

MINUTES

1. CALL TO ORDER

Acting Chair Diana Stewart called the meeting to order at 7:00 p.m. Members present: Graham Matthews, Richard Hoard and Diana Stewart. Members absent: Mike McHugh and Dan Frasier. Staff present: Deputy Director of Planning Leslie Hubbard, Associate Planner Bella Hedtke,

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.

Comments received from Justin Hawkins, Jack Grossman-Crist and Patrick Kahn.

Chair Stewart advised we will be having public meetings on the D.E.I.R., they are in every community throughout June and please come and make your comments there. She said in order to be considered you also need to provide written comments.

3. MINUTES – April 11, 2019

Commissioner Matthews moved to approve the Minutes of April 11, 2019, as corrected on Page 8. Seconded by Commissioner Hoard. Motion carried unanimously.

OLD BUSINESS – None.

NEW BUSINESS

4. PROPOSED MITIGATED NEG. DEC. AND CANNABIS CONDITIONAL USE PERMITS (CCUPT3-18-07 and CCUPN-19-03)

Public Hearing: Proposed Mitigated Negative Declaration, Cannabis Cultivation Use Permit and Cannabis Nursery Use Permit. Located at 610 Kaut Road, Burnt Ranch. APN 008-210-10. Applicant: Trinity Sungrown (N. Holliday).

Deputy Director Hubbard presented the staff report. She said the applicant and the consultant are both present and will be able to answer questions if you have any. This applicant was one of the earliest Water Board enrollees in the county, he's been on this parcel of about 200 acres, he's been there for a number of years and he was one of the earlier adopters into our cannabis program late in 2016. He's been in compliance since the beginning of the program and he really specifically chose this parcel for a cultivation and eventually larger scale cultivation site. He is proposing to increase from his current 10,000 sq. ft. canopy site to 1-acre of canopy and to include a nursery. Staff recommends approval.

Chair Stewart opened the hearing to public comment.

Comments received from Applicant Nicholas Holliday, Ben Brady, Marie Peterson, Deidra Brower, Jeff Ghildella, Jake Grossman-Crist, Kosho, Fabian Farro, Justin Hawkins, Tom Ballanco, John Brower, Ag Commissioner Joe Mereo and Katherine from Junction City.

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

Chair Stewart said she had a couple of questions for staff, one is the issue of the spotted owl, and asked does that condition only apply during the breeding season? Deputy Director Hubbard responded that it makes the most sense that it would. Chair Stewart said then it should state that. She then asked does it only apply to the cannabis operation or to the entire farm? Keep in mind that there are animals that need to be fed and equipment, tractors and things, that will be taking hay out to cattle perhaps. Ms. Hubbard responded this CUP refers to the cannabis cultivation and nursery. Chair Stewart said so it doesn't apply to the entire farm, the entire ranch operation? Hubbard responded right. Chair Stewart said and then No. 12, that security plan for approval, that's supposed to go to the Planning Department, is it not? She said not every person that is growing is going to submitting a security plan to the Board of Supervisors. Ms. Hubbard responded correct. Chair Stewart said so it should be going to the Planning Department and not the County Board of Supervisors. Hubbard responded correct. Commissioner Matthews asked isn't there a security plan required for cultivation? Manufacturing he remembers, and distribution. Chair Stewart said she thought when we eliminated the fencing, we said that in exchange for giving up the fences they had to turn in a security plan. Ms. Hubbard said which may include a fence. Chair Stewart said which may or may not include a fence. Deidra Brower called for point of order, stating the Supervisors did not adopt that recommendation. John Brower stated it says he believes it reads that fencing could be part of a security plan, but it does not mandate a security plan. He said Commissioner Hoard is correct in that distribution does require a security plan. Chair Stewart said how interesting. Ms. Hubbard said she was looking for it.

A member of the audience said he found it and asked if the Commission wanted him to read it. It's in the amendment that was February 20, 2019 on Page 12 of 20, Item e, there's no security plan required.

Chair Stewart said if that wasn't adopted by the Board of Supervisors then we would have to strike that, so strike 12. And then 15, the two years vs. one year. Ms. Hubbard said correct. Chair Stewart said strike the part that's in bold. Chair Stewart said and then we don't need to say anything about the fact that it's 12 greenhouses instead of six, because that's not part of the Findings or Conditions for the motion. Ms. Hubbard responded right. Chair Stewart said she did not see anything, the only thing she recalls reading was about the outdoor lighting having to be downcast. It does not mention a condition for lighting the greenhouses, not escaping from dawn to dusk, so that would be a condition we would need to add, is that correct? Ms. Hubbard responded its part of the CEQA document. Chair Stewart said we did not receive the whole CEQA document and asked Deidra Brower if she had it. Deidra Brower said she did have and said it's on Page 11, Section D, the last sentence in the second paragraph. Chair Stewart said so it's there, we don't need to... Ms. Brower said well it's incorporated, the whole application and CEQA document gets incorporated into the Conditional Use Permit, so that's why she is asking that be addressed, so we're not limited to that. Chair Stewart asked Deputy Director Hubbard if she understood what Ms. Brower was talking about. Commissioner Matthews said the issue is in the State's letter it says that IS/MND explicitly states the applicant will not use artificial light on the cultivation site at any time; they don't reference where in the document it is. Chair Stewart said but it does have, on 1d on 21 it does say that in addition to the requirements in the Cultivation Ordinance that light generated by a project be downcast and prevented from escaping greenhouses and other mitigation-strategy. Commissioner Matthews said which is already in the ordinance, they're already required to do that. Chair Stewart said she doesn't know that we need to address it specifically. Commissioner Matthews said well if they think the document says that he's not going to use artificial light at all, ever, in cultivation, then that's an issue. He said he hasn't read the document so he doesn't know if this is accurate; he means certainly the response says that it's a performance requirement and it's not an issue. Chair Stewart said logically [inaudible] allow any light to escape, then it's not going to be an issue, but do we need to mention that in the conditions? Ms. Hubbard responded it's a performance standard that's already listed in the Cultivation Ordinance. Commissioner Hoard said so we are saying this is a contradiction of a performance standard by saying specifically that it will not use artificial light at the cultivation site at any time. That's what the Initial Study says "no light will be generated from the proposed cultivation site because applicant proposed to use light deprivation and will

not use artificial lights at the cultivation site at any time”, so that conflicts... Chair Stewart said but that’s on the cultivation site. Are they thinking in terms of the cultivation site just being the outdoor cultivation site and not inside the greenhouses? Commissioner Hoard said he believes, if possible, that we should eliminate that sentence from the Initial Study and refer to the performance standards stipulated in the Ordinance, so there’s no confusion and so the applicant would not be restricted to never being able to use artificial light; he doesn’t think that’s a need, not only to mention he’s going to have a nursery. Deputy Director Hubbard stated regardless of what Fish and Wildlife is asking, he would be out of compliance if light escaped from the greenhouses under our own Cultivation Ordinance. Chair Stewart asked so do we need to address this? Ms. Hubbard responded she didn’t believe so. Commissioner Matthews said he’s nervous about that, if... Chair Stewart asked how can we not address it, and somebody pulls this up in a year or two and says but wait a minute, it says he’s not going to be using any artificial light and he is, if we don’t address it? Commissioner Hoard said he thinks we should address it, absolutely. Ms. Hubbard responded well the CUP includes the project description for, if you read the description, the first paragraph of the project description in the CEQA document, it says “the applicant proposes to use a combination of full sun outdoor and light deprivation cultivation techniques”. It’s not included to be mixed light at this time, he would have to revisit and modify the Conditional Use Permit if he wanted to do that. The Type 2 licenses are outdoor licenses in Trinity County at this time, so if he wanted to do mixed light in the future, he would need to revisit this. The Cultivation Ordinance would have to change. Someone in the audience said that’s not true. Chair Stewart said but he is asking for a nursery as well. Hubbard responded the nursery is separate. Chair Stewart said and the nursery will have to have lights. Ms. Hubbard said the light in the nursery, we still would not allow light to... Chair Stewart said no, she understands that. Ms. Hubbard said you’re saying to put that in as a condition? Chair Stewart responded yes. Commissioner Hoard apologized and said back to the sentence, what do we do about that “no artificial light at the cultivation site will be used at any time”. He said he just has a problem with that sentence, personally he’d like to see... Chair Stewart said because obviously there’s going to be... Ms. Hubbard said right, for the nursery.

Commissioner Matthews said he had a question for staff, can we make changes to an CEQA document without going through some process? Ms. Hubbard responded if it’s a minor change, yes you could, but major change, no you couldn’t. Any significant change would that would require rerouting of it, that would not be allowed. Chair Stewart asked so is it up to us what’s considered a significant change or what’s considered a minor change? If we consider it a minor change that he can have artificial light for the nursery portion of his operation then that, to her, is not a major change because it still has to be shielded. Commissioner Matthews said he totally understands that, but the sentence in the State’s letter says “it is assumed this statement applies to the project as a whole, including the nursery greenhouses, as well as the mature canopy greenhouses and hoop houses”. He asked is it significant if an agency thinks otherwise than the action we are proposing to take? Chair Stewart says it says assumed, right? Commissioner Matthews said well they made the wrong assumption. Chair Stewart said that’s it, she thinks that’s where we’re at, that they have made an assumption without checking, and that’s not good business.

Ag Commissioner Joe Mereo said he can’t solve the problem, but he could shed some light. We currently do compliance inspections; the mixed light is because they’re using light dep with tarps is because of the tarps; but when we go do the canopy inspection, the tax base, the really serious thing on the state level, we only do the mature, that word mature, so it’s the cultivation area. Right now, the veg part is allowed to have light when they’re small in the cold time and when they come out to flower is what we measure and if there’s no light, that’s how they’re currently doing it for compliance, both the State and the County. We’re getting paid for these inspections and we’ve gotten paid, so we’ve done it right. He said several of these places he had to be reminded him no Joe, that’s the veg, and oh yes that’s right, so he can only add that to illustrate that he thinks that part that said mature canopy, they talk about mature flower, he interprets that as the canopy, the thing we’re measuring, that they are going to pay tax on and they are allowed to light the veg. It’s not in the first iteration but it does need to be solved.

Commissioner Matthews said let's call it insignificant and strike that sentence. Commissioner Hoard said he has no problem with that, he would agree to it. Chair Stewart agreed, stating our determination is that it is an insignificant change and we strike that sentence.

Commissioner Matthews said there was also an issue about public access that Ms. Brower brought up on Page 25 (of the CEQA document). Ms. Brower said it's on Page 25 just above Mitigation Measures. Chair Stewart read the paragraph and asked the applicant is this going to be a wholesale nursery, not a public retail nursery, is that correct? Applicant Nicholas Holliday responded absolutely, in fact, the only people he would be able to sell to would have to have a license. Chair Stewart said that shouldn't be an issue then. Mr. Holliday said he doesn't want the general public coming up to his place. Commissioner Matthews said it's not an issue then? Chair Stewart said right, because he's not opening up his nursery to the general public.

Commissioner Hoard said John Brower brought up the issue of the Initial Study on Page 14 about the odor and the possible relocation of the variance. Chair Stewart said unfortunately, perhaps staff can address that because it's her understanding that this is simply part of the whole cannabis variance process; if a neighbor gets a letter and they object then it ends up coming back to the Commission, correct? Ms. Hubbard responded that is the process that we've followed so far. Chair Stewart said and odor is one of the things they can object to. Commissioner Hoard said it says here, just to be clear, "should odor from the project become an issue at the off-site residence, the County could terminate the variance or require relocation of the outdoor cultivation area further from the property line. He assumes by County, it would mean this would come back to the Planning Commission and we could change the Conditions of the permit or the variance. Ms. Hubbard responded yes and that is very awkward, the point is made between the klunkyness of the variance and with the use permit. Chair Stewart stated that's what we've been doing now. Commissioner Hoard said he's comfortable with that because as long as, he has faith in this Commission personally, so for us to review that again, he just doesn't want this to fall through the cracks and then someone at County level could revoke the variance.

Chair Stewart reopens public comment period.

Comments received from John Brower and Jake Grossman-Crist.

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

Commissioner Hoard said he sees Mr. Brower's point in the County potentially being able to terminate [inaudible] instead of the annual renewal which should be observed, in his opinion, so he's in favor of changing the wording as Chair Stewart suggested to require the next renewal date.

Chair Stewart said she thinks we need a motion.

Deputy Director Hubbard asked if she could make a suggestion, Condition 11 "If the permittee grades or disturbs one (1) acre or more of land" then they would have to get a construction general permit; she believes the applicant was given written acknowledgement from the Water Board that he has an Ag exemption. Applicant Nicholas Holliday stated that's correct, they looked at his project, looked at the parcel next door and said oh you're on Ag land for an Ag operation, they saw no problem with it and said he didn't need the stormwater protection. Chair Stewart asked so strike No. 11 then? Ms. Hubbard said yes.

Mr. Holliday said there's some talk about the 6 greenhouses on there and there was supposed to be 12, he just wanted before you pass or deny something, he wanted to make sure that was clear; there's also been a lot talk about light leaking from these greenhouses. He said it's easier for him to do it with a 30' wide greenhouse as opposed to a 20' X 72' like it says on there, so is it 6 greenhouses or is it 12? Chair Stewart

responded actually it's her understanding that's not part of the motion, not part of the conditions. It was a mistake in the description, is that correct? Commissioner Matthews said the site plan is accurate, but the description is incorrect. Mr. Holliday said the site plan has 12, he just wanted to make sure if you want him to do 6, he'll do 6 bigger ones, which he would prefer, so if that's a change because of the light leaks and everything, it's easier to automate that, that was one of the things that Fish and Game had asked. He said he just wanted to make sure he isn't going home and taking down 2 greenhouses because he has 8. Commissioner Matthews stated he's unclear and asked if Mr. Holliday do you prefer to do 6 larger than 20' X 72"? Mr. Holliday responded 6 or whatever the 10,000 sq. ft. max is on those, because its easier to automate the bigger ones as opposed to a 20' one you can't automate, which is something they're asking. Commissioner Matthews asked why he asked for 12 to begin with? Mr. Holliday responded that he asked for 12 to begin with a year and a half ago and we're not allowed to grade, so we're trying to find out what space we have. He said as this light leak issue coming more and more, he doesn't want his light shining out over the hills, he doesn't want it, he doesn't want to go out to his front porch and see that, he doesn't want to see his neighbors', so he's just trying to be the better neighbor, be a better steward of the land. Commissioner Matthews asked what size would it be? Mr. Holliday responded it would be 30' X 100' and that would be basically 4 of them as opposed to 6 more, is that correct? He said 6 more, 1,440 sq. ft. right now and he has 7 of them, that equals 10,080 sq. ft. so if he put up 4 of them that would allow for walkways and everything else. Chair Stewart said so you want 4. Mr. Holliday said 30' X 100' as opposed to 6' X 22" he believes is in there. Commissioner Matthews said it says twelve 74' X 20'. Mr. Holliday stated he already has 8 of them. Chair Stewart said so it would be, so if you want 4 more, it's still going to be 12, not 8. Holliday responded yes; so there's already 8 there, plus the 4 others, and then the 2 for the nursery. He said the square footage doesn't change. Commissioner Hoard said personally, he thinks that's up to the applicant to determine [inaudible] the canopy and the size of [inaudible]. Chair Stewart and Commissioner Matthews agreed. Holliday said he just wanted to make sure before this passed that he isn't locked in. Chair Stewart said this does have twelve and basically we don't care how [inaudible]. Commissioner Matthews said there's twelve and two and two for the nursery.

Commissioner Hoard moved to (1) adopt the Resolution and Findings that the Initial Study and Mitigated Negative Declaration are consistent with the California Environmental Quality Act ("CEQA") requirements and adopt the Mitigation Monitoring and Reporting Program ("MMRP"), with the following changes: Page 11 of the Initial Study under Aesthetics, Section d, Paragraph 3, that we strike the last sentence "No light will be generated from the proposed cultivation site because the applicant proposes to use light deprivation and will not use artificial lights on the cultivation site at any time"; and on Page 14 of the Initial Study under Air Quality, Paragraph c & d, Fifth Paragraph, that we change where it says "the County could terminate the variance...", that we change that to read "the County could require that the variance be brought back to the Planning Commission at the time of the next renewal"; (2) approve the Conditional Use Permit for development of a Cannabis Type 3 use, subject to the conditions of approval for that use as provided in this staff report and of the County's Cannabis Ordinance; and (3) approve the Conditional Use Permit for development of a Cannabis Nursery use, subject to the conditions of approval for that use as provided in this staff report and of the County's Cannabis Ordinance with the following changes: that under the recommended Conditions of Approval that Condition No. 8 specify this only applies to breeding season (February 1st through August 31) and to the cannabis operation only, that Condition No. 11 be removed completely, Condition No. 12 be removed completely, and Condition No. 15 that the second sentence be removed as well so it reads "This Use Permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted."

Deputy Director Hubbard said and you don't want to keep the second sentence with substituting one year instead of two years? Commissioner Hoard said he believes we decided as a Commission to strike the second sentence. They can be referred back to Section 32 of the Zoning Ordinance.

Motion seconded by Commissioner Matthews and carried unanimously (3-0).

5. MATTERS FROM THE COMMISSION

Commissioner Hoard stated with regard to the Mountain Communities Healthcare District, he wanted to check in on the status of Noise Mitigation Plan. He said when he made the motion at that meeting, he didn't include for the Noise Mitigation Plan to come back to the Planning Commission; however, in favor of those affected neighbors, he would like to see if the Commission could review that Noise Mitigation Plan, however that works out, he just wants to revisit that if we have the chance.

6. MATTERS FROM STAFF

Deputy Director Hubbard stated she wanted to update the Commission on Variances. She said the way that we've been tracking them, we have been prioritizing them so that anybody who is license with the County or State is dependent on a variance doesn't fall through the cracks; that we try to keep them current with their licensing, we want to maintain licensing. When new applicants come into the program and they require a variance, they get entered into the same timeline as they come in the door basically. When a variance is required for a Conditional Use Permit, and so far, every one of our Type 3 applicants has required a variance, they don't fit into either of those categories, that's what happened with this one this evening, so we are aware of it. We've corrected that process so they are all housed together. She said since the beginning the cannabis variances does not act like other variances, the annual variance is more challenging, we'd like to revisit the general topic of variances at length, but it's going to take some pretty deep diving to figure it out. We are starting to see that we might have a situation where somebody could put in permitted buildings and have a variance for those buildings, then the next year if somebody moves in that is new and doesn't like that cultivation site, it's very awkward how we handle that. So, we're starting to see that some of the others are still going to be very challenging, we don't want to create a more difficult situation for the neighbors and don't want neighbors to be against one another, so we're going to be bringing it back at some point for more discussion. Hubbard stated since the beginning of the year we have 45 variances that have been processed or are being processed right now. In years past, the pre cannabis, variances came up once in a blue moon. She said they're challenging and we need to figure out a different way of dealing with them. We've held back on variances when a conditional use permit has been required, because if something comes up during that conditional use permit it should be adjusted the same time as the variance and we want to make sure that they are consistent, the timelines need to be in sync.

Commissioner Matthews asked how many of those 45 variances have come before the Commission? Associate Planner Hedtke responded four, and eight more will be coming. Hubbard said with the renewals, renewals are going fairly well, but [inaudible] we just want to avoid that situation where somebody has put in the infrastructure and [inaudible], so we will be revisiting that in the future.

Hubbard said a question came up also regarding, and you asked to have it agendized, property line setbacks or setbacks in general for Ag parcels, so we will be getting some help from County Counsel about how best to sync that with our Draft EIR.

Hubbard said staff, we have Bella and Ruth in the Planning Department and she is working in both Cannabis and Planning. We might have some staff changes coming up, we have a position for Associate/Senior level Planner, we have another position allocated, one each, for Cannabis and Planning an Associate or Senior level Planner.

Discussion re next meeting schedule.

7. ADJOURN

The Chair adjourned the meeting at 8:38 p.m.