

**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, Mike McHugh, Diana Stewart, Graham Matthews and Richard Hoard. Staff present: Interim Planning Director Leslie Hubbard, Associate Planner Scott Watkins, Associate Planner Colleen O’Sullivan, County Counsel Margaret Long and Clerk Ruth Hanover. Director of Transportation Richard Tippet present 8:17 p.m.

Chair Hoard advised that Agenda Item 5 is being continued to May 24, 2018.

**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 Jack Norlund, Drew Franklin, Zach Franklin, Moua Vang, Angel Franklin, Jake Grossman-Crist and Anna Wright.

**3. MINUTES – March 22, 2018.**

Upon motion of Commissioner Matthews, seconded by Commissioner Frasier, approves the Minutes of March 22, 2018, as amended. Motion carried unanimously.

**OLD BUSINESS – None.**

**NEW BUSINESS**

**4. AMENDMENT TO ZONING ORDINANCE RE CANNABIS NURSERIES PW-17-04**

**Public Hearing:** Discuss and/or take action to allow Cannabis Nurseries in Agricultural Preserve (AP) Zoning District. Located County-wide. Applicant: County of Trinity.

Interim Planning Director Leslie Hubbard presented the staff report. She said the Commission has seen the Nursery Ordinance a number of times and about two months ago we brought the Distribution Ordinance back to have the Commission consider including Ag Preserve (AP) as an allowable district for distribution, but we didn’t look at nurseries at that time. Hubbard said we looked at our cultivation data spreadsheet this afternoon and we have fewer than five people that are included in our cultivation program who are in Ag Preserve zoning district. She said we have had a couple of requests to have the consideration of including Ag Preserve as an allowable zone for nurseries. She said under Ag Preserve nursery is listed as an allowable use without a use permit, so that fits, but the question is really the retail component of the Nursery Ordinance as it is, wholesale may be appropriate, but retail is something for you look at and talk about this evening. She said staff recommendation is that it is appropriate, but the retail component is not as consistent as it could be. Hubbard said the number of Ag Preserve parcels in District 1 is none, District 2 is none, District 3 is none, District 4 there is 13 parcels and District 5 there are 98 parcels. She said our GIS guy did some maps so you can see where they are located and invited review of the maps. She added that she contacted the Department of Conservation to see if they could give us some guidance and they didn’t want to engage in conversation specifically regarding cannabis, stating we don’t go there; however, we can give you guidance on how the statute works. The Williamson Act is a state thing, not federal.

They gave us two different Government Codes to look into so we can get a better understanding of how the contractual obligation works. First of all, the Department of Conservation's goal is really how to interpret the Williamson Act – he said really it comes down to what your local jurisdiction considers to be compatible, so it comes down to what's in our zoning district, and if we feel it is compatible they have no problem with that. She said they had a few suggestions, the first was you don't want to do anything that is going to compromise the long term productive agricultural capability of a parcel, you want it to stay in production with an agricultural function; you are not suppose to impair a current or reasonably foreseeable agricultural operation, and they consider operation could include activities like harvesting, processing and shipping, and again that's something for your consideration; and the use is not suppose to result in a significant removal of adjacent contracted land from an agricultural use, so if what you are suggesting degrades the agricultural function adjacent to the parcel that you are considering, that's something they determine as far as assessing compatibility. They give you guidelines for compatibility. Hubbard said she has the resolution regarding establishing the rules and regulations for entering into the Williamson Act here locally which was done in 1973.

Chair Hoard opened the hearing to public comment.

Comments received from Jake Grossman-Crist, John Brower, Terry Mines, Nicholas Holiday, Deidra Brower, Dick Morris and Dero Forslund.

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

Commissioner Matthews said there is a question, the scenario the last speaker referred to and you talk to the state board and they say it's a matter of local jurisdiction, is there any concern? If there is potential, we should be concerned about it, but if there's no potential then... it's a big difference.

Commissioner Stewart stated it strikes her that this is a state agency, this is an enterprise that is legal within the state, a nursery is a nursery, and nurseries are permitted under Ag Preserve, so she doesn't understand why the State Board of Equalization would have any issue with it at all.

County Counsel Long responded she thinks the misunderstanding is that by doing this we would somehow void or terminate the contract that we currently have in place. We would not do that. So that is kind of the key difference. If we were to do that, we would run into a whole lot of problems and have to deal with the Board of Equalization and other state agencies internally how we are going to pay that eventually. But in this case, that's not being proposed right here, it's just being considered to amend or blend in what we currently have.

An audience member asked for a point of order, stating every licensed farmer already has to be registered with the State Board of Equalization. County Counsel advised that is not a point of order.

Commissioner Stewart stated as she said, a nursery is a nursery, and they are dealing with agricultural products, a wholesale nursery is no different than somebody selling wholesale chrysanthemums, whether moral or ethical, however you feel about cannabis itself, it's an agricultural product.

Chair Hoard said it's his understanding of the Williamson Act it could potentially save the landowner from 20% to 75% of their tax base of their property taxes. Some counties have on-line calculators, but as Director Hubbard mentioned the application process is quite extensive, so there is not a one size or one number fits all. He said he actually talked with the Assessor's Office about this and it's very circumstantial depending on the property now, apparently out of these 103 properties are currently zoned Ag Preserve. There haven't been any new applications in several years, it's not something that people are jumping on. It's quite and extensive process and it's not something you would do strictly for cannabis, if you would want to rescind your Ag Preserve contract it's a big penalty basically, it's a lot of money you're going to

have to pay back. He said in that regard, he heard a comment “the ability to preserve and continue preservation of Ag land”, so by allowing nurseries in these lands might be a way for the current owners, some of which are multi generation, to continue their agricultural endeavors on their property that is already zoned Ag land.

Commissioner Stewart agreed, stating it’s a way of passing on that agricultural heritage for future generations.

Commissioner McHugh stated with all due respect they are not chrysanthemums, but he tends to agree. The issue he had was the Williamson Act *angle*, the reason if you recall TPZ was not allowed for cultivation and other things because of the tax treatment we get. He thinks this is the same stuff, this predates TPZ, these contracts are still available if someone wants to pursue it, but he said he also checked with the Assessor and she said they haven’t had any contracts in her term. For the same reason we don’t underwrite growing in TPZ he would suggest we don’t underwrite nurseries in this, and to that end of it, he would like us to consider allowing nurseries into Ag Preserve but disallowing them for Williamson Act Contracts. In other words, not taxpayer underwritten nurseries.

Commissioner Stewart said in doing that, she believes you would force people to void their Williamson Act Contract if they want to have a nursery and the penalties for doing that are rather high. McHugh asked are we aware of people who have Ag Preserve under contract. An audience member said you have to have over 100 acres to be eligible for Williamson Act with cannabis as your crop, and you are still held to the same rules depending on what sort of Ag Preserve you are zoned as far as how many acres for grazing and such. He said having a nursery would not make or break the Williamson Act. It is not the crop that is the food or fiber on the property that is making it Williamson Act. We are still held to the same standards as any other Williamson Act property.

Commissioner McHugh said his point is the entire parcel is given a tax advantage. Commissioner Stewart said personally she doesn’t care, you are making a moral judgment, you are saying that people who grow cannabis should be punished. Commissioner McHugh disagreed, stating all he is saying is this is a highly regulated industry, there is all sorts of hoops that have to be jumped through for it and for the exact same reason it’s not in TPZ, we have the same issue here, he’s just suggesting we apply the same logic to it and be consistent.

An audience member asked for a point of order, stating taxes are state taxes not federal taxes. County Counsel Long advised this is not the opportunity for public comment. Chair Hoard asked the public to please hold its comments.

Commissioner Frasier stated he thinks wholesale cannabis nursery will fit in; the biggest issue he has is with the retail auxiliary sales associated with wholesale cannabis; to him that is not Ag, that’s retail sales ag components. He doesn’t know if that is something that will fit into Ag Preserve because you could have your wholesale nursery is definitely agriculture, but if you have people coming into your Williamson Act parcel to buy water tanks, fertilizers, potting soil and that other 10% of your business, he doesn’t think will fit as agriculture.

Commissioner Matthews asked Counsel if we could include Ag Preserve as an allowable zone but restrict auxiliary sales on the parcel. Counsel Long responded in the affirmative. Matthews said the current ordinance allows for auxiliary sales. Counsel responded that is correct, you would be designating it specifically.

Commissioner McHugh asked if the sales allowed in the current Nursery Ordinance are wholesale sales. He said a nursery can’t sell to a consumer, a nursery has to sell to another license holder which would be a cultivator for example. That’s a wholesale sale. He said the only reference he sees to sales is in the

regulations for nurseries, paragraph (a)viii, it talks about auxiliary nursery sales are permitted. Commissioner Frasier said his understanding was that wasn't wholesale, but something else they could do with the wholesale nursery because they could only sell to cannabis customers. McHugh asked if state regulations allow that. Frasier said this is the stuff that goes along with a nursery, it could be a lot. He said that is what he has an issue with in Ag Preserve. The state says cannabis is "ag" so that fits in Ag Preserve, but the auxiliary sales would be retail and that doesn't fit in Ag Preserve.

Commissioner Stewart said she would go along with that and recommend wholesale nurseries be allowed in Ag Preserve but restrict the retail auxiliary sales. Chair Hoard stated he would tend to agree with that as well. All the uses allowed in Ag Preserve are strictly production value, there are no retail associated with any of the allowable uses currently in Ag Preserve. He said that troubles him because suddenly you would have retail traffic and commerce going on in Ag Preserve land which may have a great buffer zone like Mr. Holiday's property, but at the same time you may have a very short setback with your neighbor, which actually for Ag Preserve is only 20 feet rear and sides, so that is very small. He said limiting the possibility to only wholesale he thinks would be appropriate, and we do have the entire conditional use permit associated with this licensing type which we can then mitigate many of these circumstances and conditions that come up. Commissioner Frasier stated he would be more comfortable if for the Williamson Act stuff there was no retail element that we had to go through every time, because if you are deciding under the Williamson Act it shouldn't change from one parcel to another.

Commissioner Stewart moved to recommend to the Board of Supervisors that Wholesale Cannabis Nurseries be allowed in Ag Preserve, but it should not include the resale of auxiliary nursery products in that zoning district. Seconded by Commissioner Frasier. Motion carried 4-1 with Commissioner McHugh voting No.

5. **PROPOSED MITIGATED NEG. DEC. AND USE PERMIT FOR CANNABIS NURSERY**

**P-17-51**

**Public Hearing:** Proposed Mitigated Negative Declaration and Use Permit to construct and operate a Cannabis Nursery, consisting of 2 greenhouses and a 60' x 60' multi-use building, on 1.8 acres in the Trinity Alps Industrial Park. Located at 271 Industrial Park Way, Weaverville. APN: 024-220-55. Applicant: SJH Timber, Inc.

Chair Hoard said as stated before, Agenda Item No. 5 has been continued to May 24<sup>th</sup>.

6. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK**

**CCV-18-06**

**Public Hearing:** Request for "annual variance" from the required 350' cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 2401 Wildwood Road, Wildwood. APN: 019-200-35. Applicant: Camacho.

Interim Planning Director Leslie Hubbard presented the staff report. She advised that one consultant is handling three of these variances and will have a chance to speak. Staff is recommending approval.

Chair Hoard opened the hearing to public comment.

Comments received from Agent Deidra Brower, Marie Peterson and John Brower.

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

Interim Director Hubbard clarified that the requested 72-foot variance from the residence on APN 019-200-36 is not needed after all.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation

setback from 350 feet to 283 feet from the residence on APN 019-200-10, based on Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4. Seconded by Commissioner Matthews and carried unanimously.

7. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-07**  
**Public Hearing:** Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 740 Riewerts Ranch Road, Wildwood. APN: 019-200-35. Applicant: Schafer.

Interim Planning Director Leslie Hubbard presented the staff report. Staff is recommending approval.

Chair Hoard pointed out that the project description says variance from two neighboring residences and asked if this was just a typo carried over.

Chair Hoard opened the hearing to public comment.

No comments being received, Chair closed public comment on the item.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 72 feet from the residence on APN 019-200-35 (Operation B), based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4. Seconded by Commissioner Matthews. Motion carried unanimously.

8. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-08**  
**Public Hearing:** Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 2511 Wildwood Road, Wildwood. APN: 019-200-13. Applicant: Crofford.

Interim Planning Director Leslie Hubbard presented the staff report. Staff is recommending approval.

Chair Hoard opened the hearing to public comment.

No comments being received, Chair closed public comment on the item.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 210 feet from the residence on APN 019-200-10 (Operation C), based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4. Seconded by Commissioner Matthews. Motion carried unanimously.

9. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-09**  
**Public Hearing:** Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 921 B Bar K Road, Douglas City. APN: 015-430-12. Applicant: Wyatt.

Associate Planner Scott Watkins presented the staff report. He pointed out that there are two Figure 3. The second Figure 3 on page 10 was not supposed to be included, but he’s actually glad it was because he inadvertently forgot to include the applicant’s site plan. Staff is recommending approval.

Chair Hoard said Watkins just read approval of variance from 350 feet to 120 feet, however Figures 2 and 3 indicate 255 feet. Watkins apologized stating he did not prepare the Figure 2 he is referencing, but he re-measured and the house is actually a little bit closer than that 255 feet. Chair Hoard asked so it is 120feet. Watkins responded that was his latest measurement.

Chair Hoard opened the hearing to public comment.

Comments received from Applicant Matthew Wyatt. Mr. Wyatt advised the correct distance is 255'

No further comments being received, Chair closed public comment on the item.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 255 feet from the residence on AN 015-430-15, based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4. Seconded by Commissioner Matthews. Motion carried unanimously.

Recesses 8:22 p.m., reconvenes 8:27 pm.

10. **AMENDMENT TO ZONING ORDINANCE TO ALLOW CANNABIS MICROBUSINESSES**

**PW-17-09**

**Public Hearing:** Discuss and/or take action on proposed amendment to Zoning Ordinance to allow Cannabis Microbusinesses in Trinity County. Located county-wide. Applicant: County of Trinity.

Interim Planning Director Leslie Hubbard presented the staff report. She said the Commission previously looked at this ordinance on March 8, 2018 and made a number of suggestions to staff. For the most part staff included everything that was requested, but this is still tied very firmly to cultivation, so wherever those suggestions may be conflicted with tying it to cultivation, then they were not included in this draft. Hubbard said the things that are different from the first time the Commission saw it are not there is a Director's Use Permit for anybody that qualifies as a minor home occupation; a Conditional Use Permit for anybody that is a major home occupation; and both adult use and medicinal use microbusiness licenses be made available; and annual work hours – 6, 240 hours employee work hours. She said there was a question regarding opt-out areas, and the way that this is tied to cultivation, everything, whether it's a minor home occupation or a major home occupation, they would be treated similarly as cultivation, because it's tied to cultivation, as is currently included in the cultivation ordinance. So, in the opt-out areas if you meet those dates that are the cut off dates for the water board enrollment, then yes you would be eligible for a microbusiness license whether it's minor home occupation or major home occupation. Hubbard said we received a number of comments from the public, mostly from residents of the Lewiston area. She said she did receive a couple of phone calls also, but she tells those individuals to put it in an email, that way commissioners are able to see it.

County Counsel Long stated Director Hubbard did a good job of summarizing what was included and she appreciates the thought and hard work that went into it; from staff's perspective it gave us a lot to think about and modify. She said the concept of tying this to the Cultivation Ordinance is really an attempt to streamline the process, if we were to take it out of that tie we would have to look at developing a whole new land use ordinance and at this point we are trying to move it along and make it more efficient, that is the attempt to tie it. Counsel Long said the other matter, no changes made to, relates to the fact that specialty cottage license can distribute 125 pounds of product; she understands that was a point of conversation and we are requesting it be a point of conversation again. She said the reason is because we attempted to keep this as a legitimate microbusiness vs. large industry. She said the State does tie it to revenue, but the revenue ties that they have would, she thinks, make it the highest producer of revenue of any business in the county, which would take it out of the concept of microbusiness, it would also take it out of the land use perspective, because now you are talking about revenue vs. land use-based concept. Long said staff is interested in hearing the Commission's thoughts are on that and if you believe that's an appropriate number and/or measure.

Commissioner McHugh requested clarification on Page 2 of the proposed ordinance, Section 2.1.B, definition of “microbusiness”, the third line down it says “... provided such permitted complies”, seems to be a word missing. Director Hubbard responded it should be “uses” or “licenses”. Counsel Long stated she thinks “permitted uses” would be better.

Chair Hoard opened the hearing to public comment.

Comments received from Terry Gustine, John Davies, Lenore Stinson, Dick Morris, Kristy Bevard, Veronica Kelly Albiez, Tom Ballanco and Adrian Keyes.

No further comments being received, Chair closed public comment on the item.

Chair Hoard stated we addressed Commissioner McHugh’s concern in Section 2.1.B Definitions and asked if there were any other concerns under Definitions. There being none, he moved on to Section 2.2 Regulations, and requested clarification of Section 2.2.C, which he read aloud. He said in reading what we were given for Agenda Item No. 11 under Microbusiness on Page 63, the State says “Type of manufacturing activity to be conducted for a micro license at the premises (extraction, infusion, packaging and/or labeling)”, so basically what he sees as missing would be an “extraction or infusion” and that is not spelled out. He asked if it was the intent not to include extraction on the Type 6 non-volatile substance. He just wanted some clarification of that. He personally believes personally it should be included, and the paragraph should read: Type 6 – Manufacturing, extraction or infusion, and then Type P, packaging and labeling. Commissioner McHugh stated the way it is presented is a little awkward, it’s a Manufacturing License of Type 6, Type N or Type P. Chair Hoard said what it says essentially that under manufacturing that only infusion, packaging and labeling are allowed, how about extraction as long as it’s a non-volatile substance. Commissioner Frasier said that was one of the things we talked about when Kristy Anderson of Environmental Health was here and her concern was with allowing extraction with non-volatile substances, ethanol was considered a non-volatile substance which 99% pure ethanol is [inaudible], so from the Environmental Health perspective she wasn’t comfortable with that because you would be allowing ethanol extraction in a Rural Residential setting. Commissioner McHugh said if you look at the Manufacturing Ordinance it doesn’t allow Type 6 in Rural Residential, it’s only allowed in C3, Ag, Industrial and SUD Industrial, and it could be in this case we could copy that same zoning. He said if your going to do Type 6 then it’s not alright, you have to do it in one of the Type 6 zones out of the Manufacturing Ordinance, if you’re doing Type N and you’re making the brownies with the oil you get from somewhere else then that’s fine, you can do it in Rural Residential. Chair Hoard asked how about mechanical extraction, there are those that utilize non-volatile extraction. He said he’s not completely familiar with the process, he knows there is ethanol and CO<sub>2</sub>, which are usually closed systems vs. a resin press and wondered if it merits the consideration of mechanical extraction to be allowed in microbusinesses. Commissioner McHugh said he would be a little concerned about that and asked if ethanol is ever used to finish mechanical extraction, or is it only used to purge.

A member of the public said ethanol can be used two different ways, like the extraction, but there is also tincture making. Commissioner McHugh said which you can do with the mechanically extracted oil. The public member responded usually you use raw product and put it in alcohol to make tincture, and right now he can tincture any herb and sell it without a license. Chair Hoard asked more specifically how does extracting with non-volatile substances associate with mechanical extraction, is there a link there, are they separate. The public member responded that would be non-volatile extraction. John Brower stated he has a copy of the Emergency State Regulations and they clearly changed this back in November, it now considers ethanol as a non-volatile list, along with CO<sub>2</sub> and mechanical, it’s crystal clear about that. He said for Trinity County premium product-built brand, microbusinesses absolutely have to do mechanical extraction and ethanol. He said there is a provision in there about fire officials to sign off and that provides a safety measure, we’re not talking about butane or hydrocarbon extraction here, that all Type 7. Another member of the public said there is also a closed loop ethanol piece of equipment out there for extraction.

Commissioner McHugh said this brings him back to his suggestion that Type 6 could be under the current allowable zones as allowed in the Manufacturing Ordinance. He said Type N and Type P could be in any of the zones. It was the consensus of the Commission to recommend to the Board of Supervisors Type 6 be allowed in the same zones as the Manufacturing Ordinance.

Chair Hoard said he had another comment under Regulations, this would be in section D which specifies minor home occupation parameters. One that caught his attention is the 5 acres, so basically in order for you to qualify for a minor home occupation your property has to be 5 acres or less, that seems like a pretty clear determining factor. So, if you have 5 ½ acres you wouldn't qualify for minor home occupation and asked if that was correct. Director Tippett stated his recollection is if it's under 5 acres you could get a Director's Use Permit. Director Hubbard stated that hasn't not her understanding. Commissioner Frasier said if it's under 5 acres it does require a permit. Tippett disagreed and said his recollection is if it's under 5 acres that you could get a Director's Use Permit but there's some limitations on it. He's trying to tie it together.

Commissioner Frasier stated he has a comment for Section 2.D, that the first line should read "An applicant for a microbusiness license who qualifies as a minor home *occupation* under...". Commissioner McHugh said he had a question under 2.C and said he didn't think our Distribution Ordinance created a Type 13, transport only. Counsel Long responded we do have a transport only and that has been through the Board.

Director Tippett went back to the under 5-acre issue. He said if you meet a certain threshold you need get a Director's Use Permit, that's the threshold between needing a permit and not needing a permit period. So, it says if you are over 5 acres and you're under all the rest of it, you are not within the threshold for a Director's Use Permit. If you're under 5 acres then you need a Director's Use Permit, that's kind of the way it's being applied.

Commissioner McHugh said under Paragraph D.ii referring to major home occupation and it goes into allowable zones, he doesn't understand why majors are called out and minors are not. Commissioner Frasier responded he thinks it has to do with the acreage limitation, it has to be over one acre in size. McHugh said then we fall back on Paragraph G that says where you can do it, and that's actually the same for both majors and minors, but this only specifies major. So, it might point to the Cottage Industry Ordinance, Paragraph F1 are minors and F2 are majors, and subparagraph a under both of those has the same issue. He would suggest that the zoning actually be spelled out in G. Counsel Long responded she thought he was correct and will make those modifications. Commissioner Stewart said she thought that makes perfect sense and will really eliminate that conflict on one issue between minor and major. Counsel Long restated the section to read: "The purpose of this section, Zoning Ordinance Section 30.2.F.2.a and 30.2.F.1.a, which states Major and Minor home occupation uses shall be allowed only in UNC, RR, A and AF zoning districts on parcels larger than one acre in size, in conjunction with a dwelling unit that exists legally, shall not apply." Commissioner McHugh said except the minor one doesn't say all that. Commissioner Matthews said the minor says it's allowed in all zoning districts and the major is restricted to four. Counsel Long said maybe it would be clearer just to say "it does not apply". Commissioner McHugh said he thinks the two paragraphs 30.2 don't apply, they're different, minor says you can do it in any zone anywhere. Counsel Long responded she was going to remove all that and just say "does not apply". Director Hubbard asked Counsel to read it back one more time. Counsel Long read "The purpose of this section, Zoning Ordinance Section 30.2.F.2.a and 30.2.F.1.a, which states Major and Minor home occupation uses shall not apply." Commissioner McHugh said he would add the bit saying where you can do it, "minor and major home occupations requiring a cannabis microbusiness license shall be allowed in zones specified in Section 30.G of this ordinance" if that make sense. McHugh said Paragraphs 4 and 5, the whole issue of employees, he doesn't understand what's needed and what the intent is. He said "the major home occupation shall be allowed three full-time employees or 6,240 hours per year" which is a normal work year. What has been deleted specifically by saying "does not apply" was the Cottage Industry



Ordinance which says they have to live off-site, and that got deleted by deleting the whole thing, so is it in fact the intent that we want to have in our cottage industry world here, three full-time employees now living at the site, or is it that you are allowed to have three full-time employees, but they're not living at the site? McHugh said further, the next paragraph talks about minor home occupations and you can utilize seasonal help for 10 weeks with no limitation on numbers of people. He thinks we should talk about both of those and what is reasonable.

Commissioner Stewart said she sees no issue with the possibility that you have a secondary unit on your property that an employee is living in. Commissioner Matthews said it's a trade off between traffic, water use, waste generation. Commissioner Stewart said but if you already have a second unit, why shouldn't you use it for an employee, why does it have to be a family member or a friend. Commissioner Matthews said isn't that the way the residential zoning is set up. McHugh said this isn't an Air B&B, this is three full-time employees or 6,240 hours in your cottage industry microbusiness. Commissioner Stewart said look at Hayfork, we don't have rental property, and if somebody wants to hire someone they need a place to live and we don't have any place for them to live, it's just a fact of life, we don't have rental property. McHugh said he would draw your attention to the cottage industry that already has a restriction that they can't live on your property, that's already in the cottage industry ordinance. Stewart said yes, but this negating that for cannabis licenses. We're not following the cottage industry word for word, it's not something we are copying. Chair Hoard said he sees both points, it is a compromise by adjusting the Cottage Industry Ordinance to allow for three full-time year-round employees, but he agrees with Commissioner Stewart, it is also a well-known fact in the county that there's not a lot of rentals and they are very difficult to come across. Commissioner Stewart said if you're going to have employees you have got to have a place for them to live, and that may not be some place other than your property.

Chair Hoard said another issue that we encounter is enforceability, which comes down to a lot of these minute details, how is this enforced, is it possible and so forth. Commissioner Frasier said he honestly doesn't have so much of a problem with where the three permanent employees are going to stay, then the fact that under minor home occupation you have no limit on the number of seasonal help you can have. If somebody does have excess room and wants to hire somebody and have them move into their house, it seems like it would make an awkward employer/employee relationship. Commissioner McHugh said why don't we make a special case for cannabis, go back and fix the Cottage Industry Ordinance. Commissioner Stewart said it may be that at some point we do that, but right now we're working on cannabis and not cottage industry. Frasier said he would go either way, he thinks from what we've heard all this time, he does know there is a shortage of rentals, but there are also some people that live locally that can work; either way, he's not that tied to where the three full-time employees are going to live; he doesn't think it's a deal breaker. Commissioner McHugh asked what about the minor? Commissioner Frasier responded, that he has a problem with, he thinks you have to put some kind of limit on it, especially the minor home occupation, if you have thirty seasonal employees coming for 10 weeks into Rural Residential area that would cause conflict. Chair Hoard suggested perhaps limiting the number of employees, three on a full-time basis year-round for minor, three for 10 weeks out of the calendar year, just a suggestion. Frasier said it sounds like a legitimate suggestion. Commissioner McHugh said he thinks we are being sort of arbitrary by deleting the residency requirement that's already in the other ordinance. Commissioner Stewart said, not being a grower herself, she doesn't know when it's required to do harvest and trim, she has no idea how many people you would reasonably need over a ten-week period to get your crop taken care of, and she thinks there are people here that can answer that. Chair Hoard said he does want to note one thing, 10 weeks, it doesn't say ten consecutive weeks also, in any other industry there's always fluctuation, there are always slow points where I have to find something to do for these folks, then there are other times when there are peak periods. So, the fact that it doesn't specify continuity might be a way for us to accept the 10 weeks being that they might be spread out over the growing season. He said this is also just a suggestion. Commissioner Frasier said then we also have to remember in that these are microbusinesses where we shouldn't be dealing with harvesting and trimming. Stewart said microbusinesses are growing. Frasier responded yes, but they are going to fall under a smaller cultivation area, they are all under 10,000 sq. ft.

Commissioner Stewart said 10,000 sq. ft. requires a lot of work. She said we came up with the 10 weeks because it was stated at our last meeting, that because for a very brief period of time and it was increased to 10 weeks because it's from October to mid-December and that was 10 weeks. She said she knows people that grow and she cannot see three people being able to handle 10,000 sq. ft. of canopy in 10 weeks.

Chair Hoard reopened the hearing to public comment.

Comments received from John Brower, Jacob Johnson, Terry Mines and Adrian Keyes.

No further comments being received, Chair reclosed public comment on the item.

Commissioner Stewart stated she feels a great deal of urgency around this, because businesses in Hayfork are having a really difficult time making it this year when just a year ago they were thriving and people are leaving the industry. A lot of people aren't growing because of this kind of ridiculousness. Commissioner McHugh asked and the plummeting price of marijuana has nothing to do with it? Stewart responded of course it does, but it can go up as well. Commissioner McHugh said 42 people to handle a 10,000 sq. ft. strikes me that we have left the realm of cottage industry. Commissioner Frasier said to him that would not be a minor home occupancy. Stewart responded and I'm sure Mr. Mines is not running a cottage industry, but she really feels we should leave it just like it is because we need to leave it up to the person growing to have the number of people that they need in that ten-week period to get the job done so he can make the money to live for the rest of the year, and she doesn't think that's unreasonable. Commissioner Frasier said he is very much in favor of limiting government interference and private property rights, etc., but when we are calling this a minor home occupation, he thinks these are intended to be businesses that are intermingled with residential areas. He said if you are out and have a large parcel, those are the people that will probably go for the three different license types, rather than doing it all under home occupation, a minor home occupation is something that is suppose to be unnoticeable. We've heard from the public already that a minor home occupation in conjunction with a cultivation permit, you won't notice the difference, but if you have 42 people in your neighbor's yard for 10 weeks, you will notice the difference. Commissioner Stewart said she agreed and she's not advocating for 42 people. Frasier responded he knows, 99% of the people would never dream of hiring 42 people, but at the same time we need to protect the neighbors. Stewart said she knows people who want to do the microbusiness who do not have close neighbors, they should be allowed to hire as many people as they need to manage their business, the same as any other business or any other agricultural business. Chair Hoard said he is beginning to wonder if the application of minor or major cottage industry is a fit altogether, because as you read through Section D, this shall not apply, this shall not apply, we keep having all these conditions and now we are debating about employee numbers and what applies and what doesn't, he doesn't know if this should be a stand-alone ordinance that doesn't include home occupations all together.

Director Tippett stated we are trying to define the delta between minor and major and he believes we will need to come back with this, but he would ask that you take the time to discuss what's offered and maybe direct us as to what you see as a major vs. a minor, and when you think of that consider that we would likely on the minor head for a Director's Use Permit, where as major we would have a Planning Commission issued use permit. He said just go with that and then we can tailor the direction that you give us to what ultimately the result could be.

Commissioner McHugh read Cottage Industry Ordinance Section B.1 and stated maybe one way to draw the line that Director Tippett is asking is to draw, is look at the size of the operation. You can get a Microbusiness License up to a small license, maybe you should be Cottage, maybe Specialty Cottage Indoor, 500 sq. ft. Indoor, maybe that's a minor operation, maybe 10,000 can't possibly be a minor operation. Maybe the size of the license of the cultivation is a lever we can pull to figure out how to split the two between major and minor. Commissioner Matthews said so Specialty Cottage. Chair Hoard stated Specialty Cottage is up to 2,500 sq. ft. and Specialty would be up top 5,000 sq. ft. and the third would be

10,000, so limit the one and two, or something of that sort perhaps. Commissioner Stewart stated we don't tell any other occupation how many people they can have. Commissioner McHugh responded actually we tell every occupation how many people they can have in the Cottage Industry. Stewart disagreed. Commissioner Frasier said we are talking about cottage industry. Stewart responded fine, we're talking about cottage industry, but then again, the cottage industry was a guide for this to make it easier, but it obviously isn't doing that. McHugh said maybe this industry isn't like cottage industry. If you look at the list of examples of "minor" in Minor Home Occupations and read the list. Stewart said those are in your house. McHugh responded exactly, that's exactly what "minor" is. Stewart said she recognizes that, but this is different from that, that's why she said it was meant to be used as a guide, it's not something to be followed. She asked Director Tippett what he is asking. Tippett responded what he is saying is in there they started to define a certain amount, essentially, they defined the threshold, they are saying so many hours that people have worked on there, or so many days. Is that the acceptable level to draw a line between major and minor, or do you want it higher or lower. That's what he believes the intent was, was that threshold. Commissioner Stewart said basically we have done that because it doesn't say anything about permanent employees for minor, so that threshold is already there. Commissioner Matthews said because all you are allowed under that is seasonal help for 10 weeks. Commissioner Frasier said he's thinking to divide between major and minor in cannabis, he thinks we are going to have to go with a different size of cultivation area. If you read the example of Major Home Occupation is "have a tendency to create noise, odors or glare or to employ two or more individuals", to him that would make any cannabis outdoor cultivation would be a major home occupation because you are creating noise and odors, so for a Director's Use Permit he would think you would have to go to a Specialty Indoor to make it a minor home occupation. Use that as the cut off and then anything above that would be a major home occupation and you would have to go through the Conditional Use Permit process.

Director Tippett said actually you define the threshold between major and minor, then when you go to apply it to this, you take the minor and apply it to that, then you take the major, or if it were major then you apply it to that and that tells you the use permit that you need to get on that particular one; and he may have been incorrect earlier when he made the blanket statement all majors require a use permit, because he looks at if that's one that, we talked about the 5 acres and again it has the 5 acres but it says here "major" being a major use on looking at a parcel under 5 acres requires a use permit, but we were on the other one and it had a different perimeter than the minor one. We just got to make sure those line up. Commissioner Frasier said he thinks it can work if we actually pattern it after that. Tippett said he thinks the thing that is most critical right now is telling us what is minor and what is major based on what had been proposed earlier. He believes the way it was tailored was trying to show over the amount of people that [inaudible].

Commissioner McHugh said here's a radical thought, especially coming from him, why don't we just dump the whole cottage industry thing. Chair Hoard said he tends to agree. McHugh said the whole purpose of that with the land on a Director's Use Permit for some kinds of operations, then let's deal with that issue. The reason he is going to this radical position is that we are talking about cultivators who have already squeezed these activities into zones. He said read the purpose of the Cottage Industry section, basically what it says is the purpose of this is to allow you to do business in a residential zone, but if they allow you to do business in a zone where it wasn't zoned, and if it's a small enough business, it's okay, that is kind of what that is all about; and here we are saying well wait a minute we are talking about somebody with a cultivation license, they've already got 10,000 sq. ft., they've already got employees, they are already doing this, and they want to add these other licenses on top of it. He said he is sort of landing on what Mr. Ballanco said, was that we are adding some licenses that we need to look at what adding those into the zones means, but he doesn't see that the Cottage Industry dragging that in adds much. He said for instance, if we deal with a Type 6, we say you can't do that in Rural Residential, but you can make your brownies, you can do the infusion, that sort of thing is okay, that probably doesn't impact the neighbors any more than the 10,000 ft. grow out back does. He's at a loss at the moment to understand why Cottage Industry crept in here, what the value is of keeping it.

Director Tippett said what the ad hoc is trying to develop is the ability to have something on property that is relatively insignificant in operation and they are trying to follow the rules that we already have in place to operate those types of businesses. They want it to fit within the parameters of what we require on most everything else. He said the biggest thing they are trying to do is just define what's major and what's minor. Once you get that down then it's relatively easy to apply it to the other, to the table. He thinks that's what they were zeroing in on, if we have a clear major and minor definition he believes we can then apply it to the table correctly unless you want to modify the table in a certain manner.

Commissioner Stewart said the problem is we seem to be getting stuck with the Cottage Industry and looking at that and trying to fit things that are never going to fit in that into it. She said there are already so many things where it doesn't apply and even where it says "limited commercial or light manufacturing activity in conjunction with an existing residential use", we've already said that doesn't apply because it's only where you have a commercial license. It just doesn't fit. McHugh said what it does do, minor home occupation addresses the vehicle traffic, the number of people, trips per week, signage, it addresses some other aspects of running a business that ends up in a Conditional Use Permit often, but here it's just codified so we're giving that up if we give up Cottage Industry. Commissioner Stewart said we can take parts of the Cottage Industry and move it into its own entity. Commissioner Frasier said he thinks we can salvage what we have here and get it done a lot faster than if we try to start over from scratch and create a whole new ordinance with all that. Director Tippett said he knows the ad hoc and the Board are pushing for a solution on this one. Chair Hoard said he understands the immediate nature of getting this approved and move forward. As a business strategy it could benefit a lot of people just in terms of distribution, also as Mr. Mines pointed out last meeting there's not a single distribution facility in the county at the moment to deal with this. He knows there's priority and urgency to this, but we seem to be coming to the same conclusion that home cottage industry doesn't seem to be a fit, but maybe perhaps we can salvage what is here and just grab what applies out of the home industry without referencing it and just put it in the ordinance. It's not like we're starting from scratch here. Commissioner Stewart agreed, saying so we don't keep going back and keep trying to fit this into the Cottage Industry, we take what's good in the Cottage Industry.

Commissioner Matthews said be prepared to be here a couple of hours, this is a lot of stuff that is referenced in here, to actually wordsmith it and take all that stuff out, he doesn't see how we can do it tonight. Commissioner Stewart said we need to define the difference between major and minor and that's something she thinks we can do. Matthews asked so it would now be major and minor microbusiness, so we are not calling them home occupations. Stewart responded no, major and minor microbusiness. Matthews said that would be a good first step, so 2,500 sq. ft. and 500 indoor, that's his proposal for minor. Stewart said she thinks that sounds pretty decent, at this point she would like anything. Commissioner McHugh said to Dan's point, let's give this one last shot before we abandon this the way it is right now, if we fix the employee number are we good. Stewart responded she thinks so. Chair Hoard asked if we fix the employees, but leave it related to home occupation, is that what you're saying? Director Tippett said back to how the table works, if you were to pick the easiest one, say 2,500 sq. ft and 500 indoor, so if you have the major and minor then again you go to this table and you have that cut off under minor home occupancy you have that cut off that tells you whether it's going to be a Director's Use Permit or a Use Permit, and that's the purpose of the table to allow for you to define where you want a major or minor to have a particular type of permit. He said a good example is a major on 40 acres does not have the impact that major does on 5 acres, and that's what this table is trying to do. Commissioner Frasier said if we took the minor home occupation, whatever we want to call it, if we said that's 2,500 sq. ft. or 500 indoor and then said if you are on over how ever many acres, that's a Director's Use Permit; then to fix the employee problem all we have to do is use our random number of 3 and say any time over 3 employees are employed over 10 weeks it requires a CUP; then we can make it fit by using different levels of permitting rather than trying to rewrite this whole ordinance tonight. Commissioner Stewart said she thinks that works. McHugh said just look at the license types, so Specialty Cottage licenses are minor, Specialty Cottage Outdoor which looks like 2,500. Someone in the audience said that's 25 plants not 2,500 sq. ft., it states Specialty

Cottage is 25 plants – it would be really helpful if it were 5,000. Counsel Long said hold on a second, we are not taking public comment at this time and to be quiet out there. McHugh said Specialty Cottage Indoor is 500 sq. ft. or less, Specialty Cottage Outdoor up to 25 plants if the area is under... 25 plants that's all you can ever have on that license? Director Tippett responded yes. McHugh said Specialty Cottage Mixed Light is 2,500 sq. ft., probably 2,500 sq. ft. is the number. Commissioner Frasier said if you want to go with a minor he would say that it be tied to that license type and then we would have to put some restrictions that would point to requiring a CUP for seasonal employees, etc. McHugh said so Minor is 2,500 sq. ft. and up to X employees, you go above either one of those and you're in Major. Frasier said of you can have a Minor and just have to get a CUP for your Minor if you had more than say 3 employees. McHugh said yes you go above the number of employees or square footage you're in the CUP. Director Tippett said it doesn't go into Major. McHugh apologized for saying it wrong. Chair Hoard said the number of 3 employees seems somewhat reasonable considering the public comments of 10,000 sq. ft. and 7 to 10 employees, 42 seems excessive. Frasier said now we have to figure out how to write that. Counsel Long said we will write that, she thinks she has it down, just let her clarify, the idea would be "Minor" would be under 2,500 sq. ft. with 500 for indoor and 3 temporary employees or less, if you go over either of those two you're in "Major" and must get a CUP. Commissioner Frasier said it would still be a Minor, but if you go over the employee number you have to get a CUP. McHugh said so the Major and Minor are tied to square footage. Director Tippett agreed. McHugh said then the permit is tied to the number of employees. Counsel Long responded there you go.

Consensus was reached on this item.

Commissioner McHugh, referring to Required Conditions, stated there is a section in the State law, Section 5500 (Page 58 of the next Agenda Item 11), essentially what it says is if you go to get a Type 12 license, if you are a cultivator you have to follow all the cultivation rules, if you're a manufacturer you have to following the manufacturing rules, if you're a distributor you have to follow the distribution rules, the menu of licenses you can get under a Microbusiness, whichever one you pick you have to go follow all the rules for those license types, and we didn't have an equivalent in here saying whichever one of those you pick in our ordinance, you have to go follow our ordinance. He said if you pick a Type 11, Distribution, if you check the box for distribution under Micro, you've got to follow our distribution rules, instead of copying them all in here, the State just says by reference you've got to do all those rules and he thinks we should just say that's what distribution means and define it over here under Section 28. whatever of the ordinance. It should be 28.5. He asked if we were following him on this one. Chair Hoard asked adding a referencing paragraph? McHugh responded yes, that he's suggesting we do what the State did which is, if you go get a Type 12 from the State and you get a Distribution Type 11 equivalent from the State they are going to make you follow all of their Type 11 rules, well we've got some stuff in ours beyond the State and he would say if you get a Type 12 from us and you check the Distribution box you should follow our Section 28.5 which is how we define what Type 11 is. He's just saying parallel their structure in our ordinance, it ties all these sections together, the Microbusiness with Distribution with Manufacturing.

Counsel Long stated essentially you would get rid of this Number 3 Required Conditions and you would just require them to comply. McHugh said no, he would add this as letter "a". Long said she understands what he is saying in terms of, you would utilize a reference to those other ones and basically, they McHugh said when you type that in there if you look at what that implies there may be some you delete because if you're doing it as a Microbusiness it doesn't apply. Commissioner Matthews said it would make sense in that it would be perhaps somewhat less onerous if you're doing a Microbusiness, than it would be a regular full scale commercial activity. McHugh said Mr. Ballanco pointed out earlier, the State doesn't cut you any slack. Matthews said if the State doesn't, then they are going to have to follow all the State requirements anyway. McHugh said absolutely, but if we have a requirement in ours that goes, for instance, to get a Microbusiness we have a requirement that you have to be a cultivator, the State doesn't have that rule, so we have rules that they don't have and he would just say you have to follow our rules, of course you have to follow the State's. Matthews said there maybe some there that you find inappropriate,

we can fix that in the future.

Chair Hoard asked if there were any other comments on Required Conditions. McHugh responded we were asked to look at number E. Commissioner Stewart stated she definitely has concerns about the product amount because it depends on what the product is that you are distributing, some things don't weigh very much and so 125 lbs. is actually a lot of it, some things weigh quite a bit more and it can really be very limited. Commissioner Matthews said the point of these were to basically protect the Microbusiness operator if he had crop failure. Commissioner Frasier and Chair Hoard both responded this is the amount you can get from a third party. Matthews said that's the intent, if you had crop failure you could obtain product and still keep your business going. He said it gets pretty complicated if you try it different ways for different types of product. He asked are these numbers enough to keep someone in business in doing a Microbusiness. Chair Hoard said perhaps being vague on this is an advantage because it can tailor to whatever your process is, if you're manufacturing then it's extract, if you're growing flowers the pertaining to the flower, or pertaining to a specific business that you are involved in, so it protects what your direct involvement is or crop, or extraction processes, maybe the maintenance of it serves a purpose. Commissioner Stewart said she thinks the whole objection here is if somebody had a crop failure this does not protect them, this limits the amount they can then distribute from somebody else, they may not be able to buy enough from somebody else to make the profit that they need to remain in business. Commissioner Matthews said that may be true because they are having to pay a lot for the product. Stewart said but if you are limited to 125 lbs. from somebody else, maybe your crop would have been 250 lbs. and that would be enough to sustain you for the year. 125 lbs. from somebody else wouldn't be no matter what the price is. Commissioner Frasier said it boils down to what's the right number. Stewart said she doesn't think there is a right number. Matthews said Specialty Cottage is 25 plants we've heard, so 5 lbs. a plant, it's possible. Stewart said 5 lbs. a plant is not a huge plant. Frasier said we could get way off into the weeds with this, what about the guy who's buying 125 lbs. of concentrate, that's a lot. There is no way we can know every possible aspect. Stewart said it's tied in with that "shall be at least 75% from a Trinity County source" and she objects to that for the same reason. She understands the reasoning that he wants to make sure, like in the wine industry, you want it to be from Trinity County not someplace else, but people need to be able to buy whatever they need to make the money to for their income and she doesn't think this is going to change, it's going to stay exactly like it is, but she doesn't agree with it. McHugh said welcome to my world. Stewart apologized.

Chair Hoard asked if there was a suggestion here? Do we up the number? Do we revisit this number and consider other applications? Commissioner Stewart responded she would like to ask the Board of Supervisors to look at the numbers again and to look at F again. Commissioner McHugh said he thinks they will say that's our job. Commissioner Frasier said he thinks we leave it as it is and, in the future, if there is any problem he's sure it will come back to us; but if you started a cottage industry where you doing something that absolutely out there that nobody's ever heard of before and you have a total failure, you're not going to be able to go to the neighbor and buy your product, sometimes businesses fail. We cannot try to create the perfect environment of no businesses are going to fail in Trinity County, so if we put a number of some kind out there the business operators have something to work from, and you tailor your business to fit the law, instead of us trying to build a perfect ordinance that fits every business. Stewart said no, we're trying to do an ordinance for cannabis. Frasier responded but there's so many different businesses in cannabis, there is no way we can make it fit everybody. They are going to have to make their choice of how they want to do their business and make it fit. Stewart said it doesn't matter because four of you have already said you like it like it is, that's fine. Chair Hoard said he appreciates Commissioner Stewart's comments, but he does agree that it is something that he's sure will be revisited if the number doesn't fit or if there's crop failures, or x circumstances applied, it will be revisited. He said he doesn't have the correct number to suggest a change on it, so he says for the moment we leave it as such and brainstorm more on it, get further public input at some other time and just move forward with this.

Chair Hoard asked if there was anything else to discuss under Required Conditions. Commissioner

Matthews responded G, just the opt out areas, obviously we've heard a lot of comments about those. Commissioner McHugh said the gist of the letters received in our packet for tonight, and testimony we heard tonight, is that expanding what you can do in an opt out over the cultivation in the first place is the problem they say. He hears that they want no more license types, this in fact injects 3 more license types. He would like to see us drop it, he would say at the bottom of Page 4, the last sentence where it starts "An exception to this limitation is allowed for applicants who..." delete from there to the end of G. That says that cultivators in these areas can cultivate, but if they want to set up the rest of the business, not in the opt out. The intent of the opt outs were marijuana free and cultivation is allowed if you meet the date. Commissioner Matthews said he would support that. Chair Hoard said he would support that as a compromise as well, from what has already been allowed under the cut off date does not include any more, that is reasonable. Commissioner Frasier said since that was the intent of the opt out, he's in favor of that one. Commissioner Stewart said she doesn't agree.

Commissioner McHugh asked if we reached conclusion on Type 6, zoning - if the applicant for this wants to do Type 6 style manufacturing he uses the zones out of the Manufacturing Ordinance. Commissioner Stewart responded we did. McHugh said that was the end of his list. Chair Hoard said that was the end of his list as well.

A member of the audience said you didn't address employees living on the land or not. Chair Hoard agreed the Commission did not address that. Commissioner Frasier said we can CUP that too like we did the employee number. Commissioner McHugh stated maybe that's a CUP. Commissioner Matthews said you want to hear from the neighbors about the traffic, noise, etc. Commissioner Frasier said that's only allowed as a major home occupation and we could put on there, major home occupation with over 6,240 hours or employees living on site requires a CUP. Director Tippet said it would not be regarded as major or minor. Frasier said no, it would be if you have on site employees or over that many hours requires a CUP. He said if you have somebody with an 80-acre parcel and they already have a structure there, why would anybody care if they had their employees living there. Commissioner Stewart agreed. Chair Hoard asked if there were any other comments on the ordinance.

Commissioner McHugh moved to approve the changes to the proposed ordinance and recommend them to the Board, and asked County Counsel to assist him with his motion. County Counsel stated the changes are as follows:

**Section 2.C.1 Manufacturing Type 6, Type N or Type P:** Type 6 shall only be allowed in zones allowed by the Manufacturing License.

**D:** Including of the word "occupation" in the minor home (in the first sentence). There will be amendments to these sections. Create or find under 2,500 sq. ft. or under 500 sq. ft. for Indoor to be Minor. Major will be over 2,500 sq. ft. or 500 sq. ft. Indoor. Temporary employees will be allowed, 3 with a Director's Use Permit, over that will require a CUP. On-site employees with over 6,240 hours per year will require a CUP.

**Section 3.A Required Conditions:** All holders of a Microbusiness License must comply with all State and County Codes related to cultivation, manufacturing, distribution and retail, unless amended herein.

Commissioner McHugh asked Counsel Long if she was renumbering below the new A. Counsel Long responded, she was, that would be the new A; below that she is going to number 3 what is the old G, which will now be H.

**H.4.:** Take out "An exception to this limitation is allowed for applicants who have submitted an application..." to the end of the sentence.

Counsel Long said those are the changes. Commissioner McHugh stated so moved. Seconded by Commissioner Stewart. Motion carried unanimously.

11. **NON-STOREFRONT COMMERCIAL CANNABIS LICENSES** **PW-18-03**  
Discuss, provide direction to staff, and/or provide a recommendation to the Board of Supervisors regarding the proposed Ordinance Allowing for Non-Storefront Commercial Cannabis Licenses.

Interim Planning Director Leslie Hubbard presented the staff report. She said this item went before the Board of Supervisors on April 3<sup>rd</sup> and April 17<sup>th</sup>, and at the meeting on April 17<sup>th</sup> there were several questions regarding issues related to land use so the Board agreed to send it back to the Commission for consideration. She said this is the first time it has come before the Commission and that we received several comments from people in the opt out areas who don't want additional cannabis activities in the opt out zones, even if they are tied to cultivation. She said this license is specifically a delivery license, and one of the major questions that came up during the Board meeting was to define residence and the idea of where deliveries occur and where can they originate as well. Hubbard said SB 94 has references to Health & Safety Code that define residence and there were two changes, Commissioner Matthews is the only one she wasn't able to speak with directly before the meeting tonight, but the copy of the Non-Storefront Retail License that you had in your agenda packet included the change that the Board directly requested, and that was changing one word from "maybe" to "*shall*". She said the ad hoc committee looked at this again and they were trying to respond to a lot of the comments heard during the Board meeting and they added two more things. One was the definition of private residence and that stems from that reference in SB 94 and they say that it means "*a house, an apartment unit, a mobile home, or other similar dwelling.*" Hubbard said the other change is on Page 5 of 6 and that was the addition of "*Non-Storefront retail license holders may also hold a manufacturing and/or distribution licenses.*" Hubbard said there was a suggestion received at the Board meeting that maybe there should be some kind of consideration for determining whether sales should be different for medicinal or recreational use. She said in opt out areas there were a lot of comments about not wanting to add additional cannabis activities other than cultivation and the comment came in that maybe medicinal use should not have the same restrictions as recreational in terms of being able to receive a delivery.

Commissioner Matthews said you can't enforce that; in opt out areas you may not have a business that delivers, but people can place an order. Commissioner Stewart agreed. Commissioner McHugh said the analogy would be it's illegal to deliver a minor, who's going to enforce that. Stewart said you do realize that they send alcohol through the mail and it's the same thing, well through delivery, and it has to be signed for. McHugh said his pointing is that whether or not something is enforceable isn't the height of the bar in the sense that we're not going to consider it because who's going to enforce it, well the sheriff is going to enforce it. Commissioner Stewart said she doesn't care if it's enforceable, her issue is that the opt out areas can certainly regulate who is going to operate a business, but they certainly cannot regulate who is going to receive a service. Director Hubbard read the comment made at the Board meeting. Stewart said she doesn't think we have any right to say that somebody living in an opt out area cannot receive deliveries, that's like saying you can't have recreational cannabis on your property and State law says you can. County Counsel Long said she can answer that briefly. Can you do it legally, yes, you can do it legally. The question is whether it is prudent to do so, particularly looking at medical issues, revealing the fear and actually the potential to open up for liability, because an individual that is going to have access to it is that they are more likely to be tested. Looking it from a practical standpoint there may be questions, but from a legal perspective if you look at how they structured it, they have said you can limit deliveries if you so choose. Commissioner Stewart said she thinks that would be a terrible thing to do. Commissioner Frasier said the only thing he would say is if you are going to do anything different would be if you were going to make it easier on medicinal delivery to the hotel, for instance. Commissioner McHugh said don't go there. Frasier responded then I think we're good.



County Counsel stated she thinks Director Hubbard did a good job summarizing, this matter is set for a public hearing at your next Planning Commission meeting, again we are just trying to cover all our bases to make sure we are meeting all our noticing requirements and we will bring you back a final product next time for your consideration and to receive additional comments if you want to.

Chair Hoard said in light of that, even though it doesn't specify public comment, he will open the item up for public comment. Commissioner McHugh said in full disclosure, he did go to the Board meeting where this was discussed and most of what he heard was in the newspaper.

Chair Hoard opened the matter for public comment.

Comments received from Dave Albiez, Eric Peterson, John Brower and Tom Ballanco.

No further comments being received, Chair closes public comment on the item.

Chair Hoard suggested the Commission tackle this item like it did last time, section by section.

Commissioner McHugh asked does this actually say that you can only retail your own product. Commissioner Frasier responded it's tied to a cultivation license, you have to have a cultivation license, but he didn't see where it said you can only sell yours. Commissioner Stewart stated it says the retail facility shall be on the cultivation site that is designated. Frasier responded that's the facility, it doesn't say you can't buy it from your neighbor. Stewart said that's true. McHugh said he thinks the purpose of that is to solve the land use issue. If we unhook this from cultivation where we have already added on a little zoning issue, then we have to do the zoning which will take longer. Counsel Long stated that was the intent. Commissioner Stewart asked is there anything in here that says your next-door neighbor can't walk their product over to you and have you deliver it for them. McHugh said they better have a distribution license to do that. Stewart asked is there any reason that couldn't happen as long as they have a distribution license, she's thinking about Mr. Ballanco's suggestion of having one retail facility able to sell on line or by phone or whatever. McHugh said he thinks this allows that, and asked County Counsel if that was her understanding. Counsel Long stated that is correct.

Chair Hoard stated just to move through the ordinance he referred to Section 2.1 Definitions and 2.2 Regulations under B.iv it begs for us to define residence. It is requested from staff to provide clarification. Counsel Long stated that's correct that was one of the topics that came up after the Board of Supervisors' meeting; at that time, it had been defined a little bit differently, staff went back and did go through the regulations and did pull out the definition referring to the type of residence. She said it wasn't directly tied to this but it does give us a starting point in looking at how the State is going to analyze it, that's what we have before you right now, is what we would assume the State is going to do, but we don't know, and we can do it a little bit differently if you would like, that is your pleasure. Chair Hoard stated how comfortable are we as a Commission with the wording in vi where it says "For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling". Commissioner McHugh said that's the verbiage right out of the State regs. He said it does strike him, he guesses it's a mobile home, if someone lives permanently in an RV Park in an RV it may be an issue the voter registration people have, where you live; How do you prove you live there. This verbiage is straight out of the State regs. and to start wordsmithing now when we are trying to define residence, which it's a pretty tricky thing; the verbiage that was in the packet under Regulation 2.B.iv, this he thinks solves the issue where it wasn't defined before and now it is defined. It clarifies it, it means private residence not your campsite for instance. Chair Hoard said he has one question where it says "The private residence must also be the off-site residence..." He doesn't understand off-site residence, off-site off of what? It seems to him that private residence suffices. Counsel Long agreed stating that may be a carry over of the way it was written prior, essentially you could deliver to hotels, or wherever you put your head down that night; the idea was to make sure that somebody doesn't come on to your property, actually come to you, storefront facility vs. a non-

storefront, come on and say I'm staying here tonight. She said modifying that is a good suggestion because she doesn't think it's needed, if you like the definition we proposed. McHugh stated we're not talking Air B&B, it's off-site from the retailer. Chair Hoard said he just wanted to be clear on that.

Commissioner McHugh went on to Section 2.C., he said a couple of comments pointed out that the wording needs to unhook the retail premises from the cultivation premises and tie it to the parcel; he thinks that is accurate, that the premises are unique to each license. Chair Hoard agreed. Counsel Long said "the retail facility shall be on the parcel". McHugh said he would suggest you use "retail premises shall be on the cultivation parcel". He said actually, we have that term "legal parcel" defined in the Cultivation Ordinance so we should use that. Counsel Long read the new sentence "the retail premises shall be on the legal parcel as designated as the cultivation site".

Chair Hoard went on to Section 2.H. and said one of our requests was to analyze property owner's involvement, "Non-Storefront Retailers and property owners where commercial activities are taking place must ensure..." so basically the issue of putting the burden on the owner, he knows that for previous ordinances and when Counsel Joe Larmour was here he said that is a given practice for a county or city jurisdiction, he's paraphrasing, that gives them greater leverage mechanism for enforcement; however, this pertains to property owners where the potential can be delivered, an apartment unit, camp ground, etc. McHugh said it's not a campground, but he agrees; he said he also had a question about this one, this puts property owners where commercial activities take place on the hook, which we have done in other ordinances. The question is, what's the commercial activity? Is it taking the order and delivering it to the home in the opt out area where they ordered medicine, is all of that the commercial activity, including deliveries? Because we don't want the consumer in the opt out area on the hook. Counsel Long stated the intent of this when we are talking about the commercial activities, it is referencing the non-storefront retailer activity, not the recipient activities, but we should make that clear if there's a question on it, and Mr. Larmour was correct that this is an essential tool that we need to have, otherwise when you cite somebody or you attempt to enforce this ordinance, they can leave and you have no way to actually recover costs, or the landlord has no motivation to assist you in making sure the property is clean of illegal activity. She said she would recommend modifying that, but we can modify commercial activities to make it clear that it is the non-storefront retailer activities that occur on that legal parcel where it is. McHugh said but if the driver drives over here and delivers to a minor, everyone is on the hook, so it's the full transaction. Counsel Long stated that is correct, we'll make sure that is very clear. Chair Hoard stated Commissioner McHugh said aye. McHugh stated well, it's the same thing, it's a reprise of the opt out issue. He said the sentence "An exception to the limitation..." to the end of Paragraph I, same argumentation. Chair Hoard asked if there were comments from the other Commissioners on that. Commissioner Frasier stated he thinks it is the same argument, it works not to allow any new license types in opt out areas. Commissioner Matthews agreed. Chair Hoard said he assumes it is similar to the last ordinance and we will accept that.

Chair Hoard stated we touched on this in the very beginning, where sales will be allowed, that was the last point that was asked for us to suggest to the Board. Commissioner McHugh said that sounds like a rat's nest to him, an enforcement nightmare. He asked what's the benefit of trying to limit it? Commissioner Frasier said the only thing he would say that would be allowed is a private residence. Chair Hoard said no matter where and what zoning district? Frasier responded in the affirmative. Counsel Long asked what section that is in. McHugh responded it's not here, there was an earlier discussion about should we limit where the deliveries are to take place, and he thinks we are concluding the definition of deliveries to a private residence and there's no further restrictions.

Counsel Long requested to read back the proposed changes before a motion is made so she can make sure she captured everything. McHugh asked do you need a motion, isn't this a workshop. Commissioner Frasier said we're going to hear it again next month. Counsel Long agreed, stating it will be back before you next month, but let her make sure she has captured all the changes before she gets direction on that.

She said the changes that she has captured are: Section 2.C. The last sentence will say “The retailer’s premises shall be on the legal parcel as designated on the cultivation license.” Under H, it will say “Non-Storefront Retailers and property owners who lease property to non-storefront retailers must ensure that all commercial cannabis activities at the site operate in good standing...” then continues through the rest. And then the last change would be Section 2.I.d from “An exception to this limitation...” to the end of the paragraph is stricken. Commissioner McHugh said he thinks we missed one, Counsel didn’t miss it, but we did. He said Director Hubbard pointed out something at the beginning of the meeting, which was Paragraph M. Director Hubbard responded that’s right. McHugh said it’s the one that says Non-Storefront retailer license holders may also hold a manufacturing and/or distribution licenses. Hubbard said correct. McHugh said this is in addition to the cultivation ordinance. Hubbard said correct. McHugh went on to say so this is like a microbusiness but not micro, this is a full-on license. Counsel Long responded they do not have to, it’s just that they are able to, so when you look at the State regs. they say what is compatible with each other; this license will be compatible also with the Manufacturing or Distribution License. It does more to clarify it than anything else. McHugh said this is on top of the cultivation license. Counsel Long responded correct, that is a requirement, this is not a requirement. McHugh said but we may be introducing zoning, because Manufacturing puts restrictions on certain types of manufacturing, but tighter than cultivation. Counsel Long said that is correct. McHugh said so we’re back to that. Commissioner Frasier said it just says that they may also hold that license, it doesn’t say that they are entitled to it. McHugh asked does this need to be said. Counsel Long responded she didn’t think so because again, we are not guaranteeing them, promising them, or even giving any suggestions, we are just, merely saying they are incompatible. If they are compatible licenses and you follow the State regs. the County regs., you are able to have all the licenses for this because it’s in conjunction with this one.

Chair Hoard stated we’ve made our recommendations and directed the recommended changes be made to the proposed ordinance.

**12. MATTERS FROM THE COMMISSION**

Chair Hoard stated staggering dates for variances and license renewal, that are due March 31<sup>st</sup>, has been brought up many times by the public before, he thinks it does serve our purpose to do that, it would make it easier on the cultivators and on staff, and would like to recommend that to the Board. Counsel Long responded the ones that are coming down now are starting to do that.

**13. MATTERS FROM STAFF**

Director Hubbard stated in the future she would like to find a way to address Variances, we have about 90 pending. She said Associate Planner Watkins has done a pretty throughout assessment of the ones that have been passed so far and has come up with some pretty interesting analysis of it, which he can address. But we need to find a way to address them as the first round of renewals is coming in and ownership has changed, different opinions are coming out about whether or not an adjacent owner wants to support that variance or not. She thinks it’s something we need to discuss in the near future, but not tonight. Chair Hoard asked if she meant by a Director’s Use Permit or something. Hubbard responded we are going to have to discuss it and figure out the best way to go forward.

Planner Watkins side he thought the most staggering number, besides the number remaining, and the fact that we are still adding more every day, including two today, is that 82% of the time you have voted unanimously. He said he thinks that is kind of setting the framework for this issue, and between those he’s come up with 10 topics with each of their own sub-types, including the decisions, when you made those decisions and how topography, deep slopes, rocky terrain, things like that, are criteria that can be used to grant a variance. He is seeing a lot of patterns as far as parcel restrictions and the size of the parcel being too small to relocate; four different times you have decided that’s a valid criterion. He said we could go deeper into that but he’s not sure we have the time. Director Hubbard said not tonight. Watkins said it’s

pretty interesting stuff, to him, when he looks at the numbers and he reads through the decisions and the minutes it seems like there is a pretty predictable way when he looks at an application, he's going to know right away how the five of you are going to vote on it.

Commissioner McHugh asked if variances can be granted without a trip to the Planning Commission. Director Hubbard responded other jurisdictions use a Zoning Administrator. Watkins said there is a real crunch for people trying to get plants in the ground right now here in the next 30 days and we've already caught the ones that may pass through variances, all the work is done and we have more that we are doing for June and July, and as some of the people have come up tonight and said we are going to de-facto be putting a lot of people out of business just through variances. He said he hates to say it, but conditional use permits and things like that for microbusinesses, he thinks the same thing is going to happen. Chair Hoard asked if this is something that can be brought up at our next meeting. Director Tippett stated we need to start with the ad hoc. Director Hubbard said one last thing she wants to mention is we have three compliance specialists now and they are cranking through the site inspections, they're making great progress and anticipate being done with all the site inspections pretty soon.

Director Tippett stated we talked a little last meeting about Class K Housing, we had a little more discussion back "in the shop" and we talked about the General Plan Update quite a bit, and in the General Plan Update there is the Housing Element Update that has to be done and we thought we could incorporate the Class K Housing with the Housing Element Update, which will be done by a consultant. He said it doesn't move it up to tomorrow, but it at least puts it on the radar.

#### **14. ADJOURN**

The Chair adjourned the meeting at 10:53 P.M.