

MINUTES

1. CALL TO ORDER

Chairman Matthews called the meeting to order at 7:00 p.m. Members present: Commissioners Matthews, McHugh, Brower, Frasier and Stewart. Staff present: Interim Planner John Jelichich, Director Richard Tippett, County Counsel Joe Larmour and Clerk Naomi Goulette.

2. PUBLIC COMMENT

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

Comments received from Dana Ryan.

3. MINUTES

Commissioner Stewart moved to approve the Minutes of January 12, 2017 as corrected. Seconded by Commissioner Brower. Motion carried unanimously.

OLD BUSINESS

4. RE COMMERCIAL CANNABIS IN AG-FOREST ZONING DISTRICT

Discuss and/or take action to adopt resolution requesting the Board of Supervisors to initiate amendment of the AgForest Zoning District. Located county-wide. Applicant: County of Trinity (*Continued from January 19, 2017*).

Interim Planner Jelichich introduced item. Jelichich and Director Tippett clarified the process of taking the resolution of recommendation to the Board, that it would not delay working on the amendment.

Chair Matthews opens the item to public comment.

Comments received from Ben Brady, Liz McIntosh, Debbie Lono and Terry Mines.

No further comments being received, Chair closes the matter to public comment.

Commissioner Stewart moved to adopt the resolution recommending that the Board of Supervisors direct staff to update Section 14 (Agricultural Forest District or "AF" District) of the Zoning Ordinance. Seconded by Commissioner Frasier.

Commissioner Brower questioned the cultivation cap.

Commissioner McHugh questioned why discuss what the amendment will be at this time when just asking for formal Board approval to begin the amendment.

Motion carried unanimously. Vote polled 5-0.

Commissioner McHugh asked if it is appropriate to ask staff to bring a draft back AF zoning for discussion at the next meeting. Director Tippett advised it will have to have a CEQA document to accompany it and that takes a little bit of time to process that, circulate it, and then it comes back to the Commission. McHugh asked if the CEQA document goes with the proposed AgForest definition so they know what they're commenting on. Planner Jelicich responded the first draft proposed wording, circulate that and then the environmental document would be based on the new wording. McHugh said he is suggesting at the next meeting the Commission work on the wording and then go to CEQA. Jelicich responded so you would like us to come up with a draft of AgForest, give it to the Commission for discussion purposes, and then at the next meeting provide direction and we will work off of that. Chair Matthews said kind of like a workshop.

Commissioner Stewart stated she thought the Commission is only getting what the intent is, is to determine if agriculture will be allowed in AgForest, and not necessarily to draft the document that gives specifics as to what that agriculture would look like. Director Tippett responded correct. He said right now the only agriculture allowed in AgForest is Timber Production and we were asking can we broaden that, and then the issue with the house came along and the issue about when we convert, and so it became a clean-up with a couple of other things. He said it won't reference cannabis, because cannabis is referenced as agriculture in the urgency ordinance. Commissioner Stewart said so it's really not something that needs to come back to us at this time, once it gets to the point where we are looking at AgForest and cannabis, then that's when we need to have the discussion, and right now it is more of a general thing, correct. Tippett responded you wouldn't be comparing it as cannabis unless it was a use permit process, but you would be saying agriculture beyond Timber Production is allowed.

NEW BUSINESS

5. GENERAL PLAN AMENDMENT AND REZONE

PW-17-01

Public Hearing: Proposed General Plan Amendment and Rezone as follows:

A. General Plan Amendment changing land use designation of approximately 21.4 acres as follows:

- a. "Open Space" to "Industrial" (por. APN-24-210-08, 09, 10) approx. 6.5 acres (purpose is to eliminate 100' buffer strip along property line);
- b. "Industrial" to "Single Family-High Density" (APN 24-210-10) approx. 8.07 acres (remnant TRLC parcel on east side of Lance Gulch Rd);
- c. "Industrial" to "Open Space" (por. APN 24-210-08) approx. 5.4 acres (new County wetland mitigation area along Lance Gulch Rd.); and
- d. "Commercial" to "Open Space" (por. APN 24-500-71) approx. 1.4 acres (new County wetland mitigation area adjacent to Lance Gulch Rd., behind CHP).

B. Rezone approximately 21.4 acres as follows:

- a. "Open Space" to "Industrial" (por. APN-24-210-08, 09, 10) approx. 6.5 acres (purpose is to eliminate 100' buffer strip along property line);
- b. "Industrial" to "Residential Office ½-acre minimum parcel size" (R-O (B-3) ½) (APN 24-210-10) approx. 8.07 acres (remnant TRLC parcel on east side of Lance Gulch Rd);
- c. "Industrial" to "Open Space" (por. APN 24-210-08) approx. 5.4 acres (new County wetland mitigation area along Lance Gulch Rd.); and
- d. "General Commercial" to "Open Space" (por. APN 24-500-71) approx. 1.4 acres (new County wetland mitigation area adjacent to Lance Gulch Rd., behind CHP).

Located on Lance Gulch Road, between Browns Ranch Road and Highway 299, Weaverville.

Applicant: Trinity County Dept. of Transportation.

Interim Planner Jelcich introduced item. He stated this is pretty much a cleanup from the Lance Gulch Road construction project. As part of that environmental document, there are a few changes that needed to be made with the General Plan and Zoning involving primarily the mill property. The first issue (Exhibit A) is the 100' buffer strip that is along the east property line of the mill, so that part of the request is to change the General Plan designation and Zoning from "Open Space" to "Industrial"; Jelcich stated the next issue (Exhibit B) is the area that the mill still owns but is no longer directly part of the mill property. He said the EIR talked about putting residential uses on that, so in terms of environmental review that has already been addressed. The proposal there is to change General Plan designation from Industrial to Single Family Residential-High Density which would be consistent with the other land use designations east of that, and change the Zoning from "Industrial" to "Residential Office, minimum parcel size: one-half acre" (R-O(B3) ½). "Residential Office" is being recommended, it's suggested that was something the mill had proposed and we would have no objection, and that is covered in the EIR in the sense that a single-family residential use would be allowed outright. If someone wanted to put in a small office, they would have to get a use permit that would come before the Commission and there would be a separate review at that time to assess parking and other potential impacts to the area; Jelcich said the third issue (Exhibit C) pertains to wetlands, the area on the east side of Lance Gulch Road, the County has acquired that, and is requesting to change General Plan designation and Zoning from "Industrial" to "Open Space"; and the fourth issue (Exhibit D) is another wetlands located behind the CHP Office that was acquired from the shopping center property, the General Plan designation would change from "Commercial" to "Open Space" as a requirement of the EIR, and Zoning would change from "General Commercial" to "Open Space". Jelcich stated those wetland areas need to be retained by the County for a period of time to make sure that the mitigations have been met.

Chair Matthews asked why a 100' "Industrial" strip. Planner Jelcich and Director Tippet clarified the layout.

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

Commissioner Stewart moved to recommends the following:

1. That the Board of Supervisors adopt a resolution approving an amendment to the land use element of the County General Plan by changing land use designation as follows:
 - a. "Open Space" to "Industrial" (por. APN-24-210-08, 09, 10) approx. 6.5 acres;
 - b. "Industrial" to "Single Family-High Density" (APN 24-210-10) approx. 8.07 acres;
 - c. "Industrial" to "Open Space" (por. APN 24-210-08) approx. 5.4 acres; and
 - d. "Commercial" to "Open Space" (por. APN 24-500-71) approx. 1.4 acres.

2. That the Board of Supervisors approve a Zoning Ordinance amendment changing the zoning as follows:
 - a. "Open Space" to "Industrial" (por. APN-24-210-08, 09, 10) approx. 6.5 acres;
 - b. "Industrial" to "Residential Office ½-acre minimum parcel size" (R-O (B-3) ½) (APN 24-210-10) approx. 8.07 acres;
 - c. "Industrial" to "Open Space" (por. APN 24-210-08) approx. 5.4 acres; and
 - d. "General Commercial" to "Open Space" (por. APN 24-500-71) approx. 1.4 acres.

Seconded by Commissioner Brower.

Commissioner McHugh questioned if CEQA on the General Plan Amendment for the project is under the same EIR done for Lance Gulch Road. Director Tippett responded in the affirmative.

Chair Matthews called for the vote. Motion carried unanimously.

6. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **P-17-01**

Public Hearing: Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 30 Quail Road, Junction City. APN 12-370-14. Applicants: E & D McIntosh.

Interim Planner Jelich introduced the item. He said this is the first application received for a Variance pertaining to cannabis cultivation 350’ setback from neighbors. He pointed out one neighboring dwelling that is only 142’ from McIntosh’s cultivation area. He said as part of this review he talked with the Code Enforcement Officer who has been out on the site and he confirmed there were several issues on the property, that the odd shape of the parcel, the location of the swamping areas, or wetlands areas, and the location of other buildings on the site, the cultivation location shown on the site plan is reasonable. Code Enforcement also pointed out that if the applicant were to relocate going further towards the center of the property, that they would then be too close to the other neighbor’s parcel. Jelich stated we have contacted our CEQA Attorney and in his opinion the project is exempt from CEQA pursuant to Section 15305(a) of the Government Code. Jelich read into the record the proposed Findings of Fact and Conditions of Approval.

Director Tippett explained the findings of fact and noted that the building that is less than the setback requirement is also cultivating cannabis.

Commissioner McHugh questioned the applicants’ inability to move the cultivation area, wanted to confirm the 300’ notification was done. Jelich confirmed notification was done.

Commissioner McHugh asked why does the setback go from 350’ to 0’? Tippett responded we are in uncharted territory. We are hoping this will lend clarity in future cases.

Commissioner McHugh asked if Commission had the authority to delegate the Director to approve the annual renewal of the Variance.

Counsel Larmour responded as long as the Commission has granted the Variance and as long as the Conditions of Approval have not changed and still apply, he can do that; however, if there are any changes to the Conditions then it needs to go back to the Commission.

Commissioner Brower asked, regarding the annual renewal, if there are any other variances that have a renewal like that, most variances are permanent, right?

Director Tippett responded not all. The Zoning Ordinance states the Commission has the authority to set timeline on use permits and variances. He said not necessarily a variance, but recently they did a gravel yard in south county which has a limited time. Commissioner Brower asked what is the interval for renewal on that. Tippett responded fifteen years. Jelich confirmed there have been permits in the past that had a timeline for renewal. Tippett stated if there are changes, we want to allow the ability to address changing conditions

Commissioner Brower stated the one year annual renewal adds uncertainty to people who want to participate in this program. Commissioner McHugh responded it runs concurrent with the license which is renewed annually also, and you can’t grow without renewing it.

Commissioner Brower asked how we come up with the numbers for the variance filing fee. Director Tippet responded the filing fee is reduced from a usual variance which is upward of \$2,200.00, but the Board of Supervisors in the urgency ordinance have taken specific action to allow the variance filing fee of \$751.00, that is reduced from a normal variance fee.

Commissioner McHugh asked to clarify, the variance renewal is also subject to that fee. Director Tippet responded in the affirmative.

Commissioner Brower stated that one of the conditions say the County won't provide notice of when the variance expires. Director Tippet responded correct. Jelichich stated the County is not responsible for tracking the timelines for applicants.

Chair opened the hearing to public comment.

Comments received from Terry Mines, Chris Shaeffer, Liz McIntosh and Daryl Davis.

Chairman opened questions from the Commission to the applicant.

Commissioner McHugh provided a handout to the applicant, and questioned why staff indicated applicant's inability to relocate the cultivation area. Duncan McIntosh responded the State Water Board reviewed the property and stated moving the cultivation site would impact the wetland/swamp area. In addition, have a fence around most of the perimeter of the area.

Commissioner Brower asked is the annual renewal a hardship. Mr. McIntosh responded every expense adds up, State Water Board charge is \$2,500 annually and their permit with the County is \$6,000 annually, and any fee on top of that is cumbersome and expensive, but we are excited for the opportunity to have a legal garden and hope that in the future it will be a one-time expense of a Director's Use Permit. Commissioner McHugh commended the applicants for going through this process and pointed out that this is variance number 1 and sets precedence.

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

Commissioner McHugh moved to approve variance at 150' from the neighboring dwelling, with additional Finding #5 which is that the observation of the department is that the neighbor has or is cultivating, and to delete Condition # 3. Seconded by Frasier. Failed due to passing of subsequent motion.

Commissioner Stewart asked why 150' rather than to 142' that applicant is requesting. Commissioner Frasier responded to set precedent. If we don't have any setback from the property line, then we have an issue of cumulative impacts if both properties are cultivating back to back.

Commissioner Brower made a competing motion to approve variance at 142' from neighboring home, and to delete Condition #3. Seconded by Commissioner Matthews. Failed due to passing of subsequent motion.

Commissioner Stewart made a competing motion to approve variance at 142' from neighboring home, add Finding #5 that the department has made a finding that the adjoining property, subject to the variance, is or was cultivating marijuana creating the need for the variance, and to strike Condition of Approval #3. Seconded by Commissioner McHugh.

Commissioner Brower asked if staff had any other examples of a variance. Stewart explained Findings vs. Conditions.

McHugh stated he thinks recognizing that the neighbor has a marijuana garden helps to justify the variance as being reasonable and that mitigation is not necessary.

Chair Matthews stated his position has always been when the Board chose to use 350' for a setback, it is not something we had ever really agreed to or suggested. We had talked about basically a use permit process and the way he thought the Commission agreed was that if the neighbors are all in agreement then people should be able to grow with reduced setbacks, and that's how he looks at this. If the neighbors aren't complaining at all, whether they are growers or not is irrelevant, that is his opinion.

Chair Matthews calls for the vote on Commissioner Stewart's motion. Motion carried 4-1; Matthews – No.

7. **MATTERS FROM THE COMMISSION** - None

8. **MATTERS FROM STAFF**

Director Tippett stated we will have our regular meeting on March 9th to address standing issues and cannabis related issues on March 23rd. He advised there is a Planning Commissioners Conference March 1-3, Commissioners McHugh and Brower will be attending. Tippett advised we have been flying the Planning Director position and working on a flyer that will be published in broader sense, and then the recruitment will be done with the Board.

9. **ADJOURN**

The Chair adjourned the meeting at 8:35 p.m.