

TRINITY COUNTY PLANNING COMMISSION

Regular Meeting
November 14, 2019 at 7:00 p.m.
Trinity County Library, Weaverville

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

MINUTES

CALL TO ORDER

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

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

Staff present: Director Kim Hunter, Deputy Director Leslie Hubbard and Clerk Ruth Hanover.

PUBLIC COMMENT

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

No one came forward.

REGULAR CALENDAR

1. **MINUTES** Approve meeting minutes of the meeting held on June 13, 2019, June 27, 2019, July 11, 2019, July 25, 2019, September 12, 2019 and September 26, 2019.

By motion made, seconded (Frasier/Matthews) and unanimously carried, the Planning Commission found the Minutes of June 13, 2019 were previously approved on September 11, 2019, and approved the Minutes of June 27, 2019, July 11, 2019, September 12, 2019 and September 26, 2019, as submitted, and continued approval of July 25, 2019 Minutes to the next meeting.

2. **TENTATIVE PARCEL MAP** Request for approval of Tentative Parcel Map to divide a 13.40-acre parcel into two resulting parcels of 5.0 and 8.1 acres each for residential use. Project site is located at 541 Browns Ranch Rd., Weaverville, APN 024-410-02. Applicant Thomas Doerpinghaus/P-18-21/Proposed CEQA Determination: Exempt/Planner K. Hunter. Staff recommends the Planning Commission: (1) Conduct a public hearing; (2) Close the public hearing; and (3) Approve the project based on the recommended findings in the Staff Report and Resolution No. P-2019-05.

Commissioner Hoard recused himself from this matter and left the meeting room.

Director Hunter presented the staff report. She directed the Commission's attention to the Memorandum dated today recommending additional conditions of approval be added due to comments received from County Surveyor and Environmental Health. Staff recommends approval.

Commissioner Matthews said he noted in the Resolution it refers to a 60-foot wide public road and utility easement for both Browns Ranch Road and Shasta Springs Road, but on the tentative map it only shows a 50-foot right-of-way, and asked which was correct. Director Hunter responded the Applicant's Agent and

Andrew Pence from Department of Transportation are present to answer questions and directed the question to Mr. Pence.

Mr. Pence stated DOT is requesting a 60-foot, rather than the 50. Commissioner Matthews asked if the map would have to be amended. Director Hunter responded this is a tentative subdivision map before the Commission, so the final map would have to reflect the 60-foot.

Chair McHugh said there are references in here about disputes about the north boundary of the parcel and asked if staff could characterize what that's about. Mr. Pence responded the original tentative map that was submitted showed along Shasta Springs Road that there was... it was unclear where the property line was, so they need to clarify where the actual property line is before the final map.

Applicant Tom Doerpinghaus stated its conflict based on prior surveys that were done on the parcel. When they bought the parcel, it was designated as an 11.1-acre parcel, but it turns out with the survey he had done it's a 13.1-acre parcel and that created a conflict along Shasta Springs Road, which is on the opposite side of Shasta Springs Road from his parcel. He said he is actually willing to give those other parcels that square footage, they don't need or want it, and they're going to be deeding it to the additional parcels up along Shasta Springs Road, so it will clarify the line that they would like to have.

Chair McHugh asked if there were any concerns about the road agreement or the private nature of Shasta Springs Road. Mr. Doerpinghaus responded nothing that he's heard from the additional parcel owners. Chair McHugh asked and moving the line doesn't change anything? Mr. Doerpinghaus responded it doesn't change anything. Chair McHugh asked if he would like to make any other comments and Mr. Doerpinghaus responded no, he was satisfied with the status quo.

Chair McHugh opened the matter for public comment.

Justin Hawkins asked for clarification of "unusual circumstances" considered by Planning staff cited on Page 4 of the staff report, Item (c) Significant Effect.

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

Director Hunter stated "unusual circumstances" could be a wide range of items, but it would be in this case regarding CEQA, soil that doesn't perc or it percs too well. She said unusual circumstance does not allow the capacity for development and where a site should not be developed, so there's some extreme situations here, and this parcel doesn't have any of those conditions that would be considered to be unusual or extreme.

Commissioner Frasier said he had one more question for staff. In your memorandum it says prior to recording of the map you want to confirm the septic and it shows on the map "perc tests", so has that been done? Director Hunter responded the perc tests have been completed for the project and they did find that the soil percolated at a rate that could handle the septic system; however, there are some drainage areas on a portion of the property, the lower portion near where the road splits, there's a few drainages there, there's also drainage along Browns Ranch Road, so the concern is to make sure that the placement of the actual leach field and septic system, it's placed to meet the setback to those drainages.

Commissioner Matthews stated that he did note that the owner is required to conduct an evaluation of the culvert that is under Browns Ranch Road. He said he can tell you, since he lives on Browns Ranch Road, that the culvert overtops, it's inadequate in size, so if the owner does this study and it confirms that the culvert is inadequate in size, is that owner potentially responsible for upgrading that culvert, which is a pretty extensive operation under a County road. He said it seems a little open ended. Why would you make someone do a study if they are not going to improve it?

Andrew Pence, DOT, responded the answer is yes, we would expect the culvert to be replaced as an improvement for the project. Commissioner Matthews said it seems like an environment for a minor subdivision that really doesn't change the flow rate coming off that land; he's sure there will be a little bit of impermeable area because of the house. He said that's pretty trivial compared to the watershed of Lance Gulch at that point, so you're making someone pay quite a bit of money for a facility upgrade. Pence agreed there would be cost associated with that. He said if the applicant is okay with the condition, he just wanted to bring it up, he doesn't understand how that would work.

Applicant Tom Doerpinghaus stated a study done on the 30" and 18" culverts that go under Browns Ranch Road, that were put in by the County of Trinity before they ever paved the road, now they are requiring that he do a study. He said he doesn't have a problem paying for a study, but if the result of that study shows that it's my obligation as a landowner to upgrade that, that he's not okay with, because that would be way more than he would get for the whole parcel, including his home, so he's not going for that one. He said if a study showed that the culverts were insufficient to deal with the 100-year, then the County's going to have to step up to that one, not him.

Chair McHugh asked apparently there has not been a conversation between the applicant and Department of Transportation regarding this condition? Director Hunter responded there has not been. Chair McHugh said it sounds like some sort of negotiation needs to happen before that can be imposed as a condition, because he agrees with Commissioner Matthews that it's an extraordinary requirement for such a minor subdivision of that entire drainage. Commissioner Frasier said especially if the culvert is undersized before the subdivision happens; he doesn't think you can put that responsibility on the landowner if the County's already used too small of pipe, it's not a result of the subdivision. Commissioner Matthews said it does say that the future development impacts to Parcel 1 shall be estimated and incorporated into the study, so he supposes if it shows the subdivision is resulting in some significant change to the existing conditions, the County would have a difficult time arguing it's the subdivider's responsibility to replace the culvert. He said it sounds like negotiations need to occur, there's clearly a dispute here. Chair McHugh stated is says mitigations identified in the study are on the developer.

Director Hunter she would also note on that condition, it shouldn't be prior to approval of the parcel map, you are doing that tonight, it would be prior to the recordation of the final parcel map. Chair McHugh said once a parcel map is approved, you can't add conditions to it. Ms. Hunter responded no you cannot. Chair McHugh said if we're going to delete that condition because it's onerous, it can't be re-entered later. On the other hand, if there's negotiation to be made between DOT and the developer, then that should happen before it shows up in front of us as a condition that can't be changed later. Ms. Hunter responded correct and requested the item be continued to the December 12th meeting to allow time for Department of Transportation to confer with the applicant. Mr. Doerpinghaus requested the item be pushed to January as they have commitments out of town on December 12th.

By motion made, seconded (Frasier/Matthews) and unanimously carried, continues the item to the January 9, 2019 meeting to give the County and the applicant a chance to negotiate Condition No. 12 in the staff report, and for staff to amend the conditions per Director Hunter's memo.

Commissioner Hoard returned to the meeting.

- VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK:** Application for a Commercial Cannabis Annual Initial Variance from the required 350' from a neighboring residential structure [Trinity County Code 17.43.050.A.8.]. Project site is located at 2890 Wildwood Rd., Wildwood. APN: 019-680-17. Applicant: 18TrinityPartners LLC/CCV-2019-054/Planner: B. Hedtke. Staff recommends that the Planning Commission: (1) Conduct a public hearing; (2) Close the public hearing; and (3) Approve the project based on the recommended findings in the Staff

Report.

Deputy Director Hubbard presented the staff report. Staff recommended approval.

Chair McHugh opened the matter for public comment.

Comments received from Jacob Penzer, John Brower, Justin Hawkins and Jeff Dardy.

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

Commissioner Hoard stated he found comments made by John Brower quite interesting in regard to one of the conditions for the variance that subject to securing all the necessary permits and asked for clarification from staff, is that in the Zoning Ordinance? We have had variances before that have applicants have applied for a variance before applying for the cultivation permit just to see, before going through the whole process, if it's a feasible project. If the variance is denied then why even pursue it, but if is approved then give the applicant leeway to move forward with that, so if staff could clarify that.

Director Hunter responded with this condition, which was a condition in the project before this one as well, she thinks it's appropriate, it's an umbrella [inaudible], however, it is contingent on getting the license and meeting the State and County requirements. She said its general, kind of a catch all and in the previous agenda item there was a similar condition, it's not worded the same, but that was Condition No. 2 for the previous Doerpinghaus map P-18-2, "the requirements of all concerned governmental agencies having jurisdiction including, but not limited to , the issuance of appropriate permits shall be met." So, it's similar. She said Mr. Brower brings up a good point, it is a variance, an annual variance as well, which there has been some discussion of in the past, the annual nature; however, variance is defined in the Cultivation Ordinance as variance referred to in the Zoning Code, and in that case, it is appropriate to be a condition of the variance under that section of code, so she does feel this is appropriate.

Commissioner Matthews asked is it a change? Deputy Director Hubbard responded the same wording has not been in there before, this is not like a standard Planning variance, it is related very specifically to the Cannabis operation and we found that people were sort of separating things out to the point they were looking at the variance as allowing activities that only the Cultivation License allows. We want the entire operation to be compliant and we found that without stating it explicitly sometimes, things were falling through the cracks. Director Hunter looked at a project that was approved September 12th and it had the same wording. Commissioner Matthews said so it's not entirely new. He said his concern is changing conditions, you know, how many variances have we approved; if there's good rational as to why it might be appropriate to do that.

Commissioner Hoard asked Ms. Hubbard, you say falling through the cracks, can you specify, the variance is specifically related to cannabis cultivation, so he doesn't know how they're falling through the cracks; how can that variance if it's approved, be applied in some other way. He's just seeking a little more clarification. Hubbard responded people receive a variance and they go out and start setting up the site before their Cannabis License is conveyed. We're saying the variance is what allows you to go in and start your site after you have gone through the licensing process.

On motion made and seconded (Matthews/Hoard) and carried unanimously, the Planning Commission approves Commercial Cannabis Variance CCV-2019-54 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8 from 350 feet to 260 feet from the residence located on APN 019-680-28-00, subject to the findings of fact and conditions of approval as stated in the staff report.

4. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK: Application for a Commercial Cannabis Annual Initial Variance from the required 350' from a neighboring

residential structure [Trinity County Code 17.43.050.A.8.]. Project site is located at 1141 Top of the Grade, Douglas City. APN: 025-530-03. Applicant: M. Jenkins/CCV-2019-59/Planner: B. Hedtke. Staff recommends that the Planning Commission: (1) Conduct a public hearing; (2) Close the public hearing; and (3) Approve the project based on the recommended findings in the Staff Report.

Deputy Director Hubbard presented the staff report. Staff recommended approval.

Chair McHugh opened the matter for public comment.

Comments received from Justin Hawkins.

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

Commissioner Hoard stated he noticed on Page 8 that the operation is ready in full effect and the applicant is looking to come into compliance with County regulations; he thinks it's a good thing because there's a lot of illegal cultivation going on and more people to enroll and adhere to environmental constraints which are quite stringent, that's encouraging.

On motion made and seconded (Matthews/Hoard) and carried unanimously, the Planning Commission approves Commercial Cannabis Variance CCV-2019-54 to reduce the cultivation site setback in Trinity County Code 17.43.050.A.8 from 350 feet to 250 feet from the residence located on APN 025-530-33-00, subject to the findings of fact and conditions of approval as stated in the staff report.

Commissioner Matthews said it's always harder when there are no supportive comments from neighbors.

PLANNING COMMISSIONER REPORTS

Commissioner Frasier disclosed that he is running for Supervisor of District 5 in the next election.

PLANNING DIRECTOR'S REPORT

Director Hunter advised there will be a joint meeting with the Board of Supervisors on November 19th at 2:00 p.m. at the Trinity Alps Performing Arts Center on the Cannabis Draft EIR.

Director Hunter announced that this was Clerk Hanover's last meeting as she's retiring after 12 years.

ADJOURN

The Chair adjourned the meeting at 7:53 p.m.

Note: per review of historical documents the minutes of this meeting were approved at the January 9, 2020 meeting with amendment. D. Rogge 8.5.2024