

MINUTES

1. CALL TO ORDER

Vice Chair Mike McHugh called the meeting to order at 7:00 p.m. Members present: Diana Stewart, Dan Frasier, Graham Matthews and Mike McHugh. Members absent: Richard Hoard. Staff present: Deputy Director of Planning Leslie Hubbard, Associate Planner Scott Watkins, Deputy County Counsel Joe Larmour and Clerk Ruth Hanover.

2. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendized for a future meeting. No action may be taken on these matters at this meeting.

Comments received from Ana Wright, Justin Hawkins, Sandy Rachel and Lisa Wright.

3. MINUTES – April 26, 2018 and May 10, 2018.

Upon motion of Commissioner Matthews, seconded by Commissioner Stewart, approves the Minutes of April 26, 2018, as corrected, and approves the Minutes of May 10, 2018, as submitted. Motion carried unanimously.

OLD BUSINESS – None.

4. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-18-28

Public Hearing: Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 1380 Pine Forest Drive, Post Mountain. APN: 019-340-42. Applicant: S. Lee. *(Continued from May 24, 2018)*

Associate Planner Scott Watkins advised that after further staff review, a variance is not needed as there is no residential dwelling located within 350 feet of the applicant’s cultivation site and therefore no neighbor impact. Watkins said the application for variance is being withdrawn.

NEW BUSINESS

5. USE PERMIT FOR RESIDENTIAL CARETAKER MOBILE HOME P-18-10

Public Hearing: Use Permit to locate a 62’ X 12’ (744 sq. ft.) Residential Caretaker Mobile Home on property zoned Highway Commercial. Located at 18001 Mad River Road, Ruth. APN: 020-360-15. Applicant: Pawar.

Deputy Director of Planning Leslie Hubbard presented the staff report. She advised the 744 sq. ft. Mobile Home will house the Caretaker for the Ruth Store. It will be located at the back of the lot and will not affect the commercial function of the property. Staff recommends approval.

Acting Chair McHugh opened the hearing to public comment. No comments being received, Chair closes public comment on the item.

Commissioner Frasier moved to approve the Use Permit to locate a 62' X 12' (744 sq. ft.) Residential Caretaker Mobile Home on APN: 020-360-15 which is zoned Highway Commercial, based on Findings of Fact 1 through 3, and subject to Conditions of Approval 1 through 5, as stated in the staff report. Seconded by Commissioner Stewart. Motion carried unanimously.

6. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-34**

Public Hearing: Request for an “annual variance” from the required 350' Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-823, Sec. 43(5)(iii)], located at 571 and 671 Bear Rock Road, Hayfork. APN: 019-360-54 and 019-340-01. Applicant: B. Moua.

Associate Planner Scott Watkins presented the revised staff report. He said the impacted neighbor has provided us with a letter of concern. Watkins said that staff had initially recommended this variance be approved but based on the letter of concern and prior Planning Commission precedence we felt obligated to recommend denial so that's why you are seeing the revised report tonight.

Commissioner Stewart said so even though currently the cultivation area is within 350 feet of the east neighbor which is 00 as opposed to 02, we're not requesting a variance from 00? Planner Watkins responded that neighbor doesn't have a legally permitted dwelling, so the impacted neighbor is the only person in this general area that has a legally permitted dwelling. Stewart said that answers that question. She said the other question is, she's a little confused because you say here that “based on the satellite review the site appears to be able to move outside the 350 foot residential buffer”, and then you say “consequently this would render the majority of the subject property unusable for cannabis related cultivation activities”. She said there is no connect there, she doesn't understand. Watkins responded if you look at Figure 6 that illustrates that language. Stewart asked how. Watkins responded the applicant has two pieces of property, if they shift their entire cultivation area, which right now the best we can estimate is seen on Figure 3 of the current cultivation area, so you can see that the applicant would have to add a little bit more cultivation area to the east of their current set up in order to fully shift outside the 350 feet. He asked if he answered her question. Stewart responded no and repeated her question. Watkins said it's the majority of their property. Stewart said okay, that answers her question. She said she has one other question regarding the Findings. Stewart read No. 2 “The applicant cannot relocate the designated cultivation area outside the 350 ft. residential setback” and asked why. Watkins responded that is a typo, it should read “The applicant can...” and apologized. Stewart said that makes sense.

Acting Chair McHugh said in Figure 6 you apparently expanded the hypothetical garden in the relocation scenario. Watkins responded yes. McHugh asked if the square footage outside the 350 feet allow the full use of the available licenses or is this now restricted to a 10,001 parcel. Watkins responded it's restricted to 10,000, if he were to cover this entire parcel, the cultivation area, he would have to remove a bunch of trees, so we were trying to keep it within the current cleared area. That's why we came up with this scenario. McHugh asked what is the designated area size? Watkins responded our estimate would be 9,295 sq. ft., that's cultivation area and canopy would be separate from the cultivation area.

Commissioner Matthews stated he was still a little confused. There are two parcels, one is 019-360-54 that's the furthest west, then there's 019-340-01 that's east and then there's the one with the house on it which is 019-340-02. It says here “currently the cultivation area is within 350 feet of the east neighbor 019-340-01”, so that's the second property the applicant owns which requires a variance from 350 to 190 feet. He asked if there was a legally permitted structure on -01. Watkins responded they are in the process of getting that permitted. Matthews said but it's the same owner, he wouldn't need a variance from himself. He said he's just a little confused by the staff report. Chair McHugh said it seems the east neighbor is on -02, not -01. Watkins said yes, I believe you're right.

Acting Chair McHugh opened the hearing to public comment.

Comments received from Agent for Bee Moua Michelle Gargano, Chue Chang and Justin Hawkins.

No further comments being received, Chair closes public comment period.

Commissioner Matthews stated certainly the precedence of the Commission has been if we have a letter of opposition from a neighbor, we do not approve the variance. Commissioner Stewart said his objection appears mainly to be that it is visible from his home which is where the screening comes in and it seems as though it would be possible to approve it if we added a condition that screening is required. She said that would take care of what appears to be his main concern.

Commissioner Frasier said his concern is how would you make a Finding that a variance is required if he can move his cultivation area outside the 350 foot setback. If he can move it then we can't say that a variance is required. Commissioner Stewart said he can move it, by moving it then he has to obtain a different license because his cultivation area is greatly reduced, as is his income. She said if you were a wheat farmer and you needed a certain amount of wheat to be able to make a profit and somebody told you that you have to cut that in half and that made it impossible to make a profit. Is that right?

Commissioner Frasier responded at the same time he can understand it, but also, we aren't required to ensure that all applicants have the maximum size grow. He's said it before, we are also here to represent the guy that wrote the letter that says hey, I don't want this within 350 feet of my house, and to him the reason we are going through this whole variance process is to protect those people that don't want it within 350 feet of their house. He said we can get into whether that setback is arbitrary or whatever, we've been there before and there doesn't seem to be any answer to that question. But as far as precedent, the precedent would be that we deny the variance, because based on the fact that he can move his cultivation area, that's been one of our criteria before, and the fact that we have an adjacent neighbor that is in opposition, so he doesn't know how we can make Findings that granting a variance is the right thing to do when we have two strikes against it right there.

Commissioner Frasier moved to deny the variance to allow reduction of the cannabis cultivation setback from 350 feet to 190 feet from the residence on APN 019-340-02, based on Findings of Fact 1 through 2, as corrected, in the staff report. Seconded by Commissioner Matthews. Motion carried 3-1, with Commissioner Stewart voting Nay.

7. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-18-35

Public Hearing: Request for an "annual variance" from the required 350' Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-823, Sec. 43(5)(iii)], located at 181 Kingsbury Gulch Road, Hayfork. APN: 014-440-38. Applicant: K. Lor.

Associate Planner Scott Watkins presented the staff report. Watkins advised that the Mountain Valley Unified School District Board of Trustees adopted a Resolution on June 13, 2018 supporting variances within 500 feet of an authorized school bus stop, but explicitly excluding Cannabis Distribution and Cannabis Manufacturing, as these will be considered on a case by case basis. In addition, we received a letter of opposition today from the owner of property that is 400 feet from the current designated cultivation area. Watkins said when we received the letter today he looked through our permitting system and found there is not a final residential Building Permit, so it is an unpermitted structure and does not qualify as a residential dwelling. Staff recommends approval.

Chair McHugh said so it's in the Opt Out. Watkins responded yes, but this applicant had their Water Board application in before the cutoff date which is July 1st of this year.

Commissioner Matthews stated Figure 3 shows Kingsbury Gulch going right through the middle of the

designated cultivation area. McHugh said you mean the watercourse. Watkins responded that is not accurate, our mapping system is a bit out of date. Matthews asked if the cultivation area is currently completely outside the of the watercourse buffer. Watkins responded according to the FEMA Flood Zone yes, this is classified as a Class III watercourse so the setback would be 50 feet which the current cultivation area is in compliance with. Matthews asked so the FEMA Flood Zone is larger, you are saying 50 feet from the top of the bank? Deputy Director Hubbard responded the cultivation site is 50 feet from what is identified as a Class III, not the floodplain.

Acting Chair McHugh opened the hearing to public comment.

No comments being received, Chair closes public comment period.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 100 feet from the residence on APN 014-440-37, based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4, as listed in the staff report. Seconded by Commissioner Matthews.

Commissioner Stewart said she thinks it should be approved because of the number of grows in the area, she's sure some are not permitted or licensed, but they are there, this one shouldn't have any impact and the letter that was received has a non-permitted dwelling. Commissioner Matthews asked we haven't heard from the affected property owner? Stewart responded no, we haven't heard from anybody except for that last one.

Acting Chair McHugh calls for the vote on the motion. Motion carried 3 to 1, with Commissioner McHugh voting Nay.

8. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-38**

Public Hearing: Request for an "annual variance" from the required 350' Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-823, Sec. 43(5)(iii)], located at 470 Henrietta Road, Lewiston. APN: 025-350-12. Applicant: Ivanoff.

Associate Planner Scott Watkins presented the staff report. He advised this is located in the Lewiston Opt Out/Carve Out. Staff is recommending approval.

Acting Chair McHugh opened the hearing to public comment.

Comments received from Agent Lisa Wright of Flowra, applicant Mitch Ivanoff, Katie Quinn, Ana Wright of Flowra, Kim Christensen, Justin Hawkins, Wesley Christensen and Danny Kuel.

Acting Chair McHugh called a recess at 8:19 p.m. due to a medical emergency in the audience. Reconvened at 8:30 p.m. with Director Richard Tippet present.

Commissioner Stewart moved to continue the matter to the next meeting. Seconded by Commissioner Matthews. Motion carried unanimously.

9. **MATTERS FROM THE COMMISSION** – Not taken up due to emergency.

10. **MATTERS FROM STAFF** – Not taken up due to emergency.

11. **ADJOURN**

Commissioner Stewart moved to adjourn the meeting at 8:31 p.m. Seconded by Commissioner Frasier and carried unanimously.