

# HUMBOLDT COUNTY GROWERS ALLIANCE

March 31, 2021

Humboldt County  
825 5th Street  
Eureka, CA 95501

Dear Planning Commission,

On behalf of Humboldt County Growers Alliance, we are writing to clarify our position on size limitations in Humboldt's cannabis cultivation ordinances, and express our opposition to projects that exceed eight acres of cultivation, inclusive of nursery space.

We are also writing to update our March 15 letter based on additional information and research which has come to light since the March 18 Planning Commission meeting.

## **HCGA Opposes Projects With More Than Eight Acres of Cumulative Nursery and Mature Plant Cultivation Space**

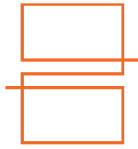
In our March 15 letter to the Planning Commission on the proposed 23 acre Arcata Land Company project, we wrote the following:

*"At its current scale, HCGA opposes the project as proposed. However, if the project is reduced in size to eight acres or less - the largest scale contemplated in either land use ordinance - HCGA will remove its opposition."*

On March 30, Arcata Land Company sent HCGA a proposal in writing that suggested a willingness to reduce the scale of the project to eight acres of mature plant cultivation, and four acres of nursery space. Arcata Land Company has expressed that they believe this revised project would satisfy the request in HCGA's March 15 letter.

After reviewing the language in Humboldt's cannabis ordinances, and discussing with our membership, we do not agree. The CCLUO states that "no more than eight acres of Commercial Cannabis cultivation permits may be issued to a single Person" (55.4.5.4.1). The CCLUO also clearly defines "Commercial Cannabis Cultivation" to include nurseries. For purposes of the eight acre limitation in the CCLUO, the revised project proposal is for twelve acres of cultivation.

Additionally, the CCLUO states that eight acres is the limitation for "a single Person." A "Person" is defined broadly in the CCLUO, not just to include the company that holds a permit, but also to include individuals involved in the operation of the permit, including a CEO or an individual "participating in the direction, control, or management of the permit holder."



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Arcata Land Company has proposed that, if the project is approved, it would be sold or leased to persons with existing cultivation operations in Humboldt County. If this transfer of ownership or management takes place, the total cultivation area within Humboldt County held by any single person should not exceed eight acres.

As expressed in our March 15 letter, the language in 55.4.5.4.1 is the only community-wide agreement that has been reached in Humboldt County regarding the permissible maximum size for cultivation operations. Enforcing the letter of this ordinance is necessary to stand by the land use principles in Humboldt's ordinances, and to ensure that all operators are held to the same standards. If the County does not hold the line at 8 acres, based on the wording in 55.4.5.4.1, there is no other objective brightline in Humboldt's ordinances to limit the size of industrial-scale cultivation projects.

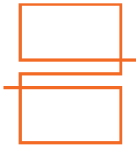
### **Additional Concerns Following March 18 Planning Commission Meeting**

We would also like to raise several points which were not included in our March 15 letter, but which have come to our attention either due to new information which has been disclosed about the project, or additional research over the past few weeks.

First, the Planning Commission should consider the legislative intent at the time Ordinance 1.0 was passed by the Supervisors on January 26, 2016, when cultivation acreage was expected to be capped at the state level. Up until November 14, 2017, cultivation size was planned to be capped at between one and four acres based on language in the MMRSA, Proposition 64, and a draft environmental impact report released by CDFA. On November 16, 2017, this regulation was pulled, enabling the "license-stacking" loophole that now exists to allow for unlimited-scale cultivation. (See "California's Limit on Big Growers Just Vanished. Here's Why," <https://www.leafly.com/news/politics/californias-limit-on-big-growers-just-vanished-heres-why>). If an explicit cap on industrial-zoned cultivation was not included in Ordinance 1.0, this should be considered in the context of the applicable state laws at the time.

For example, a Lost Coast Outpost article covering the Ordinance 1.0 process on January 12, 2016 stated the following: "*The Planning Commission, in contrast, proposed allowing outdoor grows of up to 20,000 square feet with only a zoning clearance certificate and grows larger than that — up to the state limit of one acre — with a Conditional Use Permit.*" ("Supervisors Opt to Ban New Grows on Timberland in Final Draft of Medical Marijuana Land Use Ordinance" <https://lostcoastoutpost.com/2016/jan/12/supervisors-finish-directing-staff-medical-marijua/>)

Second, Section 55.4.8.10 of Ordinance 1.0 states that "No more than four commercial cannabis activity permits of any type... may be issued to a single person, as defined herein." Both Arcata Land Company and the proposed operators of the project hold multiple existing cannabis permits in Humboldt County.



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Specifically, the Arcata Land Company already holds three (3) Special Permits with Humboldt County for its processing, manufacturing, and distribution facility (permit # 2019-15594, APN: 506-231-010-00). The CEO of Headwaters, under the name “Soul Arc Solutions,” maintains two Conditional Use Permits in Humboldt County (permits # PLN-12085-CUP and PLN-11402-CUP).

In other words, Arcata Land Company currently holds three permits for manufacturing, if they add two additional permits for nursery and cultivation, they will have five permits, which would be in violation of Section 55.4.8.10. Headwaters already has two county cultivation permits. If Headwaters assumes operation of the three special permits and the cultivation and nursery permits, they would hold seven permits, in violation of Section 55.4.8.10.

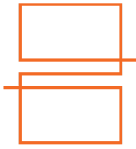
We appreciate the willingness of Arcata Land Company to consider alternative proposals in response to community feedback. If the project is revised to less than eight acres of total size, and if it is in conformance with other legal restrictions, HCGA will remove its opposition.

For reference, relevant sections of Ordinance 1.0 and 2.0 are copied in full on the following pages.

Sincerely,

Natalynne DeLapp  
Executive Director  
Humboldt County Growers Alliance

Ross Gordon  
Policy Director  
Humboldt County Growers Alliance



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## **Relevant Sections of Ordinance 2.0**

55.4.5.4.1 **No more than eight acres of Commercial Cannabis cultivation permits may be issued to a single Person.** No more than ten (10) Persons shall be granted permits authorizing three (3) or more acres of cultivation pursuant to the provisions of 55.4.6.1.2(c).

**“Commercial Cannabis Cultivation” means any activity** involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis, **including nurseries**, that is intended to be processed, manufactured, distributed, dispensed, delivered, and sold.

**“Person”** means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number. Person also **includes the chief executive officer or a member of the board of directors of a business entity, or any individual participating in the direction, control, or management of the permit holder.** Person does not include business entities with an aggregate ownership interest of less than twenty (20) percent in the individual or group holding the permit or less than 5 percent of the total shares of a publicly traded company holding a permit. Individuals, Banks, or financial institutions whose only interest constitutes a loan, lien, or encumbrance, or whose interest occurs through a mutual fund, blind trust, or similar instrument shall not be considered a “Person” for purposes of this section.

## **Relevant Sections of Ordinance 1.0**

**“Commercial Cannabis Cultivation” means any activity** involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis for medical use, **including nurseries**, that is intended to be transported, processed, manufactured, distributed, dispensed, delivered, or sold in accordance with the Medical Marijuana Regulation and Safety Act (MMRSA) for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

55.4.8.10 **No more than four commercial cannabis activity permits of any type enumerated in Sections 55.4.8.2 through 55.4.8.7 of this ordinance may be issued to a single person**, as defined herein. **For purposes of this limitation, any natural person who owns or controls any interest, directly or indirectly, in a firm**, partnership, joint venture, association, cooperative, collective, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, **shall be collectively considered a single person with those entities.**