



# COUNTY OF HUMBOLDT

For the meeting of: 11/7/2023

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File #: 23-1507

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**To:** Board of Supervisors  
**From:** Planning and Building Department  
**Agenda Section:** Time Certain Matter

**Vote Requirement:** Majority

**SUBJECT:**

11:00 AM - Options for Addressing Concerns with Number of Cannabis Permits and Size of Permitted Cannabis Cultivation on a Parcel

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Direct staff to return on Nov. 28, 2023, with a resolution to place an ordinance on the March, 2024 ballot to amend the Commercial Cannabis Land Use Ordinance to limit the number of allowed cannabis permits, and to place a limit on the area of cannabis cultivation that can be permitted on a parcel.

**SOURCE OF FUNDING:**

The work for this report came from the General Fund allocation of the Budget Unit 282.

**DISCUSSION:**

This report present options for your Board to consider in response to concerns raised by the Humboldt Cannabis Reform Initiative (HCRI) and includes a recommendation to place a voluntary referendum on the ballot to reduce the cap on the number of permits and cultivation acreage allowed under the ordinance and to limit the size of cultivation to 1 acre per parcel. The voluntary referendum provides the greatest assurance to the public that the limits are stable without creating undesirable side effects like making existing permit holders non-conforming.

At the Board of Supervisors meeting of Oct. 3, 2023, your Board considered options related to establishing a moratorium on accepting new cannabis applications in response to the Humboldt Cannabis Reform Initiative (HCRI). Your Board considered a limited term moratorium, a permanent moratorium, and a ballot initiative to impose a moratorium. Your Board directed alternatives be brought back for consideration.

Your Board discussed the HCRI highlights public concern with the number of cannabis permits being

issued and the size of the permitted cultivation sites. Any action taken should consider the degree to which an action addresses these core concerns, the permanence of the action and whether there are undesirable side effects from the action. Side effects include unforeseen consequences and anticipated consequences including making existing permitted farms non-conforming. Adoption of the Commercial Cannabis Land Use Ordinance included imposition of a cap on the number of permits that could be issued broken down by watershed. The cap with the existing number of approved permits is shown in Table 1.

**Table 1: Current Permit and Acreage cap status**

| Watershed          | CAP         | Actual to date | Acreage CAP | Acreage to date |
|--------------------|-------------|----------------|-------------|-----------------|
| Cape Mendocino     | 650         | 243            | 223         | 80.96           |
| Eureka Plain       | 89          | 14             | 31          | 9.95            |
| Lower Eel          | 336         | 82             | 116         | 34.72           |
| Lower Klamath      | 161         | 23             | 56          | 5.26            |
| Lower Trinity      | 169         | 64             | 58          | 26.64           |
| Mad River          | 334         | 79             | 115         | 26.85           |
| Middle Main Eel    | 360         | 109            | 125         | 42.65           |
| Redwood Creek      | 141         | 13             | 49          | 3.39            |
| South Fork Eel     | 730         | 317            | 251         | 84.92           |
| South Fork Trinity | 86          | 27             | 29          | 11.16           |
| Trinidad           | 19          | 7              | 6           | 0.85            |
| Van Duzen          | 425         | 135            | 146         | 43.49           |
| <b>Total</b>       | <b>3500</b> | <b>1113</b>    | <b>1205</b> | <b>370.84</b>   |

Table 1 shows the number of permits and acreages are well below the cap set cumulatively and for the individual watersheds. This table does not show the number of applications that are currently pending, or the number of Interim Permits that are operating. There are 465 pending applications and within that number are 135 Interim Permits. The Interim Permits are a subset of the pending applications.

**Table 2: Number of Pending Applications and Interim Permits**

| Watershed          | Open Cultivation Applications | Cultivation Acres | IP Valid 2023 | Cultivation Acres |
|--------------------|-------------------------------|-------------------|---------------|-------------------|
| Cape Mendocino     | 54                            | 21.82             | 6             | 2.80              |
| Eureka Plain       | 16                            | 19.20             | 0             | -                 |
| Lower Eel          | 28                            | 23.49             | 5             | 2.41              |
| Lower Klamath      | 25                            | 12.94             | 1             | 0.68              |
| Lower Trinity      | 37                            | 17.75             | 13            | 8.32              |
| Mad River          | 32                            | 22.41             | 9             | 3.11              |
| Middle Main Eel    | 59                            | 28.08             | 16            | 6.10              |
| Redwood Creek      | 37                            | 12.61             | 22            | 6.15              |
| South Fork Eel     | 93                            | 40.88             | 33            | 16.16             |
| South Fork Trinity | 11                            | 14.25             | 3             | 1.56              |
| Trinidad           | 2                             | 0.22              | 0             | -                 |
| Van Duzen          | 71                            | 32.20             | 27            | 8.18              |
| <b>Total</b>       | <b>465</b>                    | <b>245.85</b>     | <b>135</b>    | <b>55.46</b>      |

It is important to capture an understanding of the total number of possible permits in relation to the cap. The combination of the total approved permits and existing open applications are shown in Table 3. This table shows the combination of existing cultivation permits and open applications to be approximately 45% of the cap and approximately 51% of the acreage cap.

**Table 3: Permits and Applications compared to existing Cap.**

| Watershed          | Permit Cap  | Total Applications and permits | Acreage Cap | Total Acreage app and permits |
|--------------------|-------------|--------------------------------|-------------|-------------------------------|
| Cape Mendocino     | 650         | 297                            | 223         | 102.78                        |
| Eureka Plain       | 89          | 30                             | 31          | 29.15                         |
| Lower Eel          | 336         | 110                            | 116         | 58.21                         |
| Lower Klamath      | 161         | 48                             | 56          | 18.2                          |
| Lower Trinity      | 169         | 101                            | 58          | 44.39                         |
| Mad River          | 334         | 111                            | 115         | 49.26                         |
| Middle Main Eel    | 360         | 168                            | 125         | 70.73                         |
| Redwood Creek      | 141         | 50                             | 49          | 16                            |
| South Fork Eel     | 730         | 410                            | 251         | 125.8                         |
| South Fork Trinity | 86          | 38                             | 29          | 25.41                         |
| Trinidad           | 19          | 9                              | 6           | 1.07                          |
| Van Duzen          | 425         | 206                            | 146         | 75.69                         |
| <b>Total</b>       | <b>3500</b> | <b>1578</b>                    | <b>1205</b> | <b>616.69</b>                 |

It is unlikely that all of the applications will make it to an approved status, and some of the existing permit holders may relinquish their permits which has started and probably will continue as the

cannabis industry adjusts. There are people buying property not to grow cannabis, but as a home site.

To address the concerns with the number of permits and the allowed cultivation area within a permitted cultivation site there are several alternatives as follows:

- A. Moratorium - Short Term. A moratorium could be adopted by the Board of Supervisors to prohibit additional cultivation applications for a limited term. This would address the public concern of both the number of allowed permits and the size of new permits on a temporary basis. This would provide an immediate stop to new applications, but it would not provide a stable long-term solution. The decision related to addressing a limitation on the number of permits and size of allowed cultivation area would be deferred until the moratorium period is ended. The decision to defer without a long-term commitment to an action makes this alternative less viable as the public may not see this as a sincere action.
- B. Moratorium - Permanent. A moratorium could be written to prohibit additional cultivation and be adopted by the Board of Supervisors. This would address public concern about both the number of allowed permits and the size of new permits as no new permits would be allowed. This would provide certainty in the minds of the public that the number of cannabis permits will not continue to increase. The only concern from a public perception standpoint is that a future Board would be able to undo the moratorium. Another consequence is as the market adjusts and farmers relinquish their permits, new permits could not be applied for, even on property appropriate for cannabis cultivation. The number of cannabis permits would decline over time, and the ability for new applications for cultivation would not be available. The moratorium as a vehicle is rigid which may create future pressure to remove the moratorium and allow submittal of new applications.
- C. Moratorium - Permanent - Referendum. A moratorium approved by referendum would have more certainty for the public than a moratorium adopted by the Board of Supervisors in that it could only be changed by a vote of the public. This would compound the issue of market adjustment addressed above.
- D. Ordinance Modification - Board Adopted. The Board of Supervisors could adopt a modification to the CCLUO which places a cap on the number of permits which can be issued and to limit the size of the cultivation area allowed on a parcel. The cap on the number of allowed permits could be set at slightly above the current number of issued permits, which would enable applications to be submitted and approved provided the cap is not exceeded. The question is whether the cap should be set at slightly above the existing number of approved permits or set at the number of approved permits plus applications. Setting the cap to capture the current permits and applications would allow current applicants to finish the permitting process. The other options would be to set a cap but allow existing applicants to complete the permitting process. The ordinance change could also set a limit on the size of the cultivation area on a parcel. The Ordinance currently allows up to an acre unless there is a parcel over 320 acres or additional cultivation is allowed through a Retirement, Remediation and Relocation transfer. Setting a limit on the size of the cultivation area would ensure the public that mega grows will not be permitted. This is a comprehensive option, but may not satisfy the public that want assurances these ordinance modifications cannot be

randomly changed.

- E. Ordinance Modification - Voluntary Referendum. Proposing the same ordinance described above as a voluntary referendum has all the same positive attributes of the ordinance discussed above and provides surety that the Board of Supervisors cannot randomly change the provisions of the ordinance.

A modification to the Cannabis Ordinance approved subject to a voluntary referendum that sets a lower cap on the number of permits allowed and acreage and establishes a maximum cultivation area allowed on a parcel would seem to address expressed public concerns and provide the assurance of stability.

1) Cap on Permits and acreage.

The information in the tables above shows the cap could be lowered without adversely affecting permit holders or existing applications. The question is whether to draw the line at the level of the existing approved permits, the approved permits and applications or make it slightly higher or slightly lower. It can be expected that not all existing applications will be approved, and that some existing permits will be surrendered in response to market conditions. It is difficult to say how much that might be. The existing applications and permits represent 45% of the existing cap and 53% of the acreage cap. One simple approach would be to redefine the cap at the existing number of permits and applications. If the Board were to want to recognize that there are likely to be less permits approved than those currently on file, the number of permits could be lowered. If 10% of the permits and applications do not proceed forward that would reduce the total number of permits to 1,420. This number could be rounded down to 1,400 which is a 60% reduction in the cap. That could also be applied to the acreage cap for consistency.

2) Cultivation Area.

The CCLUO allows up to an acre of cultivation with approval of a Special Permit except on parcels over 320 acres where permits can be issued to allow an acre of cultivation for every 100 acres of property and in situation where Retirement, Remediation and Relocation (RRR) cultivation are moved onto a property. Currently two RRR's (up to 40,000 square feet) could be moved onto a property with a Zoning Clearance Certificate or more than that with a Special Permit. It seems like the very large cultivation sites are of the most concern to the public so establishing an acre of cultivation as the maximum allowable would address these concerns.

Based on the information presented a referendum that imposes a cap of 1,400 permits and sets a maximum cultivation area at one acre would address many of the public concerns. A draft referendum ordinance is attached for the Board's consideration. Table 5 shows a comparison of the approved permits and applications in relation to the CAP.

**Table 5. Proposed Cap in relation to existing permits and applications.**

| <b>Watershed</b>   | <b>Permit Cap</b> | <b>Total applications and permits</b> | <b>Acreage Cap</b> | <b>Total Acreage app and permits</b> |
|--------------------|-------------------|---------------------------------------|--------------------|--------------------------------------|
| Cape Mendocino     | 260               | 297                                   | 89                 | 103                                  |
| Eureka Plain       | 36                | 30                                    | 12                 | 29                                   |
| Lower Eel          | 134               | 110                                   | 46                 | 58                                   |
| Lower Klamath      | 64                | 48                                    | 22                 | 18                                   |
| Lower Trinity      | 68                | 101                                   | 23                 | 44                                   |
| Mad River          | 134               | 111                                   | 46                 | 49                                   |
| Middle Main Eel    | 144               | 168                                   | 50                 | 71                                   |
| Redwood Creek      | 56                | 50                                    | 20                 | 16                                   |
| South Fork Eel     | 292               | 410                                   | 100                | 126                                  |
| South Fork Trinity | 34                | 38                                    | 12                 | 25                                   |
| Trinidad           | 8                 | 9                                     | 2                  | 1                                    |
| Van Duzen          | 170               | 206                                   | 58                 | 76                                   |
| <b>Total</b>       | <b>1400</b>       | <b>1578</b>                           | <b>480</b>         | <b>616</b>                           |

**Narrative Explanation of Financial Impact:**

The work on this comes out of budget units 277 and 282 of the Planning and Building Department.

STRATEGIC FRAMEWORK:

This action supports your Board’s Strategic Framework priority of enforcing laws and regulations to protect residents

OTHER AGENCY INVOLVEMENT:

ALTERNATIVES TO STAFF RECOMMENDATIONS:

There are alternatives listed above. The Board could choose to use different thresholds for a cap on permit or for the maximum allowed cultivation area. The Board could also choose not to take any action.

ATTACHMENTS:

- 1) Proposed Ordinance for Referendum

PREVIOUS ACTION/REFERRAL:

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**File #:** 23-1507

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Meeting of: Oct. 3, 2023

File No.: 23-1242