

TRINITY COUNTY PLANNING COMMISSION
Special Meeting
October 26, 2017 at 7:00 p.m.
Trinity County Library Meeting Room,

MINUTES

1. CALL TO ORDER

Chair Graham Matthews called the meeting to order at 7:00 p.m. Members present: Diana Stewart, Dan Frasier, Mike McHugh, Richard Hoard and Graham Matthews. Staff present: Interim Planning Director Leslie Hubbard, Associate Planner Colleen Sullivan and Clerk Ruth Hanover.

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

Comments received from Liz McIntosh, Lisa Wright and Terry Mines.

Discussion re meeting schedules and agendizing requested items during public comment.

3. MINUTES

Upon motion of Commissioner Frasier, second by Commissioner Stewart and carried, approved the Minutes of July 27, 2017 as submitted.

Upon motion of Commissioner Frasier, second by Commissioner Hoard and carried, approved the Minutes of September 28, 2017 as submitted. Commissioners McHugh and Stewart abstain.

OLD BUSINESS

- 4. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK P-17-30**
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 160 State Highway 3, Peanut. APN 19-750-20. Applicant: Peanut Valley Farms. *Continued from July 27, 2017.*

Associate Planner Colleen O'Sullivan presented the staff report. She advised this project came before the Commission in July and was continued to August 24, 2017 so a more in-depth analysis can be obtained from the Code Enforcement Officer regarding relocation of the garden site. She said in the meantime, the Urgency Ordinance failed so we had to hold off bringing the project back before the Commission. She said an additional issue came up regarding the parcel configuration. She said she received one letter from a neighboring property owner, and defers to Dr. Joshua Strange to talk about the site condition since she was not able to go out to the site herself. O'Sullivan said the Commission had a question as to whether the cultivation site could actually be moved or altered in some way to not affect the neighboring residence.

Chair Matthews opens the matter to public comment.

Comments received from Dr. Joshua Strange of Sweet River Sciences and consultant for the applicant.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 230 feet (affecting APN 019-750-21) on APN 019-750-20, subject to Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4 as stated in the Staff Report. Seconded by Commissioner Hoard.

Chair Matthews asked if Commissioner Stewart would amend her motion to include a letter was received. Commissioner Stewart amended her motion to add an additional Finding that there was a letter in support of the variance received from the affected neighbor. Commissioner Hoard amended his second. Motion carried unanimously.

Commissioner McHugh stated we get a standard Finding No. 2 verbiage in every one of these and he's wondering what the environmental damage is. He understands that grading is involved, but grading can be done without environmental damage. He said it is almost as if that finding is boilerplate and he's wondering if it is a little bit overstated. Chair Matthews said it was stated in the staff report that it was the opinion of the Code Enforcement Officer. McHugh said we heard from Dr. Strange that it could be relocated, but it would take some grading. He said it's also boilerplate in the Code Enforcement Officer's report, he would like to see it be a little more specific on what is the damage.

NEW BUSINESS

5. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **P-17-35**
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 911 Live Oak Road, Post Mountain. APN 019-590-11. Applicant: Chueyeng.

Associate Planner Colleen O'Sullivan presented the staff report. She said the variance would affect dwellings on three sides and there is no way to move the garden. Staff is recommending approval.

Chair Matthews opens the hearing to public comment.

Comments received from Lathen Martinez who represents applicant.

No further comments being received, Chair closes public comment on the matter.

Chair Matthews stated it appears that the parcel to the east doesn't have a grow on it, so his opinion is, it's only 330 feet, so if they adjusted their boundary by 20 feet on that one side then they wouldn't need a variance for the parcel that doesn't have a grow. All the other parcels have grows.

Commissioner McHugh said not to pick on point, but in this case a slightly different point. He read Finding No. 2 and said in this case relocation is not possible. This isn't a case of environmental damage, this is a case of without a variance there is not an opportunity to grow. He said he would concur with the Chairman on his point.

Chair Matthews said looking at the map there is a cleared area to the northwest that doesn't have plants on it currently, you could potentially change the orientation to grow a little bit and make it narrower and longer for example, but he doesn't know what the topography is there, that information is not included in here.

Commissioner McHugh said he would just like the findings to be actually tailored to the specific project.

Associate Planner O'Sullivan stated until these cannabis variances came along the Planning Department very seldom did variances. Commissioner McHugh thanked her for her point, stating he thinks variance should be held to a very high bar, they have been in the past. He said under the urgency ordinance, the whole point of the urgency ordinance was an experimental factfinding exercise, it says it right in the preamble to the ordinance. He said the whole purpose of that was to learn what we ought to put in the final ordinance, so being a little lax on these variances in this context was appropriate while we learned about it, but he does believe variances as a rule are not just handed out otherwise there's to vantage point to the zoning. He said to see findings that are appropriate to what's really going on, on these parcels, would be helpful.

Commissioner Stewart asked if we could ask the consultant if there is any constraint that would make it impossible for him to shift his garden.

Chair Matthews reopens public comment to allow comments from the consultant. Comments received from Lathen Martinez. Chair recloses public hearing.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 220 feet (affecting APN 019-590-02, from 350 feet to 330 feet (APN 019-590-17) and 300 feet (APN 019-620-41), subject to Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4 as stated in the Staff Report. Seconded by Commissioner Frasier, and carried unanimously.

6. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **P-17-38**
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 270 Lower South Fork Road, Hyampom. APN 011-340-80. Applicant: Winter. P-17-38.

Associate Planner Colleen O'Sullivan presented the staff report. She pointed out and apologized for having the wrong applicant name on the first page of the staff report and the Project No. is incorrect on all pages except the first one. She said staff is recommending approval.

Chair Matthews opens the hearing to public comment.

Comments received from applicant Larry Winters and Liz McIntosh.

No further comments being received, Chair closes public comment on the matter.

Commissioner Hoard moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 270 feet from dwelling on APN 011-340-79, based on Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4 as stated in the Staff Report. Seconded by Commissioner Stewart, and carried unanimously.

7. **AMENDMENT TO ZONING ORDINANCE TO ALLOW CANNABIS MANUFACTURING** **PW-15-05**
Public Hearing: Proposed amendment to Zoning Ordinance to allow Cannabis Manufacturing Facilities in Trinity County. Located County-wide. Applicant: County of Trinity.

Interim Planning Director Hubbard stated we reviewed this item last month and the Commission requested to have a copy of the draft ordinance that was proposed a month ago put in two different sections to address volatile and non-volatile manufacturing. She said it went back to the ad hoc committee, and you have the ad hoc report. They tried to put a little more context into what manufacturing is. She said the staff report, second to last paragraph, indicates Agricultural Industrial as a zoning district, that is an error. She pointed out the proposed allowable zoning districts for Type 6 (non-volatile) are C2, C3, Industrial, Agriculture and appropriate SUDs where allowed, and Type 7 (volatile) is allowed in C3, Industrial, and appropriate SUDs where allowed. She said the ad hoc tried to break it up so that this version of the ordinance does separate the differences between volatile and non-volatile, but a lot of the ordinance is shared between those two. She said she thinks the format makes more sense.

Commissioner McHugh asked if there were any other changes made. Director Hubbard responded there were some changes that the Commission requested, mainly in format, so you could see the difference between how volatile manufacturing and how non-volatile would work out, and the main difference is the allowable zones.

Commissioner McHugh asked if Ms. Hubbard could give an up to the minute status of the state regulations. Director Hubbard responded she could not as it is still in flux. Hubbard said she wanted to add one more thing, which wasn't in the agenda packet, that she received an email from the Superintendent of the Trinity Alps Unified School District in which he made a request that the school district would like to have 1,000-foot setback encouraged for school bus stops, and specifically he says "it is my request that you consider establishing setback distances for not only the growing of cannabis, but also the processing, manufacturing and distribution of cannabis and cannabis related products from school bus stops in Trinity County to reflect the 1,000-foot setback current language required for other youth related facilities." She said he does say he could facilitate communication with all the school districts to make it happen.

Chair Matthews opens the matter to public comment.

Comments received from Terry Mines, Adrian Keyes, Chris Spohn, Liz McIntosh, Lisa Wright, Dave Albiez, Tom Ballanco, Dr. Joshua Strange and John Brower.

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

Commissioner McHugh asked if we need a motion to discuss. Chair Matthews said as far as he is concerned we can discuss.

Commissioner McHugh said it strikes him we are a little ahead of the game because the state regulations aren't finalized yet. He said he has to echo Ms. Wright's comments about the ad hoc writing these things and then shooting them down to us, it's sort of predetermined; and then they do inject into it some rules and regulations that may or may not be consistent with the final state regulations, so he's a little hesitant about getting ahead; particularly Type 7, particularly since we have heard from the Fire Chiefs Association asking us not to do Type 7 until the state regulations are finalized, and yet here they are again, Type 7 licenses. He said he thinks moving something forward is okay, he is very hesitant about moving forward with Type 7. He said someone made the comment about having the Fire Marshal approval, but he doesn't see that in the ordinance. He doesn't know about approval, but maybe a fire marshal endorsement from each district, in our district the Fire Marshal is the Fire Chief. He said the draft calls for fire sprinklers, okay they picked that one out of the air, but what about anything else. How many fire extinguishers, how far apart, there is all kinds of regulations he expects to be applied to this sort of thing. Once we see the state and once the fire chiefs get that input, and the request certain language/requirements in the ordinance. So, he is very uncomfortable pushing that one out the door

tonight.

Commissioner Stewart said she wasn't here when this was discussed previously, and asked if that was the basis for wanting them split, so that we could handle the Type 6 completely separate from Type 7, the volatiles from the non-volatiles. Commissioner McHugh responded yes, in the last draft it was just manufacturing, there was very little distinction between 6 and 7, we asked for them to put some thought into where would 6 be appropriate, what would be appropriate regulations for that, and vs. Type 7, so they have done that here. Commissioner Stewart but with the fact that the fire marshal is asking us to wait on 7, then we could still move ahead, if they did separate them out more than they have, then we could move ahead with 6, even if we waited for 7. Commissioner McHugh said he thinks the inference we are drawing from the fire chiefs is probably valid. He said if you remember Tim Spears was the Fire Chief and he presented at the Planning Commission hearings a couple of years ago and then a couple of weeks ago Steve Wrent, the Fire Chief, came in and re-upped their input, they have not changed their position on it. He said he totally sees what the SB 94 regulations are and they get to digest them, and they recommend changes in the ordinance, in addition to fire sprinklers, maybe that's one we should [inaudible], and somehow add in fire marshal review or approval. He thinks fire marshal should play in for Type 7 licenses. Chair Matthews said it would be circulated to them as part of the conditional use permit process.

Commissioner McHugh said the small Type 6, he thinks there is merit to that, but he doesn't think it is this ordinance, because we would completely be making that up tonight. He would like to see a proposal come back on Type 6 that addresses sort of the cottage industry nature of the small manufacturing, he thinks there is merit in that, he was swayed by what he heard, but he doesn't think it is this ordinance. He said it could be this ordinance, but we should wait to see what the structure of that looks like and have a conversation about it. He said it may come back with the microbusiness one, not as the microbusiness license, but to do a microbusiness they have to think through all the small business stuff and maybe at the same time do the Type 6. He said he would like to see some staff input on one to guide the discussion.

Commissioner McHugh said on the bus stop issue we have heard from two schools and a superintendent of a school district that they would like, he would kind of like the comment he gets repeatedly that we should have a GIS map that shows the parcels, and a layer of all the bus stops. It's easier to take that out later than to build a plant next to the bus stop and then put restrictions on it after the fact. He said maybe by the time this gets to the Board they can look at the map and decide if that's an appropriate restriction based on the number of parcels involved. He said he heard one comment tonight, if we put this restriction in we are cutting out all sorts of parcels. He said we have a request from the schools but we don't know what the actual impacts from implementing that would be.

Commissioner Stewart said some of the sites around Hayfork that are Industrial or Heavy Commercial are on main roads and that's also where bus stops are. She said somebody needs to look at a diagram and see how many we would be cutting out. She said she suspects in the Hayfork area we would be cutting out a lot. Chair Matthews agreed stating we have a lot of places in the county where we have a mixture of zoning, Heavy Commercial or Industrial right up with Residential across the street. Commissioner Stewart said while she is sympathetic to the idea of large setbacks for schools, she understands, but at the same time she also recognizes that manufacturing facilities of the type we are discussing will not be something that is really going to have a large impact on the kid walking past it, because it's not. Commissioner McHugh said he would like to see one of these sites, an example. He said with all due respect he thinks we're speculating both ways; that they are completely harmless, you can't even tell they are there, and then the other side of it is oh my god kids are walking past this. One of the things he is very Leary of is pushing all of the restrictions down to the use permit, those will get to be very ugly meetings if we say no you can't have a manufacturing facility here because you are 55 feet away from a bus stop. He said by pushing a lot of those issues down to us at conditional use permit

hearings will lead to very difficult meetings, so he would like to see a lot of that codified and he would rather we were issuing variances, as much as he hates variances, than trying to impose restrictions that we seemingly made up out of the blue on a particular conditional use permit. He said one option is we put it in and the Board takes it out, and the Board gets that presentation and the argumentation made. He doesn't feel like we have the data, he is sort of swayed by school professionals asking for it, and then look at the facts, or we continue this to another meeting.

Commissioner Stewart said she knows we need to push this through and she knows we are looking at a timeline that is very difficult because next month is Thanksgiving and the month after that Christmas, and then we are looking at January, she is hesitant to put it in because it's something we really need; just putting it in and letting the Board of Supervisors take it out again doesn't strike her as the best idea. She said she would rather do something that she believes in.

Commissioner Frasier said one of his biggest issues with this process is we have a big rush, a big push to get this through when we are jumping ahead of the State, we don't know what they're going to give us, so he's not really that pressed try to rush this through and then find out that we rushed something through that doesn't work with the State and have to change it. He said he would rather take the time and do the research and try to come up with something that works; and like Commissioner McHugh, he has a real issue with Type 7 licenses without. He said unless we have more information and actually more restrictions, based on fire code and such in this ordinance, he has a hard time passing out the Type 6 license with the Type 7 tied to it. It's pretty tough for him as a single ordinance. He still thinks Type 7 should be its own beast, it should be a completely separate item and handled differently than the Type 6.

Chair Matthews said he was trying to figure out if we have consensus to proceed or if we are basically going to continue this to another meeting. He said he is sort of in between, his personal opinion and looking at what other states have done in their Type 7 regulations, he can't imagine that California won't do at least as stringent as some of them. The State is going to regulate it much more than we would ever think of probably. That's his opinion based on what other states have done, so he's not that concerned himself because he thinks the State regulations are going to protect the County, so he is willing to proceed, but it doesn't sound like the majority of the Commission would.

Commissioner Hoard stated he agrees with Commissioner Matthews, most of what he has read basically puts the buck on the State and the State has very stringent regulations on these two types of licenses, so yes, he would be in favor of moving forward with this. He said to touch on the fire, he does agree with Commissioner McHugh that there is very little specified, and actually SB 94 in Section 11362.7, says "when the applicant receives and maintains approval of the local fire official for its closed-loop system...". He said here this current ordinance that we have just says "fire plans must be prepared by the Applicant and submitted with application for the Conditional Use Permit", but it doesn't specify what code are these fire plans to mimic or be tailored after, so he would like to see that. The State actually recommends to use either the National Fire Protection Association Code or the California Code. He would like to see more specification on where should these fire plans be tailored to, to what standard and also, he would like to see that the fire marshal for a given district is active and its codified that he or she is actively involved in the approval of the operation. He said in terms of school bus stops and facilities, he would just like to say these facilities are completely enclosed, they appear to be odorless, and clean, in a completely enclosed environment, so it's not like someone is going to be able to see it from walking down the street. So, in terms of bus setbacks, he is leaning towards not having any restrictions in terms of that. He said lastly, cottage size, he likes the idea of that and possibly in the future bring in some Type 6(s) as Commissioner McHugh mentioned, to address that.

Commissioner Stewart said she would be in favor of moving forward as long as we move forward without the bus stop restriction.

Commissioner Stewart moved to recommend the Board of Supervisors to adopt this draft ordinance as written.

Commissioner McHugh asked her if she would consider one textural change in her motion, he thinks Ms. Wright pointed it out, that the prerequisite for a commercial cannabis permit should be a commercial *manufacturing* license (not a commercial cannabis license).

Commissioner Stewart amended her motion to recommend the Board of Supervisors adopt the draft ordinance, as amended. Seconded by Commissioner Hord.

Chair Matthews said he would like to understand this blank Section 3, CEQA Hold is. Commissioner Frasier responded that last time we said we weren't going to pass something that said it had no environmental impact when we hadn't done a CEQA study yet, and so they just put in a "hold" until the CEQA study is done.

Commissioner McHugh asked is this ordinance, is the exemption until July 2019 of CEQA for marijuana ordinances applicable to this ordinance, manufacturing? Director Hubbard responded that is why there is a CEQA hold determining that, it doesn't appear to be, but we will probably be able to invoke another exemption, but our CEQA attorney is working on.

Commissioner Stewart stated each manufacturing site, as a building permit comes in, will have to do CEQA anyway. Director Hubbard agreed, stating that is for each individual facility, that's for the ordinance itself.

Chair Matthews called for the vote. Motion carried 3-2, with Commissioners McHugh and Frasier voting no.

8. MATTERS FROM THE COMMISSION

Commissioner Stewart said she is a little distressed by the fact the ad hoc committee, or whoever is doing it, is getting these things in so late to the Planning Department that we cannot have a hard copy to really go over and look at this, and she kind of feels if they want us to look at these things they need to get it to us in a timely manner, otherwise she doesn't think we should be looking them until they do. It's not a good practice.

Chair Matthews stated it's the consensus of the Commission we will not consider another ordinance unless it distributed in the usual manner in our packet the week before. He asked Director Hubbard to provide that guidance.

Discussion regarding future meeting schedule and combining cannabis matters with regular agenda items. Chair Matthews requests any cannabis matters that need to be heard before the end of the year be scheduled on the regular meeting for December 14, 2017

9. MATTERS FROM STAFF - None.

10. ADJOURN

The Chair adjourned the meeting at 8:36 p.m.