

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

February 8, 2018

Commission Members

P John Hess, District I
P Bob Malley, District II
P Eddie Crandall, District III
P Matt Levesque, District IV
P Daniel Suenram, District V

Staff Members

P Robert Massarelli, CDD Director
P Michalyn DelValle, Principal Planner
P Shanda Harry, Deputy County Counsel
A Danae Bowen, Office Assistant III

9:00 a.m. CALL TO ORDER

Pledge of Allegiance was led by Eddie Crandell.

Comm. Hess moved, 2nd by Comm. Levesque to approve the minutes from December 14, 2017.

9:04 a.m. CITIZENS INPUT - None

9:05 a.m. Public Hearing for ZONING ORDINANCE TEXT AMENDMENT (AM 18-01). The project applicant is the COUNTY OF LAKE proposing recommendations to the Board of Supervisors for consideration of proposed amendments to CHAPTER 21, ARTICLE 27 OF THE LAKE COUNTY CODE TO REGULATE THE CULTIVATION OF CANNABIS. Environmental Analysis: Exempt per Business and Professions Code Section 26055(h). (Robert Massarelli)

Robert Massarelli, Community Development Director, and Michelle Irace, Senior Planner, provided a power point presentation of the proposed Zoning Ordinance Text Amendment and concepts.

The presentation outline consisted of:

- Cannabis cultivation Policy Development
- Self-Certification Program
- State Temporary Licenses Program
- BOS Request for Guidance Summary

Mr. Massarelli pointed out a memo from Michael Green, Lake County Growers Association, dated January 18, 2018. He addressed concerns about protecting prime farm lands from cultivation. Mr. Green pointed out Section 4; 2.V (c): *“Within areas designated as prime farmland, farmland of statewide importance, unique farmland, and farmland of local importance as depicted on Lake County Important Farmland Mapping and monitoring Program commercial cannabis cultivation shall be limited to indoor, mixed light, and greenhouses that are equipped with filtrations systems that prevents the movement of odors, pesticides, and other air borne contaminates out of or into the structure.”* Mr. Massarelli said one of the concerns expressed in the past is if cannabis operators are not properly using pesticides, it could contaminate an adjacent orchard. He said in order to protect traditional ag. operations in the County, staff would take those areas and require the cannabis cultivation to be within a structure, which is essentially isolated from adjacent properties, so outdoor grows would be eliminated. He clarified the term “outdoor”, and under the law, outdoor includes greenhouses, so the term “outdoor, outdoor” is preventing the outdoor, outdoor as opposed to outdoor greenhouses. He said it is confusing, but it is the way the law is written.

Mr. Massarelli provided an overview of the Draft Cannabis Ordinance:

- Section 1: Purpose and Intent
- Section 2: Applicability

- Section 3: Qualified Patients, Primary Caregiver, and Adult Personal Use Cannabis Cultivation
 1. Lake County Personal Use Cannabis cultivation Regulatory Process
 2. Pre-application
 3. Application
 4. Inspections
 5. Annual Report
 6. Renewal
- Section 4: Commercial Cannabis Cultivation

Mr. Massarelli said the Board of Supervisors have requested recommendations from the Planning Commission.

There was extensive discussion on: age of primary caregivers, nuisance of low hum sounds of ventilation systems, notification boundary to increase to a half a mile for use permits due to sound and odor impacts and allowed zoning districts. Also discussed were the complexities of business entities, background checks, exclusion of tribal lands, different types of permits/limitations, residency requirements, CEQA requirements/analysis, prohibited activities, protection of minors and the permitting process.

Comm. Crandell called for a break.

10:27 a.m. Break

10:38 a.m. Back to Order

Mr. Massarelli continued the discussion with the permitting process, Article 72 legal non-conforming use, Management Plans for Cultural Resources, Energy and Fertilizers. There was extensive discussion on requiring residency, security, early activation permits, compliance monitoring, water use, renewals of permits, pre-application conferences, Planned Development Commercial "PDC",

11:20 a.m. Opened Public Hearing

Eric Sklar, Howard Hot Springs, spoke to "PDC" and temporary security trailers on site instead of residences

Chris Jennings, shared his concerns with timing and the 2018 growing season and early activation permits.

Kapono Curry, spoke to indoor cannabis cultivation and the wattage per square foot and pointed out typos in the ordinance.

Bob Lipari, spoke to residency requirements on the grow site and having a home on an adjacent site.

Daniel Sosa, spoke to removing the single family dwelling requirement. He was opposed to limiting the number of permits submitted, based on staffing issues.

Brenna Sullivan, Lake County Farm Bureau, spoke to comments from Steve Hajik, Ag. Commissioner and his suggestions for language changes in the Ordinance. She agreed with Comm. Hess that there are some things in the ordinance that could set precedence for commercial agriculture and need to take a look at provisions, which are going above and beyond what the state is requiring. She also addressed the no tolerance set for the testing of cannabis, so traditional agriculture is worried about litigation given the inability to completely manage drift to the cannabis products.

Noah Cornell, Upper Lake resident, spoke to the Early Activation Permits and removing screening requirement for fences, if it was not visible by the public.

Toni Scully, pear farmer, said she was worried about the pear market and damages to the pear industry with the cannabis permit process.

Jason Manafian, addressed water board setbacks from seasonal creeks and adjacent parcels being counted for cumulative acres for cultivation.

Crystal Keesey, Certified Arborist, spoke to the Oak Tree Mitigation Ordinance and Forest Practices Act and was not in favor of residences on each parcel for commercial cannabis cultivation.

Mike Mitzel, presented a handout to the Commissioners on Agriculture Preserve Zone and thought it was a good idea to include this zoning district.

Richard Knoll, Land Use Consultant, presented a letter to the Commission from Rob Adelman's attorney representing property owners in the Benmore Ranch area and one redlined copy of the ordinance. He thought the Draft Ordinance needed to be streamlined and needs some significant cleanup. He said he has emailed this redline copy to staff and recommends that this be distributed to all of the Commissioners.

Craig Shell, spoke to mixed light operations, wattage requirements and background check timeframes.

GeorgeOLONIS spoke to adjacent parcels to count cumulatively and to allow cultivation in "RR".

Bob Skalla said he was against the greenhouse requirement on prime ag. lands and single family dwelling requirements.

Lance Williams spoke to six outdoor plants on one acre parcels. He said he owns 160 acres that burned in the Valley Fire and he does not have a residence on this property where he has cultivated and spoke to not having a residency requirement on cannabis grows.

Michael Green spoke against permits for patient, caregiver and adult use. He felt State Water Board permits should not be a prerequisite for a local use permit and should be a condition of approval. He said background checks and management plans are duplicative and spoke to permits being transferable and the revocation procedure.

Christopher Kelly spoke against residency requirements on cannabis grows.

Ron Green spoke to the personal use grower for five to six plants on five to ten acres. He felt this ordinance is burdensome and onerous and it should be scaled down.

Kapono Curry spoke to permit fees and an ad hoc committee to help speed up the process of applications.

Joan Moss spoke to wells being drilled on ag. land for vineyards without any limitations and the change of six plants per one acre for personal use to five acres.

12:30 p.m. Break for lunch

2:01 p.m. Back to Order

Eric Sklar presented a "PDC" article to the Commission from the Zoning Ordinance with recommended amendments to allow indoor growing, if not surrounded by "RL" and outdoor growing when surrounded by "RL".

Richard Derum spoke to background checks and that it would be impossible to get a day laborer, to get a background check to have them work for three days. He asked for a clearer definition of who would need a background check.

Richard Knoll spoke to a letter from attorney Bradley Johnson and his offer to help with the drafting and streamlining of this Draft Ordinance. He referenced the issue of background checks/clearances for permits and that it should be deleted from the proposed ordinance and that limits for a total number of permits per owner should be deleted from this proposed ordinance. He referenced pre-application requirements for the Water Quality Control Board, and that it should not be a precursor, but be a condition to the use permit and remove the residency requirement. He said that the pre-application minimum scoring requirement may be problematic under the State Streamlining Act and added that his client is not in favor of only allowing greenhouses in ag. zones.

Toni Scully spoke to the Benmore Valley project and the promises of huge revenue, with a big grower and big money. She said we need protection of greenhouses in the areas with existing traditional ag. and not so much in the outlying areas. She said traditional agriculture needs to be protected.

Michael Green spoke to structures other than a residence on site that could be less expansive than a single family dwelling unit. He also addressed security, visual screening, water purchases by truck, colocation and adjacent parcels.

Mr. Massarelli addressed some of the questions asked during public comment. He said that there has been a lot of input on the APZ and TPZ and on the residence issues. He asked the Commission for a consensus of what should be recommended to the Board of Supervisors.

The Commissioners discussed:

- RG3: Should commercial cannabis cultivation be limited to the A and RL zoning districts or should it be expanded to other? APZ, TPZ, RR, AND SR?
- RG 6: Should a commercial cannabis cultivation site be required to have a residence of at least one of the applicants if there are multiple applicants on the parcel where the cultivation occurs.

Consensus was that it is okay to include Type 1, 2, 3 and 4 all as Major Use Permits under the PDC for the Board of Supervisors consideration.

There was further discussion on:

- Discussion on Suburban Reserve twenty-acre lots allowing cultivation. Commission's consensus was to keep the twenty-acre minimum on Type 1c.
- Discussion on including RR, APZ and TPZ. Commissioners were in favor of including these.
- Discussion on the residence issue at the cultivation site. Commissioner's agreed that adequate security should be addressed instead of a residency requirement.
- Discussion on fencing and screening requirements on remote sites and the Commission's consensus was in favor of flexibility.
- Discussion on colocation of multiple permits on the same parcel and the Commission's consensus was yes to the colocation.
- Discussion on minimum acreage for outdoor cultivation for personal use. No consensus.
- Discussion on background checks limited to owner/applicants, not the laborers. Commission's consensus was for the applicants only.
- Discussion on limiting four permits per applicant. Commission Consensus was for the total of four permits.
- Discussion on exclusion for outdoor/outdoor cultivation on four prime farmland types to only grow within a greenhouse, mixed light or indoor that is filtered for odors, pesticides and other contaminants into or out of the structure. Commission's consensus was to allow for diversification.

Bob Scalla commented that we do not need to cover the County with greenhouses to resolve the areas where there are points of contention. He said there will be environmental impacts.

Brenna Sullivan said the intention was to not have this go on every piece of zoning in the County. She said it is for the concentrated areas of farming.

3:05 p.m. Break

3:15 p.m. Back to Order

Mike Mitzel spoke to taking the best ag. land out of the equation in one of the best growing zones in the state.

Michael Green spoke to the earlier maps and the zoning exclusions and said a standard should be set that may apply in most cases and perhaps there could be some flexibility at the Planning Commission level with the use permits.

Richard Knoll spoke to the exclusion for outdoor/outdoor meaning no outdoor grows within these categories of important farmlands. He said his client in the Benmore Ranch area is opposed to an exclusion for outdoor/outdoor in that isolated agricultural area. He said if there is any place in the entire County where it makes sense it is there. He said

the idea that greenhouses are allowed, but outdoor is not, does not make a lot of sense. He said the impacts of a greenhouse are significant over time he said allowing outdoor makes a lot of sense in his view.

Comm. Hess said if he was asked today if he would support the exclusion for outdoor/outdoor, he would say no, if we are going to craft language that identifies these remote pockets or if there is an opportunity at the time of application to figure that out, then he would say yes. He said if we agree that are ways to be more specific about something like the Big Valley versus a remote area, then he sees no reason for an exclusion on outdoor/outdoor.

Comm. Suenram said what Mr. Massarelli is suggesting is the exclusion with certain wording to potentially allow outdoor/outdoor in certain circumstances.

Comm. Hess said that language should not go to the Board and it should be cleaned up.

Mr. Massarelli said the greenhouse, mixed light, indoor is allowed in the zoning districts, and outdoor/outdoor is allowed in these four areas only through an exception by the Planning Commission based on things like remoteness.

Craig Shell spoke to stacking licenses and that a person can hold as many smaller licenses as they want and the state is okay with colocation on the same parcel.

3:30 p.m. Closed Public Hearing

Mr. Massarelli said it appears the consensus of Commission is to recommend approval of the Draft Ordinance as amended by the discussion today and authorize staff to correct housekeeping errors in the Ordinance and to further look into the requirements for lighting/wattage and make a recommendation to the Board of Supervisors on that. He also noted that water delivery should be prohibited except in times of emergency.

Ms. Harry noted that Tribal Rancherias should be properly defined as "Trust Land."

Mr. Massarelli suggested replacing Rancherias with "Federal Indian Trust Lands." He also recommended to include a section of the Ordinance that would require a review after two years and report to the Planning Commission and the Board of Supervisors the success of the Ordinance and the recommended changes. The Commissioners were all in agreement.

Comm. Hess spoke to transportation of cannabis for the purpose of manufacturing, testing or to a commercial kitchen operation that would be conducted offsite.

Mr. Massarelli said that there is a Board of Supervisors Workshop on February 15th and staff will be asking for direction from the board on how to proceed with other aspects of the cannabis business.

Comm. Suenram spoke to rainwater capturing. He said that he did not believe that it is allowed to capture rainwater for agricultural purposes, unless there are off stream permits.

Mr. Massarelli said that there is a catch all upfront with water permits that is addressed at that time.

Comm. Hess moved, 2nd by Comm. Levesque to recommend to the Board of Supervisors to adopt this ordinance with the amendments as discussed today.

ORDINANCE ADOPTION 3 Ayes 1 Abstention (Comm. Suenram) 1 Absent (Comm. Malley)

ADJOURNED 4:00 p.m.

Respectfully Submitted,

Eddie Crandell, Chair
Lake County Planning Commission

By: _____
Danae Bowen
Office Assistant III