

TRINITY COUNTY PLANNING COMMISSION

Regular Meeting
July 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 Mike McHugh
Commissioner Duncan McIntosh

DRAFT MEETING MINUTES

*NOTE: The public was invited to attend the public hearing via Zoom Link and limited public access for specific agenda items was made available by request and during the public meeting.

CALL TO ORDER:

Chair Dan Frasier called the meeting to order at 7:00 p.m.

Commissioners present: Diana Stewart, Dan Frasier, Graham Matthews, Duncan McIntosh

Commissioners absent: Mike McHugh

Staff Present: Planning Director Kim Hunter; Planning Deputy Director, Lisa Lozier; Associate Planner, Bella Hedtke; Administrative Coordinator, Mary Beth Brinkley; Environmental Health Specialist, Bethany Prince; County Counsel Margaret Long present via Zoom Link.

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

No Speakers

Public comment closed at 7:02p.m.

REGULAR CALENDAR:

Item 1: MINUTES: Approve meeting minutes of the meetings held on June 4, 2020. Commissioner Stewart: Motion to accept minutes as presented for June 4, 2020 Special Meeting, Commissioner Matthews: Seconded. Commissioner Matthews – Aye, Commissioner Stewart – Aye, Chair Frasier – Aye, and Commissioner McIntosh – Abstain.

Chair Frasier: Motion carried unanimously.

Item 2: ZONING TEXT AMENDMENT - RETAIL CANNABIS STOREFRONT USES (DEV-20-02):

The Planning Commission will consider recommending that the Board of Supervisors adopt an ordinance amending the Trinity County Code Title 17 to provide for, regulate and establish licensing criteria for the use of commercial Cannabis retail storefront uses in the following commercial zoning districts: Retail Commercial (C-1), General Commercial (C-2), Highway Commercial (HC), and Heavy Commercial (C3). Planner: K. Hunter (Item continued from June 11, 2020)

Deputy Director Lozier presented the staff report.

Memorandum for the Planning Commission requesting the Item be continued to the July 23, 2020 regular meeting.

Chair Frasier opened the public hearing.

John Brower: Wanted to remind the Commission that many of the comments to date were requesting that some type of farm sales be allowed in the ordinance. Some on-site locations are suitable for farm sales with a conditional use permit with a site specific CEQA document. On-site farm sales would be a good fit for Trinity County and would be beneficial to Trinity County.

No other speakers were present in the meeting room. Chair Frasier asked if there were commenters on Zoom.

Public hearing closed at 7:05pm.

Chair Frasier called for a motion on the item.

Motion by Commissioner Matthews to continue Item 2 to the July 23, 2020 Planning Commission meeting.
Second by Commissioner Stewart.

Commissioner Matthews – Aye, Commissioner Stewart – Aye, Commissioner McIntosh – Aye, Chair Frasier – Aye.

Chair Frasier: Motion carried unanimously.

Item 3: ANNUAL INITIAL VARIANCE (CCV-19-63): A request for 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 27 Log Cabin Ln., Douglas City. Assessor Parcel Number: 025-140-32-00. Applicant: S. Xiong. Planner: B. Hedtke. (Item continued from June 4, 2020)

Associate Planner Bella Hedtke presented the Staff report.

Chair Frasier opened the public hearing.

Ana Wright, consultant for applicant Sor Xiong. The Planning Commission meeting directed the neighbors to work together and try to resolve the issues. A letter signed by Lisa Wright stated a meeting held by Supervisor Bobbi Chadwick where the neighborhood met to discuss water issues. Ms. Wright stated that Mr. Hennis did not attend the meeting or respond to the invitation. Ms. Wright stated that well permit are finalized and Ms. Ziong has a meter on her well as stated in a letter received by the Commission. Ms. Wright suggested that a hydrological study be done to understand the water issues in the area. Ms. Wright stated the topic of the hearing is a variance and that water availability is a licensing and civil issue and that Mr. Hennis should continue the matter legally. She stated that the applicant has her state license and has been waiting for the approval of the variance to continue her business. Ms Wright stated that BBQ would be planed for the neighbors to get together. The fencing issue had been discussed to address the dumping issues which would allow the access even though there is no legal easement. Ms. Xoing is will to compromise but Mr. Hennis has not contacted the applicant. Ms. Wright stated that her client had gone through all of the appropriate channels and exhausted her options.

Commissioner Matthews asked Ms Wright about relocating the cultivation site as has been stated in a letter received by the Commission.

Ms. Wright stated that it would be costly and damaging to the parcel to relocate the cultivation sight. The spot where the garden exist is a legacy site and moving it would create additional environmental impact. Only a small portion of the garden is outside of the 350-foot setback area and would reduce the area of the garden to less than the amount applied for in the license.

Commissioner Stewart asked about the letter summarizing the neighborhood meeting which stated that all of the neighbors had experienced reduced water, even those located above Mr. Hennis.

Ms. Wright stated that Lisa Wright would speak about that as she attended the meeting. Ms. Stated that the neighbors agreed that there is a water issue. Department of Water Resources indicated that this is a mild drought season.

Sor Xiong spoke to the commission. Ms. Xiong's Translator stated that Ms. Xiong would like the Commission to grant the variance as she has completed all of the necessary requirements for her license. She has spent a lot of money and met with all of the appropriate departments. She has tried to work with the neighbor to resolve the issue but has not been successful. Ms. Xiong is asking the Commission to grant the variance.

Lisa Wright attended the neighborhood meeting sponsored by Bobbi Chadwick. There were five or six different participants at the meeting and they discussed common issues and way they would be able to support each other as neighbors and agree to start a phone tree for fire warning. Neighbors offered to help Ms Xiong clean dumped items. Ms. Wright noted that one of the other neighbors in the area that spoke against the variance had also chosen not to participate in the meeting. One of the attendees offered to work with Mr. Hennis to offer a compromise of access for Mr. Hennis via a gate to the rear of his property. Mr. Hennis was not responsive. Ms. Wright stated that efforts were made to contact Mr. Hennis to discuss issues. Ms. Wright stated that the water issues are a CEQA matter and would be addressed in the Draft EIR. Ms. Wright stated that odor is issues of concern in the ordinance and the proximity of the residence that should be of concern for the variance. Ms. Wright encouraged the Commission to move forward with the variance.

Tom Ballanco: Stated that the Commission should balance the concerns of water should not be addressed as part of the variance. Should the garden be moved there would be additional environmental impacts including a 3-acre conversion permit and substantial grading. Mr Ballanco stated that there would be cultivation on the site whether it would be in the current spot or on a new spot and the well would be supporting commercial cannabis. Mr. Ballanco suggested that the Commission should not be determining water rights. Mr. Ballanco stated that it was disappointing the neighborhood BBQ did not resolve the issues and Ms. Xoing has tried to work with the neighbor to resolve the issues. Mr. Ballanco stated the variance is an annual process and the commission should approve the current variance and could revisit the issue next year.

John Brower: agrees with Mr. Ballanco and suggests that the annual variance process would give the applicant time to get through another year, support their family, and have the opportunity to show the neighbor that they are can operate in a responsible way. It would also give the neighbor the opportunity to develop another sight and not be required to apply for a variance next year.

Zah Yang asking the commissioners to approve Ms. Xiong the variance. Mr. Yang has expressed that Mr. Hennis has not proved that the cultivation site would be injurious to him. Mr Hennis brought up the concern with water, but that is not a concern for the variance. Mr. Hennis is not the only person impacted by the water issue. Everyone in the county is impacted by water issues. The County has been in a draught for many years. Mr Yang expressed that Mr. Hennis has not proven that the lack of water is actually injurious to him. Mr. Hennis had previously stated that he is not opposed to cannabis. Mr. Yang stated that he had work as Ms Xiong's translator and would be glad to answer any additional questions for the Commission. To answer Commissioner Matthew's question in regard to moving the cultivation site. Moving the site would not be possible as a forester came on-site and looked at the property and declined to sign the 3-acre conversion permit.

Commissioner Matthews stated that there was a comment that half of the garden could be cultivated which was outside of the variance request area that could be cultivated.

Mr. Yang stated that was correct.

Chair Frasier closed the public hearing.

Commissioner Stewart made the motion to approve variance request CCV-19-63, applicant Sor Xiong, APN 025-140-32-00. Reducing the distance from APN 025-140-33-00 from 350 feet to 210 feet subject to the conditions listed in memorandum number 4, issued by the Planning Department staff and the findings, number 3, noting that the neighbor, Mr Hennis at 025-140-33-00 are civil in nature and do not pertain to the cannabis cultivation site.

Second to the motion by Commissioner McIntosh.

Commissioner Matthews stated that he could not support the variance. It is clear that the neighbor considers the use injurious and that the water use would continue is not justification to override Mr. Hennis's concerns.

Commissioner Stewart stated Mr. Hennis's issue is with the well and the well has been signed off by the County. The Water Board issued a permit and this is a civil matter because the neighbors above the applicant are also experiencing low water flow. That is not because of the applicant.

Commissioner Matthews stated that the neighbor stated that the water production went down as soon as the well went in so the issue is not related to just this year.

Commissioner McIntosh stated that if the variance is not granted and the garden is moved, the well is not moving and the water is still being used.

Commissioner Stewart stated that the applicant may not be able to move the garden because they were denied the three-acre conversion. Even if they could, it would involve more damage to the site than needs to be. The garden is in the existing site. Mr. Hennis is not objecting to the cannabis.

Commissioner McIntosh questioned if there is a way to measure how much water is being taken and the water table and verify this may be just an accusation. Is there any hydrological information?

Commissioner Stewart stated Mr. Hennis has not provided any data.

Commissioner McIntosh asked if the farm was currently in operation.

Commissioner Stewart stated that was correct.

Commissioner Matthews stated that the farm had historically operated.

Commissioner McIntosh asked Mr. Yang if the farm had been in operation last year or the year before.

Mr. Yang stated the farm was in operation about two years before by a different person.

Chair Frasier stated that there was currently a motion and a second. He stated that he also had concerns and this is a tough issue. Mr. Hennis had stated that he also cultivates and typically the issue is with people who do not cultivate. Chair Frasier expressed his concern that the variance is measured to a residential structure and granting the variance allows the applicant use of the neighbor's property. Only once before has the variance been denied because of the neighbor's concern. The Neighbor feels harmed.

Commissioner Stewart stated that when the neighbor was reached out to, he did not respond. The Commission requested that the neighbors should work out the issues and he refused.

Chair Frasier stated that he was appreciated that the applicant reached out to the neighbor, it is a step in the right direction but he believes there are other options. Chair Frasier stated he does not believe in supporting the variance when there is a concerned neighbor.

Chair Frasier asked for competing motions or to take a vote on the current motion.

Roll call vote: Commissioner McHugh is absent, Commissioner Matthews – Nay, Commissioner Stewart – Aye, Commissioner McIntosh – Nay, Chair Frasier – Nay.

Commissioner Stewart asked if the tied vote is a Nay.

Chair Frasier confirmed and stated Item number 3 variance is denied.

Item 4: CONDITIONAL USE PERMIT (P-19-22): A request for a conditional use permit to operate a commercial Cannabis business (Tule Creek Commercial Cannabis) which includes commercial Cannabis cultivation, distribution, nursery and Type 6 Non-Volatile Manufacturing. In addition to a CUP, the project requires commercial Cannabis licensing from Trinity County and other State specific licensing for each of these activities. The project area, approximately 84,000 square-feet, will be used for cultivation, manufacturing, distribution, nursery, processing; including gardens, soil staging areas, post-harvest activity areas, material storage areas, ancillary buildings including an on-site caretaker's residence, irrigation system, employee areas, and access roads. The Project is located within Trinity County, at 690 Tule Creek Road, Hayfork, CA 96041. The 53.9-acre parcel is identified as Assessor's Parcel Number 014-430-75. Applicants: Doug and Tom Evans. The proposed CEQA Determination: Mitigated Negative Declaration. Planner: K. Hunter

Deputy Director Lozier presented the staff report.

Memorandum for the Planning Commission requesting the Item be continued to August 13, 2020 Planning Commission meeting. Missing information and Director Hunter is requesting the continuance to complete the agency referral process to complete the conditions of approval.

Chair Frasier opened the public hearing.

No other speakers were present in the meeting room. Chair Frasier asked if there were commenters on Zoom.

Public hearing closed at 7:42pm.

Chair Frasier called for a motion on the item.

Commissioner Matthews made the motion to continue to the August 13, 2020 Planning Commission meeting. Second by Commissioner Stewart.

Vote: Commissioner Matthews –Aye, Commissioner Stewart – Aye, Commissioner McIntosh – Aye , Chair Frasier – Aye,

Frasier – Motion carried unanimously.

Item 5: ANNUAL INITIAL VARIANCE (CCV-20-12): A request for 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 3071 and 3021 Morgan Hill Rd, Hayfork. Assessor Parcel Number: 017-430-36-00 and 017- 430-37-00. Applicant: L. Buell. Planner: B. Hedtke

Bella Hedtke presented the staff report.

Memorandum for the Planning Commission requesting the Item be continued to July 23, 2020 Planning Commission meeting. To allow staff to receive an updated site plan and for staff to respond to an agency comment.

Chair Frasier opened the public hearing.

Diedra Brower, consultant for the applicant offered to answer questions of the Commissioners.

No other speakers were present in the meeting room. Chair Frasier asked if there were commenters on Zoom.

Public hearing closed at 7:44pm.

Chair Frasier called for a motion on the item.

Commissioner Stewart made the motion to continue to the July 23, 2020 Planning Commission meeting. Second by Commissioner Matthews.

Vote: Commissioner Matthews –Aye, Commissioner Stewart – Aye, Commissioner McIntosh – Aye, Chair Frasier – Aye,

Frasier – Motion carried unanimously.

Item 6: ANNUAL INITIAL VARIANCE (CCV-20-14): A request for 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 150 Whispering Pines, Hayfork. Assessor Parcel Number: 019-290-12-00. Applicant: P. Dobo. Planner: B. Hedtke.

Bella Hedtke presented the staff report.

Memorandum for the Planning Commission requesting the Item be continued to July 23, 2020 Planning Commission meeting. To allow staff to verify updated site plan.

Chair Frasier opened the public hearing.

Diedra Brower, consultant for the applicant offered to answer questions of the Commissioners and thanked the Commissioners for being at the meeting.

No other speakers were present in the meeting room. Chair Frasier asked if there were commenters on Zoom.

Public hearing closed at 7:44pm.

Chair Frasier called for a motion on the item.

Commissioner Stewart made the motion to continue Agenda Item 6 to the July 23, 2020 Planning Commission meeting as requested by the applicant and staff. Second by Commissioner McIntosh.

Vote: Commissioner Matthews –Aye, Commissioner Stewart – Aye, Commissioner McIntosh – Aye , Chair Frasier – Aye,

Frasier – Motion carried unanimously.

PLANNING COMMISSIONERS REPORT:

Commissioner Mathews welcomed new Commissioner Duncan McIntosh. Commissioner Stewart also welcomed Commissioner McIntosh.

PLANNING DIRECTOR'S REPORT:

No Report

ADJOURNMENT:

The Planning Commission adjourned at 7:46 pm.

Submitted by: Deputy Director, Lisa Lozier



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