

# TRINITY COUNTY PLANNING COMMISSION

**Special Meeting**  
**December 3, 2020 at 6:00 p.m.**  
**Trinity County Library Conference Room**  
**351 Main St, Weaverville, CA**

**Chairman Dan Frasier**  
**Vice-Chairman Diana Stewart**  
**Commissioner Graham Matthews**  
**Commissioner Duncan McIntosh**  
**Commissioner Mike McHugh**

## **MINUTES FOR SPECIAL MEETING**

Meeting was continued from the November 19, 2020 Special Meeting

**NOTE:** Due to the rapid rise of covid-19 cases in Trinity County, the Planning Commission Special Meeting was moved to the Weaverville Library Conference Room at 351 Main Street, Weaverville. The meeting was conducted virtually, via Zoom. There was no in-person participation for members of the public.

## **CALL TO ORDER:**

Chair Frasier called the meeting to order at 6:00 p.m.

**Commissioners present:** Dan Frasier, Diana Stewart, Graham Matthews, Mike McHugh, and Duncan McIntosh Note: Commissioner Stewart present via Zoom.

**Staff Present:** Kim Hunter, Planning Director; Lisa Lozier, Deputy Director of Planning; Bella Hedke, Associate Planner; Margie DeRose, Sr. Planner, Cannabis Division; Deborah Rogge, Admin. Coordinator, Planning Dept. David Colbeck, Environmental Compliance Specialist; and via Zoom: Derek Cole, CEQA Counsel; Pat Angell, Sr. Dir. At Ascent Environmental; and Margret Long, County Counsel.

## **PUBLIC COMMENT:**

During this Public Comment period members of the public may address the Planning Commission on any matter not listed on the agenda that is within the subject matter jurisdiction of the Planning Commission.

Opened at 6:01 and Closed. No public comments were received.

## **SPECIAL CALENDAR**

1. **COMMERCIAL CANNABIS PROGRAM FINAL ENVIRONMENTAL IMPACT REPORT AND ORDINANCE AMENDMENTS:** The Planning Commission will consider recommending the Board of Supervisors to the certification of the Environmental Impact Report for the Trinity County Commercial Cannabis Program and adopt amendments to Title 17 of the Trinity County Code to readopt the ordinances to incorporate the mitigation measures proposed in the Environmental Impact Report. Staff recommends that the Planning Commission receive a staff report, conduct a public hearing, and adopt Resolution 2020-13 recommending that the Board of Supervisors: (1) Adopt a resolution certifying the Trinity County Commercial Cannabis Program Final EIR, which will include the California Environmental Quality Act (CEQA) Findings of Fact and adopting the mitigation measures; and, (2) Adopt an ordinance for the Trinity County Cannabis Program as a combined ordinance incorporating the adopted mitigation measures.

**David Colbeck:** We will continue from the November 19th meeting for the Commercial Cannabis Program EIR and special cannabis ordinances. We have our consultants Patrick Angell and from County Council Derek Cole available on Zoom for questions and clarifications. You (commissioners) have the amended staff packet made available to the public 12-2-20 on the website. The principal request from staff is to adopt a resolution that does two things: 1. Recommend to the Board of Supervisors certification of the adoptions and findings of the EIR, per CEQA requirements, and 2. Recommend adopting the Commercial Cannabis Cultivation ordinances.

The ordinance has been amended slightly, and that is the one in your packet that we are looking at. The conversation we had was a request for staff to bring some changes to the language of the ordinances included in the request for approval to



the Board of Supervisors. Seven mitigations were explicitly brought up by you (commissioners) for discussion about specific language and a discussion on clarification of such language. As to what we can add to the Resolution and what we should not. Options we can discuss tonight:

1. We adopt the Resolution tonight to be put on the agenda of the Board of Supervisors.
2. Another option before you (commissioners) is to make changes to the Resolution. Those changes would then be recommended to the Board of Supervisors.
3. Staff is wary about capturing specific language changes to the Resolution, and line item changes to the ordinance as this could cause content to get lost.
4. The Commission recommends and votes that the Chair would be delegated authority to approve the changes you wish to see.
5. The last option would be to continue the meeting.

We are going through the Resolution. Going over items of concern to you discussed at our last meeting and others that still concern you. We drafted what we hope are the desired changes to the mitigation measures of concern at the previous session.

Chair Frasier: Asked if there are any questions from the Commission for Staff.

Commissioner Matthews: How will mitigation measures be implemented? Some are more complicated. Some need an implementation plan and will take a fair amount of time to do. For instance, the issue of groundwater MM 3.10.2

David Colbeck: This mitigation measure describes the impact. It represents the mitigation itself, to the point that the mitigation may not be as detailed as a Plan. In order to mitigate, there will have to be some adaptive management. One method to address it would be the Transition Plan. The mitigation has some bare-bones ways of monitoring groundwater. Those on their own are not technically difficult to do in measuring groundwater level or usage. The idea of a pump test to measure a well's productivity is a step-up in complexity. As the mitigation is written, we consider it feasible. The pump test can provide data to the county that would indicate if there was a problem at a particular well. If there are no indications of a problem, then there would be no need for intense monitoring. If it becomes apparent that there is a problem, then the adaptive management plan comes into effect. This is not the place to get into that level of the Transition Plan. The mitigation measures provide an opportunity for the county to address the impacts and adapt the mitigation to their needs. At a later date, we will address in detail what the concerns are of this and other measures for the Transition Plan. The creation and implementation of the Transition Plan is a process in its own right. It is something that is needed, and this particular mitigation item (3.10.2), as well as others, would be part of that Plan. However, it is too soon to address those details in this venue and this Commission's purview.

Commissioner Matthews: Thank you. I agree there is a lot of detail and that at some point, it will need to be addressed.

Commissioner Stewart: I had concerns about that mitigation. I was surprised that it is not on the list of recommendations for the Supervisors as an area of concern.

David Colbeck: My apologies, you are speaking to the same mitigation (MM 3.10.2)?

Commissioner Stewart: I thought that all of the items we discussed would be put on a document for the Board of Supervisors to look at more closely.

David Colbeck: I understand the question now. When I put together the staff report, pg. 5, item 6, MM 3.10-2. My interpretation was that these items are an area of concern for the Commission. We reviewed the video and compared notes; my interpretation of what occurred at the meeting was a discussion of the Commission because there no specific language of change that was presented. I apologize that I misunderstood your concerns. We could easily add some language to Attachment A about the concern.

Commissioner Stewart: I feel this is one that should be looked at, as all should be, and another is the odor mitigation. Within odor in regards to early harvesting and under what conditions the abatement would occur. This could potentially cost the farmer a loss of income for the year. That should be listed as an item of concern.



David Colbeck: I will speak to this now. This is MM 3.3-3 in Vol. 2 of the final EIR. There were significant changes made to that measure between the draft EIR and the Final EIR at public meetings held in several formats. I hear what you are saying; it is very impactful and a heavy mitigation component. I would argue that it can still be on the table given some extreme circumstances, but I would consider it an extreme method to reach a mitigation solution. One way to look at this is how the impact is listed. There are several different bullet points to go through before you got to this one (which abatement is the last bullet point). It should not be considered the first method for resolving an odor problem. The measure is written with the assumption of, and are intended to go through an adaptive, step by step process to reach a reasonable outcome.

Pat Angell: To be clear the series of bullets say possible ways to control cannabis odor. The language is “may include removal of cannabis plants,” not will require removal of cannabis plants. What we try to do is provide suggestions and not box-in the way a cannabis cultivator will control odor. The intent is not to dictate. I understand the concern.

Commissioner Stewart: Thank you, it is something we talked about. You do not always know where the odor is coming from; I would hate to see anybody think this is ok to do without thinking twice.

Commissioner McIntosh: I fully agree with what Commissioner Stewart is saying. That there is a level of uncertainty to that bullet point. A farmer spends time and money to come to harvest and to have a complaint of odor a month before harvest and a farmer could potentially lose an entire crop for the year. I think this bullet point should not have to be a concern for a farmer who is doing everything they are required, and...unless it is an illegal garden, it would not be an issue. There should be some alternative spelled out.

Commissioner Matthews: The reference to the current harvest should be stricken. Also, language should be added to exclude current harvest and “does not apply to Ag property.” We need a middle ground. Commissioners Stewart and McIntosh agree.

David Colbeck: This is a good point to bring up what to do about this and not just this issue specifically but others of discussion. The choice in front of us is how do we modify what is written. We could work on an exercise to modify the language and on taking good notes to check on what your recommendation is and going to the delegation of authority (the Chairman) for approving that particular mitigation. As long as it is clear to staff what your recommendations are, we are happy to do that.

Commissioner McIntosh: Recommended that that the Board of Supervisors remove that statement from the mitigation measure.

Commissioner Stewart: Recommended that all mitigation measures on odor exclude grows on agricultural property.

David Colbeck: I understand if you want to eliminate that paragraph, we can include that. But, to add language is difficult for staff to do at this time.

Commissioner Stewart: So adding language proposing that; ‘odor mitigations need not apply to cultivations on ag zone land’ would be ok'd by the Chair. Is that what you are recommending?

Derek Cole: What I suggest is that the Commission tells us the ideas you want to communicate to the Board of Supervisors. We need the concepts of what the Commission wishes to recommend. We can draft appropriate legal language between now and the next Board of Supervisors meeting of what the Planning Commission recommends.

Commissioner Stewart: Do we need to make a motion for this?

Derek Cole: What I would suggest is if there is a consensus on the item, you can give us direction. We can add that to Attachment A, and we can have the Commission vote on the Resolution. Or, you can provide us with direction on how you want that Attachment to read.

Commissioner Stewart: I believe we have three people who agree that the odor mitigations should not apply to grows on agricultural zone land. And that the last bullet point of the early harvest of plants is not appropriate. Is that correct? Commissioners McIntosh and Matthews agree with the statement

Commissioner Matthews: Simplify the last bullet. I kept the first sentence, “Corrective actions... strikeout the first part of the

next sentence and add 'methods developed to be applied to next harvest.' So basically, eliminate the immediate and complete harvest of cannabis plants for the first harvest.

Commissioner McIntosh: It needs to be addressed and not be a nuisance to the neighbors.

Commissioner Matthews: Asked staff if the language clear enough?

David Colbeck: Asked Senior Planner DeRose if she is comfortable with the request.

Senior Planner DeRose: She states she is comfortable with the request.

Commissioners Matthews: Also add language that odor mitigation does not apply to grows in agricultural zones.

Commissioner McHugh: Stated that he feels that is crossing a line and that it is easy to strike language. If we want to add language, then it becomes difficult.

David Colbeck: There are other places you could put that language. This is a discussion that I would not like to get into right now. Because it becomes confusing and complicated. We have a notation on the striking of language and a notation of the added language. The staff's suggestion to proceed is to leave the notes as dictated and redraft Attachment A and have that available specifically for the Chair to view and sign. So that we can move forward tonight to an actual Resolution. If we do not come to a resolution, then we fall into a different time frame.

Commissioner Stewart: I don't think anyone wants to delay things. So long as you have the idea, you can put that where and how you want. The majority of us want that in the Resolution.

Commissioner McIntosh: For clarification, the adding of words would be signed by the Chair, and words stricken would be ratified this evening?

David Colbeck: The whole thing will be ratified. On any changes you wish to make, I would hope there is a consensus, and we need to make the changes clear to staff, and that Chair Frasier could review all of those changes.

Chair Frasier: I believe we are beginning to reach an understanding. Basically, if we come to a vote, pass or fail, you will bring back Attachment A, and it is my job to review it, and my signature would be enough to say you guys have it correct.

Derek Cole: Stated that the precise language could be developed to implement the recommendation.

Chair Frasier: Do we have any other concerns about the mitigations from the Commissioners?

Commissioner McIntosh: We had touched upon groundwater and I have questions about the reasons and feasibility of it. Ref: MM 3.10-2 Groundwater. It says the county groundwater is monitored for changes in level and production during each month of the year. I have done this on my own property. This takes 4-hours at \$85 an hour running at full capacity. Is this what they are talking about, a production test to occur every month?

David Colbeck: That is one specific method.

Pat Angell: The intent is not to run a pump test. The objective is to simply monitor how/what the groundwater levels are doing. To get an understanding of conditions.

Commissioner McIntosh: Asked what the difference was between a pump test and a production test.

Pat Angell: responded that he uses the terms for the same thing.

Commissioner McIntosh: Thank you for the clarity. This specifically says, well production test. Continued discussion between the Commissioners about what the language means.

Pat Angell: Suggested that if there is confusion about what the measure says, then there should probably be language adaptations



made to make it understood.

Commissioner McIntosh: I need some clarification. I am still confused. Because it says production and changes in groundwater levels during each month of the year. It seems to me that it is pretty clear what they want.

David Colbeck: Production tests are used when a well is installed. Our county states for cannabis that a well should be producing at 3 gallons-per-minute... This mitigation is meant to check usage over a period of time. This mitigation is an understanding of the fact that many comments have been made regarding the groundwater impact of cannabis and is an attempt to monitor groundwater usage and recovery. This is to provide data and monitoring over a period of time. To see what is happening and be able to address the issue. The county and growers work together to establish a way to monitor what the groundwater tables are sustaining.

Chair Frasier: Asked if the language can be cleaned up and make it easier to understand?

Pat Angell: The intent of the measure is a recording of what the groundwater is doing.

Commissioner Stewart Stated that she has had conversations with growers about the costs of conducting such tests because they would have to hire someone from out of the area to do the tests. It would be costly. She agrees that the language needs to be clarified to know exactly what is being required.

David Colbeck: I understand and agree with that and know where you are going with this concern. My understanding of this was that it is not a pump test. That in August of a dry year, you would be required to pump your well down and see how quickly it recovered. No, that is not the intent. I understand the confusion. Perhaps Commissioner Matthews could provide some language for that.

Commissioner Matthews: Stated that he would say change water production to water usage.

(Further discussion about specific verbiage for the mitigation measure.)

Commissioner McIntosh: I have a question about groundwater level. Could you communicate to me what type of technology is available to measure this?

David Colbeck: There are some technologies that are mounted on the well head and measure the depth at any time. Could Commissioner Matthews fill in on this? Or Mr. Angell?

Commissioner Matthews: Provided an explanation on how the device works and it is inexpensive.

Commissioner McIntosh: Does this require a certified person to come on a monthly basis or is that based on written statement from the farmer? How would that be implemented?

David Colbeck: Thank you Commissioner Matthews. I do not want to into the detail of how that would work that is beyond our ability to do that right now. This would-be component of the Transition Plan. Conversation continues to the feasibility of this component and this is not out of the place to do. We have received numerous public comments regarding groundwater issues and is appropriate for an Environmental Review to call-out.

Pat Angell: This is part of the licensing and renewal process to provide this report information to the County.

David Colbeck: I would like to ask Senior Planner DeRose if the information and notes are sufficient and if this is the consensus of the Commission.

Chair Frasier: The consensus of the Commission is to clarify the language so that is easier to understand. Do we have any other mitigations that we want to discuss?

Commissioner Matthews: We had concerns about the measure for Air Quality and the Biologic Habitat of the Spotted Owl. Conversation in regards to comment received.

David Colbeck: The assumptions within the document have changed. We sent out a questioner all licensed growers. To try to illicit better local data on this issue (air quality) and others. It also included employment; seasonal verses permanent. So, between the draft and the final we did refine our assumptions based of the data we received from the questioner, of which we had a better response rate than other counties. Those changes are noted in Vol. 2.

Pat Angell: Something to remember is that particulate matter has a basin wide emission source. An example would be how smoke travels, just because one spot does not have an issue does not mean another area isn't.

Commissioner Matthews: I agree the numbers did change but not very much. Is everyone comfortable with this portion of the draft?

(Further discussion about bull-dozer activity in area.)

Commissioner McIntosh: Asked about mitigations made on the 22 weeks of impact and could they be pointed out?

Commissioner Matthews: There is a way out of most of the mitigation regarding construction equipment.

David Colbeck: If I could point out that 3.3 Air Quality, that environmental factor and the list of impacts. Those are listed as significant and unavoidable. This document has been out for some time and challenging the analyzes at this point would result in recirculation of the document. We looked at reasonable expansion of an operation that could exist and include assumption to that point.

Commissioner McIntosh: I have a hard time imaging 22 weeks of heavy construction on a ¼ acre but I am not a construction worker.

Chair Frasier: It could be that there is construction off the road and there could be some substantial construction involved I understand that could change the rule. We can't change that at this point. Do we have any other concerns?

Commissioner Matthews: We have this letter from Brit O'Brian with concerns about the mitigation in regards to the Northern Spotted Owl and feels it is a one-size-fits-all approach. Is this a one-size-fits-all approach?

Chair Frasier: Points out that cannabis is not federally recognized so they cannot get a take permit for a Federally Endangered Species and so they must stay outside of the zone.

Commissioner Matthews: This is not an area I am an expert in. The memo we received had an interesting point made and I wanted to know if there were others concerns.

David Colbeck: We do not have a lot of leeway here and it is unfortunate but a reality of any federally listed species. The comment letter is well written and well received. Anyone who is building a new site or expanding an existing site needs to consider the habitat zone.

If you are in Spotted Owl habitat it does mention that other methods including light shielding and noise that is intended to reduce the impact to that species. I feel there is not a lot of room for us to change.

Commissioner McIntosh: There is not distinction between 3-acre conversion in an area of habit where trees have already been removed verses removing trees from the forest, there is no distinction...

Chair Frasier: It says in the mitigation measure if you are going to remove trees from a critical habitat that is when the mitigation to deter when you would need the full 2-year owl survey.

Commissioner McIntosh: For clarity, you can expand your 3-acre conversion without having to do the mitigation for the Spotted Owl.

David Colbeck: That is my understanding, yes. That this is very specific to the idea of removing habitat. There are methods to work within this mitigation that are appropriate and may not require specific

Commissioner McIntosh: Is that assumption working collaboratively something that needs to be added to this mitigation or it



is inherent.

David Colbeck: No, I would not suggest that need to be added. That could be part of the future determination of the Transition Plan.

Chair Frasier: Asks if there were any other areas of concern or motions? Commissioner McHugh expressed his concerns regarding density and the watershed nuisance.

Commissioner Matthews: Motion to adopt Resolution 2020-13 recommending to the Board of Supervisors that it would certify the:

1. Trinity County Commercial Cannabis Program Final EIR which will include the California Environmental Quality Act (CEQA) Findings of Fact and adopting the mitigation measures; and
2. Adopt an ordinance for the Trinity County Cannabis Program as a combined ordinance incorporating the adopted mitigation measures; and
3. The elements discussed by the Commission tonight and at the November 19 meeting to be included in Attachment A (with language adapted that will be appropriate) for the Planning Commission Chairman's final approval.

Chair Frasier: We have a motion; do we have a second?

Commissioner McIntosh: Seconded the motion. Chair Frasier noted that the motion had been seconded and it would be a roll call vote.

(Commissioner Stewart inaudible on Zoom.)

Commissioner Stewart: I've been trying to get your attention for a few minutes. Would like to make a suggestion to the Board of Supervisors, if everyone is in agreement that there be progressive consequences' to licensed cultivators who make the same illegal action repeatedly. For example, light escaping from a greenhouse. Up to and including revocation of license. That is just one example.

Derek Cole: We can convey that to the Board of Supervisors, this may not be the right topic tonight. We need to focus on adopting the mitigation measures. But we can certainly address that at a later time.

Commissioner Stewart: Thank you, that is something I have been thinking about and if now is not good that is fine. Forget I said anything we will take it up later.

Commissioner McHugh: Discussion about the timeline of the initial draft and now and has concerns about stacking and opt-out zones, specifically the Rush Creek zone which the Board could save time by including it now.

Chair Frasier: We have a motion and a second on the floor, do we have any competing motions? Or any other comments.

David Colbeck: I would like to make sure that we have the notes taken as you want them.

Margie DeRose: Reviewed the items for modification: 1. For mitigation 3.3-3 Odor Control, a strike though the last sub-bullet item; and replace with; methods to be developed and applied to the next harvest, to minimize off site-odor impact so they would not conflict with other implacable standards of the County Cannabis Program of State License requirements. The other item was; that odor mitigation should not apply to Agriculture Zone licenses. 2. For Mitigation 3.10-2 Groundwater monitoring requirements. In the first bullet replace the word 'production' with 'usage'. Ms. DeRose asks if the notes are accurate?

Planning Commissioners indicates they are satisfied with these notes.

Commissioner Matthews: Do I need to amend my motion to reflect Commissioner McHugh's comments on the opt-out zone?

David Colbeck: My view is that the changes to the resolution are specific to the language, and the requests that item be brought up to the Board have been noted and do not necessarily have to be drafted in.

Director Hunter: Requested confirmation about amending the motion from County Counsel.

County Counsel Margaret Long: asked if the question could be restated.

David Colbeck: We have Resolution motion that has been made to modify Attachment A with language we have notes for. And, 2. There are a number of suggestions that the Commission would like the Board to address the opt-out zone, stacking issues, and enforcement do those suggestions need to be included in the Resolution or do they stand alone as to staff direction.

Margaret Long: Second part first, Staff direction does not be needed to be included in the resolution. I am not sure I understood the first question.

David Colbeck: Restates the question and Margaret Long stated that if there are no substantive changes then the motion does not need to be amended.

**MOTION:**

Commissioner Matthews: made a motion to adopt Resolution 2020-13 recommending to the Board of Supervisors that it would certify the:

1. Trinity County Commercial Cannabis Program Final EIR which will include the California Environmental Quality Act (CEQA) Findings of Fact and adopting the mitigation measures; and
2. Adopt an ordinance for the Trinity County Cannabis Program as a combined ordinance incorporating the adopted mitigation measures; and
3. The elements discussed by the Commission tonight and at the November 19th meeting to be included in Attachment A (with language adapted that will be appropriate) for the Planning Commission Chairman's final approval.

Commissioner McIntosh: Seconds the motion.

ROLL CALL VOTE: McIntosh-aye, Matthews-aye, McHugh-no, Stewart-aye, Frasier-no

Motion carried 3-2 in favor.

Discussion about to the next meetings time and about meeting at 6 p.m.

David Colbeck: For clarification before we adjourn, I want to be sure that the delegation of the Chair to sign off is a component of your motion.

Commissioner Matthews: Yes, it was.

**ADJOURN:**

The meeting was adjourned at 7:45 p.m.

Submitted by: Debbie Rogge, Administrative Coordinator

  
Kim Hunter, Planning Director  
Secretary of the Planning Commission