

## TRINITY COUNTY PLANNING COMMISSION

Regular Meeting  
September 26, 2019 at 7:00 p.m.  
Trinity County Fairgrounds Dining Hall  
Hayfork

Commission Mike McHugh  
Commissioner Graham Matthews  
Commissioner Diana Stewart  
Commissioner Richard Hoard  
Commissioner Dan Frasier

### MINUTES OF THE REGULAR MEETING

#### **CALL TO ORDER:**

Chair Mike McHugh called the meeting to order of 7:05 p.m. Members present: Richard Hoard, Diana Stewart, Graham Matthews, Dan Frasier, and Mike McHugh. Staff present: Director Kim Hunter, Deputy Director Leslie Hubbard, Environmental Specialist David Colbeck, Associate Planner Bella Hedtke, Administrative Coordinator Mary Beth Brinkley, Cannabis Site Inspector Ben Morillas, Outside Legal Counsel Derek Cole, and Pat Angell Senior Director at Ascent Environmental.

#### **PRESENTATION OF DOCUMENTS:**

All items presented to the Planning Commission during a public hearing, including but not limited to letters, e-mails, petitions, photos, maps or other kinds of information shall become a permanent part of the record and must be submitted to the clerk of the commission. It is advised that the presenter create copies in advance for their own records. If you have documents to present for the members of the Planning Commission to review, please provide a minimum of eight copies.

#### **PUBLIC COMMENT:**

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

John Brower, Peter Odobo, Justin Hawkins, Dan Davoudian, no name given, and Tom Blanco.  
Public Comment closed at 7:20 p.m.

#### **REGULAR CALENDAR:**

**MINUTES:** None

**TRINITY COUNTY DRAFT ENVIRONMENT IMPACT REPORT FOR THE TRINITY COUNTY CANNABIS PROGRAM:** Conduct a public meeting to receive feedback in response to the Draft Environmental Impact Report (DEIR) which has been prepared for the County's commercial Program.

Director Hunter introduced the staff.

Chair McHugh explained to the audience how the meeting would proceed. The purpose of this meeting is to receive public feedback in response to the DEIR which has been prepared for Trinity County's Commercial Cannabis Licensing Program which is a Countywide project. How we are going to proceed is that we will receive a presentation from staff in regards to the comments they have received on the DEIR and we review these items, the Commission will then ask questions and clarifications of staff and our consultant, then we will open up to public comment.

Mr. Angell then proceeded with the presentation of the DEIR. Following the presentation, he provided some additional comments regarding questions from the last several workshops. He wants to clarify that generally DEIR's come off as negative documents, that all they focus on is impacts because that is the function of how CEQA works.

Commission Stewart: I've had a number of people stop me on the street, they have called me, they have spoken with me after meetings and they have said that in their opinion this document is fundamentally flawed in its assumptions of conclusions and that it needs to be rewritten totally. I don't know enough about CEQA and CEQA law to speak to that but I can ask why, judging from the combined meeting that we had with the BOS and PC, it seems as though there wasn't enough effort made to obtain current, relevant, and verifiable data from everybody possible within the county. Such as the watershed center and even consultants that would have some information that could be relevant to the CEQA document. Can you speak to that?

Mr. Angell: As mentioned in his presentation, publicly available information and materials that the County had available was used. Work was being done under a schedule, that originally, was supposed to be done by July, so the best available information that we had was used. He said that he would not call the document fundamentally flawed. The key aspect of CEQA is substantial evidence and what our analysis is based on. Is this evidence going to be improved, absolutely, there is no question about that? The better the evidence we get the better the EIR, and that is the difference between the Draft and the final EIR.

Mr. Cole added that the CEQA works with the concept of threshold of significance, so when you look at a specific type of impact, the consultant looks at the threshold of significance and compares the baseline and then identifies the impacts, then assesses if those impacts go beyond the threshold of significance. So my response to the comments you are receiving from the public is that we need to direct those individuals to go back and read the DEIR, because this DEIR does an excellent job of outlining for each impact, the thresholds of significance and how the threshold of significance were determined, which is something that was developed in the field. The consultants are relying on bodies of work professional work and sources that define these thresholds of significance, whether it be odor, traffic impacts, biological impacts and extra watersheds. For members of the public that are reading the DEIR for the first time, and maybe never read and EIR or have gone through the process, are coming into something that has its own methodology, its own sources, its own built up institutional knowledge. So, maybe that's why they are not familiar but that is why CEQA has a public process and that's why we're doing things like we are doing here tonight. Consultants can only access so much information that's actually available and published resources, whether they be books, or online resources. So that is why we have this process. If there are consultants that are working here, then I hope that they submitted letters or provide comment,

whether it's tonight, before the board or when we actually do the formal hearings as that is the whole idea behind the process, it is to recognize that staff and the consultants may not get everything, so let's put it out to the public.

Commissioner Stewart: How did the fact that approximately three-quarters of the county is publicly owned as opposed to privately owned land which obviously precludes Cannabis Cultivation completely on that land figure into your document? Especially in the area of sensitive watersheds in the sense that sensitive watersheds in not privately held and how does that figure especially into your cumulative impacts given that there are often large tracts of land between communities are even acres that are not privately held that cannot have legal licensed cannabis farms only. How does that factor in our results? Although I have not read the entire document verbatim, it might be there somewhere, but that is what prompted my question.

Mr. Angell: The DEIR has a substantial amount of information on public vs. private holdings. It acknowledges the public lands and the habitat and the conditions and provides safeguards of that sort of habitat. It also acknowledges all the forest management activities that the various forest entities are implementing.

Commissioner Stewart thanked Mr. Angell for his response and noted that she had not read all the 1000s of pages of the document. She then asked: Regarding cumulative impacts, Trinity County is comprised of approximately 2,200 square miles, which equals, I believe two million, three thousand one-hundred and twenty acres of land. As the program, at even under 530 licenses, even if all licenses were upgraded to one-acre grow sites, that would be five hundred and thirty acres out of two million, three thousand one-hundred and twenty, and that seems fairly insignificant. How was that factored into your results?

Mr. Angell responded that the analysis focused on, again, programmatically you don't know exactly where future sites are going to be at, so we took some reasonable assumptions about where there might be sensitive habitat and we analyzed them in that sort of manner. You are correct, we are talking about a rather small percentage of land. We have also looked at other jurisdictions that have additional resources such as Fish and Wildlife.

Mr. Cole added that he understand where that comment is going, but if there are 530 cannabis sites, even at one acre, they are using water and some of that might be in one watershed, so if they are all using their maximum amount of water for the cannabis on one watershed, they might deplete that watershed. I would refer to that as the fallacy of division where we take something and try to make it smaller than it really is. It is very possible that you could have 500 acres that cause significant impacts. Imagine a cement plant, a cement plant could be in a half an acre, but yet it creates and releases all kinds of materials and gasses into the air, so I would caution that level of thinking. Another example is you have several grows using the same road system, and that road system will deteriorate as you have more trucks going up into the site and going back and forth to deliver soil, to take products to manufacturing facilities, and workers coming back and forth. I would just say that I understand where people are going with that argument, but it doesn't really work from an actual standpoint in terms of what environmental impacts could be.

Commission Stewart: My last question you answered when you talked about positive impacts, because I just wanted to ask about why there was not a fifth alternative given the fact that there advantages to having licensed cultivation sites as opposed to unlicensed cultivation sites, and you answered that it was certainly a possibility to include that.

Commissioner McHugh asked the Commission if they had questions for staff.

Commissioner Hoard said that he would first like to thank-you staff for their time and efforts, as he was sure that it had been many hours. He then asked: “Why were additional mitigation measures that have been previously addressed through the requirements of the Department of Fish and Wildlife, North Coast Regional Water Board, local ordinances which include setbacks from residences, opt out zones, permanent residence requirements, and others not included in the project description. And yet, these were reiterated at the back end as mitigation measures. Why were these not presented beforehand as an effort to show that some of these items aren’t doing it correctly.”

Mr. Angell: The project description we outlined the contents of each of the ordinances and the performance standards that provided environmental protection. Each of the technical sections of the DEIR have, what is called, a regulatory framework or regulatory setting that identifies all of these things such as the State water boards, order and the various teems that come into play. The DEIR acknowledges that information, then identifies if there are any shortcomings. For example, the State Water Board order, yes, it is excellent, there is a lot of great protective measures for cultivation activities, it does not cover the non-cultivation activities. So in some cases where we saw a hole, so to speak, we would fill it, but often times compliance with the State Water Board is getting there, so we wanted to have measures that combined with that, not establish a brand new process as that is burdensome to staff and the licensee. I hope that answers your question.

Mr. Colbeck reiterated what Mr. Angell had said. The State Water Board order is sufficient in terms of the protections that it offers, but this DEIR would point to items more specifically.

Commissioner Hoard asked that considering the vary unique circumstances of Trinity County, did you consider all the mitigation measures in the document fairly easy?

Mr. Angell: We consider all the mitigation measures from a technical standpoint. Ultimately it falls to the decision makers, the Planning Commission to recommend the BOS what mitigation measures it wants. This is your document.

Mr. Cole: This is why we have this process. While the consultants are professionals, they don’t always know the unique situations of each community.

Mr. Colbeck: I strongly recommend looking at where it says feasible or appropriate, some of the mitigations or very specific to a certain situation.

Commissioner Hoard: Stacking, why was it not considered as a mitigation measure? Why not increase the number of licenses available to encourage enrollment, instead of mitigation measures?

Mr. Colbeck: As Pat mentioned, when the NOA came out, we were under a deadline by the State for CEQA that was July 1, 2019. We used the best available information that we had at that time. Designated area was addressed and added, stacking was not. We based the DEIR on the current ordinances as we could not model the DEIR after something that was not already in effect. The project description was built on that timeline and our ability to meet that timeline. We had to make tough decisions of the DEIR vs. current ordinances, we can make addendums to this document. Increasing of license cap is a good conversation to have, however the DEIR addresses current ordinances, we tried to match DEIR to what is in practice now.

Commissioner Stewart: Will any changes to ordinance mean an addendum to the DEIR after it is certified?

Mr. Angell: It depends on what type of changes you would like to make and how different they are from the DEIR. You do not have a certified EIR yet, so you can keep making changes to it until it is certified.

Chair McHugh: Are the mitigation performance standards in the existing program reflected in the DEIR as logical performance standards and mitigation measures?

Mr. Angell: Yes

Chair McHugh opened the public comment period.

The public comments below are summarized statements of what was said by those individuals who spoke:

1. Jeff Ghidell: In response to Pat's statement that DEIR was based on current ordinances, but on 5.5 recommended all cultivation be indoors, can't do that. Consultants repeatedly cite themselves. Where did they get their data of 17.4g/day/sq. ft.? His data 15g/sq. ft./season. The DEIR is fundamentally flawed.
2. Person unnamed: Smells, Kimmy vs. Organics, this County has water problems. Dogs – have you looked at vaccinations, leash laws, unwanted litters. Number of houses on property, Archeological surveys, did you talk to the tribes? State or Federal tribes? SPI clear-cuts?
3. Joseph Bower – SAFE: Damage to the environment, this report is narrow, a waste of money and won't solve the problems we have. Remove the cap so that anyone that qualifies can get a license. There are no consequences for illegals which is where the problems are. Look at Humboldt County, 10k per day in fines, increase the fines, have incentives to do it right. 10% of people regulated is not enough. He handed a written statement to staff, see attached.
4. Jake Grossman: This document is not reality, its crazy. It is not talking about here where we live. The only thing more frustrating than this meeting would be tasked with Code Enforcement in this Co. It takes time to build the economy, years. Don't just hurry and pass it now thinking we can change it later. I think this document needs to go away.
5. Steve Rhodehouse: Opt-out options are not identified in the DEIR. It is critical to identify these areas of high-density populations with children whom do not want cannabis in their neighborhood. Opt-out areas should be added as an amendment to the existing ordinance.

6. Tom Sanders: Has traffic concerns for State Hwy 3 and 299. His personal property has access of Hwy. 3, adjacent property owner is cultivation and creating traffic problems, noise, dust, and water hauling. Why commercial activity in RR. Please consider these problems and address them either in the DEIR or ordinance.
7. No Name given: Concerned about the Hard cap on the S. Trinity watershed. His water is hydro connected to river, the waterboard mandated forbearance, does not require denial of permits, but mitigating measures in a floodplain.
8. Marie Petersen: Read her comments from last time and quotes from Pat/Ascent. Lotus vs. DOT decision. The DEIR is fundamentally flawed because of the narrow range of alternatives. It needs to be reviewed and looked at in comparison with the State DEIR and re-circulated.
9. Karla Avila: Licensed farmer since 2016, she is on the S. Fork water system all with rainwater catchment. Why the hard cap in water sheds? DEIR does not consider all alternatives, needs to be re-written, she has a degree in Biology and feels the research is flawed, cherry picked, Ascent is not qualified.
10. Matthew Johnson: Parts of the DEIR are fundamentally flawed, which causes me to question the entire document, and needs to be recirculated. Emailed PC comments, see attached.
11. John Letton: What is the difference between the public comment/key elements that was received in July and the summary of items discussed tonight. Are these comments that are not addressed going to be considered in the DEIR? Baseline comments: CEQA guidelines are set with the NOP, but not always. I think we find ourselves in the not always category. We have information available to us from 2016. Why was that not used as the baseline instead of January 2018? We have real information of the impacts of these ordinances. Use empirical evidence, not a theoretical structure. Only highways considered in DEIR are HWY 299 and 3 which is not realistic, a lot of people have parcels off county roads. Dog violations, water violations, use regulations of another body to take those steps, put some teeth in it.
12. Justin Hawkins: Time limit does not allow enough time to speak to this matter and receive public input. DEIR is fundamentally flawed. I am an excellent cannabis cultivator and policies. A lot of deficiencies in draft. In 2015 and 16 we were promised an increase in the cap of licenses available. This DEIR does not even address that, in fact, it proposes decreasing the number of licenses available. We need more enforcement. References state Yolo County, it is a joke, please read my comments, they are exhaustive, tell the BOS please stop this madness.
13. Julia R: Not a cannabis expert, but a market research analysis. We have repeatedly heard tonight that this document was rushed, such an important document should not be rushed. I also heard tonight, an unfortunate comment, that we might not be reading or understanding this document. She has been rushed in projects before and not fully done her research as well as she had hoped on that particular project, so she appreciates the honesty in saying that the project was rushed, however, it now needs to be reviewed for more accurate information.
14. Brian Gosman: He has been a licensed grower for 4 years, he agrees with both John Letton and Julia R. He is slight disappointed that the P.C. has not seen some of the “eyeball popping” statistics, obvious mistakes. Traffic projections are way out there at 11,014 daily trips, many cultivators live and walk to work every day. The threshold of significance for

- traffic is definitely “bunk”. The document is fundamentally flawed. Definitely need to work on some more “grass roots” level knowledge.
15. Ryan Tarbell: Licensed cultivator. Data vs. assumptions, we don’t need to make assumptions here, the data is here, look at the data within the program. We should be working with actual data, it is right here, and stop looking at the assumptions.
  16. John Brower: I heard a lot about erroneous data, infeasible, impractical, assumptions and overstated impacts in the document. The very first thing is a project description. The DEIR should start with that first. I think that you should send a recommendation to the BOS to rewrite and recirculate this document. The staff report tonight we can not redraft and recirculate, but we can. This document is fundamentally flawed on the front end. We are wasting time here, we need to get this right, we have spent a lot of time on it.
  17. Deidre Brower: We have heard a lot tonight and there clearly needs to be some more work on this document and licensees should not have to double pay for the rewrite.
  18. Tom Fielding: We are relying on you to make decisions for the future of Trinity County. The scientific data is flawed. You are creating a roadmap for a positive influence on TC. You are comparing growing with a cement plant????! Numbers can be viewed and changed and viewed in false ways. I am asking you, the PC to decipher the crap from the real science.
  19. Tom Blanco: We are putting the cart before the horse. Ordinance have been in place for years now. That is the advantage that we have is that this is real data which needs to be used. There are the advantages to that and we should take advantage of the advantages. We don’t have to speculate about the data, we already have it. We all have to report water used, we should be using this data. This should be a data driven document and is flawed. We need to redraft this document and recirculate it using the time that the State has allowed us to do a great job.
  20. Zac Scott: I consider myself a cannabis professional, I have been cultivation for 10 years. In 8000 pages on the environmental impacts of cannabis when there was not a single cannabis consultant or farmer used to draft this report. You are using yourself as your source.
  21. Peter Dobo: There is a potential solution here, form a committee that is established with members of the community and cannabis community and have meaningful meetings and data. Sit down together and try to come up with a solution together for those that do and don’t grow and for the County.
  22. Robert Hicks: We have an opportunity here to have an industry that can impact this county amazingly. Don’t blow it.
  23. Daryl Davis: I have been a cultivator for over 20 years, I can’t believe we have to sit through this. This is fundamentally wrong. There is no way I drive up and down my road that many times or use that much water. This is fraudulent, let’s start over.
  24. No name given: People are upset on both sides. The DEIR quotes themselves, where is the truth? All we are doing is creating a separation with increased hostility and tension.

Chair McHugh closed the public comment 9:07 p.m. and called a short recess to take a 10-minute break.

Chair McHugh opened the meeting again at 9:19 p.m.

Chair McHugh: Thank-you everyone for your input. I am looking forward to the details of the submitted comments. The next step is process, this is our first meeting on the DEIR. The Board of Supervisors wants to have a meeting just like this one in Weaverville, to hear directly from the public for input as well, in an input forum, rather than an action forum. We will have a joint meeting with them, then after these meetings, staff will massage the document and bring back to the Planning Commission for our review and ultimately taking action on it. We do not have a date on that yet, but we will get out in the paper and on website. So, you will have another opportunity to voice your opinion. If you have comments, please submit them beforehand, as it is difficult for the Commission to read them in “real” time. Commissioners, the last item on here was to provide direction to staff, is there anything in particular you would like to say?

Director Hunter mentioned some potential meeting dates but stated that no specific date for the meeting had been set yet.

Commissioner McHugh: We are going to roll it up tonight, there was a lot of commonality to what we heard tonight. The Commission requested copies of comments submitted tonight.

Mr. Colbeck stated that he would get them to the Commissioners.

Commissioner Hoard: I know it is too early to make any drastic measures is this the end of the meeting? What is the outcome? What is the direction to staff?

Mr. Cole: The outcome of tonight was to give the public the opportunity to weigh in. The staff also heard your questions, staff will report on everything that we heard tonight. If there is a specific message you would like the BOS to hear or individually as a PC so that staff can make sure that those are heard by the BOS.

Commissioner Hoard: I recommend to the Board of Supervisors to not support the Draft EIR as it is written based on the following reasons: (1) The fact that the EIR as it stands fails to take into account in the Project Description the previously established mitigation measures which would render some of the stated impacts: Less Than Significant. (2) The Cannabis Operational Assumptions are completely overstated, the data erroneous and do not accurately reflect real-time operating conditions within Trinity County. (3) Some of the projects determination of Significant Impacts do not specify quantitative thresholds of significance and appear to be subjective in nature.

Commissioner Stewart: I would like to make sure that the BOS hears that I feel that a lot of the data that has been collected is, to use an over worked word, “flawed” and really does not reflect the reality of Cannabis growing in Trinity County, probably not any place, but certainly not in Trinity County, and I think it needs to be looked at more carefully. I think that the data needs to be collected from people in Trinity County who know what the correct and significant amounts are, and there needs to be some influence from the Cannabis community itself and not just from other Counties and from the consultants.

Commissioner McHugh: Requested again that timely comments be submitted to the PC.

**PLANNING DIRECTOR'S REPORT:** Director Hunter reported that there were no items on the Agenda for October 10<sup>th</sup> and recommended that the meeting be cancelled.



Commissioner McHugh replied that the meeting was cancelled.

**ADJOURN:** The meeting adjourned at 9:30 p.m.