



Mendocino County General Government Committee
501 Low Gap Road
Ukiah, CA 95482

December 12, 2022

Re: Item 2d on 12/12 - Discussion and Possible Action Regarding the Handling of Vegetation Modification in Connection with Applications for Commercial Cannabis Cultivation Under Mendocino County Code Chapter 10A.17 (Sponsor: County Counsel)

Honorable Supervisors,

It is with great concern that the Mendocino Cannabis Alliance reviews the staff Tree Removal Report. We had made numerous requests to County Counsel's office and MCD to share the documentation for this item prior to last Thursday so the public would have an opportunity to put in the considerable time and effort to evaluate the report and provide comment. It is unfortunate that the materials were not released earlier. Along those lines we request that more than 3 minutes be provided to stakeholders to meaningfully engage on this complex issue. To be fair, this may have been an honest attempt to identify a meaningful way for people to utilize the exceptions written into the ordinance, especially 5½ years after the ordinance was passed, but it fails in that task in that it doesn't, and can't, capture how this would play out in a practical way.

For example, in the staff report we have the almost pleading request that, while the MCD is charged with administering the County's regulations, could the Board please provide

“input and direction in developing definitions and policies on the tree removal prohibition given the important policy issues involved and the potential impact the policy may have on the County.” (p. 4, para 1) -- exactly the task that the MCD and County staff were charged with.

This Sisyphean task being tossed back and forth between the Board and the MCD and staff can only result in failure and frustration. Simply put, people are being asked to prove things that the County does not have a standard against which to measure that proof. For example, many reasons someone might have had to remove a tree six years ago often did not require a CDF permit. Now, in 2022, this cultivation applicant is being asked to prove something that wasn't required in the ordinance or didn't exist back then.

The bottom line problem with the current, and long-standing, approach to implementing vegetation modification¹ (actually tree removal) regulation of cannabis cultivation permit applicants, is that the MCD, and therefore the County, is poised to deny permits not for actual tree removal, but for a lack of documentation to disprove MCD's allegations that there MAY have been tree removal -- a classic case of guilty until proven innocent. At the same time, applicants sign an affidavit with the warning under the signature line that they are signing under penalty of perjury, which should suffice, as it does in any other similar situation, such as taxes, which are simply self-affirming statements from the IRS' point of view.

And this impossible requirement depends on attestation from an authority such as a professional consultant or agency that is unlikely to offer confirmation about something that may have taken place so long ago or is nebulous since there is no defined standard against which to confirm or deny any illegal tree removal. In contrast with this approach of the MCD denying permits NOT for actual tree removal but for a lack of documentation to disprove MCD's allegations that there MAY have been illegal tree removal, a common-sense and environmentally beneficial approach would be to revise the prohibition on tree removal. Denying permits will just leave a scar on our community that will never be remediated.

Finally, MCA is cognizant of the numerous legal opinions submitted to the County over the past year regarding the unlawful vegetation modification standard and process. This raises another concern that the County may have to waste precious financial resources defending itself against a legal challenge of the Veg Mod program itself, when there is the choice of dropping this onerous and harmful approach to "veg mod" regulation.

It would be wise for the General Government Committee to recommend to the Board that they do just that.

Sincerely,

Mendocino Cannabis Alliance
e: info@mendocannabis.com

¹ There is no prohibition on vegetation removal in the ordinance, only tree removal. Nor is there any requirement in the ordinance to document vegetation removal in any specific way, with or without a licensed professional, at the time of the vegetation modification. Brush clearing, limbing/pruning of trees, etc., IS ALLOWED.