

MINUTES

1. CALL TO ORDER

Commissioner Diana Stewart called the meeting to order at 7:00 p.m. Members present: Diana Stewart, Dan Frasier, Kyle Brown and Graham Matthews. Members absent: Tom McKnight. Staff present: Senior Planner Carson Anderson, County Counsel Joe Larmour, Director Richard Tippett and Clerk Ruth Hanover. Others present: Kelly Sheen, GIS Specialist.

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.

No one came forward.

3. MINUTES

Upon motion of Commissioner Frasier, second by Commissioner Brown and carried, approved the Minutes of November 19, 2015 as submitted. Commissioner Matthews abstaining as he was absent that date.

The Chair, at staff's request, took Item 6 out of sequence on the published agenda.

6. MATTERS FROM STAFF

(a) Selection of Chair and Vice Chair for Planning Commission and Subdivision Review Committee for 2016.

Senior Planner Anderson reviewed the annual rotation of officers pursuant to County Code Section 236; Commissioner Stewart is Chairman of Planning Commission for 2016, with Commissioner Matthews as Vice Chairman; and for the Subdivision Review Committee, Commissioner McKnight to serve as member from January through June 2016, with Commissioner Brown serving as member from July through December 2016.

OLD BUSINESS

4. WORKSHOP RE UPDATE TO MARIJUANA ORDINANCE

Workshop re Update to Marijuana Ordinance.

Senior Planner Anderson advised there is going to be a community workshop (cannabis forum) proposed by the grower community on January 16, 2016 at the North Fork Grange in Junction City; that there is also going to be a registration process taking place after the panel discussion and meeting that will be conducted by the North Coast Regional Water Quality Control Board and it will pertain to the new waste water discharge requirements that went into effect this past year. He said they will talk about the permitting process and people being enrolled in that program on Saturday; there will be additional outreach to the public, there are a total of twelve meetings the RWQCB will be having throughout the region and three will be in Trinity County. The first one he just mentioned on January 16, 2016 immediately following the meeting and panel discussion; there will be a second enrollment clinic in Hayfork on January 18, 2016 at the Fairgrounds Dining Hall from 2:00 to 7:00 p.m.; and there will be a third session at the Library in Weaverville on January 20, 2016 from 1:00 to 7:00 p.m. He pointed out the RWQCB will be making a presentation to the Board of Supervisors at its meeting on January 29, 2016.

Senior Planner Anderson advised that before discussing the land use regulation topics presented in the staff report, Kelly Sheen, GIS Specialist, and Director Tippett, are going to walk us through aerial views showing some of the

grow activities, particularly problematic are issues in the Trinity Pines area, around Hayfork and other areas where there are clusters of activities, so we can get a sense of zone classification, General Plan designation, parcel size, proximity issues, property lines, etc.

Tippett reviewed the areas of Trinity Pines, which is 1,000+ lot subdivision off of Highway 36 south of Hayfork where there are numerous parcels where people are growing and the acreage is 1.3 acres to 3.0 acres. He said this has been going on for a while and it is one of the areas where we have the biggest code violations of the current policy that's in place. Sheen showed the aerial photography difference from 2012 to 2014 of that area; another area is the Big Creek area of Hayfork where the road goes over the mountains in to Junction City. Tippett stated we have a lot of parcels along there that are zoned Rural Residential 10-acre minimum and there are a lot of parcels zoned Agriculture also, and you will see a lot of grows that take place right off the highway, and although most of them are set back, some are quite obvious. He said there is a lot of activity taking place in the Highway 3 corridor; the next area is the northern part of Hayfork. Tippett said there are a lot of areas that are Rural Residential 5-acre minimum and the further you get from the Highway, the more growing that we have seen take place. He said it's where the larger lots are located that have started those activities and significant code enforcement issues have resulted.

Sheen also showed the areas of Morgan Hill Road, Wildwood, Mad River, Hawkins Bar, Burnt Ranch and Salyer, but technical difficulties prevented more detailed maps from being shown.

Senior Planner Anderson advised that Humboldt County Board of Supervisors did not adopt the final draft of their ordinance as expected in January, and one of their issues is how to mitigate some of the perceived environmental issues through the use of solar options, technology, etc. so they could address some of the issues about energy consumption.

Chair Stewart announced the Commission has seven separate topics that we want to cover over the next several meetings and tonight we are going to get through as many as we can; the first topic is **Indoor vs. Outdoor Grows**.

Senior Planner Carson Anderson presented this portion of the staff report.

Chair Stewart opened public comment for this topic only, Indoor vs. Outdoor Grows. She advised each speaker will be limited to 3 minutes and the Commission will not entertain any questions; if you have questions, staff will make note of those questions and they will be answered at the next meeting at the end of the month.

Comments received from Jose Acosta, Duane Sceper, Duncan McIntosh, Scott Morris and Adrian Keys.

Chair Stewart closed public comment on indoor vs. outdoor grows.

Chair Stewart asked for clarification from staff, if it would consider plastic stretched over PVC pipe a greenhouse. Director Tippett responded staff would not, as it would not meet snow load requirements.

After discussion Chair Stewart advised the Commission has reached consensus on Item 1a, to allow the indoor, mixed-grow and outdoor grows that can be licensed under MMRSA; consensus was also reached on Item 1b, that indoor-only grows should be required under certain circumstances (based on parcel size, the close proximity of sensitive receptors, or in order to avoid odor and visual impacts in sensitive settings). (4-0)

Discussion on Item 1c, restricting the use of generators during nighttime to early morning hours.

Director Tippett advised, in the interest of moving forward, we need to be careful in selecting things that need long discussions, such as the generator situation and how generators might be used. What we are proposing right now is updating the County Code deferring longer discussions until June, July or August.

Following more discussion, the Commission reached consensus on Item 1c, that until such time as a permanent ordinance regarding generators is in place, current County Code shall be followed. (4-0)

The Chair then went on to **Item 2, Aggregate Grow Size Limits**, asking if staff had comments.

Senior Planner Anderson presented this portion of the staff report. He stated that through the new state legislation there are limits to commercial grows to a bit over a half an acre, 22,000 sq. ft., which is referred to in some of the other ordinances. He said Humboldt has a notable exception in allowing aggregate grows up to an acre, so 43,000+ sq. ft. in size.

A short discussion regarding use permits ensued.

County Counsel Joe Larmour stated this new state law is a lot in flux, they have indicated they are going to place a cap on the number, but they haven't said how they are going to do it. He said the county can be more restrictive than the state but can't be less restrictive than the state.

Commissioner Brown asked County Counsel when we get to the discussion of measuring a grow area and the issue of having a site inspection as part of the permitting process, what are the potential constitutional issues that we deal with. He asked if we require a site inspection does the landowner have to allow us access.

County Counsel responded you are permitting a commercial activity here, and as a commercial activity some of the privacy rights are less than they would be if the property is not commercial. He said you will be allowed to inspect just like any other commercial activity in the county. If they don't want to have the inspections, then they cannot participate.

Chair Stewart opened public comment for this item, Aggregate Grow Size Limits.

Comments received from Duane Sceper, Terry Mines, John Ward, Liz McIntosh, Andrew Franklin, Scott Morris, Duncan McIntosh, John Brower and Jose Acosta.

Chair Stewart closed public comment on this item and turned it back to the Commission for discussion.

Discussion re methods of measuring canopy.

Consensus was reached on Item 2a to use "cultivation area" defined as the perimeter surrounding the area in which cannabis plants are cultivated, instead of canopy or plant count; and further include criteria that it should be grown in a contiguous area. (4-0)

Discussion regarding the maximum grow cultivation area.

After further discussion and clarification from County Counsel regarding the state guidelines, consensus was reached on Item 2b to follow the state's guidelines and allow a maximum of 44,000 sq. ft. (3-1: Frasier-No)

The Chair moved on to Item 2d, Parcel Size and Linkage with Aggregate Grow Area Size.

Commissioner Frasier asked if we can call aggregate "commercial." Chair agreed and directed staff to correct that in the future.

After discussion Commissioner Matthews suggested putting this one off until we talk about zones. Chair agreed and continued discussion of 2d.

The Chair went on to **Item 3, Parcel Size and Linkage with Aggregate Grow Area Size**.

Chair Stewart opened public comment for this item.

Comments received from Duncan McIntosh, Liz McIntosh, Scott Morris, John Ward, Duane Sceper, Jose Acosta and Terry Mines.

Chair Stewart closed public comment on this item.

Sheen showed 5-acre and larger in private ownership = 4,127. There are 3,169 1-acre or less
Then he showed the parcels that are 5- acres in private ownership = 7,272.

After extensive discussion, consensus was reached on a 2-acre minimum parcel size for new commercial outdoor grows. (3-1: Brown-No)

The Chair stated we are going to skip 4 and come back to it at the next meeting.

The Chair went on to **5 – Permissible Zone/General Plan Designation Districts for Commercial MM.**

Senior Planner Anderson introduced the item.

The Chair opened this item for public comment.

Comments received from Duane Sceper, John Ward, Scott Morris, Terry Mines, Jose Acosta, Liz McIntosh, and Andrew Franklin.

The Chair closed the item to public comment.

Consensus was reached on 5a regarding restricting all commercial grows to the A (Agriculture) zones, and permitting such grows in Unclassified zone district where there is an Agriculture General Plan designation and Rural Residential zone districts. (4-0)

Consensus was reached on 5b disallowing permitting commercial grows in the TPZ and Agricultural Preserve (AP), AF or RE General Plan zones. (4-0)

Chair Stewart inquired whether the Commission already dealt with how to address existing grows in Rural Residential in that we do believe that Rural Residential should be included.

Commissioner Frasier stated we haven't completely discussed that completely, we did somewhat with the 2-acre minimum, but this is how to deal with the ones that are there that are problematic.

Sheen stated the total number of private parcels 2-acre and larger in any Rural Residential zoning is 1,720 parcels.

Discussion ensued regarding Use Permits in Rural Residential.

Director Tippett said he does want very specific direction of what he can approve and what comes to the Commission.

Chair Stewart asked him to bring it back at the next meeting.

Director Tippett said he will ask the Ag Commissioner if he can be available at the next meeting to answer questions regarding his role in the permitting process.

Chair Stewart asked if we need to deal with the Additional Consideration of How to Address Existing Grows in the Rural Residential Zones. She said her feeling on this is that there are grows in other zones. We deal with them exactly the same way as in the other zones; they have to go through the permitting process like anyone else. She said she doesn't understand why we would single out... she understands the Board of Supervisors' concerns and she also clarified with Supervisor Karl Fisher who is one of the most vocal supervisors about Rural Residential, that his concern wasn't with RR itself, but getting it out of small neighborhoods. She asked if we need to really do anything about this.

Director Tippett said he wanted to point out that the Rural Residential grows that were problematic were ones that were not permitted before, and we've had to take code enforcement action on a lot them. He said he thinks it would be inconsistent with earlier county policy to grandfather those in.

Commissioner Matthews said a permit that's been through the abatement process can never be permitted. Chair Stewart agreed, saying she thought it is a moot point.

NEW BUSINESS

5. MATTERS FROM THE COMMISSION

Discussion regarding draft meeting schedule

7. ADJOURN

The chair adjourned the meeting at 9:50 p.m.