



PC 49.20
Item #2
Julie Saylor <julie.saylor@edcgov.us>

2 pages

Fwd: Planning Commission Modifications to the Cannabis Cultivation Ordinance

1 message

Planning Department <planning@edcgov.us>

Wed, Apr 8, 2020 at 7:31 AM

To: Debra Ercolini <debra.ercolini@edcgov.us>, Julie Saylor <julie.saylor@edcgov.us>

----- Forwarded message -----

From: **mitch and sue fadel** <mgfadelsg@hotmail.com>

Date: Tue, Apr 7, 2020 at 8:47 PM

Subject: Planning Commission Modifications to the Cannabis Cultivation Ordinance

To: planning@edcgov.us <planning@edcgov.us>, Creighton Avila <creighton.avila@edcgov.us>

To: Members of the Planning Commision

Greetings all, my name is Mitch Fadel I am the El Dorado County Director of the American Alliance for Medical Cannabis. Our patient advocacy group has been in existence and supporting cannabis patients in El Dorado County for the past twenty years. I was present at the first county workshop regarding the safe and affordable access to medicinal cannabis for patients in El Dorado County that took place in your chambers approximately fifteen years ago. Our group has since engaged with the past and present sheriffs and district attorneys, as well as the head of the EDC Health Department. We have contributed in the creation of ordinance 5000, and the updated version 5067. I have participated in the cannabis cultivation, dispensary, and the regulatory ad hoc committee meetings. Establishing safe and affordable access for medical cannabis for the patients of this county has been our goal since the passing of Prop 215. I feel very privileged to have been part of a process to help the sick and dying by contributing to the creation of an ordinance to help those who chose the use of medical cannabis as an alternative medicine. Unfortunately, almost half of our group has passed away due to their illnesses and the fact that most us are senior citizens with physical ailments. Our work has not been in vain, and our accomplishments in regards to the ordinance are a shining example for the state of California. We are one of the oldest medical cannabis patient groups in the country.

It has saddened and frustrated me to see the abuse of our ordinance by the profiteers who use a doctors note as a loophole to achieve material gain. These culprits have ridden on the coat tails of our sincere work to further their agendas, and they have made mockery of our laws. They have destroyed the credibility of medical cannabis to the point where legitimate patients are a minority and those bad actors are a main stream majority. Their unlawful actions have caused heavy scrutinization of the medical cannabis community and now the legitimate patients will be the collateral damage by the chosen actions of the county in order to address an out of control situation.

I welcome the strong enforcement of our ordinance, but please do not throw out the baby with the bath water. One of the main reasons the situation has grown out of control, is due to a lack of enforcement for the past few years. I cannot tell you how many times I have heard from bad actors that they were confident that they would get away with their misdeeds because the chance of them getting caught were very low, and the money was too good! When year after year, people were able to do what they were doing without accountability, it only reinforced their bad behavior. I cannot help feeling that the county's complacency on enforcement of a well crafted ordinance led to the tragic death of a beloved deputy by a criminal enterprise that operaterated under the disguise of a medical cannabis garden that was vastly out of compliance with ordinance 5067. With all the aerial surveillance that goes on in this county, why was no action taken on such a garden before things elevated to what happened?

When proposition 64 was passed by the voters of California, our organization was against it, and our county's voters were also against it by a slight majority. The Board of Supervisors stipulated that only medical cannabis could be grown outside, and adult use cultivation would be restricted to indoor cultivation of six plants per state law, which is fine for those recreational users. Under the proposed amendments to the ordinance, the county wants to make a blanket limit of six plants per parcel that has improvements. This one size fits all mentality does not take into consideration the established needs and practices of legitimate patients, nor the the unforeseen impacts on neighborhoods that are already experiencing problems that are occurring due to noncompliant outdoor cultivation. There will be a tremendous amount of cannabis produced for recreational purposes that no doubt will easily filter into the black market and into our schools. There will be an increase in the illegal manufacture of concentrates made from the abundance of cannabis, in which is mainly consumed in the form of "dabs" by the younger generation. We will essentially be pouring gasoline on to a fire that is already burning out of control.

I would like to address the plant number being promoted in the amendments. From the law enforcement perspective, it does simplify the task of determining compliance from non compliance. For many cannabis patients, six plants is adequate to meet the medicinal needs of some patients, especially if there is no spacing or size requirement . Unfortunately, one size does not fit all. Many patients are growing plants that are of a high CBD, low THC ratio. Some of these strains are dwarf in size and rarely reach four feet high. In order to acquire the necessary amount of raw flower to make medicine, under the current ordinance, a patient has two hundred square feet to work in. In this space, a patient may need to plant 12 of this type of plant in order to fill the area allowed. Should a legitimate patient be forced to grow less plants than they need, and would the reduction of their medical needs be fair? I equate this rational to going to the pharmacy for a prescription and being told that due to the abuse of a particular medication, they can only fill half the script. Then there are two patient households that have been cultivating their medicine. Are we now going to limit the needs to one person in the house? I do not recall reading these restrictions in Proposition 215.

On the subject of the wording of "may require registration" and notarization by landlord: I would like to address these subjects as they border on constitutional rights violations. The potential requirement of registration of a garden is a direct violation of the fifth amendment of self incrimination, and as long as cannabis is still federally illegal, no patient should be subject to such a draconian request. This requirement would also jeopardize one's second amendment rights as well. I was contacted by a senior citizen patient that was denied a CCW permit due to the fact that he was a medical cannabis patient in this county. He was told that federal law{ATF} did not allow a person that used medical cannabis a firearm. His application fee was not returned to him either. Since cannabis is legal in California, why should a landlord have to incriminate themselves by signing a notarized declaration allowing the tenant to cultivate cannabis at the rental? Shouldn't that be between the landlord and tenant, the same way a landlord can stipulate conditions of renting like having a pet or allowing smoking? If a case ends up in Federal court, as I have seen in the past, these requirements could have dire consequences. As of today, there are no protections afforded a defendant in Federal court for a cannabis offense.

I would like to close with a request to consider my contentions to the proposed amended changes. We have a good ordinance, and now with the contracted satellite imagery tools, let the long needed enforcement bring compliance to a reality without harming the needs of legitimate patients.

Sincerely, Mitch Fadel



Julie Saylor <julie.saylor@edcgov.us>

Item # 2

2 pages

Comments on Agenda Item No.2 (#20-0382) for April 9, 2020 Meeting

1 message

District4Voters Alliance <district4voters@gmail.com>

Tue, Apr 7, 2020 at 10:25 PM

To: julie.saylor@edcgov.us, jvegna@edcgov.us, gary.miller@edcgov.us, jeff.hansen@edcgov.us, james.williams@edcgov.us, aross@edcgov.us

April 7, 2020

To: Members of the El Dorado County Planning Commission

Re: Comments on Agenda Item No. 2 (#20-0382)

Our Position on the Proposed Amendments

We are the District 4 Voters Alliance, an ad hoc group of voters residing primarily in Supervisorial District No. 4. We follow matters of interest to members of our group. Our members are concerned by the ever-growing impacts of illegal marijuana growing in El Dorado County and particularly in rural neighborhoods where many of our members live. As noted in your staff's PowerPoint presentation on this item in regards to "medicinal use" growing:

Currently, El Dorado County allows for more sq. ft. outdoors than any other County. . . The proposed rule changes would still put El Dorado County on the more lenient side only 13 counties allowing six plants outdoors and eight allowing more -- a large majority allow only indoor growing.

We believe the current lax rules have a deleterious effect on the citizenry of El Dorado County, especially in the more rural areas where many unlicensed/non-permitted Marijuana grows have occurred in the past. These effects are the result of carelessness and greed on the part of outlaw growers who can make large sums of money by operating outside the law. We need only to reflect back a few months to the tragic death of Deputy Brian Ishmael to be convinced of how tragic these effects can become.

As stated in the staff's presentation there is an urgent need for the proposed amendments to avoid further adverse impacts during the forthcoming growing season. We urge you to take prompt action to forward the staff's recommendations that were developed in conjunction with the County's law enforcement agencies to the Board of Supervisors for their approval to become effective immediately. If we don't back our law enforcement, we will be overrun by illegal grows, criminal activity and environmental damage.

Our Reasons

El Dorado County has become one of the most "grower friendly" counties, which has attracted increasing criminal activity. In order to protect citizens, more effective enforcement is required. As noted in the staff presentation, current rules make it difficult and cumbersome for law enforcement to determine which grows are illegal so that enforcement can move forward. That has to change! The status quo is untenable!

We believe the staff's articulation of the "Benefits of Proposed Amendments" is on point when it states, in part:

- Provides clarity to the public and enforcement officials as to what is legal.
- Allows enforcement officials to easily determined whether a personal cultivation grow is compliant with the County ordinance without the need to investigate or verify whether a particular grow is for legitimate medical use.
- Provides clear guidelines for the public, which allows for expedited enforcement before plants reach maturity.
- Provides an avenue to more effectively and safely combat the black market, which is necessary for the success of a legal market.

Providing clear guidelines for the public is essential. Particularly in rural areas in the county, the public can help be the "eyes and ears" for law enforcement. We need to know when we see or hear about a grow whether it is a legal or illegal grow. If the latter, we can inform appropriate law enforcement so that they may investigate and shut down illegal grows--promptly! Once the growing season progresses to maturity, that's when the outlaws get most greedy and the danger level rises exponentially (as in the case that resulted in the death of Deputy Brian Ishmael).

In that regard, as the staff discusses, the proposed amendments will streamline the code enforcement process by reducing the number of steps and thus the time it takes to eradicate illegal grows through abatement. Moreover, abatement would now specifically encompass "remediation . . . to bring a property back into pre-cultivation conditions, such as illegal grading and damage to water supply." The environmental degradation wreaked upon our beautiful county by the carelessness and greed of outlaw growers is an outrage! Citizens in this county cannot undertake a simple building project without being subject to numerous requirements to avoid or mitigate adverse environmental impacts. Yet outlaw growers ignore those entirely and simply do what is most convenient, expeditious and cheap in order to attain their ultimate goal of higher profits on the black market. Our creeks and streams should not be subjected to such atrocities!

Thank you for consideration of our views and thank you for doing your job during this COVID-19 crisis and allowing public participation from remote locations.

District 4 Voters Alliance

4/8/2020

Edcgov.us Mail - Fwd: April 9th 2020 Item 20-0382 Comments

PC 4.9.20

Item #2

Julie Saylor <julie.saylor@edcgov.us>

4 pages



Fwd: April 9th 2020 Item 20-0382 Comments

1 message

Planning Department <planning@edcgov.us>
To: Julie Saylor <julie.saylor@edcgov.us>

Wed, Apr 8, 2020 at 11:33 AM

----- Forwarded message -----

From: **El Dorado Growers Alliance** <eldoradogrowersalliance@gmail.com>

Date: Wed, Apr 8, 2020 at 10:54 AM

Subject: April 9th 2020 Item 20-0382 Comments

To: <planning@edcgov.us>

Julie:

I have attached our comments on Item 20-0382. Let me know if you want me to submit the comments in another format besides PDF.

Rod Miller

El Dorado County Growers Alliance
eldoradogrowersalliance.org
530-503-9078 Office
530-748-9822 cell

 **April 9th2020 Planning Comm ltr.pdf**
96K



April 7, 2020

Subject: Item 20-0382 Title 130 Zoning Ordinance for the Cultivation of Cannabis

Dear Commissioners:

This piecemeal approach to making cannabis public policy is not working for our community. The proposed changes to the existing medical cultivation in Item 20-0382 help county enforcement at the cost of flexibility for households of sick and suffering patients.

Section 11362.77 (b) HSC says "If a qualified patient or primary caregiver has a physician's recommendation that this quantity [Six to 12 plants] does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of cannabis consistent with the patient's needs."

Allowing the cultivation of six plants outdoors for adult-use may save patients the cost of getting medical recommendations, but the six plants may not be enough to provide medicine to a household of people. Hence, the purpose of Section 11362.77 (b) of the Health and Safety Code.

It is great that the Planning Commission is making public policy. The Sheriff's proposal should be considered within the framework of the entire county's cannabis policy. It is better to also fix the commercial cannabis program that is inhibiting existing Growers from submitting CUP applications. Six months into the program and we're in the same situation as we were at the beginning. The county could have a \$500 million legal cannabis industry or a \$20 million legal industry. Six months into the commercial cannabis program and there has been only one Full CUP cultivation application submitted. The program is broken. We should have a couple of hundred cultivation applications in by now.

If the real purpose of the proposed change is to reduce small scale illegal cannabis growing that generates income for residents then a better approach is to simply make it easier for small growers to get into the licensed system by eliminating the arbitrary and pointless 1,500' and 800' setback requirements (800' to one's property line) for commercial growers. No county other than El Dorado has 800' setbacks in their ordinances.

Whether someone is 800' or 10' from their property line makes no difference to whether there are offsite impacts of concern relating to commercial cannabis.

More significant factors to reducing concerns about impacts are:

1. The quality of a grower's security systems, security procedures, security contractors and their relationship with the Sheriff's Department;
2. Whether or not there are neighbors and whether or not the neighbors have a pro or anti-cannabis attitude. There are a large number of cannabis growers in the county so many growers have growers as neighbors;
3. The prevailing wind direction; and
4. Whether or not the grower has set up an account with a cannabis bank such as Dama Financial (<https://www.damafinancial.com/>).

When it is easier to get commercial licenses with less uncertainty for applicants many more commercial growers will switch to the legal side of the ledger. You get more bees with honey.

Hopefully, the Planning Commission will be very liberal with setback waivers. Fixing the ordinance will reduce the burden on the Planning Commission. We are hoping that the Planning Commission will grant the waivers. However, growers who have not been treated friendly by the County have to go on faith that when they spend their life savings (\$50,000-\$75,000) to get to the Planning Commission that they will have a chance of getting a license. Almost every applicant will have to get a waiver to the setbacks.

We can make changes to our commercial cannabis program that will ensure that we have a successful commercial cannabis program and protect neighbors from negative impacts. We have the intelligent policymakers in the county that can accomplish this if willing to do so.

The commercial cannabis ordinance should be changed to replace the 800' setback with a 50-foot property line setback for the cultivation area. Plus during the Planning Commission CUP process a commercial cultivation applicant should be required to show:

- 1. That they have a Sheriff approved security plan;**
- 2. That they have taken the measures necessary to prevent nuisances at neighboring residences; and**
- 3. That they have made an effort to arrange banking through a cannabis bank such as Dama Financial.**

It is important to understand why we have so many cannabis growers in El Dorado County. State law prior January 9, 2019, allowed growers to grow commercially for collectives. Our county tried to limit cultivation collectives and retail collectives to three people, however, the courts decided against the County. Before January 2019, in essence, it was legal to commercially cultivate in El Dorado County. Some may disagree with this history. I am happy to have some of the attorneys who participated in this litigation give their legal analysis.

Additionally, El Dorado County has an ideal climate and soils for growing cannabis.

Around the state, most community problems are associated with the illegal cannabis market, not the legal cannabis market.

Please add a fix to the commercial cannabis program or at least recommend a fix to the Board of Supervisors. As we try to restart our post-COVID-19 economy, cannabis can be an instant economic engine. The County's voters voted for a carrot and stick approach to commercial cannabis. The County has beefed up the stick (with a \$500k satellite enforcement contract) and the Sheriff wants to beef it up more with this ordinance. If there is not a comparably effective carrot there will be a lot of conflict at a time when the Community and County government can least afford it. If all of the 500+ growers are driven from the county, property values will crash and there will be a large number of abandoned properties.

Thank you for your assistance in this matter.

Rod Miller
Executive Director
El Dorado County Growers Alliance