

MINUTES

1. CALL TO ORDER

Chair Stewart called the meeting to order at 6:00 pm. Commissioners present: Chair Diana Stewart, Vice Chair Graham Matthews, Commissioner Kyle Brown, Commissioner John Brower, Commissioner Dan Frasier. Staff present: Director Rick Tippett, Senior Planner Carson Anderson, County Counsel Joe Larmour, Clerk Naomi Merwin.

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.

Chair Stewart opened public comment. No one came forward. Chair Stewart closed public comment.

3. MINUTES – None

OLD BUSINESS

4. COMMERCIAL MEDICAL MARIJUANA ORDINANCE

PW-16-01

Public Hearing: Discuss and/or take action on Preliminary Recommendations to the Board of Supervisors regarding Commercial Medical Marijuana Ordinance.

Chair Stewart opened Item 4 Commercial Medical Marijuana Ordinance Public Hearing to the Commission.

Senior Planner Anderson requested to move Item 6 to top and provided Staff Report overview of Item 6.

6. *Appropriate Setback Requirements for Commercial MM Uses*

6a) *Large setbacks from property lines should be required: 500 foot setbacks were considered standard, and if proposed by the applicant, the use could be approved through the Director's Use Permit process. There was further consensus for requiring Conditional Use Permits for uses with proposed setbacks of less than 500 down to 100 feet. Though not explicitly stated, the implication was that setbacks less than 100 feet would not be acceptable.*

6b) *Setbacks from certain types of existing sensitive uses should be required. This includes requiring a minimum separation of 1,000 feet from schools, recreation centers, public libraries and childcare facilities (measured in a straight line from the cultivation area), and requiring a 600-foot setback from churches, drug treatment/rehabilitation centers, Native American cultural sites, and public parks. Clarification of consensus attained on March 10th the Commission voiced that a minimum setback of 600 feet from officially recognized public school bus stops should be required.*

6c) *There should be a 100-foot setback from public road rights-of-way.*

Chair Stewart opened Item 6 for public comment with the following conditions: two-minute time limit; members of the public must address the commission not the public/audience; comments must pertain to the item under discussion.

Comments received from Stanley Robert Watrous, Clarence Rose, Robert Ruff, Mike Rizzard, Terry Mines, Jose Acosta, Duncan MacIntosh, Chris Shaker, John Warden, Adrian Keyes, Sam Brinkley, Heidi Harris, James Noell, Tom Ballanco, Tammy Frasier, Amanda Bereger, Glenn Armond, Mike McHugh, Debbie Lono, Ray Haywood, Derek Anderson, Valerie Grubb, Roger Chatterton, Dewey Baird, unknown, Carlene Richardson, Tom Walz, Tom Ward, Lyn Scott, Liz MacIntosh, Ashley Toms.

Chair Stewart closed public comment and brought Item 6 back to the commission. Requested a motion to confirm, modify or reverse Item 6a.

Motion by Commissioner Brown to modify 6a setback.

Commissioner Brown reported his objection all along has been concerning the odor. In his experience it took 500 feet to make the odor acceptable. Stated a desire to propose a mechanism for allowing a reduction in setbacks for some communities while maintaining setbacks in others. He referred back to previous discussions regarding approval from neighbors, suggesting that it would be appropriate to include that as part of either the Director's Use Permit or the Conditional Use Permit – applicants must submit a parcel map of the grow area and obtain approval from all neighbors who touch a boundary or corner. With approval setbacks can be reduced to a specific amount. If a neighbor doesn't agree then that neighbor becomes a sensitive receptor and the standard setbacks, right now at 500 feet, would apply. In addition, people could register with the county as a sensitive receptor. In this way someone's home couldn't qualify in the same way a church or other sensitive site does. In sum, in certain communities you may be able to achieve consensus to grow with modified setbacks, in other communities' neighbors would object and there would be no growing in that community.

Counsel Larmour advised that Commissioner Brown's proposal sounds like more of a procedural issue; more appropriate to the Use Permit section, rather than the setbacks. Further advised this discussion belongs under the Conditional Use Permit section.

Chair Stewart asked Commissioner Brown if he would like to amend his motion specific to setback requirements?

Commissioner Brown amended his motion to confirm 6a, and allow a more specific mechanism by which a setback is determined.

Commissioner Matthews seconded Commissioner Brown's motion.

Commissioner Matthews expressed agreement with the motion. People with neighbors who support the activity should be able to continue. The Planning Commission also needs to protect people from the offsite impacts from grows; we don't want people who have been here for generations to leave properties because of these impacts. If people have the permission of all their neighbors they should be able to get a permit much easier, such as a Director's Use Permit, rather than a Conditional Use Permit.

Commissioner Brower stated 500 feet doesn't work for downriver at all, it's a *de facto* ban. Stated he would consider modifying down to 30 foot standard setbacks, brought to the fence line with neighbors' permission. Starting at 500 feet effectively bans this downriver and doesn't work at all.

Commissioner Frasier stated it wouldn't be a ban for getting a Use Permit, there would still be recourse. The 500 foot setbacks are there to protect the community. Stating that there will be 500 foot setbacks period would be a ban; we are allowing people to bring it to the Planning Commission to mitigate the impacts. The Conditional Use Permit allows us to look at it parcel by parcel, rather than trying to get every parcel to qualify.

Commissioner Brower restated that 500 feet is a practical ban and there is no other agricultural crop that comes close to that type of setback. He continued that most of the county has not had representation on

this and he cannot agree.

Commissioner Brown stated this is an interim ordinance and ultimately the overlay is the way to go. This is what we've been directed to do by the board and until we are directed to do otherwise we have to come up with something to present to the board. He continued that he doesn't see the large setback as a ban.

Chair Stewart agreed with Commissioner Brown, that the setback does not constitute a ban when there is the opportunity to get a Conditional Use Permit. She reminded the Commission that they are not drafting an ordinance, they are suggesting items to the Board of Supervisors to accept as they see fit and it is up to the Board of Supervisors to draft the ordinance.

Commissioner Brower asked staff what the average time-frame to get a Conditional Use Permit is.

Senior Planner Anderson responded that given staffing limitations, one planner and one administrative associate, the process can take three months.

Director Tippett responded that the quickest would be 8-12 weeks for full processing. There is a review period, a public notice period, a response period. There are components that are in the process that require time, even with an outside consultant and a prioritization of the applications.

Upon motion of Commissioner Brown, seconded by Commissioner Matthews, the Planning Commission moved to confirm item 6a. Motion carried. 4-Yes: Brown, Brower, Stewart, Matthews; 1-No: Brower.

Chair Stewart requested a motion to confirm, modify or reverse Item 6b.

Commissioner Matthews moved to confirm 6b.

Commissioner Brown seconded Commissioner Matthew's motion.

Commissioner Frasier moved to modify 6b to make it consistent; 1000 feet from all sensitive receptors.

Motion failed for lack of second.

Upon motion of Commissioner Matthews, seconded by Commissioner Brown, the Planning Commission moved to confirm 6b. Motion carried unanimously.

Chair Stewart requested a motion to confirm, modify or reverse Item 6c.

Commissioner Frasier moved to confirm 6c.

Commissioner Matthews seconded Commissioner Frasier's motion.

Upon motion of Commissioner Frasier, seconded by Commissioner Matthews, the Planning Commission moved to confirm 6c. Motion carried unanimously.

Chair Stewart opened Item 1 to the Commission.

Senior Planner Anderson provided Staff Report overview for Item 1.

1. Indoor vs. Outdoor Grows

1a) The full range of indoor, mixed-grow and outdoors grows that can be licensed under the MMRSA, and in the Humboldt County commercial MM ordinance, should be allowable. There was a generally held view that indoor grows be required based on certain impact threshold criteria such as small parcel size, location within close-in

neighborhood settings, sensitive receptor proximity, and where an identified potential for environmental and/or nuisance impacts exists; whereas, outdoor grows typically would be limited using setback requirements to keep the impacts away from others.

1b) The use of generators should be restricted to avoid nighttime/early-morning hour noise impacts aligned with current County noise limits (reference having been made by staff to current ordinances governing generator use associated with RV installations [Ordinance 315-801 Section (C)6], and to the County's current MM Ordinance 315-797, Section (f)(8), which further requires review and approval of the fuel storage structures supplying the generators).

Chair Stewart opened Item 1 to public comment.

Comments received from Debbie Lono, Sam Brinkley, Adrian Keyes, Dave Dodder, Stanley Robert Watrous, Duncan MacIntosh, Liz MacIntosh, Terry Mines, Jose Acosta, Mark Shoemaker, Duane Sceper.

Chair Stewart closed public comment and brought Item 1 back to the Commission. Requested a motion to confirm, modify or reverse Item 1a.

Commissioner Matthews moved to modify Item 1a to include the first sentence only. He stated there is not enough information to explain how to do the second part. People are confused, the Commission needs to state that we will potentially allow the spectrum of indoor and outdoor activities that the state allows. The indoor vs. outdoor language is confusing.

Commissioner Brown seconded the Commissioner Matthew's motion.

Commissioner Brower expressed support for the modification.

Upon motion of Commissioner Matthews, seconded by Commissioner Brown, the Planning Commission moved to modify 1a to the first sentence only, "The full range of indoor, mixed-grow and outdoors grows that can be licensed under the MMRSA, and in the Humboldt County commercial MM ordinance, should be allowable." Motion carried unanimously.

Chair Stewart requested a motion to confirm, modify or reverse Item 1b.

Commissioner Frasier moved to modify 1b, that the use of generators be restricted to emergency use only; any commercial operation should be self-contained without the use of generators.

Commissioner Matthews seconded Commissioner Frasier's motion.

Commissioner Brower: A lot of off-grid places use generators a couple hours in morning or dusk, if we could stretch the nighttime or early morning hours beyond dawn and dusk.

Counsel Larmour advised Commissioner Brown that the motion does not specify hours, only generator use as an emergency operation.

Commissioner Frasier stated that for commercial operations emergency use should be allowed, but other than that commercial operations need to tie into the grid or other alternative energy.

Commissioner Brown stated he would like to include a time period to allow people to transition.

Director Tippett advised the Commission that this is for an interim ordinance, and apt to be replaced within two years.

Commissioner Brown moved to modify 1b and then retracted his motion.

Commissioner Brown stated his desire for a time limit on it to become complaint, either until the end of the interim ordinance or two years whichever comes first.

Commissioner Frasier stated he would be willing to amend his motion restricting operations to emergency use only to include an allowance to transition over from generator use.

Commissioner Brown recommended allowing two years for transition from generator use; intent being to give a clearer idea to people of the ultimate regulatory direction in which the County is going.

Commissioner Frasier expressed his concern that it doesn't mitigate the noise if we let it go on for five years; won't amend my motion for two years. I'm not comfortable that people could get a permit and it could drag out for five years.

Commissioner Brown asked if two years would work?

Commissioner Frasier declined to amend his motion.

Commissioner Brown moved to modify 1b to include a sunset clause where applicants would have two years from initiation or adoption of the ordinance to come into compliance with solar/wind/hydro/grid power.

Commissioner Brower seconded Commissioner Brown's motion.

Commissioner Matthews stated he agrees with a transition period. It gives people a path; they deserve a due process, a transition.

Counsel Larmour advised that an easier way to phrase the motion is to state 1b is accepted with a clause allowing generators only for two years at which point it would become for emergency purposes only.

Chair Stewart agreed with County Counsel.

Upon motion of Commissioner Brown, seconded by Commissioner Brower, the Planning Commission moved to confirm 1b with a clause allowing generators for two years at which point it would become for emergency purposes only. Motion carried unanimously.

Chair Stewart called for a 5-minute break.

Chair Stewart opened Item 2 to the Commission.

Senior Planner Anderson provided Staff Report overview of Item 2.

2. Commercial Grow Size Limits

2a) Grow cultivation area size should be based on language contained in the MMRSA, which references a maximum cultivation area permissible of 44,000 square feet (slightly over one-acre).

2b) There was additional direction that the cultivation area be defined utilizing the "Cultivation Area" definition contained in the rather than by using a plant count or canopy methodology, and that the full definition of term "Cultivation Area" shall be modified slightly to address the potential for "stacking" (e.g., two-level or more grow beds and pots) of cannabis cultivation.

Per the above-stated direction in 2b) to reference the potential for "stacking," the following amendment to the definition of cultivation area is offered—the underscored text having been added to address the concern raised:

“Cultivation Area” means the sum of the area of cannabis cultivation as measured around the perimeter of the discrete area of cannabis cultivation on a single premises, defined as a single area that can be readily measured, in terms of square footage, for code enforcement purposes, and as further defined herein. Area of cannabis cultivation is the physical space where cannabis is grown and includes, but is not limited to, garden beds or plots, adjoining walkways, the exterior dimensions of greenhouses or structures erected to enclose cultivation areas, as well as the area covered by pots and bags containing cannabis plants on the premises. The cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown on the premises, and shall account for instances where cultivation is in a stacked (or multiple-level) configuration.

Chair Stewart asked staff if a stacked grow would double the cultivation size.

Senior Planner Anderson responded that the area that is stacked would be counted toward the cultivation size.

Chair Stewart opened Item 2 to public comment.

Comments received from Debbie Lono, Duane Sceper, Dave Dodder, Stanley Robert Watrous, Duncan MacIntosh.

Chair Stewart closed public comment and brought Item 2 back to the Commission. Requested a motion to confirm, modify or reverse Item 2a.

Commissioner Brown moved to confirm 2a.

Commissioner Brower seconded Commissioner Brown’s motion.

Commissioner Matthews asked if the language should change slightly so the ambiguity Mr. Sceper pointed out will be eliminated. Change size to limits to make it clear what the vegetative area and the cultivation area is. Either we strike the reference the tiered system and don’t reference the vegetative canopy as opposed to cultivation area or we change the language to make it clear; it is ambiguous.

Counsel Larmour advised that there is a motion and a second and a competing motion could be made.

Commissioner Frasier moved to modify 2a by striking the language “based on language contained in the MMRSA”, to read: grow cultivation area size should be a maximum cultivation area permissible of 44,000 square feet (slightly over one acre).

Commissioner Brower stated we should stick to canopy cultivation area, Humboldt and Mendocino counties are measuring canopy; should stick with MMRSA.

Commissioner Matthews stated we are more conservative by calling it cultivation area, because it will be easier to measure.

Commissioner Brown seconded Commissioner Frasier’s motion.

Chair Stewart clarified the language of Commissioner Frasier’s motion: maximum grow cultivation area permissible of 44,000 square feet (slightly over one acre), and called for a vote.

Upon motion of Commissioner Frasier, seconded by Commissioner Brown, the Planning Commission moved to modify 2a to read maximum grow cultivation area of 44,000 square feet (slightly over one acre). Motion carried unanimously.

Chair Stewart requested a motion to confirm, modify or reverse Item 2b.

Commissioner Matthews moved to confirm 2b

Commissioner Frasier seconded Commissioner Matthew's motion.

Commissioner Brower stated we should be measuring canopy instead of cultivation area which allows for more thoughtful crop rotation and pest management; it doesn't encourage people to cram too much into a space; it measures the actual vegetative matter and not walkways; it allows for greater distance between plants.

Commissioner Brower moved to modify 2b to measure cultivation area by plant canopy.

Motion died for lack of second.

Upon motion of Commissioner Matthews, seconded by Commissioner Frasier, the Planning Commission moved to confirm 2b. Motion carried. 4-Yes: Brown, Stewart, Frasier, Matthews; 1-No; Brower.

Chair Stewart opened Item 3 to the Commission.

Senior Planner Anderson provided Staff Report overview of Item 3.

3. Parcel Size and Linkage with Commercial Grow Area Size

3a) There should be a minimum parcel size for commercial outdoor grows with cultivation areas measured at more than 200 sq. ft. The minimum parcel size for commercial grows shall be set at two (2) acres.

3b) Large commercial grows greater than 10,001 sq. ft. should be limited to larger parcels of at least 10 acres or more.

Chair Stewart opened Item 3 to public comment.

Comments received from Carol Fall, Debbie Lono, Adrian Keyes, Terry Mines, Tom Ballanco, Amanda Bereger, Liz MacIntosh, Stanley Robert Watrous, Jose Acosta, Erik Anderson, Duane Sceper, Joanne Matthis, Mike McHugh, Lynn Scott, Glenn Almond, Jacob Johnson, James Noelle, Dan Dickerson, Sam Brinkley.

Chair Stewart closed public comment and brought Item 3 back to the commission. Requested a motion to confirm, modify or reverse Item 3a.

Commissioner Brower moved to modify 3a that the minimum parcel size be changed from two acres to one acre.

Commissioner Matthews seconded Commissioner Brower's motion.

Commissioner Matthews questioned county counsel: This item was trying to set a floor, we have talked about requiring a use permit for Rural Residential, where growers would have to mitigate by setbacks, neighbor approval, etc. Is there a mechanism that we can include areas like the Pines without being discriminatory?

Counsel Larmour responded that it can't be discriminatory on its face as to one neighborhood in general. New Discussion Item was introduced to address density, which is the issue with impact.

Commissioner Brower stated with neighbors' approval, going down to one acre may be appropriate and

people should have that ability.

Chair Stewart stated as a minimum, one acre, not every one-acre parcel.

Commissioner Brower stated there is already a use permit for under 500 foot setbacks, there should be one to reduce to one acre; it may be appropriate on some smaller parcels.

Commissioner Brown stated problems with ambiguity in first and second sentences, talking about all grows or just outdoor? Indoor grows are a potential option but we haven't provided a minimum for that. The setbacks and the use permit process will set the specific minimum parcel size. Stated he would like to see a fairly low minimum for indoor grows.

Commissioner Brown moved to reverse 3a.

Commissioner Brower seconded Commissioner Brown's motion.

Commissioner Brown stated being if there is a 500-foot setback as the norm and a use permit process that can narrow that down, how do we set a minimum parcel size for indoor grows, I would like to see most folks be able to grow indoors as an alternative.

Commissioner Frasier stated his issue is a minimum parcel size for outdoor rather than striking it entirely.

Commissioner Matthews expressed agreement. With a use permit process we don't need to have a parcel size because smaller parcels have lots of neighbors and someone will protest and they won't get the permit. A big part of the state law was bringing small growers into compliance. There has been some discussion about a difference between existing growers and new commercial applications. We could say something like it takes 5 acres or more in Rural Residential to have a new application, but if you are existing to become compliant it goes down to an acre.

Chair Stewart stated that is the kind of thing I think we will get down to more specifically down the line.

Commissioner Brown stated to continue with what Commissioner Matthews said, you don't need to differentiate between existing and new growers, in a sense the use permit process takes care of that; if you are existing and you haven't been good to your neighbors then good luck with getting the permit, if you're new be nice to your neighbors.

Commissioner Brower expressed agreement with Commissioner Matthews; we should encourage all existing growers to come into compliance, as that is a major component of the state law.

Director Tippett notified the Commission that there is no established process for verifying existing grows.

Upon motion of Commissioner Brown, seconded by Commissioner Brower, the Planning Commission moved to reverse 3a. Motion carried unanimously.

Chair Stewart requested a motion to confirm, modify or reverse Item 3b.

Commissioner Frasier moved to reverse 3b. If there is no minimum parcel size don't have a minimum parcel size. Too much misconception about the 10,000 square feet, people think that is the limit. It should all be covered under the use permit.

Commissioner Brower seconded Commissioner Frasier's motion.

Commissioner Matthews stated agreement with the process the Commission is contemplating; this is not particularly crucial. The other state and county tier systems have had grow size related to parcel size, this was our attempt to try to set the largest grows in their own category. It may not be necessary, but we may

have a harder time denying someone on a 7-acre parcel to have a 10,000 square foot grow.

Commissioner Frasier stated if we don't eliminate 3b and rely solely on the permit process, we need to realize that is up to a one-acre grow and we need to go to move than 10-acre minimum parcel size. That is where we have people who don't understand how broad that range is. A 10,000 square foot grow is a lot easier to mitigate on 10 acres than a one-acre grow. Under the MMRSA a 10,000 square foot grow and a one acre grow, qualify for a type three permit. If we are establishing a minimum, we need to take into consideration the one-acre grow not just the 10,000 square feet.

Commissioner Matthews stated that the Commission could say something to the effect that the one-acre grow would only be on larger parcels, such as the 20 acre parcels.

Director Tippett pointed out that the use permit is an area between a 500 and a 100-foot setback; the 500-foot setback is almost one acre. The use permit application would come to you and it would be at your discretion to issue it. You may have to take action on some large gardens on small properties.

Commissioner Frasier withdrew his motion.

Chair Stewart called for a motion to confirm, modify or reverse Item 3b.

Commissioner Brower moved to modify 3b that grows greater than 10,001 square feet to be on parcels five acres or greater.

Motion died for lack of second.

Commissioner Frasier moved to modify 3b to allow large commercial grows of 10,001 square feet or greater on parcels of at least 30 acres.

Motion died for lack of second.

Commissioner Brower moved to reverse 3b.

Commissioner Frasier seconded Commissioner Brower's motion.

Commissioner Frasier stated concerns we will see problems of people wanting to put large grows on small lots, but the use permit process will handle that. These permits will be regulated by the state like liquor licenses. We don't want to permit things the state takes away. We need to concentrate on being conservative here.

Commissioner Matthews stated the Commission could say no grows over 10,000 square feet at this time.

Commissioner Matthews moved to modify 3b to state no applications allowed over 10,000 square feet.

Commissioner Brown seconded Commissioner Matthews.

Commissioner Brower stated the Commission already agreed the largest grow site should be consistent with MMRSA, and now the Commission is discussing implementing nothing over 10,000 square feet. The use permit process will take care of the Commission should be in line with MMRSA.

Commissioner Matthews amended his motion to allow 10,000-20,000 square feet of cultivation area on 10-20 acre parcels and 20,000 square feet of cultivation area or more on 30 acre parcels or more.

Chair Stewart asked Commissioner Matthews to restate his motion.

Commissioner Matthews clarified his amended motion: move to modify 3b; permit applications over

10,000 square feet will not be accepted during the interim ordinance.

Commissioner Frasier seconded Commissioner Matthews amended motion.

Commissioner Frasier moved to modify 3b to read: 10,000-22,000 square feet cultivation area must be on 20-acre parcel or greater and anything 22,000-44,000 square feet cultivation area must be on 30-acre parcels or greater.

Motion died for lack of second.

Commissioner Brown moved to confirm 3b as is.

Commissioner Matthews seconded Commissioner Brown's motion.

Upon motion of Commissioner Brown, seconded by Commissioner Matthews, the Planning Commission moved to confirm 3b. Motion carried unanimously.

Chair Stewart opened Item 4 to the Commission.

Senior Planner Anderson provided Staff Report overview of Item 4. Noted an additional issue that the use of butane is prohibited in the current county ordinance.

4. Scope of Commercial Activities Allowed (e.g., cultivation, processing, manufacturing and distribution (as permissible in the MMRSA and Humboldt County ordinance))

The full array of commercial activities permissible in the MMRSA and Humboldt County Ordinance should be allowed. On an interim basis, all activities would occur on the property where cultivation is proposed to occur until a more detailed land use framework is developed as part of the County's final commercial MM ordinance.

Additional Caveat or Disclosure

Both the Commission and staff have received comments concerning cannabis products produced through the use of butane (e.g., Honey Oil) if manufacturing and processing activities became permissible as part of a new commercial cannabis ordinance. It should be noted that the current MM ordinance (personal cultivation) prohibits the use of butane for processing cannabis (Ordinance 315-797(f)(9)) and it is expected that this prohibition will be adopted as part of the commercial MM ordinance by the BOS. Rather than retracting prior consensus simply express concerns to BOS regarding potential product lines utilizing butane other flammable/potentially explosive processes and ask the BOS to review.

Counsel Larmour added to Staff's Report that the enhancement of marijuana through butane or other accelerants is currently illegal under state law, it is contemplated under that law that there may be provisions for that but it is currently illegal.

Chair Stewart opened public comment for Item 4.

Comments received from Terry Mines, Ryan MacIntosh, Mike McHugh.

Chair Stewart closed public comment and brought item 4 back to the commission. Requested a motion to confirm, modify or reverse Item 4.

Commissioner Brown moved to modify Item 4 and strike license number 7 from the interim ordinance.

Commissioner Frasier stated he would second it Commissioner Brown would modify his motion.

Commissioner Frasier moved to modify Item 4 and exclude type 7 and all type 10 and 10a licenses, because type 10 states it will be on the property where the cultivation is taking place, I think we'll run into problems with dispensaries; I want to exclude dispensaries and volatile extraction from the place it's cultivated

Commissioner Matthews seconded Commissioner Frasier's motion.

Commissioner Brower moved to modify item 4 to allow the full scope of commercial activities striking the mandate that they occur on the property where cannabis is cultivated. Brower stated that extractions, processing, manufacturing can be done safely in an appropriate setting, but not necessarily where it is being cultivated. Move to strike necessity that the other activities occur on the property where cultivation is occurring.

Commissioner Brower clarified his motion: move to modify Item 4 by striking the necessity that the full array of commercial activities must occur on the property where cultivation is occurring.

Commissioner Brower's motion died for lack of second.

Chair Stewart stated that Commissioner Frasier's motion is active and requested discussion.

Commissioner Brown stated agreement that we don't want people dispensing where they're growing.

Commissioner Brower stated disagreement. 10 and 10a are necessary, if you can dispense in a permitted way you can do statewide dispensaries. I think it's crucial to the marketing of Trinity County's artisanal and boutique product that Trinity County small farmers can distribute statewide deliveries.

Commissioner Brown stated in the long-term we want to allow licensing, but in the interim we don't want people dispensing on their property.

Upon motion of Commissioner Frasier, seconded by Commissioner Matthews, the Planning Commission moved to modify Item 4 that all commercial activities will be allowed except for permit types 7, 10 and 10a. Motion passes. Yes-4: Brown, Stewart, Frasier, Matthews. No-1: Brower.

Chair Stewart opened Item 5 to the Commission.

Senior Planner Anderson provided Staff Report overview of Item 5.

5. Permissible Zone/General Plan Designation Districts for Commercial MM

All outdoor commercial MM grows be restricted to the A (Agriculture) zone with consideration given as well as to Unclassified (UNC) zone districts with an Agricultural (A) General Plan designation. Commercial grows in the Rural Residential (RR) zone will be considered as well, although the Commission made clear that potential impacts to neighboring residential uses would need to be carefully considered in granting use permits.

Chair Stewart opened public comment on Item 5.

Comments received from Jeff Liddell, Carol Fall, Tyler Thompson, Morgan Mayer, Patrick Kahn, Ashley Toms, Liz MacIntosh, Tom Ballanco, Duane Sceper, Clarence Rose, Mike McHugh, Terry Mines.

Chair Stewart closed public comment and brought Item 5 back to the commission. Requested a motion to confirm, modify or reverse Item 5.

Commissioner Brown moved to confirm Item 5.

Commissioner Frasier seconded Commissioner Brown's motion. There should be restrictions on this, a sunset clause. Put pressure on the Commission's end to clean up some of the zoning. Commercial medical marijuana should not be considered an agricultural crop, it should be considered a whole different ball game. Although medicinal, it is a controlled substance. There is a difference between growing medicinal marijuana and corn or tomatoes. There should be overlays. I'm okay with this for the interim, but in the future we need to work on zoning overlays specific to medical marijuana cultivation.

Commissioner Matthews stated he is swayed by testimony that the Commission is being overly restrictive. If the point of changing the minimum parcel size was to allow grows to occur where impacts would be less, why eliminate them based on zoning; people are going to come in with zoning changes, a variance to change their zoning from unclassified to agriculture to fit in our framework. It doesn't make sense.

Commissioner Brown stated agreement with Mr. Sceper, this is what the current general plan and zoning allow and this is why these were selected in the beginning. As far as Agricultural Forest and Timber Production Zones those were established back when timber was booming, maybe those are appropriate to look at in a change in the general plan or land use element. They should not be in the interim ordinance. A new general plan is needed before introducing Agricultural Forest and Timber Protection Zone.

Chair Stewart stated her understanding that agriculture is allowed in Timber Production Zones after a 3-acre conversion. Timber Production Zones with previous 3 acre conversions should be allowed, but no new ones in the interim ordinance. Those existing should be allowed, in situations where it has already been converted.

Commissioner Matthews moved to modify Item 5 to allow outdoor commercial grows in any zones where agriculture is a permitted use as per the General Plan.

Commissioner Brower seconded Commissioner Matthews motion.

Commissioner Frasier asked staff what zones allow agriculture as a permitted use.

Senior Planner Anderson responded that there is an agricultural land use designation in the General Plan, and all of the following General Plan designations allow for agricultural activities: Open Space, Resource, Agriculture, Rural Residential, and Natural Resource. Noted that there was no reference to agriculture in Village. In the Zoning Ordinance the following zones allow agriculture as a permitted use: Agriculture, Agricultural Preserve, Agriculture Forest, Unclassified, Rural Residential, and Timber Production Zone.

Upon motion of Commissioner Matthews, seconded by Commissioner Brower, the Planning Commission moved to modify Item 5 to read that outdoor commercial marijuana grows will be allowed in all zones where agriculture is permitted. Motion passed. 3-Yes: Brower, Stewart, Matthews. 2-No: Brown, Frasier.

Chair Stewart opened Item 7 to the Commission.

Senior Planner Anderson provided Staff Report overview for Item 7.

7. Appropriate Fencing Standards for Commercial Grows

7) Balanced with the need to preserve the open space values of certain communities the fencing of outdoor cultivation activities should generally be required for security reasons, however the type of fencing should be at the discretion of the cannabis cultivator selecting from a menu of fencing options provided by and acceptable to the County.

Chair Stewart opened public comment on Item 7.

Comments received from Stanley Robert Watrous, Tessa Ballanco, Debbie Lono, Terry Mines.

Chair Stewart closed public comment and brought Item 7 back to the Commission. Requested motion to confirm, modify or reverse Item 7.

Commissioner Frasier moved to confirm Item 7.

Commissioner Matthews seconded Commissioner Frasier's motion.

Upon motion of Commissioner Frasier, seconded by Commissioner Matthews, the Planning Commission moved to confirm Item 7. Motion passed unanimously.

Chair Stewart opened Item 8 to the Commission.

Senior Planner Anderson provided Staff Report overview on Item 8.

8. Requiring a Permitted Residence on all MM Cultivation Properties

8) There was consensus for requiring that there be a permitted dwelling either on or contiguous to the property where commercial MM grow activity is occurring.

Chair Stewart opened public comment on Item 8.

Comments received from Debbie Lono, Chris Shaefer, Stanley Robert Watrous, Duane Sceper, Adrian Keyes, Liz MacIntosh, Tom Ballanco, Naomi Underwood, Tyler Thompson.

Chair Stewart closed public comment and brought Item 8 back to the commission. Requested motion to confirm, modify or reverse Item 8.

Commissioner Frasier moved to modify Item 8 to require there to be a legal residence on or contiguous to the property under the same ownership as the property where commercial medical marijuana activities are taking place.

Director Tippett advised it should read legal residential structure.

Chair Stewart clarified the motion to read legal residential structure on or contiguous to the property, owned by the same person, to the property being cultivated, and asked for a second.

Commissioner Brown seconded Commissioner Frasier's motion.

Commissioner Brower asked staff to define legal residence.

Senior Planner Anderson clarified that the word permitted wasn't meant to address buildings built before the building code and permitting process. But to prevent people from residing in yurts and other structures that have been built without being permitted. Permitted is not meant to address dwellings for which the property owners are paying taxes, that were legally built at the time they were built. It was suggested that a legal permitted dwelling on which improvement property taxes have been paid on a structure that is/was to code at the time the building was constructed.

Director Tippett further clarified that a dwelling can be a home or an RV. The Commission expressly said they don't want RVs to be a part of this. That is why structure was used instead of dwelling.

Upon motion of Commissioner Frasier, seconded by Commissioner Brown, the Planning Commission moved to modify Item 8 to require there to be a legal residential structure on or contiguous to the property

under the same ownership as the cultivated property. Motion passed unanimously.

Chair Stewart opened the New Discussion Item to the Commission.

Director Tippett provided background for the New Discussion Item. This topic stemmed from concern about environmental documentation. Densities and clustering of grows in a particular area could make something where one is acceptable but where an increased density of uses increases the impacts to unacceptable levels. The easiest way to get past that is to say that each garden will have a separation or minimum distance between them. No basis for 1,500 feet, the Staff Report states as much. The intent is to look for a way to quantify the impacts so you can present a defensible environmental document down the road.

Counsel Larmour advised that early indications are that the issues with CEQA are density based; litigation would likely come from over-density of one area over another. Early indications are that the public is encouraging the creation of density review criteria through permitting and zoning. Agreed that in the Environmental Impact Report the analysis of density-related impacts would be a key issue of focus.

Commissioner Matthews asked County Counsel if public comment is necessary if the Commission is not going to take the topic up.

Counsel Larmour advised as a practical matter, if the Commission does not intend to take up the issue and not make the recommendation to the Board of Supervisors, then there is no need to have a public hearing on the issue.

Commissioner Matthews moved to reject the New Discussion Item. Stated that effort should be made to try to limit it and have a bigger buffer around those areas, that will minimize the impacts on other people, and that the proposal would have the opposite and unintended effect of spreading out the impacts, and smell over a larger area.

Commissioner Brown seconded Commissioner Matthew's motion.

Upon motion of Commissioner Matthews, seconded by Commissioner Brown, the Planning Commission moved to reject Item 9. Motion passed unanimously.

5. MATTERS FROM THE COMMISSION

Discussion regarding time-line of recommendations going to the Board of Supervisors.

Commissioner Brower asked staff if the Commission could offer a recommendation to the Board of Supervisors to come up with a basic ministerial permit for this season, based on compliance with the water board order.

Director Tippett advised that would have to be agendaized and discussed.

6. MATTERS FROM STAFF

Director Tippet reported that the Board of Supervisors talked about three acre conversions at the last meeting; the Board re-affirmed the Planning Department's responsibility to review permits. The Board has asked the Commission to discuss three acre conversions with Cal Fire. Particularly the part where a home has been allowed to be on the Timber Production Zone without a use permit, where code says it needs to have a use permit. There is concern from the board in how the three acre conversions are being used in current practice due to major and unintentional negative consequences.

7. ADJOURN

Chair Stewart adjourned the meeting at 10:32 pm.