



Nevada County Cannabis Regulation Community Planning Process

Summary of Community Advisory Group (CAG) Meeting #4, July 11, 2017

DRAFT

Prepared by:



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Introduction

On Tuesday, July 11, 2017, Nevada County convened the fourth meeting of the Community Advisory Group (CAG). The CAG includes 16 Nevada County residents who were appointed by the Board of Supervisors. The mission and charge of the CAG is to:

- Gather and analyze input from Nevada County community members with regard to perspectives on cannabis-related activities.
- Advise the Nevada County Board of Supervisors (BOS) regarding preparation of a revised ordinance to regulate cannabis-related activities in Nevada County.
- Formulate recommendations that Nevada County staff and the BOS can use to draft a revised County ordinance which regulates cannabis-related activities.

The CAG process is led by a four-person team that includes representatives from:

- MIG, Inc.: Daniel Iacofano, Lead Facilitator, and Joan Chaplick, Project Manager
- Nevada County: Sean Powers, Director, Community Development Agency, and Mali Dyck, Program Manager, Eligibility and Employment Services

This is the fourth of a series of meetings that will be conducted between May and September. The meeting notes are intended to provide a summary of key points of information, discussion topics, questions and agreements. The summary is not intended to serve as a transcription of the meeting. Meetings have been videotaped and are posted on the County website.

1. Welcome and Introductions

Daniel Iacofano, lead facilitator, opened the meeting and led the group in the Pledge of Allegiance. He welcomed the CAG members and members of the public to the meeting. Fifteen of the 16 members of the CAG were in attendance. Matthew Shapero resigned from the CAG since he is leaving the area, bringing the membership to 15. Approximately 40 people attended along with representatives of local media.

Daniel reviewed the meeting agenda and objectives, which were to:

- Review basic County permitting concepts
- Review and discuss current land use and zoning parameters that apply to cannabis cultivation in the County and identify potential adjustments

He previewed that the CAG would dive into the County's permitting process- first- as it relates to all uses and then talk specifically about cannabis related issues.

Daniel noted that all CAG members responded to the worksheet assignment and that we would be sharing the compilation at a future meeting. He also asked that every CAG member own the issues of all the CAG members so that we can work together to hone in on our

recommendations. This will set the stage for future discussions and for compromise where needed.

Daniel provided a brief review of the phased discussions topics and noted we would be focused on permitting this afternoon.

2. Review of Basic Permitting Concepts

Craig Griesbach, Director of Building, provided a review of basic permitting concepts. His presentation covered a brief overview of the permitting process and the activities they perform. They serve as a central hub since they see projects through from beginning to end. They follow mandates provided by the state, which apply to all uses no matter what you build, and are not specific to cannabis. He described how the plans are routed to specific departments, depending on the features of the project, and provided a general review of the process.

He emphasized that the main reasons for getting a permit include: safety, investment protection, property value and for future real estate transactions. This was followed by several photos of what we want to avoid. It should be noted that the photos were not specific to cannabis related activities. They showed illegal grading, substandard construction and other issues. One photo featured a home that was built 90% out of garage doors.

Daniel then asked the CAG members if they had any questions. They asked the following:

- What is the permitting process for greenhouses?
 - Response: They are the same as if you are building a barn or other structure.
- Is there a minimum square footage that requires permits?
 - Response: Yes, and it depends on parcel size and zoning.
- The commenter referenced agricultural grading and noted there are some exceptions allowed. If there is illegal grading, is there a waiting period required?
 - Response: The County will need to check the details before responding further.
- What is the process if you move to a place with unpermitted activity? How do you remediate?
 - Response: You go through the same exact process, as if it never happened. You'll need to have plans for the site. It depends on the project. You document what exists and the County tells you what is needed.
- What about greenhouses?
 - Response: There are some exemptions with high tunnel and low tunnel greenhouses; otherwise, they are treated like a regular greenhouse.

3. Review of Permitting Issues Related to Cannabis Cultivation in the County Today

Sean Powers, Community Development Director, showed some examples of unpermitted grows. The photos featured a variety of electrical and mechanical issues that were obviously unsafe. He explained the potential fire and safety hazards they can create. He showed additional photos that featured activities including unpermitted grading. He showed some before and after aerial photos of the same site to show the level of change occurring in the County over the past few years. These photographs were taken in Rough and Ready, east of Nevada County airport, You Bet Road and North of Rollins Reservoir. The photos showed notable areas that had been graded and clear cut to accommodate cultivation. He emphasized that the whole point of permitting is to better manage these activities. He closed with a photo from Hayfork, Trinity County in 2015 that showed significant cultivation areas and the related impact on the landscape.

To accompany the next segment of the presentation, the project team distributed a diagram which showed an example of a process outline for cannabis related permits. The intent was to provide a list of the different components of the County's typical permitting process that would need to be addressed. The proposed process was adapted from the County's existing process. Sean then reviewed the diagram, and described the activities included and required in each part of the process.

The diagram included a list of the components of a complete application. Following the application submittal, the County would inspect the property. The diagram listed the activities and what would be verified or confirmed. This is when the permit is issued. Prior to cultivation, the County would conduct an inspection to verify and confirm that what was proposed had been implemented as described. Finally, the County would conduct an inspection annually during the grow season.

Daniel then took questions on the permit process outline and also received comments from members of the CAG.

- A CAG member wanted to know what the County sees in terms of non-cannabis related violations. Are we treating cannabis differently?
 - Response: unpermitted building activity is by far the majority of our code violations.
- What if person has unpermitted activity on their property?
 - Response: The County has hosted a property compliance workshop to help people understand what they need to do. There is also the as-built process. A resident coming forward requesting help to learn how to be in compliance is seen as a positive step, and the County will work to help you get in compliance.
- There was a question about the environmental degradation being representative of what's happening in the County. The questioner referenced the description of a major

grow as including a 2,000-3,000 square foot greenhouse, considering this is small when compared to the state standards. It was also suggested that it would be very helpful if there were a transition period for those who step forward and that they should be given a reasonable period of time to become a viable business.

- One CAG member asked how large grows are brought into compliance.
 - Response: It was explained that the County would review the rules and explain where you're at and where you need to be. For the recent grow site involving 800 plants that was in the news, the County responded that there were numerous issues on this property, along with a large number of plants.
- There was a question about the time allowed for something like an accessory structure to come into compliance.
 - Response: It was explained that the County will tell the property owner what is required but it's on them to make the corrections and they set the timeline for this. During inspection, when the County sees unpermitted activity, they have to fix that along with meeting their requirements. The timeline is up to the permittee; they have all the time they need to fix the problem unless they get a complaint specific to that violation.
- There were comments about how we describe "what we grow" and that there is a need to understand what is considered major and minor.
 - Response: The recommendation from the County is to come in and ask before you do anything.
- Would annual compliance inspections be mandatory? This may create a bottle neck in the permitting requirements.
 - The County's response is to make sure we have the resources in place for the permitting process.
- Additional concerns were later expressed about the County having enough inspectors and the number of inspections the process would require. There were also concerns about the costs.
 - Response: What we measure and inspect will drive the costs.
- There were comments about how a grower can come into compliance with such strict requirements. The grower may not be able to see themselves coming into compliance and as such may determine they will go over the requirements.
 - Response: The County responded that today we are focused on the general process and not the specifics.
- A CAG member expressed that what they heard so far was reasonable, and that they had a question about the LiveScan requirement related to the County, noting that drug activity would be a limiting factor.

- A CAG member commented that permitting applies to outdoor cultivation, and that we have to figure out requirements related to indoor growing since we don't spend a lot of time inside people's residences.
- A CAG member mentioned the City of Fontana lawsuit where they are inspecting personal grows.
- There was a concern about the risk of a loophole forming. State law allows 6 plants; will the County require a permit for a single plant grown outdoors?
 - Response: State regulations allow the county to require permits.
- A CAG member strongly opposed disqualifying people from non-violent drug related offenses. There are many people have been treated unfairly, especially minorities, and we should correct the situation.
- A CAG member commented that they assumed a cultivation plan will be needed by the County. Having some type of plan would encourage compliance. There could be different levels of compliance depending on the activity and property size.
- There was a concern expressed about what is being allowed in R1, R2, and R3. Currently cultivation is not allowed in these three zones, so no permit would be issued. Can the County require that you follow the rules without doing inspections? It doesn't seem practical to inspect 6 plants, especially those grown indoors.
- The requirements are appropriate for a licensed business, but six plants or less and minimum square footage shouldn't require a permit. He used home brewing as an example where no permit is required. The State will also have requirements and look at redundancies and determine if we are seeking to be more stringent than the state. Application permit fees can fund the inspections and pay for needed staff. If it costs a million dollars to fund the program, we want to have a sufficient number of businesses to make it work.
 - Response: The County responded that they are customer service driven, so they have to be staffed and ready to respond.
- There was a positive comment about the process and that it tracks with what is existing. Concerns were expressed about personal vs. commercial, duplication of LiveScan and anything done by the state. We don't want to be punitive, but reasonable and practical.
- There was a question about indemnification. With the grower applying for a permit, this puts the responsibility on the growers. It addresses some bad actors who start the process but don't finish. Want to reiterate concerns about LiveScan and the types of offenses that prohibit people from getting licenses. The County can make it more strict and this triggers fears that the County can be punitive.
- There was a question about the reference to County Well on the diagram
 - Response: It relates to environmental health and verification of water service or source; we want the wells to be properly installed.

- A CAG member asked: What is our task? It's my understanding the CAG will make a recommendation touching on a variety of topics. That being said, at some point, we will come up with a recommendation and then we will defer to county staff to run the process. While I like and agree with the process, it feels like cart before the horse. This appears to be a process that will be a work in progress. If we drill down and nitpick every line, we will be here forever.
- There was a comment that we are not going to change the fact that commercial activity is incompatible with residential use. Being punitive is not an inherently bad thing; in some cases we need to be punitive to get the type of compliance we want. The penalty needs to be high enough that it is not considered the cost of doing business. We also need to be able to address the people who are never going to come into compliance.
- It was expressed that there is a distinction between being punitive after someone is out of compliance versus the attitude that applies to someone just setting up a new business. We don't want people to feel they are being singled out and the language we use is important.
- It was mentioned, in reference to LiveScan, that a teacher needs to have a LiveScan, and every district needs to do one; if they transfer and move it has to be done again. This is because some information is only kept at the state level.
- A CAG member commented that working with children, they have been required to have countless LiveScans and this is appropriate. This is not appropriate to someone who has a minor infraction. This may be an area where we have further discussion. People who write the regulations have the ability to make things difficult and burdensome.
- It was noted that although we decriminalized cannabis, someone with a history of trafficking is a concern. There is a basis for not granting access to this market to people with felonious activity.

4. Review and Discussion of Current Land Use and Zoning Parameters for Cultivation Areas in the County and Identification of Potential Adjustments

Daniel wrapped up the permitting discussion, then returned to the Land Use and Zoning worksheets to get feedback on the section related to additional code requirements and the final page of the worksheet from the last meeting. CAG members provided the following comments.

- Cannabis grown under lights should also be shielded. There should be mitigation for energy use. It's been cited that cannabis uses 10% of all energy. LED lights would be a nice adjustment.

- Water diversions are a high, egregious, negative impact. There should be no slack and no compliance time on this one.
- Regarding accessory structures, I don't believe in a solid wall; I'd like to see more open air growing
- The section related to hazardous materials should include language specific to the types of butane usage.
- Recommended that the setbacks from schools be increased to 1,000 feet.
- So much of this is addressed by the state.
- We have an opportunity to have more nuanced language than the regulations do. If there is no access or visibility to the property, we should be more nuanced about how we address the concerns of schoolchildren seeing and having access. If the objective is achieved, it might be a reason to allow some variation.
- The security required not only keeps out criminals, but it will also keep children out.
- Comments regarding 1,200 watts and setbacks allowed in proportion: Are we setting up regulations that people can follow? Can we address the carbon footprint and ensuring net zero impact?
- Setbacks need to be proper when residential is nearby. This is one of the difficult areas, and will require some study and options.
- Where there is no exterior evidence of cultivation, don't current fence ordinances cover this or are we requiring higher fences? It isn't reasonable.
- Sonoma County's setbacks seemed more reasonable; they used 600 feet from schools and youth-related facilities. Ours is more restrictive.
- Isn't the person at the counter accepting the application able to determine some of the nuances—e.g., distance from a bus stop? Some things are at administrative discretion and some are hard-wired.

Daniel closed the discussion and moved on to the public comment period.

5. Public Comment Period

The following comments were contributed by members of the public:

- I reviewed some of the numbers referenced by the sheriff's office. The cannabis industry in the County is worth \$530 million. Currently the County has 330,000 pounds of materials, which divides down to 733 acres. If we break it down by 10,000 acre parcels, you get 700+ parcels. Counties can tax materials and possibly yield \$16 million extra dollars. (The hand out is included in the appendix.)
- I want to be in compliance, to get 10,000 square foot license and be part of this industry. Much of what you recommend has to give us the tools so we can be part of the industry. You can't ignore what other counties are doing. There was a comment about

the value of the crop relative to the fine. In the market, things are moving fast. We may have to close our farms if we can't keep up. The costs of producing are getting higher and the prices at which you can sell are declining.

- Look to how the state is defining things, especially as it relates to the size of the grows. Our language should reflect this. A major grow is 40+ acres. Cannabis Alliance prepared a comparison binder full of details and they are presenting it to the CAG and project team. The Alliance is doing a survey, and they are in Phase 1 of that effort. The head of the growers' association will be speaking about the current state legislation this coming week. Those interested can get details from the Alliance.
- A community member recounted the history of the ballot measures and the number of people who voted for each measure. Measure W was defeated. They stated that "we believe in small, sustainable family grows."
- Some of you don't know a lot about cannabis. My kids turned out okay even though I have smoked my whole life. There are a lot of people whom you would be surprised to learn are users. They are the people who provide you services. I recommend going to Wade's farm, taking the tour and learning as much as you can about cannabis.
- Expressing thanks to the CAG. I want three minutes for the comment period. There are a ton of rabble rousers—SYRCL, co-ops, etc.; all were met with opposition. Many of us have been involved in activism and this is our community. We are here because we want to be active. The permitting and compliance process fails 90% of the time. We don't have a process that works. Bring people in slowly, allow them to interact and we will have success. Setbacks and septic systems don't work in our community.
- I just came back from the State Department of Technology. The process for securing a permit will be challenging. The state regulations will make it plenty hard and I'm hoping the County will make things easier and not add to the burden. Under the final compliance process, inspection will be conducted before it starts. I do not want to be out of compliance. I hope the County would open the list and let us know what is required in advance. I suggest that instead of an annual inspection, the County have a self-reporting system and random inspections.
- I am an advocate for alignment with state regulations. Assuming we have already solved issues like noise and odor and that we are working for solutions, state guidelines are higher and the Water Board is addressing environmental regulations. Our land use should be aligned with the state. I shared a summary of a document that is included in the appendix. If we have solved these issues, we should align with the state.
- I am a smaller farmer and I really want to comply. Size is relative, and if you are paying attention, the grows in comparison are not that big. We need the sizes to be functional. Look to the state laws—they have done the work—and look at what has been done. Those who comply will do so, and those who won't will really stand out.

- I am a retired school teacher of special education. I am coming out as a cannabis user and have gotten tremendous relief. I loved it here because of the values; we are concerned about the environment, water use, etc. We are reasonable and all want the same things. How will I, with my small garden, be able to grow my plants? Look to the state for what has been figured out and learn from the pitfalls of other counties.
- To compare an existing agricultural sector, vineyards—a small winery is 10 acres and that requires clear cutting. What we are trying to address exists in other industries.
- Measure W would have banned all outdoor and commercial cannabis, and it was defeated. Sixty percent wanted the right to grow cannabis outdoors. Six people out of 10 are in favor of personal outdoor grows. People voted for freedom and not setbacks or a ban on outdoor cultivation. They want to grow their plants outdoors as God intended. Voters favor outdoor, regulated cannabis cultivation.
- If you want to encourage enrollment in the process, design a process that creates a viable pathway forward. Requiring cultivators to be 100% in compliance before getting a permit for cannabis is a perverse disincentive. I propose a two-year transitional process and creating a registry so the County can prioritize county growers who are working to do things in a mindful way. Fees could cover the expenses and support addressing those that are out of compliance.
- I am a patient group advocate and have no economic role in the process. Caregivers grow for patients, and the application process puts them in a bad way. I have concerns about the 1,000-foot setbacks. Bus stops should be removed where they are often unused. Allow them to grow the medicine they need.
- I am pleased by what I heard about how many farmers are eager to be in compliance. I am working to create an appellation for the County which will include heavy organic requirements, similar to what the wine industry has been doing. This is important to a lot of us farmers.
- This is a very committed community of cannabis advocates; I appreciate how many people have come out of the closet. However, some people have been pushed further underground. The success of this effort is measured by how many people can enter the market and be successful.

6. Review of Upcoming Meetings and Next Steps

Daniel closed the comment period and then reviewed upcoming meeting dates, noting that the agendas would include guest speakers. Amber Morris of CalCannabis will be speaking on July 25. At the August 8 meeting, Remleh Scherzinger, the General Manager of the Nevada Water District (NID) will speak about water.

Daniel reminded participants that Meeting #7 is on August 22 and Meeting #8 is on September 12. He also asked the CAG to reserve the following dates: September 26, October 10, October 24 and November 7. This would be to accommodate additional meetings or to adjust the

schedule of Meetings #7 and #8. Daniel concluded the meeting by asking CAG members for any topics they would like to have covered at future meetings and for any final comments. CAG members responded as follows:

- Want information about current grows in the county and zoning.
- Circle back to the question of what the region and surrounding counties look like. Where is the state? Where do we fall?
- Is cannabis an agricultural product?
- Discuss parameters of what we are going to allow; what state licenses cover and what will be allowed in the County.
- How do we ensure medical users are taken care of? Also, what are the next steps regarding the CAG member who resigned. Please have speakers who are up to speed with accurate information on benefits and uses.
- Requested that speakers giving comment include citations when providing numbers.
- Provide resources to CAG members in advance of meetings to help them prepare.
- Want good facts and data from speakers.
- There are a lot of resources. The more we can understand the state regulations, we can focus on our scope.
- Want clarity around personal and adult use and the distinctions between.
- Concerned about timing and our ability to meet the timeline. We hope the BOS is informed and up on the learning curve.
- Want the speakers to be solution-oriented. We need to set aside our fears and biases and focus on what will work. I hope the BOS recognizes that we are putting a lot of time into this, and that they don't ignore our recommendations.
- This is perfect timing to bring in someone from the State Water Board.
- Have been out in the community listening so I can be the best CAG member I can.
- Interested in hearing from the state representative.

Sean provided a short update on resignation of CAG member Matthew Shapero, who left the area to take a job in Ventura County. The BOS decided they would hold a short application process for a representative of agricultural interests. We hope the BOS will accept the recommendation and that we have a representative at our next meeting. The chosen applicant will get a crash course in the CAG and be able to attend the next meeting.

Daniel thanked everyone for their time and reminded everyone the next meeting is on July 25. Wallgraphic notes taken during the meeting are shown on the following page. Comment cards and comments submitted via email by participants are attached as Appendix A.

CAG #4

* NOT PUNITIVE, MAKE IT REASONABLE *

PERMITS:

▷ AS X10. CAN / NON CAN

✓ ▷ P: OK F/ LICENSED BUSINESSES, BUT NOT PERSONAL

▷ COMPARES w/ OTHERS...

▷ CURE PERIOD - CALL "BIG" PERIOD GROWS COMPLY? - LENGTH OF TIME?

▷ DETRIE MAZER.

▷ \$ BUDGET REQ'D

▷ STAFFING COSTS #/ MANAGING

✓ ▷ BE REASONABLE

▷ FIND WAYS TO ENC. COMP.

✓ ▷ LIVE SCAN: OK IF NON-VIOLENT, INSIDE/OUT

▷ FONTANA, CA

▷ DETERMINE WHERE PERMIT APPLIES.

◇ ?
DIFFERENT F/ BUS STOPS → NO ACCESS NO VISUAL → SECURITY.

W/2 WORKSHEET.

▷ LIGHTS: SHIELDED

→ ADDRESSED BY STATE.

▷ LEDS (FULL SPECTRUM)

1200 WATTS?

▷ NO WATER DIVERSIONS.

▷ HAZ: CALL OUT BUTANE.

CONSIDER SLIDING SCALE.

▷ SETBACKS: 1000' FR SCHOOLS, etc.

LOOK UP SCHOOLS.

▷ G.H.: POLY & GLASS

▷ C + R ?

▷ FENCES HOT OF G.H.?