

MINUTES

1. CALL TO ORDER

Chairman Matthews called the meeting to order at 7:00 p.m. Members present: Commissioners Matthews, Frasier, Stewart, McHugh and Brower. Staff present: Director Richard Tippett, Interim Planner John Jelichich, County Counsel Margaret Long and Clerk Ruth Hanover.

Chair Matthews stated before we proceed with the agenda, Commissioner Brower would like to address the Commission and public.

Commissioner Brower advised that effective tonight he resigns as Planning Commissioner for District 4.

Commissioner Brower absent 7:04 p.m.

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 agendaized for a future meeting. No action may be taken on these matters at this meeting.

Comments received from Justin Hawkins and Adrian Keys regarding Barker Creek Road encroachment.

Mark Feeley introduced himself as the Network Administrator for the Trinity County Library, and spoke regarding computer use in meeting room.

3. MINUTES

Upon motion of Commissioner Frasier, second by Commissioner Stewart and carried, approved the Minutes of January 19, 2017 as submitted.

OLD BUSINESS

4. WORKSHOP RE COMMERCIAL CANNABIS IN AG-FOREST ZONING DISTRICT

Workshop session to discuss and provide direction regarding update to Ag-Forest (AF) Zoning District. Located county-wide. Applicant: County of Trinity.

Interim Planner Jelichich introduced the item, stating this was on the last agenda and the Commission directed staff to come back with this as a workshop item. He said he has put together some information he gathered based on the Commission's direction, from the Land Use Element regarding Resource land, and also did a brief cursory review of some of the surrounding counties. Jelichich said this is up to the Commission to develop as they like, give staff direction on changes or additions you would like to see, and then we would come back at a future meeting, and if the Commission thinks it is ready to go for public hearing, that is what we will do.

Jelichich said the first list is what he has come up with as a draft for Ag-Forest, then Exhibit A is Section 14 of the County Zoning Ordinance which is the current Ag-Forest ordinance, and then Exhibit B there is a description from the Land Use Element regarding Resource designated lands. He said he organized

the staff report to follow the proposed new Section 14 Ag-Forest. He said it starts out with a brief description of what Ag-Forest is for and then it goes on to list the uses permitted in the Ag-Forest Zoning District without a Use Permit. He said here, based on comments from the last meeting, it was his understanding there was some concerns about having agriculture and/or commercial cannabis cultivation in forested areas because of the way it might detract from future forest management, so that it why it says Agriculture uses in Site Class IV or V timberland. He said Site Class IV or V timberland is the least productive timberland and you will often see oak and grassland areas. He said next is commercial cannabis on Site Class IV or V, and on both of those it might be helpful to add “as determined by a Professional Registered Forester” (RPF). It is specifically listed there without requiring any kind of a permit, similar to what you might find in Agriculture. Then following are a number of other uses that tend to be more closely associated with forested lands, Christmas tree farm, forestry, grazing, low-intensity recreational uses that have minimum improvements, portable sawmills, watershed management activities, wildlife and fisheries habitat and so forth. He said they are fairly low key, probably the most intensive ones would be agriculture and the cannabis portion, but he sensed that has sort of been determined, if it is allowed in Agriculture, that was the desire of the Commission last time. Jelich said next is “Bb”. He explained “Bb” is listed that way because it is consistent with the way it is set out in other sections of the Zoning Ordinance. These are the uses permitted with first obtaining a Planning Director’s Permit, a Cell tower (40’ or less in height), a guest house if located in close proximity to the main dwelling, and again, these would require review by a RPF. Commercial Cannabis Cultivation on Site Class I, II or III timberland as determined by a RFP. Jelich said he put this under uses requiring a Planning Director’s Permit, instead of uses requiring a Planning Commission issued Use Permit, because when he was thinking about it, it seemed, and he may be wrong, that the main issue here is the site classification of land, more so than other issues such as parking, effects on sewage disposal, water availability, things that you might find would be needed that would warrant it being heard by the Planning Commission as a whole. If the Commission feels the need to move that, it is certainly up to them, but he would ask that they consider what is to be gained by it. He said we shouldn’t be putting things in requiring a public hearing unless there is a reason for it, and maybe there is, but that is something for the Commission to think about. Jelich said temporary labor camp(s) was specifically mentioned also. SPI and other forestry firms often will have a temporary camp for people who come in and plant seedlings along the hillside will often set something up, and that goes through Environmental Health and Planning for review, sometimes HCD, and it would be helpful if there was something in there that would tie it in to a permit so it’s not just in there, but it puts a little more teeth into how we review it. He said they usually don’t last very long. Next is C, a list of uses requiring a Planning Commission issued Use Permit. He said there are various uses and as you go through there you are going to see a mixture of heavier forest related uses like a sawmill, a logging yard, and then you are also going to see uses that are more resort oriented. He said if you go to Exhibit B, which is a section from the Land Use Element, the overall statement on Natural Resources followed by the Resource designations, the third paragraph down says “recreational developments such as campgrounds, recreational vehicle parks, marinas, boat launching ramps, picnic area, resorts, and small businesses serving recreationists should be permitted, to the extent that they do not damage sensitive environmental resources or significantly interfere with the utilization of natural resources of commercial value”, and then it goes on to list various land use designations. He said for that reason they are listed as a type of use that requires a Planning Commission issued Use Permit. He said some of these came from Shasta County, some of them we have already done, we do have some resorts in both Agriculture and Ag-Forest; Bed and Breakfast facilities also fit into that, certainly campgrounds. Jelich stated then there are accessory uses listed under subsection D, these are in addition to uses you might find listed previously, and one of them is cold frame greenhouse(s) and hoop houses. He said he knows that issue hasn’t been fully explored yet by everyone, if you are going to have commercial cannabis cultivation, you are likely to have some sort of structures out there, and he’s not listing them here because they do not require a Building Permit, they may or may not, he hasn’t really gotten into the whys and wherefores of that, other people are addressing that, but he does think it’s important to make some assumptions that

there may be some outbuildings or similar structures associated both with agriculture and with cannabis cultivation. He said he listed one single-family dwelling as an accessory use because the primary use is forestry, we have allowed single-family homes in there in the past as he has said without any kind of zoning type use permit, and so that is why it is listed there, as an accessory towards managing the land; and then there is some log landings and storage areas, that sort of thing that is tied into normal logging operations. Minimum parcel area is based on the matrix system he thinks everyone has seen in the past. For Site Class IV or V timberland the minimum parcel size is 10 acres and 40 acres for Site Class I, II or II timberland, that has already been established in the Land Use Element. Building height of 40 feet is the same as Agriculture. He said the setbacks are quite a bit different; 20 feet, that is the same as Agriculture. He said he put 100 feet if its next to Timberland Production Zone because he knows that Southern Pacific Land Company at one point was unable to fall some trees near an adjacent property because the house was so close, they didn't want to take the chance of it falling the wrong way; he said whether it is taken out or left in is up to the Commission. He said and then there is the setback for cannabis of 200 feet which he understands comes from the Water Quality Control Board, but since this is a forestry type section, California Forest Practices Act has setbacks from creeks also, those may be more appropriate for front, side, and rear yards. Jelich said under J, Setback from Neighboring Dwelling, this is something a little different than we have handled in the past too, he is suggesting no setback requirements for forestry or agricultural cultivation, including cannabis, in this resource oriented zoning district, unless it abuts an area that is for residential use. The idea is that in agricultural areas you would expect to find certain types of activities, if you are in a residential area you may not want to deal with noise, odors and so forth, that is why it is worded the way it is. He said K is more of an advisory measure, a timberland conversion permit issued by CalFire may, probably will, be required; he wants to make sure people are aware of that. He said it doesn't have to be in the ordinance, but he thinks it's helpful, not only to the landowner, but to staff, so he thinks it is important to be listed. He said if there were any questions he would be happy to answer.

Commissioner Frasier stated, with regard to the setback from neighboring dwellings, if we don't put 350 feet in there we would be changing the County ordinance. Jelich responded the issue comes up, not so much on the residential part, but on the adjoining property owner that has a house on there, then there would be a conflict, you are right. Commissioner Frasier said he would be concerned with that. Jelich said remember the other one is an urgency ordinance that can be modified as well. He said by looking at the specific ordinance what they are trying to do he thinks, as a Commission, is see how this fits in different areas more specifically than they have been able to do with just the urgency ordinance itself. Director Tippet said the 350' is a global condition and anything that you do on Ag-Forest would be specific to what is zoned on Ag-Forest; in changing Ag-Forest you can make the change, but it would only apply to that; you have to go back to the urgency ordinance to have a more global change; but he would always be careful, if you have it in Ag-Forest, or in the main one, it creates a separate one than the other one because sometimes things get changed and it's kind of hard to catch up with that.

Commissioner McHugh stated he was confused as to where that ended up, and asked are you suggesting that the urgency ordinance would trump this in the near term if this were in fact enacted as it reads? Tippet responded if you enact it, yes, that 350' variance applies to all zoning. Commissioner McHugh asked so it would supersede this? This would say "no setback required with the exception when the neighbors are residential zoning, but if there is a neighboring house and a neighboring Ag-Forest, this would say zero setback except for the urgency ordinance would say no it's got to be 350'. Director Tippet stated the urgency ordinance specifically it's from dwelling unit; it very specifically points to something that is lived in. Commissioner Stewart stated the other thing is that this ordinance doesn't just cover cannabis, this covers all of the above, so you can't really... it doesn't seem to her that the 350' setback is appropriate, because it is for a specific use that is covered in the urgency ordinance as opposed to this which is a global ordinance for all users. Commissioner McHugh stated he's not advocating for any number in here, he's advocating for clarity; when someone reads this and it says zero

setback only to come to your desk in the Planning Department and find out oh sorry, it's 350' in your case, forget the ordinance. He thinks it should be worded in a way that kind of tees up... that you need to check elsewhere to find out that there is actually a restriction on you. If he just reads this and say I'm good to go, no setbacks, and then I find out I can't grow. Director Tippett said you have those setback requirements, you have standardized setbacks for all zoning districts, and again, when we get to the urgency ordinance, the urgency ordinance is specific to setbacks for cannabis, it's a very specific setback that applies to that particular ordinance. Commissioner McHugh responded it just looks to him like a "gotcha". This says zero setbacks in any case, including oranges, tomatoes, or anything else and then over here it says except if its cannabis its really 350'. Director Tippett responded this is a general, do everything, ordinance, the cannabis urgency ordinance is specific to cultivation of commercial cannabis. Commissioner McHugh asked County Counsel to help us out. Counsel Long stated that is correct, so when you have a more specific law it applies a trust of what it contradicts, she doesn't disagree that it might be nice for ease of use to have a reference in there to help the Planning Department when people come in to apply. Commissioner McHugh said that's all he is suggesting.

Chair Matthews stated he had a question about site classes; he said he has never heard of the Dunning Scale and asked are parcels typically identified with one class only, so you could have good timberland on a part of the property and 4 or 5 grassland on another part, so that's how it is broken out? Director Tippett said that was one of the flexibilities Planner Jelich was looking for, is that when you look at the property, especially the ones that are 160 acres or more, you have such a variety of what's going on out there, it's hard to identify unless you have a classification to try to steer people in the direction you want to focus on.

Commissioner McHugh asked for clarification, at the end of Bb where it says temporary labor camps, is there anything to be said about the nature of the camp, that it complies with code or anything else or is it simply the fact that the temporary labor camp is sufficient to say you can have one and that Code Enforcement will make sure that it has proper septic, etc. Jelich responded there is a Director's Use Permit process where it is routed to Environmental Health, Road Department and other agencies, so that issue would be reviewed as part of that process.

Commissioner McHugh said under D, the cold frame house, help me understand one more time about the permitting of those. You said they're not defined yet under permit, Building Permit I'm assuming you meant; are these things defined, I'm assuming you know what to do with them, or are they not yet defined and it is just a work in progress. Director Tippett responded just a work in progress, as a matter of fact it will be heard the first or second week in April. McHugh asked then what ever the Board of Supervisors does, will be synchronized with this verbiage, we're not just allowing something here that is not otherwise allowed as undefined. Director Tippett responded it's kind of like in a sense you say you can have a house here but then you have to go get the permit for the house, and that's what would be the same as the agriculture thing, you can have an agricultural use but you have to go get a permit independent of that for that agriculture business.

Commissioner McHugh said a final question regarding setbacks in general, just to be clear these are for dwellings, and other structures, any agricultural activity, the setbacks apply to all of those things? Planner Jelich responded buildings. Commissioner McHugh asked just on buildings. He said for G, H and I, front, side and rear yard, that's for buildings. J is the one that would be tying into something else, you could grow corn all the way up to the property line. He said if you want to take out the words "including cannabis" if that makes it clearer, he's not sure quite how to deal with that, but he would hate to put 350' in here, because that could easily change as the urgency ordinance progresses. Commissioner McHugh said he would just like to see words that avoid a "gotcha", so this says zero is fine and _____ is fine.

Chair Matthews stated this is a workshop format, so it's a little different than a public hearing, but we would like to hear feedback on the issue and invited public comment.

Comments received from Ben Brady, Debbie Lono, Liz McIntosh, Adrian Keys, Christian Figaro and Tom Ballanco. No further comments, Chair turns it back to the Commission.

Commissioner Stewart asked how do we fit in those parcels that are less than 10 acres, into this ordinance? Planner Jelich responded generally we would look at the general area and if there are a handful of parcels that are smaller they would just get wrapped up with the Ag-Forest, but we tend not to want to have a parcel here, a parcel here and a parcel there, that suddenly gets changed to a residential classification, because then that could encourage conversion to residential, introducing it to the area. He said there were a lot of really good points made about being able to manage smaller parcels. Commissioner Stewart said her question isn't so much that, it's how do we handle those smaller parcels in relation to what is allowed based on this ordinance. Jelich responded it would probably end up being out of site (I think you said). He said if someone had a 5-acre parcel and it happens to be zoned Ag-Forest, you probably aren't going to be able to do much but put a house on it, and that's just a practical matter, other than some of the other uses that are listed, you are not going to end up having a large agricultural operation on it, their certainly wouldn't be a large forestry operation on something that small.

Commissioner McHugh said let me try and set a little context if I may. What we are about here is rewriting the Ag-Forest zone definition. The existing Ag-Forest parcels are existing. This doesn't say you can have 5, 10 or 100 acre parcels. The only reference to parcel size, he thinks is in future subdivisions. Jelich responded that's right and he made a note to make that clearer: "minimum parcel area for subdivision purposes". McHugh said for future subdivisions, so existing parcels, if there's 5 acres, 2 acres, 40 acres, are existing situations, and this rewrite is not attempting to address the parcel size issues of pre-existing subdivisions. Maybe they shouldn't have been allowed to be subdivided years ago, he doesn't know, it predates him; so, these list of uses he thinks we have to think in the abstract of, regardless of the size of the parcel. You pointed the practicality of doing some things, it was pointed out a moment ago, that small 5-acre parcels are not a timber project, you might have some trees you want to cut down and burn for firewood or mill into your own house, but it's not a commercial operation. Maybe a 200 acre one is a fine size for a commercial operation, but that's not the point; he believes what we are looking at, in this context, what is going to be allowed in an Ag-Forest, whatever its size, and what's going to require a Director's Use Permit, what's going to require a Use Permit, and the setbacks and so on. So, in the context of the size of the parcel, he thinks we can circle back on the setback question, but he believes on the rest of it, it's do you allow grazing in Ag-Forest regardless of size, can I have my two cows, can I have my hundred cows, that may be a function of parcel size, but that's not called out here. The size and scale of an agricultural operation probably should be tied to the size of the parcel. He said he doesn't think we have done it outside Rural Residential where you can only have a so many animals of a certain size on a certain size parcel, we've don't that there. Planner Jelich stated you may not notice it so much but we are an Open Range county and cows can wander wherever they want to, and they are dumped out in certain areas to graze and those parcels are various sizes. Commissioner McHugh said he's trying to get to a point where he looks at the list of uses permitted in Ag-Forest, he thinks it's a good list, he thinks it's consistent with the spirit of Ag-Forest, he thinks that's what we've seen in other zoning districts where you are tying the entitled uses without permits to the definition of the district. He thinks your Bbs are fine too. He thinks the recreational aspects, the guest house he's not sure why that one crept in there without a use permit, but that's the one he might move to Section C. The rest of it he thinks is okay. He does think if you are going to take a Site I timber area and convert that to marijuana, somebody should look at that for the purpose of this zoning just to protect the forest. He said but that aside, he thinks what you are requiring the Director to look at is fine, and he thinks in the use permits, Section C, recreation is called out in the General Plan so he thinks the

recreational items are fine. He thinks the list there again is okay in the spirit of what the General Plan says, we should be allowing in natural resources contrary to what he said earlier. He said his sense of it in defining Ag-Forest in the abstract, not for some 5 acre parcel somewhere that is pre-existing issue that probably shouldn't have been created in the first place, but going forward you've got a subdivision limit that makes sense in today's context and if in fact we eliminate Ag-Forest in the General Plan rewrite, so be it, but for now he is supportive of what you've got here in terms of uses, in terms of the accessory buildings so you can have a dwelling, the setbacks – he's not an expert on water use, so someone should speak to the question that was raised about that, and he does think the setback from neighboring dwellings... he would suggest that in Section J we delete "including cannabis" in the second line, he's kind of swayed by Ms. McIntosh's comment that it is covered under introduction of Paragraph B, and maybe you say that here. If you say consistent with Paragraph B you've got to follow any other rules or regulations of the State for growing, for setback issues. He said he's talking about Section J, delete the reference to cannabis. Jelich asked so we are including cannabis? McHugh said yes, Section B says under commercial cannabis you have to follow all of the licensing requirements, so that would be whatever ordinance was in effect for setbacks and what would be applicable. He said with that he is supportive of the verbiage.

Commissioner Stewart stated she is also and she appreciated the clarity.

Commissioner Frasier stated one of the things he sees in the setbacks from streams, to him it would be simpler if you just strike 'be less than 200 feet from any water body, or' and leave it "shall comply with waterbody setbacks in the California Forest Practices Act", which he's not exact on the water quality standards for stream setbacks but would imagine that they are probably fairly close to the Forest Practices Act, and we did cite the Forest Practices Act in some of our other stream setbacks which would be dependent on class of stream from Class III, there's actually a couple of classes, and goes all the way up and it would be from 25 feet to 150 feet. Jelich said he understands, it would have been helpful if John (Brower) were here because these are questions I could ask him but, the 200 feet he thinks came from the Water Quality Control Board and was to make sure that there wasn't an issue. Commissioner Frasier responded he believes that Adrian Keys said it is only for a Class I, so that would be like the Trinity River and stuff like that so he imagines they are fairly close but if somebody can tell us the setbacks for... There were statements interjected from audience, however, they were inaudible. Director Tippett stated he wanted to jump in here real quick. He said sometimes one of the things we do is we pick a large number, and then you have in there you have to follow up by or comply with the water quality setbacks of the California Forest Practices Act as determined by a Registered Professional Forester. So, essentially what you do is you have a large setback, but if you want to use something less, you have to go to the experts and have the experts tell you that it's okay. He said that is a very common practice that we have throughout our ordinances and here its... and even in a lot of the engineering stuff, you don't always have the answer when it's close so you pick a number that's beyond close and if you want to be closer we have to do an analysis and make sure you have the correct distances by the people that are in the know. Commissioner Frasier asked when you apply for a building permit, wouldn't you have to have all those stream classifications in your plot plan; and for a well permit, or if you get any other permit from the County isn't that... Director Tippett stated he would give an example, like a floodplain permit, you can't build in the floodplain unless you get a permit which requires certain actions and evaluations to make sure that what you are doing in that floodplain permit doesn't cause impacts, negative impacts of the property in particular. He said this is kind of the same thing, that we believe the 200 feet is adequate, but if you want to go less you can get your expert and they can do the analysis and report back that less would be acceptable. Planner Jelich stated he thinks all the commissioners were on the Commission when the water policy recommendations, the subdivision ordinance and the zoning ordinance and with the changes to the General Plan came through and you worked a lot on that; that will be coming back before you and that will tie in much more directly to what you are saying now, and it was recognized he thinks at that time that we have a problem right now, more

like where the houses are located in terms of the floodplain for example, making sure that sewage disposal systems maintain the sanitary setbacks, we really haven't gotten into setting the house back away from the stream, so your new policies and ordinances will address that issue.

Chair Matthews stated from his perspective, we have heard some interesting comments from the public about viable parcel size related to commercial timber harvesting, whether small parcels should even be in the... and it seems like we need to grapple with whether there is a different level of requirements, he means why would professional foresters even want to deal with a 2 acre, 5 acre, or even a 10 acre parcel, but people would be required, if they are zoned Ag-Forest to hire a RPF to come out and determine what the class of their timberland is before they could proceed with a... Jelich responded not for everything though, that's for agriculture and commercial cannabis. Chair Matthews agreed, no not for everything, we are obviously specifically talking about mostly, most of the interest here is about cannabis cultivation on these parcels. Jelich stated I guess you are suggesting if it is less than a certain acreage... Chair Matthews said he just wanted to bring it up. It seems like we really need to be thinking about different tiers, to say this is applicable to every Ag-Forest parcel in the county where there is this wide range seems burdensome probably, many people would think so. Jelich asked if this was his wise suggestion. Chair Matthews responded he is trying to encourage discussion. Commissioner Frasier stated one of his suggestions there would be a conditional use permit instead of Dunning Scale, because while we may not be experts, the Planning Commission, whoever it may be at that time, can look at a parcel, look at a map, and determine whether or not you're affecting the forestry viability of the parcel; whereas, if you do have a 5 acre parcel and you have to hire a RPF to come out, how can you really have a 5 acre Class I timberland anyway, even with the larger parcels, he thinks it should be up to the applicant actually if they want to go with a Director's Use Permit and hire a RPF, or if they want to go with a Conditional Use Permit and go to the Planning Commission, because time-wise and cost-wise he would imagine that it would be cheaper unless you had an existing timber harvest plan, it would be cheaper to go through the conditional use permit process than to hire a RPF and have a harvest plan for your parcel. Chair Matthews asked but is that the requirement? I mean if all you have to do is determine the classification, that's not really a THP, right. I mean there is some other report they would prepare, there would be a one page document, that may not be very expensive. He doesn't know, this is new ground. Commissioner Frasier responded it is one of those things, he can see where John is coming from, trying to put this into a Director's Use Permit, because what we are trying to do is protect timberland, which doesn't necessarily have to come from the Planning Commission, if you have guidelines then the Director can deal with that. He said he doesn't know using the Dunning Scale is a real easy way to do it, it will work. Director Tippett asked if he had any other possible suggestions, stating we are really open. Commissioner Frasier responded except for going through the Conditional Use Permit process no. Planner Jelich asked how would you know when it came before you whether the affect... Commissioner Frasier responded you would have to have annual reviews. Director Tippett said part of what you have on a lot of these reports, it's very hard for limited staff to always go out and take a look at stuff, especially when it's in south county, Kettenpom or something, so when you have these reports prepared by professionals you use, it's essentially your eyes in the field reporting back to you what you have out there, and gives you something that you can act upon with reasonable expectation that it be correct. Commissioner Frasier said but at the same time where it says the Director's Use Permit will be available for Class I, II and III forest land also, why would you make them go through the classification if you are going to allow it on any classification; but a Director's Use Permit, if you are going to allow it with a Director's Use Permit, still the Director or staff is going to have to determine if that's going to interfere with any future logging activities or forestry. Director Tippett said that gets you to the level of permit you are going to require, even in a Director's Use Permit, not knowing specifically, but looking through it earlier, you still need a recommendation from a forester when you are doing a use permit as to the area that they would recommend for you to locate for areas of cultivation. So essentially you are taking the report, they are putting in data, and it gives you a chance to evaluate it. Planner Jelich stated he was trying to make it as simple as he could and still meet the need,

and when the staff report comes before you, you are still going to want to have that background information because one of the findings you are going to make is that it is not adversely effecting management of the forest on the land. It seems we would need something more than just having a public hearing before the Commission; if there were other issues involved beyond site class, then he could see maybe it would warrant the Commission's review, but having somebody just look at it to see where does it make sense to put this house, or cannabis grow, then the RPF working with staff would probably be less onerous.

Commissioner Stewart asked what about a 5-acre parcel where there already is a house, there is already an area that is cleared for a vegetable garden say, or something like that, if they want to grow what sense does it make? Planner Jelicich asked so your suggestion is to add language if it is below a certain acreage then they don't have to have a RPF involved? Commissioner Stewart said right. Director Tippett said maybe the easiest way to approach that is - if it is under a certain acreage and doesn't require a conversion permit. Commissioner Stewart said she doesn't know what that acreage would be but... Director Tippett said what essentially it is saying if it doesn't need a conversion permit you are not... Commissioner Stewart asked so you don't need a conversion permit? Tippett said correct, but you will still need to make sure they are not landing on a (log) landing or some area like that. It's something to consider, but one of the things that you as Planning Commission and the Board look for is verification, something that validates, what the applicant is applying for, so we are really sure what is being presented is what is actually happening out there. Planner Jelicich stated to pursue what Commissioner Stewart is saying is that the first paragraph of B should read "Agricultural uses on Site Class IV or V timberland (Dunning scale) as determined by a Registered Professional Forester, or less than 10 acres, or whatever you folks think is appropriate", and asked if that is what she was saying. Commissioner Stewart responded yes. Jelicich said and then that wouldn't require a Planning Director's Use Permit, they could just do it. Chair Matthews stated the issue with that is protecting adjacent properties, maybe you shouldn't be Ag-Forest like we've heard. Commissioner Frasier said at the same time the adjacent properties should be protected under the marijuana ordinance itself, we shouldn't be writing Ag-Forest for marijuana because they wrote marijuana for marijuana, so the main thing would be to protect the Ag-Forest rather than making marijuana work. Director Tippett said correct, what we are trying to do tonight is really write an ordinance for Ag-Forest and you kind of have to fight the urge to model it after cannabis, because we are not modeling... there are cannabis references. Commissioner Stewart said that's why she mentioned vegetable garden. Commissioner McHugh said that begs the question why mention cannabis at all. Planner Jelicich responded in his opinion, it would be important just because the urgency ordinance isn't going to get into the issue of forestry or resource issues, so if it's okay, if you are going to say it's okay in Site Class IV and V, why not just go ahead and say it's okay. McHugh responded but so is the rest of agriculture. Jelicich said yes, but then when you get down to Site Class I, II and III that is important resource land and some other criteria should apply there, so the Ag-Forest, in his opinion, should address that kind of an issue; he doubts that the cannabis ordinance will talk about that, he guesses it could. Commissioner McHugh said it certainly won't talk about site classifications, but it would mention Ag-Forest, you are permitted to grow in Ag-Forest, so he doesn't think we need to say you are permitted to grow in Ag-Forest because that is up to the cannabis ordinance. He said he does believe you can say agriculture should be done in Class IV and V, the discussion about whether its required on certain parcels outstanding... Director Tippett stated you specifically mentioned agriculture instead of the word cannabis you will be okay. Planner Jelicich stated we can take out that second sentence under B. Director Tippett said from staff and the ad hoc committee aspect, they look for the word agriculture uses when we have been going through the... really the key word is agriculture. Jelicich said so what you are suggesting delete the second sentence under B and put it under Bb, and then under Bb, the Planning Director one, the first paragraph at the top, delete all that. Chair Matthews said no, change it to agriculture, change commercial cannabis cultivation to agriculture. Commissioner McHugh said it's the same reasoning, you're allowing agriculture and if it's a Site I classification why wouldn't you want to look at that. Jelicich responded that's going to be awfully hard

to enforce though. With cannabis, you have a license that you are going to be able to tie it to, for somebody that tries to grow potatoes or strawberries out there, we're not going to know that's not going to happen. Director Tippett said you are still going to need a conversion permit. Commissioner Frasier said to convert timberland to agriculture, and if you grow your potatoes or tomatoes under the trees without removing any trees you're not harming the Ag-Forest aspect. Jelich said and then the ideally you want to change the words commercial cannabis to agriculture. Commissioner McHugh said he would go back on B, as Ms. McIntosh pointed out earlier that, we were referring on verbiage in B to restate you are subject to meeting all state and local... I would say put that under agriculture - agricultural uses on Site Class IV and V timberland (Dunning scale), subject to meeting all local and state agricultural requirements. Jelich said he sees, put the "subject to" part up front. McHugh said if you want to open a dairy you have a whole boat load of stuff you got to deal with. He said don't mention cannabis, just mention agricultural land. That simplifies it, you keep cannabis out of here, it's a special case. He said, and put the burden back on the cannabis ordinance to decide if it's okay in Ag-Forest. That's where it should be, personally. Chair Matthews said or in Agriculture. McHugh responded that's for them to deal with. Chair Matthews said it's for us to deal with. McHugh said well, it will come back to us.

Commissioner Stewart asked what about doing a Director's Use Permit, or do we want to have them have to come to the Planning Commission if they want to do something other than just trees if they are under 10 acres say without having to do the full RPF and Dunning scale? Chair Matthews asked if there is a maximum parcel size or minimum parcel size listed for... Director Tippett said if he may, sometimes it's easier on some things like this to start with a base line of a program you are looking to have, and see if we have it, a lot of ten acres... we may not have that many 10 acres show up that require this, but if we do you know we can look to take specific action on that, to make it easier as we proceed along, but what he's getting at is we'll trying to solve a problem that might not be a problem. Chair Matthews said we don't have the distribution of parcel sizes in Ag-Forest. Tippett said he doesn't have the sizes, but we have about 1,450 resource parcels that are Unclassified, and he would say looking at a lot of the charts and stuff, a lot of them are pretty large parcels, occasionally they are smaller but not very often, but they are scattered throughout the county and about 80 to 90% of them are going to lend themselves to Ag-Forest just by nature of where they are. Chair Matthews said and that's for the General Plan process, they're not Ag-Forest now. Director Tippett responded correct. Planner Jelich responded it's zoning. Tippet said but quite honestly, he perceives once this goes through, you know the Board took action the other day to give a small credit of \$1,000 towards rezoning of Unclassified lands that are in the Resource Land Use Designation, so as he was saying, he would see a lot of those plans coming back as Ag-Forest; but, again, he thinks we're not going to see a whole lot of them. He said he can go back and get them through our GIS system, but when he looked at it _____ big lots. Commissioner McHugh stated he thinks it would be useful to have that data, maybe we are not solving a problem outside that one neighborhood, maybe we should... Tippett said he can definitely produce that before we take the final action. McHugh said just keep that as a pending item for the final hearing. Chair Matthews said speaking of which, and asked if Director Tippet could review the time frame for the Commission and audience on where we go from here assuming we come up with the recommended language. Planner Jelich responded assuming you are going to finish tonight, what I would do, I'll take this back, there really aren't that many changes to make, and then we have to have an environmental document on it of some sort, and circulate that; CalFire, he is sure will be interested and maybe others, and then come back before you, so it will probably be like two months before it comes to you, and then it would go to the Board two months later. It has to circulate for 30 days. Chair Matthews said 30 days, so unless we do it as a special meeting the end of May. Jelich said it could maybe be the first meeting in May instead of the second one, and we have to wait, the Board has added an extra month to the process, so we have to wait another month for you to approve the Minutes and then the following month, so it wouldn't go to the Board until July anyway. Director Tippett stated the Supervisors have indicated that they would be willing to review the Minutes that are recorded (on DVD) for that particular

situation. He said there is a desire of the Board to move this process along expeditiously. Commissioner Stewart said and that's her issue with having to bring it back to us, if we don't finalize it tonight, that just delays it even further. Director Tippett said the size... Commissioner Frasier talking to Commissioner Stewart about an environmental document [inaudible]. Commissioner Stewart said they can't do the environmental document before that. Director Tippett and Planner Jelicich talking [inaudible]. Planner Jelicich stated we put that issue on the back burner, that has to do with small parcel sizes; we can come before you next time, and Rick has volunteered to find out how many of those small parcels there are, and then that's a pretty small change, that's a minor change to make if you wanted to do that at the next meeting. Someone in audience speaking [inaudible]. Tippett asked do you have it by area. Someone in audience responded they have the whole private parcel breakdown. Chair Matthews said he doesn't know it's going to change anything we do tonight. Director Tippett [inaudible]. Chair Matthews called on Ms. McIntosh. Liz McIntosh stated she came a few weeks ago, months ago, and she gave you guys some data from the spreadsheet, and __[inaudible] lot acres. She said there is 385 in the entire county, 233 of them are 20 acres and over, and just 25 of them are under 5 acres.

Chair Matthews stated small numbers. Commissioner Stewart asked so we would just deal with those on an individual basis. Director Tippett stated he would bring that information to the Commission though, compile it, both in Ag-Forest existing and potential Ag-Forest rezoning in Unclassified zone. Chair Matthews stated and that's going to make it a much bigger number, right. Commissioner Frasier stated that'll work. He said he thinks we should clean up some of the commercial cannabis words. Chair Matthews said have at it. Commissioner Frasier stated when we have Class I, II or III timberland still says commercial cannabis cultivation. Planner Jelicich asked him where he was. Frasier said under Bb. Director Tippett said I think your general direction is to purge cannabis and substitute agriculture, and we will do that. Frasier said and then under this Class I, II and III timberlands, do we want to allow that with a director's permit or would that be something that should require a conditional use permit? He said he knows Commissioner McHugh was questioning that earlier, and that's something that could be concerning and it would be less likely in a commercial cannabis operation than other agricultural or you could have to clear larger areas. Planner Jelicich said speaking as a staff person, if I was going to be taking in an application like that I would want the applicant to prove to us that this is not going to adversely affect the resource, and one way to do that is have a RPF do it; maybe there's other ways to do that, but he wouldn't want staff to be coming to the Commission and recommending approval just because somebody wanted to do it; he said he can look at a map and see a bunch of trees and say what site class that is. Commissioner Frasier said he can understand, it's already broke down in site class, so the Class I, II and III, but his question is, how... under Director's Permit what's the process for you guys to determine if it's going to interfere with future logging. Jelicich responded we would want the report from the RPF, he'll determine what the site class is from these other uses. Commissioner McHugh said he's not sure he followed Jelicich's answer. Planner Jelicich explained if there's parcel and there's Site Class IV here, and I or II or something, and presumably the best location is where that Site Class V is; if its 1, 2 and 3 or if it's all 3, maybe there's a pocket there where it works out fine, or there is a log landing and he says you can't put it there because that's the only log landing in the area; maybe the guy doesn't do it at all, maybe it just has to stay in the trees, and then it's up to the RPF provide that kind of background information based on his professional expertise. McHugh said okay he gets that part, but the question the commissioner raised is should this paragraph be moved under Paragraph (Section) C, or is this a Director's Use Permit or a Conditional Use Permit? Planner Jelicich said that is really up to you guys. He said he wonders what benefit there is by requiring a Planning Commission meeting, they are going to want the same information. Commissioner Stewart said she doesn't think there is any. Commissioner McHugh said fair enough. Chair Matthews said if there is nothing more complex than establishing site class... Commissioner Frasier said establishing whether or not it conflicts with future logging operations. Commissioner Stewart said and they're required to get the document. Commissioner Frasier said that's a document he hasn't run into in all the harvest plans and stuff that he's ever looked at, there isn't one that... when you talk about timber stocking that's your future logging

operations, but it's just he's sure a RPF would be qualified to do it, he just doesn't know that it would be... Chair Matthews said be willing. Commissioner Frasier said they might even be willing, but it's just not something that they are asked to do a lot, because to determine whether or not this is a place for agriculture in the middle of the forest, it's usually they determine how to grow timber or how to get the most money for the timber you have. He said he's okay with it, he just sees that there's, that is a place where there could be cause for a problem. Director Tippett said when he reads it, it says "negatively detracts" from the forest. You know, what they are doing may have a negative impact on production, and he thinks that be appropriate to have a Registered Professional Forester. Commissioner Frasier said he's just saying he doesn't... I could see where... Registered professional foresters are people too, you could have a registered professional forester that says one thing, and the next one can say a different thing. It could be that somebody says well yeah, it's not going to detract from your future logging because you can still log everything to this landing; okay, but that landing in the very top corner of an 80-acre parcel and the timber is down here, so this landing that now has agriculture and a house on it is at the bottom corner of this property, now everything has to be adverse logged to the top corner in order to log it, and I've actually logged that parcel, for everything, 40-acres, had to go all the way up and across the road to the top landing, where if there wasn't a house on this point right here, everything goes downhill, which there is also a good possibility the Planning Commission is going to look at this and say this isn't going to work because you are adversing everything, but it should be an issue. Planner Jelicich said "you want a lifetime appointment". Commissioner Frasier responded "no". Chair Matthews that's fitting criteria for the report the RPF would prepare, and it might be a new kind of report he has to prepare. Frasier said it doesn't make it impossible to log that parcel, but it might make it impractical. Jelicich stated he's hoping that's what the RPF is going to be able to help us with, because we don't want that kind of a situation to happen. Commissioner Frasier said what it comes down to is whether or not the Director or the Planning Commission is going to make that determination whether it interferes with future logging because yeah, the RPF is going to tell you whether or not it does, but whether or not you are going to agree with it, somebody has to decide that. Commissioner Stewart said if we don't have a forester on the Planning Commission we're not going to have pool? anyway. Commissioner Frasier said and I am not a forester. Commissioner Stewart said somebody familiar with it. Planner Jelicich stated it would be highly unusual for a Planning Director not to go along with what the professional forester says. If there was that type of disagreement, it would probably be bumped up to the you guys at that point, but he just doesn't see that happening. Commissioner Frasier said he guesses if the Director denies a permit, then it would come to the Planning Commission. Jelicich responded it can be appealed to you. Commissioner Frasier said in Ag-Forest those concerned with protecting the Ag-Forest part of it will be more likely... He would see more of a likelihood that it would be a director issued permit, rather than denying it. He said he'd go with it as a Director's Permit because he thinks it's going to be an issue. Jelicich said this is going to come back to you. Commissioner Frasier said okay.

Chair Matthews asked if the Commission was in agreement and each member responded in the affirmative. Chair directs staff to make the requested changes to the draft Ag-Forest ordinance and bring it back. Director Tippett said we would like to bring it back with the environmental document. Jelicich said we would schedule a public hearing before the Commission. Chair Matthews asked the first meeting in May? Director Tippett said that would be our target. Chair Matthews said that's the soonest it can be. Jelicich said he can't promise it will be the first meeting in May but he will try. Commissioner Stewart asked please keep in mind, and I know you are, the people in Ag-Forest designation cannot move ahead until this is done. Director Tippett said we are having a consultant help us with this, so we are moving forward. Planner Jelicich stated these are not delays caused by us, there are statutory requirements. Commissioner Stewart said she recognizes that. Chair Matthews said so once we approve the environment document in the final form, say in early May, it would go to the Board of Supervisors in early June, or the end of May, then it doesn't go into effect for? Tippett responded he would have to ask County Counsel, and asked her how long it has to be noticed for the Board. Counsel

Long responded if we do a 10-day notice, we could get it on the last meeting in May, we could make that work, then of course we would have to have two meetings, since it is an ordinance so we would have to have two meetings and then it would go into effect 30 days after. Chair Matthews said we are talking about July basically. Commissioner Stewart said so anybody in Ag-Forest should just forget about growing this year. Director Tippett said well, they can coordinate with us and we can take a look at what's going on.

Chair Matthews called a five-minute break at 8:35 p.m. stating we will reconvene at 8:39 p.m.

NEW BUSINESS

5. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK P-17-04

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 1840 Red Hill Road, Junction City. APN 12-270-36. Applicant: Yacoub.

Interim Planner Jelicich presented the staff report. Staff recommendation is to deny the request for a variance from the dwelling setbacks, finding that the request does not meet the criteria (topography, size, shape, location, etc.) to approve a variance; or alternatively, grant the variance to allow reduction of the cannabis cultivation setback on APN 012-270 from 350 feet, although he doesn't know what findings can be made to allow it. He said if you decide to approve the variance, he has also gone ahead and put the various findings, like he did from the last meeting in case you want to go ahead and not delay it any further.

Director Tippett stated he would like to also add, at the last meeting you guys made the finding that cannabis was observed being cultivated on the parcel where he did not meet the 350'. He said he just wanted to point that out for consideration. Jelicich said there is a map that shows there is a grow on one of the adjoin parcels anyway, but the applicant will be talking about that some more.

Chair Matthews asked if there were any questions for staff. Commissioner McHugh stated yes sir, Mr. Jelicich under Option 1 it says "setback from dwelling #1, as shown in B-2". Jelicich said okay neighbor 1 as shown in Exhibit 2? McHugh asked is that, that AP number? He thinks there may be such a question on that one; but just for clarification, you mean in this option to adjust the location such that the 350' setback is met from neighbor #1? Jelicich responded yes, and he doesn't really care which one it meets but one of them would be met, that's true, and then the applicant has some ideas on that as well.

Chair Matthews opens the hearing to public comment.

Applicant, Laith Yacoub, stated he wanted to point out that denial was based on the 350' setback not being met from just two dwellings, not two different dwellings on two different properties. What he feels would be important for the Commission to understand that when we began this endeavor we chose to keep the ecology of the land, the preservation of the land in mind, above and beyond anything. He said if you notice on Exhibit B-1 it is an aerial photograph of the land and the blue outline is the current site. He said we actually applied and paid for a tier 2 based on information that we supplied to the State Water Board and they determined us to be very low risk, low environmental impact, because of our cultivation practices and the location of it. As you can see, the property widens as it goes towards Red Hill Road, but in that area right smack dab in the middle is the well, which is the sole water source for the property. He said as elevation goes it is only a 6 or 7 foot difference for the entire length of the property so the slope isn't that great at all, but in that area are a lot of standing, what he would consider, old growth fir trees ranging anywhere in size from 24 to 36 inches in diameter, and upon looking at the

possible setbacks we noticed that most or all of those trees would have to come down to make it possible to put that garden in that area, even a smaller garden in that area, because of all the shade it would provide. If you were standing at one end of the parcel it crosses such a thicket you can't see through it and it also creates a visual border from Red Hill Road. He said now coming in and knocking down a lot of trees just for the sole purpose of cultivating on the property, to him is just immoral, not only does that create an eyesore for people traveling up and down the road, it could devalue properties, it obviously will not put you in good standing with your neighbors, and those were the sacrifices that we made to determine the best strategic location for the actual garden site; and if you noticed in the center there was just one tree that we had to remove to create what we consequently came up with to the State of California, but that's just to bend around what other vegetation was on the ground. With just keeping the preservation of the property in the highest of consideration and respect for neighbors, because really without that you have nothing. He said not that it couldn't be located up there, but the location of the well and the distances would really only gain the setback from one of the dwellings, and that particular dwelling is owned by somebody who doesn't live in the county, it's not occupied as far as he could tell, we attempted to go over and knock on some doors. He said in that he was able to meet a couple of other neighbors and he drafted up, he knows it's not necessary, it's not required, but to show our level of respect that we are trying to gain in order to make sure we are not a nuisance to anybody, he drafted up an approach. Planner Jelich asked him to say their names and point out on the map where they live, and then give it to the secretary. Yacoub said first there is Jack Forth and Colleen Woodhouse and he showed their location 300' away; there is another home here which he believes is Cathy Vogt's and showed her location; the other is John's and I believe his parcel...[inaudible], not that they are... their actually property lines are affected by the 350' setback, not the actually dwelling, by in line of site they can see our fence. One thing that we took into consideration was the construction of the fence. We didn't want to go with a cookie cutter, 6' cedar, dog eared, rectangle, eyesore, so we tried to design our fence with a couple of different angles so it is kind of appealing rather than an eyesore. The only other issue that it would resolve is a distance, not from the one that is already 270', it would be from my neighbor that is 300' away which is Jack. He said what he did is he drafted up what he labeled as a "commercial cannabis cultivation abutting neighbor consent form which he then read into the record, and submitted three of those forms for Planner Jelich who in turned submitted them to the Clerk. Yacoub said he understands that no special privileges are to be given unless you meet certain circumstances, and he is hoping that umbrella of circumstances also covers morals and ethics, not just arbitrary numbers. He knows it is kind of an unconventional approach, but the opportunity that the County and the State are giving small farmers to open up new businesses should be looked at with a great deal of respect, it's a right and a privilege, and we are hoping that in showing the sort of respectful use of the land, the respect that we have for our neighbors, that the variance would be approved, upon consent that the neighbors do not have an issue with it. He said it's his understanding that letters went out and it is also his understanding that no rebuttals were submitted, nobody around had an issue with it. As far as the relocation, like he said before, he wanted to reiterate, would pretty much be deforestation; there's a hundred plus trees there and we just don't see that being... it takes away from the integrity of the neighborhood; to have all those beautiful trees taken down and a great big fence put up there, right on the side of the road. That's pretty much the conclusion of his argument, for a lack of a better term, of why we didn't place the garden up in that area. We sort of sacrificed setbacks for preservation.

Chair Matthews said just a question, there is another structure, another dwelling, across the road that would... you would start running into setback requirements for it. In fact, it would have to be, well direction would be towards the house from the well to meet 350' from that house, he believes. Yacoub responded but thinks you run into road distances as well at that point; a lot of thought and planning went into the garden in the hopes that our mission statement would be appreciated and looked upon. Chair Matthews said he guessed we can ask questions of the applicant now, rather than having him come back up. He said so the consent forms that you submitted were from people to the east? Yacoub responded yes. Chair Matthews said only to the east, so the house, the dwelling that's only 271', you don't have?

Yacoub responded he hasn't been able to contact them, it's owned by somebody that lives out of the county, but he thinks they were notified by mail and there's still no complaint filed or statement against has been received.

Chair Matthews asked if any of the other commissioners had questions of the applicant. Commissioner McHugh asked that 203 number, is that setback from the property line. Yacoub responded no sir, the 203 foot is our proposed expansion, if we were granted a tier 2, which is what we applied for. The reason we applied for the tier 2 is because we met the criteria that the State Water Board would want for a tier 2. Commissioner McHugh said so if you expand into the green the 271 becomes 203? Yacoub responded exactly, but under the allotted 10,000-foot cultivation area that you get with a tier 2, even with the expansion, we would be about 72.50, about three quarters of that. The reason being, is because if we went the other direction then we have a third property, a third dwelling in question. If we were to go directly north, that would require the removal of a huge live oak, that is kind of the centerpiece of the meadow if you will. Chair Matthews asked if there were any more questions. Commissioner McHugh asked the building that is just north of the building on the east that has a 350' setback, is that also a dwelling? Chair Matthews said right over where it says exhibit so there's a building that's close to... Yacoub responded no, that's a barn, and it belongs to my neighbor Jack. Commissioner Stewart said and this grow site is, or what appears to be a grow site, that is just east of the 271, that belongs... Yacoub responded, no, no no. The existing, the legend isn't very clear, the blue outline is the actual existing fence line, the green outline, is... Commissioner Stewart said no, she's talking about this place, right over here, there's a large grow. Yacoub said that's a parcel over. He thanked the Commission for considering his variance.

Chair Matthews opened the hearing to public comment.

Comments received from Liz McIntosh, Christian Figueroa, Debbie Lono, and Tom Ballanco in support of the requested variance.

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

Commissioner Stewart said she would go ahead and make the motion so we can have discussion. She moved to approve the variance to allow reduction of the cannabis cultivation setback on APN 012-270-36 from 350 feet measured from neighboring dwelling to 270' from neighboring dwelling APN 012-270-41) and a reduction from 350 feet from the neighboring property to the east to 300 feet, subject to the conditions of approval and based on the following findings of fact 1 through 4: (1) There are special circumstances applicable to the property that, with strict application of the zoning ordinance, deprives it of privileges available to other properties with similar zoning in the vicinity that plan cannabis cultivation; (2) The variance is not a grant of special privilege to the applicant because the cultivation site cannot be located elsewhere on the property and still meet the cannabis setback requirements, (3) The granting of the variance is in harmony with the general purpose and intent of the Zoning Ordinance urgency provisions for commercial cannabis cultivation; and (4) No opposition from surrounding property owners or review agencies was submitted that would adversely affect approval of the variance; and she said she would add a #5, that the applicant has signed letters of support from the neighbors. Chair Matthews asked if she wanted to include the Conditions of Approval on the next page. Commissioner Stewart said she already stated that in her motion. Commissioner McHugh stated he will second, for discussion. He said but he does have a question, he's wondering if that APN number is correct for the neighbor, 12-270-41 and asked does anyone have the parcel viewer here, because if that's not correct, it shouldn't be in the motion. He asked what's the parcel number of the dwelling to the east. Yacoub said the parcel to the east is 012-260-89. McHugh said that's what he thought, that's not the parcel number that's in here. Yacoub said now west would be the 41. McHugh asked the one that needs reduction to 300 feet is which one? Yacoub responded reduction to 300, that would be the 36, 012-270-

36. McHugh said he thought it was 26, he just wants to make sure it's correct, you called out the neighbor's APN... Yacoub said I'm sorry, 89, and apologized stating 012-260-89. McHugh asked it's the one that requires how much of a setback? Yacoub said the 300 foot. McHugh asked and the one that requires 270? Yacoub responded that is 012-270-41. McHugh said okay, I stand corrected, my apologies.

Chair Matthews stated we have a motion and a second, and asked if there was further discussion.

Commissioner Stewart said one of the reasons she is making this motion is that she doesn't believe, and when she first read this it had nothing to do with anything someone said, when I first read this I thought why would it be okay to cut down a whole forest of trees in order to meet the setback requirements. That makes no sense to her at all. To her, all those trees, are the same principal as the McIntosh's wetlands, and so to her that is what makes this acceptable. Chair Matthews stated his only issue is the fact that the neighbor at the 207' we haven't heard anything from them. He said his personal belief is that you should have approval from your neighbors and if you do, then you're fine, but if you don't, you know you could be traveling... I mean it's a one year variance so if they come back and say we had a horrible experience, you know, it might not get renewed next time, that's just one of the risks you take. Yacoub said if he may, I have communication from a relative of the property owner, I wanted to cover all my bases, I was unable to get a written consent, but I was able to get an email back and forth, and I don't have permission to make that public, who the person is, but I would like to present it if I may. Chair Matthews advised him that it becomes public if you present it. Yacoub asked it's not for your-eyes-only kind of thing? Chair Matthews said unfortunately not. Yacoub asked if he could read it.

Chair Matthews asked Mr. Yacoub to come up to the podium and reopened the public hearing briefly for this matter, for additional information.

Mr. Yacoub said this is from the sister, "just spoke to (the property owner), said you can call tomorrow at work", and I tried calling to no avail, I just left a message, "she and I have both decided not to sign anything however verbally we have no problem with you doing whatever you want to on your property". He said his response was okay, no problem, I understand, people can get a little leery when it comes to signing anything, I do appreciate your verbal consent. She said "no, don't worry". Chair Matthews thanked Mr. Yacoub, and asked the Commission if there were any further questions.

Commissioner McHugh stated he's inclined to support it because we are going to put a one year timer on it. One side of him says the supervisors put a 350' setback on there, and they meant 350 feet; so, the variance law says there needs to be something unique about the situation, and he guesses he is being swayed by the environmental and neighbor perception of the grow being a unique situation. He said he would have to think a long time about giving a permanent variance in this situation, but since this will run with the license and there's time, although you are running the risk if this changes in the future, both from this variance situation, as well as the urgency ordinance licensing requirements, and zoning changing, and everything changing out from under you. Unfortunate it is that we are in that situation, but he thinks because of the time restrictions we are going to put, and concurrent with the license for one year, with the Director reviewing it to make sure nothing has changed, to avoid a trip back to the Commission which he thinks is our operating thesis, but he would support it.

Chair Matthews asked if Commissioner Frasier had any comments. Commissioner Frasier stated he's kind of in the same... your comment earlier where the one dwelling has a 270' setback, that concerns him. He said he knows the email does kind of shed some light on a verbal agreement, but it's... in our last one the residence was too close, they had their own grow, and that makes it easier to determine that you're not affecting the neighbor if they are growing in their own yard, your grow isn't going to affect them, so that's his only concern. That was one of our findings last time, that the affected neighbor also

had a grow so it wasn't an effect, so we can't find that same thing this time; neither... there's no obvious grow site on either of the adjacent dwellings where there was before. He said that's his only concern with this. He said he guessed this is one of the neighbors that granted consent, the 300' neighbor, but the 271' neighbor still concerns him.

Chair Matthews called for the vote. Motion carries unanimously 4-0.

Planner Jelich asked if he could get clarification of direction. He said his confusion on this, we have eight of them coming up next month, so he would like to know exactly where he is heading. The urgency ordinance says the variance process described in the Zoning Ordinance is what we use, so that is what he was using, but if the Board, presumably, or the urgency ordinance folks, have some sort of different criteria that they have in mind, such as, if you get letters from all the neighbors then it's okay. That's something he kind of needs to know, it makes writing the staff report much easier if that's the criteria' because the issues of typography, size and shape and that business wouldn't necessarily be different. Chair Matthews said he would say it is still relevant. This question of environmental damage to relocate a cultivation site to a place that, the only place that would meet the setback requirements, he thinks all of the commissioners are sensitive to that, and that does create, whether it's wetlands or forest, it creates, you know whether it's unique or not... Commissioner Stewart said a very negative impact. Director Tippett advised if we are going to discuss this further, we need to be agendize it. Jelich said he'll keep doing what he's been doing then. Chair Matthews said if the Board doesn't like what we are doing they can tell us. Counsel Long stated for clarification, she doesn't think there is an issue, she thinks the Commission is allowed to interpret the ordinance and make any determinations as it sees fit, which is what you did tonight, so there would be no additional direction from the Board, you would just have to make the decision as how it applies. So, she thinks we are all good and we can work with staff to make sure it's clear when you write staff reports leaning to the direction of what you feel comfortable with, knowing your preferences, but again, it's going to be a plain language interpretation based on your reading. Chair Matthews said he thinks the only thing he would clarify, based on the motion, the extension was not approved, of the garden, it's 270 feet, so that additional area is not part of the variance.

6. DISCUSSION REGARDING TESTING FACILITIES FOR COMMERCIAL CANNABIS

Discussion regarding testing facilities for commercial cannabis.

Chair Matthews said we received this staff report this evening, he hasn't read it, so unless there is some overriding reason for us to try to move forward on this, his preference would be that we continue it. He said he hasn't reviewed it, and unless we sit here and read it, it is going to be difficult for us to...

Counsel Long said she understands, this is going to be a multiple part process as well, this is just a discussion item. She is assuming individuals here in the audience who are here to speak on the subject, she wants to recommend that you allow staff to introduce it and allow public comment to take place, and then if you have direction at that point, great, if not, we can continue it to another meeting for you to give your direction.

Chair Matthews asked staff if it would like to present the item.

Director Tippett stated one of the things we have in the cannabis, MMRSA law and UMA essentially is that there are several licenses that we have to go through and develop how we would apply land use regulations to the license itself. The first one we chose to tackle was the cannabis, but now the ad hoc committee and the Board, would like us to start taking a look at some of the other ones and kind of trying to address each one until we get through all of them. The first one picked, is what he calls "low hanging fruits", which was the testing procedures, and so what we did was write up a draft ordinance as

to what we believe it will look like from the staff level. He said he did talk to the ad hoc committee and they weren't really looking for line by line review but they would like you to kind of give us an overall of what your thoughts are, and they were really kind of focused on some questions which he listed in here, which is what zoning districts should cannabis testing facilities be allowed? In the ordinance, we are looking at not necessarily retail commercial which would be C1, but for the heavier type commercial C2 and C3, but not Highway Commercial which would be like restaurants and things like street corner, and then also in Industrial areas, and SUDs only if the SUD language in itself, but that's plan developments, only if the language was specific to, such as the Industrial Park is, and all these parcels are Industrial then you know it would be something you can consider, but if all these parcels are Residential then you say no, but we have to look at the SUD conditions in order to provide input on that. Tippet said some of the other questions were, we had written it up where use permits would be required for a facility, and we wanted to know how you felt about that, was there a particular method of testing that we should be looking for and we are looking to see if we got comments from the public; then also, should the use permit be transferrable between individuals, not between property, the property would have the use permit, but for instance, right now if you have a commercial property that develops, let say like Dollar General has received a use permit, Dollar General can leave and Mini General can come in behind them and use that property with the use permit that was originally approved for Dollar General; and we are kind of looking at the same thing, that the property be permitted but the owners could change and we wanted to find out if you guys would be acceptable to that. He said and then there was a little bit of talk about the types of CEQA documentation that would be looked for when we went to actually do the use permit; and then should there be variances allowed for testing facilities within 500 feet of a youth facilities, schools, a church, medical treatment facilities, because once again this is very contained in it and it's got a different appearance than some of the other ones, than say cultivating cannabis which is out in the open. And then also what type of signage would be allowed for the facility. We want to limit it to narrative germane sign or do you want to allow things that are a little more pointed toward the cannabis testing facility. So, we have attached the ordinance, we have the findings, the definitions, the applicability in Section 2. He said as he has mentioned, we have C2, C3, Industrial and all other areas being eligible, except for SUD. And then we have regulations that we would set up a licensing program within 60 days. Should not be within 1,000' of a school, 500' of bus stops. The owners/operations/employees of the cannabis testing facility shall be independent from all other persons or associations involving the cannabis industry and shouldn't hold any other State or County licenses; and what they're looking for is that they are not cultivating and testing, so it's a stand-alone industry, independent of everything else. The testing facility shall be registered with the state when that comes about, there's nothing there right now so it is in a sense a placeholder. He said and then we had some stuff about where to go to for standards and it was kind of what we are seeing from other agencies who've written us; then we want to be, testing facilities obtain samples in accordance with a statistically valid sampling method, meaning testing as the standards apply; that they should destroy samples after they are done and that the testing facility shall comply with all safety standards from California Health Department, Cal OSHA and the other ones listed there, and then the CUPA because some of the materials that they use to test can be hazardous in nature, and so there's requirements as how to handle and make sure that those are handled appropriately. And then cannabis will not be sold or consumed on or within the premises, which again this is not meant to be a dispensary, it is just meant to be a testing facility. He said we have the findings on the following page and so he left them in there, and then we have conditions, and the conditions are that the testing facility shall be open County and State inspection as required; the owner and applicant would allow for inspection; the testing facility, the owner would indemnify the County as what would be required in cultivation; the facility shall be responsible for ensuring that all cannabis testing activities at the site operate in good standing with County Code and State law; and that the owner would be... if the operator doesn't comply and kind of, for better words, drifts off target and causes a problem, the owner of the property is also responsible for the behavior of the operator so where that kind of comes from is if the use permit gets yanked, the owner might come back and say well it was my operator, but we are saying no the use permit gets taken, it might be

problematic getting it back; the testing facility and related activities shall be maintained in accordance with the operations plan, we are asking for an operations plan and a safety plan to be approved; we also have hours of operations to be site specific; and the license doesn't guarantee that the applicant will be considered compliant with any future land use ordinance; and then the transfer would be with appropriate fees. Tippet said once again, it's not recognized by federal law and we do not grant any specific rights to violate federal law; and that when Type 8 licenses begin to be issued by Medical Cannabis Regulations that the license holder will file within 60 days; and that if there's problems with the State license that they will cease operations immediately and either take corrective action or essentially discontinue it at the site if it wasn't permitted by State law. He said the rest is about fees. The ad hoc committee is talking about \$2.00 per square foot plus \$1,000 to the General Plan Update for the first year and then in successive years \$1,000 for the license for the testing facility and then again \$1,000 for the General Plan fee. He said and again, for \$1,000 we are looking to accelerate the General Plan Update because our General Plan does not address cannabis at all yet. There is a significant amount of cannabis activities that are now taking place the General Plan has to be updated as fast as possible and be consistent so we can take care of the activities that we do. And then we had the discussion about the inspection/re-inspection fee and that's if we have the initial inspection but then we have to go out and re-inspect because there was a problem there is a fee to go out and re-inspect. And then Transfer between ownerships, we had preliminarily set that at \$3,000. We have put standard language in Denial/Rescission of License, which the denial rests with the Planning Commission, and the violations of and enforcement of that rests more with the code enforcement process that the Board has established. He said with that he can answer any questions.

Chair Matthews asked if there were any questions of staff before he opened public comment.

Commissioner McHugh asked if this reflective of to both the UMA and MMRSA? Director Tippet responded yes. McHugh asked any uniques in both of them are reflected here. Director Tippet said quite honestly MMRSA, we try to write our ordinances so they will fit into both when it comes time it's supposed to fit appropriately, and there are a lot of similarities, but there are a lot of differences between MMRSA and UMA but there's also similarities and we try to build on the similarities.

Commissioner Stewart asked if nobody in the audience has suggestions or thoughts on methods of testing, will we have some kind of authority coming in to talk to us about that, because she doesn't have a clue? Director Tippet responded we are kind of at a starting point, we had talked about that and this is what we have seen in some of the other jurisdictions that are in California and some of the other states that currently have operations. He said he has to remember the abbreviations but the International Organization for Standardization is the ___[inaudible], which is, I'm not sure I have the initials right, but that organization is a well known organization and they have identified testing standards for cannabis, so there are some of these companies, I'm not saying the Underwriters Laboratory does it, but Underwriters Laboratory like companies are out there and are starting to develop standards for cannabis testing, and as those become available we'll point towards them but it's just kind of trying to find a place to start and point in that direction. Commissioner Stewart said that makes sense.

Chair Matthews opened the matter up to public comment.

Comments received from Tom, Ballanco.

No further comments being received, Chair closed the matter to public comment.

Commissioner McHugh asked Director Tippet how much of this, probably not a lot, but how much gets obviated when license type 8 is finally available, and [inaudible] all of the standards are published, in other words, the State is setting all the requirements on the layout. Tippet responded we tried to write

this as much as we can towards land use requirements and land use expectations of how to handle material and business operations within the community, not necessarily moving back to the State law. We believe that the State law, when it becomes the testing standards, will be more specific, but we kind of wanted to choose a place to bridge to that time, but for the most part this is really meant more to be, and where the zones that we're going to put it in and how far to separate things, what kind of security plan are you going to provide, what kind of working hours, what kind of use permit do you want to have. Those are the kinds of things we are looking for, those aren't things that are established by the state necessarily. Commissioner Stewart asked if there is anything we need to be doing tonight other than thinking about it. Director Tippett no, we're going to notice it for action in the end of April, but we can bring it back next meeting just as a follow up to our discussion; but somewhere along the line we have to have a noticed hearing and it requires a 21-day notice, even if you recommend it to the Board for approval. Chair Matthews asked if there is any need to go through these 1 through 7 topics at this point, it seems like the ordinance is fairly complete at this point? Director Tippett said yeah, I've read to you kind of what we are looking for and I've read to you what the ordinance says, if there is somewhere where you don't agree with how we might address those issues, yes, I would like you to say that for me, but we tried to tackle all of them in one way or another. Chair Matthews asked should we go through these quickly? Commissioner McHugh stated frankly he would like some time to think about it, we just got the staff report tonight. It looks good, but he's not really sure he's ready to tackle them. Chair Matthews said we are going to hear it after it is properly noticed and brought back before us.

Commissioner Stewart said her only comment is, she thinks what you have in here is really good, but she definitely feels that variances should be allowed within that distance, or looked at as possibilities within the setback distances for schools, churches, or treatment facilities because it is a lab and so it doesn't really... it's not the same thing as a dispensary or anything else and as long as we do the signage so that the name of the company that is doing the testing perhaps and not say this is a cannabis testing facility on it then she doesn't think that it is going to be an issue. Commissioner Frasier stated he has an issue with variances, he would rather see that you didn't put any setbacks in there and that you ask for variances himself. He said he has an issue with granting variances, so he would rather see the setbacks either eliminated or because there is no existing testing facility in Trinity County... that we have tried to encourage to become legal, the person who moves in to buy land buys the parcel that fits the ordinance, so he doesn't think that the setbacks are really going to be as big as an issue with something that has no existing facilities that we are trying to deal with now with the commercial cannabis cultivation. Director Tippett said the setbacks that would apply right now would be the ones that you have standardized for C2 and C3 properties, and then the other setbacks would be setbacks that are particular to UMA and MMRSA would say, they would in themselves, State law, be kind of hard to meet all around. Commissioner Frasier stated our County Ordinances don't have any setbacks for a testing facility. Director Tippett said no it would be to the property, I'm not sure, but I don't think C2 has a side yard setback so. Commissioner Stewart said anyway those setbacks are based on schools and stuff like that. Commissioner Frasier said that's cultivation setbacks. Chair Matthews said we will look forward to this being back on our agenda in the future. Counsel Long stated just for clarification, the direction I am hearing is that we bring it back with eliminating setbacks and look at putting some type of restrictions in there, and asked if that's the direction she is hearing. Chair Matthews responded so far. Counsel Long said and just in case we change it again we want to have the language in front of you.

7. MATTERS FROM THE COMMISSION

Commissioner McHugh said he had a question for staff and thinks he heard Director Tippett reference earlier that the Board passed something this week about waiving the rezoning fees if someone has to rezone out of Unclassified to comply with this, did the Board apply the General Plan fee to that waiver. Director Tippett responded yes, it was to properties that either need a use permit or a rezone, or both together, and part of thought was one of the situations we had that is Ag-Forest, that is part of what we

worked through tonight needing a use permit, but if it were Resource/Unclassified you would waive that \$1,000 fee, but the guy that was zoned correctly, if you just made a rezone the guy that is zoned correctly would just be getting a use permit you would not be able to participate in that \$1,000 savings, so in a sense when we are applying it just to rezones to a use permit, it essentially penalizes the guy that was in the right zone, so that's why we applied it both to use permits and rezones.

Chair Matthews stated he wanted to give a heads up that he will not be at the first meeting in April, he will be on vacation. Planner Jelichich advised we had already planned there won't be a first meeting in April. Clerk Hanover explained with all of the cannabis we have been working on, we have not had time to prepare other projects for a regular meeting in April, so we will only have a meeting on April 27th. Chair Matthews asked and that's the one with the eight variances? Hanover responded in the affirmative. Commissioner McHugh wanted to know if we know our May schedule? Tippet responded not yet. McHugh asked about future meetings, stating these second meetings conflict for him with other things he needs to be doing, and asked for notification as soon as we are aware of the dates. Tippet responded for the future right now we will be meeting twice a month.

8. MATTERS FROM STAFF

Director Tippet stated at the beginning of the meeting there were several folks that mentioned Barker Valley Road, there is not, we are... there is a perception that we are not issuing permits, we will be issuing permits; there is an issue that needs to be coordinated... Commissioner McHugh asked what kind of permits. Tippet responded building permits, cannabis licenses. There is an issue out there with a CalTrans encroachment. Many people, even in this meeting it was mentioned, that the guy at the highway needs to be the one to fix it; but no, it's all the users on that street are, per state law, supposed participate. If you use an encroachment you need to pay your fair share is essentially what it is. One of the things was he wanted to get everybody what they need, but he wants to make sure he includes some phone numbers and names of people so I had asked CalTrans to give me some people to contact so that when these folks come in to get their license or permit, I can suggest they call this person or call that person and help participate in what's going on out there, so that we can come to a solution. He said what we don't want to happen is we want to avoid getting down the road where CalTrans were to pull the permit for something like that, and if you don't have a permit, you don't have access, and if you don't have access, it makes it problematic for us to issue permits. So, we want to... there's a great desire to try to resolve this issue, it's a CalTrans issue, not a County issue, but the least we can do is provide the names of people that they can contact with, get in touch with, and try to resolve it on their own. The only reason he hasn't issued someone the license on Monday is because I hadn't heard back from the right folks, and I was out of the office yesterday and today, so I'll be looking into it again tomorrow and maybe we will move forward tomorrow, but if not, then Monday first thing. There's no "I'm not issuing permits". It's the wheels of city hall turn slowly. Chair Matthews said but it's a private road? Tippet responded in the affirmative. It's a County road, it's a CalTrans issue, it's not related to our stuff. Commissioner McHugh asked what's wrong with the encroachment, is it physically damaged? Tippet responded there is something that CalTrans is not satisfied with, he's not sure of the particular issue, again, it's a CalTrans and property owners' issue, but at least I need to be able to provide numbers to people to call. Commissioner Stewart said and so once you have all those numbers you will be giving them out. Tippet responded yeah. Chair Matthews asked is there a road association? Tippet responded he doesn't believe there is. Commissioner Stewart said she's getting yeses that there is a road association. Tippet said again, this is a CalTrans issue, it's not a County issue, all I'm trying to do is make sure I hand out pointers, you know, send them in the right direction.

9. ADJOURN

The Chair adjourned the meeting at 9:53 p.m.