

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, Associate Planner Colleen O’Sullivan and Deputy County Counsel Joe Lamour.

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 Judith French and Lisa Wright.

3. MINUTES – November 9, 2017.

Upon motion of Commissioner Frasier, second by Commissioner Stewart and carried, approved the Minutes of November 9, 2017 as submitted.

OLD BUSINESS – None

NEW BUSINESS

4. VARIANCE FROM REQUIRED 350’ COMMERCIAL CANNABIS SETBACK P-17-25

**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 523 Top of the Grade Road, Douglas City. APN 015-140-27. Applicant: Chai Lee.

Associate Planner O’Sullivan requested that this item be continued because the wrong Assessor Parcel Number was advertised in the paper and on notices sent to adjacent property owners. The Commissioners agreed to continue the item.

Chair Matthews opened the public hearing because it was legally noticed and agendized. No comments being received, Chair closed public hearing.

Commissioner McHugh moved to continue Item No. 4 to the January 11, 2018 Planning Commission meeting. Commissioner Stewart seconded. Motion carried unanimously.

5. VARIANCE FROM REQUIRED 350’ COMMERCIAL CANNABIS SETBACK P-17-47

**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 720 Kellogg Gulch Road, Hayfork. APN 14-420-15. Applicant: S. Kephart.

Associate Planner O’Sullivan presented the staff report, noting that a corrections sheet had been provided

regarding an incorrect parcel number for a neighboring residence, and comments from two neighbors that were received this week. She also noted that a map showing the 350' radius around the cultivation site was included. She stated that moving the cultivation site anywhere else on the property, due to its narrow configuration, would not mitigate the encroachment into the 350 foot radius by another residence. There might be a location at the far north on the property, but it appeared to be more hilly, with a break in slope.

Chair Matthews opened the matter to public comment. No comments being received, Chair closes Public hearing.

Commissioner Hoard addressed the concerns regarding Kellogg Gulch Road and water quality that the two neighbors expressed in their comments on the project. Commissioner McHugh stated that he was not convinced that the cultivation site could not be moved to avoid encroachment into the 350' setback. There was a general discussion regarding the quality of the maps provided, commercial vehicles on a dirt road, and potentially more ground disturbance if the site was moved. Commissioner Hoard asked if the road could be paved with asphalt.

Commissioner Stewart made a motion to approve the variance, with the mitigation measures that the neighbors included in their comments (paving Kellogg Gulch Road or otherwise maintaining it, testing Kellogg Gulch water 2 to 3 times a year). Commissioner Hoard seconded the motion. Deputy County Counsel Lamour clarified for the Commission, that the variance request is for the 350' setback only. The licensing process is the place to address impact to roads and water quality. Voter polled: Commissioner Stewart-yes; Commissioners Matthews, McHugh and Frasier-no; Commissioner Hoard-abstained. Motion failed. Variance denied.

6. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **P-17-49**  
**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 2000 Red Hill Road, Junction City. APN 12-270-50. Applicant: L. Wisniewski.

Associate Planner O'Sullivan presented the staff report, noting that a corrections sheet had been provided regarding an incorrect parcel number for a neighboring residence, another affected residence, comments from one of the affected residents, and a map showing the 350' radius around the cultivation site. She also noted that the applicant's site plan showed the correct parcel configuration, the other figures did not. The applicant had recently completed a lot line adjustment, but the County maps did not yet reflect the change. O'Sullivan noted that the applicant had established her cultivation prior to both the Urgency Ordinance and the Permanent Cultivation Ordinance, and now she was trying to comply with all the requirements. O'Sullivan stated that this site could be considered an existing, non-conforming use.

Commissioner McHugh had questions about the applicant's site plan and if the second cultivation site affected any residences. O'Sullivan replied that she didn't think it did.

Chair Matthew open the hearing for public comment.

Comments received from Susan Martin, Applicant Liza Wisniewski and Tom Ballanco.

No further comments being received, Chair Matthews closed the public hearing.

Commissioner McHugh stated that he would like to see the staff report reflect that the cultivation area could be moved.

Chair Matthews reopened the public hearing to hear additional comments from the applicant regarding her neighbor's concern about the odor. She stated that she doesn't want to go through this again if she moves her grow and there is more opposition.

Chair Matthews closed the public hearing.

Deputy County Counsel Lamour suggested that this matter be continued so that the applicant can work with staff to mitigate the impact.

Commissioner Frasier moved to deny the variance request, seconded by Commissioner McHugh. Commissioner Stewart stated that she would like to continue the item. Commissioner Frasier stated that under past practices if a neighbor complained about a variance request that the Commission denied it. Chair Matthews stated that the residence closest to the cultivation area (about 128 feet away) has not commented. Commissioner Stewart said she would like to have more information, and made a competing motion to continue the item. Commissioner Hoard seconded. Vote polled: Commissioners Hoard, Stewart and Matthews-yes. Commissioners McHugh and Frasier-no. Motion carried. The matter is continued to the January 11, 2017 Planning Commission meeting, with the Commissioners requesting additional information on moving the cultivation site, and providing a map that shows the 350' radius around affected dwellings as well as the cultivation site.

7. **AMENDMENT TO ZONING ORDINANCE TO ALLOW CANNABIS DISTRIBUTION**

**PW-17-08**

**Public Hearing:** Proposed amendment to Zoning Ordinance to allow Cannabis Distribution Facilities in Trinity County. Located County-wide. Applicant: County of Trinity.

Interim Planning Director Hubbard stated that we reviewed this item last month and briefly summarized its contents.

Chair Matthews opened the matter for public comment.

Comments received from Terry Mines, John Brower, Lisa Wright, Superintendent of Trinity Alps Unified School District Tom Barnett, Chris from Hayfork and Tom Ballanco.

Chair Matthews closed the public hearing.

Commissioner Hoard had some questions regarding Section E.4 – what responsibility does the property owner have? There is legal precedent for placing the liability on the owner for violations, as far as a nuisance goes. Ultimately the property owner is responsible. Deputy County Counsel Lamour stated that to deviate from this ordinance would mean that the County would lose some power to abate and regulate. There was a discussion between Counsel Lamour and Commissioner McHugh regarding violations and property owners. Counsel Lamour discussed the various ways a property owner could be compelled to abate a nuisance or violation, and suggested that the word “operator” be replaced with “license-holder”. Otherwise, the paragraph should stay. Counsel Lamour also addressed the firearm issue by referring to the Cole Memorandum, a federal document that has emphasis on protection of children and the prohibition of firearms. He stated that the feds are not budging from these. It is up to the license-holders to run the risk of carrying firearms.

Commissioner McHugh suggested that No. 5 on the first page be deleted (Section 1: Findings and Declarations). He drafted language for a new No. 5 and read it aloud. He wants to add a requirement to the use permit process that if a property owner is letting a license-holder use his property, that the license-holder obtain a signed, notarized signature authorizing such use. Counsel Lamour stated that this can be done at the time of use permit application. Commissioner McHugh questioned the one requirement for employees of manufacturing facilities – that they have to be 21 or older. He wants more than that, and stated that prospective employees should go through a background check and that people with serious felonies should not be hired. He asked if the County has any interest in looking into the employment requirements. There was a general discussion on staffing needs, transportation and what the State will be requiring. Counsel Lamour stated that transportation is under the control of the state. All license-holders must comply with State requirements. If a person becomes a transporter, it's all under the state. It's the only part of the Cannabis law that local jurisdictions have no control over. Commissioner Stewart asked if the County had looked at a distributor/transporter license yet? Interim Planning Director Hubbard replied no, but it would make sense if they did. There was a general discussion regarding transporting, delivery, facilities, etc.

Commissioner Stewart suggested deleting Section C.7. Counsel Lamour suggested keeping it. Under C.2, Commissioner Stewart suggested allowing for a variance from the 1000 foot setback for school bus stops and all the other facilities mentioned in this section. There was a general discussion regarding setbacks and different land uses.

Commissioner Frasier stated he wants to put the burden on the license-holders to meet the requirements.

Commissioner Stewart stated that manufacturing is very different from the other Cannabis-related activities.

There was a general discussion regarding the variance and use permit processes.

To recap the recommended changes to the ordinance:

1. Delete finding #5. Change the word “dispensary” to “license-holder” everywhere in the ordinance.
2. Change the setback requirement from 1000 feet to 600 feet in the ordinance.
3. In Section C.1, add language that refers to Section B.1.
4. In D.4/E.4 change “operator” to “license-holder”.

Commissioner Stewart moved to recommend to the Board of Supervisors to adopt the ordinance, with the recommended changes. Seconded by Commissioner Hoard, and carried. Vote polled: Commissioners Matthews, Hoard and Stewart-yes, Commissioners McHugh and Frasier-no.

## **9. MATTERS FROM THE COMMISSION**

Chair Matthews stated that he would no longer be chair next year and that his one regret was that when the public asked for matters to be agendaized that there was little or no follow up. He would like to see the minutes reflect requests from the public to be placed on the agenda and to have staff address these requests in some manner.

## **10. MATTERS FROM STAFF**

Associate Planner O'Sullivan informed the Commission that staff would be bringing some language modifications to the C-1 and C-2 zoning districts to add uses that would be allowed by right. This is the result of members of the public making this request of staff.

Director Hubbard informed the Commission that she is taking a U.C. Davis Extension Course on Land Use and Planning, and that it is very informative.

8. **AMENDMENT TO ZONING ORDINANCE TO ALLOW CANNABIS MANUFACTURING**

**PW-17-05**

**Public Hearing:** Proposed amendment to Zoning Ordinance to allow Cannabis Manufacturing In Trinity County. Located County-wide. Applicant: County of Trinity.

After a member of the public inquired about Item No. 8, Chair Matthews opened the public hearing, advising that that the item has been continued; however, since it was agendaized, there must be an opportunity for the public to comment.

Comments received from Terry Mines, Bill Connor, Tom Ballanco and John Brower.

Chair Matthews closed the public hearing.

The Chair adjourned the meeting at 10 p.m.