

TRINITY COUNTY PLANNING COMMISSION

Regular Meeting
January 9, 2020 at 7:00 p.m.
Trinity County Library Conference Room
351 Main St, Weaverville, CA

Chairman Dan Frasier
Vice-Chairman Diana Stewart
Commissioner Graham Matthews
Commissioner Richard Hoard
Commissioner Mike McHugh

MEETING MINUTES

CALL TO ORDER

Chair Mike McHugh called the meeting to order at 7:00 p.m.

Commissioners present: Richard Hoard, Dan Frasier, Graham Matthews, Diana Stewart, and Mike McHugh.

Staff present: Planning Director Kim Hunter, Environmental Health Director Kristy Anderson, Associate Planner Bella Hedtke, and Administrative Coordinator Mary Beth Brinkley.

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

No Public Comment was received.

REGULAR CALENDAR

ROTATION OF CHAIR AND VICE CHAIR FOR 2020: Chair McHugh stated that there is a predetermined order in which the Chairmanship is assigned. Commissioner Dan Frasier will be the Chairman of the Planning Commission for 2020. Chairman Frasier will now take over the meeting. The Vice-Chair will be Commissioner Stewart.

MINUTES: Approve meeting minutes of the meeting held on November 14, 2019. Motion made by Commissioner Matthews to approve the Minutes of the November 14, 2019 meeting with the following change: Page 3, 2nd line at the end, “pretty extreme environment” should be “environment.” Motion Seconded by Commissioner McHugh. Commissioner Stewart abstained. Motion Carried.

Commissioner Hoard recused himself and left the room due to a conflict of interest regarding Tentative Parcel Map p-18-21.

TENTATIVE PARCEL MAP (P-18-21): An application requesting to divide an approximately 13-acre parcel into two resulting parcels of approximately 5 and 8 acres for residential use. The project site is located at 541 Browns Ranch Rd., Weaverville, Assessor Parcel Number 024-410-02. Applicant T. Doerpinghaus/Proposed CEQA Determination: Exempt/Planner: K. Hunter (*Item Continued from November 14, 2019*).

Director Hunter explained that this is a continued item as a question was raised in regards to Condition of Approval #12 and the impact of the culvert and the resulting parcel division. Also, correspondence was received from the applicant’s representative regarding removal of Conditions of Approval #10, #11 and #13 in addition to #12.

The applicant for the project, Mr. Doerpinghaus, introduced his consultant, Eric Keyes of Trinity Valley Engineers, and stated that they both had a presentation to make supporting their proposals.

Mr. Keyes made his presentation, noting that they had been working on it for 18 months, and that it took more than 12 months to receive the conditions of approval on the project. He added that historically a subdivision review committee would review a project first and that would have eased this process. Instead we find ourselves nearly 18 months into the process. He also wanted to point out that there has been a steady decline in recorded survey maps in the last decade, with none being recorded in 2019 and only one in 2018, so pretty much all subdivisions have ceased in this county.

Mr. Doerpinghaus then presented maps for the Commission's review and proceeded with his presentation, using the maps as a visual aid for the Commission to see his concerns and the expense of complying with the proposed conditions.

The Director of Transportation, Rick Tippett then came to answer the Commission's questions in regards to the County's requirements of this project. Director Tippett explained that these are contemporary conditions and are in code, so we don't have discretionary decision-making over a lot of them. The code says to secure a 60 foot right of way for our own roads, in terms of the 100-year floodplain, that is required on a lot of properties, and in terms of flow, that is what you often have to do to minimize the downstream flow. Director Tippett also explained the right of way code requirements. The Commission had several questions for Director Tippett:

Commissioner Graham asked if the code has changed from 50 feet to 60 feet. It is only a one and a half lane roadway. Director Tippett confirmed that it has changed.

Chair Frasier asked if there is an easement from Shasta Spring side and Director Tippett confirmed that there is one in place for future use.

Commissioner Stewart asked what the rationale is for having the encroachment marked prior to the property even being sold? Director Tippett explained that it marked for future use, although if the new owner wants the encroachment somewhere else, there is nothing that precludes them from doing that. His department identifies the encroachment now, prior to all the development, so they are well marked and part of the project so that property owners are not having to go through their neighbors' yards in order to access their own property.

Director Hunter added to that comment that a site visit had occurred in October with staff and our consultants, SHN. There is some topography located on the western portion of the resulting parcel, which is why staff identified this spot for the potential driveway based upon the topography and drainage situation.

Commissioner McHugh asked what code Director Tippett was referring to on the 60 ft. easement and when it changed. Director Tippett was unsure of the exact date, but it was enacted 10 plus years ago. Commissioner McHugh asked if the burden is on the developer to dedicate additional property to the County and what would be the effect if the code was not in place. Director Tippett confirmed that the burden is on the developer and if it's decided differently, it's going against code.

Public comment was received from Dero Forslund and Justin Hawkins.

Commissioner Matthews: Motion to approve Resolution 2020-01, minus Conditions #10-13, and the last sentence of Condition #6. Commissioner Stewart: Seconded. Commissioner Stewart – Aye, Commissioner Matthews – Aye, Commissioner McHugh – Aye, Chair Frasier – Aye. Motion carried unanimously.

Commissioner Stewart stated that there is a need a subdivision committee, then projects will go through review there first. Director Hunter said that we need to reconvene the subdivision committee, we have a backlog of

projects, and we just have not had the staff. However, regardless of staffing issues, we desperately need the subdivision committee as Mr. Keyes, Mr. Forslund, and the applicant have said. Many of the issues in this application could have been resolved by a subdivision committee and could have moved forward with a much clearer understanding. Director Hunter expressed that she has some concerns with the current organization of the Subdivision Review Committee, and questions if having a Planning Commissioner on that committee could create a conflict later on when that map comes before the Commission. She has been in contact with County Counsel regarding this concern. Regardless, Director Hunter stated that there is definitely a need for a Subdivision Review Committee.

Commissioner Hoard returned to the room.

CONDITIONAL USE PERMIT (P-19-18): An application requesting that a 2400 sq. ft. single-family dwelling and a 660 sq. ft. shop be conditionally approved in the Timberland Production Zoning District (TC Zoning Ordinance 315 § 14.1). Project site is located at 10410 FS Rd 4N09, Hyampom, Assessor Parcel Number: 011-100-02. Applicant: M. Henschke/Proposed CEQA Determination: Exempt/Planner: B. Hedtke.

Associate Planner Bella Hedtke presented the staff report, recommending approval. Deidre from Down River Consulting presented. No public comment was received. Commissioner Stewart: Move to approve, striking clerical error on item 2B. Commissioner McHugh seconded. Commissioner Stewart-Aye, Commissioner Matthews-Aye, Commissioner Hoard-Aye, Commissioner McHugh-Aye, Chair Frasier-Aye. Motion carried unanimously.

ANNUAL INITIAL VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK (CCV-19-60): An application requesting a variance from the required 350' Cannabis cultivation setback from a neighboring residential dwelling (TCC 17.43.050.A.8). Project site is located at 171 Bear Springs Rd., Junction City, Assessor Parcel Number: 009-490-15. Applicant: E. Kotseva/Planner: B. Hedtke.

Ms. Hedtke presented the staff report, which recommends denial of requested CCV-19-60 due to the fact that it did not meet all the conditions, specifically condition #3. Mitch Ivanoff, the Applicant's Representative, spoke in favor of the variance. The Commission asked Mitch if he had any comments on Environmental Health's comments on the water issue. The Commission also asked if this was an existing cultivation site that is being brought into compliance. Mitch answered no to both questions.

Public comments were received by: Jack Eggleston, Sherry Eggleston, Betty Williams, Justin Hawkins, Sherry Eggleston, Gene Goodyear, Veronica Kelly-Albiez, Steve Rhodehouse, John Brower, and Dave Albiez.

The Commission requested that Environmental Health Director Kristy Anderson explain the water quality concerns associated with the proposed cultivation setback variance. Director Anderson explained that her position is to protect public health by checking wells and potential ground water contamination from containing too many nitrates, as well as not being safe for drinking water. The county does have a water quality code.

Commissioner Hoard stated that this variance is difficult to support, therefore he made motion to deny CCV-19-60 for Emilia Kotseva. The reason being that this request is unable to fully meet the requirement of the condition #3 and Trinity County Code 17.31.010.(c), in addition to the comments made by neighboring residents. Commissioner Matthews seconded. County Counsel pointed out that the motion should be specific findings of how it is injurious to the health, safety, and welfare of the public as to what section #3 says. Commissioner Hoard amended his motion to include the findings of how this would injure the proximity of the quality of water that can potentially be damaged by the proximity of this

cultivation site with the well water. He then asked County Counsel if that would suffice, to which County Counsel replied indicated that it did. Commissioner Hoard then amended his motion as stated. Commissioner Matthews seconded the motion as amended. MSC with some confusion on the amended motion, which was wanted by County Counsel, then voice vote, all Commissioners voted Aye. Motion carried unanimously.

REZONE AND CONDITIONAL USE PERMIT (P-17-45): An application requesting (1) to rezone an approximately 5.5-acre project site located at 30661 State Highway 3 and 123, 141 and 221 Marshall Ranch Road, Douglas City, from the Highway Commercial (HC) zoning district to Heavy Commercial (C3) zoning district; and, (2) a Conditional Use Permit for a commercial Cannabis distribution facility. This project was previously considered by the Planning Commission at the January 10, 2019 and January 17, 2019 meetings. The California Environmental Quality Act (CEQA) Determination of a Mitigated Negative Declaration (MND) and rezone components of the project were considered by the Board of Supervisors on February 20, 2019. Assessor Parcel Numbers: 015-490-08, 09, 10 & 11. Applicant: T. Mines/Proposed CEQA Determination: MND/Declaration/Planner: K. Hunter.

County Counsel brought attention to the ongoing litigation involvement on this item, and to ensure that all parties are aware that there has not been any stay of these proceedings or in that hearing, so they could hear it that day. If any Commissioner felt like the fact that there is litigation involving this would cause them to not be able to remain fair and impartial or unbiased in any way, shape, or form on this item, they may recuse themselves.

Director Hunter began presenting the project by stating there were some corrections that needed to be made regarding the project description. She stated that the project has a long history and she has had to learn it very quickly. For clarification, this project also considered by the Planning Commission in April 2018. Also, it was not appealed to the Board of Supervisors in January 2019, but was forwarded to the Board by the Planning Director, Rick Tippett. Director Hunter then proceeded with the presentation of the staff report. At the Planning Commission meeting held on January 17th 2019, three separate public hearings were scheduled to be heard for each component of the project. The first hearing was for the MND was approved by the Planning Commission by a 4-1 vote. The second public hearing was held for the rezone. The Planning Commission voted to recommend denial of the rezone request by a 4-1 vote. No public hearing was held, or consideration given, for the CUP component of the project. When the project was moved forward to the BOS at their February 20th, 2018 meeting, only the MND portion and the rezone components were considered, not the CUP since it had not been considered by the Planning Commission. The Board then directed to further review the environmental analysis would be done regarding soil, traffic, and odor. The rezone was then tabled until the MND returned to the Board for further consideration.

Commissioner McHugh said he believes that we've had a hearing on the rezone and took a motion with a vote. Director Hunter agreed, but stated that there was never a public hearing on the CUP, which is a pivotal part of the project. There are two reasons that it is back before the Commission; (1) the staff responses based on the direction given by the Board to reevaluate soil, traffic, odor, and resources, and (2) to consider the project in its entirety to move it forward to the Board, and in order to do that, we must vote on these together. Chair Frasier spoke up stating that they did not consider the CUP because of the denial of the rezone, which made the CUP not possible. Chair Frasier stated that the project was not a compatible use, even with the CUP and highway rezoning. Director Hunter responded that while that may be the case, the project needs to be considered in its entirety by the Board. Chair Frasier asked for County Counsel's advice on how to consider a CUP on a project that zoning-wise, if unable to be changed, how the CUP could be considered that would not be allowed in the zoning. Commissioner McHugh explained that they need to review it as a whole and if the rezone is denied then the Commission could recommend denial of CUP based on incompatible zoning, as there is no public hearing on record. Chair Frasier agreed that the Commission would do one public hearing, as a whole, on the entire project. County Counsel concurred.

Director Hunter went on to explain that soil samples were taken, and no significant impact was found from soil contamination. Staff maintains the opinion that traffic will not be a significant impact, and that access would be limited for the distribution uses from Hwy 3. Odor is unlikely to have a significant impact on air quality, as this project is for distribution, not cultivation or processing. And if there are issues, the applicant is responsible to control odor as outlined in the conditions of approval.

Regarding the environmental determination, staff feels that the initial study is valid, and no additional studies or changes are warranted. Any future changes to the project would require further permitting and oversight from the County. However, right now the application is just for distribution. Commissioner McHugh asked, aside from the additional CEQA analysis regarding soil, traffic and smell/odor, were there any changes whatsoever in the application from what the Planning Commission had looked at last January (2019)? Director Hunter responded that no changes had been made to the application or MND from the January 2019 meetings. MND. Director Hunter agreed with Commissioner Stewart's suggestion that the title for the project should be changed to include storage and distribution.

Commissioner Matthews questioned why the shortness in posting for comments. The staff report was sent out on Fri, January 3rd and comments were due Mon. January 6th. Director Hunter explained that she would change some of the wording because even though the office is closed on Friday to the public, the office is fully staffed and can receive comments.

Public comment was received from Terry Mines, Liam Gogan, Dave Albiez, Veronica Kelly-Albiez, Paul Mazzera, John Brower, Marinda Medin, Steve Rhodehouse, Gene Goodyear, Jed Medin, Dan Dickerson, Fred DeAntoni, Justin Hawkins, Scott Morris, Chris Cross, Tyler Knight, and Bev Dickerson.

Commissioner Stewart explained that this property is ideal for a distribution facility. It is located on Hwy 3, accessible to Hwy 299, and to all people in the county. The county has been needing something like this other than just one site in Hayfork. It makes no sense to license growers if they have no place to take their product.

Commissioner McHugh explained he didn't think commission observed the wishes of the community expressed in their community plan last January. It is part of the Douglas City core district; it is four lots out of nine, almost ½ of the Highway Commercial. The signatures characterized an update to the community plan, and there is certainly some validity to that. The County hopes to embark soon on the General Plan update, which will include community plan updates, and is hearing right now from the Douglas City community, as well as the surrounding community, about how they want to see this part of the area developed. It was reviewed in January and nothing has changed. The Commission has reached a conclusion that it's not an appropriate rezone and they are open to having distribution in an appropriate spot. This remains the wrong spot.

Commissioner Stewart stated that she couldn't see most of the usual highway commercial industries being able to build or be in that area because of the problems that are there, and that this is something that fits that area. She understood that it is zoned Highway Commercial but is not sure that it should remain that way, and feels that it will hardly look any different than it does right this minute.

Commissioner McHugh said that the Commission was pre-empting the wishes of the community and he would not support it. Commissioner Hoard agreed with Commissioner Stewart that a distribution facility is needed, it is a big part of the puzzle and important to the cannabis community. He felt the site is adequate, it's physical location intercepts Hwy 3, but there are just certain inherent issues with this parcel that make it difficult to approve. One concern of his is that, while we should not speculate on what will be done with the property in the future, he could sell this for a type seven manufacturing facility or some other proposed use could take place. Then this must be considered as well. He asked what could potentially take place by rezoning these

properties. He doesn't see the need, and it was discussed this last year, why the Commission should rezone 4 parcels when only one will be used for distribution facility. He is opposed to rezoning all four parcels that could be split off, sold, making access to Marshal Ranch Rd be a commercial access. This is very troublesome to the neighboring parcels. Commissioner Stewart said she suggested that last year. Commissioner Hoard said the septic definitely needs to be looked into, and by OSHA standards, you need to have 2 bathrooms for 15 employees. That septic is completely inadequate and would have to be completely revamped if this CUP were to be approved.

Commissioner Matthews stated it is very difficult to support this when the community opposes it in such numbers regardless of the benefits.

Commissioner Frasier said the biggest problem he had supporting it is not the project itself, but by rezoning, I think we also need to consider the other permissible uses of C3 zoning. If decided to rezone this, that property can be sold, any other heavy commercial use could move into that, and he doesn't think that it should be open up the core area of Douglas City to those effects. He thinks there is a reason why their community plan has it zoned as it is, and whether those business become viable in the future remains to be seen. He doesn't think that it should be opened up to heavy commercial use, especially without the support of the surrounding community.

Commissioner McHugh questioned whether they needed three separate resolutions. Planning Director Hunter replied that only one resolution was necessary for a recommendation that included all three of the project components (MND, rezone and CUP). Commissioner McHugh made the motion to recommend to the Board of Supervisors that they not approve the CEQA determination of a MND, that they not approve the rezone of the four parcels, and they not approve the CUP with the findings that the MND doesn't adequately address the issues raised of traffic and water. Also, the requested rezone is inconsistent with the Douglas City community plan, as the Community Plan has been refreshed by new input from the community and, reflecting an updated intent of the community plan, and that the CUP should be denied because HC zoning district is not an appropriate zone for Cannabis distribution. Commissioner Matthews seconded the motion. A roll call vote was then called:

Commissioner Stewart: Nae
Commissioner McHugh: Aye
Commissioner Matthews: Aye
Commissioner Hoard: Aye
Commissioner Frasier: Aye
Motion passed 4-1

PLANNING COMMISSIONER REPORTS

Commissioner McHugh asked about the new residential setbacks associated with the updated State's Fire Safety Regulations that into effect on January 1, 2020. Director Hunter states that there had been some big changes. County Counsel then suggested this be added to the agenda for a future meeting for discussion.

Chair Frasier asked if anyone could provide any information on what the docket looks like for the February 13th meeting. Director Hunter stated that she doesn't believe that there are any items to add to the docket for February 13th, but she would check. Chair Frasier shared that he would have a scheduling conflict on the 13th, which is why he asked about that day's meeting.

PLANNING DIRECTOR'S REPORT

Director Hunter reported that she will work hard to get subdivision review committee back on track and is anticipating that the February 13th meeting would be rescheduled to February 27th.

ADJOURNMENT

The Planning Commission adjourned at 9:57pm.

Submitted by:

A handwritten signature in black ink, appearing to read "Kim Hunter", written over a horizontal line.

**Kim Hunter, Planning Director
Secretary of the Planning Commission**