



TRINITY COUNTY PLANNING DEPARTMENT

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STAFF REPORT

March 24, 2016

From: Carson Anderson, Senior Planner

To: Planning Commission

Re: Public Hearing - Planning Commission Consensus Points and Preliminary Recommendations to Board of Supervisors Concerning the Land Use Regulation of Commercial Cannabis Activities

Through its discussions over the course of the past three months, the Planning Commission has arrived at a set of basic consensus points shaping a commercial cannabis land use/zoning regulatory framework for recommendation to, and consideration of, the Board of Supervisors (BOS) in adopting a commercial cannabis ordinance. Those discussions have shown the range of perspectives amongst the Commission members, along with a consistent desire to see how the potential use permitting process might align with those land use/zoning components to minimize the impacts of commercial Medical Marijuana (MM) cultivation and related activities. Diverging opinions and consensus arrived at during the discussion of setback and minimum parcel size topics, in particular, highlighted a concern for avoiding cannabis-related impacts in close-in community settings where smaller parcel sizes are common.

Following are the eight topic areas the Commission flagged as the focus for its deliberations, and upon which it has reached a basic consensus.

- 1) Indoor vs. Outdoor Grow
- 2) Appropriate Grow Limits and Boundary Definition (e.g., plant count vs. canopy size)
- 3) Parcel Size and Linkage with Commercial Grow Area Size
- 4) Scope of Commercial Activities Allowed (e.g., cultivation, processing, manufacturing and distribution (per the Medical Marijuana Regulation and Safety Act, or the MMRSA)
- 5) Zone District/General Plan Designation Areas in Which Commercial MM is Permissible
- 6) Appropriate Setback Requirements for MM Uses
- 7) Appropriate Fencing Standards
- 8) Requiring a permitted residence on all properties where MM is being cultivated

There is one new item that needs to be considered as a new discussion item:

Separation distance between commercial growing activities.

A synopsis of the Planning Commission's points of consensus, as confirmed by its workshop meeting on March 10th follows. A vote on each of the consensus items is needed this evening.

1. **Indoor vs. Outdoor Grows**

1a) The full range of indoor, mixed-grow and outdoors grows that can be licensed under the MMRSA, and in the Humboldt County commercial MM ordinance, should be allowable. There was a generally held view that indoor grows be required based on certain impact threshold criteria such as small parcel size, location within close-in neighborhood settings, sensitive receptor proximity, and where an identified potential for environmental and/or nuisance impacts exists; whereas, outdoor grows typically would be limited using setback requirements to keep the impacts away from others.

Vote - Confirm/Modify or Reverse Consensus Item 1a?

1b) The use of generators should be restricted to avoid nighttime/early-morning hour noise impacts aligned with current County noise limits (reference having been made by staff to current ordinances governing generator use associated with RV installations [Ordinance 315-801 Section (C)6], and to the County's current MM Ordinance 315-797, Section (f)(8), which further requires review and approval of the fuel storage structures supplying the generators).

Vote - Confirm/Modify or Reverse Consensus Item 1b?

2. **Commercial Grow Size Limits**

2a) Grow cultivation area size should be based on language contained in the MMRSA, which references a maximum cultivation area permissible of 44,000 square feet (slightly over one-acre).

2b) There was additional direction that the cultivation area be defined utilizing a "Cultivation Area" definition rather than by using a plant count or canopy methodology, and that the full definition of term "Cultivation Area" shall be modified slightly to address the potential for "stacking" (e.g., two-level or more grow beds and pots) of cannabis cultivation.

Per the above-stated direction in 2b) to reference the potential for "stacking," the following amendment to the definition of cultivation area is offered—the underscored text having been added to address the concern raised:

"Cultivation Area" means the sum of the area of cannabis cultivation as measured around the perimeter of the discrete area of cannabis cultivation on a single premises, defined as a single area that can be readily measured, in terms of square footage, for code enforcement purposes, and as further defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, adjoining walkways, the exterior dimensions of greenhouses or structures erected to enclose cultivation areas, as well as the area covered by pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises, and shall account for instances where cultivation is in a stacked (or multiple-level) configuration.

Vote – Confirm/Modify or Reverse Consensus Items 2a and 2b?

3. Parcel Size and Linkage with Commercial Grow Area Size

3a) There should be a minimum parcel size for commercial outdoor grows with cultivation areas measured at more than 200 sq. ft. The minimum parcel size for commercial grows shall be set at two (2) acres.

3b) Large commercial grows greater than 10,001 sq. ft. should be limited to larger parcels of at least 10 acres or more.

Vote – Confirm/Modify or Reverse Items 3a and 3b?

4. Scope of Commercial Activities Allowed (e.g., cultivation, processing, manufacturing and distribution (as permissible in the MMRSA and Humboldt County ordinance))

The full array of commercial activities permissible in the MMRSA and Humboldt County Ordinance should be allowed. On an interim basis, all activities would occur on the property where cultivation is proposed to occur until a more detailed land use framework is developed as part of the County's final commercial MM ordinance.

Additional Caveat or Disclosure

Both the Commission and staff have received comments concerning cannabis products produced through the use of butane (e.g., Honey Oil) if manufacturing and processing activities became permissible as part of a new commercial cannabis ordinance. It should be noted that the current MM ordinance (personal cultivation) prohibits the use of butane for processing cannabis (Ordinance 315-797(f)(9)) and it is expected that this prohibition will be adopted as part of the commercial MM ordinance by the BOS. Staff recommends that rather than retracting prior consensus that the Commission express its concerns to BOS regarding potential product lines utilizing butane other flammable/potentially explosive processes for BOS consideration.

Vote – Confirm/Modify or Reverse Item 4?

5. Permissible Zone/General Plan Designation Districts for Commercial MM

All outdoor commercial MM grows be restricted to the A (Agriculture) zone with consideration given as well as to Unclassified (UNC) zone districts with an Agricultural (A) General Plan designation. Commercial grows in the Rural Residential (RR) zone will be considered as well, although the Commission made clear that potential impacts to neighboring residential uses would need to be carefully considered in granting use permits.

Vote – Confirm/Modify or Reverse Item 5? (Permissible zone/General Plan designations)

6. Appropriate Setback Requirements for Commercial MM Uses

6a) Large setbacks from property lines should be required: 500 foot setbacks were considered standard, and if proposed by the applicant, the use could be approved through the Director's Use Permit process. There was further consensus for requiring Conditional Use Permits for uses with proposed setbacks of less than 500 down to 100 feet. Though not explicitly stated, the implication was that setbacks less than 100 feet would not be acceptable.

6b) Setbacks from certain types of existing sensitive uses should be required. This includes requiring a minimum separation of 1,000 feet from schools, recreation centers, public libraries and childcare facilities (measured in a straight line from the cultivation area), and requiring a 600-foot setback from churches, drug treatment/rehabilitation centers, Native American cultural sites, and public parks. Clarification of consensus attained on March 10, the Commission voiced that a minimum setback of 600 feet from officially recognized public school bus stops should be required.

6c) There should be a 100-foot setback from public road rights-of-way.

Staff Comment

For purposes of determining appropriate setbacks from commercial MM activities, staff was asked to research how school bus stop locations are determined and assess how permanent the locations are once chosen. Information provided by the Southern Trinity Joint Unified School District and Mountain Valley Unified District indicated that bus stop sites are submitted by the school districts to California Highway Patrol (CHP) for approval, and that changing those locations involves a process. Also, legally speaking, bus drivers are not authorized to pick up students from locations that have not been pre-approved. This information suggested that bus stops do change occasionally, although not frequently.

Vote – Confirm/Modify or Reverse Item 6a? (General setback standards)

Vote – Confirm/Modify or Reverse Item 6b? (Sensitive receptor setbacks)

Vote – Confirm/Modify or Reverse Item 6c? (Public road rights-of-way setbacks)

7. *Appropriate Fencing Standards for Commercial Grows*

7) Balanced with the need to preserve the open space values of certain communities the fencing of outdoor cultivation activities should generally be required for security reasons, however the type of fencing should be at the discretion of the cannabis cultivator selecting from a menu of fencing options provided by and acceptable to the County.

Staff Comment

The underlined text reflects the input provided by the Commission on at its March 10th meeting. Staff was asked to provide a list of the range of fencing materials that would be effective in meeting the screening requirement, and these would be considered by the Planning Commission at a later date as the County develops a final form of the commercial MM ordinance. The most salient of the possible fencing options were discussed at the March 10th meeting (post with rolled metal mesh or metal mesh panels). These options will be elaborated upon, vetted with Building and Safety, and will be further discussed at the Commission's March 24th meeting and readied in time to segue with the adoption of the commercial cannabis ordinance.

Vote – Confirm/Modify or Reverse Item 7?

8. Requiring a Permitted Residence on all MM Cultivation Properties

8) There was consensus for requiring that there be a permitted dwelling either on or contiguous to the property where commercial MM grow activity is occurring.

Vote – Confirm/Modify or Reverse Item 8?

NEW DISCUSSION ITEM

A. Separation Distance between Commercial Grow Activities

Staff Discussion

Following up on staff presentations at the Commission's January 2016 meetings, the potential clustering of commercial growing in any one area still remains a significant issue related to commercial growing activities, particularly in smaller-lot, close-in settings. While there is no easy way to determine the separation needed to mitigate the cumulative effect within a localized area, a proposed beginning point would be for each commercial grow to have a separation distance of 1,500 feet from the center of any other given commercial grow located on an independent parcel.

The 1,500 foot separation is proposed for any particular grow, but it is possible that other independent separations could be established depending on the local area zoning. Example, Rural Residential zone could have a value different than what is established for the Agriculture zone. Director Tippett will provide further detail on this approach at the Commission's upcoming meeting.

Consensus

Is there a consensus that a screening model based on separation distances between commercial grow activities be included as an additional item for consensus by the Commission?

Vote – Accept, Modify or Reject this new item?

If there is no consensus as yet, is there a consensus that the item merits further discussion by the Planning Commission, staff to provide additional information about this screening model?