

MINUTES

1. CALL TO ORDER

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

2. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendaized for a future meeting. No action may be taken on these matters at this meeting.

No one came forward.

3. MINUTES – May 24, 2018 and June 28, 2018.

Clerk Hanover requested the Minutes of May 24th be pulled as they are incomplete. Chair so directed.

On motion of Commissioner Frasier, seconded by Commissioner Stewart, approves the Minutes of June 28, 2018 as submitted. Motion carried, with Commissioner Hoard abstaining as he was absent.

OLD BUSINESS

4. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-18-38

Public Hearing: Request for an “annual variance” from the required 350’ Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-823, Sec. 43(5)(iii)], located at 470 Henrietta Road, Lewiston. APN: 025-350-12. Applicant: Ivanoff. *(Continued from June 28, 2018)*

Associate Planner Scott Watkins presented the staff report. He advised the item was continued from the June 28, 2018 meeting and that staff had recommended approval.

Before opening Public Comment, Chair Hoard advised that people who commented at the last meeting will not be able to speak tonight. Only new comments will be accepted.

Chair Hoard opened the hearing to public comment. Deputy County Counsel Joe Larmour present via phone.

Comments received from Lisa Wright, Steve Edwards and Susan Risso.

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

Justin Hawkins raised a point of order and asked the Chair if he would reopen public comment to those individuals that spoke at the last meeting as the Chair was absent and he is not sure how you would be purvey to the thoughts shared at last meeting. Chair Hoard advised, on direction of County Counsel, he could not.

Commissioner Stewart stated the applicant has a legal right to grow, he got his license from the Water Board on time, he has met all of the requirements and the one impacted neighbor within 350 feet wrote a letter of support. She said the only reason it is here is because he needs a variance, if he didn't have a neighbor within 350 feet then we wouldn't be here; the neighbor thing goes both ways, this is the grower's way of making a living, and as Lisa noted, a permitted greenhouse will mitigate odor better than a hoop house, and it's very expensive to get a permitted engineered greenhouse, which implies that he cares about the community.

Commissioner McHugh stated you talk about the applicant's legal rights, but it is our responsibility as a Planning Commission to use discretion and stay within our code. We need to consider what's going on in the community, the "Opt Out" area is in our code and we have zero discretion to expand what is in that code. He said he is not in favor of granting the variance because we should use planning principles to move or restrict the size of the grow to eliminate the need for a variance, among other things.

Commissioner Frasier asked how do you get a cultivation license without knowing if you need a variance, and why would you want to fight your neighbor every year for a variance approval. Associate Planner Watkins responded it is determined in the field. Deputy Director Hubbard responded the grow site changed from the original location identified in his cultivation license, so a variance is now needed.

Commissioner Frasier stated we have heard from Rick over and over again about changing things after the original cultivation license application has been submitted. Deputy Director Hubbard responded the applicant isn't actually cultivating this year, but will be next year and would like the variance in place. She said after the license was issued, when staff did the second site inspection they found the garden site had been moved. The applicant says it wasn't, so there is a difference of opinion there.

Chair Hoard asked Hubbard if she wanted to continue the item to get the facts straight.

Counsel Larmour advised the Commission is at a point where it should either continue the matter or approve/deny the request

Commissioner Stewart moved to approve the variance from 350 feet to 250 feet from the residence on APN 025-350-22, based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4 as stated in the staff report. Seconded by Commissioner Matthews.

Commissioner McHugh moved to deny the variance as the grow site can be moved, thereby eliminating the need for a variance. Seconded by Commissioner Frasier, who stated we are not required to ensure that applicants can grow the maximum amount.

Commissioner Matthews stated it seems likely if we're talking permitted greenhouses that he would want to maximize his opportunity to make money, and if we deny then he will do more grading. Commissioner Stewart responded there is no greenhouse and no grading. Commissioner McHugh said that's speculation.

Discussion regarding need for Grading Ordinance.

Commissioner Frasier said he thinks it is just good business practice, if you are investing money for a commercial cannabis business, why would you subject yourself to yearly renewal of a variance.

Chair Hoard called for the vote on Commissioner McHugh's subsequent motion to deny. Commissioners McHugh and Frasier-Yes; Commissioners Stewart, Matthews and Hoard-No. Motion failed 2 to 3.

Chair Hoard called for the vote on Commissioner Stewart's motion to approve. Commissioners Stewart, Matthews and Hoard-Yes; Commissioners McHugh and Frasier-No. Motion carried 3 to 2.

NEW BUSINESS

5. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-18-42

Public Hearing: Request for an "annual variance" from the required 350' Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-823, Sec. 43(5)(iii)], located at 71 N Salt Creek Road, Hayfork. APN 016-200-09. Applicant: C. Lor.

Associate Planner Watkins presented the staff report. He advised there are two variance requests, and the applicant has also applied for a Less Than 3-Acre Timber Conversion for 1.7 acres. No written comments were received, and there is a school bus stop within 500 feet of the site. Staff is recommending approval.

Commissioner Stewart asked if it is possible to approve the variance, but recommend the 1.7-acre conversion be denied. Watkins responded that Planning staff hasn't come to a decision on the 3-Acre Conversion Exemption yet. Stewart said she suspects he wants the conversion so he can expand his growing area. Director Hubbard stated it is set up by Cal Fire and there is a form that asks what the bona fide intent is, which should be a legal use. She said sunlight is not one of the deciding factors. She said we look at verifying everything, but if converting for commercial cannabis... She attempted to ask County Counsel his opinion on legality, but County Counsel was no longer on the phone.

Hubbard stated on a 10,000 sq. ft. cultivation site, she contacted the foresters and they say way past what you can cultivate, it's very discretionary on her part and she considers it legitimate input.

Commissioner Stewart said it seems like the conversion is legitimate. Hubbard responded that he exceeds what he's allowed to impact per the ordinance, that's why it is the staff report. Commissioner Matthews asked if there will be a public comment opportunity on the Less Than 3-Acre Conversion Exemption. Hubbard responded the application form is all there is, there is no opportunity for public comment on it and that is why it is in your packet and disclosed tonight.

Commissioner McHugh stated the variance and the conversion are two separate things; he's asking for a variance, that's what we're here to discuss, that's what's on the Agenda, it is not a condition of the variance. Hew said he is struggling with the conversation.

Chair Hoard opened the hearing to public comment.

Comments received from John Brower and Justin Hawkins.

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

Commissioner Stewart said while she values Commissioner McHugh's opinion, when the staff report says there is a 3-acre conversion involved, it becomes something for the Commission to discuss.

Deputy County Counsel Joe Larmour present via phone.

Director Hubbard asked him about the 3-acre conversion of 1.7-acres. She said it is not where the cultivation site is located, she thinks he wants more sun on his cultivation site, staff hasn't signed off on it, but included it in the staff report and Commissioner McHugh says it's two separate things. She asked how does the conversion weigh in to the matter. Counsel Larmour responded that the variance is before the Commission tonight, they can take the 3-acre conversion into consideration because it might have an impact, but the Less Than 3-Acre Conversion Exemption approval is a staff function, there is no direction

to staff, and is not before the Commission tonight.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 240 feet from the residence on APN 016-200-08 and from 350 feet to 270 feet from the residence on APN 016-200-10, based on Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4, as stated in the staff report. Seconded by Commissioner Frasier. Motion carried 4 to 1, with Commissioner McHugh voting No.

6. MATTERS FROM THE COMMISSION

Commissioner Matthews advised he will not be here for the regular meeting on August 9th.

7. MATTERS FROM STAFF

Deputy Director Hubbard introduced Bella Hedtke, the newly hired Associate Planner.

Deputy Director Hubbard advised we only have one item noticed for the August 9th Agenda and asked the Commission if they wanted to put the item over to the Special Meeting on August 23, 2018. Commissioner Frasier said he doesn't have a problem with having a meeting for one item, especially since the applicant had to wait and there is the 21-day notice period, so he thinks we should try to accommodate the applicant if possible instead of putting it off. Chair Hoard directed staff to inquire with the applicant if he would be agreeable to putting it over.

Commissioner Frasier asked when the Commission would be going back to one meeting per month. Deputy Director Hubbard responded it is a possibility, but most likely not until the beginning of next year. Associate Planner Watkins stated we may still need two meetings a month with Manufacturing and Distribution Conditional Use Permits coming up.

Deputy Director Hubbard stated we seem to have two deadlines for public comments. She said we send in a notice to the newspaper about a Planning Commission public hearing, it has a deadline for written comments (the day prior to Planning Commission Packets going out) and any comments received by that deadline go in Commissioners' packets. Then when the Agenda and Staff Reports are posted on line, people send in comments by email and we have accepted them up to 5:00 p.m. the Wednesday before the meeting. She said she doesn't see any way to get around it, we can't avoid late comments completely.

Commissioner Matthews said the public has said there is insufficient notice, so maybe a longer notice period and have an absolute deadline.

Commissioner Matthews asked what is the status of scheduling Class K Housing and the General Plan Update, etc. Hubbard responded the priorities are still the same. We have been looking at CUPs from different counties.

Chair Hoard advised that he is going to try to have a draft Class K Housing ordinance ready for the second meeting in August, but he wants County Counsel to review it also, so it's not definite.

8. ADJOURN

The Chair adjourned the meeting at 8:04 p.m.