

TRINITY COUNTY PLANNING COMMISSION

Regular Meeting

March 11, 2021 at 5:30 p.m.

Trinity County Library Conference Room

351 Main St, Weaverville, CA

Chair Diana Stewart

Vice-Chair Duncan McIntosh

Commissioner William Sharp

Commissioner Mike McHugh

Commissioner –vacant-

PLANNING COMMISSION MEETING MINUTES

***NOTE:** The public was invited to attend the public hearing via Zoom Link and limited public access for specific agenda items was made available by request and during the public meeting.

CALL TO ORDER:

Chair Stewart called the meeting to order at 5:33 p.m.

Commissioners present: Chair Stewart, Vice-Chair McIntosh, Commissioner Sharp, Commissioner McHugh

Staff Present: Planning Director Kim Hunter; Planning Deputy Director, Lisa Lozier; Associate Planner, Bella Hedtke; Administrative Coordinator, Deborah Rogge;

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

Public comment opened at 5:34p.m.

Speakers: Lisa Wright-Lewiston, Tom Ballanco-Douglas City, John Bower-Junction City

Public comment closed at 5:42p.m.

REGULAR CALENDAR:

Item 1. ANNUAL INITIAL VARIANCE (CCV-20-26): A request for a variance from the required 350' Cannabis cultivation setback from a neighboring residential dwelling (TCC 17.43.050.A.8). Project site is located at 211 N. Salt Creek Rd., Hayfork. Applicant: M. Lee. Assessor Parcel Number: 016-200-33-00. Planner: B. Hedtke

Planner Hedtke presented staff report.

Chair Stewart- Are there any questions of staff?

Commissioner Sharp asked why the license is pending.

Planner Hedtke- stated she was not sure of all the reasons or all of the requirements that they haven't meet yet, but, one of them is the Variance request, they need an approved annual variance before they can move on with the licensing process at this time.

Commissioner McIntosh-Is this an initial variance?

Planner Hedtke-Yes

Director Hunter-After the initial variance is granted then a Directors Use Permit is required annually after that.

Chair Stewart opened public comment. There were no speakers for this item.

Public comment closed.

Motion: Commissioner McIntosh-To move to approve the Commercial Cannabis Variance CCV-20-26 to reduce the cultivation site setback in Trinity County Code 17.43-050(A)(8) from 350 feet to 320 feet from the residence located on APN 016-200-06-00 and from 350ft to 235ft from the residence located on APN 016-200-08-00, subject to the findings of fact and conditions as stated in the staff report.

Second: Commissioner McHugh

Vote: Commissioner Sharp-Aye, Commissioner McHugh-Aye, Commissioner McIntosh-Aye, Chair Stewart-Aye
Chair Stewart: Vote is unanimous

Item 2: REVOCATION OF CONDITIONAL USE PERMIT (P-19-19): Best Development Group LLC (Best Development) is requesting revocation of land use approvals for the Grocery Outlet project proposed to be located at 1155 Main Street (State Route 299), Weaverville. Best Development no longer has actual or prospective interest in the land subject to project approvals Resolution 2020-05 and Conditional Use Permit P-19-19. Assessor Parcel Numbers: 002-100-61, 62, 63, and 002-100-42. Planner: L Lozier.

Deputy Director Lozier presented staff. Chair Stewart asked for questions from the commission.

Chair Stewart opened public comment.

Beck Diel, Land use council for Trinity County Small Business-Thank you and good evening Commissioners. We filled the lawsuit that staff referenced. Ms. Diel expressed concerns that the proposed action does not fully resolve all the issues in the lawsuit. My colleagues sent a letter to staff on January 27th in regards to these concerns. I'm not sure it was submitted to you and we have not been able to reach county attorneys. We have spoken with Best council. We have two major concerns 1. Because the Board was the legislative body that acted on these approvals, we believe the Board is the legislative body that need to make the revocation on these approvals. 2. That the Resolution as written does not clearly and unequivocally revoke the Mitigated Negative Declaration that was adopted. The language as written does not expressly revoke the Mitigated Negative Declaration and it does not thoroughly revoke the Conditional Use Permit either.

Deputy Director Lozier- I would like to comment to the Commissioners, I did not receive an email from Ms. Diel.

Chair Stewart closed public comment.

Commissioner Sharp-requested Counsel discuss the language in the resolution.

Margaret Long, County Council -We do disagree with the analysis of it, the Planning Commission is the one that made the decision on it. The Board was the first appellant process. This is the appropriate jurisdiction for the decision to occur. I believe that she is asking for a revocation of the Mitigated Negative Declaration. Based on the review of the record this should conclude the matter.

Commissioner McHugh-I did not understand Margaret. Do you mean we should amend the Resolution to specifically revoke the acceptance of the Mitigated Negative Declaration or are you saying the Resolution is ok as it stands?

Margaret Long, County Council-I would refer to Lisa on that matter. I believe that is her request, if I heard her correctly.

Margaret Long, County Council-I would ask that whomever make the motion to ask for that specifically in the Resolution.

Motion: Commissioner McHugh, I move that we adopt Resolution 2021-01 as presented in the attachment here to revoke and rescind approvals previously granted to the adoption of Resolution 2020-05 and including the Exhibit A to the Resolution 2020-05 Conditions of Approval and the associated Mitigated Negative Declaration for this project P-19-19 by request of applicant, Best Development Group LLC.

Second: Commissioner Sharp

Roll Call Vote: Commissioner Sharp-Aye, Commissioner McHugh-Aye, Commissioner McIntosh-Aye, Chair Stewart-Aye

Chair Stewart: Vote is unanimous

Item 3: REQUEST TO VACATE PUBLIC SERVICE EASEMENT (P-20-38): Request to vacate/abandon a public easement along the common boundary lines of Assessor Parcel Numbers 024-510-045 and 024-510-046. The project site is located on the southeast corner of the intersection of Martin Road and State Highway 299, Weaverville. Applicant: D Forslund. Planner L. Lozier

Chair Stewart opened public comment.

Dero Forslund, Applicant- What we are trying to do is remove the easement that has never been used. There is actually a building on top of one of them. There are easements around those two lots but those are not being removed. Just the one that runs between the two lots, if you took 33ft of the corner lot there is not much left of it. So that is what needs to be done for the future development of the property.

Chair Stewart closed public comment and asked for questions from the commission.

Motion: Commissioner McHugh- I move that we adopt the Resolution recommending that the Board of Supervisors find A) that vacation of the easement as described is not subject to California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment; and B) Adopt the attached Resolution to vacate an easement recommending the Board of Supervisors approve a Resolution to vacate an easement as designated in Attachment 1.

Second: Commissioner McIntosh

Roll Call Vote: Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye, Chair Stewart-Aye

Chair Stewart: Vote is unanimous

Item 4: VARIANCE (VAR-20-01): A request for a variance from the required 20-foot rear yard setback in an R1 zone district. The project site is located on an undeveloped lot on Lakeview Dr, Trinity Center, and directly adjacent to the Trinity Center Airport. Assessor Parcel Number 007-560-14-00. Applicant: T Lorenzo. Planner:

L Lozier

Commissioner McHugh requested to recuse due to the proximity to his home.

Deputy Director Lisa Lozier presented the staff report. Chair Stewart asked for questions from the commission.

Commissioner Sharp-Do those properties to the left and right of the property with hangers have a Variance as well?

Deputy Director Lozier- You are looking at Attachment 7? The property that is 007-560-015 that was the very first Variance, V-1. The property in the middle is the project site. The property 91 Lakeview Drive was developed within the parameters of the set-back and meets the 20-foot rear setback.

Commissioner Sharp-How many properties are setting on that line in relation to 121.

Deputy Director Lozier-For properties that I looked at I believe there are 4. Some of the properties have landscaping development and have what appear to be encroachments out to the taxi-way. I did not review those properties.

Commissioner McIntosh-Do all the homes along the landing strip have airplane hangars connected to them?

Deputy Director Lozier-No, not all of them.

Commissioner McIntosh-Do the majority of them have hangars?

Deputy Director Lozier-I would say about 1/3 of the properties do. Most of them have access to the taxi-way, and parking space. That would be something for the Department of Transportation to show how many people have easements to the taxi-way.

Commissioner McIntosh-And is ground level of the proposed project is it at the same level as the hangars to the right and left?

Deputy Director Lozier-They are all in ground, but to say they are all at the same level would not be accurate because the ground slopes to the North.

Commissioner McIntosh-Which property sent in the grievance?

Deputy Director Lozier-That would be 91 Lakeview Dr. that is the property that is developed to meet the set-back.

Chair Stewart opened public comment:

Karen Lorenzo-Good evening, my husband Tim, we are the owners of 101 Lakeview Dr. we are asking for the Variance. We have had a vacation residence in Trinity Center for 22 years, and the property on Lakeview Dr. is for a new summer home.

Tim Lorenzo-this looks a little bit confusing but I want to explain how the property looks. The property immediately to the south. Ours is approximately 13ft. as Lisa said the grades change. We are carving out for the top of the hanger will be the same existing grade as what was there. There will be little visible difference, it

won't block any views. The neighbor on the south side has exactly what we want to do, bring it right up to the edge. There is already an existing septic already approved and it fits our plan for what we want to do. We have cleaned up the property site to improve the views. If you look at Attachment 5 you will see that 25-foot distance between the properties, that elevation is not going to change and will be the same height as the top of the hangar. We should be able to do whatever we want on our property. We have no intent to invade our neighbors. The variance that was denied on the neighbor's property was denied on the front not the airport side. Some of the other properties do not have the grade that ours does and were not able to build in ground. Some of the properties are just summer homes. Our goal is to have somewhere to store the airplane in the winter.

Karen Lorenzo- We respectfully ask if can address anything else that may come up.

Jim Underwood, representing the Lorenzo's. We are in full agreement with staff's analysis, characterization of facts and the proposed findings it is appropriate in this circumstance. I would like to highlight on page 2 of the summary of Variances you will see that those have been approved, the first one to the south of the subject property. It is in ground, the third one again is in-ground, no change of elevation, and the second to the last is also in-ground. That is exactly what this proposed project would result in, the elevations are the same. The photograph shows there would be no adverse impact. It is a reasonable concern of the neighbors to realize that their privacy might be affected by someone who as elected to build next to them, that is just a reality. Trees would have come down with or without this Variance for the reasons described, for a view. There is no reason why under all the circumstances that staff has addressed that the Variance should not be approved.

Deputy Director Lozier-Madam Chair, I did also bring to you, a supplemental to this Variance it includes the staff report of elevations and site plans, where available for each of the variances listed in my staff report.

Steve Hamilton-ZOOM-As indicated in the letter in the file written by me on behalf of Scott Joseph, the neighbor at 91 Lakeview. I have some comments in opposition of the Variance. I would like to make 3 points. I reviewed the staff report and appreciate all the research. But I feel there are some errors I want to bring to your attention. First, both the government code and case law and Trinity County Ordinance make it crystal clear in order to obtain such a Variance the owner would have to show that they would suffer a unique hardship under the general zoning regulations because their parcel is different than others with respect to size, shape, or topography. In looking over the staff report, there are certain factors analyzed but there is no discussion to that. There has been in others, which we can get to if there is time. But in this instance, there is no evidence to report that this parcel has a unique hardship to make it necessary to elude from the general zoning statute. That is no surprise because the application simply states that the reason for this is direct access to the runway. They don't say it is necessary, they don't show it is necessary and that is absolutely required under the law. Second point has to do with special privilege. The report says that this is not a special privilege because two other property owners have an in-ground hangar. That's not the analysis, the analysis why are there particular circumstances that justify it here. To say because someone else got it, everyone else should does not make sense. Third, the issue on the view. There is a lot to be said about this being in ground, but the plans we see include a deck, with a porch and a railing around. So having a large deck, above the hangar, if that is the case, severely infringes on the Joseph's privacy. So, we would ask that if the hangar is granted there must be conditions put on that no deck is put above that hangar.

Scott Joseph, Property owner next to Lorenzo's-My wife and I bought the house 6-months ago. There are 19 homes on the runway. There are 4 in-ground hangars, I have one of them. There are 3 carport hangars. My property has a 2,000-square-foot hangar and a 3,000-square-foot house with a septic tank and 2-car garage. The adjoining property that is referenced is going to put a 1500-square-foot hanger and a 2000-square-foot house. It is a quarter-acre lot and there is more than enough room for them to build what they want and not adjust the set-back. It was not disclosed that the homeowner before he applied for permits dug the hole for the hangar and

took the dirt and built up the height of his property. So prior to digging the property was only 10-foot tall. That is where the hangar is. It is now 13 feet so now it is an in-ground hangar. He has raised his property height by 3 feet so the hangar as he is requesting would be 3 feet above the property. Then he is going to put a deck on top. He has not disclosed that, if you look closely there is a 1500-foot deck on top of the hangar. The hangar will be 7 feet above the property. Lisa alluded to before is there was a denial of property that had a deck above a carport style hangar that is on this property. This property was denied building a deck with a hangar underneath it in 1975. By raising the deck and handrail by 7 feet and moving the property line out 20 ft. significantly blocks my view. This is an unfair hardship.

Sarah Atkins – Designer for Lorenzo's. We are not building a special deck over the hangar. The hangar is going to be concrete and the lid is going to be concrete. That would be the deck. I want to point out that you don't need a permit for flat work. So, whether the hangar is there or not they can still build a patio to the property line. The only thing that would be protruding would be a 42-inch-high guard rail (required by building code) if there is a 30-inch drop which would only occur on the runway side. There is no additional structure on top. The deck is the actual top of the hangar and could be done with or without the hangar.

Jim Underwood-I have been doing land use for 30 year. This is a classic variance with the findings having been appropriately recommended by staff. This staff report has spoken to the unique hardship circumstances and the photograph make clear for both the Josephs property and the owners and the property to the south that there was in fact this huge grade. As the architect that spoke point out, where there to be no hangar, at ground level these folks can build a patio. The real fact of the matter is this is in-ground and appropriate. The project will be a foot lower than the Josephs neighboring hangar. If the commission wants to condition it such that the proposed Variance would result in no higher elevation than the Joseph's that is fine. There are no legal issues to prevent this project.

Chair Stewart closed public comment and asked for questions from the commission.

Scott Joseph-Rebuttal-They have compared the height of my hangar to their hangar, the difference is they are 20 feet in front of me so they are obstructing my view by 45 percent. I would have no issues with an in-ground hangar if they brought it back to the original property set-backs. It is unfair that it is out past mine and built 3-feet higher. They are raising the property 7-feet above what it was six months ago. All the variances applied for raised decks have been denied. I have followed all the set-backs of the code. I would be ok with them building a hangar as long as it does not exceed 13 feet and so long as the Board denies a deck. Otherwise, my view will be blocked.

Chair Steward asks for comments from the Commission.

Commissioner Sharp-I think it would be fair if there was a guarantee that the deck wouldn't extend higher than the neighbor's deck if we could add some language for that.

Commissioner McIntosh-Mr. Joseph seems to be ok with that if it doesn't exceed the 13 feet. The applicants are offering to do that.

Chair Stewart-I agree that would be a good compromise. But we must keep in mind that, by code, there must be a railing.

Commissioner Sharp-to the Lorenzo's-would you agree to a cable style railing to allow a view?

Tim Lorenzo -Yes, that is what we have planned, we want the view.

Chair Stewart clarified that the Commission does not engage in “back and forth” discussions with the applicants after the public comment is closed.

Commissioner McIntosh suggested that if the hangar was pushed under the house the neighbor would maintain his view.

Chair Stewart commented that based on the information provided and reviewing the photos, the neighbor’s view would not be blocked.

Commissioner McIntosh suggested that with the trees removed the neighbor would have a better view.

Chair Stewart asked for a motion.

Motion- Commissioner McIntosh I motion that this project is exempt pursuant to CEQA guidelines; adopt the recommended findings listed in PC Resolution 2021-04; and approve Variance VAR-20-01, based on the recommended findings and subject to the conditions of approval set forth in Exhibit A to Resolution 2021-04; and that the hangar elevation does not exceed the 13 feet.

Second: Commissioner Sharp

Roll Call Vote: Commissioner Sharp-Aye, Commissioner McIntosh-Aye, Chair Stewart-Aye

Director Hunter-If I may- we have had a request from the applicants of Item 7 to change the order of Agenda Items.

Chair Stewart- So we want to do Item 7, 6, then 5?

Director Hunter-yes please

Chair Stewart- that will be fine and after Item 7 we will take a 5-minute break.

Item 7: CONDITIONAL USE PERMIT & VARIANCE (P-18-01 and CCV-20-46): A request to expand cannabis cultivation operations on the project site a variance from the 500-foot property line setback requirement in Trinity County Ordinance 315-823. The applicant is currently holds a Type 2 (Outdoor – Small) Commercial Cannabis Cultivation License (CCL) to cultivate up to 10,000 square feet (sf) of cannabis canopy area and is applying for an expansion to allow up to one-acre (43,560 sf) of outdoor and/or mixed-light cannabis canopy area. To allow the expansion, the applicant is applying for a Type 3 (Outdoor - Medium) CCL. Cultivation would occur in outdoor raised beds and within greenhouses that would be developed on four previously disturbed and graded portions of the project site. In addition to the expanded cultivation activity, the applicant also proposes a 900 sf cannabis waste compost area, access road improvements including replacement of a bridge, and three culverts. Project is located on an approximately 640-acre property within Trinity County, approximately 6 miles northeast of the unincorporated community of Hayfork. The project site is located at 3800 Barker Creek Road, Assessor parcel Number 015-030-01. Applicant: Olivia Caccavo. The proposed CEQA determination is a Mitigated Negative Declaration. Planner: Kim Hunter. *(continued from the December 10, 2020 meeting)*

Director Kim Hunter presented the staff report and asked Garry Reese to summarize the comments reported to CDFA and CDFW

Garry Reese, SHN- We assisted in the preparation of the CEQA documents for the project. I will give a summary of the agency comments received from California Dept. of Food and Agriculture (CDFA) and California Dept. of Fish and Wildlife (CDFW). The recirculation of CEQA was not required by these agencies, nor was it requested that an EIR be prepared for the project. As you know if these agencies feel that is necessary they will say so. CDFA wanted to see the regulation that was discussed in the document would reduce impact. They also asked for clarification of proposed: generator use and proposed noise buffering, water usage and availability, also detail of closed water system design and if permits would be required. Also some minor revisions to one of the biological mitigation measures, and an update to one, non-listed amphibian species, information on the bridge standards required by CDFW and lastly information on the cumulative impact in relation to other cannabis projects in the area. To address the comments received staff and SHN requested additional information from the applicant. In the staff report you will see how we responded to the questions and noted where in the CEQA document the information was included. The revisions made clarify the information in the document and provide direction. Staff concluded that these revisions do not require it to be recirculated for review.

Chair Stewart asked for questions from the commission.

Commissioner McHugh – Is part of the project a new residence?

Director Hunter- Yes

Commissioner McHugh- Is there an existing residence as part of the cultivation.

Director Hunter- The building permits are in process.

Commissioner McHugh- How close is the nearest neighbor?

Director Hunter- The nearest residence is 1-mile away.

Commissioner McHugh- To the consultant, you mentioned cumulative impacts, but I do not see the response to that, what is the response?

Garry Reese- this was related to the section called ‘Mandatory Findings of Significance’, on page 75-76. We added discussion to explain, first that this is a 640-acre deeply forested property that is 1-mile away from any residences or other cannabis operations. So potential impact from noise, lighting, dust, or odor from this project in combination with others is limited, and what we stated. We do identify there is potential impact with the watershed for hydrology and water quality impact in the resource category in the CEQA document. But you are familiar with the rigorous requirements that these operations have to follow with the State Water Board Cannabis program, they have to present plans for water quality, prevent erosion, all sorts of things. The requirements are quite strict. The one cumulative impact related to water quality would be less than significant based on the mandatory water Board’s cannabis program.

Commissioner McHugh- What is the impact on the project without the Variance? This isn’t a set-back on a house, this is a regular old variance, relief from zoning so I would like to hear more about that and if we were to approve without the Variance what would be the impact?

Director Hunter- the site that will be cultivated as the 1-acre, medium, type-3 license is a pre-disturbed site. Should that site not be approved- that 500 ft. set-back, to another area that may not be pre-disturbed may have to be cleared and there would be environmental change at the site.

Commissioner Sharp- In regards to the building permit, is a dwelling/building permit required to have 10,000 sq. ft. canopy? And when was that issued?

Director Hunter- Yes. The building permit was issued.

(Conversation with applicant. The building is there and we are waiting for inspection)

Director Hunter- I do not recall when it was issued but it was issued.

Commissioner Sharp- We don't have the date that the building permit was issued?

Director Hunter- I don't have that information with me right now.

Commissioner Sharp - Has there been any inspections on the residence?

Applicant: Olivia Caccavo/Jake Grossman – It is in the hands of the Building Department to finalize that building.

Commissioner Sharp – It would be beneficial to have that information in the future.

Chair Stewart – Has the building been built?

Director Hunter – It is in process.

Chair Stewart – So they are compliant?

Director Hunter – Progress has been made.

Commissioner McIntosh – Question for Consultant. Have the farms downriver from the project been taken into consideration?

Garry Rees (SHN) – Yes in the cumulative impacts. The applicants have a significant well that is not connected to Barker Creek. The applicant has sufficient water for what they are proposing. It is not anticipated they would have an impact on downstream use.

Commissioner McIntosh – Has the less than three acre conversion with CalFire been completed?

Garry Rees – Yes.

Chair Stewart opened public comment.

Ana Wright (Applicants representative) DOT has requested an encroachment permit, which we feel is unnecessary. The Dwelling is on a forest service road and the applicant is authorized to use. The other issue with Calfire regulations, in regard to the dwelling, all other requirements have been met. We are prepared to meet all of the other EIR regulations when necessary. In regard to the variance, the property is surrounded by public land and the nearest residence is over a mile away. If the Variance was not approved another grading permit would be required and additional environmental work completed. The Dwelling permit has been issued

and we are waiting on the Building Department.

Jake Grossman – I want to clarify a couple of things, we are able to use existing disturbed areas from the previous cultivation on the property. We have one off the first licenses issued. The number of Trips has been over inflated, the bridge does not have to be replaced, only improved. There is a permitted building as Commissioner Sharp asked about. The previous residence was removed and we now have a metal building with an apartment built inside. For the water, we have a 2 gallon per minute flow limit which is adequate for our use.

Olivia – This is officially my property and license. I would like this to go through quickly.

Ilia – States that Jake is always advocating for the cannabis program. I believe he deserves the permit.

John Brower, Junction City – This is an obvious site and would encourage the permit to be approved.

Trinity – Jake and Olivia have the property and it meets all of the requirements and should be passed.

Chair Stewart – The public comment time is closed.

Chair Stewart – There is precedent for the 500-foot setback and I see no reason to not grant the variance.

Commissioner McIntosh – For the applicant: you have one acre of sun grown but you are stating in the staff report that you will have numerous harvests and will not be using additional lighting, but you have almost 100,000 watts of electricity in generators, how will you be able to achieve multiple rounds without supplemental lighting?

Jake – We have a state mixed light license and the electricity use is for ventilation in the green house, water pumps, we rarely ever use the all of the power. We are prepared for the future.

Commissioner McIntosh – general question in regard to mitigations. One of the mitigations requires that the entire property be free of trash. I was under the impression that the Board of Supervisors took the Commission's recommendations for the EIR.

Director Hunter – states that this project is required to meet the site specific CEQA document. In the future the project site would be required to comply with the EIR in the future.

Commissioner Sharp: I have a question for the Applicant regarding the dwelling. You should have a dwelling, correct?

Chair Stewart clarified that the Applicant is required to have an active permit.

Commissioner Sharp – When did you start the permit process and where are you with this process?

Olivia: We originally started with a house and when I became pregnant, we need to expand and we decided to build a metal building with an apartment inside. This process was held up due to County requirements requiring a house prior to an accessory structure.

Jake - We have the building and we are working toward get the house done. Also, with the CUP process we were told that we could not make any changes to the project.

Commissioner Sharp – Where are you at with the building?

Jake – The building is complete, we have been waiting for two months for the Building Department to inspect.

Chair Stewart: The discussion is over, they are in compliance with the ordinance.

Motion: Commissioner McIntosh – the Planning Commission adopt a California Environmental Quality Act, CEQA, determination of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan and Approve the Use Permit and Variance based on the recommended findings in Resolution 2021-02 and subject to the Conditions as set forth in exhibit A to the Resolution 2021-02.

Second- Chair Stewart

Roll Call Vote- Chair Stewart-Aye, Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye
Vote is unanimous

Chair Stewart announced a 5 minute break.

Chair Stewart calls the Planning Commission back to order.

Item 6: APPEAL OF PLANNING DIRECTOR'S DECISION (P-20-43): An appeal of Planning Director's Decision to deny a Commercial Cannabis License renewal application (CCL-046) for 30 Shasta View Lane, Weaverville. Appellant: Mary Killion-Hurst. Licensee: Hurst Family Farms. Assessor Parcel Number 024-680-32-00

Commissioner Sharp recued himself from Item 6. He has a property adjacent to the project site.

Director Kim Hunter presented the staff report. Chair Stewart asked for questions from the commission.

Chair Stewart opened public hearing.

Appellant-Mary Killion-Hurst/Jake Grossman- Ms. Hurst stated that her son was in the process of compiling a book documenting his licensing process. She referenced a Planning Department letter in July stating that he would be receiving his license on August 7. He was later informed that he was not approved for license. He was informed that he was required to have a variance prior to receiving his license.

Jake Grossman– States that he is 49 percent owner in the property, Hurst Family Farms. Mr. Hurst was in the Cannabis program early. Mr. Hurst was working with the Director Hunter to convert his license from cultivation to micro-business license. During the time the Mr. Hurst was working toward his license renewal, the existing cultivation on the property was abated due to no active license. Jake stated that he felt the license should never have been taken. He also stated that the applicant was active with all of his permits.

Commissioner McIntosh ask for a response from staff.

Director Hunter responded that her response is in the letter. A renewal was not received. An application for the micro-business was received and she spoke with Mr. Hurst several times. She stated that she disagrees that the applicant was active with all of his permits. The county cultivation license expired December 1, 2019. Director

Hunter also stated that she was not heavily involved in the Cannabis program until the previous Deputy Director left employment with the County.

Commissioner McIntosh ask staff if the cultivation license was allowed to laps so the micro-business could continue or be established.

Director Hunter stated that the cultivation license lapsed prior to the micro-business license application was submitted.

Jake provided a notice to the Commission stating the license would be issued.

Director Hunter stated the she did not authorize the letter to be issued or for the cultivation license to be noticed in the paper.

Jake reads the notice stating that the license would be approved.

County Counsel speaks to request that Chair Stewart to keep the meeting in order and Chair Stewart acknowledges and recommended that if the Appellant has an item to submit for review it could provide to the clerk for review.

Commissioner McIntosh – asked about the process to transition from a cultivation to micro-business. Is there a way to continue to cultivate while transitioning to a business?

Director Hunter – stated that should be the path forward as a micro-business takes time. The cultivation license is required to transition to a micro-business.

Chair Stewart ask for additional speakers.

Speaker stated the applicants should be given a chance based on compliance since 2016.

Ms. Killian-Hurst spoke about her son's binder and the contents which documented his cannabis operation.

Speaker stated that his opinion that if a person is following the law and compliant with the necessary agencies and departments should be given a chance based on the past compliance.

Chair Stewart brings the discussion back to the Commission

Commissioner McIntosh requested additional information regarding the cultivation without the 350-foot setback variance. Had a variance been previously granted?

Director Hunter stated that there may have been a misunderstanding in the beginning and that a variance was not required. Then a determination was later made that the variance was required. Director Hunter stated that she was not familiar with the background of the variance issue.

Chair Stewart asked about the notice for commercial cannabis cultivation license dated July 28, 2020 and that the notice was sent by mistake.

Director Hunter stated that at the time there was a rush to get renewals completed. Admin Staff did mass notifications even if a renewal had not been received, which was a mistake. Ultimately, there was no license

issued and no applied renewal. That was an error in process and is no longer the process.

Director Hunter suggested that if the Commission would like more information the item could be continued and additional information could be provided for the Commission's review.

Chair Stewart requested a motion for continuance.

Jake requested a rebuttal prior to the Commission continuing the project to request additional information. Jake explained that when Mr. Hurst tried to apply for his license renewal that he needed to make an appointment with Director Hunter before he could pay for his renewal. Jake stated that based on the Mr. Hurst's abundant documentation it is unlikely that he would not pay his renewal fees. Jake stated that he felt it would be more reasonable to continue the hearing and overturn the denial of the license.

Chair Stewart stated that documentation and proof is required for the Planning Commission to make a determination on the appeal.

Motion-Commissioner McIntosh moves to continue the meeting to the April 8, 2021 Planning Commission meeting to allow the appellant time to provide information and for the Commission to review it.

Second-Commissioner McHugh

Vote: Commissioner McHugh – Aye, Commissioner McIntosh – Aye, Chair Stewart – Aye.

County Counsel recommended that the requested additional information be submitted for review through the Clerk to the Planning Commission.

Item 5: APPEAL OF PLANNING DIRECTOR'S DECISION (P-20-31): An appeal of Planning Director's Decision to approve a Commercial Cannabis License renewal application (CCL-453) for 4790 and 4798 Lewiston Road, Lewiston. Appellant: Laurie Wills / Friends of the Lewiston Grass Valley Creek. Licensee: Sabai Family Farms (Mark Dos Santos). Assessor Parcel Numbers 025-290-13, 29.

Director Kim Hunter presented the staff report. Chair Stewart asked for questions from the commission.

Commissioner McIntosh asked if there is a bus stop with-in 1000 ft. of the cultivation site. Director Hunter responded that there was not and that this matter is addressed in Abbott and Kindermann letter. She noted that bus stops do change depending on the location of students to be picked up. Commissioner McIntosh stated that this has been a point of contention. Director Hunter added that there was a bus stop signed that had been moved in that last few years. Commissioner McIntosh asked Director Hunter if, to the best of her knowledge, there was no bus stop within the required distances. Director Hunter stated that was correct.

Commissioner McIntosh asked if there were any grading violations? Director Hunter responded that there were not. Commissioner McIntosh asked if there is there a list of complaints from neighbors during the years in operation? Director Hunter responded that there have been ongoing concerns expressed about commercial cannabis operations but no records of code violations in the past.

Commissioner Sharp asked about the protocol on checking licensees. Is it ok for a licensee to be a felon? Director Hunter stated that the County did not required background checks. Commission McHugh commented that the ordinance speaks to this issue and that certain types of felonies are not considered in an application and he believes that those that would be prohibitive are handled by an affidavit in the application.

Director Hunter explained that a transfer of the ownership of commercial cannabis cultivations license occurred at the time of the annual renewal. Commissioner McIntosh asked if the farm itself be seen from the road and neighboring parcels? Director Hunter responded that she had to defer that question as she had not driven by or been to the site.

The public hearing was opened.

Laurie Wills, appellant, representing the Friends of the Lewiston Grass Valley spoke first. For the reasons explained in their original letter, it has been clearly demonstrated that the county erred when it issued a categorical exemption at the time the license was issued in 2018, renewed in 2019 and proposed to be reviewed in 2020 as such actions were legally inappropriate for California Environmental Quality Act. The project site has been (inaudible) without final approval of the application by Trinity County. Appellant submitted evidence to support the findings included in your packet of materials. Not only has the site map changed over the years, the records show the cultivation area increased from 11,884 sq. ft. in 2019 to 15,600 sq. ft. in 2020. The canopy size from less than 10,000 sq. ft. to 13,000 sq. ft. This data supports changes to the project. Furthermore, the license expired in May of 2020 and the renewals was submitted in August 2020.

Despite the potential legal ramifications, Mr. Dos Santos having other cannabis projects in Trinity County dating back to 2018 the choices that he made are just that choices, not mistakes. Mr. Dos Santos has an application on file with the county and continued operating without a license in 2020. The project has deficiencies complying to ordinance 315-843, and 315-849, throughout 2020. Evidence submitted that the 2020 site plan identified a 9,750 sq. ft. canopy, yet at the time by the September 2020 on-site inspection the canopy measured 13,000 sq. ft.

The other project owned by Mr. Dos Santos in Douglas City was denied an extension due to not being enrolled in the Track and Trace system. Clearly these types of flagrant violations are indicative of how Dos Santos operates his commercial cannabis projects in Trinity County. In conclusion, her observation watching the meeting that on Agenda Item 7 is that cumulative impact was thoroughly met in that matter. Yet this item has not had the same type of consideration. The project being a mile away from its nearest neighbor and less than a mile away from our subdivision. We do want to point out that there are neighbors that can see this project site. She respectfully request that the Commission to do the following: 1) consider the legal citations; 2) find the official evidence in the record that the project was ineligible for a CEQA categorical exemption in May 2018 and remains ineligible; and 3) this license is inactive and therefore a new application for state compliance and county ordinances should be required.

Ms. Diane Kindermann representing the licensee and owner, Mark Dos Santos, then introduced herself. She stated that Abbott and Kindermann represents Mr. Dos Santos. Mr. Dos Santos was present as well (via Zoom), as was another attorney from the law firm, Dan Cucchi, and a few other technical members of and other members of their team. We of course concur with the finding that the appeal should be denied and that the renewal was lawfully issued in the circumstance. It seems that in reviewing the abundant comments from the appellants here are focusing on global issues related to the underling cannabis ordinance and are not comfortable with the application of that ordinance in that area. Although those are certainly important issues to them, this is a very narrow issue here and the dispute about the propriety of the policies related to the cannabis ordinance aren't appropriate here. All we are focusing on is the legality of the renewal of this specific license, we believe that it is legal for the following reasons. Staff did comply with CEQA. CEQA compliance is required not with the transfer of the license, as staff articulated, but is required with the renewal. CEQA was complied with here and it was determined of course that there was an exemption that was applicable to existing facilities exemption. Even though there is an exemption the operation must comply with all the new performance standards that have been identified as recently with the urgency ordinance from December. All

those potential impacts would have to be addressed, including those related to odors, this was a recurring theme in some of the correspondence we received.

From their perspective the license renewal is appropriate. The other question is the applicant in compliance with the County's commercial cannabis cultivation ordinance? Looking at the criteria in the ordinance and this applicant is not a felon, he is being painted with the same brush and that we all understand that is not appropriate here. It does state in the County's ordinance that the applicant has to be able to declare under penalty of perjury that the applicant has not been convicted of a serious felony, or schedule 1, 2, or 3 felony excluding certain non-serious cannabis related convictions, that is the language from your ordinance, not of which applies to Mr. Dos Santos.

On the issue of grading on the property, there was some minor grading which did not meet the standard for requiring a grading permit therefore, they are not in violation of the grading ordinance. Moreover, the grading was not in relation to an expansion of operation of cannabis cultivation, totally unrelated. I will note that Mr. Dos Santos has been considering the construction of a 4000 sq. ft. shop on a neighboring property which he owns. He is aware that because it is related to cultivation it would require CEQA compliance. 3. On the issue of the canopy: on a routine inspection it was determined there was a minor exceedance of the canopy. The problem was not too many plants, the problem was the walkways were spread apart creating (inaudible) it was recommended that the walkways be narrowed to reduce the issue and the canopy is below 10,000 sq. ft. obligation.

Ms. Kindermann spoke to other questions that came up of the recurring theme of the opponents here. First, we did check with the school district there is no bus stop within 1000 ft of the site. There are no grading violations, no complaints on the project. He is not a felon. We talked about the renewal that it does need to comply with CEQA, and it did. As to the visibility question, they don't know the answer to that one. Either the rest of the team can answer that or the appellant supporters will let me know if they can see it. Is the license suspended? The answer to that question is no. Staff would have told you if in fact it was suspended.

Dan Cucchi stated that he wanted to clear up, the appellants concerns, it is not a war. The appellant's letter talks about the statute and the licensing program with the state and whether CEQA applies or doesn't apply to certain things. The position being taken by the appellant suggests that the permit is not subject to CEQA, which is really not really the case. What that statute says is that if provided and opportunity for agencies, to quickly adopt an ordinance that would normally trigger CEQA, but they had the option if they wanted to make a regulation that regular commercial cannabis operation, so long as they made every approval discretionary then they could avoid using CEQA to adopt that ordinance. It also says if you don't create a process of discretionary approval for every permit then you are subject to CEQA review ordinance. That is what that section is about, not really about the actual permits. We agree with staff that the decision does trigger CEQA when the license is renewed.

Chair Stewart asked if the appellant if she had a rebuttal?

Laurie Wills stated that the odor is bad. I want to clarify, nobody suggested that Mr. Dos Santos is a felon, I want to make that clear. As far as the CEQA is meet with the renewal of the license it is our impression and understanding the site had triggered a CEQA and that they can't pretend to be lawyers, we are not.

Chair Stewart asked if Ms. Kindermann had a rebuttal.

Diane Kindermann asked if any of the team wants to comment, otherwise I would like to say that there were no changes at the site that would require a CEQA evaluation.

Director Hunter asks Chair to allow public comment before we have the rebuttal. Chair Stewart agreed and opened the public hearing.

Kristel Bell commented on changes to the site. She stated that if you look in your packet you will see three maps that address that there have been site changes between 2019 and 2020. The canopy area has modified, there is a new graded area of over 11,000 sq. ft. It is my understanding that those changes would trigger a CEQA review/compliance. The other point I would like to make is my understanding in reviewing the files that there was no renewal in May 2020 and Mr. Dos Santos paid for the transfer in September 2020. If she is understanding the policy correctly, the renewal had to be in effect for the license to be transferred. There was nothing in the file showing that the license was renewed, all that I saw was the license expired in May 2020 even the California license for Mr. Dos Santos on that property is valid starting in August of the year 2020. Kristel said that she would like someone to please help us understand how the policy memos say that the transfer cannot be preformed when there is no legal active license. The other issue to clear up is the public safety issue of this area. As can be seen by the map, this farm is in the middle of a residential area. But the public safety issue is something that needs to be looked at. If this is a public issue then we should be treating cannabis in a residential area as a public safety issue as well. The residents in this area do not feel safe and that this is a violent type of business. We would appreciate that you think about us when you make your decision. Thank you.

Nancy Anderson then spoke and stated that she is probably one of the closest residences to this area being appealed and can say that it is visible even through a thick forest. It would be visible from my new neighbors. She submitted a couple of letters. In reading the core principles that the county adopted when going into cannabis in 2016 and sees those core principles being violated. As the lawyer pointed out it is a global issue and she agrees. But the specifics of this site violate each of those principles and she does not know how that works but believes that it is the County's responsibility to protect all of its citizens. She would like to see as much effort to protect the non-cannabis people and their rights as the licensed cannabis people. For safety is to make sure the county is safe, yesterday in the paper there was another armed intrusion into a home due to cannabis impact. Not long ago we had to shelter in place due to an armed intrusion. Safety is not happening and the view from my property is now forever ruined.

John Thomson from Lewiston stated the he is a 27-year resident at Wellock Rd. and Lewiston Rd. stated that his concern is the odor. There is a CCR that prohibits use from raising swine, because of the odor. If he must comply, they should have to comply with county ordinance. The odor flows down-hill just like water, everyone below the garden. He's well versed in weather and can explain how that works.

Rick Leutwyler, Lewiston-First commented that he thinks that the decision makers know that there is a strong movement in Lewiston and other parts of the county to expand out-out areas. With on on-going petition drive we have confirmed that the vast majority of residents are strongly opposed to commercial cannabis operations in our neighborhoods. We are very close to completing our petition process that already reflects the overwhelming support of our initiative including the area immediately surrounding the operation in question. He included colored coded map with my written comments earlier this week it clearly shows the level of support we have of our neighbors to protect our way of life. He had recently noted that the Zoning Ordinance spells out allowable use of rural-residential properties it also identifies the businesses allowed based on permits. The restricted uses include things such as frog farming, hog or turkey raising, poultry farms, cattle ranges, etcetera. The common theme with these restricted uses is the negative potential impact to those lives around them. He naturally would not be in favor of a hog farm in your rural residential neighborhood in your own community. That is what we are asking you to consider here. It is clear that arguments made in favor of this operation are based not on doing what is right for the community, but in taking advantage of any group hold

that would allow them to move forward in something that is clearly having a negative effect on the community. We want and deserve the right to maintain our quality of life that is simply not possible if commercial cannabis operations can take place in our communities. We have an EIR that clearly spells out the potential negative impact of commercial cannabis operations especially near residences. We have an operation that would never be allowed under our current rules about land use, we have a community that is clearly committed to protecting their quality of life through legal opt-out areas. We have neighbors to the operation in question that are clearly concerned about ongoing negative impacts to our health, safety and quality of life and we have the opportunity to do the right thing, you have the opportunity to do the right thing.

David Wellock, Lewiston commented that he has lived in Trinity County for most of my 77 years. When he lived in Shasta County we raised hogs, then we moved (back) to Trinity County in '77' we had to apply for a permit to raise hogs, we were not in a sub-division but we had to be checked monthly for smell. He does not see that going on with marijuana grows. We live down by the river, we can smell marijuana all the time and it is quite a distance. He worked for the county road department and thought there were supposed to be paved roads of the county road. This place does not have a paved road, they drag rocks and mud out to the road and we have to avoid them. We have water that runs down and across the road at the bridge into Grass Valley Creek, has anybody tested that water to see what it's like?

Debra from Lewiston stated she lives next door to the grow. To answer earlier questions: yes, you can see the grow. The smell is overbearing and they can not open our windows.

Alicia referred to Ordinance #315-823 section 28 Commercial Cannabis regulation under application requirements the applicant cannot be convicted of a serious felony or a Schedule 1,2, or 3 (inaudible) excluding a not serious felony conviction for sale, cultivation, or transportation of cannabis. Public Land; it goes on to state the 'ownership license can be transferred with the sale of the property', what she thinks happened here. She talked about Mr. Syvertson and had read that he tried to carry pot across county lines in 2010, 2013 and that he allegedly hit some over the head with a shovel. In 2018 he was running a hash lab that blew up, followed a couple guys to Colorado he believed stole money and beat them up. So, he was a convicted felon, he had the license how could it be transferred to the new guy. It seems that they should have revoked his license and there is no license to transfer. She also referred to the Resolution 2015-077 and agrees with what others have said that "Trinity County will be a safe place for residents to live, work or enjoy, raise a family." That is not true, people are afraid, and the hills are scraped and raped, the trees are gone. 'Cannabis Cultivation will take place without damage or detriment to neighbors.' Surely you have heard and read how it affects everybody. Lastly 'Trinity County will regain its reputation as a popular tourist destination' She totally disagrees with that, Trinity County is a place to grow marijuana and buy marijuana. It is not enjoyed for the beauty that it used to have. What if it was your children, grandchildren or parents living next to that?

An unnamed male speaker stated that they moved here because they love this area.

Veronica Kelley-Albiez, Douglas City commented that no grading was done, but what was done. There is a lot of "almost-didn't-oops it happened." Who determined whether the grading permit was or wasn't needed? We need more checks and balances.

John Brower, Junction City commented that this is another interesting case where the licensee meets all the checks and balances and the concerns of the appellants are serious. But it seems like many of those concerns are aimed at the prior owner and may also be aimed at the adjoining 3 parcels to this site. That got blown up with unlicensed grows last season and brought the impact. He encouraged the commission and citizens to continue transitioning our cannabis industry toward licensing and environmental compliance. There are over 5,000 cannabis grows in our county. If the neighborhood wants to have any level of control over cannabis they way to

do that is through thoughtful regulation and transition towards compliance. The illegal grows grew a lot more cannabis than the legal licensees that are bound to their agreements with the waterboard, fish and wildlife, county, and state requirements. While their concerns are serious concerns, in this case it merits denying this appeal, approving this license. He support staff in their decision to approve this license, encourages the commission to deny the appeal and encourage the neighbors to try and meet your new neighbors.

Tom Ballanco, Douglas City spoke to an additional license that Mark Dos Santos had where the licensee had fallen out of compliance with Metric. He had worked on that issue and it was not Mark's fault. That was a license that was transferred. The person to whom the license being transferred let it lapse. And that's the situation here, this was a license on its last leg, Mark was there to pick it up. It is a good thing because you are keeping a property in enrollment. You can't just cancel enrollment. There are many people in Lewiston that are against cultivation. He encouraged the commission to go with what staff recommends and deny the appeal.

Joan Carr, Lewiston commented that she is across the road from this property. The lawyers commented that odor is a recurring theme, it is a recurring theme because it is a recurring problem. She would like to know how staff handled online complaint forms. We are good neighbors looking out for each other.

David Albiez, Douglas City pointed out that all of our ordinances say residential areas no commercial operations and still doesn't understand why they're still being allowed. Whether it is marijuana or a mining operation. There is a reason why a commercial operation is not allowed in residential areas, because there for residents. These people have a valid reason to not want a commercial operation in there back yard, traffic, extra people, some are unsavory some are not. But they are worried about it. It is not a good place to raise children next to a commercial operation. He is not anti-marijuana but thinks it has a place but not in residential areas. Everyone wants a place to live and marijuana growers want to grow and they should be in an agricultural area. The commission and supervisors should take into consideration, the residents were here first and have massive investments in the property, home, lives and their children and posterity and you want to take all that away because one person wants to make money in that area. By our own ordinance, this should not be allowed.

Lisa Wright of Lewiston stated that she is in support of the staff report to deny the appeal and believes we must stay to the facts. She is sympathetic to the neighbors and their feelings. However, the General Plan was not done prior to the ordinance all ordinances must be in compliance with the general plan per state code. The general plan with rural residential designation does allow item like row crops and rural residential was included in the Trinity County cannabis cultivation from the on-set. Thus, allowing this to occur. The opt-outs/carve outs are actually in violation to the general plan, everything should be zoning based, not carve outs because of people desire to eliminate certain activities. We need to look at the facts. There may be mitigations that could be put in place to allow everyone to get along. She asked that the commission deny this appeal.

Deidra Brower, Junction City, stated the she is familiar with this project. There is certainly interest in an opt-out here and there are several in Lewiston. It would be nice if this could be done all at once instead of again and again. The other thing is criminal activity, the county doesn't run background checks, the state does. The previous owner did go through that process and his recent issues were not convictions when he had the license. Mr. Dos Santos has hired professionals and had biological and cultural assessments prepared for this property. Regarding the odor issue. With the recently adopted EIR and subsequent ordinance odor mitigations are required.

Ilya Markarov stated that he has friends in Lewiston and that he does not know anything about this issue. It is very hard to go through the cannabis program in the county and state.

Diane Kindermann provided a rebuttal. She stated the comments were appreciated and that Mr. Dos Santos is

working toward being a good neighbor and being properly licensed. Currently they are using filtration measures and will continue to enhance those measures so that they are complying to odor mitigation, enhancing this with modern technology. The grading issue, everyone wants to know why are they grading. We are looking into constructing an additional residence at that location. The amount of the sq. footage being grading has been inflated, under the county ordinance the limit is 20,000 sq. ft. or 800 cubic yards of material. So, we weren't even close to that even if it was 11,000 sq. ft. Just want to get the facts straight and address concerns, it is not an incremental attempt to increase the operation inappropriately. The issue of the view shed, that is a (inaudible) there is no legal requirement that these operations be screened from view. They are not in violation of that. That concludes my comments and we understand the neighbors want a positive relationship on a positive operation in the midst of it all and Mr. Dos Santos and his employees will undertake every effort to be good neighbors that they also comply with the law here.

It was asked whether Ms. Wills would get to have a rebuttal. Chair Stewart said that she took rebuttal time earlier. Chair Stewart closed public comment and asked for questions and comments from the commission.

Commissioner McHugh stated that this case is the poster child for the cumulative impact to the grows in residential areas. We have had two-nights of public comment on this 6-months ago and now and the discussions during the EIR meeting on lessening cumulative impact were less than satisfying on how the county is going to step-up and deal with it. It was a failure of the original ordinance to allow Type-2 licenses in any rural residential neighborhoods of any residential density. For a very long time all we heard about were the Mom and Pop were the folks we were targeting the original ordinance at supporting. Well, the Mom-and-Pop notion turned into 10,000 sq. ft. grows throughout our neighborhoods. He personally imagines Type-1 licenses only in dense neighborhoods or less but this is what it has come to. We are starting to see more appeals of this type. Cannabis ordinance is in Title 17 which is the zoning ordinance and when you put opt-out in Title 17 you are making a zoning regulation. Commissioner McHugh couldn't agree more with Ms. Brower that we need to settle the opt-out issue once and for all. This is warranted as to where we put opt-outs and then it migrates to the higher density population where we let the grower in and created this problem. We hear about odor, the trans businesses, public safety concerns, in these neighborhoods. The Type 3 issuance tonight is a poster child of where commercial cannabis operations belongs. He is sympathetic to the appellants on this one and believes at some point we have to say this is the real issue. We need to force this discussion to happen. We are about to embark on a General Plan update, in theory the tail-end of that project is where zoning happens. Everything else will lead to zoning that applies to General Plan principles that we will come out down the road. Which is out 3, 4 years, 5, before we address this issue with an overhaul of zoning. The county should step-up in dealing with these issues of additional neighborhoods wanting opt-out. More compliance with the grows in the densely packed areas. We aren't getting complaints from the middle of now where we are getting it from the towns. Signing petitions and maps of opt-outs and we are getting a message here. It is a problem and it is time for the County to step-up to it.

Commissioner Sharp agreed with Commissioner McHugh in everything he said at some point our inaction is creating issues and creating disputes 'Hatfield and McCoy' disputes. When you have this many people in one neighborhood that have concerns about what is going on, and look at the Resolution 2016-007 they have all referred too, this doesn't meet any of the criteria it seems like all it was left at the wayside and issued. I think we need to keep all parties in line and do the best thing for our neighborhoods. It can't be about just one person or one business. He is certain that he could not drop my business in that neighborhood and not expect people to be upset.

Commissioner McIntosh commented that he is sympathetic. He is territorial about my neighborhood and was one of the farmers that was beefing about the wrong laws. He has five different licensed farms in the neighborhood and has good relationships with the neighborhoods. We begged the supervisors and the planning

commission to recognize the existing farms up to a certain date. Humboldt County did it, Mendocino County did it and Trinity County had to be different and did not want to recognize that people grew cannabis before there was a commercial license and they just allowed it to be put in any zoning and as a result we have seen new farms pop up in areas where there were no farms to begin with, many of could see it happening and we pleaded against it. To have these thresholds at a certain date and no new development without CUPs or particular size of properties. But there is an ordinance that is law, and this farm fits within all the parameters of the ordinance. This farm has been in existence for four years. As a Planning Commission, we need to find balance with the community and the general plan and the ordinances in front of us as the template. This is the result of an ordinances that didn't have the right input from the community that was listened to. He is conflicted on this. They are following all the rules with zoning, Cal cannabis, track and trace, everything and this farm has been in existence for years and paid a premium for this farm that had a license that was legally transferred to them. If we start going down on going back on licenses that were legally granted what will the ramifications of that be?

Chair Stewart stated that she completely understands the feeling of the people in the community. However, in her opinion, the ordinance must be followed. This person was granted a license he has done everything necessary, for this property was granted a license, it was transferred to him and he is doing everything he is supposed to do. She feels that he has passed all of the inspections and operated within the bounds of the ordinance and he deserves to have his license renewed. But in any case, a motion and or a competing motion are needed. Commissioner McIntosh had some questions before making a motion. He keeps hearing about a categorical exemption and about CEQA. Does this property have a categorical exemption and is it in compliance? Has there been new development done? Assuming that the inspectors have come out and inspected this property, is this property in compliance or is there something egregious that needs to be addressed?

Commissioner McHugh followed up on Commissioner McIntosh's questions. He stated that he does not believe the issues being seen here have anything to do with the mechanical following of the ordinance. If you click of A-1, A-2, A-3 and B-2 and he did every one of those things? He'll accept that if that's the representation by the county. It's not the mechanical process of click off all about all the thing you need to do to be in compliance its where you were going with your question on CEQA and focus on that. At some point the county was issuing categorical exemptions and then decided that was not a good idea. The failure in this is not in his ability track record with this license, the failure is in the CEQA analysis and perhaps should have stymied the impact on a neighborhood in the first place. We haven't had a chance to look at this license before this has now come before us with a legitimate appeal not the one that was tossed. The environmental analysis on this was short-changed, it didn't look at the neighborhood, it didn't look at the cumulative impacts of the legal licenses in that area on a community and that's where this would have been looked at. Not that he is following all the waterboard rules and all that and he probably follows all that. It is the bigger issue, should this be going on in this neighborhood. It will take some time to fix the ordinance and stop this happening over and over again in rural residential neighborhoods that are fairly well populated. That is where the issue is here. Where he to make a motion, it will be focusing on the findings of the CEQA, not on his compliance, his track record.

Chair Stewart said that before any further discussion took place a motion was needed. Commissioner McHugh moved to uphold the appeal to rescind the license, finding that an inadequate CEQA was done on this location with the issuance of this license. Commissioner Sharp seconded the motion.

Chair Stewart commented that she believes that it is the Commission's responsibility to follow land use, and like it or not, rural residential is part of the ordinance. She believes that we need to follow the ordinance. Commissioner Sharp stated that he disagreed, and that it is just as important to follow the will of the people and help a community. This community has spoken and that should supersede any law that was put in place and misguided. He believes that is the more important job here. Chair Stewart responded that since she was one of the people that put that ordinance in place, she does not believe it was misguided.

Commissioner McIntosh said that this is a hard decision and the he feels for all the people speaking, including the neighbor in Trinity Center to have a house built right next to him and has a patio that may destroy his view. But that property has rights and it is a delicate balance, these comments should have come forth when writing the ordinance.

County Counsel Margaret Long requested a roll call vote.

Commissioner Sharp-Aye, Commissioner McHugh-Aye, Commissioner McIntosh-No, Chair Stewart-No
The vote was split 2-2 resulting in a denial of the appeal.

Item 8: APPEAL OF DE FACTO DECISION (P-20-32): A de facto denial appeal of Commercial Cannabis License renewal and transfer application (CCL-358) for 5001 Stewart Ranch Road, Zenia. Appellant: Flowra (Ana Wright). Licensee: Rich Harvest Group, LLC (Ivan Mihalev). Assessor Parcel Number 020-170-18-00

Director Kim Hunter: This item was continued from the February 11th meeting and rescheduled. Request from the Planning Commission on February 11th for an opinion from County Council, Margaret Long on this and one of four De Facto appeals where legally appropriate (memo is attached). Chair Stewart would you like to discuss the appeal or go through the staff report.

Chair Stewart- I would rather discuss the appeal with Counsel.

Margaret Long, County Council-Director Hunter would you like me to jump in? Director Hunter- Yes.

Margaret Long, County Council- I prepared for you a memorandum, reviewing the proposal of how you would deny the Appeal of De Facto Denials. I took the opportunity to review our code section which states that after a period of time the application is deemed complete. This determination is typically reserved for development projects. A complete application would not be brought forth as denial. In addition there is a CEQA requirement for this type of license. The permit streamlining act which our concession is made off of means that the project would not be denied or granted without a CEQA process being completed. The application is pending and has not been denied in actuality or in de facto status. The Planning Commission does not have the jurisdiction to hear an appeal. My recommendation is that this is not a complete appeal as there has been no denial in actuality or in de facto status.

Chair Stewart-Given that what is the action we should be taking?

Margaret Long, County Council-My recommendation would be that this is not an appropriate appeal, and to deny it and turn it back to Planning Department to complete and process the application.

Chair Stewart- Do we hold a public hearing on each one?

Margaret Long, County Council- Again, I don't think it is an appropriate appeal. If you agree with my opinion you would reject the appeal and send back to Planning Department.

Chair Stewart-Thank you Margaret. Given what we have heard, what is the pleasure of the rest of the Commission?

Motion: Commissioner McHugh-I would move that based on the advice of County Council and status of this

appeal that it should not be on the agenda and is not properly before us and we remand the issue to staff to complete the processing the application.

Ana Wright: Request permission from the chair to make a statement. I have been waiting here all night. My I make a statement to Ms. Long's letter?

Margaret Long, County Council-I would like a second to the motion, before we continue this conversation.

Second: Commissioner Sharp

Chair Stewart-We are not going to hold a public hearing, but I will allow a 3-minute comment.

Ana Wright-Thank you Madam Chair I appreciate that given the length of time we have been waiting here tonight. I wish this would have been noticed to all of us before we waited. I did ask to hand-out a couple of pieces of government code that talk about what a development project is. Now, that a cannabis license is not a development project, then that would mean we would not have to go through CEQA then. I'm pretty sure some of these definitions of development fit what you must do to build a cannabis garden, fit what we must do to get cannabis licensing. In regards to the 30-day to deem an application complete, I can't argue with that language. My question is what happens after it is deemed complete? How can it not be approved? How can we as a Commission not give a timeline to the County to now process these applications in a timely manner? One of these four has been waiting 3-years, after following everything they need to do. The other three have been waiting 2-years. Some decided to keep paying this last year even though they had no license to renew, just in case. Some people are still prepping in for 2021 in the hope they can have a license. Some of these people didn't know there was anything to pay, so they did not renew last year. They have been waiting to hear what happened in 2019. Why haven't we heard anything? So, if this is not a development project then there is no need to do CEQA. If it is a development project, I would say the 30-day timeline should be adhered to. If it is complete in 30-days what is after that to be approved or denied? Businesses, most of them have state licenses, one doesn't, he has been denied by the county. When you have been told the whole time, it is in processing. Putting this into prospective, we are talking about families, about businesses, about an economy. Take that into account for a second. What other business in this community must wait in these timelines to be told you know what you can't even try to follow your due process way and bring this up to your local body of government. Can you please ask staff to make a timely decision so that we can come back here if we must in a timely manner? 2 to 3 years for a ministerial process, in 2019 there was no CEQA there was no EIR. To postpone these licenses until there is an EIR is unfair and inadequate. I'm not county council but I would very much like you guys to look into these codes that I have highlighted. Again, if these are not development, what are we waiting for on CEQA. Thank you. Real quick, 10 seconds if this the decision, I would like the department to issue a letter to all of these applicants to tell them this was not an appealable issue. I would like that in writing, if you please. Thank you.

Chair Stewart-We have a motion and a second, Margaret does this apply to all of them at once or do we need to do them individually.

Margaret Long, County Council- You will need to do each one individually.

Unidentified speaker- Is there going to be public comment on this item?

Chair Stewart- No. Because they should not have been part of our agenda. They are not actionable per County Council. We have a motion and a second is there any discussion?

Commissioner McIntosh-It sounds like these people have been waiting for a long-time for this so if we are going to continue this.

Chair Stewart- It is not a continuance. There has been no denial so there is nothing for us to do.

Commissioner McHugh-Kim can you make any statement on what the future of these four might be?

Director Hunter- Each one is a little different and due to processing we found some things that need to be communicated to the applicants and agents.

Chair Stewart- Can you report back to us their statuses?

Director Hunter- Yes

Chair Stewart- I am sympathetic to these applicants. We have a motion and a second. All in favor of sending Item 8, P-20-32 back to staff?

Vote: Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye, Chair Stewart-Aye

Motion carried

Item 9: APPEAL OF DE FACTO DECISION (P-20-33): A de facto denial appeal of Commercial Cannabis License renewal application (CCL-427) for 441 and 553 Henrietta Road, Lewiston. Appellant: Flowra (Ana Wright). Licensee: Fat Wallet Farms, LLC (Helene Kuehl). Assessor Parcel Numbers 025-350-52 and 53)

Chair Stewart asked for questions from the commission.

Motion: Commissioner Sharp I motion that we send Item 9 back to staff.

Second: Commissioner McHugh

Vote: Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye, Chair Stewart-Aye

Motion carried

Item 10: APPEAL OF DE FACTO DECISION (P-20-34): A de facto denial appeal of the 2019 Commercial Cannabis License renewal application (CCL-201) for 110 Southridge Court, Hayfork (Post Mountain). Appellant: Flowra (Ana Wright). Licensee: North State Creations, LLC (Zachary Jakubowski). Assessor Parcel Number 019-420-30-00

Chair Stewart introduced the Item 10.

Motion: Commissioner McHugh same motion, that based on the advice of County Council and status of this appeal that it should not be on the agenda properly before us and we remand the issue to staff to complete the process of processing the application.

Second: Commissioner Sharp

Commissioner McIntosh-How is that these licenses are taking, not weeks, not months, but years to process. How is it that it is taking 3-years to process this?

Director Hunter- I took over the program after Leslie left, I am a trained planner. I am not trained in the cannabis program. It is overwhelming and we are understaffed, the ordinance as you have heard is problematic. We are doing the best job we can, we do not have folks that were trained in CEQA or management. We had 3 Admin Coordinators when I came on, and one Deputy Director. It is a no-win situation, as you have seen. There are appeals of my approvals, appeals of my denials. It is very complicated; do I have a straight answer? No. It is overwhelming to my job, I wish I had a solution.

Commissioner McIntosh- It is my understanding that Humboldt County when they were processing their ordinance I think they hired a dozen planners.

Director Hunter- It's not just the planners, it's building, environmental health, planning, cannabis, and many other departments. Those planners were trained in CEQA, it is also file management, it has been a moving target with staff. It is a hard program to work for, for our staff, constantly shifting. We think we are going in the right direction and then there is the EIR and that is another transition plan. There are hundreds of licenses, I can't know all of them, which is obvious with my answers. It is overwhelming for everybody.

Commissioner Sharp- Has any of this been addressed to the Board of Supervisors and what does that look like?

Director Hunter-Yes, that look like new allocations, creative solutions, collaborations, maybe with local entities, consultants. There are allocations coming forth in next week's Board meeting, more planners and environmental compliance specialists. But those are allocations they are not funded or hired. Yes, the Board is aware. We are continuing to work through this and urgently seeking solutions. This is over whelming for our resources.

Commissioner McIntosh-So I think it was over 2-years ago the public asked for a cost assessment for this program. To see where the money is going and how much this program costs. I am not sure if there is a time limit or if the county is required to answer that, but the public has been waiting many years for that. Maybe there is or isn't money for additional staff. Is anyone working on that?

Director Hunter-That would be a Board level, Administrative level, I would be part of. That was pre myself.

Commissioner McIntosh – seems like that would be part of the solution and see if funds are available.

Chair Stewart-Item 10 we have a motion on the table and a second. So, all in favor?

Vote: Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye, Chair Stewart-Aye

Motion carried

Item 11: APPEAL OF DE FACTO DECISION (P-20-35): A de facto denial appeal of the 2019 Commercial Cannabis License renewal application (CCL-199) for 520 Pine Forest Drive, Hayfork (Post Mountain). Appellant: Flowra (Ana Wright). Licensee: Chengway Yang. Assessor Parcel Number 019-340-16-00

Chair Stewart: Introduced Item 11.

Motion: Commissioner McHugh based on advice from County Council I move that we send this back to staff for further processing.

Second: Commissioner Sharp

Vote: Commissioner McIntosh-Aye, Commissioner McHugh-Aye, Commissioner Sharp-Aye, Chair Stewart-Aye

Motion carried

Item 12: DISCUSSION ITEM – PLANNING COMMISSION MEETING TIME: Discuss and provide direction to staff regarding a proposed change in the regular Planning Commission meeting time from 7pm to 6pm.

Commission and staff had discussion about how the time was chosen originally and reasons for wanting time moved to 6 p.m. All agreed to the new time of 6 p.m. starting with the April 8, 2021 for all regular meetings.

PLANNING COMMISSIONERS REPORT:

Commissioner McIntosh-Will, Smith Pit be on the meeting for the 25th of March.
Director Hunter-That is the meeting for the 25th. There will be new comments and packets sent out.
Chair Stewart- I would like to welcome our new Commissioner, William Sharp.
Commissioner Sharp expressed that he is pleased to be serving on the commission.

PLANNING DIRECTOR'S REPORT:

Commissioner McHugh asked if staff was planning a second meeting for April.

Director Hunter stated that a second meeting was not planned for April.

ADJOURNMENT:

The Planning Commission adjourned at 10:58 pm.

Submitted by: Debbie Rogge and Lisa Lozier



Kim Hunter, Planning Director
Secretary of the Planning Commission

