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Robert Massarelli
Lake County Community Development

Hi Robert,

As a real estate broker specializing in large acreage parcels, I have had a lot of experience with clients cultivating medical marijuana in Lake County. Most of these folks have good intentions and mean no harm to the environment or their neighbors, but Lake County lacks a reasonable ordinance on the issue and has forced most of them to try and hide their operations in unfortunate places. I am very glad to see your office is writing a new, updated ordinance. After reviewing the work done by County staff so far, there are a number of changes I would suggest.

Maps were included in material presented at the Planning Commission meeting on 9/14. Attachment 3 excluded cultivation within 1 mile of Community Growth Boundaries. I agree that there is no place for cultivation within the CGB's, but a one mile radius around them seems overly restrictive. We need to try and keep cultivation activity near paved or improved roads and electrical infrastructure as much as possible, and the proposed one mile radius will eliminate some large parcels safely outside of CGB's. A radius of ¼ mile would be more adequate.

The next map excluded cultivation around water districts. Most of these were the same as the CGB map. In some other areas, such as the Double Eagle subdivision, the exclusion seems unnecessary. As long as the cultivation activity does not use district water and meets the other criteria in the ordinance (parcel size, setback from waterways, on site water source, etc) the public and environment will be adequately protected. This map should be removed from the ordinance.

The 3rd map excluded cultivation within 200 ft of creeks and lakes, yet in the 10/13 material cultivation is allowed within 100 ft. (5.26.B4.b) I agree with the 100 ft setback. Water quality should be protected and the setback is reasonable. The map is inconsistent with the rest of the ordinance though.

Map #4 has exclusion zones around tribal land. I can't think of any other use that is prohibited by a landowner next to tribal land. Currently agricultural uses such as pears or vineyards can spray right to the property line of a Rancheria, but a marijuana plant that does not require a hire

powered spray rig needs to be kept a mile away? This is unreasonable and the map should be removed from the ordinance.

Map #5 excludes cultivation in “prime ag soils”. This basically excludes cultivation in all Agricultural (A) zoning. Our current ordinance REQUIRES cultivation in A zoning, so this complete reversal of County policy makes local government appear to be inconsistent, unreliable, and unstable. It will be very hard to attract investment here by legitimate business owners in this type of environment. Assembly and Senate bills have clearly stated that marijuana is an agricultural crop, it is being administrated by the Dept of Food and Agriculture and banning the use of A zoned land to grow any agricultural product is inconsistent with our General Plan. I know the Farm Bureau Board of Directors asked for this, but sometimes the small, vocal majority of the Board is out of touch with the general membership. I spent 8 years on the Board, I am still a member of Farm Bureau, and this position baffles me. Marijuana is not a threat to traditional crop growing here, and the email circulating from Farm Bureau to its members on this subject is very misleading. Marijuana is a plant that is grown solely for the purpose of human consumption, whether through extracted oils or smoke inhalation. This makes it an agricultural crop. Wine grapes are not eaten, they are processed and turned into an alcoholic beverage, and I have never heard of a MD telling a patient they don’t drink enough and giving them a prescription for a case of wine. If there is any provision in the new ordinance that will lead to legal challenge, this is it. This map needs to be removed from the ordinance in its entirety.

Map #6 shows slopes over and under 30%. This is very helpful, but it makes it look like there is a lot of land available for cultivation. At the 10/13 meeting material was presented that bans cultivation on slopes over 10%. This map should be consistent with the rest of the ordinance.

Map #7 showed public land in the County. These areas are obviously not allowed for cultivation, and the map is a big help as an example of places cultivation will not take place.

Map #8 is a map suggesting every area outside of exclusion zones. Seems like lot of land is available, but again, this shows 30% slopes and under. Subsequent documents limit cultivation to slopes less than 10%, so at least 75% of the area shown here will be excluded also. This map is very misleading.

On 10/13 more material was presented by staff to the Planning Commission. Site Standards were suggested, and there are some changes I feel are necessary.

5.26.A.9 This prohibits outdoor cultivation by a patient outside of MC zoning. If a qualified patient is only growing 6 plants for their personal use and lives on a large (20+ acre) parcel, it is unreasonable to force them to grow indoors. Reference is repeatedly made within 5.26 A regarding the enclosed structure. Outdoor cultivation should be allowed, having “grow sheds” scattered all over the County will be detrimental to the appearance of the County, be a waste of electricity, and a burden for County staff to enforce.

5.26.B.1 Minimum lot size is 40 acres. For small operations 10,000 sq ft or less I would suggest an acreage minimum of 20 acres. Cultivation of more than 10,000 sq ft should be on 40 acre parcels or larger.

5.26.B.9 The Right to Farm Ordinance is designed to protect ALL agricultural uses, this will include cannabis. I was on the committee that wrote our Right to Farm Ordinance, and I can assure you that making any farmer record a notice is completely contrary to the intent of the ordinance. Also, the Board of Supervisors has recently held that this need not be recorded for sales. This paragraph needs to be removed.

b) Grading. Wine grapes and walnuts are routinely grown in Lake County on slopes approaching 20%. Since the cultivation area will be very small in comparison to other crops, the 10% restriction should be reduced to at least 15%.

c) Electrical Usage. Electrical power....shall be provided by on-grid power with 100% renewable source? How is the cultivator going to know where the grid power came from? This is unreasonable and should be removed. Also the purchase of carbon offsets? We are talking about a few dozen plants, not a polluting factory. This paragraph needs to be completely rewritten or removed. The desired standard of off grid power will increase the danger of wildland fire in the County.

d,e) Water Quality. Has a desired standard of using recycled water. I am not aware of anyone using recycled water for agricultural purposes in Lake County. The treatment of water will mean more building, electricity, storage, etc. Since there is very little chance of this happening, it should be removed from the ordinance.

f) Has a desired standard of conservation easements and a wildlife corridor plan. This is not used on vineyard conversions that completely remove native vegetation for over 100 acres, so why is it being suggested for a cultivation site of one acre or less? These should be removed.

a(3) Requires a topography map at 1 ft intervals. Hopefully the intent of this is only for areas adjacent to Clear Lake. Otherwise it is much too restrictive. Only the areas being graded should require such an expensive investment.

17.b) Says “Not adversely affect adjacent water users.” Any use could be considered an “adverse” affect. Should say “Not significantly adversely affect adjacent water users”.

At the 10/13 meeting a chart was presented that outlined the zoning districts cannabis would be allowed to be cultivated on. TPZ zoning was not permitted. County Code section 21-6.5E clearly

allows crop and livestock farming on TPZ zoned land without a permit of any kind. My neighbor just completely cleared 160 acres of TPZ zoned land for a vineyard. At 800 vines per acre using 12 gallons/vine per week, this project will use close to 1.5 MILLION gallons of water per week, but a 10,000 sq ft cannabis operation that uses 2,000 gallons per week is a danger to the environment and neighboring aquifers? I actually support my neighbors conversion, I own a vineyard on my TPZ zoned land (AP# 011-019-23 if you want to check) but for the County to allow and encourage this type of activity and then completely ban cannabis cultivation is inconsistent with our general plan and in violation of County zoning code 21-6. In A, APZ, and RL zoning, crop growing is allowed without a permit. If you decide to arbitrarily pick and choose agricultural crops that need use permits, all of these zoning districts will need to be modified. This is another area, much like the soils map banning cultivation on A zoned land, that could easily be challenged in court.

I feel Lake County needs to position itself as an attractive alternative to Mendocino and Sonoma Counties as a location for legitimate businesses to operate in the future. Our current ordinance strongly discourages investment right now, and places an unfair burden on law enforcement as they try limit the damage being done by black market operators enjoying the monopoly of the marijuana supply in the County that Section 21-72 has given them. As written, the current draft proposal does little to improve the situation due to some overly restrictive language. Hopefully the suggested changes can be implemented so our County can turn the cultivation of cannabis into something positive. Lake County has an opportunity to greatly benefit from this emerging industry, we have the right climate, environment, and geography to be leaders in the licensed, controlled, legal supply of cannabis. It is very important that our ordinance be written in such a manner that will allow local farmers to take advantage of this opportunity.

Currently staff has been meeting with stakeholders one on one for input. This has worked up to this point, but puts an unfair burden on staff when the final draft is presented. I suggest getting representatives from Farm Bureau, Chamber of Commerce, Association of Realtors, Sierra Club, and the Growers Coalition to meet in late November and try and reach consensus on a final draft.

Bobby Dutcher