

MINUTES

1. CALL TO ORDER

Chair Matthews called the meeting to order at 7:00 p.m. Members present: Commissioners Frasier and Matthews. Members absent: Commissioners Stewart, McHugh and Hoard. Staff present: Interim Planning Director Leslie Hubbard, Associate Planner Colleen O’Sullivan and Clerk Ruth Hanover.

Chair Matthews advised Commissioner Hoard has contacted staff advising he will be a little late and we can either cancel the meeting or wait for him in order to have a quorum.

Recesses 7:02 p.m., reconvenes 7:14 p.m. with Commissioner Hoard present.

2. PUBLIC COMMENT

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

Comments received from Mike Adrian.

3. MINUTES – July 27, 2017 and August 28, 2017.

Chair Matthews stated the Commission cannot approve the July 27, 2017 Minutes tonight as he was absent from that meeting.

Upon motion of Commissioner Frasier, second by Commissioner Hoard and carried, approved the Minutes of August 28, 2017 as submitted.

OLD BUSINESS – None

NEW BUSINESS

4. CONDITIONAL USE PERMIT TO CONSTRUCT DWELLING IN TPZ P-17-39

Public Hearing: Conditional Use Permit to locate and construct a residence on a 151-acre parcel zoned TPZ. Located at 11330 State Highway 36, Mad River. APN 018-290-01-00. Applicant: Guzman.

Associate Planner Colleen O’Sullivan presented the staff report. She advised construction of a dwelling will not interfere with the primary purpose which is timber production, and staff recommends approval.

Chair Matthews opens the matter to public comment.

Comments received from applicant, Brian Guzman.

Commissioner Hoard stated he was concerned about comments received from Lisa Wren of the U.S. Forest Service regarding access, in which she states the Forest Service wants that eastern access road to be solely within Mr. Guzman’s private land. Commissioner Hoard asked Mr. Guzman if there are any physical constraints that would not allow this to happen? Mr. Guzman responded no.

Chair Matthews explained according to the maps we have the proposed access road to the residence, on the east side of the property south of Highway 36, leaves Mr. Guzman's property and goes onto Forest Service property, then back onto Mr. Guzman's property where he is proposing to build the dwelling. Mr. Guzman responded that's correct. Chair Matthews said the staff recommendation is you have to have proof of access, or have a different access on your property. Mr. Guzman responded the dwelling won't affect that part of the parcel at all, it's a big ravine. Commissioner Hoard said he just wanted to make it clear to the applicant that one of the conditions for the Planning Commission to approve this is you have to have proof of legal access across U.S. Forest Service land shall be obtained prior to the issuance of a building permit. He said he wants the applicant to be fully aware of this as a condition of approval. Mr. Guzman stated he understands.

No further comments being received, Chair closes public comment on this item.

Commissioner Frasier moved to approve the Conditional Use Permit for a single-family dwelling on property zoned Timberland Production Zone (APN 018-290-01), based upon Findings of Fact and subject to Conditions of Approval 1 and 2 as set forth in the staff report. Seconded by Commissioner Hoard. Motion carried unanimously.

5. **CANNABIS NURSERIES**

PW-17-04

Public Hearing: Discuss and/or take action to establish criteria and regulations in Zoning Ordinance for "Cannabis Nursery Facilities" in Trinity County. Located County-wide. Applicant: County of Trinity.

Associate Planner Colleen O'Sullivan presented the staff report. She said the purpose of this item is for the Commission to discuss performance standards, requirements, prohibitions and other conditions for the creation of a Wholesale Cannabis Nurseries section of the forthcoming Cannabis Ordinance. She stated it is recommended this would be for wholesale use only and the draft ordinance reflects that. All Cannabis Nurseries would require a Conditional Use Permit, no matter what zone they are proposed to be located in. O'Sullivan said there was quite a bit of discussion about Rural Residential 10-acre minimum, and whether that was an appropriate zone for Cannabis Nurseries. She said staff took direction from the General Plan Land Use Element and recommends against the Rural Residential 10-acre minimum for Cannabis Nurseries; however, there is a paragraph in the staff report that if you want to go in that direction that there be some kind of regulation on the size of the nursery, given that under the General Plan Land Use Element there is small scale agriculture uses allowed and that's in keeping with the rural residential nature of that district. Ms. O'Sullivan stated another issue was mature plants vs. immature plants, and staff left it open there, but as it turns out in the actual draft ordinance under Section C7 it is addressed.

Interim Planning Director Leslie Hubbard stated this is somewhat of a remnant of an earlier version of the ordinance that the Commission needs to vet, and that under this ordinance mature plants were going to be limited to 500 sq. ft. of a nursery facility. She said State regulations don't demand that at all, that it was a remnant from an earlier version and it just hasn't been decided. Size limit needs to be figured out and the density of the coverage that is allowed. If you do think that Rural Residential is an acceptable zoning district, then the way that it is right now, structures cannot exceed 35% of a Rural Residential lot, so that is something else to discuss, and that is, are you looking at coverage by structures, or what exactly constitutes coverage? For consistency that is something that needs to be figured out. She said the definition as well of small-scale agriculture is somewhat subjective, so if in Rural Residential if that description says that "the Rural Residential zoning district allow for small home businesses and small-scale agriculture", that's fairly subjective, so is this considered small scale? The State regulations have no size limitation on Nurseries, it's not like cultivation, for a Nursery License you don't have any corresponding cap line. So, the main things would be size limit; the definition, making sure that small-scale is understood, whether or not this is to be considered small-scale; that density, the

coverage question; and then the question about how much of a nursery do you want to have being available for mature plants.

Chair Matthews opens the matter to public comment.

Comments received from Terry Mines, Jim James, Dan Davodian, Everette Harvey, Shannon Ross, David Albiez, Jake Caccavo, John Brower and Deidra Brower.

No further comments being received, Chair closes public comment on this item.

Chair Matthews stated given the issues that staff has presented us to talk about, that need to be in the ordinance, it doesn't seem like we can make a motion without discussing the items first, so for purposes of this item he would like to talk about some of the topics that were raised specifically and see if we can achieve consensus from the Commission. That's how he would like to proceed and doesn't think it is unreasonable.

Chair Matthews began with *Wholesale of Cannabis products*. He said there was one discussion that the current ordinance says 10% of retail sales within their footprint, and he personally doesn't have a problem with that, but he thinks it needs to be primarily wholesale. Commissioner Frasier said also the 10% of retail sales says also no plant products, all the cannabis is wholesale only, the retail would be the soil amendments and stuff, and he would be in favor of that. Commissioner Hoard said personally he finds it restrictive; however, due to the nature that it is wholesale and you are only allowed to sell to license holders, he thinks that limits the scope of the business in itself, so under those premises he doesn't have a problem with the 10% even though he did previously, but with clarification of wholesale and it can only be sold to license holders, then that's okay.

Allowable Zoning Districts – Chair Matthews said the way the ordinance currently reads is you have to get a conditional use permit in any zoning district, and reviewed the recommended allowable zones. He said that's what is currently in there so we need to talk about RR (10) and any other changes to the zoning districts we may want to make. Commissioner Frasier said personally he doesn't think we should allow it in Rural Residential because this is a wholesale operation, it's not a cottage industry when you are talking about wholesale, to him that's big. Chair Matthews said it depends on how you define it; if you define small-scale as something that's small scale it could apply, obviously there's some vagueness. Commissioner Frasier said the whole idea of a wholesale nursery is to be on a larger scale, so he thinks we should push it out of Rural Residential and into the Heavier Commercial areas. Commissioner Hoard said he sees Commissioner Frasier's point, and the fact that it is wholesale, leads him to believe it to be of a more industrial operation; however, the fact that neither RR10 and Highway Commercial are included, pretty much excludes his entire district. He said he is concerned about that. He would like District 4 to be able to be included in this operation if the rest of the County is allowed to as well. He said we had some discussion at the last meeting concerning Highway Commercial and its intent to provide entertainment or rest areas for the public and travelers, but maybe it's something that can be worked out. Commissioner Frasier said the way to solve that problem is by rezoning. He said there is no Industrial or Heavy Manufacturing in his district either, though they do have Agriculture, he understands what Commissioner Hoard is saying, but he doesn't think RR10 is the best place to put it.

Chair Matthews said there is an element in the Commercial Cannabis Ordinance that will allow for small scale cottage industry type operation, and asked is there a need for someone to do a small-scale nursery, it seems like it's possible. Commissioner Frasier said to him the main issue is we need to do the best we can for this, we are not going to make it perfect for everyone, there's no way, he's sure there's probably someone who wants to put a wholesale nursery in RR1. He said we can't make it work for everyone, the thing he thinks we need to do is make it work for the County, we need to put this where it fits, rather than try to fit it into Rural Residential areas. The biggest concern we've heard throughout this whole

process has been get it out of the residential. He said we have a clean slate, we don't have any cannabis wholesale nurseries, let's start by getting it out of the residential and then in the future you can increase if you need to. To start out like we did with the cannabis issue, with it everywhere and try to clean up the mess is not a good plan in his opinion. Commissioner Hoard said he completely understands where Commissioner Frasier is coming from. He said he's created a list that might possibly allow RR10 to be included, but at the same time he has struggled with are we creating this specifically for RR10? He agrees it should be put where it needs to, but at the same time he doesn't want to limit members of his community that might want to do a small-scale nursery operation, and under certain specific guidelines he believes RR10 can be included. Commissioner Frasier responded that there are ways to mitigate, but from a planning aspect though we don't currently have a problem with wholesale nurseries. He said if someone is going to start a business, if they know where it is allowed, they will start it there, rather than start a business in the middle of a residential area that causes a big problem. If you really want to start this business and you're looking to invest, the people who want to do it will buy property that is zoned correctly or they will look into rezoning. He said he's really pushing for let's start out without a problem, let's put it where it needs to be and let people build around the zoning, rather than trying to build zoning around what's already there. Chair Matthews agreed with Commissioner Frasier, stating it's not that difficult of a process to rezone, and how many nurseries are we going to have in the County. Chair Matthews stated no matter what we do if we can't reach consensus, under this format we can't include this item, so we would just default to the draft ordinance. He said it's kind of a problem when we don't have enough people on the Commission to actually vote on things.

Commissioner Frasier asked if we wanted to take a vote to see if we have consensus. He stated he was okay with the Allowable Zoning Districts outlined in the draft ordinance, with the exception of RR10. Chair Matthews said he is also. Commissioner Hoard said in the interest of moving on, Highway Commercial we would just rezone, that would be the approach? Chair Matthews said all of these applications will require a Conditional Use Permit, and he thinks Commissioner Frasier's point from a planning perspective that we really should put it in the appropriate location, makes sense to him. Commissioner Hoard said okay. Chair Matthews said at this point we are going for not allowing in RR10.9

Maximum size of Wholesale Cannabis Nurseries – Chair Matthews stated apparently there is no limitation in the ordinance, so do the Commissioners feel any need to limit the scope of wholesale nurseries? He said we are going to get the opportunity to review a use permit for each one. Commissioner Frasier said if we put them in the appropriate zoning districts, we're not going to have to worry about that because they are going to have to comply with the size of their property and their setbacks, it will be more of a cut and dried this is all that is allowed by no means and we won't have to spend forever trying to figure out how big they need to be. Commissioner Hoard and Chair Matthews both agreed.

Mature Plants and Immature Plants as a Percentage of Nursery Operations – Chair Matthews stated we have received comments from the public that 500 sq. ft. is way too small for anyone trying to produce wholesale seed. The issue could be odor from flowering plants causing a nuisance, so there was discussion about requiring flowering plants indoors. Commissioner Frasier said we're going to end up going down a rabbit whole trying to decide that for every permit in the County at the same time. He thinks personally that is something that should be decided on when considering the Planning Commission Use Permit. It should be site specific, and somebody should have a plan with them to present when applying for their use permit, and at that point we can mitigate that. He doesn't think it's something that needs to be cut and dried in the ordinance. Chair Matthews asked if he would advocate striking C7 of the proposed ordinance. Commissioner Frasier said yes. Chair Matthews said he could agree with that. Commissioner Hoard stated he absolutely supports that, it should be tailored to the individual facility, instead of one number fits all. It should be within each application and then decide on size.

Chair Matthews said that covered issues brought up by staff, and went on to issues brought up in public comment. The first being *Multiple Licenses* – There was discussion regarding the wording of Section II, D.5, that the paragraph should read “commercial Cannabis Nursery license” or a “State Type 4 license”, and not “commercial Cannabis Cultivation license” as currently reads. Interim Planning Director Hubbard stated that kind of reflects the language in SB 94, it is used both ways in SB 94, it talks about a nursery license but it does say cultivation, so for our clarity she understands if you want one term for it, it is a Type 4 Nursery License. Commissioner Frasier said he thinks it would be better to stick with that, a Type 4 License, that way people aren’t reading this and thinking you can cultivate and have a nursery too.

Chair Matthews asked about *Transferability* – He said Section II, D.9 says the Application shall not be transferrable, and asked staff if it could comment, or is this from the ad hoc committee. Director Hubbard responded more so, it comes from the ad hoc. Commissioner Frasier stated it says the application is nontransferable, that seems pretty straight forward, it’s not the license, it says the application is nontransferable, it doesn’t guarantee that you will get a license. Director Hubbard said she is wondering if that shouldn’t say the license, she meant to point that out earlier, she thinks that really meant license. Commissioner Frasier said it says “application will not guarantee a cannabis nursery cultivation license will be issued”, so it sounds to him like they are saying if you bought this property and you started the process and then decided to sell out, somebody else is going to have to apply. Director Hubbard said maybe so, she’s not sure. Commissioner Frasier said it doesn’t say you can’t transfer the license, it says you can’t transfer the application, and he doesn’t see how you can transfer an application; the only thing he can see it for is people will try to use it as a placeholder to save their spot in line for the 500 licenses. Commissioner Hoard suggested staff ask the ad hoc committee to clarify on the transfer of the license itself, because as pointed out in the ordinance that was just voted on, because that is allowed, transfer for commercial cannabis growing license. He said he understands the application is not transferrable, but is the license allowed to be transferred? Commissioner Frasier stated it would be a cannabis cultivation license, it’s a Type 4 cannabis cultivation license, it would already be covered under that ordinance. Planning Director Hubbard said but the other ordinance is not for Type 4, it only covers Type 1, 2 and 3, not Type 4. Someone in the audience said you have to reapply to the State, you just can’t transfer licenses.

Bus Stops – Both Chair Matthews and Commissioner Frasier said they would leave the paragraph as is. Director Hubbard pointed out in the language here it defers to State law regarding bus stops and at this point there isn’t any language in SB 94 regarding setbacks from bus stops. Commissioner Frasier said it’s another thing to him, if we leave it in there and it ends up being an issue, we could revisit it; if we don’t put it in there and it ends up being an issue, then all the sudden you have already established a problem and you have to come up with a solution. He said if you establish the solution before you have a problem, you are much better off, that’s the idea of planning. Chair Matthews said he was fine with leaving it the way it is.

Chair Matthews said we have a request for a *Residency Requirement* - He said there is currently a residency requirement to get a Type 1, 2 or 3 cultivation license. Commissioner Frasier said he doesn’t think we really need to delve into the residency thing. Chair Matthews and Commissioner Hoard agreed.

Chair Matthews asked if there were any other issues brought up that we haven’t talked about. Commissioner Frasier said the only thing he sees that we didn’t discuss is the track and trace, and that’s at the State level so we don’t have to worry about trying to do that here.

Commissioner Hoard referred to Section C.5 “Cannabis nurseries may grow clones and immature plants indoors, but only when allowed by the required conditional use permit.” He said whoever the applicant is must apply for a conditional use permit to begin with so he doesn’t know why... Chair Matthews said

that would be part of their operations plan and part of the use permit. Commissioner Hoard agreed. He asked why is this paragraph specifying that the entire operation needs to be indoor only. Chair Matthews said it doesn't say that, it says may do it indoor. Commissioner Frasier said you would have to specify on the use permit that it will be indoor.

Chair Matthews said let's recap, we made one change and we struck C.7. He said we've got one other thing that we forgot, which was the *Sales to Only Licensed Cannabis Cultivators* – Commissioner Frasier said it's a wholesale nursery. Chair Matthews said there's going to have to be a retail nursery at some point also, or there's not going to be sales to medical patients. Commissioner Frasier said if you are running a wholesale you cannot sell to a retail nursery. Chair Matthews said okay then that's going to have to be handled some other way because it hasn't been specified yet. Commissioner Hoard said he actually contacted the Department of Food and Agriculture Cal Cannabis about this and the answer they gave was actually for a nursery to sell to an end user they would have to obtain a dispensary type license. That's the information he obtained.

Chair Matthews said we struck C.7. and we changed D.5. to make it a Type 4 License, and that's it.

Commissioner Frasier moved to recommend to the Board of Supervisors to adopt this draft ordinance, as amended by the Planning Commission. Seconded by Commissioner Hoard and carried unanimously.

6. CANNABIS MANUFACTURING

PW-17-05

Public Hearing: Proposed ordinance establishing criteria and regulations in Zoning Ordinance for "Cannabis Manufacturing Facilities" in Trinity County. Located County-wide.
Applicant: County of Trinity.

Interim Planning Director Hubbard introduced the item, stating this is the first cut we received on Friday evening and there are several things we would like to point out so we can correct them. She said what we are trying to do with all the ordinances is situate them in the Zoning Ordinance in one place, so they will all be together in one cannabis section. They will be separate ordinances and we are going to make an effort to standardize them more or less, and we will probably go back through to tidy up the Nursery Ordinance before it goes to the Board as well, with some of the same sections just resituated. It won't change any of the content, it will be the structure that will be a little bit different, just for consistency. She said we did that with the Testing Facilities Ordinance as well. She said hopefully when this Manufacturing Ordinance comes back to you it will hopefully reflect that changed structure so you can see what they are going to look like from here on out.

Director Hubbard said in Section 2:B.2. as she pointed out earlier, the State currently doesn't have any setbacks from bus stops, so that's something you will want to discuss. She said on B.4. that Kristy Anderson, Director of Environmental Health, had some questions regarding who is responsible for what; and the inspections implied under this paragraph, the State wants local agencies to take care of that, but Kristy thinks it would be a good idea to have that clarified. Hubbard said that isn't so much of a land use issue for the Commission, but that is something staff is going to have to tidy up in the ordinance. Hubbard said the security plan referred to in B.5. says it has to be approved by the Trinity County Board of Supervisors; however, Manufacturing similar to Nurseries, the suggestion is to have everything done with use permits, so that security plan would be part of what would be considered in the use permit, it would be included. She then went on to Section 10.ii where it states Trinity County Health Department. She said it should read Trinity County Environmental Health. Hubbard said under Required Findings, Paragraph C, where it says "appropriate authority", the Planning Commission is the appropriate authority, so when we are talking about use permits we should automatically state Planning Commission Issued Use Permit. Chair Matthews asked if that is the language she is suggesting. She responded in the affirmative. She said there are small things, like all the "wills" should be changed to "shalls", those are editorial things and should be changed. She said the structure of it, the findings and conditions are a

little bit blurry as it is drafted, but we can tidy those up. She said No. 3 where it says “will not result in significant unavoidable impacts on the environment” kind of overlaps with No. 5., but again, that’s all stuff that can be addressed in a use permit. Hubbard said Paragraph D refers to the “appropriate authority” again, which is the Planning Commission. She then went on to Paragraph E.iii. which states “Applicant shall be given a minimum of seven (7) business days to correct any deficiencies prior to the issuance of a denial or rescission.” She said Environmental Health weighed in on this one and we need to be careful with that because if there are public health and safety issues, we can’t do it, it needs to be addressed right away, so we are recommending that be changed; rather than the way it reads, we would like to defer to either “Trinity County Environmental Health Director or Trinity County Health Officer”, because it’s kind of a judgment call on their behalf. If there’s a water quality issue or something they need to make that decision right now, so we would like to defer to them on that.

Chair Matthews opens the hearing to public comment.

Comments received from Dan Davodian, Trinity Center Fire Chief Steve Penton, Terry Mines, Dave Albiez, Tom Ballanco, Everette Harvey, Jake Caccavo, Shannon Ross, Andy Cruson and John Brower.

No further comments being received, Chair closes public hearing.

Chair Matthews asked the Commission how it would like to proceed in giving staff direction on some of these topics. He asked if the ad hoc committee considered Type 6 and 7 to be separate ordinances. Director Hubbard stated she did not know.

Commissioner Frasier said it does break it down in the zoning part where it says Type 6 is allowed in C2, C3, I, RR and AG, and Type 7 only deals with C3 and I, it looks like everything else is the same. He said he thinks there is such a big difference between 6 and 7, it almost needs to be in a separate ordinance, or at least needs to be split apart in one ordinance. He said the safety aspects of a Type 6 aren’t nearly as stringent. To put some of these requirements on somebody who wants to use alcohol for extraction, rather than butane, to be fair to them; a Type 7 license almost needs its own ordinance, it’s so different than anything else because we’ve dealt with. He doesn’t know how you can put the two together because they are so different, at least it needs to say Type 6 will be this, Type 7 will be this. He said the most important part is the zoning, but there is so much else involved. Chair Matthews agreed saying a lot of these requirements apply to both Type 6 or Type 7. He suggested going over some of the things brought up during public comment and give staff direction on those.

Chair Matthews said the first comment we had was Fees commensurate with inspection requirements. He said the ordinance doesn’t specify, it just says pay for it. Commissioner Frasier asked how can you specify if you don’t know what you’re doing. Chair Matthews said we don’t know what the scope of inspection would be. Commissioner Hoard said he personally needs more time to further review the state regulations and possible recommendations before he recommends anything. Commissioner Frasier said we’re not recommending, we’re giving staff direction. Hoard said he understands that, but also in terms of the fee, he would like some inclusion of appropriate training for building inspectors and local fire departments, that needs to be addressed, because as was said the catastrophic potential is great and if we aren’t trained properly or the entities that are going to regulate and oversee the process are not trained, he doesn’t know what else to say. He feels he needs to dive into this even further, he personally is not ready to discuss this, or make an educated opinion or recommendation. Chair Matthews said he agreed, we got this a couple of days ago, and he’s the first to admit he doesn’t know much about volatile solvent extractions. He said it’s pretty clear that we would be trying to craft an ordinance without the state guidelines, and he’s not really sure it would require that, the County could go ahead and adopt an ordinance before the state guidelines come out and just require that they be met, but he’s not sure how that helps people that want to get into this business until they know all this information. Commissioner Frasier said his biggest issue is this ordinance seems like it was written for a Type 7 license for the most

part and doesn't really cover anything with Type 6 license. Chair Matthews said he agrees, there should be a recommendation that there be at least be two separate sections, with the requirements most onerous for Type 6.

Chair Matthews asked if we can talk about zoning. Commissioner Frasier said no, how can we talk about zoning, when we're not sure which zoning district to put the volatile in. Chair Matthews suggested Heavy Commercial and Industrial, or just Industrial, there's only a couple of choices. Commissioner Frasier said to him it should be very restrictive and he would like to see maps to see where it is in relation to fire services, neighborhoods, etc. Chair Matthews said the only question is, it is certainly going to be allowed in Industrial, so it's just a question is C3 appropriate. Director Hubbard read the description of C3 (Heavy Commercial). Chair Matthews said he agrees, he would like to see where the C3 parcels are in the county. Commissioner Frasier said his biggest issue is how this is put together. He would like to see it all so we can look at Type 6 and Type 7 separately and have some time to digest it. Chair Matthews said we have exhausted what we can do with this tonight. He said he's not sure what the process is, how we interact or don't interact with the ad hoc committee, but they presented this to us to discuss and direct staff. Director Hubbard said you are directing staff to go back and report to the ad hoc committee that we need two ordinances, or two separate sections, for the Type 6 and Type 7. Chair so directs.

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

8. **MATTERS FROM STAFF**

Director Hubbard advised we are coming up into a schedule that we're not sure how it's going to play out, but there will be a number of ordinances coming towards us, there might be requests for special meetings, don't really know, this is a heads up. Chair Matthews asked about meeting in October. Hubbard responded have a regular meeting on October 12th and a special meeting on October 26th. The ad hoc said there might be other things coming our way. Chair Matthews said if there is any choice, he would suggest getting back on a regular meeting schedule, we've got Thanksgiving and Christmas coming up. Director Hubbard said she put that out there also.

9. **ADJOURN**

The Chair adjourned the meeting at 9:32 p.m.