

September 1, 2017

To: Mendocino Planning Commission

From: Flow Kana

RE: Draft Cannabis Facilities Code

Dear Commissioners,

Flow Kana is pleased to participate in providing public comment regarding the Planning and Building Commission's consideration of OA_2017-0001, the Cannabis Facilities Code (CFC). The attached proposal offers necessary amendments to the language in CFC Section 20.243.070 "Exceptions". The proposed amendments are critical if the County desires to have a cannabis cultivation, processing and export industry that generates employment with a living wage and raises tax revenue.

Specifically, the language in Section 20.243.070 must accomplish three objectives:

- Grant a business a license to provisionally operate while the business' complete Application is under consideration if the business is located at the same site as a facility that has previously been permitted for similar activities such as Packing and Processing (Section Sec. 20.032.040 of Business and Professional Code).
- Direct efficient approval of the provisional activity with an over the counter process. Provisional operation would be temporary and may be interrupted if the applicant fails to receive full approval of its Application.
- Direct efficient review of the Application through a zoning clearance.

Flow Kana would like the Planning and Building Commission to be aware that the State's official cannabis licensing effort will be begin by providing temporary licenses in December of 2017 to those businesses that have received their local license. Skyrocketing demand for legal cannabis through the Adult-Use market at the beginning of 2018 will drive retailers and manufacturers to sign supply contracts with providers who have received their state license in December. A path to receiving a County business license before December for new cannabis facilities is therefore critical¹.

As the state moves forward aggressively to stand up the largest post-prohibition cannabis market in the world, Mendocino County and the County's residents are well positioned to benefit greatly. Yet, this opportunity is not guaranteed and can be lost if the County is unable to meet the unique timing challenges created by the size and structure of California's cannabis market.

With respect,

Michael Wheeler, VP of Policy Initiatives

Attached: Proposed amendments to CFC Section 20.243.070

¹ Missing the window to sign supply contracts will significantly reduce the market share Mendocino cannabis can capture and reduce the potential for increased prosperity that could otherwise result.

20.243.160 Exceptions

(A) Existing packing and processing facilities or facilities of similar use. Establishment of new medical or adult use cannabis facilities may be considered and preliminarily operate with a ~~Major Use Permit~~ [Zoning Clearance or Administrative Permit] in FL, AG, C1, C2, or RL Districts consistent with Section 20.243.100 *Planning Approval Required to Process, Manufacture, Test, Dispense, Retail, and Distribute, Cannabis for Medical and Adult Use*, where all of the following can be demonstrated:

- (1) The site has been previously permitted as a packing and processing facility prior to the effective date of these regulations.
- (2) The site is developed with an existing packing and processing facility, including buildings, roads, power source, water source, and sewage disposal system.
- (3) There will be no net expansion of impervious surfaces.
- (4) There will be no new access roads or stream crossings on that parcel.
- (5) No living trees larger than 12' in diameter shall be unlawfully removed.
- (6) The site is not within lands contracted under the Williamson Act.

Justifications:

A. The General Plan Consistency Analysis included in the Board Packet for the September 7th Planning and Building Commission meeting identifies the General Plan's priorities related to the draft CFC on page 5. Policy DE-62 identifies "Reuse or redevelopment of closed resource-based processing sites in rural areas" as a priority to support through the CFC. Businesses choosing to redevelop older facilities or build new facilities need confidence that the County will support a redevelopment approach. Support in the form of simplified approval is an appropriate no-cost approach.

Preliminary operation while Applications are under review is a necessary form of flexibility already featured in the CFC within Section 20.243.080 Provisional Operation (p. 13). To meet the business priorities that will lead to Mendocino County's cannabis related improved prosperity the County can extend the same flexibility here to businesses that have sited their cannabis businesses at sites previously permitted for similar uses.

1. No amendments proposed
2. No amendments proposed
3. Expansion of impervious surfaces is not supported by CEQA. However, removal of impervious surfaces should enable property improvements that support business growth so long as they result in no net increase in impervious surfaces.
4. Clarification is needed where ownership of more than one parcel may exist and where the exception language is only applied to the parcel that has the previously been permitted in a similar manner.
5. Tree removal requires adherence to a lawful process. Dead trees and living trees smaller than 12" in diameter should be able to be removed within the boundaries of existing law.