

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

June 10, 2021

Commission Members

P John Hess, District I
P Everardo Chavez, District II
A Batsulwin Brown, District III
P Christina Price, District IV
P Lance Williams, District V

Staff Members

P Scott DeLeon, ITERIM CDD Director
P Eric Porter, Associate Planner
P Michael Taylor, Assistant Planner
P Sateur Ham, Assistant Planner
P Nicole Johnson, Deputy City Counsel
P Kerrian Marriott, Office Assistant III

REGULAR MEETING

9:00 a.m. CALL TO ORDER

Pledge of Allegiance lead by Comm. Price

Comm. Price stated a reminder to public in Chambers that mask were required.

9:02 a.m. CITIZEN'S INPUT –

Trey Sherrell Environmental and Regulatory compliance consultant requested that the commissioners considered approving and or denying Early Activation Permits, Mr. Sherrell stated that it was his understanding that all new Use Permit applications since November 2020 had been assigned to one specific Community Development Dept. Planner. Mr. Sherrell referenced the March 2021 resolution 2021-32 requirement for EA stating that the specific planner he spoke on earlier had been working to meet the new requirements. However the planner was now having to also completing yearly inspections for all the cannabis cultivators in the area, which did not allow her the ability to complete the applications assigned to her. Stated that he believed that applicants and consultants could provide

sufficient documentation similar to a staff report and attachments for the commissioners.

Tim Clamstack former Supervisor from Middletown, congratulated the commissioners on the exhausting job that they had been doing, also thanked the staff for their hard work. Stated his support for what was going on. Spoke on the illegal activity as it pertained to cannabis. Stated that the legal process for cannabis was regulated and was just a commercial farming operation. He believed that the process was controlled from beginning to end. Mr. Clamstack spoke of the slow process of government to ensure due process. Recommended for the Commissioners to consider Mr. Sherrell's comments earlier which would alleviate some of the work load from the staff.

Jennifer Smith commented staff on the recent agenda and the concerted effort to get cannabis applications to the commissioners. Stated her appreciation for how over worked and understaffed each department in the county was. Spoke on the percentage of cannabis applications the Community Development Department currently had but stated that it made up 8 million dollars in tax revenue that the county had not seen in years. Ms. Smith also commented on the new direction of CDD with an external consultant company and she hoped that with the addition she would see an expedited application process. Ms. Smith shared her concern with Early Activated applicants last year and those that have been deemed complete and had yet to receive an EA or a Use Permit hearing date. Recommended looking at the early activation projects and asked if the county tracked the number of EA's that had not yet been renewed? Ms. Smith stated that most of those applicants had payed taxes, etc., had completed inspections, and had state licenses that are dependent on local authorization which is only good for 6 months. Suggested for the Commissioners to hear those applicants for Early Activation.

9:13 a.m. Public Hearing to consider MAJOR USE PERMIT (UP 20-86). . Applicant: Ursa Valley, LLC. Owner: Morongo Equity Partners II, LLC. Applicant is applying for 522,720 square feet of outdoor cannabis canopy area, one (1) 120 square feet security center shed, one (1) 160 square foot pesticides and agricultural chemicals storage area, one (1) designated refuse/waste area, one (1) 500 square foot compost area, designated parking area including eight (8) parking spaces and portable restrooms. Total cultivation area including the canopy area, security shed and chemicals storage area is 523,000 square feet. Cultivation location: 10950 and 10934 Bachelor Valley Road, Witter Springs, CA; APN(s): 002-046-15 and 002-046-16. Project parcels utilized for cultivation "Clustering": APN(s) 002-046-09, 002-046-15, 002-046-16, 002-046-17, 002-025-52 and 002-025-53.

Environmental Evaluation: Mitigated Negative Declaration (IS 20-102).

Mike Taylor Assistant Planner gave a verbal and visual presentation on the proposed project. Mr. Taylor reviewed The project conditions, vicinity map, property management plan, project proposal feedback, recommendations, site plan and the project analysis. Mr. Taylor made a special mention to the staff report and conditions for a type 13 distributor transport and a distribution license which was not included in the staff report, staff wanted to give the applicant the opportunity to differ that request, if they would like to have that as a part of the Use Permit.

9:24 a.m. Public Comment –

Trey Sherrell consultant to the applicant made a clarification that the applicant was not applying for a self-distribution license. Mr. Sherrell gave a brief history of the proposed site stating that up until 2016 the site was a mature walnut orchard and that the applicant in 2018-19 tried replanting walnuts which did not survive.

Brenda Bernachelsky neighbor west end and north side of proposed site stated that a 12 acre cannabis farm would affect the neighbors and the neighborhood. The project water use for the proposed project was estimated at over five millions gallons through the grow season. Property currently had 5 wells, 3 previously existing. 32 Million gallons of water would be pumped during a time of drought and that it was imaginable. Ms. Bernachelsky stated that she had one well hooked up on her parcel and that she was not against the applicants growing cannabis on their land but was concerned about the water usage in a drought. Ms. Bernachelsky spoke of her concern with the guard shack on the proposed site and asked if they would protect her property as well. She stated that the project would bring in a new criminal element in a zone designated for Agriculture but was also residential.

Rauh Gilly neighbor stated his concern for the water usage and asked for the commissioners to consider that all the neighbors utilized a well.

Patricia Rates neighbor stated her concern at the size of the project and that the neighbors were terrified at the approximate consumption of water such a large project would require. July-Sept Ursa report had stated that the project would consume approx. a million gals of water per month and with a 1000 people population last year water usage was only 6 times that amount. Asked about what recourse they had should they run out of water.

Justin Quail Cannabis farmer in the same district, stated that they had not been able to get their license although his application was submitted prior to this project. Stated that the staff is overwhelmed by people with extensive financial resources, who were able to pay for consultants to organize their documents correctly. Locals were unable to obtain a license but have already paid their early activation fees.

Comm. Williams addressed Justin and inquired if he had comments regarding this particular item. Comm. Williams reminded Mr. Quail that citizens input was open at 9 am for items not on the agenda.

Justin Quail stated that projects such as the one being discussed would deplete valleys of their water supply and suggested that this project move local to the mountain areas. Stated that the Commissioners only cared about the money and had no respect.

Comm. Hess reminded chambers that the planning commissioners had no control over what projects were presented to them.

Skylar Laylaw stated her support for the community against the project. Ms. Laylaw suggested that the cannabis program stop taking applications and allow applicants that had been waiting to get their permits through. Ms. Laylaw also stated that the applicant was not a good person and was known to not be upfront. Feels that small farmers were being pushed out.

Ron Rates neighbor was looking forward to retiring but now was concerned that he would not be able to relax at his home. Mr. Rates spoke of his concern with odor and that he liked to judge a project by the way it started and he was not impressed, referenced the use of the road in front of his home and the disrepair, also spoke on his concern for the drought and stated that he had purchased a holding tank.

Comm. Williams asked if Mr. Rates was getting water delivered to his residence.

Ron Rates stated that he bought a tank out of frustration but he was not the person receiving water deliveries.

Randy Cokher neighbor shared his concern about water 49 ft. well stated that he spoke to the well guys that worked on digging the wells at the proposed site and was informed that should the project began operation the community would run out of water. Asked the commissioners if the county would provide the community with water when it ran out.

Comm. Williams asked who the well drillers were.

Lauren Goodman farmer in the county going through the process of getting his permits, asked about the sites facilities needed for the growing

process stated that it didn't sound as though an existing building existed and that sounded a bit off. Mr. Goodman asked what the county's process going forward with large conglomerate companies who have financial backing, then take all of the profits outside of the county versus the small farmer with less money. Mr. Goodman suggested to the commissioners that it might be time to place a cap on acreage allowed for farming.

Natalie Perry Neighbor stated her concern for water consumption, she was a 20 year resident and had 8 wells on her parcel that didn't last through the summer season. Mr. Perry stated that Aug/Sept neighbors would run out of water and she had to purchase holding tank. Referenced marijuana being the most water absorbing plant. Spoke on crime and the addition of a guard shack on proposed site? Asked if the guards would be armed. Stressed for the commissioners to think about the decision they were about to make and how it would affect an entire community.

Ryan Boomer Neighbor spoke on concerns for the water usage, neighbors whose wells ran out of water and the scope of the project. Mr. Boomer stated that if the project was able to get water from an alternative resource, then he had no issue with it.

Trey Sherrell addressed some of the neighbor concerns, security center or guard shack was to house recording equipment for the cameras per the ordinance of the permit process. No fire arms, or security personnel would be onsite, the product would be processed in Redwood Valley. Mr. Sherrell stated that 3 new wells were drilled and gave reference to a UC ANR report comparing the water usage with the proposed project versus the water usage had the site remained a walnut orchard. The walnut orchard between used approx. 1.1/1.5 million of gals per acre per year, while the proposed project would on use 500, 000 gals per acre per year. The 12 acre lot would consume 5 million gals per year versus if the site were still a walnut orchard it would require 18 m gals per year per the Agricultural water quality research and education (UC ANR).

Marilyn Kratten neighbor and retiree moved to the community because of its beauty, stated that now her entire community was surrounded by cannabis farms. Spoke of the drought and the water the proposed project would consume. Spoke on the past walnut orchard, spoke of the how mature the trees had no irrigation system. Ms. Kratten stated the prior owner would hand water the baby walnut trees.

Himo Estrapo thanked the staff and the commissioners, spoke on the history of Ursa, spoke of the employment opportunities the project would bring to the community and reinvestment opportunities to the community.

Mr. Estrapo addressed concerns – security building was only to store equipment, no firearms would be on the site, processing and storing would be completed at their Redwood Valley facility, storing of the dry product which is the most valuable would typically be the draw for criminal activity, which would not occur at the proposed site which would be monitored by cameras and that he would continue to work with local law enforcement officials. Mr. Estrapo addressed the neighbors concern about water consumption stating that well tests were purposely conducted at the end of summer 2020 when the water tables were at their lowest points, water would be stored in an already existing pond on site. The proposed project was considered sustainable agriculture with cover cropping and all organic implements, plastic mulching would be used to ensure that all the moisture stayed within the soil.

Natalie Perry question if the product was going to Mendocino County, where was the profit for Lake County. Ms. Perry asked how much profit were they getting for giving up their resources, livelihood and was it worth it.

Nicole Johnson county counsel responded that it was the comment period of the item not a question and answer period.

Natalie Perry then turned and asked Mr. Estrapo how much money he was bringing into the county.

Comm. Hess interjected stating that this period of public comment should be addressed to the Commissioners and not the applicant. Comm. Hess also stated that grapes would be an example, the product was grown here but typically not processed here.

Marilyn Kraten neighbor stated that she was not opposed to the project but was concerned about the water, reiterated that she was told by the folks digging the well at the proposed site that the community would run out of water due to the farm consumption. Ms. Krated asked if the county would restore the water, would the county drill another well and pipe it to her house and could it be guaranteed.

Ryan Boomer stated that he would like the applicant to state that if the wells ran dry in the community that he would make it right with the neighbors, not the county, the applicants that are consuming the water. He stated that once the community ran out of water the applicant would stop production on the site and move on to a different location. Also reiterated that the walnut orchard was never watered so the applicant's reference to UCANR was irrelevant.

10:03 a.m. Public Comment Closed

Comm. Williams stated that he had completed a site visit and acknowledged the neighbors concern of water. Inquired about the well reports and requested a hydrologist report. Suggested a continuation after a hydrologist could confirm that the water usage for the project would not affect the community. Stated he would approve the project if water would not affect the community after a hydrologist report or would consider approving if the project was cut down to half.

Comm. Hess stated water was more of an issue now due to the drought, unfortunately the Commissioners didn't have a threshold, and could not supersede what the general plan and ordinance would allow. Board of Supervisors were in talks of cannabis as it pertained to the drought with hope that the commissioners would have more guidelines. Referenced the conditions of approval as it pertained to water requirements.

Nicole Johnson stated that the commissioners were not bound by the lack of a threshold, that it did not mean that all projects had to be accepted and all water usage must be accepted, if upon review of the evidence and the commissioners had determined after weighing the evidence that they could not make a finding then commissioners may vote no.

Comm. Hess stated that voting no was not the concern, conditions could be placed on a project. At some point he hoped for more guidance from the Board of Supervisors. The community was concerned about water and so were the commissioners because there wasn't a threshold that could be addressed.

Comm. Williams stated that there was a threshold for residential which was 5 gals per min but there was not a threshold for Ag.

Comm. Price stated that no one had control of how much rain water the county would get. The commissioners could only control the projects given to them and if it worked with the land use. If the Board made a decision and incorporated a Moratorium or a regulating with the drought as an umbrella for all applications that would provide some guidance.

Comm. Hess stated he did not completely object to Comm. Williams's suggestion of a continuation of the project awaiting a hydrologist report but he would rather not delay the applicant and hold them to a higher standard.

Comm. Price spoke on the importance of the job given to the commissioners and the difficult decisions that had to be made, will this be the standard for the other items on the agenda, Comm. Price asked. Commissioners are problem solvers, they take the evidence presented in the reports and make a decision.

Comm. Hess stated that the commissioners would like to be provided more guidance from the BOS on how to proceed in a drought era.

Comm. Chavez thanked both applicants and neighbors, stating that he worked on the Lake and the water level was significantly low which affected the surrounding homes. Comm. Chavez stated that he was listening to the neighbors' concerns regarding the depletion of water in their community by the end of summer/near fall.

Comm. Hess asked applicant who dug the wells and why the comment was stated about the neighbors well going dry. Asked thoughts from the other commissioners.

Comm. Hess asked applicant who dug the wells and why the comment was stated about the neighbors well going dry. Asked thoughts from the other commissioners about continuing the item.

Comm. Price stated that she was open to continuing the item.

Comm. Williams stated that he would like to see a hydrologist report, as the item sat currently with the high neighborhood commentary he would not be able to approve the project.

Nicole Johnson stated that the commissioners seemed to be weighing two separate concerns that were connected, the first being the project at hand, evidence presented today regarding water use and missing information provided that would help with making a decision which could be requested for staff to provide. The other being a long term decision as to what to do about water concerns going forward. Suggested that she would look into the best form of asking the Board on how to move forward.

Comm. Williams stated that he would like to see a hydrologist report and a cumulative water report when staff brings the item back to the commissioners.

Trey Sherrell proposed that the applicant return with a hydrologist report analyzing the available water and adequate water supply for the proposed project prepared by a licensed geologist, hydrologist etc.

Comm. Price asked Mr. Sherrell, if he knew how much time would be needed to obtain the report.

Trey Sherrell stated that he did.

Comm. Hess stated that the item could be continued to a future date uncertain.

Comm. Williams Motioned, Seconded by Comm. Price move to continue items to a future date, Seconded by Comm. Hess.

4 Ayes, 0 Nays – Motion Carried

10:30 a.m. Break 5 Mins

10:37 a.m. Public Hearing to consider MAJOR USE PERMIT (UP 20-39). Applicant: Western Mine Farms, LLC (Amy Soderlind) Owner: Amy Soderlind. Applicant is applying for a 1-acre of outdoor cultivation area within existing private residential home that was previously graded to test the feasibility for geothermal electrical generation. Location: 14507 Western Mine Road, Middletown, CA; APN(s): 013-030-29. Environmental Evaluation: Categorical Exemption (CE 21-24)

Sateur Ham gave a verbal presentation of the proposed project.

10:48 a.m. Public Comment

Lauren Goodman cultivator and partner, Amy Soderlind wife is the applicant. They live on the site and wanted the commissioner to understand that it was a very small family farm, non-profit, the entirety of the project and its processes would stay within the county.

10:50 a.m. Public Comment Closed

Comm. Hess stated that this was within his district and it was a very good operation and a great location.

Comm. Chavez shared his concern as the location was known to be in a high fire risk zone.

Lauren Goodman stated that he lost his home in the 2017 fire in Santa Rosa, so fire risk were at the forefront of their minds. The prior owner built a defensible space and the location had two well placed fire hydrants, the site also had a separate water tank for fire protection. Additional road opened by Cal Fire during the Kincaid fire so multiple exit points

Comm. Price stated that the project seemed pretty straight forward.

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the Major Use Permit (UP 20-39) applied for by Western Mine Farms, LLC (Amy Soderlind) on property located at 14507 Western Mine Road, Middletown, CA, further described as APNs: 013-030-29 is exempt from CEQA because it falls within Categorical Exemption Class 4 (15304), based on the findings set forth in Staff Report dated June 10, 2021.

3 Ayes, 1 Nays (Comm. Williams) – Motion Carried

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the Major Use Permit (UP 20-39) applied for by Western Mine Farms, LLC (Amy Soderlind) on property located at 14507 Western Mine Road, Middletown, CA, further described as APNs: 013-030-29 does meet the requirements of Section 51.4 and Article 27, Section 1(at) [i, ii] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated June 10, 2021.

3 Ayes, 1 Nays (Comm. Williams) – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

10:55 a.m. Public Hearing to consider an appeal of the closure of a Major Use Permit file (UP 19-12). . Applicant: Pura Vida International, LLC. Owner: George Mainas. Proposed Project: One (1) A-Type 2 small outdoor cannabis cultivation license requesting 10,000 sq. ft. of cannabis cultivation area and one (1) A-Type 13 self-distribution license to transport cannabis to and from the site. Location: 18086 Dam Road, Clearlake, CA; APN: 010-013-29. Environmental Evaluation: Initial Study IS 19-24.

Eric Porter Associate planner gave a verbal presentation on the proposed project. Mr. Porter stated that the site was on a road non complaint with Cal Fire regulations, it was steep and narrow. Late fall of 2020 the site received violations, applicant had since cleaned up the violations but shortly after staff received notification that Trey Sherrell would be the consultant on the project and shortly after that staff was informed that the property was sold and the applicant no longer had owner consent to be on the site. Mr. Porter stated that an annual consent from the property owner was required for applicants to utilize property. An email was sent to the applicant, May 2021 stating that he needed to provide staff with authorization from the current property owner. Staff received correspondence from the applicant stating that he was unable to obtain the needed signature. Staff's decision was to let the commissioners decide if the project should continue. Staff's recommendation is for a denial of the project. Mr. Porter stated the correspondence was sent that the File would be closed and that applicant had seven days to appeal, an appeal was received. Mr. Porter stated that the commissioners making a decision on an appeal. Mr. Porter asked for clarification from Legal

Counsel regarding verbiage, would it be an appeal without prejudice because an appeal would mean that no one would be able to apply for a permit for use of the land for 6 months, while an appeal without prejudice would give the owner the option to apply for a permit immediately

Nicole Johnson stated that Board appeals denied without prejudice allowed the applicant to reapply immediately. If the appeal was just denied, the applicant would have to wait six months to reapply. Requested a second to confirm that the effect of the denial was the same for the planning commission.

Comm. Hess asked if the applicant was still allowed to be on the property.

Nicole Johnson zoning ordinance article 60.30-60.32 applies to both Board and Commissioners.

Comm. Williams stated that he would also like an answer to the question of if the applicant had rights to be on the property.

11:04 a.m. Public Comment

Robert Malana attorney representing Cache Creek Inc. stated that his client owned several of the neighboring parcels. Mr. Malana stated his clients concerns with the applicants. He stated that he also spoke with an attorney who said he represented the new owner and that the applicant would not be granted a renewal on the lease agreement. His clients concerns were access roads to property were insufficient and not prepared for commercial activity, multiple crossing through his client's property that lacked recorded easement. Mr Malana stated that the applicants had a bad track record from and allowed their employees to have bon fires and camp on the site.

Harris Emran attorney representing the current owners of the property, confirmed that he had spoken with Mr. Malana. Stated that applicant had a lease document which expired Dec 2020, a copy could be provided if needed. Mr. Emran stated that his client was not renewing the contract with the applicant and that Escrow closed with new owner in April 2021.

Russel Cremer neighbor would like to reiterate Mr. Malana comments, the applicant was a bad cultivator, employees would leave trash and would camp on site. Mr. Cremer stated that the applicant cultivated in an area that they were not allowed to.

Donna Mackiewicz with the Redbud Audubon Society recommended denial of the project due to the potential environmental biological impact.

Susan Dunst neighbor would like to reiterate what the comments have been thus far. Asked if neighboring properties were supposed to be notified, found out from a neighbor about the hearing. Reiterated concerns of the road use and brought up water consumption.

Lucas Cestarollo owner of the property, wanted to reassure the neighbors that he would not allow that type of operation to go on. He intends to clean up the property and meet all the neighbors.

11:18 a.m. Public Comment Closed

Comm. Williams stated that he completed a site visit, agreed with the neighbors, it was very visible the kind of operation that the applicant had ran, in addition the applicant was non responsive. Comm. Williams stated that his decision had been made.

Comm. Hess stated that his mind had been made up as well and it was mainly due to the ownership issue. Stated grieve on both sides could have been prevented if early activation had not been granted and an extension not been approved.

Comm. Chavez Moved to Motion, Seconded by Comm. Williams find that the **Initial Study (IS 19-24)** applied for by **Pura Vida** on property located at **18086 Dam Road, Clearlake**, and further described as **APN: 010-013-29** has not mitigated actual or potential environmental impacts for the reasons listed in the staff report dated **June 10, 2021**.

4 Ayes, 0 Nays – Motion Carried

Comm. Chavez Moved to Motion, Seconded by Comm. Williams find that the **Use Permit (UP 19-12)** applied for by **Pura Vida** on property located at **18086 Dam Road, Clearlake**, and further described as **APN: 010-013-29** does not meet the requirements of Section 50.4 and 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be denied subject to the findings listed in the staff report dated **June 10, 2021**

4 Ayes, 0 Nays – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

Eric Porter stated that a motion was needed that addressed the actual appeal AA 21-01 and inquired if the commissioners needed for him to provide the language.

Comm. Williams asked if the appeal would be denied without prejudice.

Comm. Hess reiterated Lucas Cestorollo's owner of proposed site that he would not allow that type of operation on the site.

Comm. Chavez Moved to Motion, Seconded by Comm. Williams move that we deny appeal AA 21-01 based on the findings in the staff report and based on the recommendations made here today

4 Ayes, 0 Nays – Motion Carried

11:24 a.m. Public Hearing to consider an appeal of the closure of two Use Permit files; file no. UP 18-36 and file no. MUP 18-37 for commercial cannabis cultivation on two adjacent properties. Owner: David Boies. Applicant: Jonathan Boies; proposed new applicant is Mitch Hawkins. Proposed Projects: UP 18-36: One (1) M-Type 3 small outdoor and one (1) M-Type A-1C 'small specialty cottage' cannabis cultivation license on tax lot 012-056-49; and one (1) M-Type 3 medium outdoor and one (1) A-Type 1C 'small specialty cottage' license on tax lot 012-056-48. Location: 13046 and 13048 S. Highway 29, Lower Lake, CA; APN: 012-056-48 and 012-056-49.

Eric Porter Associate Planner gave verbal presentation on proposed project. Recommended that items be continued to June 24th, concerns with staff report which would affect the findings.

Nicole Johnson stated that due to the item being an appeal that comments be held off until the actual hearing.

Comm. Hess moved to Motion, Seconded by Comm. Williams continue the consideration of appeal AA 21-02 until the June 24th, 2021 meeting.

4 Ayes, 0 Nays Motion Carried

11:28 a.m. Public Hearing to consider denial of a Major Use Permit (UP 20-05) for commercial cannabis cultivation on a 47.6+ acre property. Applicant: Scotts Valley Organics LLC. Owners: Andres Rey and Jeffrey Caltaldo. Proposed Project: Two (2) A-Type 3 medium outdoor cannabis cultivation licenses requesting 90,000 sq. ft. of cannabis cultivation area and one (1) A-Type 13 self-distribution license to transport cannabis to and from the site. Location: 2105

Rivas Road, Lakeport, CA; APN: 005-020-41. Environmental Evaluation: None undertaken per California Environmental Quality Act section 15270

Eric Porter Associate Planner gave a verbal presentation on the proposed project. Early activated in 2020, reports received of unpermitted grading a notice of abatement was issued from the county. Applicants were given a citation from CFDW and a creek was filled in. Mr. Porter stated that he reached out to CFDW agent Kyle Stoner via email to see if the violation had been cleared, the agent stated that there had been no contact made by applicant to mitigate in addition the applicants Early Activation Permit was revoked. Staff recommends denial of the use permit.

11:32 a.m. Public Comment

Kyle Guyhner consultant for the applicant stated that water ways were filled in and the notice of violation photos showed mostly burn piles. Mr. Guyhner showed the commissioners pictures of the property before and after a fire that occurred. Mr. Guyhner stated that there was only removal of dead vegetation but that no movement of earth was done and that it was a channelized flow with filling in the creek. Mr. Guyhner stated that he reached out to Kyle Stoner with CFDW and are currently in process of providing him with all the information he has requested

Comm. Hess asked Mr. Guyhner when contact was made with Mr. Stoner and how it was made and was the conversation conclusive.

Kyle Guyhner stated that once a Notice of Violation was issued the applicant had 14 days to make contact with CFDW, stated that he requested information on remediation and noted that there were no mapped water ways but burn piles in areas that the agent might not have liked.

Comm. Hess stated that he was not a civil engineer but was looking over the pictures from the NOV and found them disturbing, if the state agent stated that it was grading and vegetation removal then he believed him. Also noted the local of the burn pile placed 150 ft. of a stream.

Donna Mackiewicz stated that she hoped the commissioners would deny the use permit, follow up on the fine and see what measures could be taken to mediate the damage that was done.

11:40 a.m. Public Comment Closed

Comm. Williams stated that he was unable to view the pictures currently and asked if this was grading and was there root removal. Comm. Williams stated that if roots were removed that is considered grading.

Comm. Hess stated that it was not a question of burn pile but was concerned with a lack of responsiveness from applicant.

Comm. Williams commented that there was a list of reasons to deny application.

Kyle Guyhner stated that Green Valley engineering consultants working on the topographic mapping and any remediated grading needed. In regards to root removal and ground disturbance might be some miscommunication. The remediated measure there would be to replant. Mr. Guyhner stated that the applicant has started the process with putting down straw and has done some work to help stop the erosion. Mr. Guyhner also stated that the applicant would not intentional cause harm to the environment.

Comm. Williams asked legal counsel if an approval could be given with violations.

Nicole Johnson responded to Comm. Williams stating that one of the findings that need to be made is that they were no violations for permits. If the findings are that there were violations then the commissioners could not make the finding so could not approve the permit.

Scott Deleon offered to show photos of the NOV as he had them on hand.

Comm. Williams thanked Mr. Deleon but stated that Mr. Guyhner had confirmed that there were trees removed from the site. Referenced County Counsel's statement regarding findings and stated that what he was finding was that we would be denying the permit.

Comm. Hess stated that he agreed with his colleague and that a violation was a violation with intentionality or not. Referenced the NOV photos and the comments made by the CFDW agent that stated a stream graded over and there were smart pots on it and as he understood it the applicant was still in violation.

Comm. Price stated that the pictures said everything, the evidence was there, and the project was still in violation.

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the **Initial Study (IS 20-05)** applied for by **Scotts Valley Organics** on property located at **2105 Rivas Road, Lakeport**, and further described as **APN: 005-020-41** will have had a significant negative environmental impact on the environment and therefore a mitigated negative declaration shall be *denied* with the denial findings listed in the staff report dated **June 10, 2021**.

4 Ayes, 0 Nays – Motion Carried

Comm. Hess Moved to Motion, Seconded by Comm. Chavez find that the **Use Permit (UP 20-05)** applied for by **Scotts Valley Organics** on property located at **2105 Rivas Road, Lakeport**, and further described as **APN: 005-020-41** does not meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Major Use Permit be *denied* subject to the denial findings listed in the staff report dated **June 10, 2021**.

4 Ayes, 0 Nays – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

- 11:49 a.m. Public Hearing to consider MAJOR USE PERMIT (UP 19-32). Applicant: Patrick Smythe. Owner: Patrick Smythe. Proposed Project: Applicant is applying for a total of 41,796 square feet canopy (32,076 square feet outdoor cultivation and 9,720 square feet mixed-light cultivation) area within a total of 44,121 square feet of cultivation area and facilities including three (3) 30' x 108' greenhouses, one (1) 1,800 square foot processing facility, one (1) 525 square foot, one (1) 1,225 square foot concrete pad to hold to hold nine (9) 1,500-gallon water storage tanks and three (3) 3,500-gallon water storage tanks. Location: 19697 and 19713 East Road, Lower Lake, CA; APN(s): 012-049-17 and 012-049-18. Environmental Evaluation: Mitigated Negative Declaration (IS 19-50).**

Mike Taylor Assistant Planner gave a verbal and visual presentation on proposed project. EA in 2020, previously approved MUP for winery. Mr. Taylor Reviewed the Project Description, Site Description, Project Analysis, Vicinity Map, Site Pictures and the conditions of approval.

- 12:00 p.m. Public Comment**

- 12:01 p.m. Public Comment Closed**

John Hess inquired about an email sent by John Fomasi regarding his easement on East Rd., stating that the applicant had failed to address the portion of East Rd beginning at Spruce Grove Rd, which Mr. Fomasi stated was an easement through his property. Comm. stated he wasn't sure what Mr. Fomasi meant by that and asked if the applicant had to have Mr. Fomasi's permission to utilize that portion of the road.

Scott Deleon stated that noble ranch sub-division which the proposed site was within, the road network was described at the time of the applicant's approval as a private road used for the benefit off all the residents in the sub-division. Not dedicated to public use and not maintained by the county. Does not fall in private easement and does not need property owner approval.

Comm. Williams stated that there had been another comment that came in regarding design professionals. Comm. Williams asked Mr. Deleon what were the perimeters for design professionals and how would it affect the project. Stated that it was important for this project due to there being a vernal pool there. Comm. Williams stressed that having the project done by a professional was important.

Kerrian Marriott read an ecomment received by Trey Sherrell into the record. Mr. Sherrell's comment stated that the site plans for the proposed project did not appear to have been prepared by a design professional.

Comm. Hess stated that he researched the company hired to complete the design and the company consisted of former Lake County assistant planners, who knew the rules and it sounded more like competing consultants and asked if the other commissioners thought that it would be grounds to deny the application.

Comm. Williams stated that it would not be a reason to deny the application, mentioned the vernal pool but stated that a vineyard had previously been on the site so it was not an issue. Comm. Williams stated the merits of the project i.e. within property line setback, to scale.

Comm. Hess stated his agreeance comm. Williams stating that he would like all the application brought forth to state if there was a licensed architect assigned to the project

Comm. Price stated that when staff is gathering all the applicants' information although it is a requirement for it to be paid more attention to before it's brought before the commission.

Comm. Williams stated that the project had a 18 gal per minute well that was checked recently so he did not have any concerns moving forward, now that the easement concern had been explained.

Comm. Hess Moved to Motion, Seconded by Comm. Williams find that the **Major Use Permit (UP 19-32)** applied for by **Pat Smythe** on property located at **19697 and 19713 East Road, Lower Lake, CA**, further described as **APNs: 012-049-17 and 012-049-18** will not have a significant effect on the environment and therefore a mitigated negative declaration shall be approved with the findings listed in the staff report dated **May 27, 2021**.

4 Ayes, 0 Nays – Motion Carried

Comm. Hess Moved to Motion, Seconded by Comm. Williams find that the **Major Use Permit (UP 19-32)** applied for by **Pat Smythe** on property located at **19697 and 19713 East Road, Lower Lake, CA**, further described as **APNs: 012-049-17 and 012-049-18** does meet the requirements of Section 51.4 and Article 27, Section 1(at) [i, ii(g), I (ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **May 27, 2021**.

4 Ayes, 0 Nays – Motion Carried

NOTE: The applicant or any interested person is reminded that the Zoning Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.

12:13p.m. UNTIMED STAFF UPDATE

Office News

Scott Deleon Interim CDD Director addressed a public comment suggesting that staff was dragging on issuing EA permits, which he stated was not the case once the Board had changed the ordinance that specified if EA's were approved last year that staff was to quickly get them an EA this year, staff was recommended to go through their current files and process EA's to comply. Mr. Deleon stated that he had personally signed many EA's and could confirm that staff had not lagged. Spoke on the Community Developments Departments transition with the new management team, stated his last day would be Monday, June 14th, 2021 as interim. Addressed the progress that was made while he was interim and stated that he was extremely proud of the staff and the efforts made.

Comm. Price asked what was coming down the pipeline for the next meeting. What was the consultant position would they be managing the Community Development Department.

Scott Deleon stated that he was unable to answer that question but that staff had pretty full agenda's coming up and the action that was taken on the large project UP 20-86 would have a ripple effect, so it will be interesting to see how the Board moved forward with concerns of the drought. Referenced consultants who are also reviewing projects, suggestions were made to applicants to hire their own consultation companies to write their own initial studies and that there had been a few projects that were turned in with those suggestions and new employees reviewing those submissions.

Comm. Hess thanked Scott Deleon, stating that it was a pleasure working with him and that he reenergized the department and notice was taken of an increase on agenda items and wished him all the best.

Scott Deleon stated that he was not going anywhere he was still the head of the public works department and thanked the Commissioners.

12:16 p.m. Adjournment