

McClenagan, Laura

From: Mark C Thurmond <mcthurmond@ucdavis.edu>
Sent: Wednesday, January 19, 2022 3:08 PM
To: Planning Clerk
Cc: Mark C Thurmond
Subject: Letter for Planning Commission
Attachments: Planning Commission Jeffries Permit Jan 19 2022.docx

Dear Planning Clerk,

Could you please give the attached letter to the Commissioners for the meeting tomorrow evening?

It is in regard to the permitting of

Humboldt Hempire Farms, LLC,

Item 11, under G. Continued Public Hearings

Thank you.

Mark Thurmond DVM, PhD
7654 Kneeland Rd, Kneeland CA
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Re: Permitting for
Humboldt Hempire Farms, LLC,
Special Permit Record Number: PLN-2020-16602
Assessor's Parcel Number: 223-061-011

January 19, 2022

To: Humboldt County Planning Commission
From: Mark Thurmond

I am asking Commissioners to carefully consider the accumulation of evidence, as well as that lack of critical analyses and mitigation, that argue against approval of this cannabis permit.

Human Consequences and Social Fabrics

The many extraordinarily strong letters from citizens, residents, and official agencies provide clear and convincing evidence, experiences, and opinions that speak to the pernicious problems we likely will experience with this site and with this applicant. As noted by the Planner:

"Most of the specific comments however were relative to the history of violations on this site and by the applicant. Community members expressed their concern that the site is unlikely to be operated in compliance due to this pattern of past practice."

Ordinance 2.0 tells us, up front, that its (sole) purpose is to ensure health, safety, and welfare of county residents. Yet, in the formal process for evaluating applications, there is no 'box' to check for 'resident welfare', 'resident safety', 'cumulative impacts on community', or anything like that. Thus, because Commissioners are not presented with a checked box, it is strongly suggested that they think about what is being said in the letters and what it all means, taken together.

Some letters revealed apparent harassment and intimidation by the applicant, and the mental anguish and certain fear of retribution experienced by neighbors when the applicant learns of these letters. What will be the consequences of saying nothing? The Commission has not, and will not, hear from those whose fear of recrimination and retribution outweighed their moral commitment to speak out. Fear can be formidable. What happens to society and social structure when we succumb to our fear of the consequences of opposing a cannabis operation, and, instead, acquiesce to silence? What kind of relationship will remain between those who chose silence over fear and their neighbors and friends who chose steadfast (and fearful) opposition to the certain harm that will befall them and their environment? I suggest the commissioners give quiet thought to how cannabis permitting is and will continue to hurt people and damage community social fabrics, and to whether cannabis is worth it. I have thought about it and conclude that it is not.

Proclivity for Recidivism

The gist of information about the applicant's bouts with the law is that it did not involve just one indiscretion, or even two. Rather, these incidents revealed repeated attempts to skirt the law and county codes, time after time, year after year, for years. The evidence presented revealed what appeared to be extensive and well thought out engineering, planning, and building to divert water, and to take what was not theirs to take. Clever vertical business integration delved into a 'laundering' enterprise. Prison term and paying fines did not abate this propensity to side-step the rules.

Knowing all this, does the Commission wish to give this operator 'free rein' over the rules, by granting a permit that allows for 'self assessment' of potential pollutants, water usage, noise, lights, etc.? The

County makes annual evaluations mainly by what it refers to as ‘desk reviews’ because it cannot undertake on-site inspections, allowing operators to ‘self inspect’.. Consequently, we have a situation where the fox will be guarding the hen house, where there is little if any oversight to see what is going on. It seems we have more than enough illegal operators, so why should we create more, only under the pretense of being ‘permitted’ ?

To Bladder or Not to Bladder

If the County does not want to follow its own requirement, that bladders not be allowed, then it should remove the requirement. The first reason reason Planning gives for allowing bladders is that

“the Planning Department believes it is appropriate that this non-diversionary water source be viewed as an acceptable source for on-site cannabis irrigation.” .

This makes no sense. The source of water is actually rain, not bladders. The second reason given is that the bladders were allowed in a previous permit, so it is ok for this permit (even though it is a violation of the ordinance under which the permit is given). So, do we avoid making the same error as for the previous permit and chose to disallow bladders, which state law also would support, or do we ignore the rules, and contrive some excuse for allowing bladders?

Too Much Noise in Noise Metrics

The County’s presentation on noise is inaccurate and misleading. Taking an average of decibel levels makes no sense for two reasons. First, noise (the intensity of sound waves) is measured in decibels, which is a logarithmic scale. Thus, one cannot simply take an average of the decibel level; results would not be uninterpretable. Second, the presentation referred to these ‘averages’ as the ‘ambient’, which is incorrect. The ambient, for purposes of cannabis activities, would be the noise level measured when there was no sound at all being emitted by the operation, as if the operation did not exist. Any average for ambient (calculated as the antilog of the mean logs) should exclude values created by any cannabis operation. In other words, the ambient ‘average’ would not include readings during a bullhorn blast by some employee, which would skew an average toward the high end. Proper thresholds for noise, which should have been addressed in the document, would only allow sound levels to be 6 or 7 decibels above ambient, which is an approximate doubling of the sound level. Thus, the true ambient average was likely much much lower than the 40-45 decibels reported.

Mitigating the Lack of Mitigation

We are given this curious statement:

“The current project was contemplated by the EIR and compliance with the provisions of the CCLUO will fully mitigate all environmental impacts of the project to a less than significant level.”,

which of course is neither true nor possible. Mitigations were not described and no thresholds or significant level designations were given. It follows that claims of ‘full mitigation’ are nonsense. It goes on to say

“The proposal to authorize the project in compliance with the CCLUO is fully consistent with the impacts identified and adequately mitigated in the Final EIR.”,

which also is not true, and hardly possible, in that the FEIR identifies many other impacts not mentioned here (but should have been), many of which are not adequately mitigated in the FEIR, or even in place, as stipulated in the FEIR.

For example, as noted in other letters, there is no mention made of odor, identified by the FEIR as a problem, but for which it had no mitigation. The FEIR also identifies pollutants and stream flow inadequacies, which were not mentioned here. FEIR mitigation was to be by ‘regular in-stream monitoring’ and testing. Of course this is an empty mitigation claim because regular in-stream monitoring and testing simply does not exist here, as confirmed by DFW. A first step to mitigation is testing, observing, and measuring, which is followed by some mitigating action. Here, this first step is not even in place, so clearly, we have no way of knowing if stream flow has declined to some threshold level (a required CEQA metric also lacking from the FEIR), which would prompt investigation into resumed stream diversion, for which the applicant has demonstrated uncanny abilities. As noted in another letter, contaminating nitrates and nitrites in the river are highly likely with such intensive cannabis cultivation methods, and their cumulative impacts can be quite serious (fish kill, algal blooms, etc). Yet, no mitigation is available from Planning’s document, or, in reality, from the FEIR.

The other problem plaguing the process is that CEQA, the state statute requiring the county to assess cumulative impacts of cannabis cultivation on the environment, has not been followed by the FEIR. At its core, CEQA requires identification and assessment of all cumulative impacts. This does not mean that one potential impact, such as an impact on roads or on ambiance, be singled out and considered independently, without consideration of other cannabis operations or other impacts, as was presented in the Planning report. During the period of review for the FEIR, recommendations and critiques were provided by the Dept Fish and Wildlife, which is a Responsible and Trustee Agency pursuant to the California Environmental Quality Act, California Public Resources Code 21000. In several letters, the DFW made recommendations to the County, including those to correct serious flaws in the FEIR. In its letter of March 2, 2018, for example, it warns “---the FEIR does not analyze the potential for significant and cumulative impacts from cannabis cultivation.”, indicating a failure to comply with a key and fundamental element of CEQA.

The consequence of applying a flawed FEIR to this planning process is that claims of mitigation lack legitimacy because the FEIR does not properly or appropriately represent core principles of CEQA. In addition, the mitigation methods claimed by FEIR simply do not exist. Thus, the question becomes what to do to protect against these impacts when there no enforcement and no mitigation? How do we mitigate the lack of mitigation?

Without systems and programs in place to enforce code and to mitigate impacts, especially in a case with low expectations for, as the planning document purports, ‘bringing operations into compliance’, the only option is to not approve the permit.

Thank you.
Mark Thurmond DVM, PhD
Kneeland