

Public Comment #16
BOS Recd. 10/17/23

From: kevinwmccarty@pm.me
Sent: Monday, October 16, 2023 4:05 PM
To: BOS-Clerk of the Board
Cc: BOS-District I; BOS-District II; BOS-District III; BOS-District IV; BOS-District V
Subject: Board of Supervisors Meeting - Oct 17, 2023 - Agenda Item #16 - File #23-1817
Attachments: Archon Farms Inc - Public Comment - Board of Supervisors Agenda Item 23-1817 - 10.16.2023 - Signed.pdf

LATE DISTRIBUTION

ATTN: El Dorado County, Clerk of the Board of Supervisors:

Attached is a letter submitted as a public comment on Agenda Item #16, file #23-1817, regarding the ROI proposing revisions to existing cannabis ordinance.

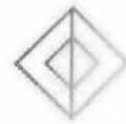
Please ensure this public comment is added to the record and included for consideration at the Board meeting set for tomorrow, October 17th, 2023.

Regards,

Kevin McCarty
CEO / Managing Member



t: (775) 240-3055
e: kevinwmccarty@pm.me
a: Archon Holdings LLC,
701 12th Street,
Sacramento, CA 95814
www.archon.holdings



Archon Farms, Inc.
701 12th St, Ste 202
Sacramento, CA 95814

October 16, 2023

El Dorado County
Board of Supervisors
330 Fair Lane, Building A
Placerville, CA 95667

ATTN: El Dorado County, Board of Supervisors:

This message is regarding Agenda Item #23-1817 related to the draft Resolution of Intent (ROI) proposing revisions to the County's cannabis ordinance, resulting from the recent Planning Commission workshops.

We commend the Board on bringing this Resolution forward for execution, as well as staff for their participation throughout the process. In addition to the six items listed in the draft ROI, we urge the Board to direct staff to accommodate the following additions, which are categorically exempt under California Environmental Quality Act (CEQA) and have been unanimously affirmed by the Planning Commission:

1. Premises Definition / Setback Measurement

- a. Incorporate the State definition of "premises" per DCC regulations / CCR Title 4 Division 19 §15000.(ccc):
 - i. *"Premises" means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.*
- b. Revise language of Ordinance Section 130.41.200.(5)(b) – Cultivation Standards, so the sentence reads:
 - i. *Distance shall be measured from the nearest point ~~of the property line~~ of the premises that contains the commercial cultivation to the nearest point of the property line of the enumerated use using a direct straight-line measurement.*

2. Setback Waiver Eligibility

- a. Strike November 6, 2018 parcel acquisition date threshold for setback waiver eligibility by revising language of Ordinance Section 130.41.100.(4)(c) – Commercial Cannabis Use Permit, so the sentence reads:
 - i. *Any setback for a commercial cannabis activity may be reduced in a Commercial Cannabis Use Permit so long as the applicant demonstrates that the actual setback will substantially achieve the purpose of the required setback ~~and that the parcel was owned or leased by the applicant before voter approval of the ordinance from which this Section is derived on November 6, 2018.~~*

3. Mixed-Light Cultivation

- a. Revise definition of “mixed-light cultivation” in Ordinance Section 130.41.200.(2) – Definitions, in alignment with DCC regulations, so that it reads:
 - i. *Mixed-light cultivation means the cultivation of mature cannabis in a greenhouse, hoop-house, glass house, conservatory, hothouse, or other similar structure using a combination of natural light ~~or light deprivation~~ and artificial lighting at a rate of less than or equal to ~~six~~ twenty-five watts per square foot or less.*
- b. Revise language of Ordinance Section 130.41.200.(5)(j) – Cultivation Standards, to align with the revised definition above.

4. Indoor Propagation

- a. Incorporate the State definition of “premises” per DCC regulations / CCR Title 4 Division 19 §15000.(xx):
 - i. *“Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting in the canopy area at any point in time.*
- b. If necessary, add language to ordinance specifying that outdoor and mixed-light cultivators may conduct propagation of immature plants in an indoor structure, according to existing County building and fire code, as well as any land use entitlement conditions.

Given the nature of the above items along with those contained in the ROI as-written, critically important to the licensed cannabis operators of El Dorado County yet negligible in terms of potential negative effects to their surrounding communities, we strongly urge the Board to seize the day and use this opportunity to benefit the law-abiding agricultural cannabis entrepreneurs by incorporating the four items listed above, and executing the Resolution of Intent under consideration today.

Second, we believe it is all too appropriate at this stage to set a concrete date for the Planning Commission hearing to consider the remaining ordinance revisions and evaluate the steps needed to analyze their effects and applicability under CEQA regulations.

Third and finally, with due respect to staff, the claim presented during the September 13th Board of Supervisors meeting – that all the proposed administrative revisions to the cannabis ordinance are subject to exhaustive CEQA review and analysis – is not accurate. Acts by the Board to revise the ordinance in line with items #1 through #4 above as well as those contained within the draft ROI are exempt from California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305. Section 15305 exempts actions which consist of minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density.

Be bold. Help us improve El Dorado agriculture with common-sense actions today. Let’s work together to make our county’s cannabis as world-renowned as our wine. Thank you for your time and consideration.

Regards,



Kevin W. McCarty
 CEO / President, Archon Farms Inc.
 Member, El Dorado County Growers Alliance
 kevinwmccarty@pm.me
 (775) 240-3055

From: David Harde <davidharde123@gmail.com>
Sent: Monday, October 16, 2023 4:24 PM
To: BOS-Clerk of the Board
Cc: BOS-District I; BOS-District II; BOS-District III; BOS-District IV; BOS-District V
Subject: EDC Cannabis Regulations, Review, Change and Update
Attachments: BOS- Occtober 17, letter.pdf

El Dorado County Board of Supervisors
Regular Board Meeting
October 17, 2023

Members of The Board:

The EDC Planning Commission meeting, July 13, 2023, discussed Agenda Item# 23-1023 in length as directed by The Board. Today this same item will be reviewed and hopefully progress to improve, clarify and enhance the present El Dorado County Cannabis Codes, as voted by our county electorates.

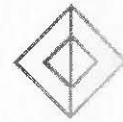
Glaringly absent from those recorded Planning Commission discussions and recommendations is the issue and definition of the cannabis "parcel and premise". The Planning Commission minutes of that meeting reflect the Commission's unanimous decision to split apart from discussion of point two, expansion of the cannabis canopy limits from the examination of the definition cannabis parcel and premise. The Commission with a 5-0 vote, unanimously deciding to examine and redefine the definition of parcel and premise deferring to the California State definitions and applications of those same terms relevant to cannabis cultivation.

The following is submitted to support that Planning Commission decision:

1. Parcel is defined: a separate or distinct part or portion or section, as of land. In the law of real property parcel signifies a part or portion of land. Premise, or premises, in property Contexts, refers to structures and land that make up a parcel of property. The two terms are separate and distinct. In other words, a parcel may have or contain premises, but a premise cannot contain a parcel. These terms are unique and are not synonymous.
2. The definition and use of parcel and premise is clear in the Cannabis Codes of CalCannabis, Nevada County, Sonoma County, California Retail Food Code, El Dorado County Environmental Health, The California Department of Alcoholic Beverage Control and numerous other governmental entities. El Dorado County is unique in perpetuating the misuse of these definitions in the current Cannabis Code.
3. The continued definition and use by the County Cannabis Code of parcel and premise severely restricts a property owner from developing his land to the fullest of his use and enjoyment. The continued misuse and improper application of these definitions will result in unnecessary and unwanted litigations against the County of El Dorado.

I am requesting the Board to immediately make the necessary decision to rectify this problem and to confirm the previous Planning Commission recommendations redefining parcel and premise correctly.

David Harde



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701 12th St, Ste 202
Sacramento, CA 95814

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 - b. Revise language of Ordinance Section 130.41.200.(5)(j) – Cultivation Standards, to align with the revised definition above.
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