

ATTACHMENT 10

Final Environmental Impact Report (provided in the staff report for the March 19, 2018 meeting with a corrected Mitigation, Monitoring and Reporting Program provided in the staff report for the April 10, 2018 meeting).

ATTACHMENT 11

Written Public Comments Received after the April 10, 2018 Public Hearing

From: Laura Cutler <ljchumboldt@gmail.com>
Sent: Sunday, April 15, 2018 8:15 AM
To: Ford, John
Subject: Re: Comments on Ordinance 2.0

Mr. Ford: Why was my comment below not in the 4-10 board package? Please advise. Thank you. Laura Cutler

Sent from my iPhone

On Mar 28, 2018, at 5:03 PM, Laura Cutler <ljchumboldt@gmail.com> wrote:

Dear Commissioner Ford,

Thank you for all your hard work in what must be a very challenging environment wherein you are facilitating the creation of a new industry and shaping a great part of our county's future.

I have a one policy question to submit for your and the Board of Supervisor's consideration with respect to Ordinance 2.0. It is as follows:

Has the Planning Department or the Board considered any regulation of vertically integrated businesses, larger than micro businesses? It occurs to me that if caps on cultivation are being considered to benefit the environment, there is also the issue of what impact big vertically integrated businesses will have on our community. I believe there are other jurisdictions that require rfp's or letters of intent and development agreements for larger vertically integrated businesses with a community benefits component to ensure there is a give back to the community. If large operations are not capped by the 4 total license cap in 1.0, which was not restricted to cultivation, perhaps the spirit behind that cap can be maintained with community benefits obligations. I believe that many local larger operations would gladly wish to participate in giving back to the community. In some cases, perhaps local ownership control can be a plus in the determination of granting a development agreement as well. I would not presume to dictate policy but I do advocate for clarity on these policy issues with an eye toward protection of this incredible community we live in and the hard working families, individuals and small locally owned businesses that make it so great.

I very much appreciate this opportunity to communicate. Thank you for your consideration.

Best,
Laura Cutler
Attorney at Law
[707-601-7669](tel:707-601-7669)

Sent from my iPhone



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501 Fax: (707) 268-3792 Phone: (707) 445-7541
<http://www.co.humboldt.ca.us/planning/>

April 27, 2018

Scott Bauer
Senior Environmental Scientist
California Department of Fish and Wildlife
619 Second Street
Eureka, CA 95501

Re: Response to Your Comments to the Board of Supervisors on April 10, 2018 on the Commercial Cannabis Land Use Ordinance (CCLUO)

Dear Mr. Bauer;

Thank you for your continued involvement helping the County refine our proposed CCLUO. We greatly appreciate your efforts.

At the previous Board hearing on the CCLUO on April 10, you suggested the County had not entirely responded to CDFW's comments because we - the Planning and Building Department - were still considering several of them. Your comments appear to be related to the text in the Final EIR for the CCLUO which includes the language, "The County is considering the requested changes" in Responses to Comments #S1-22, S1-23, S1-27, S1-28, S1-29, S1-30 and S1-33.

The following paragraphs provide supplemental responses to clarify the County's position in addition to the responses in the FEIR.

S1-22. The comment recommends that General Provisions definition in the proposed ordinance of pre-existing sites consider current site conditions when determining the level of review required.

Supplemental response: With existing applications, the County has been considering current site conditions when determining the level of review required. For example when former cultivation areas were within riparian areas that are now revegetated with riparian species, those former cultivation areas are not be allowed to be cleared again without environmental review describing the impacts of that activity.

Nearly all of the applications that have been approved where cultivation occurred within riparian areas relocate their cultivation areas away from the biological resource areas to avoid protracted environmental review. The County is not proposing to change our CEQA review process for applications under the proposed CCLUO, and we expect all, or nearly all of the locations for approved

cultivation areas for pre-existing applications to reduce their impacts on biological resources compared to their former locations.

- S1-23. The comment recommends that previous trespass cultivation sites not qualify as pre-existing sites under the proposed ordinance.

Supplemental response: The term "trespass cultivation sites" are assumed to refer to sites that were cultivated without the owner's permission. By requiring a completed application form signed by the owner or expressed owner consent, the County avoid the potential for trespass cultivation sites. Where properties with trespass cultivation changes hands immediately prior to application submittal, and the new owner was responsible for the trespass cultivation, trespass grow applications may have made their way into the permit review process under the existing CCLUO.

The proposed new CCLUO avoids permitting trespass grows by using the cutoff date of January 1, 2016 for pre-existing cultivation applications. It seems unlikely that a trespass cultivation would have been able to continue from before January 1, 2016 through the present without the consent of the property owner.

- S1-27. The comment recommends changes to the proposed ordinance to prohibit generators and mixed light cultivation in all forested habitats to avoid environmental impacts to forest species due to noise and light pollution.

Supplemental response: Section 313-55.4.12.4 and 314-55.4.12.4 - Performance Standard for Light Pollution Control requires structures used for Mixed Light Cultivation be shielded so that no light escapes between sunset and sunrise. This standard allows light to escape from structures used for mixed light only during the daylight hours when it would not impact forest species. It is unclear how a prohibition on the use of generators or mixed light cultivation would be more effective than this standard at avoiding environmental impacts to forest species from light pollution.

As noted by the commenter, the ordinance prohibits generators in the TPZ - Timberland Production Zone. Land zoned TPZ (which includes some areas that are now publicly owned) represent approximately 1,915,000 acres of the total 2,292,640 acres (over 83%) of the land area of Humboldt County. While there may be additional forested habitats not zoned TPZ, the prohibition of generator use and mixed light cultivation in TPZ protects the great extent of contiguous habitat in the County.

The CCLUO also establishes performance standards for minimizing noise impacts. These standards set a threshold of not more than a three decibel increase over the ambient, and sets noise standards within the habitat of marbled Murrelet and Northern Spotted Owl. The prohibition of new cultivation on land with established tree cover regardless of zoning further protects forested habitat from generator noise impacts.

Also, the use of generators is limited by Sections 313-55.4.6.5.4 and 314-55.4.6.5.4 of the CCLUO, which requires a discretionary permit for the use of generators for more than 20% of the cannabis cultivation related energy demand, and states that Permit approval may be provisional subject to achieving grid power or the 80 percent renewable target.

In all these ways, the CCLUO seeks to minimize the noise impacts from the use of generators for cannabis cultivation. Arguably these measures are going to improve the current baseline conditions more than a prohibition of the use of generators because more unpermitted cultivation sites that use generators for cannabis cultivation without limits will become permitted, and will be required to limit their generator use.

- S1-28. The comment recommends changes to the proposed ordinance to identify the minimum qualifications for individuals who would identify, document, and itemize all current violations related to commercial cannabis activities, and prepare the compliance agreement for provisional permit applications.

Supplemental response: The CCLUO allows provisional permit approvals only with the signed agreement of the enforcement agency or agencies. The minimum qualifications of those producing the agreements is subject to the discretion of the agency signing these agreements. This is appropriate since there is a broad range of agencies that may be signing these agreements, and each agency may have its own ideas of the appropriate minimum qualifications.

- S1-29. The comment recommends changes to the proposed ordinance to require qualified professionals prepare Retirement, Remediation, and Relocation (RRR) Plans, and referral of those plans to appropriate resource agencies for review and concurrence.

Supplemental response: The applications submitted for RRR under the existing CCLUO have all either been prepared by qualified professionals or have been required to be prepared by qualified professionals, and all of those applications are sent to appropriate resource agencies for review. No changes to that procedure are proposed under the proposed CCLUO, that procedure is expected to continue. In addition, dedicated staff at the Planning Department with appropriate professional training reviews all RRR Plans for conformance with the County's biological resource protection requirements.

- S1-30. The comment requests details regarding abandoned cultivation sites and ensuring restoration.

Supplemental response: As described in the Final EIR, abandoned sites that are not in compliance with the RRR provisions of the proposed ordinance would be subject to County code enforcement actions that involve fines and potentially liens on properties to bring compliance through restoration. It would not be equitable for the County to require financial assurances with each application to

restore all sites used for cultivation to their prior condition because that is not a requirement made of any other type of permit issued by the County.

S1-33. The comment recommends changes to the proposed ordinance Section 55.4.12.1.8 (Performance Standard – Road Systems) to require an evaluation of all stream crossings for unsurfaced roads following the protocol prescribed in Cafferata et al. (2017), and the results should be submitted to the appropriate state resource agencies for review prior to approval.

Supplemental response: In Section 55.4.12.1.8 the proposed ordinance requires applicants address the water quality impacts of stream crossings consistent latest edition of the document titled, "A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds". The manual includes measures to protect water quality using best management practices so that impacts from point source and non-point source pollution are prevented or minimized, including discharges of sediment or other pollutants that constitute a threat to water quality. The manual also covers the design and construction of culverts, stream crossings, and related drainage features to remove barriers to passage and use by adult and juvenile fish, amphibians, reptiles, and aquatic invertebrates. For projects requiring environmental review, the road evaluation addressing the water quality impacts would be circulated to the appropriate state resource agencies for review prior to approval.

Please let me know if I can clarify any of this for you.

Thanks again for your efforts.

Respectfully,



John H. Ford
Director

Cc: Board of Supervisors