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El Dorado County  
Planning Commission  
330 Fair Lane, Building A  
Placerville, CA 95667

ATTN: El Dorado County, Planning Commissioners:

This message is regarding Agenda Item #23-2192 related to the draft Resolution of Intent (ROI) proposing revisions to the County's cannabis ordinance, as directed by the Board of Supervisors on October 17<sup>th</sup>.

We appreciate the work of staff and the Commission throughout this process in helping make these improvements to the cannabis ordinance. During the October 17<sup>th</sup> Board meeting, staff introduced the argument that additional ordinance revisions would not be appropriate because they would warrant additional CEQA analysis and potentially the drafting of an environmental impact report (EIR).

We believe there are other proposed revisions which are appropriate to include in the draft ROI to be sent back to the Board of Supervisors, falling squarely within the "common sense" CEQA exemption under CCR section 15061(b)(3) as well as section 15305 for minor alterations in land use limitations. In addition to the six items listed, we urge the Commission to incorporate the following four revisions into the ROI:

1. Mixed-Light Cultivation

a. Ordinance Revision:

- i. Revise definition of "mixed-light cultivation" in Ordinance Section 130.41.200.(2) – Definitions, in alignment with DCC regulations, so that it reads:
  1. *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.*
- ii. Revise language of Ordinance Section 130.41.200.(5)(J) – Cultivation Standards, to align with the revised definition above.

b. CEQA Applicability:

- i. Section 130.41.200(5)(J) of the ordinance already contains the following text, requiring measures to mitigate potential impact to surrounding land uses:
  1. *All lights used for mixed-light cultivation shall be fully contained within structures or otherwise shielded to fully contain any light or glare involved in the cultivation process.*
- ii. Given this existing protection, it is reasonable to conclude there is no possibility that additional wattage per light fixture will have an effect on the environment, and thus meets the "certainty" standard and CEQA exempt per CCR 15061.

## **2. Premises Definition**

### **a. Ordinance Revision:**

- i. Incorporate the State definition of “premises” per DCC regulations / CCR Title 4 Division 19 §15000.(ccc):
  1. *“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.*
- ii. Revise language of Ordinance Section 130.41.200.(5)(B) – Cultivation Standards, so the sentence reads:
  1. *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.*

### **b. CEQA Applicability**

- i. Amending the definition of “premises” as a singular measure leaves in place all other land use restrictions / environmental concerns, including the following:
  1. 800-foot setback from property lines per 130.41.200(5)(C).
  2. 1,500-foot setback from any school, school bus stop, place of worship, park, playground childcare center, youth-oriented facility, pre-school, public library, licensed drug or alcohol recovery facility, or licensed sober living facility per 130.41.200(5)(B).
  3. Odor nuisance thresholds and mitigation standards per 130.41.200(5)(D).
  4. Water supply sufficiency and conservation per 130.41.200(5)(E)-(F).
  5. Visual screening and exclusionary fencing per 130.41.200(5)(G)-(H).
  6. Renewable energy supply and lighting controls per 130.41.200(5)(I)-(J).
  7. Waste and sewer disposal restrictions per 130.41.200(5)(L)-(M).
- ii. Given the existing protections which will remain in effect, it is reasonable to conclude the amendment will not cause any significant effect on the environment, and thus meets the “certainty” standard and CEQA exempt per CCR 15061.
- iii. To the extent that the objections of specific neighbors in certain areas qualifies as ‘environmental impact’, the proposed amendment still qualifies for a section 15305 CEQA exemption under “minor alterations in land use limitations which do not result in any changes in land use or density”.

## **3. Indoor Propagation**

### **a. Ordinance Revision:**

- i. Incorporate the State definition of “outdoor cultivation” per DCC regulations / CCR Title 4 Division 19 §15000.(xx):
  1. *“Outdoor cultivation” means the cultivation of mature cannabis without the use of artificial lighting in the canopy area at any point in time.*
- ii. 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 applicable land use entitlement conditions.

b. CEQA Applicability:

- i. Outdoor and mixed light cultivation facilities are already granted the right to utilize indoor structures for office / administration, processing, harvest storage, and other ancillary purposes – this amendment would not affect any land use.
- ii. This revision merely proposes to clarify that these cultivators are not restricted from utilizing the indoor space for immature plant propagation – no flowering / mature plants – due to the poorly-worded ordinance definition in 130.41.100(2).
- iii. Given all cultivation standards will otherwise remain in effect, it is reasonable to conclude there is no possibility of environmental impact from this amendment, and it thus meets the “certainty” standard and CEQA exempt per CCR 15061.

4. Non-volatile Manufacturing & Distribution in Rural Areas

a. Ordinance Revision:

i. [OPTION A – FULL MICROBUSINESS, NO SOLVENTS]:

1. Revise text of 130.41.300(6)(A) to include Planned Agricultural (PA), Limited Agricultural (LA), and Rural Lands (RL) as permitted zones for **distribution use**.

*a. Distribution Transport-Only is already exempt from zoning restrictions in 6(A), full distribution use entails same buildings, vehicles, and operations – just the ability to coordinate with testing laboratory for product sample testing prior to retail.*

2. Revise text of 130.41.300(9)(A)(2) to include Planned Agricultural (PA), Limited Agricultural (LA), and Rural Lands (RL) as permitted zones for **Type 6 manufacturing use**, restricted to non-volatile and non-flammable extractions.

*a. DCC Type 6 licenses are already restricted from engaging in non-volatile solvent extraction (butane / hexane) but allow other solvent extraction such as ethanol and carbon dioxide (CO2).*

*b. Proposed “Option A” ordinance revision would further restrict permitted manufacturing, prohibiting flammable solvent (ethanol) extraction, only allowing extraction using water / ice or mechanical processes, such as pressure and heat.*

ii. [OPTION B – RURAL LANDS (RL) INFUSION MICROBUSINESS]:

1. Revise text of 130.41.300(9)(A)(3) to include Rural Lands (RL) as a permitted zone for Type N (infusion) and P (packaging) manufacturing use, in addition to Planned Agricultural (PA), Limited Agricultural (LA), and Agricultural Grazing (AG) in the current ordinance text.

*a. Option B would be a watered-down version of Option A and would still allow cultivators in the RL zone to hold a microbusiness license, limited to distribution transport-only, and manufacturing infusion or packaging – zero extraction of any kind permitted.*

b. CEQA Applicability:

i. [OPTION A – FULL MICROBUSINESS, NO SOLVENTS]:

1. Ordinance section 130.41.300(6)(A) already allows certain distribution uses (Type 13 transport-only) within LA, PA, AG, and RL zones, this amendment would merely include a second distribution type (Type 11 distributor) to the existing category of permitted land uses.
2. Ordinance section 130.41.300(9)(A)(3) already allows certain manufacturing uses (infusion and packaging) within LA, PA, and AG zones, this amendment would merely include a third manufacturing type (Type 6, no solvent extraction) to the existing category of permitted land uses.

ii. [OPTION B – RURAL LANDS (RL) INFUSION MICROBUSINESS]:

- i. Ordinance section 130.41.300(9)(A)(3) already allows certain manufacturing uses (infusion and packaging) within LA, PA, and AG zones, this amendment would merely include a fourth zone (Rural Lands / RL) to the list of permitted zones for this license type, involving zero extraction.

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

Finally, regarding the remaining proposed revisions to the cannabis ordinance, which we admit are likely subject to more formal CEQA review and analysis, we implore the Commission to revisit the topic of an Environmental Impact Report (EIR) for cannabis cultivation in El Dorado County and communicate its importance to the Board of Supervisors. After conferring with legal counsel on this matter, we understand that an EIR will likely be required for the other key proposed ordinance revisions (reduction in 800' setback distance, elimination of "grandfather date" clause), and thus we as a county might as well use it as an opportunity to streamline the CEQA review process and modernize our cannabis permitting system.

We believe that the Board understood the concept of an EIR as a standalone ordinance revision at the October 17<sup>th</sup> meeting, not something that would otherwise still be required to achieve the remaining revisions they approved for consideration. Consequently, we believe it is appropriate for the Commission to include a recommendation for the Board to authorize an EIR for commercial cannabis in the final ROI and propose that it streamline the CEQA review process as an added benefit to the industry.

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,



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