

1-11-2022

H-3

To: Humboldt County Board of Supervisors
From: Bonnie Blackberry
Date: January 11, 2022 Board of Supervisors Meeting

RE: Agenda Item, Department Reports #3, Planning Commission Letter

Members, of the Board,

Please consider my comments regarding the letter from the Planning Commission.

1. Generators: The 1.0 Ordinance has no defined limit to generator use, which has enabled the Planning and Building Department to facilitate the approval of operations relying on 18-24 hour, a day seven days a week, for most of the year for multi cycle "mixed-light" commercial cannabis cultivation operations.

The 1.0 ordinance prohibited indoor generator grows, because of public opposition to the use of generators for commercial operations. What we now have is a large number of "mixed-light" cannabis grows being permitted which are basically the same as the indoor generator grow, only now the cultivation is taking place in hoop houses and green houses, which is a generator grow, just not in a building.

I do not believe that when the ordinance was being written, the intent was to have unlimited use of generator grows in the hills. Because the county was in a big hurry to get the ordinance completed, the issue of setting limits on generator use was not considered. Grows using multiple generators, running generators up to 18- 24 hours a day have been permitted, and if there is no requirement to have or transfer to renewable sources, we will have many more generators used for commercial cultivation activities. What about the Humboldt Climate Action Plan and all the generator CO emissions?

2. Road Conditions: Because most of the private roads, and many of the county roads do not meet Category 4 standards, the county is using functionally equivalent with the assumption that the road is sufficient for the proposed traffic. There are serious safety issues in the event of an emergency such as a fire, with roads that are not wide enough for first responders and fire trucks coming in, along with the people in the area leaving. Most of the private roads were not built for commercial use. The larger the operation in square feet and the number of crops each year, the larger the impacts with increased road use and safety issues. Cultivation sites using private roads that don't meet the Category 4 standard should have a maximum size limit and limited harvests. The least impact on road safety would be outdoor, full sun.

3. Water Storage Climate Change and the ongoing drought are here now. The Planning Commissioners should continue to require substantial water storage for sites using groundwater wells. The cumulative impacts with the increased use of well water in diverse areas of the county is in question. Conditions have changed since the 1.0 Ordinance was approved. This extended drought can be seen above ground, with all of the fires and low flows in rivers and streams. What is the status of the ground water out in the hills where we can't see what's happening?

To have a sustainable industry, there needs to be balance and respect for our environment and the public trust. Climate change is creating great challenges that need immediate recognition and appropriate modifications to adapt to these changing conditions.

Respectfully,
Bonnie Blackberry

H-5

Margro Advisors

January 10, 2022

To: Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

From: Margro Advisors
2306 Albee St
Eureka, CA 95501

Re: Planning Commission "Concerns with Cannabis Program" letter

Dear Supervisors,

We have made attempts to better educate the Planning Commission on the need to stay the course with regard to 1.0 Cannabis permitting (presentation attached). As such, we felt it necessary to provide public comment regarding the Planning Commission's letter to the Board of Supervisors dated Dec 16, 2021, as follows:

In the letter they state:

"1. Generators: The first ordinance (1.0) did not address the use of generators while the second ordinance (2.0) includes restrictions on the use of generators."

This statement is untrue. Ordinance 2559 section 55.4.11(o) restricted the noise level of generators to 60 decibels at the property line. Generators were included in the discussions formulating regulations back in 2016.

The letter goes on to say:

"The use of generators for power has many impacts including greenhouse gas emissions, noise, potential for fuel spills, fuel delivery traffic, and increased fire risks."

The letter implies that these risks are unaddressed, as if there is no regulation regarding generator use for Cannabis farmers. This is also untrue. What is not mentioned is the set of State requirements which already exist to address potential issues, which specifically include secondary containment requirements from the State Water Resources Control Board, Hazardous Materials Registrations and Safety Plans required from the Department of Environmental Health, and the emissions restrictions from the Air Quality Management District.

The letter continues with:

"The Commission has been conditioning projects requiring cessation of generators by the end of 2025 with conversion either to renewable power or if available PG&E."

This deadline was established several years ago, and as a result we believe if it is continued in the permitting process, then applications being approved in 2022, should be given the same five or six year time frame as others who have already been approved.

Regarding roads the letter states:

"The first ordinance (1.0) does not require roads to meet a certain standard however as part of the review, staff developed a process whereby the applicant is able to self-certify... We believe this process is subject to abuse and many permits have been approved in the hills on roads that do not meet Category 4 standards...."

What the Planning Commission has not recognized is that the Planning Department's Road Evaluation process was not just a signed self-certify form. The 1.0 applicants had to submit a Road Evaluation which at minimum included maps and photo evidence of the conditions of the roads which were reviewed during the referral process by the County. Many were then asked to hire professionals to do more thorough evaluations, and recommend improvements.

In addition, most applicant approvals are required to ensure that there is proper entrance from their road to the nearest county road with a paved apron. In short, the process is working. In fact, we believe the best potential improvements will come from the establishment of Road Associations and grant funding which will support long overdue and much needed improvements throughout the county. The sooner these projects are approved, the sooner road work plans can be developed and implemented.

With regard to water storage the letter states:

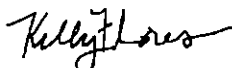
"3. Water Storage. Wells have become extremely controversial as the public has expressed concern about cannabis grows using well water having a negative impact on their water supply..."

Note that the same members of the public voice the same concern for nearly every project that includes a well. This is a different level of concern than if the Commission were hearing every neighbor of every project voicing concern over the use of a neighbor's well. The Planning Commission and the most vocal members of the public are unfairly placing the impact of global warming on Cannabis farming. Note that in a recent presentation to the Planning Commission, Dave Fisch of Fisch Drilling provided the following perspective:

"The maximum number of acreage that the county would allow is 1,205 acres. That's about 4,000 acre-feet of water for all 1200 acres to be planted. The lowest low of the Eel River this year, at 1900 feet per second, it would be about 20 hours of running down the Eel River."

The focus on conservation measures or prescriptions for improvements should be incentivized through grants and programs to support improvements. Otherwise water restrictions should be applied to all agriculture in the County and not be limited to Cannabis cultivation. Until then, the permitting should be allowed to continue without additional limits or conditions.

Thank you,



Kelly Flores
Co-Founder
Margro Advisors

MARGRO ADVISORS

CMMLUO (1.0) to CCLUO (2.0)

— Ramifications of “Moving —
the Goal Posts”

Introduction

On November 18, the Humboldt County Planning Commission discussed [agenda item #1](#) "issues surrounding Cannabis Permitting with the potential to provide a recommendation to the Board of Supervisors"

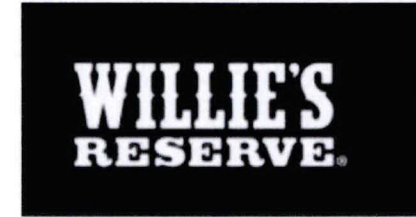
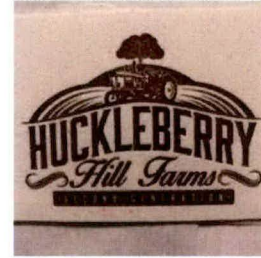
During the meeting some commissioners discussed support for requiring all 1.0 (2016 Cannabis ordinance) applications/permits to be forced to meet the requirements of 2.0 (2018 Cannabis ordinance) along with other significant new requirements

The following provides a general description of the potential impacts of such a change to the local industry

Chart of Impacts - 1.0 vs 2.0

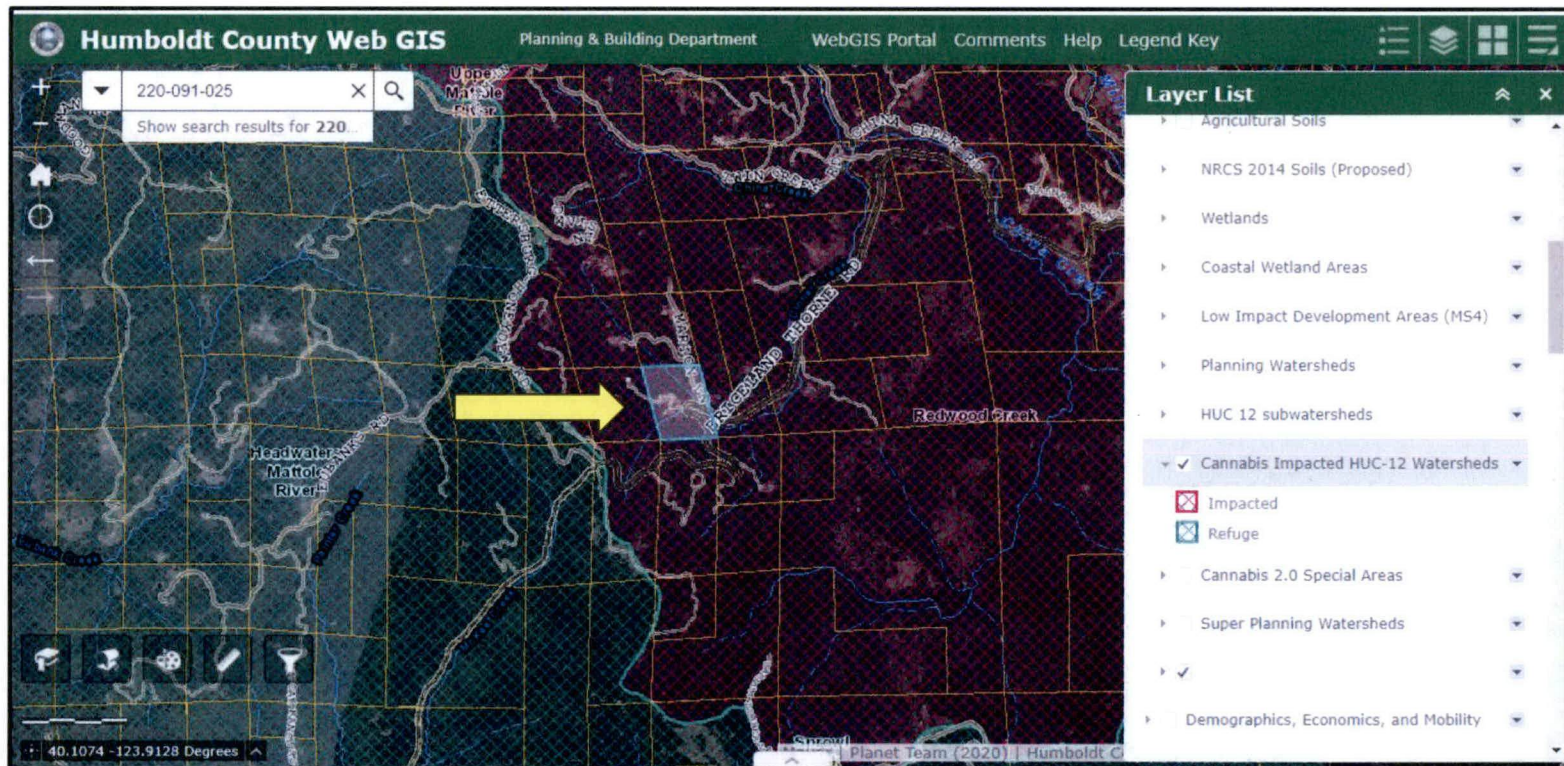
| CCLMUO "1.0" Jan 2016 | CCLUO "2.0" May 2018 | Impact of moving 1.0's to 2.0 |
|--|---|---|
| TPZ allowed for pre-existing farms | TPZ zoned properties not permissible | ALL TPZ zoned permits would be canceled |
| No slope restriction | Cultivation may only occur on 15% slope or less | ALL permits in the hills with more than 15% slope would be canceled |
| Commonly Required Surveys: Archaeological Survey Timber Restoration Plan | Commonly Required Surveys: Archaeological Biological Reconnaissance Special Status Plant surveys Northern Spotted Owl Survey Timber Restoration Plan | All 1.0 applicants will be required to spend tens of thousands of dollars on additional research. |
| No Impacted Watershed Restrictions | Prohibition of permits in any impacted watersheds | All existing permits in impacted watersheds would be canceled |
| No restrictions on distance from the county road | Requires cultivation property be within 2 miles of a county road | Any permitted farms that are more than 2 miles from a county road may be canceled |
| Generators not allowed for indoor cultivation | Generators not allowed as primary power source for any cultivation | All farmers utilizing generators as a primary power source may be canceled |

Who will be impacted?



Huckleberry Hill Farms is a supplier to Willie Nelson's brand "Willie's Reserve" and a vocal advocate for sustainable farming by providing educational tours to visitors

The company would lose their permit due to Impacted Watershed restrictions

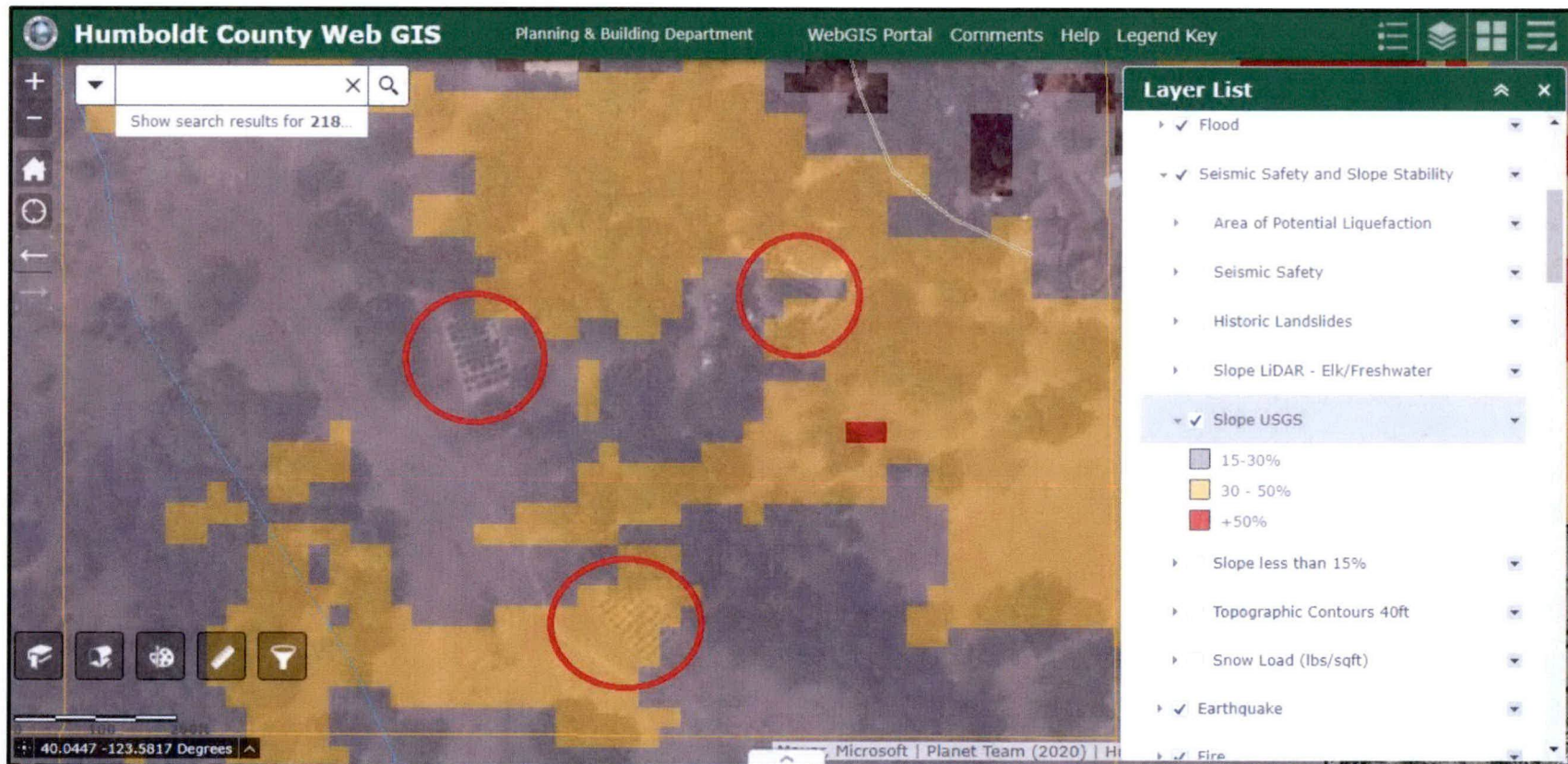


Who will be impacted?



Moon Made Farms is a regenerative Sun + Earth certified and DEM Pure certified farm that contributes more than it takes from the ecosystem.

The company would lose their permit due to 2.0 slope restrictions



Category 4 Standard Road Requirement

During the meeting Humboldt Planning Commission Chair Alan Bongio stated:

"The real issue is where we're allowing the permits to happen. All the issues come from the grows being in the environmentally sensitive areas. The further out you go, the worse that gets. So I would make a suggestion to the Board of Supervisors that the number one thing that would solve many of the problems because it would eliminate many of the problems...that we somehow form something to the supervisors that talks about the ridiculous class four road standard and say that you have to really build a class four road. Because that will eliminate most of the projects."

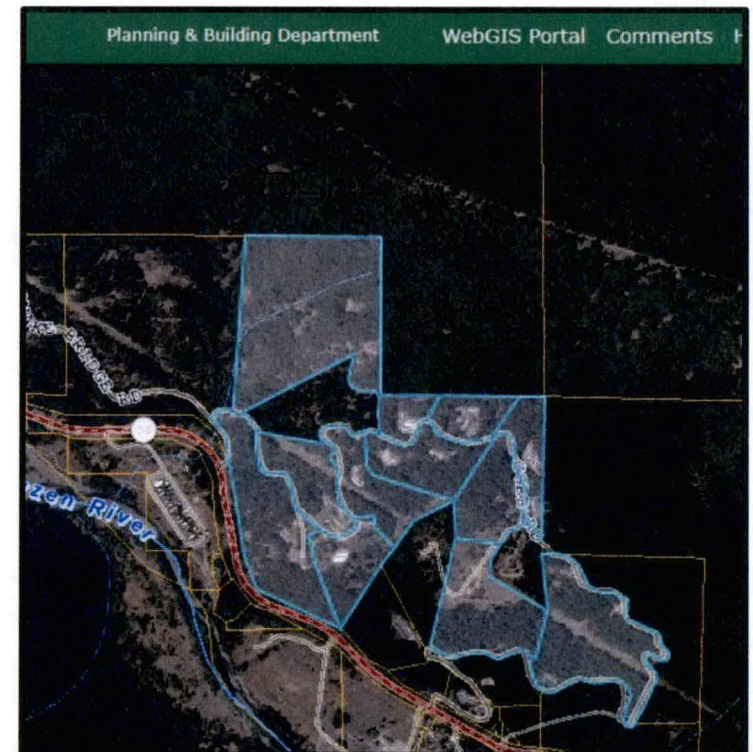


Who will be impacted? 11 Pre-Existing Farms

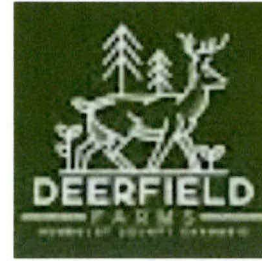
As an example, these 11 farms have 2.85 acres of cultivation on a private dirt road that starts about 1/10 of a mile from Highway 36. They have all been in the process since December of 2016 and have:

- Paid over \$420,000 in county excise taxes since 2018
- Paid over \$80,000 in Planning fees
- Formed a Road Association
- Developed Three Cannabis Brands

How does it benefit the county to kick these farmers out of the regulated legal market because they are not in a city with a Category 4 standard (center striped) road?



Who will be impacted?



Deerfield Farms has only 5,000 sq feet of cultivation and is a 100% rain catchment irrigated farm. Based on Chair Bongio's recommendation, even farmers like Deerfield, living directly off Highway 36, could be eliminated from the legal market because in some areas it is missing a center line, and would not qualify as a Category 4 standard road.



Conclusion

The changes recommended by the commission should not be so harshly broad stroke unless the intention is to eliminate the rural Humboldt cannabis farm community. Otherwise, we agree with the Director's comments during the meeting, that it should be based on addressing specific identifiable issues.

"I would just ask the commission to specifically identify what is it that are the impacts or the specific changes that are unaddressed, if there are any? And then identify what it is the commission would recommend to the board-- what action be taken in response to those."

- Director John Ford

1-11-2022

H-3

Hayes, Kathy

From: Jeff and Marisa St John <upperredwoodcreek@gmail.com>
Sent: Monday, January 10, 2022 2:28 PM
To: Madrone, Steve; COB
Subject: BoS Jan 11 Meeting - Public Comment for 22-46

Hello Supervisors,

It was a pleasant surprise that the Planning Commission would bring these issues to you. Please consider the options to review existing policies/regulations and adopting revisions/creating new ones for these three topics and others that the public finds important.

1. Generators - Yes, new policies or regulations are needed. A 2025 phase out means that there are three more years where the issues identified continue. A generator that is not properly maintained can cause severe negative consequences (August 2017 Generator Fire in the Santa Cruz Mountains <https://www.mercurynews.com/2017/08/10/generator-from-pot-grow-caused-2016-loma-fire-officials-say/>) and there are a number of cannabis locations are vacant outside of the preparation, growing, and processing times so no one is checking on the generators for months on end.

2. Road Conditions - Yes, better processes need to address the capacity of the road.

2.1 Self-certification should be eliminated. Agree that "this process is subject to abuse" and that "many permits have been approved in the hills on roads that do not meet Category 4 standards." Refer to 2021 approved projects (PLN-12310 and PLN-11166) that are within a proposed Titlow Hill Subdivision. If the County is required to physically verify work done under an Alternative Owner Builder permit, then it would seem that they would need to do same under a cannabis permit.

2.2 Engineer Evaluation criteria need to be added. It makes no sense to do a traffic study outside of the pre-preparation, growing, and processing season (One example: 21-12310 Redwood Valley Farms (Titlow Hill) had its study done in January and then have the Planning Staff make no mention of this oddity in the Staff Report and the Planning Commission approves.

3. Water Storage - Yes, water collection sources and storage needs to be better addressed since we are, have been, and mostly will be in a drought. Perhaps include something where the Board of Supervisors "shall" decree a water reduction of some sort because other businesses that are not subject to the cannabis ordinances have to adjust their business operations when water is/planned to be not available or negatively impacting their communities.

In addition to the three items brought to you by the Planning Commission, I'd like to add these three topics (for now):

1. Discontinue Reviewing and Approving New or Expanded Operation Permits - Humboldt has been declared to be in a drought since April 2021 and there are numerous reports that County (and State) are over-saturated with cannabis grow production.

2. Require Cumulative Impacts to be Clearly Called out in Staff Reports and Detailed in Supporting Reports

-- Map with approved, pre-approved, and interim operations with highlights on those part of the meeting's agenda. The Map should also include the illegal operations identified by the Sheriff. The locations of those requesting permits are already public knowledge and the Map only makes their sites more transparent and in a better format to review cumulative impact.

--Watershed / Acres Count (per the Resolution) already approved and potential to be approved (during the meeting and

based on all projects)

-Other domestic or other activities on the parcel

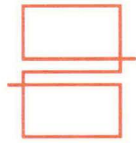
3. Require all sizes of cannabis operations to be brought before the public: For example, a proposed 40,000 square foot grow in the Kneeland area (Luu 2021) drew community concerns, was removed from the Zoning Administrator September 16, 2021 agenda, and was subsequently approved when the size of the grow was reduced to a size that only required the Zoning Administrator to approve and could later be increased (maybe without any public notice or review).

Thank you for considering these comments.

Sincerely,
Marisa Darpino (St John)
District 5

cc: Planning Commissioners

H-3



HUMBOLDT COUNTY GROWERS ALLIANCE

January 11, 2022

RE: Agenda #3 Letter from the Planning Commission

Dear Humboldt County Board of Supervisors,

On behalf of 275 permitted and licensed Humboldt County cannabis operators, Humboldt County Growers Alliance (HCGA) submits the following comments in response to Agenda Item 3 "Letter from the Planning Commission related to Cannabis Program."

We ask that you do not change the existing cannabis land-use policy today. To make informed decisions, we need to review and analyze proposed policies in writing for at least 1-2 weeks. Thus today, we ask that you hear the presentation from staff and public comment and each other's input. Then, direct staff to bring back recommendations in writing before making policy decisions.

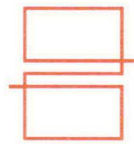
As a regular participant at the Planning Commission hearings, I can attest that generators, roads, and water storage policies are inconsistently applied to applicants. Having consistent and fair policies applied to all applicants would be beneficial. It is discouraging for applicants to believe they've fulfilled all the land-use ordinances' requirements, only to have new conditions applied to their project during a planning commission or zoning administrator hearing. Often the additional conditions are very costly and may require experts or professional services that have over-booked schedules that do not bend immediately to the applicant's needs.

Generators

"The Commission has been conditioning projects requiring cessation of generators by the end of 2025 with conversion either to renewable power or if available PG&E."

- a) Should the Commission Continue this practice? And/or
- b) Should new policies or regulations be developed to address the use of Generators associated with 1.0 applications?

What is being proposed? All generators? Are we talking about generators above a certain capacity e.g. generators at or above 50 break horsepower ([CARB regulations apply](#)). What about generators that are used for ancillary needs such as freezers for cannabis storage, or are you talking about generators used for flowering? Is the county planning on developing regulations that apply to all urban and rural generator use?



HUMBOLDT COUNTY

GROWERS ALLIANCE

Roads

"We believe this process is subject to abuse, and many permits have been approved in the hills on roads that do not meet Category 4 standards. We believe that better processes are needed to address the capacity of the road."

- a) Is this a policy that should be revisited?
- b) That the Board of Supervisors consider eliminating the Self Evaluation process and require that either an engineer or the County Public Works Department complete the road evaluation.

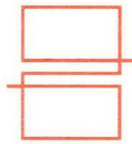
The primary goal of the first land-use ordinance (CMMLUO) 1.0 was to bring pre-existing cannabis farms into compliance. The Planning Department underwent the arduous process to verify historic cannabis cultivation, which established "baseline" conditions before implementing the CMMLUO. The roads used to access the cultivation sites have been used for years or decades. As part of the permitting and environmental compliance processes, applicants pay to upgrade roads and culverts. Adding additional requirements to have an engineer evaluate the roads adds additional costs and time. But, again, these are roads that are currently being used and have been used for many years without incident.

There is a big difference between a pre-existing operator and a new project that is being developed. Therefore, it is perfectly reasonable to require any new project, whether under 1.0 or 2.0 to include a road and traffic analysis as part of the application.

Water Storage

- a) Should the Commission continue to require substantial water storage for sites using groundwater wells exclusively? Should forbearance and/or rainwater catchment be combined with use of a well?
- b) Develop regulations for permitting and use of wells.

No, the Commission should not require additional and substantial water storage as a condition of approval. Developing adequate water storage requires significant costs and sufficient space to hold upwards of hundreds of thousands of gallons of water. Should an applicant need to build water storage for hundreds of thousands of gallons of water storage, a new area will likely require additional permitting for grading and/or input from California Department of Fish and Wildlife for pond development. Both the CMMLUO and CCLUO, as well as state water policy, and CDFW functionally encouraged the development of wells as opposed to surface water diversions, which is why the county has reported increased occurrence of wells.



HUMBOLDT COUNTY GROWERS ALLIANCE

At a bare minimum, should the county wish to move in the direction of conditioning additional water storage as part of the project's approval, a reasonable timeframe must include reaching compliance. For example, similar to the requirement for operators to transition from generators to renewable power sources by 2025.

Recently your board granted an appeal of a project applicant that was conditioned by the Planning Commission to develop immediate water storage in addition to the use of their well. Later today, another cannabis project is appealing the planning commission's condition for 50% water storage for their well.

As you are well aware, Humboldt County's cannabis industry is in jeopardy due to market collapse. Nearly 85% of all projects that have received full permit authorization and those that are still in the queue are pre-existing operators. These people voluntarily and willingly invested their savings into coming into compliance with our environmental land-use ordinances. It is not that we are insensitive to environmental or safety concerns, it is simply that we are continuously being asked to do more and told that what we are doing, or have done is not good enough. In order to continue to operate and contribute to our community, we need consistent, predictable, and fair policies.

Thank you for your consideration,

Natalynne DeLapp
Executive Director

H-3

Humboldt County Board of Supervisors
825 5th Street
Eureka, CA 95501

Re: January 11, 2022 Agenda Item #H. 3
Planning and Building
Letter from Planning Commission Expressing Concerns with the Cannabis
Program.

Dear Supervisors,

Previous to the Cannabis Ordinances being written there was serious concern in my community about the green rush. We were concerned with the large grows that were diverting much needed water from already struggling waterways, that were using generators for lights and fans with noise and air pollution, and that posed a constant danger from fuel spills into our waterways or an accidental fire and we were living with the roads that were being degraded and trashing our cars and becoming dangerous to drive.

There was some hope that legalization would help this situation.

Unfortunately on the ground here in Southern Humboldt we are facing the same issues as we were facing before legalization.

To start with permits have been granted under the premise that farms "were existing" and with legalization these permitted farms will be growing under stricter guidelines or overview. This is a false premise. People were not growing such large gardens.

Now we have acre grows in "hoop houses" producing a continual harvest all year. Farmers are also being allowed to run generators for their "harvest season" which can be ½ the year or more.

A majority of the permitted grows have more than one generator at more than one location, which increases the potential for fires and fuel spills.

The farms being permitted resemble the large indoor grows we were upset about during the green-rush more than the supposed "Mom & Pop legacy grows". The farmers that the Humboldt County legalization process was so intent on helping to become legal so they could continue to be the decentralized land and community based financial backbone of Humboldt County.

Now the business model is for farms to have to become larger and larger with a need for more fuel, more water and with more impacts on roads from large delivery trucks and the increase in workers commuting many miles to develop and run these large farms, all without the road infrastructure to support it.

The Planning Commission has been asking important questions. Why would we not ask people who are developing their farms to adapt to Climate Change and begin to transition to renewable energy? Why would we not ask farmers to store their water, especially when we do not have scientific data to determine if the significant increase in groundwater extraction will have an effect on surface waters? Why permit huge grows way out in the remote rural areas on small inadequate roads that put incredible stress on entire communities and our First Responders for both fire and safety?

To develop a truly sustainable industry, both environmentally and financially reevaluation is needed and needed on a regular basis. We can and must change as we learn what impacts our actions have. Climate change is creating great challenges that need immediate recognition and appropriate modifications to adapt and survive.

Sincerely,
Robie Tenorio
Citizens for a Sustainable Humboldt

H-3

01/10/2022

Dear Supervisors,

In regard to the December 16h, 2021 letter from the planning commission labeled: Concerns with Cannabis Program

Generators:

The EPA has reported that a 40 acre mature oak forest will sequester 109 cars worth of carbon emissions over a year ¹. To help with global warming, our forest land must be protected. The only way private property owners in Humboldt County can afford to protect their properties is to farm a small portion of it. The alternative is to log it, or sell the water and logging rights to a multi-national corporation. As many of the cannabis farms in Humboldt County are on forested properties, they are essentially conservation easements. When deciding if generator use is appropriate on a cannabis farm, please consider allowing the use of a carbon footprint analysis to determine if the property that is being protected by the cannabis farm is able to sequester the carbon of their operations. If a farm is sequestering more carbon than they are producing, we should be grateful that they are continuing to pay their taxes to protect the land. They may even be absorbing your carbon footprint if you do not have forest land. Generator use should not be considered an impact on these farms.

Well Use:

Additionally, a 40 acre parcel has a projected area of 1,720,000 sq ft. Using standard rainwater catchment calculations, this 40 acres would experience 1,071,560 gallons of water per inch of rainfall. In Southern Humboldt, even during drought years, a property would receive upwards of 50 million gallons of rainfall. A 1 acre farm (most are much smaller) would use less than 1% of this water for the cultivation of cannabis. Is it reasonable to be able to utilize less than 1% of the water that falls on your property to make a living that pays for protecting that property? I think so. Please consider this fact when evaluating if well use is appropriate. Please consider the overall water balance of a property when making these decisions.

Roads:

These properties are out these long country roads because cannabis was unjustly made illegal, and that is where they had to be to exist. The county has already adopted a policy that says we should not be punishing people for being affected by the war on drugs. If it was not illegal, the farms would not have been out there in the first place. If there is no cannabis out these roads, there will be nobody around to pay for maintenance of these roads. Whether or not they meet an arbitrary class 4 road standard is irrelevant to the fact that these roads have existed for decades and have served our communities well. Please do not make rural living illegal. Just see what issues do exist, and help these tax payers fix them. Humboldt County knows better than any other county how hard it is to maintain country roads. 1.0 farms have earned this concession, and the impact is pre-existing. Again, removing the ability of landowners to make a living and pay for road maintenance will only lead to environmental harm. There is no requirement that landowners fix roads if they are not growing cannabis.

I have used a 40 acre forested parcel for my example, but each property will have unique characteristics that should be evaluated. We are all concerned about global warming and the drought. The problem is that taking our worries out on these farms is going to backfire when these farms have to sell the forest land that has not been logged in 40 years because that is the only option left. I would suggest that not allowing the 1.0 farming to continue would need to be evaluated by a new EIR. The aesthetic and environmental issues of closing cannabis farms and logging them would be a serious impact that should be considered. The work that these farms are doing to fix the damage from legacy logging operations would need to stop if they can no longer afford to pay for the work. Be careful how you address this for legacy farms. Come visit a legacy farm and walk the woods with a farmer. I think you will be surprised to learn how many of them love and care for their properties. It's not all impacts out here. There is good work being done allowing cannabis farming in our communities.

Thank you for your time and your efforts addressing this very difficult situation.

Kind Regards,

Ross Huber
Garberville.

1. (<https://www.nytimes.com/2012/12/04/science/how-many-pounds-of-carbon-dioxide-does-our-forest-absorb.html>)