

Minutes

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1. **CALL TO ORDER**

Chair Hoard called the meeting to order at 7:00 p.m. Members present: Dan Frasier, Diana Stewart, Mike McHugh, Graham Matthews and Richard Hoard. Staff present: Director of Planning Richard Tippet, Deputy Director of Planning Leslie Hubbard, Assistant Planner Bella Hedtke, 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 John Brower.

3. **MINUTES** – November 8, 2018.

Upon motion of Commissioner Matthews, seconded by Commissioner McHugh, approves Minutes of November 8, 2018, as corrected. Motion carried with Commissioner Stewart abstaining.

**OLD BUSINESS** – None.

**NEW BUSINESS**

4. **AMENDMENT TO SECTION 43 OF ZONING ORDINANCE NO. 315 RE CULTIVATION OF CANNABIS**

**PW-16-03**

**Public Hearing:** Proposed Amendment to Section 43 of Zoning Ordinance 315 pertaining to cultivation of cannabis. Located County-wide. Applicant: County of Trinity.

Deputy Director of Planning Leslie Hubbard presented the staff report. She said this was before the Commission on October 25, 2018 and it is back this evening because the ad hoc committee took a look at it after the Commission made some recommendations and realized for one, the meeting was very long that night and there were some things that by the end of that meeting, about three and a half hours into it, it looked like it was really difficult to do a thorough job evaluating the things that were still left to consider. Hubbard said we sent out a very sloppy copy, for lack of a better description, of the proposed ordinance with the staff report. The revisions that were in the ordinance had gone through a series of people and those all showed up in different colors in “track changes”, we wanted to make sure that you could see what had been changed, and yet it was really difficult to understand it because you couldn’t see who changed what, so, we produced another copy this evening that we handed to you. She said she will go through the ordinance and compare what was in the staff report and this copy, that is a little bit simpler, so the Commission can see some of the recommendations it made, the ad hoc committee accepted, and some they said no we want to send it back and have the Commission think about that a little bit more.

Ms. Hubbard said from the beginning, if you are comparing page by page, you can do that, but she supposes the easiest thing is if she goes with the copy we just gave the Commission this evening that is a little bit cleaner. She said on Page 4, the definition of “Designated Area” was the same thing the

Commission had reviewed before on October 25<sup>th</sup>, there was no change on that. On Page 5, the definition of “Fully Enclosed and Secure Structure”, was a sentence fragment, somehow in the revision process, there was a portion of that sentence that got lost, and so that’s the complete sentence; the rest of it is the same as what you reviewed before. On Page 6, “Wildlife Exclusionary Fencing”, the Commission did discuss fencing when it was before it on October 25<sup>th</sup> and made a recommendation, and that is the same thing as what you see right there. The definition of “Canopy” down below on that same page, remains the same, as verbatim definition of what the State has as well. And then the short clip at the end of that page is the same as the Commission reviewed also. Hubbard said Commissioner McHugh had several revisions that he suggested, he caught some of these things, but on Page 7, letter (b), the last sentence is being deleted now that Trinity County Waterworks District #1 is now not a so called “opt out area”, there is really no need for that. The rest is the same on that page. Moving over to Page 8, the rest is the same on that page. Page 9 will require the most clarification. She said there was a lot of discussion regarding multiple licenses, setbacks for variances, and the copy the Commission received with the staff report included the deletion that the Commission made; yet the ad hoc decided no we’d like to keep setbacks in as somewhat of a mitigation measure, because we recognize that there could be nuisances. If one site has a potential to cause a nuisance, then with multiple sites there could be that likelihood there and so they wanted to stick with something and these are arbitrary, they had to have some place to start so they did put in these setback distances, graded it kind of scaled to the number of licenses.

Ms. Hubbard said when we did the staff report also we asked for some clarification because, she can’t stress enough how really important it is that we can hear what the Commissioners say, we watched the video, no joke, fifteen times, trying to make sure we understood the motions for the end of that meeting were really difficult to track, and so what we are starting to do now is put them on a computer and say is this what you mean? And she knows there were comments about that, like that’s hard to verbalize, well it was really hard to capture also, so we want to make sure we are clear on motions.

Ms. Hubbard said the biggest issue she guessed with multiple licenses is also that the ad hoc did fully support the recommendations the Commission made regarding use permits. So, the idea of a Director’s Use Permit required for up to 30,000 sq. ft. of canopy, a Conditional Use Permit required for anything over that. She said right now the ad hoc proposes no Setback Variances for properties with multiple licenses, other than multiple licenses that are located on Ag, AgPreserve and Ag Forest.

Ms. Hubbard said on Page 10, we already discussed “Permit Requirements”, the appropriate use permit like we just discussed, Director’s Use Permit or Conditional Use Permit. Down at the end of the page everything is pretty much the same. Page 11, there was a little clarification here, at the top of the page it says: “For multiple licenses, a Legal Parcel does not require a legal dwelling if one of the other licensed properties under identical ownership has legal dwelling and is within a quarter air mile of the Legal Parcel” so that might be worth a little more discussion as well. She said she thinks we did a fly by on it on October 25<sup>th</sup>. She said the rest of the edits on that page are the same as the Commission reviewed before. On Page 12, Hubbard said everything here is the same, again, it was kind of tricky, she doesn’t think with the length of the meeting on October 25<sup>th</sup>, that the Commission got to the treatment of Non-Recreational Public Lands or TPZ. She said the ad hoc did take Open Space off of there, a small edit, the rest of it is the same. On Page 13, the idea of a lockable gate on a fence was removed from letter (e); but then the Commission recommended keeping it in, so there it is. Hubbard said there was another recommendation to remove letter (p) “The use of gas products such as, but not limited to, butane is prohibited, consistent with Zoning Ordinance No. 315-797” that’s our Personal Grow Ordinance, we have a licensing system for somebody who does want to use butane, so there’s really no need for that in there. Hubbard said the edits on Page 14 are the same, as are the edits on Page 15, and that’s it. There are quite a few and if the Commissioners have any questions about what the ad hoc proposed after the Commission made its recommendation, to let her know.

Chair Hoard asked when was this latest draft of the proposed ordinance received by staff. Hubbard responded we wrapped that up today.

Deputy County Counsel Larmour stated one note, the ad hoc committee wanted kind of stressed tonight was for the Commission to focus on substance. As far as lettering, numbering, or some of the other things that need to be finalized, they are really just looking for the content, and there will be final reviews and renumbering as necessary based on the comments tonight, so really just substance. The final draft will pass through and make sure all these minor errors are corrected.

Director Tippett said the ad hoc wanted to meet earlier in the week, but staff didn't have the ability until today. Chair Hoard responded a little bit of short notice there.

Commissioner McHugh thanked staff for bringing in a clarified version of the ordinance tonight and said while we will focus on substance and not numbering, the draft was abysmal in terms of readability. This is much better. Thank you for bringing it in.

Chair Hoard opened the hearing to public comment, advising that each speaker will be limited to three minutes, asked speakers to not be redundant and advised each speaker will be allowed to speak one time, no second chances. He said that we had ample opportunity at our last meeting to review the entire staff report and we will not break it down section by section as we did last time.

Comments received from Jake Grossman-Crist, Jack Nordlund, Nicholas Holliday, Terry Mines, Catherine Miller, Bill Burton, Adrian Keyes, Mike Deasy, Somi Hoffman, Dave Albiez, Justin Hawkins, John Brower, Lisa Write and Tom Ballanco.

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

Chair Hoard stated there is a bit of ground to cover and since we had ample opportunity to vet separate issues last time, but for sake of clarity and to structure the discussion, he decided he would like to go through the whole ordinance as it's written and as we read along if anything strikes you or you want to comment or make suggestions as we go along, please feel free to do so.

Chair Hoard started with **Section 1, Definitions**. He said at the last meeting we talked about "designated area" well over an hour and he doesn't think we really got anywhere. He said he doesn't know if it's the Commission's choosing to re-evaluate this one more time, or skip over it and move on. He said canopy has certainly been brought up by members of the public and he thinks that is definitely worth a look at. Commissioner McHugh agreed. He said you have brought up three different subjects, and asked how the Chair hoped to proceed?

Chair Hoard responded that he was just trying to facilitate the conversation. So, if anyone would like to start those conversations, he would be happy to hear it. If anyone would like to talk about any of the definitions, he would like to hear it.

Commissioner Frasier said yes, we talked at length about designated area last time and I think that we concluded the way it is worded in this updated draft is the way we want it, we talked about it at the last meeting for at least an hour.

Commissioner McHugh said the first one on the list that you brought up is the "designated area". He thinks we did vet that at length the last time and we concluded that the way it's worded in this updated draft, which he thinks is the same as the earlier one, but it's where we landed at the last meeting after at least an hour.

Commissioner Matthews stated it's like there are two paths, right? One is if we use the State's definition, or we have this more detailed definition that we worked on for a long time and approved at the last meeting. He said he could go either way, but it seems like we put a lot of effort into this one and we've already voted on it. It seems like we should stick with it.

Commission Stewart stated she wanted to go on record to say, she doesn't like this definition, she prefers the State's definition of canopy, which includes designated area.

Commissioner McHugh stated it does strike him that if we use this definition of designated area, the 10-foot deal in canopy is not needed. You may recall, what goes in the designated area outside the cultivation plots are immature plants and such, and this limits the amount of acreage that can be used for all of that. The plants are not wildly scattered turning a 10,000 sq. ft. cultivation into two acres of immature plants. So, that was where we landed on this discussion on this and if we stick with that notion of why we have designated area in here, then he doesn't see a point in the 10-foot spacing.

Commissioner Frasier said we can discuss the 10-foot when we get to the definition of canopy and go through that, and just keep it simple for staff sake with designated area, either leave it as is or completely start over. He would say we leave it as it is written in here.

Chair Hoard stated it seems like the Commission wants to leave "designated area", we did vet this thoroughly last time, so let's move on to canopy.

Commissioner Stewart said she wanted it clarified that the majority of the Commission agreed with this, not the entire Commission. Chair Hoard said he stands corrected.

Commissioner McHugh stated there are two items before we get to canopy. We are now at (q), which was brought up tonight and involves residency where elsewhere is applied. He thinks it is important that we state that local growers are not always from here for licensing for one year. Do we agree with this or do we not? Commissioner Stewart stated she did not agree with that at all. McHugh asked her if she thought there should be a one year? Stewart responded yes, definitely.

Commissioner Matthews asked Counsel weren't we told that having a residency requirement was unconstitutional? Counsel Larmour stated yes, it has been removed from the State as well, it is a Federal rule, and to require residency is a violation. Commissioner Stewart said it doesn't mean she has to like it.

Commissioner McHugh said okay, on the new numbering the next item is (t) the definition of recreational and public lands. That's changed to now read "high use public roads, including trails, campgrounds and boating areas". He said he's going to have a headache when we get to set-backs from recreational public land, but if it is going to stay in as a notion, he doesn't understand this definition; it is a high use public road, including trails, campgrounds and boating areas; if anyone goes hunting, birding, there's all kinds of uses on public land that aren't on high use roads, and by the way the recreational public land use can change, and he believes this will come up with permanent variances. He thinks we either have to work on a definition of when it is later referred to as non-recreational public use, or if we delete that notion later on then it doesn't matter what this definition is. He thinks the finding of recreational public land simply as a high use public road, including trails, campgrounds, leaves out a whole lot of uses of public land.

Commissioner Frasier said he didn't know how we can designate any public land non-recreational public land. That's a pretty difficult definition to come up with for him. Commissioner McHugh suggested that we put that one on the back burner and bring it back when we get to how it's applied. Commissioner Frasier referred to Page 6, stating Wildlife Exclusionary Fencing, his question is how, with all these

amendments and rewording of our ordinance, how did it become with Wildlife Exclusionary Fencing? When we started, it was security fencing with a lockable gate, and then because of the definitions of security fencing the only thing he can think of is when it went back to staff, because we wanted to allow more types of fencing rather than cyclone fencing, he thinks that's how we ended up with wildlife exclusionary definition, when that wasn't the intent when we first put this in the ordinance, it was intended to be security fencing. Chair Hoard asked him if he was suggesting we change wording. Frasier responded that would be his take on it, as he said he doesn't know if it has to say fencing even, it just there needs to be some sort of security measure, because whether this is an Ag crop or not, it is still a controlled substance, so there needs to be some type of security requirements. Commissioner Matthews asked so the applicant would propose a security plan that could include fencing, motion lights, cameras, whatever? Commission Frasier said he didn't know how you would put that in under definitions, but he thinks we would either need to define security fence, or just completely strike this and make it security fencing or security measures where it calls for Wildlife Exclusionary Fencing in the ordinance. Matthews agreed, stating that wasn't the purpose, so he's happy to exclude this paragraph.

Consensus was reached to strike the definition of Wildlife Exclusionary Fencing.

Chair Hoard stated the next item would be Canopy. Commissioner Matthews asked if we could have staff explain. Deputy Director Hubbard said she started by going back and looking at a number of regulations that have been published by the State, so from the Medical Cannabis Cultivation Program, the initial regulations, that's where that definition came from, so it must not have been the updated one. Staff had suggested updating the definition at one time to just say go with whatever it is the State has, so we don't have to keep on changing the verbiage every time if the State does change something like that, but it does say from the medical cannabis regs that came out initially, since, they have been replaced with the cannabis cultivation program thing that Justin Hawkins handed out. That's where the 10-feet of open space came from, so it is an obsolete definition.

Commissioner Stewart said that it made sense to her to do what Hubbard said and that is that the definition of Canopy is whatever the State definition is, and just refer to that section of the State's regulations. Director Tippet stated that there are some aspects of the canopy rules that the ad hoc and the Board wanted to make sure to emphasize, so that was a suggestion earlier, but the feedback was that they wanted to draw attention to parts of the State canopy rules to make sure that they are emphasized within our rules. Commissioner Stewart responded and that is all well and good, but make sure you are emphasizing rules that are really there.

Commissioner Matthews asked County Counsel if he had any suggestions about whether we just echo paragraph 8000 definitions.

County Counsel Larmour responded that's really your pleasure, if you would like a definition that differs from the State's, then that's clearly within your purview to move forward. If your recommendation is to follow the State, that can definitely go forward he thinks. The ad hoc has created this document and is seeking your input on that.

Commissioner Stewart said in her opinion having a definition of Canopy that differs from the State is unreasonably burdensome to the grower.

Director Tippet said he didn't believe the ad hoc had the intent in mind of diverting from the State [inaudible].

Commissioner Frasier said so basically what we're hearing from staff, is that you want to go with the State definition, but we want it spelled out, we don't want to say refer to State Code. Tippet responded

particular parts of it, yes. Frasier said so, we want this definition to spell out what's in the State Code, rather than just reference State Code? Tippet responded yes. Commissioner Stewart said which means that every time the State changes their definition, we have to change the ordinance, which doesn't make a whole lot of sense either. Commissioner Frasier said once the State settles, he doesn't think they will probably change a whole lot either. Stewart responded eventually.

Commissioner McHugh said it sounds like our intent is that it follow the State definition and however the Board wants to codify it in the ordinance is fine, but that's the statement we're making. Commissioner Stewart agreed. Chair Hoard said yes, that is the statement we are making, as long as it's followed the State and not added conditions such as 10 feet of open space, or including all the spaces within the boundary, just added verbiage that it does not state.

Commissioner Mathews said yes, number 1 is not part of the State definition, but numbers 2 and 4 are identical, but 3 is not. Just changing the second part of 3 and eliminating 1.

Consensus was reached to use the State's definition of Canopy.

Chair Hoard moved on to **Section 2. Application.**

A member of the audience asked for clarification of the last sentence in the last paragraph where it is redlined to add "and/or AUMA, whichever is greater." That's also kind of messy because MMRSA and AUMA are now superseded by MAUCRSA, so we should probably call it MAUCRSA. Commissioner McHugh responded he thinks that statement is saying the personal grow rights given under Ordinance 797 and the one given in what was AUMA, which is now MAUCRSA, is what this is referring to, that's the Personal Grow, not Commercial. And he thinks that should refer to the current State law. Chair Hoard asked so just change it to MAUCRSA. McHugh said that's something the Board can do; our intent is that it references the personal grow limitations in the regulations.

Chair Hoard asked if there were any other comments on Section 2. There being none, he moved on to **Section 3, Application Requirements.** He said if there is nothing in Section 3(a), let's move on to **Section 3(b) Multiple Licenses.**

Commissioner McHugh said he had a question for staff regarding one of the comments from the public today about water availability. When a license is in place and a subsequent or stacked license or multiple licenses are issued on that same parcel, is part of that license application proof of adequate water availability, including downstream effects and all that, that's part of the CEQA, do we know?

Director Tippet said [inaudible]. Deputy Director Hubbard responded that wouldn't be covered. McHugh asked the County wouldn't get involved with water availability? Hubbard replied they would have to go through the same thing at each additional site as they had for their initial site, because their water usage, if it is going to change, then that's going to be reflected in what they report to the Water Board, and depending on the type of diversion that they have, they're going to have either to go through Fish and Wildlife to show that it's and the right channels for that form for alteration agreement or it would be a well. They still have to show that it's a surface water diversion, and go through the right channels for that, for a Lake or Streambed Alteration Agreement, or it would be a well. They still have to show they have storage and production. McHugh said and they still have to show that? Hubbard responded yes, in the application process with us. McHugh said okay perfect.

Chair Hoard said in light of what Mr. Brower brought up about the CEQA document, can we get an update on that, where does it stand currently? Director Tippet responded earlier we were kind of with the determination we would go with a Mitigated Neg. Dec. or a full blown E.I.R., after careful staff

consideration and discussions with Counsel, we made the determination that currently we will that process and go straight to an E.I.R., [inaudible] some of these documents that are around here and a lot of the comments that we received in the past. That process is being initiated right now and we're still looking for probably release a draft in, if he recalls, February or March, with a final, going through all the comments and finalizing a draft by the end of June. Everything right now has to go through a contract which has a June 30<sup>th</sup> completion [inaudible]. Deputy Director Hubbard added that they will also prepare a NOP (Notice of Preparation).

Chair Hoard brought the discussion back to Multiple Licenses.

Commissioner McHugh said one general comment, the first paragraph (b)i. points out the multiple licenses can have up to one acre, and asked if that's how we all read that. Matthews asked that's not taking into consideration any adjustments for fencing of the designated area? McHugh responded this is cultivation area, designated area is two and half the times of cultivation area; so we have a one-acre license called the Type 3 Medium License, it has a bunch of requirements on it, such as a 500-foot setback and a 50-acre minimum, as we go through this, we should make sure that buying four licenses each of which are small licenses at 10,000-feet doesn't add up to a workaround for avoiding the Type 3 requirements. He feels this should reflect that, so some discussion of setbacks, we already have property line setback of 500 feet in the Type 3 licenses, and so therefore 4 licenses getting a 500-foot setback is consistent.

Commissioner Matthews said this is a Type 3 under Paragraph 4 correct? He said he doesn't see 500 feet in there, he sees 50 acres and applying for a use permit, but he doesn't see 500-foot setbacks and asked where would that be? McHugh responded he guessed he was working on old data. Alright, so let's stick with a 50-acres; 50-acre minimum then for the Type 3 License, he stands corrected on the 500-foot, he thought that was still in there, it's not. It looks like 500-foot may have dropped out, I don't see it under cultivation unless it's under performance standards or something. A member of the audience pointed out that it is under No. 5, Limitations on Location to Cultivate Cannabis. McHugh said back to his question, it has a 500-foot setback and 50-acre minimum, so as we ramp the multiple licenses up to essentially a Type 3 License, he thinks we should be consistent. And one final comment before we get into setbacks, is Paragraph (b)ii.b says multiple cultivation licenses are not allowed in areas identified in Section 5, he knows we aren't supposed to talk about numbering, but that numbering is screwed up, so let's just state that is supposed to refer to the opt outs. Commissioner Frasier stated this was the Whiskeytown and Ruth Lake Community Services District. McHugh said that's what it references; however, he believes it should reference the next paragraph which is mis-numbered as a second v on that list, it should be (b)ii, which is a numbering issue; but the point is, he believes that's a reference to the opt outs, not to the NRA. Cultivation is not allowed in the NRA, so multiple cultivation licenses are obviously not allowed in the NRA. So, he believes this refers to the opt outs and that number is in reference to the opt outs, however it gets fixed numbering wise.

Commissioner Frasier said "c" right under that is the same thing as "i" at the top of the red paragraph. He doesn't think we need to include that they are only allowed one acre maximum twice in the same paragraph, so he would suggest that we do away with "c" entirely.

Consensus was reached to eliminate Paragraph (b)ii.c on Page 9.

Chair Hoard said moving on to the issue of setbacks, he believes for the sake of consistency and in light of some comments from the public, setbacks should be tied to neighboring residence. Commissioner Stewart agreed. Chair Hoard said if the intent is to mitigate a nuisance, it should be based on your neighboring residence, not on the property line, and the comment from the public if your closest neighbor is a mile away, what's the point. Commissioner Stewart agreed, stating that there is no nuisance if your neighbor is

that far away.

Commissioner Matthews said the question is, if you are essentially depriving somebody of making a nuisance of their property, if they can't use their property because the odor bothers them so much, why is it just their house? If they can't use their property because they are allergic to it, this is part of the argument before. Commissioner Frasier said you're allowing use of your neighbor's property. Matthews said so you are already affecting everything from the property line up to the house. We're talking about the house too now. He thinks we decided in the past, that that is where people spent most of their time and that's where the impacts would be if people wanted to open their windows and try to sleep and all those kind of things, and he thinks that is where the nuisance would be concentrated, but thinks you could easily make an argument that the usage should start at the property boundary. He agrees it's much harder to have a number then, because we have all these special cases out there that it shouldn't apply to at all. Either we have that as part of the variance process, we have people who come in all the time and say "look I don't have any neighbors, I shouldn't have any setback requirements", that's the variance process.

Commissioner Stewart said the thing is, we already have a 350-foot setback from the residence, and why aren't we changing it here to the property line? That doesn't make any sense to her. Commissioner McHugh said we also have a property line setback for the Type 3. Stewart said but for most of it, most licenses it's the residence. She said she doesn't understand why we have a 500-foot setback from the property line for Type 3. McHugh responded he thinks for the reason Commissioner Mathews just pointed out. Stewart said she didn't agree with it. McHugh said one thing about the setbacks the way it's listed here away, two licenses in 350 feet. He doesn't think it should be tied to the number of licenses, he thinks it should be tied to the size of the grow. Chair Hoard said absolutely. McHugh said so, if you have two 2,500-foot licenses and now you have 5,000 something, he thinks these numbers should be changed, not from two licenses., but something like no setback other than a 350-foot for up to 10,000, and then we could do something at 20, 30, 40, and 40 auto match the Type 3 he thinks. And he doesn't see why variances would be not allowed.

Chair Hoard said yes, he agrees it should be tied into the size of the cultivation and not to the number of licenses. Commissioner Matthews said the last time we brought this up, we specifically eliminated all of these setbacks. Commissioner Stewart agreed. Frasier said in the Ag zoning? Matthews said in those three Ag zoned parcels and we said everything else has to get a Conditional Use Permit, rather than a Director's, right? Frasier responded yes, a Conditional Use Permit. Matthews said he just wanted to know what has changed in our opinion, stating his opinion hasn't really changed since then. McHugh responded his has, he doesn't have a good excuse why he went along with it, other excuse other than we were tired at 11:00 p.m., but he thinks he was as focused on it, as he thinks Counsel was on the 350, he asked us the question twice, "do you mean 350 feet setbacks are still in, dwelling setbacks are still in" and we said yes. He said for the reason Commissioner Mathews just outlined, he thinks the property line setbacks are reasonable, because now we are not talking about small grows, the 10,000-foot grows, now we are stacking them up, now you're into 20,000, 30,000-foot grows with the larger impacts. We recognize it in the Type 3, with the 500-foot setback, and in fact, we could put minimum acreage on the over 10,000 ones as well. This spreadsheet that was handed out shows an example of that at the bottom. He's not sure we can go that route and put two different requirements on minimum acreage, although it is there, the 50-acre one is there, because that matches the Type 3 and he thinks we should be consistent and he doesn't think this mechanism is a way to get around getting a Type 3 License and complying with the requirements of the Type 3 License. Commissioner Frasier stated he would agree with that. He does think the setbacks need to be tied to the size of the grow not the number of grows, but the variances, the only issue he has is where it says no setback variances shall be allowed, he would say that it should say "no multiple licenses shall be allowed if they are going to require a variance". That would be a lot cleaner than saying you can apply for a variance. He doesn't think you should be able to stack that license if that would require a variance.

Chair Hoard stated, personally he would like to see the setbacks reduced, for 350 feet from property line for a 20,000, it seems large; and then if we're going to allow variances by reducing the setback amount, that would eliminate more need for us to visit more variances. Frasier said he would support a decrease in that 350 feet from the property line, if we put a number/size limit on the number of grows limit on that. If we limit that to 20,000 feet, he would be in favor of lowering that from the property line. 350 feet is quite a way from the property line. Another question he has is, he assumes they would still be required to maintain the 350 feet to a residence also. He doesn't see that in this part of the ordinance, but it should already be required in the other parts. Commissioner Stewart said it just doesn't make any sense, because you already have to be 350 feet from the residence, obviously if you're 350 feet from the property line, you're going to be way over. Frasier said that's why he said he's in favor of reducing that for a smaller size; once we get up to a 40,000 size grow, then he does agree with Commissioner McHugh that we need to leave it at 500 feet, so it doesn't become a way of getting around a Type 3 license if you want to have that size of grow. Stewart said she can see that.

Chair Hoard said so what I'm hearing basically is change to size of grow 20,000, 30,000, 40,000 sq. ft., leaving the 40,000 sq. ft. at 500 feet, and the possibility of reducing the 20,000 and 30,000, is that correct? Commissioner Frasier said then the question will become what is the magic number from the property line, we have yet to determine that in all of our discussions on this ordinance. Commissioner McHugh said well this sheet proposes 200 for 20,000, 350 for 30,000, and 500 for 40,000, or maybe 200, 300, 500, and this shows you the size of the acreage, this is a simplification, it doesn't take into account mountainous terrain, these numbers must be derived from a square plot inside a square parcel. He said 200 would be 10 acres, 300 would be 17 acres, so 200, 300, 500. Commissioner Matthews said we're hinging these numbers all on the fact that they are Type 3 license has been set with a 500-foot setback, that's already in there, and now we're just saying... He asked what other use would only allow you to use 2 % of your land, that's a pretty onerous restriction. Stewart agreed saying it is. Matthews said one acre in fifty, so that's 2%, you're only allowed to use on 2% of your land and asked can you think of any other agriculture operation that would be restricted to that small of a portion of their land? He said he's not convinced that the 500 feet of 50 acres is really the appropriate goal post on this end. Commissioner Stewart stated she agrees with him. Commissioner McHugh said now that you pointed it out, the 40,000 one also should have the 50 acres tied to it, because the Type 3 has the 50 acres. Commissioner Matthews said that is what this example has. Commissioner McHugh said he thinks this was reverse engineered from the Type 3. Commissioner Matthews said 40,000 is pretty close to an acre, right. McHugh responded yes. Matthews said he means it's within 3,000 sq. ft. McHugh said 3,560.

Commissioner McHugh suggested we go, numbers 1, 2, 3 [inaudible] 20, 30, 40K sq. ft. and 200, 300, 500 and the four licenses, and at 40,000 feet you've got to get 50 acres and that matches the Type 3. These are not new licenses for someone who presumably has a single small 10,000 acre, and then he would also say we delete paragraph e. Commissioner Matthews asked why would you delete paragraph e. McHugh responded because e says no setback variances are allowed. Chair Hoard agreed. Commissioner Stewart said yes absolutely, variances should be allowed. Commissioner Frasier said he already made his comments on that, he doesn't think we should tell people no variances are allowed. He thinks it would be better if staff dealt with that with the licensing.

Consensus was reached that variances will be allowed, striking Paragraph e completely.

Commissioner Frasier asked how do we want to go with this proposed setback issue, do we want to have a consensus type vote on what Commissioner McHugh has suggested and see if we reach an agreement or how are we going to move forward? Commissioner Stewart stated she personally didn't like the 2, 3, and 5, she would rather see it as 1, 2 and 3, 100 from the property line and 350 from the nearest residence. Chair Hoard asked for the 20,000? Commissioner Stewart responded for the 20,000. Chair Hoard said

100, 200, 300? Commissioner Stewart responded yes, to her that makes more sense.

Comments from unknown public member.

Counsel Larmour advised Chair Hoard this is a point of order. If we keep having comments (from the public), we are going to have to take a recess. It's permitting certain people to have public comment while others aren't, so we are going to have to request order. Chair Hoard asked did the members of the public and everyone else hear what Counsel said?

Chair Hoard said he agreed, stating he would like to see 100-, 200- and 300-foot variances; the 300, 400, 500 that just seems like over the top. Yes, it would be good to have it tied to the size, 20,000, 30,000, 40,000 sq. ft. Commissioner Stewart agreed, stating she likes it being tied to the size and not the number.

Counsel Larmour said he just wanted to clarify, when we started the discussion, there was a discussion whether "d" was going to stay in, and now there is a discussion of setbacks as they apply in this section, is that assuming that "d" remaining? Commissioner Frasier responded it was "c" that we struck, because it was redundant to "i". Counsel Larmour said there was a discussion about setbacks from the property lines, and asked are we still disseminating these setbacks being from the property line and not a residence? Commissioners Stewart and Frasier both responded yes. Commission McHugh said he still maintains that 40,000 feet [inaudible] 500 feet to be consistent with a Type 3 License.

Commissioner Stewart said there's a difference between a one acre, if you have 600 acres and you have four grows that are spread pretty far apart, that's very different from one acre that is continuous in a contained area. Commissioner McHugh said except that we just defined canopy to mean that canopy is canopy, you can spread it all over, it's a designated area. Commissioner Stewart responded we are not talking about one designated area, we are talking multiple designated areas and they can be spread out with multiple licenses. We're talking about multiple licenses, not just one license for one area.

Chair Hoard said we need to come to an agreement with the setbacks [inaudible]. Commissioner Frasier said he would be in agreement with 100, 200, but he does agree with Commissioner McHugh that we need to leave it at 500 for the 40,000 plus; so, he would say 100, 200 for the smaller ones, that would be okay, but thinks we need to leave the large one so it's in line with the Type 3 grow. Commissioner Matthews said that's a compromise. Commissioner McHugh said he would go along with that 100, 200, 500 in the spirit of compromise. Stewart said she still thinks 100, 200, 300.

Counsel Larmour stated he thinks on the other issues the Commission was fairly in agreement across the board, but because this issue seems to be divided, he thinks it would be best to make a motion and try to decide what this section would be so we have a clear record, and then when we complete we can go back through the points that you agreed on consistently through the five of you, adding the sections where there is disagreement, having a motion and accepting it and then we can go back through the document making sure the changes are all noted.

Commissioner Stewart asked Counsel if he wanted a motion now on this? Counsel Larmour responded yes on this subject, because the Commission seems to be divided, he thinks for clarity of the record, you're not all in agreement, so he thinks we need a motion.

Commissioner Stewart made a motion that (b)d read "setbacks of 100 feet from the property line for a 20,000 foot for a total growing area containing two licenses, 200 feet from the property line for three licenses with a maximum square foot of 30,000 and, 300 from the property line with four licenses or more with 40,000".

Motion died for lack of a second.

Commissioner Frasier made a competing motion that (b)ii.d read “setback from property line shall be 100 feet for 20,000 sq. ft., 200 feet for 30,000 sq. ft., or 500 feet for 40,000 sq. ft.” Seconded by Commissioner McHugh.

Commissioner Stewart stated it can’t just say the number of square feet, this is discussing multiple licenses. Commissioner Frasier responded this under multiple licenses though, so it doesn’t matter if they have five licenses, if it’s 20,000 sq. ft. it would still only [inaudible]. Commissioner Stewart asked so you’re not caring about the number of licenses? Frasier said no, only the size. Commissioner Matthews said the only thing he would say is the math doesn’t make sense to him, if you are allowed 30,000 that is three-quarters of 40,000, then your setback is less than half. McHugh said you’re right. Matthews said if the issue is distance from odor, it should be a linear function. Commissioner Stewart suggested he make a competing motion, one that makes sense to him.

Chair Hoard asked if there is another competing motion. No one spoke up.

Chair Hoard called for vote on Commissioner Frasier’s motion that (b)ii.d read “setback from property line shall be 100 feet for 20,000 sq. ft., 200 feet for 30,000 sq. ft., or 500 feet for 40,000 sq. ft.”. Commissioners Frasier and McHugh-Aye, Commissioners Stewart Matthews and Hoard-Nay. Motion fails 2-3.

Recesses 8:50 p.m., reconvenes 9:00 p.m.

Chair Hoard stated we are back to the setback argument.

Commissioner Matthews moved to strike (b)ii.d and e, and replace it with the motion we unanimously agreed on at our last meeting, that we allow multiple licenses on Agriculture, AgForest and AgPreserve with only the normal setbacks, and any other zoning would require a Conditional Use Permit.

Commissioner Frasier said now for clarity sake you need to define “normal setback”. Commissioner Matthews responded 350 feet to a residence.

Motion seconded by commissioner Stewart.

Commissioner Frasier made a competing motion that Item (b).ii.e would say “setbacks from property lines shall be 100-feet for grows up to 20,000 sq. ft., 250-feet for grows up to 30,000 sq. ft., and 500-feet for grows 40,000 sq. ft. Seconded by Commissioner McHugh.

Chair called for the vote on Commissioner Frasier’s motion. Commissioners McHugh and Frasier-Aye, Commissioners Matthews, Stewart and Hoard-Nay. Motion failed 3-2.

Chair called for the vote on Commissioner Matthew’s motion. Commissioners Matthews, Stewart and Hoard-Aye. Commissioners McHugh and Frasier-Nay. Motion carried 3-2.

Deputy Director of Planning Hubbard requested the motion be repeated for the sake of clarity. Commissioner Matthews stated he basically said multiple licenses shall be allowed on Agriculture, AgForest and Ag Preserve with only the normal 350-foot setback to a residence. Any other zoning would require a Conditional Use Permit; basically, what we adopted at the October 25<sup>th</sup> meeting.

Chair Hoard asked if there were any other comments regarding Section 3. Commissioner Frasier stated

we would have to fix iii. Commissioner Stewart said that would have to be amended to reflect the motion Commissioner Matthews made. Commissioner Matthews said or eliminate it, there's no square footage anymore. Commissioner Frasier said you could eliminate it. Stewart agreed saying eliminating it would work. Commissioner McHugh said there's definitely square footage, there's no setback type square footage, but there's square footage, there's up to 30,000 sq. ft. Commissioner Frasier said but with his motion, all would require a Conditional Use Permit except on Agriculture, AgForest and Ag Preserve. McHugh asked if that's what the motion was. Frasier responded yeah, anything not zoned Ag would require a Conditional Use Permit, so we would have to determine whether we are going to keep c as it is or if we're going to require a Use Permit on Ag zoned parcels. If we don't want to require a Use Permit on Ag zoned parcels, we need to strike that entire section. McHugh said he thinks we should require a Use Permit, because specifically, we eliminated the setbacks.

Counsel Larmour stated if the motion you have just agreed on does require a Conditional Use Permits on all zoning other than Ag, for the portion of this that says "Use Permits are not required" for that zoning portion would be consistent to Section iii.d. Commissioner McHugh said there is no d. Commissioner Frasier said c. Director Tippett suggested rather than having the vote, the intent of the vote striking d and e and just making the Section iii what governs the permit, so essentially if you have, it says in here that Section c you don't require an Ag permit for Ag, AgPreserve and AgForest, which is what the intent of the motion was, and essentially you removed the square footage off of b and then you have what the motion was. So, we could have [inaudible] just b and c and all multiple licenses over 30,000, or all multiple licenses require a Conditional Use Permit, where c is just, if you have Ag, AgPreserve and AgForest then you don't need a permit.

Commissioner Matthews stated the point of course, is if you live next door to the land that is zoned Ag, you expect Ag uses on that land, and that was his impression of Commissioner Frasier's intent to make that motion originally at our last meeting, was that we don't need any additional setbacks because it's Ag land and this is an Ag use and that's an appropriate use for that type of land. Even the 350 feet is probably excessive. It seems to him, we can go along with that one. He said what his motion didn't say is whether there's a difference anywhere with a Director's Use Permit, so basically it just says [inaudible] no permits for Ag zoned parcels and Conditional Use Permit for anything else. That would basically, you don't need any of this in there.

Chair Hoard said [inaudible] strike that. Commissioner Stewart said except for c. Commissioner Frasier said he thinks what Director Tippett was saying was that if we, that's basically what this motion says. If we take out the 30,000 sq. ft., where it says "all multiple licenses would require a Conditional Use Permit" and use permits are not required on Ag, so instead of amending the section before with his motion, we could just do away with the section before and use b and c for this to cover what Commissioner Matthews said. He asked Commissioner Matthews if you took out the 30,000 sq. ft., does that look like his motion. Commissioner Matthews said it should be "all multiple licenses require a Conditional Use Permit", striking "resulting in combined cultivation area over 30,000 sq. ft." He said we were going to strike e too because that's a lot of variances.

Consensus was reached to change **subparagraph iii** to allow multiple licenses on Agriculture, AgForest and AgPreserve with only the normal setbacks (350 feet), and any other zoning would require a Conditional Use Permit.

Moving on, Commissioner McHugh said in paragraph (f). He thinks this is the time to introduce the notion of no transfers in opt outs. He thinks that is a compromise for the folks in opt outs giving up some opt outs and now giving up setbacks. The notion of the opt out has been that they are not growing areas, that they are marijuana free, and of course, they are not. W grandfathered in any number of licenses, and the way ultimately having worked towards that goal of the people that stood up and commented tonight,

Bucktail, throughout at least District 1 those opt outs, is that they would like them to eventually go away when those growers are no longer growing. He thinks the way to ultimately achieve no growing in the opt outs is to say you can't transfer licenses as long as you are there growing, you're fine. You can transfer licenses out in the opt out and he believes with multiple licenses those will have value now, because we will undoubtedly hit the 500 limit, therefore, they take on value. You can transfer them out, but you can't transfer them in, or within in the opt outs, and he thinks this is the time to introduce that.

Consensus was reached unanimously that licenses cannot be transferred in or within the opt out areas.

Commissioner McHugh asked counsel if a motion was needed. Counsel Larmour responded if you guys are in full unanimous agreement, you can make that change and then what we will do at the end here is reflect all the changes, including those that require a motion.

Commissioner McHugh said he doesn't have the verbiage figured out yet, but the intent is that Paragraph (f) says you can do all this transferring, except you cannot transfer into or within an opt out. You can transfer it out of the opt out, that's fine. He doesn't know the exact wording. Commissioner Frasier said to just add that to the bottom.

Chair Hoard said moving to item i.a.e.ii. Commissioner McHugh said it's a numbering problem, it should reference that funny numbered one which identifies the remaining opt out. He said he thinks Paragraph (g) is something we didn't discuss last time and they are asking us to look at this dwelling issue. Commissioner Stewart said her question on that is what is the definition of a legal dwelling? Director Tippett responded at one time they defined a legal dwelling as something that was permitted, it was constructed before 1972 and thereafter on a parcel, so a dwelling unit that has been permitted as a house [inaudible]. Commissioner Matthews said under 6.q. it says that a person shall not be denied a license "for the following reasons: the property has an unlicensed structure without plumbing or electricity, if the structure is less than 120 square floor feet, or the property has an unoccupied out-building without a plumbing or electricity, if the building was built prior to 2001." McHugh said this says if you built a barn and you predate that date, 1972, you're not going to get busted for an unpermitted barn, whereas issues have come up to be compliant, in order to get an application through, not only do you have to have a legal dwelling, but all the other stuff has to be permitted as well. That's what this saying. Director Tippett said he believes 1972 is when our county licensing program stood up, so they have since identified pre-1972 homes and through the tax bills and so [inaudible] show up on Google Earth and now it does. McHugh said you are saying "legal dwelling" for our purposes is pre-1972 or a permitted dwelling, something permitted for residency? Tippett responded yes. McHugh asked home office, RO zoning, all that kind, if it's allowed to have an apartment on it, it's a legal dwelling? Tippett responded for example, you have commercial property that has commercial buildings on it, you have to get a use permit to have the 25% residential dwelling unit on the property that's on commercial property. If you go and get that use permit and get that permitted, then you have a legal dwelling unit on that property. McHugh said any sort of legal dwelling is the spirit of, okay. Deputy Director Hubbard said the date was actually July 1, 1973, that's when we adopted the Building Code. Commissioner Stewart asked so basically anything that is on the tax rolls currently would be a legal dwelling? Tippett responded no. There's code, pre-1972 homes on there are not technically legal, but the Tax Collector sees them and they want to make sure they are collecting taxes on them. McHugh said but, for instance, there might be a case of a garage that got a variance so the garage was built on a parcel, legally permitted, it's a garage and someone is living in it, it's not a legal dwelling. Tippett agreed, stating that's an ancillary building, you'd have to get a variance to build an ancillary building prior to the primary structure. McHugh said and if that variance were obtained, it's all above board, but you can't live in it. Tippett agreed.

Commissioner Matthews said we need to add a definition of "legal dwelling" in definition section. McHugh said it seems like we should. Frasier said it would make it cleaner. Matthews said he thinks

staff can handle that one. He said the real issue obviously is the quarter mile, can parcels be, do they have to be contiguous or can they be separated by some distance? To him, it gets down to the security issue. If you can't oversee what's happening, because it's a really valuable agricultural crop there, a quarter a mile away you can't see what someone is doing, so maybe if you had an appropriate security plan. You have power and cameras and stuff like that, maybe that would satisfy, but it seems like if we are concerned about having security fencing. McHugh said because there's a legal dwelling you're inferring that the cultivator lives there? Matthews responded or has someone there. McHugh said we don't actually require that. Matthews said no, but that provides some level of security, it definitely would dissuade some people if they saw lights on in the house, they may not choose to go into that garden and remove a plant worth \$6,000. Commissioner Stewart said but there are people who have a house and a yard, and then some distance away have another property that they are able to grow on and she kind of feels like if they want to take the chance to put a fence around it, they do all the stuff they're supposed to do, then it's up to them. They can put in cameras, they can monitor it on their telephone wherever they want to. She thinks it's important that people be, especially if they are doing multiple licenses, that they not have to have two houses, that doesn't make any sense.

Director Tippett said he wanted to share the intent of the ad hoc, what exactly [inaudible] with this now multiple licenses, that they would have licenses on their property, say license on one that's across the street and it was well do we want them to build two houses with one might never necessarily be occupied. Commissioner Stewart said exactly. Tippett said so that's why it's within a quarter mile was the determination that is within a reasonable quick walk or bicycle ride to get to that other property. They wouldn't be able to [inaudible]. If they wanted to do that, they would have to build something [inaudible]. McHugh said but remember we don't require the grower to live in that dwelling that's got to be there, right? Do you, as the people enforcing the applications? Tippett responded it's not required. McHugh said so it's not required, so that's even worse to say you have to build a dwelling that stands empty, now you have to build two of them. He thinks the quarter mile thing is fine the way it stands, in his opinion. Commissioner Frasier said he doesn't think a quarter mile is going to make that much difference, but if somebody owns property right across the street and they want to grow on it, it's going to be a contiguous parcel, if it's a quarter mile away, he doesn't see that happening a lot in Trinity County, a quarter mile is not very far and most properties are going to be outside of that, so he really doesn't care either way. He thinks it's a non-issue himself.

Commissioner Stewart said she has someone who's growing who is a half a mile away from her and they bought a parcel at auction recently, it's within a quarter of mile of them that they plan on growing on as well, and frankly she's just as glad because there's a derelict building on it that she's sure they will tear down and it will look a lot better. She said she has no issue with the quarter mile. Commissioner Matthews said as he has said before, he thinks it comes down to security. If we're concerned about security fencing, something that's within your current parcel and under your view and we want to require people to secure their grow area, and now it just doesn't make any sense to him to have something, a quarter of mile could be, you could hear nothing, see nothing and the trees, the curves in the road and all that kind of stuff, you could have no idea what's going on, on that parcel, so if we are going to go that route, why would we have any security on the parcel to begin with? Commissioner Stewart said she doesn't agree with security fencing, so she's fine with that. Commissioner McHugh said we said security, not security fencing, there's all kinds of places that are secured and no one lives there. Commissioner Frasier said he would rather see a security requirement than a legal dwelling on the parcels that, existing grow sites. He said that's one thing that he's really not in favor of is requiring that somebody live, or have a legal dwelling on their property to grow. Security is one thing, but if you own a piece of Ag land then you should be able to grow Ag crops on it, or if you own AgForest you don't have to have a house on it to log. He doesn't really think that you should have to have a house on your property to use your property, so he's more inclined to go with, yeah sure it has security measures, but a residency requirement, especially within a quarter mile, he doesn't think it's going to be a big issue, he doesn't think it's going to

come up that often. Commissioner Stewart said the bottom line is we don't have to be unanimous, she said it sounds like there's enough of us with the same response. Chair Hoard said that's true, it sounds like we have consensus on that.

Counsel Larmour stated he just wanted to confirm the consensus was to add a definition for "legal dwelling" and to accept the track-changes as stated here. Chair Hoard agreed and thanked counsel.

Chair Hoard then moved on to **Section 4** which now reads Type III Cultivation Licenses. Commissioner McHugh said he has a question for staff on this one. Under 4 (b)ii, the Director, on July 1<sup>st</sup>, may increase the number of Type III licenses to 30, if the environmental document supports it's increase – what environmental document might support the increase? Commissioner Matthews responded the E.I.R., it's going to be done soon. Commissioner Frasier said by June. McHugh said there's all kinds of things that can change when the CEQA comes in. He was just curious why this one called it out. Director Tippett responded it was with the intent to get the environmental document [inaudible]. McHugh said so if the environmental document says we really ought to have setbacks, then we have to revisit that too? There's all kinds of things that can change when the E.I.R. comes out. He just thought it was interesting, he'll withdraw the question. Matthews said maybe we should remove it.

Chair Hoard asked if there were any other comments on Section 4. He said he does have a comment on 4 (b)i.1, so for a Type III license it says "Be applying for property that is 50 acres or more", how about adding an extension for Ag, AgForest and AgPreserve, without having that 50-acre requirement, as we discussed before. In light of the motion that was presented, it's Ag land, why have that requirement for Ag land? Commissioner Matthews said he'd agree with that. Commissioner McHugh said he doesn't, but then he didn't agree with the other changes you try to be consistent with now. He thinks it's a mitigation. Chair Hoard asked if there were any other comments. Matthews asked shall we try to resolve this? It sounds like we have disagreement so we should probably have a motion on that. He questions the first paragraph under 4(a) it says "30 of those licenses shall be within Trinity County Waterworks District #1", that's not constrained now is it? Commissioner Stewart responded no. Matthews said that was for sort of a partial opt out in that area. Stewart agreed. He asked was there any constraint on the number of licenses? Stewart responded it doesn't make any sense, she was looking at that too. Matthews said it was struck from the opt out areas. Stewart said they tried to resolve it by saying "the priority will be based on a number issued to the Trinity County commercial license number. She doesn't even understand what that sentence means and so she thinks that whole (a) needs to be struck. Matthews said well you can leave the first sentence about the 530 licenses. Stewart said exactly, 530 licenses. Commissioner McHugh said maybe we should make it 500 and asked we are at 382ish? Deputy Director Hubbard agreed. McHugh said we never got to 500, we added 30 because the opt out came in... he thinks the Supervisors down there said when we relax the opt out, had the 500 been used up, relaxing it would have screwed those people, so we'll give 30 more licenses, well now we don't need those 30. Stewart said she thinks we just need to remove the whole part about the Trinity County Waterworks District and just leave it at "The County will allow a total of 530 licenses. Commissioner Frasier said his questions would be why is that under Type III Cultivation? Why does it say we are allowing 530 licenses when we are talking about Type III Cultivation Licenses, that shouldn't even be in there, it should say 15? Matthews said (a) gets completely removed. Frasier said it's in the wrong spot. Commissioners Stewart and Matthews agreed, as did Chair Hoard. Commissioner McHugh said (a) needs to be stated somewhere. Both Frasier and Stewart said but not under Type III. McHugh said he thinks the mistake was renaming that "Type III Cultivation License", he thinks it's "licensing phases" or "number of licenses available" or something like that. If you renamed that paragraph to that, then (a) and (b) both make sense to be there, (a) needs to be somewhere. Stewart asked can we just say that we'll make this look like it should, and move on, because this just doesn't make sense, she thinks we are getting sucked into minutia and we kind of need to move on.

Director Tippett stated staff understands the issue and we will correct it to read accordingly. What he

needs to know is if you want to change any of the [inaudible] going to different numbers, it doesn't sound like you do, but we will make sure it's correct. Commissioner Stewart thanked him.

Commissioner Matthews said he thought we were going to address the 50 acres. Chair Hoard responded yes, he would like to address the 50 acres, with the exception of Ag, AgForest and AgPreserve.

Commissioner Matthews moved to amend (4)(b)i.1 to say "Be applying for property that is 50 acres or more, except if it is zoned Ag, AgForest or AgPreserve. Seconded by Commissioner Stewart.

Commissioner McHugh stated it's a bad idea.

Chair called for the vote. Commissioners Matthews, Stewart and Hoard-Aye; Commissioner McHugh-Nay. Commissioner Frasier-Abstain. Motion carried 3 to 1.

Chair Hoard moved on to **Section 5**. Commissioner Matthews said he thinks we are down to the last paragraph about lifetime variances. Commissioner McHugh said he doesn't understand how lifetime variances can be applied to an annually renewable license. The zoning next door could change, TPZ could be pulled out, taxes paid and an R1 subdivision could be put in there. He thinks lifetime is a long time and these go into the Planning Department, they don't come to the Planning Commission and the purpose of the renewal is for the Planning Director to look at it and if nothing has changed, you're ready to go, or if something's changed, we better look at it, but you don't get that option if it's a lifetime. He doesn't understand lifetime for any zoning next door. Commissioner Frasier said he doesn't see how we can classify any public land non-recreational, somebody is using public land for recreation everywhere, so he doesn't think you can put that designation on there. Chair Hoard said so we should strike that sentence altogether. Frasier said he would. McHugh said he'd agree to that. Stewart said on the surface it sounds wonderful, it's this vacant land, but things change, is it possible to make it instead of lifetime can it be a 5-year variance or something so it's not necessarily coming back every year? Or after one variance that it becomes a Director's Use Permit? Matthews said it would be a Director's Use Permit. McHugh said it's already a Director's Use Permit. Stewart said she's talking about the lifetime variance. Matthews said the minimum time frame to take something out of TPZ is... McHugh said is a month, if you're willing to pay the taxes. Matthews said or ten years to forego the tax consequences, we could do that, he doesn't think very many people are going to [inaudible]. He said it could be something like 5 or 10 years, but lifetime is obviously too long. Stewart agreed. Commissioner McHugh said well, again, what we're talking about is every year when that license is reviewed by the staff, should we review all the elements of the license with the variances in there, and the look at it and say nothing's changed, check. It gives staff the opportunity to say whoa somebody built something there, now we better take a look at it. Stewart said so you are just saying just don't do it automatically at all, just make it a Director's Use Permit? McHugh responded it's not a Director's Use Permit, it's just part of the application. Stewart responded it says right here. Frasier read "the Planning Director can issue a Director's Use Permit for subsequent years..." McHugh said he would delete that sentence, he thinks its just part of the... He asked how does it work today if someone gets a variance for a cultivation lot today, what happens next year? Director Tippett responded they get a Director's Use Permit, but what a Director's Use Permit allows us to do is it allows us to send out for public comment [inaudible] within 350 feet of that property that might be affected by it; so, if someone one year is okay with it, but the next year is not, then what would happen is he most likely would not issue a Director's Use Permit, I would say this needs to go in front the Commission for some sort of action, but it's a way that allows people to... Commissioner Matthews said neighbors concerned about impact. Tippett agreed saying there might be a situation like I didn't have a problem before, but now I have a kid and now it's blowing through the window, I want something done about it. The 350-foot setback might not have been a concern the year before, but now it is. He said again, we go back to the 350-foot is a variance, we are giving them special permission for somebody to do something, conditions could change to remove that condition and so that is why it was for the annual period. Commissioner

Stewart said but here we're talking about properties that don't have anybody that's close enough to be noticed. McHugh said that's not true, there's a parcel next door, you had to get a variance because there's another parcel next door. Stewart said okay so what is the intent of this then? You're right, he got a variance in the first place, so that means somebody had to have been noticed because otherwise it wouldn't have come to us at all. Tippet responded [inaudible] usually without limits, many of the variances are, the decision was made earlier that the variances for cannabis that within 350 feet of residential property would be reviewed annually. That's what this is saying, is that on each particular situation that review will not happen. Stewart said but that's the thing, if we had to issue a variance in the first place, then there was somebody that was affected, and so what difference does proximity to non-recreational public land and TPZ land have to do with it? Commissioner Frasier said Type III license requires a setback from a property line. Matthews said that's the only one. Stewart said so this would only be for Type III licenses? Tippet said he believes it was intended to apply to Type III licenses. McHugh said and when this was drafted, we had setbacks from property lines for stacked licenses, those seem to have gone away. Frasier said no it would only be for a Type III license. McHugh said and a Type III license who got a variance. Stewart agreed stating, which meant that there was an issue or they wouldn't have needed a variance. Frasier said he thinks we should strike the rest. Consensus was reached to strike the last sentence in paragraph 5 (a) (vii).

Chair Hoard moved on to **Section 6**, Performance Standards for Commercial Cultivation of Cannabis. Commissioner Stewart said under 6 (a) "AUMA" needs to be removed here and changed. Chair Hoard said it should be changed to read "MMRSA". Commissioner Frasier said 6 (e) the whole thing needs to be fixed. We did away with the Wildlife Exclusionary Fencing, so we need to change this to either security fencing or a security plan, something, security oriented non-wildlife oriented. Chair Hoard said he has been very vocal about being completely against the fencing, it's burdensome, it's expensive, it's just really not necessary. He would be more in favor of allowing cultivators to come up with their own security measures, this is their cultivation, this is their investment, why do I have to dictate how they protect everything. McHugh said that's also the other way, it's protecting youth. Chair Hoard agreed, saying we did take a vote to eliminate fencing that failed at our last meeting regarding this. He said if it pleases the Commission to change the name to reflect security, that's fine. Commissioner Matthews said let's just go with the applicant must submit a security plan. Stewart said she liked that. Chair Hoard said he's in favor of that, if that entails a fence or whatever they are comfortable with. Frasier suggested cannabis grown out door shall be in a secured location. How are you going to write this? McHugh said there's verbiage in the Manufacturing Ordinance that says "security plan shall be developed which is compliant with State requirements and submitted with an application and must be sufficient to restrict access only those intended and to deter trespass and theft of cannabis and cannabis products, shall be provided and maintained." Chair Hoard said he would agree with that. McHugh said this says the security plan shall be approved by the Board of Supervisors. Frasier said or we can strike that part and leave it up to the inspector or the Director. Chair Hoard said or their designee. Matthews said either you require it for grows on much smaller parcels that have more potential for trespass and theft issues. Frasier said how this is written though, it wasn't required on the small parcels as long as it was contained within a fence. He said for Type IC fencing is not required when there is a perimeter fence, you didn't have to have a fence around the grow as long as there was security, so he thinks the main issue is security and so if we can address that without fencing, he has no problem with it. However, you come up with a security plan as long as we put security in there somewhere. Commissioner Stewart said she hates the fencing, she likes that in order to get your license, cannabis grown outdoors you must submit a security plan. Chair Hoard said it seems like we are in agreement. McHugh said they have samples in the other ordinances. Chair Hoard said we will recommend that to the ad hoc.

Counsel Larmour said once again, if your intent is to use language from the other ordinance, we can do that, but he thinks at this point, because all of you have discussed something separate, he thinks it would require a motion.

John Brower from audience asked for a point of order. We are introducing something with a completely new requirement, like a security plan, shouldn't that be noticed ahead of time so people can come and comment on it? It's a big change. Chair Hoard agreed it's a big change.

Commissioner Matthews said on one hand most people are saying I have a perimeter fence and I have a gate on it, that satisfies the security needs that I see. It doesn't say that it's going to be an onerous requirement. Frasier said if they choose to have the fencing it would be, just build the fence that was required before we took the fence requirement away, you can do other things in lieu of fence. He doesn't think it is really a major change.

Commissioner Stewart asked Counsel Larmour if he had any thoughts. Counsel Larmour responded he thinks essentially, it's addressing security, which the fence was addressing, so if you want to make a motion, a recommendation that security be handled in some way different, this is a recommendation to the Board of Supervisors. If you want to see the fences stay in it tonight, you can forgo that and leave it as is.

Commissioner McHugh moved that we add a requirement such as the following, which in this case is extracted from the Distribution Ordinance: something along the lines of a security plan shall be developed and submitted with an application and must be sufficient to restrict access to only those intended and to deter trespassing or theft of cannabis or cannabis products, which may include fencing or other elements.

Counsel Larmour asked, just to be clear, you want to strike e and place than in? McHugh responded yes, that's the motion.

Commissioner Frasier seconded the motion. Motion carried unanimously.

Chair Hoard asked if there was anything else on Section 6, if there's not we'll move on to Section 7. He said Section 8, Section 9, basically for the most part the rest is administrative, nothing catches his eye in terms of land use in the proposed ordinance.

Counsel Larmour stated he thinks based on the last motion and the change to Section e, that we need to go back under Definitions in Section (x) where we have the Wildlife Exclusionary Fencing and change that to Security Fencing, and also make that consistent as Security Plan approved by the Director. Chair Hoard agreed. Commissioner McHugh said well we're not going to make it say security fencing. Frasier responded no, we were going to completely strike that and then there and that way there need not be wildlife exclusionary fencing. Chair Hoard said that's agreed upon.

Counsel Larmour asked so the intent to strike (x) in total, or include a new definition of security plan there? Commissioner Stewart said the original intent was to strike it. Counsel Larmour stated (x) will be stricken.

Commissioner McHugh said since we're about to recap, on Definition (t) non-recreational public lands is now irrelevant since we deleted, he thinks we can strike (t).

Chair Hoard asked if there were any further suggestions or changes needed before we move on and recap the changes we've made.

Counsel Larmour stated from the document before you today, the first change he shows is the striking under Definitions of Section (t) non-recreational public lands. Commissioner McHugh said this is where you would insert the definition of legal dwelling under Definitions. Counsel Larmour responded that's correct, he has it further back here, so we could insert in Section (t) that definition of "legal dwelling" and striking

the non-recreational public lands. He shows that Section (x) would be struck in total; Section (hh) would reflect the State law as it exists. It is not a reference to the State law, but the State law adds verbiage to this. In Section (2)(b) the reference to Waterworks District #1 has been struck. The next under Section (3)(b) Multiple Licenses, is striking the entire Section (b)(1)(d) 1), 2) and 3) and limiting it to AgForest, Ag and Ag Preserve at the 350-foot setback from another dwelling; no multiple licenses without a Conditional Use Permit on any other zoned land.

Commissioner McHugh said we clarified, in Paragraph (b) above that, refers to the opt outs.

Counsel Larmour continued, Paragraph (b) is in reference to the opt outs.

Deputy Director Hubbard said she thinks we also deleted (c) completely. Counsel Larmour said correct, based on redundancy. Chair Hoard said we also struck Section (e) no setbacks. Counsel Larmour asked the entire Section (e)? Commissioner Stewart responded correct.

Counsel Larmour went on to Section (f)iii, which the numbering is confusing here. We took the portion of (a) was struck; (b) was struck; portions of (c) that remain is "all multiple licenses require a Conditional Use Permit." Use Permits are not required for properties zoned Ag, Agricultural Preserve or AgForest.

Commissioner McHugh said so all those zones require a CUP, except Ag. Counsel Larmour responded yes.

Counsel Larmour continued on to Section (f)I, the language is roughed out here, but no license transfers within an opt out area, unless the license transfer is to remove the license from the opt out area. Commissioner Stewart said and no transfers in. Counsel Larmour said we will clean up that language.

On Section 4, Counsel Larmour said he shows that the title of Type III Cultivation Licenses, the recommendation was to go back to registration phases. McHugh said or something else staff comes up with that reflects...if you leave it Type III, Paragraph (a) doesn't make sense, so just rename it something.

Counsel Larmour said and then in that Paragraph (a) everything is struck past "The County will allow a total of five hundred and thirty (530) licenses;" and i is struck, which is the "priority will be issued" section. Then what would now be Section (b)i, what would now be Section 1, be applying for properties that are 50 acres or more, with the exception of Ag designations. Section 5, under vii, we struck the application for lifetime variance that was added, leaving the remainder. Under Section 6(a) we are changing that to be the correct acronym replacing AUMA with MMRSA. Under Section 6(e), that section is struck with the language provided in the motion that may be altered slightly, but essentially to require a security plan as is in our other ordinances that exists. That is what is reflected in his document, all the changes. He said he would request that based on what was presented, that you make a motion to adopt the recommendation as contained in the final document.

Commissioner Stewart moved to recommend to the Board of Supervisors that we adopt the final changes as placed on the record by Counsel. Seconded by Commissioner Matthews, and carried unanimously.

Commissioner Stewart thanked Counsel saying he did an excellent job in capturing all that.

## **5. MATTERS FROM THE COMMISSION**

Chair Hoard stated he wanted to make it known to the public that there was going to be a meeting on December 30<sup>th</sup>, a second meeting to address the modulars for the Mountain Communities Healthcare District. That meeting is going to be postponed until after the new year because of, not only holidays, but apparently there was a family emergency issue with the engineers on record for that project, so in light of

that, that meeting will be pushed back and it will be noticed at a later date when set.

Chair Hoard advised that Dero Forslund has indicated to him that the meeting is being recorded and so the meetings are on You Tube for anyone who wants to look at them or revisit past meetings, it's on line to do so.

Chair Hoard said he will not be here for any of the remainder of the meetings in December, if there is such. This is therefore, his last meeting as Chairman. He said it's been an honor and pleasure serving as Chairman, it's been a great experience and he really wants to give props to the Commission, over this year he thinks we formed a great team, it's just a whole variety of backgrounds and information and we always have productive discussions, we don't get stuck in gridlock, we always move forward and work as a team, so he wanted to commend the Commission for doing so.

6. **MATTERS FROM STAFF** – None.

7. **ADJOURN**

The Chair adjourned the meeting at 10:06 p.m.