

October 10, 2017

Cannabis Comments
c/o Matt Johnston
Planning Department
Santa Cruz County
701 Ocean Street, 4th floor
Santa Cruz, CA 95060

Re: Cannabis EIR

Dear Mr. Johnston:

Thank you for the opportunity to provide comments on the draft Cannabis EIR presently pending review by the Santa Cruz County Supervisors. I am a past president, and farmer of the year, of the Santa Cruz Farm Bureau and a long time farmer in the Pajaro Valley. I have reviewed the EIR and discussed it with planning staff, county administrators and various members of the Board of Supervisors. I am impressed by the scope and detail of the draft, however in many instances it fails to appreciate the current capability and breadth of commercial agriculture in Santa Cruz County. These comments are limited to the cultivation sections of the EIR and focus on four aspects:

- Commercial agriculture in Santa Cruz County,
- EIR alternatives fail to adequately consider CA zoned land and existing permitted greenhouses,
- No environmental impact from increased opportunities for multiple licensees in existing greenhouses on CA zoned land, and
- Suggested alternative language for the proposed Cannabis cultivation ordinance.

Commercial Agriculture Agriculture is the largest industry in Santa Cruz County. The proposed program recognizes existing commercial farmers with an exception from the site registration process. It states that 37,238 acres of CA zoned land would be eligible for cultivation licensing under the Project, however the Santa Cruz County Agricultural Commissioner's *2016 Crop Report* lists 17,367 acres of actual commercial agriculture in the county, which includes berries, vegetables, orchards, vineyards and nurseries. This farm land is some of the most valuable in the country due to our unique geographical location. Historically the county has protected farm land through Measure J and CA zoning. These protections have prevented conversion of prime Ag land to other uses. The EIR also points out that there are

currently about 197 acres of existing greenhouses, used primarily for cut flowers, vegetables and nursery products. It assumes that 75%, or 147 acres of greenhouses, could be converted to cannabis production. (DEIR pg. 2-48) With this amount of actual greenhouse space there is no need to convert additional land to greenhouses for cannabis production.

Commercial farms, whether organic or conventional, are subject to extensive health and safety, environmental and worker protection regulations. The Santa Cruz Agricultural Commissioner is responsible of oversight and enforcement of chemicals applied to crops. The Department of Labor oversees employee work conditions. California Department of Food and Agriculture conducts research and outreach to growers on best practices. The Regional Water Quality Control Board has an elaborate program mandating every farmer participates in the Ag Order which requires water quality testing, limits on discharges off the farm and excessive fertilizer usage. RWQCB also has a separate regulatory program for cannabis farmers, although this is focused on illegal diversion of surface water. California Department of Fish and Wildlife also places constraints on particular agricultural discharges which may impact rivers and streams. Lastly, Santa Cruz zoning regulations impact what growers may be able to construct on farm land.

The draft EIR to some extent does not recognize that all of these programs exist, and appears to pick and choose which should be applied to cannabis grows. For example there is a requirement to comply with stormwater regulations, without recognizing that water quality regulations extend to irrigation tailwater and excessive nitrate use in fertilization. It would be better to acknowledge those areas of existing regulation as required by the cannabis program and not reinvent overlapping regulations.

EIR Alternatives The EIR reviews the Project and More Permissive Project in detail. As to grows on CA zoned land the Project has a 2% parcel size limitation, increasing to 4% for the More Permissive Project. This is an arbitrary limitation and is inconsistent with commercial farm operations. For example an existing large range of greenhouses may have over 300,000 square feet under glass on a 10 acre parcel. The More Permissive alternative would then limit cultivation to 17,424 square feet of canopy, and only 8,712 sq.ft. for the Project, a tiny fraction of the existing greenhouse, which will result in underutilization of the remaining structure.

The Alternative Analysis considers three other possibilities; No Project, Most Restrictive, and Most Permissive. Each results in potential significant adverse impacts. Every EIR must consider reasonably feasible alternatives. “For alternative locations, only locations that would avoid or substantially lessen any of the significant effects of the project need to be considered for inclusion in the EIR” (Draft EIR, Alternative Analysis pg. 4-1)

CA Zoned Greenhouses Based on this criteria the environmentally superior alternative was not considered at all; allowing co-location of multiple licensees (stacking) in existing greenhouses in CA zoned land. This not only mitigates environmental impacts, it maximizes the utilization of existing greenhouses.

Limited Environmental impacts associated with CA land If there is a focus on growing on CA zoned land, with a preference for existing greenhouses, which the EIR acknowledges are

underutilized at present, almost every identified negative impact is avoided. Existing workers will continue to be employed, not contributing to new traffic congestion. Conversion of timber and agricultural land is not an issue. There will be no new development so there is no impact to biological, cultural, geology and soils, and no increase in greenhouse gas emissions. As these are existing greenhouses, they are already served by agricultural water wells, do not divert stream water, and were inspected and approved by the local fire departments at the time of construction. This is truly the environmentally superior alternative.

Co-location of multiple licensees in existing greenhouses also increases the ease of enforcement of cultivation taxes, environmental compliance through the Ag Commissioner's office and security of the operation. Almost every greenhouse range has existing caretaker housing. Furthermore no cannabis will be visible from outside of the property. Monterey County also considered and adopted regulations restricting cannabis to existing greenhouses. One of the key considerations in Monterey was to limit the proliferation of greenhouses or other structures on productive Ag land (Monterey ord. pg. 14-16). This is similar to Land Use Framework Policy 5.XX on Cannabis Industry and Agricultural Diversity which seeks to ensure that "cannabis cultivation and manufacturing does not lead to over concentration in that sector of the County's agricultural economy" (DEIR Appendix C final unnumbered page)

Draft Cannabis ordinance The draft ordinance must include locations through out Santa Cruz County. It proposes various environmental and law enforcement directives. However, in many instances it does not acknowledge existing state and regional regulations that already apply to the commercial growing of any crop. After all is said and done, cannabis is an agricultural crop. The following reference specific language in the Proposed Ordinance, Appendix C to the draft EIR.

1. Rules Specific to License Types; CA Land {(F)(1)(b) page 14}: As proposed this currently limits canopy at 2% of the parcel size. To maximize utilization of existing greenhouses on CA land and reduce the overall environmental impact of cannabis cultivation this should be changed to allow stacking of licensees and full occupancy of existing greenhouses as follows:

(F)(1)(b) Existing greenhouses may house multiple licensees, subject to a ZA use permit (see below). Individual licensees can grow up to 22,000 square feet of canopy in adjacent greenhouse space. Each existing greenhouse structure will have demarcations showing the area occupied by individual licensees. Greenhouse walls along the perimeter of the property must be opaque.

2. Use Permits – Existing Greenhouses: This is a suggested addition to the proposed ordinance. If a greenhouse complex can house multiple licensees, it would be preferable to allow the landowner, or master lessee, to obtain a use permit for the greenhouse complex showing compliance as to zoning, security, water availability, provision of a caretaker, setbacks and visibility from off the subject property.

Use Permit – Existing Greenhouses (new). Upon application to the Zoning Administrator by the landowner or master lessee, and inspection of the property to

confirm compliance with Santa Cruz County Code §§ 7.128.110 *et.seq.* a 5 year use permit shall be issued allowing the greenhouses to be occupied by multiple permitted licensees up to full capacity. The permit may be renewed at the end of the initial term.

3. Canopy Definitions (D) page 5: The proposed definition in the Draft Ordinance is:

“‘Canopy’ means the net vegetative growth area of the combined diameters of individual plants. For purposes of this definition, diameter is measured by plotting a straight line from side to side through the widest part of a plant”

This does not include nursery plants, although it is unclear if it refers only to mature flowering plants. It is not consistent with the draft California Code of Regulations for Medical Cannabis Cultivation which presently states:

(d) “Canopy” means all of the following: (1) The designated area(s) at a licensed premises that will contain mature plants at any point in time; (2) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries; (3) Canopy may be noncontiguous but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and (4) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation” (Calif. CR, Title 3. Division 8. Chapter 1, §8000(d))

Neither the county or state definition provides sufficient clarity for a farmer to accurately calculate canopy size.

4. General Eligibility (G)(1)(a) page 16: Commercial farms, including greenhouses, many times are leased to other growers, even though the owner may have farmed or owned the property for decades. The limitation that the applicant is required to have engaged in commercial production for over 3 years is not necessary for existing greenhouses. It would also limit the ability to stack licensees in one greenhouse.
5. Geographical Restrictions-setbacks (G)(3)(a) & (e) page 17: Setbacks from a habitable structure should be waived for caretakers housing on greenhouse properties. In some cases adjoining parcels with greenhouse ranges each have caretakers housing which is within 200 feet of the neighbor’s greenhouse. The proposed 200 foot setback from a public right-of-way is not applicable for existing greenhouses where the side walls are opaque and should not apply on CA land
6. Miscellaneous Restrictions (G)(7)(e) page 20: Cannabis growers cannot comply with Federal laws and regulations as cannabis remains a Schedule 1 drug. Existing Regional Water Board regulations for commercial agriculture extend far beyond storm water

management. It would be wiser to state that licensees must comply with all applicable “County and State” laws and regulations, with limitation.

Should you have any questions regarding these comments to the draft EIR please contact me. Thank you for your diligence in this matter.

Sincerely

A handwritten signature in blue ink that reads "Kirk F. Schmidt". The signature is written in a cursive style with a large initial 'K' and 'S'.

Kirk F. Schmidt

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