From:	AnnaRae Grabstein
To:	Scott Orr; Crystal Acker; Cannabis
Cc:	Amber Morris
Subject:	Follow up from Today"s Cannabis Industry Policy Discussion from AnnaRae
Date:	August 18, 2021 4:43:05 PM
Attachments:	NorCal Cannabis Comments- Sonoma County Comprehensive Cannabis Program.pdf

EXTERNAL

Hi Scott and Crystal,

Thank you for including me in today's Industry discussion around your cannabis policy process. To address Scott's request for transition ideas and to touch on a few topics that came up during the discussion, I offer the following.

Transition program considerations. Without knowing the scope of the changes that may occur here are high level suggestions below using existing Chapter 26 Zoning Regulations to create a transition pathway to a new ordinance for existing operators and applicants in the pipeline to ensure no one falls out of land use compliance if they were in it previously.

1. **Existing operators** (cannabis businesses operating under lawful use of land existing on the effective date of the new cannabis ordinance):
    - **Apply existing county requirements for Article 94- Nonconforming uses**
    - **Reference existing operators as qualified nonconfirming uses in the new ordinance. Example language can be found in Santa Barbara City Code Sec. 9.44.410 wherein Santa Barbara allowed pre-existing medical marijuana storefronts outside of the newer ordinance regulating adult use cannabis.**
2. **Applicants that have received land use entitlement, and have begun construction** (cannabis businesses that have been issued a CUP, MUP or zoning clearance, and have been issued a building permit)
    - **Apply existing county requirements for "nonconforming uses"**
    - **Reference these applicants as qualified nonconforming uses in the new ordinance. Example language can be found in Santa Barbara City Code**

Sec. 9.44.410 as explained above.

3. **Applicants that have not been issued a land use entitlement**

    - **Create regulations under the existing ordinance that establishes a cutoff for new applications.**
    - The county should develop a new nonconforming use for applications that were submitted before the cutoff date, even if they have not completed land use entitlement.

Avoid Duplication of State Requirements. To follow up and expand on the discussion around the "chicken and the egg" for land use requirements and State license requirements.

- Legal cannabis businesses must be in compliance with all State and local laws and regulations to operate. A land use entitlement is not enough to begin operation so it does not need to duplicate other areas that are covered in the licensing processes of other agencies.
- State licenses are only issued to qualified applicants. In other words, all applicants must meet requirements established for cannabis licensees by the CA Dept of Cannabis Control, CA State Water Resources Control Board, CA Dept of Fish and Wildlife, CA Dept of Pesticide Regulation, CA Department of Tax and Fee Administration, etc. prior to license issuance **and** to maintain their license.
- The established requirements for resource management by the above various departments do not need to be duplicated and the county does not need to undertake the effort to question if these requirements are being met since it is the State's job to apply and enforce compliance.

Communicating with the State regarding the CEQA Scope

State Department of Cannabis Control contacts:

- Nicole Elliott, Director
  nicole.elliott@cannabis.ca.gov
- Rasha Salama, Deputy Director
  rasha.salama@cannabis.ca.gov

I've also attached the comment letter we sent last week for ease of reference. To reiterate, our main policy objectives are to expand opportunities by removing limitations on ownership

and parcel square footage in industrial zones as explained in the letter.

I look forward to the next conversation,

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ANNARAE GRABSTEIN | Chief Compliance Officer
831-234-3745 | annarae@norcalcann.com
NorCal Cannabis Company

Osiris Ventures, Inc.
dba NorCal Cannabis Company
3558 Round Barn Blvd, Ste 200
Santa Rosa, Ca 95403

August 12, 2021

Via Email: cannabis@sonoma-county.org

To whom it may concern,

Thank you for the opportunity to provide input on the comprehensive update to Sonoma County's commercial cannabis program.

Generally, from the perspective of a business who has experienced State and local rollout of this newly regulated industry, evolution of policy is a natural step and needed to create efficiencies for industry, regulators and the public. For that reason we applaud your efforts and encourage the government and policy process to attempt to be nimble and timely in this evolution.

With this, we urge the County to revisit the published timeline to determine if there are milestones that can be achieved sooner than what has been estimated. By reducing the timeline, the County will avoid such things as continued cannabis activities conducted outside of the legal market in the interim, and the likelihood that the updated Program will be out of step with federal and state cannabis programs before it's even launched. When developing updated language for the cannabis program, we recommend the County use the following concepts as key drivers to streamline the effort:

- Keep a narrow focus on land use
- Avoid duplicative efforts with State licensing in areas like security and resource/water management where State requirements are robust and sufficient
- Treat cannabis businesses like other businesses
- Build in flexibility to evolve the program to remain consistent with State and Federal changes

The County has already put substantial effort into initial crafting and subsequent honing of the program. It is our opinion that the County should not start anew based on the loud voices of a few, but instead lean on the Spring 2021 efforts as the starting point for the comprehensive update which thoughtfully considered efficiencies for applicants, operators, regulators and land use compatibility with the community. Assuming these efforts are the starting point, we offer the following suggestions for program improvements.

Tax Reduction

The County has stated the broad intent of a comprehensive update to the cannabis program which should include consideration of current cannabis specific tax rates. As permitted by County Code Sec. 35-5(a)(3) "the board of supervisors may, in its discretion, at any time by ordinance, implement a lower tax rate for all persons engaged in commercial cannabis cultivation in the unincorporated area of the county." Compounding federal business tax deduction limitations, with high state and local taxes specifically applied to cannabis businesses are unsustainable for long term business success. Ultimately,

businesses are forced to pass a high tax burden onto the consumer, inflating the cost of legal cannabis. In Sonoma County, all other businesses are not required to have a business license/tax certificate making it reasonable for Sonoma County to lower taxes to better align with other types of businesses operating in the County. An example tax rate by business type, which aligns with Sonoma County's legislative ability to consider, are the rates set by the City of Santa Rosa who has purposely kept rates lower in an effort to establish a sustainable economic driver with legal cannabis businesses.

Cultivation

1. **Allow full utilization of industrial buildings by removing 22,000 square foot parcel cultivation area limit for indoor cannabis cultivation in industrial zones when project will occur within a building (MP, M1, M2, M3)**
   All local businesses operating in an industrial zone should have the ability to occupy the entire building, including cannabis businesses. By expanding opportunities for indoor cultivation in industrial zones, the County will spur activity where it is best suited (away from concerned residents) and discourage future expansion of indoor cultivation in ag and resource zones which are the more contentious areas from an environmental and community perspective. Avoid indoor cultivation caps per parcel in industrial zoning such as policy outlined in Sec. 26-88-254(f) of the current ordinance.
2. **Maintain consistency between State and local methods for measuring "cultivation area" (areas that will contain mature plants)**
   To enable seamless dual licensing and ease of compliance, the County should not deviate from State methods of calculating mature plant area as defined by the State as "canopy." Also see terminology comment #2 under general suggestions below.
3. **Align with State requirements and do not limit vegetative & propagative areas**
   The State does not limit the area that will only contain immature plants at a licensed premises. As defined by the State, immature plants cannot have cannabis flowers which greatly reduces the need to strictly regulate their production. Limiting the area to an arbitrary percentage of canopy is unnecessary, overly burdensome and in conflict with State allowances. We are not aware of any other local jurisdiction that limits areas that will only contain immature plants.
4. **Apply relevant requirements to indoor cultivation in industrial zones**
   When crafting new language, ensure that indoor cultivation in industrial zones is considered separately from requirements applied to cultivation in ag and resource zoning. Examples that should be avoided for indoor cultivation in industrial zones are minimum parcel size, basing allowable cultivation square footage as a percentage of total parcel size, and property line setbacks.
5. **Consider Nurseries separately from other cultivation types and do not aggregate square footage**
   Nurseries co-located with other indoor cultivation types should be considered separately and should not be folded into any established indoor parcel cultivation square footage limitations. As described in #3 above, by State and local definition, nurseries are only approved to contain immature plants and do not contain the product of regulatory concern (flowering plants or harvested flowers). The State does not cap or separately license square footage of nurseries and we see no justification for nurseries to be held to, or looped into, the same restrictive standards as full blown cultivation.

General

1. **Do not limit ownership to one (1) acre of canopy**
   There is no basis in the underlying intention of cannabis regulation (protection of public safety, public health and the environment) for the County to limit ownership to one (1) acre of canopy. The State currently places specific limitations on ownership including 1.) owners and financial interest holders in testing labs cannot have ownership or financial interest in other license types (Business and Professions Code section 26053), and 2.) a "person" is limited to one (1) Medium Outdoor, or one (1) Medium Indoor, or one (1) Medium Mixed-Light A-License or M-License (4 CCR section 16209). Avoid ownership limitations such as policy outlined in Sec. 26-88-254(e) of the current ordinance.
2. **Align terminology and definitions with the State**
   Cannabis regulation is inherently complex and the use of different terminology and definitions at the State and local level leads to confusion amongst industry and regulators alike, and adds complexity with compliance. Examples include cultivation area (State) vs. canopy area (Sonoma County), immature plant area (State) vs. vegetative and propagative area (Sonoma County).
3. **Allow ownership transfers**
   Creating a pathway for ownership transfers without business interruption will expand opportunities and options for cannabis business owners. Like any business, cannabis business owners should have options for exiting their businesses by selling to another willing and able party. At the local and state level an enormous amount of effort is expended to get the moment of permit and license issuance. Creating a regulatory pathway for transfer of ownership protects the efforts expended to get the initial permit in place. Example language to consider is Santa Rosa CIty Code 20-46.050 subsection F.
4. **Improve cannabis land use tables**
   The current cannabis land use tables (Table 1A, 1B and 1C) outlining allowances by zoning should be edited to align with program realities. It is our understanding that Sonoma County does not issue cultivation permits using the specified categories (Cottage, Specialty, Small, etc.) but instead specifies the square footage that is approved under the permit (i.e. a permit could allow 22,000 sqft but does is not termed as a Medium cultivation permit). Additionally, the language for nurseries "as expressed above" is unclear, should be specified, and should not in any way be tied to the size of a cultivation area on the same parcel (also see Cultivation comment #5 above).
5. **Leverage the work of State requirements, avoid duplicative efforts**
   Legal operators are held to a myriad of existing State requirements implemented by a handful of State departments. During this effort it is critical that the County cross reference their efforts with State requirements and avoid mirroring existing State requirements in local laws. State laws and regulations for areas such as ownership, security, water source and discharge, track and trace, testing, pesticide use, etc. have all been thoroughly vetted and are enforced by the State. By avoiding duplication with State laws and regulations, the County will prevent conflict when State laws and regulations inevitably change. An example of existing language to consider incorporating to hold local operators accountable to State requirements is Santa Rosa City Code 20-46.020, subsection B. This language was written broadly enough to fold in future changes at the State level.

CEQA

1. **Include existing unpermitted operators in the baseline for CEQA analysis**
   When establishing the baseline for CEQA analysis, the County must include all cannabis operations in unincorporated areas of the County, including permitted and unpermitted, to

accurately analyze how the "project," or County cannabis program, will impact the environment. If the County's program is successful with creating reasonable pathways for illegal operators to come into the legal program, it is very likely the environmental analysis will show the County cannabis program will benefit the environment.

2. **Consider known changes that will occur at the State during the project timeline**
   Based on the extended timeline to complete this project, the County must consider changes that are scheduled to occur at the State level. Examples include the introduction of large cultivation licenses in 2023 (Business and Professions Code section 26061) and the removal of ownership limitations for medium cultivation licenses (4 CCR section 16209) at the end of 2022. The County should contact state regulators for a complete list of upcoming, legislatively mandated changes.
3. **Work closely with the State to develop EIR scope and tier off State level CEQA documents**
   The State has completed CEQA analysis for all state licensing activities. We urge the County to leverage those documents and tier when possible. Prior to State annual license issuance, the State verifies that certain areas of environmental analysis that are site specific have been covered by the locals. It is critical that the County works closely with the State to determine scope and to ensure the EIR will cover all areas the State expects locals to cover.

Feedback on process for public participation

The County is in a tough position; navigating public participation in the comprehensive cannabis program update process with community members having polarized ideas of what the outcome should look like. We participated in each visioning session, and from our perspective the format did not lend itself to productivity but rather provided a platform for dissemination of misinformation and finger pointing between opposing viewpoints, in short Twitter-esque banter. For this reason, we reserved most of our comments for this document. Our comments are based on actual experience and policy challenges yet most of them did not fit neatly into the subjects covered in visioning sessions nor was the structure of the session an effective forum to share substance. It is our hope that the report from Staff to the Supervisors includes a more comprehensive analysis of topics than those that were predetermined for the visioning sessions (Siting & Land Use, Safety, Water Resources, Visual) and that staff carefully weigh the quality of the comments received during the visioning session and not give undue voice to misinformation about the legal cannabis industry or fear based reefer madness.

In closing, as a compliant and licensed cannabis company, community member, and future operator in this program we hope you consider our input, based on real experience operating in the legal cannabis industry, to be useful. We look forward to helping in whatever way we can and following this process to its conclusion. Please contact us directly if you would like to discuss any of the comments in more detail.

Sincerely,

AnnaRae Grabstein, Chief Compliance Officer
NorCal Cannabis Company
annarae.grabstein@norcalcann.com

Amber Morris, Director of Government Affairs
NorCal Cannabis Company
amber.morris@norcalcann.com

cc: Susan Gorin, District 1 (Susan.Gorin@sonoma-county.org), David Rabbitt, District 2 (David.Rabbitt@sonoma-county.org) Chris Coursey, District 3 (district3@sonoma-county.org), James Gore, District 4 (James.Gore@sonoma-county.org), Lynda Hopkins, District 5 (lynda.hopkins@sonoma-county.org)

RE: Notes for the record for Sonoma Cannabis Ordinance update
August 18. 2021
Lori Pascarella, Compliance Manager
Master Bango dba Bango Distribution; Bango Corporation ;LIG Remedies; Toley Farms; MBNCO Inc.; MCDCO Inc; MRFCO Inc. and SIMPCO Inc.)

Following is a section of California Civil Code which protects established agricultural activities, as such should be considered in providing protections to Sonoma County's legacy cannabis growers who have operated here in the medical cannabis industry long prior to the adult use cannabis legislation was enacted in 2017; and to all Penalty Relief Program operators still trying to get through Permit Sonoma process:

CIVIL CODE - CIV
DIVISION 4. GENERAL PROVISIONS [3274 - 9566] *(Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)*
PART 3. NUISANCE [3479 - 3508.2] *(Part 3 enacted 1872.)*
TITLE 1. GENERAL PRINCIPLES [3479 - 3486.5] *(Title 1 enacted 1872.)*
3482.5.

(a) (1) No agricultural activity, operation, or facility, or appurtenances thereof, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began.

(2) No activity of a district agricultural association that is operated in compliance with Division 3 (commencing with Section 3001) of the Food and Agricultural Code, shall be or become a private or public nuisance due to any changed condition in or about the locality, after it has been in operation for more than three years if it was not a nuisance at the time it began. This paragraph shall not apply to any activities of the 52nd District Agricultural Association that are conducted on the grounds of the California Exposition and State Fair, nor to any public nuisance action brought by a city, county, or city and county alleging that the activities, operations, or conditions of a district agricultural association have substantially changed after more than three years from the time that the activities, operations, or conditions began.

(b) Paragraph (1) of subdivision (a) shall not apply if the agricultural activity, operation, or facility, or appurtenances thereof obstruct the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin, or any public park, square, street, or highway.

(c) Paragraph (1) of subdivision (a) shall not invalidate any provision contained in the Health and Safety Code, Fish and Game Code, Food and Agricultural Code, or Division 7 (commencing with Section 13000) of the Water Code, if the agricultural

activity, operation, or facility, or appurtenances thereof constitute a nuisance, public or private, as specifically defined or described in any of those provisions.

(d) This section shall prevail over any contrary provision of any ordinance or regulation of any city, county, city and county, or other political subdivision of the state. However, nothing in this section shall preclude a city, county, city and county, or other political subdivision of this state, acting within its constitutional or statutory authority and not in conflict with other provisions of state law, from adopting an ordinance that allows notification to a prospective homeowner that the dwelling is in close proximity to an agricultural activity, operation, facility, or appurtenances thereof and is subject to the provisions of this section consistent with Section 1102.6a.

(e) For purposes of this section, the term "agricultural activity, operation, or facility, or appurtenances thereof" shall include, but not be limited to, the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

Notes from Sonoma County Right to Farm Act:

(a)It is the declared policy of this county to conserve, protect, enhance, and encourage agricultural operations on agricultural land within the unincorporated area of the county. Further, it is the intent of this county to provide its residents proper notification of the county's recognition and support, through this article, of the right to farm.

(b) Where non-agricultural land uses, particularly residential and commercial development, extend onto agricultural land or exist side by side, agricultural operations are frequently the subject of nuisance complaints. As a result, some agricultural operations are forced to cease or curtail their operations and many others are discouraged from making investments in improvements to their operations, all to the detriment of adjacent agricultural uses and the economic viability of the county's agricultural industry as a whole. It is the purpose and intent of this article to reduce the loss to the county of its agricultural resources by limiting the circumstances under which properly conducted agricultural operations on agricultural land may be considered a nuisance.

(c) It is the further purpose and intent of this article to promote a good-neighbor policy by requiring notification of owners, purchasers, residents, and users of property adjacent to or near agricultural operations on agricultural land of the inherent potential problems associated with being located near such operations, including, without limitation, noise, odors, fumes, dust, smoke, insects, operation of machinery during any time of day or night, storage and disposal of manure, and ground or aerial application of fertilizers, soil amendments, seeds, and pesticides. It is intended that, through mandatory disclosures, owners, purchasers, residents, and users will better understand the impact of living or working near agricultural operations and be prepared to

accept attendant conditions from properly conducted agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and an active agricultural sector.

KEY Right to Farm definitions:
"Adjacent to agricultural land" means within 300 feet of agricultural land.
"Agricultural land" means all that real property within the unincorporated area of the county designated as land intensive agriculture, land extensive agriculture, or diverse agriculture by the general plan and zoning ordinance.
"Agricultural operation" means and includes, but shall not be limited to, the cultivation and tillage of the soil, dairying, the production, irrigation, frost protection, cultivation, growing, harvesting, processing, and storing of any agricultural commodity, including viticulture, horticulture, timber, or apiculture, the raising of livestock, fur bearing animals, fish, or poultry, and any commercial agricultural practices performed incident to or in conjunction with such operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market.

Copy Paste From https://ucanr.edu/sites/CESonomaAgOmbuds/Right_to_Farm/

Zoning

Agriculture Zones

The existing ;*General Plan* land use plan includes three agricultural land use categories:

- *Land Intensive Agriculture (LIA) 74,255 acres or 7.7%*
- *Land Extensive Agriculture (LEA) 186,462 acres or 19.3%*
- *Diverse Agriculture (DA) 68,845 acres or 7.1%*

Total acreage designated as agricultural land use is 326,562 acres or 34.1% of the total acreage in Sonoma County. General Plan

1,595 of these parcels are over 10 acres. Staff Report File#ORD18-0003, June 7, 2018, page 10

Designation of parcels was based on multiple considerations, including the parcel size, lack of infrastructure, distance from public services, access, conflicts with resource conservation and production, and topographic and environmental features.

“Right to Farm” applies to Agriculture zones only.

Resources and Rural Development zone

The land use designation RRD stands for Resources and Rural Development. RRD designation is used to protect the county’s natural resource lands and allows for only very low-density residential development. Resources to be protected include commercial timber land, lands within the Known Geothermal Resource Area (KGRA), lands identified in the County’s

Aggregate Resources Management Plan and natural resource lands including watershed, fish and wildlife habitat and other biotic areas. (General Plan)

Development in RRD results in two primary environmental consequences: habitat loss and fragmentation and the degradation of water resources and water quality. RRD lands account for 51% of the total acreage in Sonoma County and contain 492,658 acres much of which is heavily forested and mountainous. (General Plan).

RRD is not a "right to farm" zone.

Following are Bullet Points for consideration as the Sonoma County updates it's cannabis ordinance:

- California Civil Code General Provisions **TITLE 1. GENERAL PRINCIPLES [3479 - 3486.5]** provide protections for all agricultural activities such that they can not be determined a nuisance if operational for more than three years. Sonoma County's answer to this section of California code was to enact the Right to Farm Act to preserve those protections, but also protect the rights of landowners and residents by creating distinct agricultural zones. These agricultural zoned lands in total comprise only 34.1% of Sonoma County's total acreage, with all other zones comprising 65.9% of the county. Of the agricultural zoned lands only 1595 are greater than 10 acres, and are further limited to potential cannabis cultivation due to slopes, setbacks, or other restrictions
- Cannabis, like hemp, is an agricultural crop that should be afforded the same considerations as all other agriculture as provided in the Right to Farm act.
- All prior letters, email communications, and cannabis ad hoc committee member notes provided over the past two years to the county, the board of supervisors, PRMD and the board of commissioners for the process of the cannabis ordinance update should be made a part of the EIR so as not to lose all of the efforts previously put into the cannabis ordinance update already undertaken by the board of supervisors cannabis ad hoc committee.
- The prior draft cannabis ordinance should be the foundation of any ordinance update moving forward. Updates or revisions should only be made in consideration to any special findings in the EIR. Any and all potential mitigations that cultivators can implement must also be taken into consideration with respect to any special findings in the EIR.
- Sonoma County's seal reads "Agriculture, Industry, Recreation" therefore all agriculture including cannabis should be provided by the county a fair and equitable set of regulations and path to permitting that is not mired down by politics.
- Cannabis cultivators are subject to multiple layers of state regulations and enforcement through the Department of Cannabis Control *(Formerly CDFA CalCannabis, Bureau of Cannabis Control and California Department of Health separately regulated cultivation, manufacturing and distribution now merged to DCC),* in addition to California State Water Resources Control Board and Department of Fish and Wildlife which provide stringent environmental oversight. The County should seek to align as closely with state regulations that are already in place and effective to maintain streamlined inspections and enforcement systems.

- Cultivators are currently subject to having biotic resources studies, cultural resource studies, and hydrogeological resource studies. The reports provided by qualified professionals for the permitting and state licensing process for cultivators should drive where cannabis is located on a site-by-site basis. If a cultivator can provide mitigations - such as eliminating some other irrigation use on a property - for “Net Zero” classification in Zone 3 or 4 water areas, this should be taken into consideration as a positive land use.
- The alignment of county regulations with state regulations to allow for temporary hoop structures, tarps and low wattage lighting as in Tier 1 Mixed Lighting classification should be allowed so that cultivators can protect their crops from contaminants and help provide the best quality possible. Sustainable farming practices to increase product quality and yields can set Sonoma County at the forefront of a developing industry as a major player.
- Improved quality and yields from allowing Tier 1 Mixed Lighting and temporary hoop structures could be utilized to generate better tax revenues for the County. Instead of taxation upon square footage, the reports from the state mandated METRC seed to sale cannabis track and trace system could be used for obtaining total crop production data for taxation purposes versus having Ag Department inspectors waste time measuring this each year.
- Hoop structures help to mitigate odor drift and improve security through visual screening of cannabis crops. For these same reasons hoops structures should be required for outdoor cultivation and allowed to be kept up for longer than 180 days.
- The very vocal prohibitionist group needs to accept that the state has legalized cannabis, as have 34 other states to date, with others joining every year. Soon it will be legalized federally. Impeding progress due to this highly vocal minority simply would be a failure by the County. Now is the time to create the future of the Sonoma County cannabis industry, not tomorrow!
- The land owner should be allowed to determine if they are willing to remove orchards, vineyards or other crops and supplement with cannabis cultivation, and should not be restricted from diversification of agricultural uses on their land in order to be more sustainable.
- The county absolutely must stop rezoning agricultural designated lands in order to increase residential developments. This is far more damaging to Sonoma County resources than cannabis cultivation could ever be.

From:	Craig Litwin
To:	Cannabis
Subject:	Letter for the Record, Cannabis EIR and Ordinance Updates
Date:	August 26, 2021 11:51:23 AM
Attachments:	Sonoma County Cannabis EIR: Letter to County Regulators 20210826.pdf

Dear Sonoma County Regulators,

Please add the attached letter to the record.

Thank you,

Craig Litwin (he/they)
CEO & PRINCIPAL
421 Group
c (707) 849-1622
o (707) 861-8421
craig.litwin@421.group

421 Group

August 26, 2021

Sonoma County Supervisors
Care of:

Crystal Acker, M.S.
Supervising Planner
County of Sonoma
Planning Division | Project Review
2550 Ventura Avenue, Santa Rosa, CA 95403

Re: Cannabis EIR and Ordinance Revisions

To Whom It May Concern:

Recently, our company, 421 Group, was invited to discuss cannabis regulations and the EIR process in order to provide our input. We have been a vocal advocate for cannabis legalization and regulation in Sonoma county for over five years. Herman G. Hernandez and I both participated on the call. Thank you for the invitation and opportunity to address our concerns and share ideas.

This letter serves as an outline of our shared thoughts, as well as addressing some additional questions posed by the County. Namely, we were asked about what items in the permit review process should be a requirement and which issues should be a recommendation. We were also asked to provide ideas on how to educate and engage people about cannabis. Additionally, we were asked to illuminate our request for a county-provided interactive GIS map showing where permitting can and cannot take place.

The Environmental Impact Report has the potential to bring so much conclusive environmental information into the narrative of cannabis regulation in Sonoma County, and there are many issues that should be covered in the report. The more comprehensive this report, the more transparent the cannabis ordinance can be which both gives applicants a more accurate representation and puts community members at ease.

We continue to advocate that you use the prior draft cannabis ordinance revision in the proposed Chapter 38 as the foundation for updating the ordinance moving forward, and include it in the EIR. There was already an incredible amount of time, thought and energy that went into the revision of the ordinance. We also urge you to keep in mind the inevitable federal legalization, and future state cannabis law revisions, and to model any ordinance to incorporate future changes versus needing to come back to a long and cumbersome public process to update definitions.

421 Group

Below are our comments and recommendations for the EIR and Ordinance process:

Permit Types and Sizes

- Cultivation of over one acre per parcel should be permitted.
- The county should, independent of this EIR effort, immediately eliminate the one acre cap per individual in Sonoma County. There is no basis for this prohibition.
- The county should create a streamlined path to allow for more permits. We need to allow as many cultivation permits as possible and grow the regulated versus traditional market. We also need more dispensaries, road side stands for farmers, and tasting rooms.
- The county should consider allowing cottage grows on parcels smaller than ten acres to encourage home businesses in very small areas. This is allowed for many other industries, and this home based model reduces traffic impacts.

Requirements versus Recommendations

When a ministerial permit is being considered, an applicant that has gone above and beyond what is required could tip the balance in favor of granting the permit versus sending the application to a CUP hearing. Here are some suggested requirements and recommendations for consideration:

- Requirements
    - All of the existing water studies make sense as a requirement. Though more onerous than other agricultural industries, it sets a higher and more environmentally sensitive bar.
    - Setbacks from sensitive uses makes sense, though there should be a variance or waiver process for setbacks that follow the spirit but not letter of the law. A road or ravine may separate a sensitive use but be too close. But for all intents and purposes the setback spirit has been met if the uses are on opposite sides of the 101, for example.
    - Managing hoop house recycling appropriately.
    - Not allowing for light pollution.
- Recommendations
    - Permaculture or Jugulculture principles should be encouraged.
        - These include on contour swales to infiltrate rainwater, companion planting, and soil building techniques that eliminate tillage and promote biodiversity. Rainwater catchment, pond and habitat creation are other examples.
    - Neighborhood outreach efforts should improve an applicant's status.
        - These include calling and talking to neighbors, hosting open houses, meeting concerned neighbors to address their concerns, and building letters of support.
    - Good neighbor policies should improve an applicant's status.
    - An applicant that provides a written report on how they plan to donate time and money helps determine operators with genuine interests to support Sonoma County. This effort should be recognized.

Site and Land Use

- Cannabis is already limited to very few agriculturally zoned properties, which has already significantly decreased the likelihood of neighborhood compatibility issues arising.
- It seems like all agriculture, cannabis in particular, is under attack by residential housing development when there is more than ample land zoned for residential purposes. Keep urban areas in urban centers, and farmland where it already is.
- Given the world-renowned sustainable farming movement in Sonoma County, cannabis farming should be viewed and treated similarly to Sonoma County vineyard operators.

Historic Commercial Cannabis

- There were an estimated 5,000 legal cultivators providing cannabis under the caregiver model as part of medical legalization. These cultivators used water, transported supplies and product, had employees who helped tend farms, had odor and visual impacts, all of which must be considered under the baseline impact as part of the EIR. Today, there are far fewer cultivators.

Safety

- Because of comprehensive security requirements in the existing local ordinance and state law, cannabis businesses go above and beyond to implement strict security measures.
- Security plans ensure that employers and employees of cannabis businesses have comprehensive security and de-escalation training. Video surveillance is mandatory for cannabis businesses from cultivation to retail, so these safety precautions are happily adopted and used.
- Cannabis is here, and instead of fighting its existence because of security fears, we should instead help facilitate even more interactions and collaborations with local law enforcement and cannabis businesses in order to sustain accurate and efficient safety measures.

Water

- When it comes to water regulation of cannabis projects a legal water supply should suffice.
- Net Zero use plan, regular well use, and ground water level monitoring are more than adequate for cannabis operations. “Net Zero" increase in groundwater use, either by replacement of existing agricultural uses with cannabis or use of recycled water for irrigation, should be allowed. Why is cannabis being treated differently than other agricultural projects?
- Rely on the experts. Local environmental scientists are available to help the county determine water requirements that are fair and based on science. Cannabis farmers should receive the same consideration as other agricultural farmers.

Visual Resources

- There are already plenty of regulations in place that keep cannabis operations from being visual disturbances in this community.
- Legal, commercial cultivation is required to have screening to eliminate view of plants.
- Most setbacks already place the farms well out of view of roads.
- Cannabis cannot be cultivated within view of any scenic corridor, or on any preserved or Open Space land, which already preserves the scenic beauty of Sonoma County.
- Cultivation sites already jump through hoops to create an overwhelming distance from sensitive use areas and not openly advertise their products from nearby streets. Why restrict them more? Setbacks should remain the same or be reduced.

Hoop Houses

Elyon Cannabis submitted a letter on hoop house structures and the need to allow their use, the reasons they are a benefit for Sonoma County's cannabis industry and residents, and how their use is the preferred environmental alternative. We support their letter. We also urge the county to study hoop house benefits to protecting crops, reducing power, and increasing yields per area of land, which reduce car trips and other impacts.

Here are some of the bullet points from Elyon Cannabis that we concur with:

- Cannabis cultivators should have all of the tools and resources available in California state regulations so they can grow the best flowers, just as the vineyards grow the best grapes to produce the best wines.
- Cultivators in Sonoma County should be able to compete on a level playing field in terms of use of agricultural technology that improves crop quality and yield; therefore, Sonoma county regulations should align with the state and numerous local jurisdictions throughout California.
- Hoop houses protect crop quality from neighboring agricultural use spray-drift. Cultivators should be allowed to protect their crops with hoop houses because cannabis is subject to very stringent testing requirements, and any pesticides residues could cause failed testing and destruction of product.
- Use of Tier 1 Mixed Light practices allows for two crop cycles of full term cannabis sativa, indica or hybrid plants resulting in better quality and ultimately higher yield for the cultivator.
- Hoop houses should be allowed the use of minimal lighting as in Tier 1 Mixed Lighting state licensing (less than 6 watts per square foot). This allows for improvements in quality and yield by allowing the cultivator to minimally enhance available lumens during foggy, cloudy or otherwise low light days.

Interactive GIS Cannabis Maps

Everyone, except for those that are most afraid of cannabis, knew that the recently considered Mitigated Negative Declaration under Chapter 38 would never have resulted in 65,000 acres of cannabis canopy. An updated GIS map would eliminate this fear with facts. According to the General Plan, the total acreage designated as agricultural land use is 326,562 acres or 34.1% of the total acreage in Sonoma County. Only 1,595 of these parcels are over 10 acres, the minimum parcel size to secure a cannabis cultivation permit. To hit 65,000 acres, each of these 1,595 parcels must each have just over 40 acres of canopy on average. And *if* the county is limiting the total lot coverage to 10% cannabis canopy, each of the 1,595 parcels would need to be 400 acres or more to accommodate this area. This cannot happen. The current limit is but one acre per parcel. Please use accurate estimates in the EIR.

Long story short, the county needs to fix the narrative of how much potential cannabis canopy we are studying in the EIR. Bloated figures create fear where clear facts create understanding.

We urge you to:

- Create an interactive map that community members can access at any time to visually see how much cannabis can actually be grown in Sonoma county.
- Allow people to plug in their address so they can learn about the setbacks and restrictions such as:
    - Riparian setbacks
    - Scenic corridor setbacks
    - School and park setbacks
    - Agricultural setbacks
    - 1-acre maximum
- Model the know your zone map from Sonoma county emergency, or the PG&E fire threat maps.
- The main goal for this interactive map is to help our community understand how restricted cannabis regulations are, and where it can be grown.

Public Perception Campaign

- Partner with local cannabis businesses that are modeling excellent industry practices. Connect them with community based organizations and neighborhood groups to put on a county-wide cannabis education campaign of what is allowed, showcasing best practices.
- Ideas on what to include:
    - Interactive Map promotion
    - Frequently asked questions about cannabis
    - Cannabis farm tours
    - Cannabis distribution tours
    - Cannabis dispensary tours

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Hemp

- Hemp is legal federally, and in the state is legally classified as agriculture. Hemp is identical to cannabis other than a lower level of THC. Hemp and Cannabis are the same plant, with variations based upon strain phenotypes. Cannabis should be afforded the same protections and privileges provided to all agriculture, including hemp, under the Sonoma County Right to Farm Act.
- The EIR should study how to allow the reclassification of cannabis at the state and federal level to seamlessly be added to any local ordinance.
- The EIR should study utilizing hemp as a screen for cannabis. Hemp is not required to have a screen and is well suited as a quick growing visual impediment to the perceived visual impact of seeing cannabis.

These recommendations all come from wanting Sonoma County to treat commercial cannabis operators with the same consideration as other agricultural farmers, as well as see the cannabis industry thrive in our local community. With this Environmental Impact Report and forward-looking initiative on part of the county, we have the potential to be a model for other California jurisdictions to follow. We appreciate your consideration of these suggestions, and hope to see their priority reflected in the imminent Environmental Impact Report.

Sincerely,

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