



Mendocino County

Legislation Text

File #: 20-0863, Version: 1

To: Board of Supervisors

From: Supervisor Haschak and Supervisor Williams

Meeting Date: September 22, 2020

Department Contact: Supervisor John Haschak

Phone: 4441

Department Contact: Supervisor Ted Williams

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Item Type: Regular Agenda

Time Allocated for Item: 45 min

Agenda Title:

Discussion and Possible Action Including Direction to Staff on Cannabis Cultivation Permitting Priorities Including, but Not Limited to: County Counsel Analysis of State CEQA request, Digital Portal, Cost Recovery for Work Outside of Application Scope, Interagency Biologist Agreement, Publication of Cannabis Cultivation Guide, Plan for Staffing Increase or Consultant Request for Proposal (RFP), Equity Grant Program Update, Notices to Correct Applications, Request Provisional License Extension from California Department of Food and Agriculture, and Schedule Special Board of Supervisors Meeting for Cannabis Cultivation Phase 3 Zoning Table and Permitting Model

(Sponsor: Cannabis Ad Hoc Committee (Supervisors Haschak and Williams))

Recommended Action/Motion:

Direct County Counsel to opine on whether County has already met the requirements of CEQA in regards to Cannabis Cultivation permitting And whether State's demand for "Appendix G" is a legally supported county obligation and report back within 30 days; 2) Direct the Executive Office and Planning and Building Services to engage with Information Technology consultant to develop a fully digital submission portal capable of instantaneously generating accurate status reports for staff, applicants and the public; 3) Direct Planning and Building Services to implement cost recovery for staff time allocated to cannabis cultivation development discussions beyond existing application scope; 4) Direct Planning and Building Services to engage in an interagency agreement with California Department of Fish and Wildlife for a biologist to assist with Sensitive Species and Habitat Review; 5) Direct Planning and Building to publish and maintain a Cannabis Cultivation Guide, including flow chart, on website; 6) Direct Planning and Building Services to develop a staffing plan to complete processing of Cannabis Cultivation applications within six months or an RFP for outside contractor if county lacks feasibility to perform; 7) Direct Cannabis Program Manager to prepare Equity Grant Program plan presentation; 8) Direct Planning and Building to generate Notices of Correction and establish processing priorities; 9) Direct Executive Office to add Provisional License extension to legislative platform and Direct ad-hoc to engage with RCRC, Assemblymember Wood and Senator McGuire for support; and 10) Direct staff to schedule Special Board of Supervisors Meeting for Cannabis Cultivation Phase 3 Zoning Table and Permitting Model.

Previous Board/Board Committee Actions:

On August 4, 2020, the Board of Supervisors voted to form an Ad Hoc, consisting of Supervisors Haschak and Williams, to work with staff and outside agencies on a pathway for cannabis cultivators to get their annual

licenses.

Summary of Request:

Appendix G: For the scope of California Environmental Quality Act compliance in regard to permit-ting of cannabis cultivation, the County is the “lead agency”. As the lead agency, the county has met its CEQA obligation through a Mitigated Negative Declaration, which did not receive timely challenge. Staff preparation for a State request demand known as “Appendix G” will incur a substantial cost, potentially greater than one million dollars while simultaneously adding additional considerations to approvals. As a policy, the Appendix G concept has not been approved by the Board of Supervisors. County Counsel should analyze whether the request is supported legally before we commit substantial public funds. Further, additional review beyond legal requirements could reduce overall quantity of cannabis permits, crippling the program beyond break even through reduced fees and taxes.

Digital Portal: Cannabis Cultivation applications are stored in disorganized files. Today, it is not possible to determine the state of an application without extensive review, estimated to require at least five hours of staff time from an experienced planner. This is the result of changing forms, changing process, migration from Agriculture department to Planning department, a mix of paper and digital submission and lack of digital schema to maintain order. The cost of continuing to work in disorganization is far greater than the cost of becoming organized. ClientFirst, the County’s IT Master Plan consultants, had started an effort to integrate Cannabis Cultivation applications into existing portal. This work could be resumed and expedited. Applicants should interact with a structured portal instead of submitting email attachments and dropping off hand drawn diagrams at the front desk. This will reduce costs for the county and applicants. Effort should include admin staffing and support. Transitioned legacy data should be editable text in proper fields, not scanned images of legacy paperwork. If transition is too time or cost prohibitive, staff can alternatively ask applicants to resubmit using the new portal.

Cost Recovery: Cannabis Cultivation application fees were derived from an estimate of 6 hour overall processing time. Actual staff time could be an order of magnitude greater. While maintaining commitment to applicants no matter how erroneous the fee basis now appears, staff time outside of the application processing should not be subsidized. Planning and Building Services should propose an appropriate hourly fee, holding a fee hearing if necessary, to recover costs involved in cannabis cultivation site development discussions. A handful of applicants with unusually difficult or complex situations have occupied staff time, hindering the processing pipeline for other applicants. Questions should be accepted through the portal and email, so that staff can reuse answers and develop a Frequently Asked Questions to save time and ensure consistency.

Interagency Biologist: Ad-hoc engagement with the California Department of Fish and Wildlife has highlighted the possibility of utilizing an interagency agreement to secure an onsite biologist from CDFW to expedite processing of Sensitive Species and Habitat Review as required by our county ordinance. Our County Ordinance requires SSHR review where appropriate, but fees are not collected to pay CDFW for such review. Without a biologist, we risk stalling the pipeline of SSHR processing. A greater cost will be lost tax revenue from failing to permit the current applicants before the Jan 1, 2022 state annual license requirement. Engaging in this interagency agreement to have an experienced biologist dedicated to the Mendocino County program will expedite the flow of applications through the SSHR process.

Cannabis Cultivation Guide: Constantly changing procedures have created confusion for Cannabis Cultivation applicants, permit holders and the public. A single “Cannabis Cultivation Guide” as a living document on the county website has potential to reduce staff time involved in answering repeat questions while ensuring consistent answers. When staff is unable to point at an answer in the guide, the document should be updated with review by counsel and Planning Director prior to answering.

Staffing: In order to process approximately 882 Cannabis Cultivation applications, substantially more staffing is required. Results of a pilot program consisting of 20 applications and determination about “Appendix G”

legal obligation will impact time estimates, but today we know tens of thousands of experienced planner hours will be necessary to meet our commitment to existing applicants. Planning must develop a staffing plan. In the case local talent cannot be secured to immediately ramp up, staff should author a Request for Proposal, soliciting outside planning consultants for completion of our legacy cultivation applications.

Equity Grant Program: The State funded Cannabis Equity Grant Program has time constraints. Execution must begin soon. Next step should be a presentation by staff.

Notice to Correct: Once records have made orderly, Cannabis Cultivation applicants should be notified of completion requirements and offered reasonable time to correct missing documentation. Applications deemed incomplete should be de-prioritized relative to complete applications.

Provisional Extensions: Approximately 75% permits statewide are provisional (not yet to regular “annual” licenses). The environment and people are best protected by continued regulation, which will be lost if licensing sunsets before the transition is complete.

Phase 3 Zoning: If Cannabis Cultivation Phase 3 is to open in April, staff needs direction on zoning table and permitting model. This topic is inherently controversial and will invite extensive public comment. A special meeting should be held to reach approval on permitting model (ministerial, administrative, use) and zoning table.

Alternative Action/Motion:

No action.

Supervisory District: All

vote requirement: Majority

Supplemental Information Available Online At: n/a

Fiscal Details:

source of funding: N/A

current f/y cost: N/A

annual recurring cost: N/A

budget clarification: N/A

budgeted in current f/y: N/A

if no, please describe:

revenue agreement: N/A

Agreement/Resolution/Ordinance Approved by County Counsel: N/A

CEO Liaison: Executive Office

CEO Review: Yes

CEO Comments:

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Executed By: Atlas Pearson, Deputy Clerk I

Date: September 23, 2020

Final Status: Direction Given to Staff



