with the General Plan.

2. The Planning Commission recommends that the Board of Supervisors adopt Ordinance Amendment OA_2021-0002, making the changes to code sections as shown in the attached Exhibit A, and recommending the following additional changes:

A. Section 22.18.030(A)(1) be revised to allow for the drilling of test water wells.
SUPPORT, allows applicants to drill test wells to determine water availability while in the application process.

B. Provisions in section 22.18.030 regarding cultivation exempt from a permit are recommended to remain in Chapter 10A.17.
SUPPORT.

C. Section 22.18.050(A) be revised to allow applicants previously denied on the basis of the 4 bullet points stated on page 4 of the staff report, as well as applicants who were denied for being non-responsive to requests for information by the County.
SUPPORT.

D. Section 22.18.050(B)(1) be revised to require an Administrative Permit instead of a Major Use Permit.
SUPPORT. Phase 1 applicants who are cultivating 10,000 square feet or less need not to be required to get a Major Use Permit. AP provides the best bridge for Phase 1 cultivators to Phase 3, and will reduce Use Permit hearing backlog.

E. Section 22.18.060 be revised to include a streamlined application process for applicants of Phase 1 permits to obtain an Administrative Permit under Chapter 22.18, and also include a 30-60 day window of time where Phase 1 applicants may apply for an Administrative Permit under Chapter 22.18 before the application process is opened to all applicants.
SUPPORT for a streamlined application process, Administrative Permits for Phase 1 applicants and a 30 day priority window.

F. Section 22.18.060 be revised to include a requirement for applicants for Land Use Permits on parcels located abutting private roads to notify all property owners abutting that private road of the public hearing for the Land Use Permit. While we think commercial cannabis operators should be held to the same notification requirements as all other Use Permits - which is within 300 feet of the property - if the County assumes responsibility for notifications, that seems acceptable.

G. Appendix A be revised as follows:

i. Specialty Cottage outdoor limitations be modified to be consistent with State law and regulations. SUPPORT (25 plants to 2500 square feet).

ii. For all Specialty Cottage cultivation types, the permit required by the zoning table be changed to an Administrative Permit. SUPPORT.

iii. Require a Major Use Permit for all medium outdoor, medium mixed light and medium indoor cultivation types on Agricultural zoned parcels. OPPOSE. Ag land is categorically the most appropriate zone for commercial cannabis cultivation. We support the Board's proposed Minor Use Permits for AG for outdoor & ML, and possibly a Major Use Permit for Indoor.

iv. Require a Major Use Permit for Nursery permits in Agricultural, Upland Residential and RR-10 zoning districts. OPPOSE. Major Use Permit for a nursery isn't necessary in zones deemed "Ag appropriate" (AG, UR), but may be appropriate in residential zoning (RR-10).

v. For Small Outdoor and Small Indoor cultivation types in the RR-10 and Upland Residential zoning districts, a Major Use Permit is required. OPPOSE. Major Use Permit isn't necessary in zones deemed "Ag appropriate" (AG, UR), but may again be appropriate in RR-10.

vi. For Small Indoor and Small Mixed Light Tier 1 and Tier 2 cultivation types in the Agricultural zoning district, a Minor Use Permit is required. OPPOSE. While a Minor Use Permit may be most appropriate for Small Indoor, we support the Board's proposal for APs in AG zoning.

3. The Planning Commission further recommends that the Board of Supervisors consider the following:

A. Consider whether to require renewable energy sources for Medium Indoor and Medium Mixed Light Tier 1 and Tier 2 in order to reduce

greenhouse gas emissions due to high energy usage. The State of California already requires all cannabis operators to begin transitioning to renewable energy sources in the next two years. Instead of developing redundant local regulations, we support the development of climate conscious policy and encourage the BOS & staff to explore incentives-based models to monitor and reduce environmental impact. Offering incentives for energy efficiency, renewable energy sources, water conservation, and greenhouse gas emissions would reward best practices. This could be done with reduced fees or publishing of environmental performance data.

B. Placing an acreage limitation on the amount that can be cultivated pursuant to footnote *6 in Appendix A. The Commission was not able to reach consensus on a limitation, but discussed a maximum area from 1 acre up to 5% of the parcel size, but one Commissioner recommended allowing up to the 10% of parcel size in the Rangeland zoning district. We support the Board's originally proposed 10% cap on expansion in "ag appropriate zones" (AG, UR, & RL) to maximize production on appropriate sites, given the challenges of Mendocino's topography.

C. The Commission emphasized the importance of allocating appropriate resources to the Department of Planning and Building Services and the Mendocino County Sheriff's Office for permitting, enforcement and oversight. SUPPORT, appropriate resources are critical to administer the cannabis program and process permits in a timely manner. Additionally we support the use of outside contractors to conduct plan checks and conduct Use Permit hearings and would urge the Board to consider allowing for these options to reduce burden and backlog for County staff as they roll out Phase 3.