

**MINUTES**

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**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 and Associate Planner Colleen Sullivan.

**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.*

No one came forward.

**3. MINUTES - October 12, 2017.**

Upon motion of Commissioner McHugh, second by Commissioner Frasier and carried, approved the Minutes of October 12, 2017 as submitted. Commissioners Matthews and Hoard abstain.

**OLD BUSINESS** – None

**NEW BUSINESS**

**4. PROPOSED INITIAL STUDY/NEGATIVE DECLARATION**

**PW-17-03**

**Public Hearing:** Proposed Initial Study/Negative Declaration relating to proposed Permanent Ordinance to Allow Commercial Cannabis Cultivation in Trinity County, describing the Potential Environmental Impacts of the proposed project. Located county-wide. Applicant: Trinity County Planning.

Interim Planning Director Hubbard advised that staff put out the Initial Study/Negative Declaration for public comment on September 28<sup>th</sup> through October 28<sup>th</sup>, and we received a total of nine comments which ranged from supportive to somewhat critical. She said the ad hoc committee decided to shelve it for a while and try to base their decisions on what the State comes up with for CEQA Guidelines. She said the State is going to be issuing guidelines specific to CEQA by the end of November. Hubbard said everyone has been sort of scrambling in this process and the CEQA piece has been a big question, initially we were thinking we would have an urgency ordinance to extend, but the scene changed quite a bit with the permanent ordinance, and in light of that we are going to shelve it for a little bit. She said the document that you did review might come up again, but most likely not.

Chair Matthews asked if she meant it will be revised. Hubbard said it's possible it could be revised, and if it is revised substantially, then it would have to be recirculated, in which case the Commission will be given a heads up about that.

Commissioner McHugh asked if that meant it will not be coming back to the Commission. Director Hubbard said it's kind of fifty-fifty, if it does come back it will have to be revised and recirculated for thirty days.

Chair Matthews opened the hearing for public comment.

Comments received from Liz McIntosh, Jake Cacavo and Tom Ballanco.

No further comments being received Chair closes public comment period.

5. **DISCUSSION RE CANNABIS DISTRIBUTION**

Discussion regarding proposed ordinance to allow cannabis distribution in Trinity County.

Interim Planning Director Hubbard stated the purpose of this item is to give it some air time, to introduce it, let the Commission get used to what it looks like, bring it up before the public so we can see what kind of concerns they will have with it and address them. She said we will be bringing it back to the Commission within a month, we will take into consideration any comments we receive this evening and revise the ordinance accordingly, and return it at the next meeting.

Commissioner Stewart stated under D. Required Findings, it reads “A Conditional Use Permit for Cannabis manufacturing...”, and it should read “...Cannabis distribution...”; and under No. 3 in the same paragraph reads “...to ensure Cannabis manufacturing...”, and manufacturing should be deleted and “from” put in its place.

Commissioner McHugh stated having had several of these come to us, it’s becoming obvious to him that we are loading up a lot of stuff in a zoning ordinance that strikes him as not belonging in a zoning ordinance; this one is a good example, the manufacturing is a good example; what he thinks is appropriate is the zoning aspects of it or the land use aspects of where those activities take place, what zones, perhaps the usual type considerations like setbacks, etc., but the application process for one of these licenses is not a land use issue, that’s really an administrative thing and we actually have a title in the County Code “Business Taxes, Licenses and Regulations”. He said it strikes him that a lot of the regulations that we do in here really have nothing to do with land use. He’s happy to read it and comment on it, but it strikes him a lot of this really isn’t Planning Commission stuff, or planning stuff in that sense. He wonders if going forward we ought to look at perhaps splitting this out into a cannabis regulatory framework that belongs in some title in the code where that sort of thing goes, and we focus on the land use issues of it, not application fees or stuff that really isn’t our bailiwick. He said he’s not suggesting we stop discussing it tonight or perhaps future ones that staff brings to us, he would just like staff to consider that we structure the County Code the way it is structured and put the regulations under the regulatory title. He said he suspects with all the bucks coming in that are supposed to fund the General Plan Update actually start going to that cause, we might revamp the zoning ordinance at the time we’re doing the General Plan to fix this kind of stuff and get the stuff out of the zoning ordinance that really doesn’t have anything to do with zoning.

Commissioner Stewart stated that her thought on that is, she is not looking at all that stuff, really all she is looking at is the zoning aspects and she suspects once we have done all these little sections that they probably will be put into an ordinance that can coexist and make sense. She said she thinks by getting it piecemeal they are just trying to make sure that everything is there, so that when it is in a cohesive document that is inclusive of everything, none of it will be forgotten.

Chair Matthews opened the discussion to the public for comment.

Comments received from Terry Mines, Liz McIntosh, Tom Ballanco, Jake Cacavo and John Brower.

No further comments being received, Chair closes public comment.

Commissioner McHugh asked to address the last comment regarding voting tonight. He said that’s not

an option because it wasn't agendized, just the discussion was agendized. Director Hubbard agreed, stating it was not noticed for public hearing.

Chair Matthews stated there are two parts to this staff report that they wanted analyzed and asked if the Commission wanted to start there. Including Highway Commercial, we also heard about M2, and also the issue of air filtration system.

Commissioner Stewart stated she strongly feels the need to include M2 as there are too many of those buildings that are just sitting around that could be used, and coming from Hayfork she feels that it really is important to have the opportunity to do something good, and she doesn't know why M2 was left off. Commissioner McHugh stated M2 is not in his book, he doesn't know what it is referring to, and maybe we can bring that to the next session. Director Hubbard advised it is in the Hayfork Community Plan.

Chair Matthews asked what about Highway Commercial? Commissioner Stewart said she thinks it should be allowed, it makes perfect sense, it's easy on and off for deliveries and pickups, and she thinks it fits within the definition of Highway Commercial, and it will bring business people from other areas because she thinks they will come to the distribution center.

Commissioner Frasier stated he has to disagree that it fits the definition of Highway Commercial. He said Highway Commercial is more for retail, for supporting people that are traveling on the highway. Like we heard in public comment, you don't stop at the distribution center to buy a coke. Highway Commercial is where the gas station is to get the coke. He said Highway Commercial is not the exact place for a heavy distribution center, it would be better fitted in the heavy commercial areas.

Director Hubbard read the description of Highway Commercial. Commissioner Stewart stated she removes her comment.

Commissioner McHugh said he would not support Highway Commercial. He thinks Highway Commercial parcels could be rezoned.

Commissioner Stewart asked if staff could read the description of C1. Director Hubbard read the description of retail commercial (C1). Commissioner Stewart stated she agrees C1 should not be included.

Chair Matthews said it sounds like we have consensus, and asked if Commissioner Hoard had comments.

Commissioner Hoard stated just to recap, he has actually made this comment before in previous sessions, that for Highway Commercial, under the uses permitted after first securing a Use Permit, is recycle center, auto sales and mini storage, among other things, the intent or the purpose of Highway Commercial in his opinion, so if these are included, he doesn't see why a distribution center cannot be included. He thinks it is a good place for them to be placed. This is the kind of operation where a box comes in, a box goes out type operation. It's right on the highway. It's perfect for a distribution center. That's what you need, you need access to the highway and to the road system. He said he's in favor of including Highway Commercial.

Chair Matthews said it seems we have consensus of at least four of us not to include Highway Commercial. He asked what else do we want to talk about before giving direction to staff.

Commissioner McHugh pointed out the Chair mentioned requiring air filtration systems. Chair Matthews responded it seems like that is going to be required by the State. Chair Matthews asked if there was any further discussion.

Commissioner McHugh stated in Section 1, Finding 4 talks about the “green rush” with individuals moving here to grow marijuana, probably should say “cannabis”; and where it says “with some seeking to capitalize on ambiguities in law...”, that is a cultivation statement and he wonders if that should be tailored to what the ordinance is about which is distribution, maybe there is a finding to be made. He said Finding 5 talks about the numerous individuals who have provided inquiries, and there is no mention of the large number of those who have expressed concern to expansion of the industry, there are two sides to that. He said something jumped out at him on Finding 11, it talks about the potential transportation of dangerous product, and it strikes him as you are declaring cannabis a dangerous product, and that being the case, it begs a lot more focus on transportation in this. The distribution license includes transport capabilities, and we make a finding here that its transporting a dangerous product, and then pretty much ignore all regulations associated with transport, with the one exception in here about providing access to the vehicle for inspection on occasion, so he will come back to that. But he thinks you should read that, and if that’s your finding, it’s a dangerous product, and even if it’s not a dangerous product, with the comments that were made about thousands of pounds and millions of dollars they transport in and out of these facilities, he thinks we need to pay attention to the transport side of distribution. He said speaking of definitions, in Section 2.A we use the term “cannabis distribution facilities’ and then we put some burdens on that. He asked is that a building, is it a semi circling the block? He said he’s sure we are going to hear from the microbusiness folks that they want to add distribution and therefore the facility for doing distribution, again including transport, probably we need to specify what that is, not someone’s kitchen table when we get into micro. It’s a big building with a thousand pounds of stuff in it, maybe we should talk about what constitutes a legitimate distribution facility in the definitions. Then we go back and say whatever that is, it shall only be located in zones specifically allowing it. What is the site, they shall not be allowed within a thousand feet, what is that thing that is allowed, a building he guessed, and he thinks we should define that. He said there is a term in here “operator”, maybe a different term should be used or it should be defined. McHugh said in Section 2.B it talks about obtaining a conditional use permit, and the question he would ask is who would obtain the conditional use permit in the context of a lessee vs. an owner of the parcel. Later it says the burden is put on the owner and to make sure that the licensee is following all of the rules and if rules aren’t followed the conditional use permit is at risk. So, does that mean that only the property owner can get the CUP, or if the licensee gets the CUP on a rented piece of property, why is the owner the one enforcing all the rules. He thinks that needs to be clarified. He said under C.3 it states “a security plan shall be developed which is compliant with the State and so on, again it doesn’t address the security issues related to transportation. He said maybe a lot of these go away when the State regs come out and we have clarification. Paragraph 8 talks about being responsible for quality assurance, that should be spelled out he believes. He said in Section E Required Conditions, when we talk about access to the vehicle for inspection purposes, he suggests the whole transportation thing should either be looked at or taken out, depending on the State, and maybe this whole ordinance goes on the back burner until the State regulations come out and we find out much of this is moot or wrong. He said in Paragraph 4 it talks about what the property owner is responsible for, and it puts the CUP at risk, again, does that mean the property owner is the one that gets the conditional use permit for a distribution facility he’s leasing out to someone else. We should clarify who that is. Also in this paragraph the term “operator” appears and who do we really mean by that, and if it turns out it is the property owner’s responsibility, how does the property owner know if those operations are in conformance with the County, will the County certify that, or send a letter out, or how would he know?

Chair Matthews said that’s the direction of the Commission at this point. The proposal is to see what the State provides, someone is going to quickly craft that into something, and wondered if it could be noticed in time for our regular December meeting. Director Hubbard responded she was going to talk about the timeline in a little bit.

Discussion regarding length of time it takes for an ordinance to go through the Commission, the Board

of Supervisors, publication of the ordinance, and effective date.

**6. MATTERS FROM THE COMMISSION**

Chair Matthews advised he will be available until Noon on December 15<sup>th</sup> and he will not be available the rest of the year.

**7. MATTERS FROM STAFF**

Director Hubbard said as advised, November 30<sup>th</sup> is a date that has thrown out to bring this ordinance back to the Commission along with another ordinance, Microbusiness.

**8. ADJOURN**

The Chair adjourned the meeting at 7:59 p.m.