

**LAKE COUNTY PLANNING COMMISSION
REGULARLY SCHEDULED MEETING**

**MINUTES
November 18, 2021**

Commission Members Present:

John Hess, District I
Everardo Chavez, District II
Batsulwin Brown, District III
Maile Field, District V

Staff Members Present:

Mary Darby, Zoning Administrator
Nicole Johnson, Deputy County Counsel
Trish Turner, CDD Tech
Eric Porter, Associate Planner
Mike Taylor, Assistant Planner

Commission Members Not Present:

Christina Price, District IV

9:00 a.m. CALL TO ORDER

9:01 a.m. Pledge of Allegiance led by Commissioner Brown

**9:02 a.m. **Consideration of the adoption of Assembly Bill 361 Findings
Authorizing Teleconference Meetings during a State of Emergency****

The previous decision regarding Assembly Bill 361 had to be revisited within 30 days.

On motion of Commissioner Field, and by vote of the planning commission, approval to adoption the Assembly Bill 361 findings authorizing teleconference meetings during a State of Emergency. The motion was seconded by Commissioner Hess. The motion carried by the following vote:

4 Ayes 0 Noes – Motion Carried

9:07 a.m. ACTION ON MINUTES

Consideration of the Approval of the Minutes from the October 14, 2021 Planning Commission Hearing.

Minutes Approved: **4 Ayes / 0 Nays- Motion Carried**

Consideration of the Approval of the Minutes from the October 28, 2021 Planning Commission Hearing.

The minutes should be revised to reflect Commissioner Fields as being present at the meeting via zoom.

With the request for the revised minutes of October 28, 2021 to reflect the presence of Commission Fields, the minutes were approved:

4 Ayes / 0 Nays – Motion Carried

**9:08 a.m. ACTION ON THE 2022 PLANNING COMMISSION REGULAR MEETING
CALENDAR YEAR**

The 2022 Planning Commission Hearing Calendar of meeting dates was for informational purposes only. No action required.

9:09 a.m. Public Input:

Chair Brown asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

9:10 A.M. ITEM 1: 9:05 A.M. Public Hearing to consider General Plan Conformity (GPC21-04; CE 21-38). Applicant/Owner: Laurie Dohring. Proposed Project: Application for a General Plan Conformity for the vacation of Dillard Avenue in Kelseyville, California. The Lake County Public Works Department is currently processing the application for the vacate of Dillard Avenue. Location: 3440, 3430, 3420, and 3400 Dillard Avenue and 6420 Soda Bay Road, Kelseyville, CA 95451.

Laura Hall, Senior Planner, presented the information via Power Point which included the scope, site description, project analysis and recommendations. The Commissioners received a green sheet noting that there was no exemption CEQA. This exemption was addressed under CEQA 15060(c) (2).

Commissioner Field expressed that her only concern is with fire access.

Laura Dohring, the applicant/owner, informed the Commissioners that she has installed a Knox box on the street. The Knox box has been programmed and signed off by the Kelseyville Fire Department.

9:23 a.m. Public Input - Chair Brown asked if anyone present wished to speak. No one wished to speak and the public input portion of this item was closed.

The Planning Commission, after reviewing the staff report and receiving evidence at the public meeting, found that the location, purpose, and extent of the proposed vacations of the 3440, 3430, 3420, and 3400 Dillard Avenue and 6420 Soda Bay Road were in conformance with the County of Lake General Plan pursuant to California Governmental Code Section 65402.

Commissioner Chavez, moved to make a motion, finding that the analysis of the road vacation is consistent with the Lake County General Plan and is exempt from CEQA as stated in section 15060(c)(2) of the State CEQA Guidelines (Division 6 of Chapter 3 of Title 14 of the California Code of Regulations). The motion was seconded by Commissioner Hess.

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.

9:26 a.m. ITEM 2: Public Hearing to consider approving Use Permit UP 21-18. Applicant: Brelje and Race Consulting Engineers. Owner: Sunrise Shore Mutual Water Company. Project Description: General improvements to the existing Sunrise Shore Mutual Water Company facility. Location: 6030 Sunrise Court and 6200 Sunrise Drive, Lower Lake. (Eric Porter)

Eric Porter, Associate Planner, presented the information via Power Point which included the scope, site description, project analysis and recommendations.

Commissioner Field has some questions regarding fire safe regulations. Are they seeing an issue here or is it just boiler plate? Eric replied it is just a boiler plate. He referenced the Cal Fire public resource codes 4290 and 4291. These codes apply to the building permit process. The permit is required for any water tank that meets or exceeds over

5,000 square feet; properties that are less than an acre do not have to meet the Cal Fire set back standards.

9:38 am Public Input -Chairman Brown asked if anyone present wished to speak and the following person spoke via Zoom: John Locey project engineer with Brejle and Race Engineering thanked the Planning Staff. He clarified that at the tank site there will be 2 bolted steel tanks and 1 concrete block retaining wall replacing the existing equipment which is combustible. He would like the Planning Commission to consider removing item 6 under general conditions. No one else wished to speak and the public input portion of this item was closed.

The condition 6 is reviewed in regards to Cal Fire and the request for removal. The Commissioners did not want this condition to be removed.

Commissioner Hess, moved to make a motion, that the Initial Study (IS 21-19) applied for by Brejle and Race Engineering Consultants on properties located at 6030 Sunrise Court and 6200 Sunrise Drive, Lower Lake, and further described as APNs 043-302-04 and 043-310-05 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 November 18, 2021. The motion was seconded by Commissioner Field.

4 Ayes/ 0 Nays – Motion Carried

Commissioner Hess, moved to make a motion, that the Brejle and Race Engineering Consultants on properties located at 6030 Sunrise Court and 6200 Sunrise Drive, Lower Lake, and further described as APNs 043-302-04 and 043-310-05 does meet the requirements of Section 51.4 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 November 18, 2021. The motion was seconded by Commissioner Field.

4 Ayes/0 Nays – Motion Carried

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9:47 a.m. ITEM 3: Public Hearing to consider approving an Amendment (MMU 21-20) of original Use Permit UP 18-43. . Applicant/Owner: Sunny S Ranch / Shannon Sanders. Proposed Project: Four 2,499 sq. ft. nursery areas (greenhouses) for immature cannabis plants in conjunction with previously approved file no. UP 18-43. Location: 19424 Butts Canyon Road, Middletown, CA. (Eric Porter).

Staff is requesting a continuance until the January 13, 2021 Planning Commission Hearing because a water analysis is required for the proposed project. The motion was made by Commissioner Field and seconded by Commissioner Hess.

4 ayes/ 0 Nays – Motion Carried

9:51 a.m. ITEM 4: Public Hearing to consider approving an Amendment (MMU 21-22) of original Use Permit UP 18-35. Applicant/Owner: Green Bear Farms Cali LLC / Wais Amin. Proposed Project: Amendment to original canopy / cultivation area; sixteen (16) additional Greenhouses, and one A-Type 13 Self Distribution license to allow legal transport of cannabis to and from the site. Location: 4680 Clark Drive, Kelseyville, CA. (Eric Porter).

Staff requested a continuance of the proposed project until January 13th, when the applicant's consultant could be present. Commissioner Chavez made a motion for a continuance and Commissioner Field seconded the motion until such a time as the consultant could be present.

4 ayes/ 0 Nays – Motion Carried

9:52 A.M. ITEM 5: Public Hearing to reconsider approving Use Permit UP 20-22. Applicant/Owner: We Grow LLC / Zarina Otchkova. Proposed Project: Fifteen (15) A-Type 3B mixed light commercial cannabis cultivation licenses and one A-Type 13 'Self Distribution' license. The applicant is proposing thirty (32) 90' x 125' greenhouses; two (2) 90' x 125' greenhouses for immature plant starts; four (4) 50' x 100' drying buildings; one (1) 200 sq. ft. shed; twenty (20) 5,000 gallon water tanks; one (1) 6-foot tall galvanized woven wire fence covered with privacy mesh to screen the greenhouses from public view. Total proposed cultivation area is 387,600 sq. ft. (roughly 9 acres); total proposed canopy area is 330,000 sq. ft. The applicant is also proposing the removal of 130 blue oak trees, which will require a 3:1 tree replacement using similar species trees prior to the start of cultivation. Location: 16750 Herrington Road, Middletown, CA (cultivation site); 17610 Sandy Road, Middletown, and 19678 Stinson Road, Middletown consisting of 309+ acres. (Eric Porter)

Staff requested a continuance of this proposed project, to a time to be determined, to allow the applicant additional time to provide a more comprehensive electrical analysis of the project. A motion was made by Commissioner Chavez and seconded by Commissioner Hess for a continuance until such a time that a more comprehensive power analysis could be completed.

4 Ayes/ 0 Nays –Motion Carried

9:54 a.m. ITEM 6: Public Hearing to consider MAJOR USE PERMIT (UP19-36). Applicant: Brian D. Pensack and Garrett W. Burdick (Lake Vista Farms, LLC). Owner: Lake Vista Farms, LLC. Proposed Project: five (5) cannabis cultivation areas with a total cultivation area of 25.8 acres which includes 653,400 square feet of A-Type 3 outdoor cultivation canopy area within 660,600 square feet of temporary hoop houses; 1.5 acre nursery within an existing barn/shade structure, portable toilets, trash enclosures, vegetative waste storage areas, 2,500-gallon water storage tanks, Conex shipping containers and 8'x8' storage sheds for storage of pesticides, fertilizers, and hazardous materials; renovated 10'x30' shipping container for security equipment and monitors, security cameras, 6' tall cultivation area perimeter fencing and locking gates. Address: 2050 and 2122 Ogulin Canyon Road, Clearlake CA. (Michael Taylor).

Michael Taylor, Assistant Planner, presented the information via Power Point which included permit request, project setting, site scope, project analysis, recommendation and conditions. This project is a continuation from the October 28th Planning Commission. The purpose of the continuation was to allow the applicant additional time to conduct research with the City of Clearlake.

Commissioner Hess inquired if there will be any grading, and if the hoop houses would have electricity? Mr. Taylor responded that there will be minimal grading, and that no there will not be any electricity in the hoop houses.

Commissioner Field inquired if the hoop houses would be considered as outdoor cultivation. Staff stated that the proposed project is an outdoor cultivation project.

Commissioner Hess inquired about the letter of support from the City of Clearlake as discussed at the October 28, 2021 Planning Commission hearing. Hess reminded the applicant that a letter of support for the City of Clearlake still needs to be provided to support the project. Mary Darby, Director of CDD stated that the City Manager of Clearlake, Alan Flora should be present to speak concerning the letter of support from the City of Clearlake.

Richard Knoll, Land Planning Consultant for the applicant noted that the letter was provided to the County last year. Mr. Alan Flora, City Manager of the City of Clearlake was in attendance at the hearing.

Mr. Flora, stated that the letter of support was sent to the County in February, 2021. Nicole Johnson stated the County did not have the authority to adopt the conditions provided in the February, 2021 letter. Mr. Flora stated that he spoke directly with Director Darby and came up with conditional language that should address the letter of support. Commissioner Hess asked to hear the condition. Mike Taylor, the assigned planner read the condition as follows:

“Prior to construction and operation, the applicant shall reach an agreement with the City of Clearlake as to the appropriate mitigation to address impacts of this Project on the City of Clearlake’s portion of Ogulin Canyon Road. The amount of any mitigation fees or other mitigation measures shall be determined by the City of Clearlake.

If calls for service to the Clearlake Police Department result in more than five call-outs by the City Police to the Project site in a one-year period, the applicant shall supplement its security measures by the addition of hired security personnel on-site twenty-four hours per day. In the alternative to security personnel, the City may instead accept a reasonable mitigation fee to address the additional obligations on City police, or other security measures as acceptable to the City.

The applicant understands and agrees that the violation of any federal, state, or local law or regulation or contractual obligation relied upon in the issuance of this Permit may result in the revocation of the Permit.”

Commissioner Field asked City Manager Flora if he had the authority to represent the City of Clearlake. Mr. Flora responded that he did.

10:27 a.m. Public Input - Chair Brown asked if anyone present wished to speak. The public comment section was closed until after the Power Point presentation by Robert Knoll, consultant, and Mike Mitzel, representing the applicant.

Early Activation was issued by the County in 2020. The Early Activation (EA) had been terminated due to violations. Commissioner Hess inquired why there was a lessee on the property and whether the lessee received the proper background checks, and if he knew the rules and regulations of Early Activation. Mr. Mitzel stated the lessee knew the terms and conditions of the EA and once the owner was notified of the violations he had corrected all violations within 7 days and terminated the lease with the lessee.

Commissioner Field asked Nicole Johnson, County Counsel “who is responsible for the violations?” County Counsel responded with whoever is named on the permit, is the responsible party. Commissioner Hess noted that the real problem seems to have come with the EA process. He stated that the oversight with the EA process needs to be tightened. Mr. Knoll agreed that there seems to be a gap between the EA and the conditions of what is allowed and expected.

Commissioner Field would like to know if any walnut trees would be removed. Mr. Mitzel responded that no trees would be removed. Commissioner Field stated that she is concerned about the soil being transported onto the site. The applicant assured Commissioner Field that no soil would be transported. Commissioner Field noted that in the California Historical Resource Information System report that there was one building

identified of historical significance. The applicant stated that the building would be the family home.

Commissioner Field referenced the drought management and hydrology report and asked about the water usage per plant. Mr. Mitzel noted that it really isn't about the number of plants, more about the size of the acreage the plants are grown on. Mr. Mitzel stated the parcels have a lot of water available through the wells.

Commissioner Brown had a question regarding the cultural resource firm. Commissioner Brown stated that he would like to ensure that these reports are getting filed with the California Historical Resource Information System agencies because he has been noticing California Historical Resource Information System saying historically no reports are being filed. Further, Commissioner Brown wanted to know about the wildlife corridor and whether elks were coming through the properties. Mr. Mitzel states the fencing will only be around the areas that have cultivation on them, so that should be a deterrent for the wildlife.

11:01 a.m. Public Input - Chair Brown asked if anyone present wished to speak.

Alan Flora corrected the record about the sphere of influence that was listed in the city's general plan. That was never adopted by LAFCO. However, since the property is within 1,000 feet of the City boundary, the sphere of influence is maintained and would require a letter of approval from the City of Clearlake.

The following persons spoke via Zoom:

Jennifer Smith – Requested to have a date fixed for a different item number. The Commissioner continued the discussion on the project being currently heard and stated that the discussion of other projects would occur at the appropriate time.

Bobby Dutcher – Stated that he has never seen elks on this property; and that this property seems like a perfect site for cannabis cultivation. Although the down side to the proposed project is that the prior tenant who caused all of the violations. Mr. Dutcher recommended approval of the project.

Dave Hughes - Stated that he would like to speak after some of the other people.

Vicky Crystal – Stated that I am a resident in Burns Valley. She was concerned about the vineyards for the past 40 years, she has been slowly losing well water, and often dirt is drawn into their well water. She was curious about the long term effects of more water usage; and extremely concerned about the pesticides. She mentioned that discussions were had about the organic materials but still there will be pesticides that will be used. She also noted that the odor does get intense. If there are not a lot of definitive answers to these questions she will find this proposal unacceptable.

Hyper Light - John Wilcox mentioned that he had 6 concerns: 1) The applicant is responsible for their lease, the violations are a representation of the applicant; 2) Only the grading violation is being discussed and the location had over 40,000 plants in violation according to State law; 3) The concern for the hoops being used for light deprivation is a different license type than mixed light; 4) This project should have gone back in front of the City of Clearlake after the violations were found; 5) Cal Fire road standards were mentioned - at what point will those standards be enforced? and 6) Further clarification on the riparian water setbacks are needed.

Commissioner Field asked Mr. Taylor if he thinks the riparian water set backs are an issue. Mr. Taylor stated that the applicant has agreed to the riparian water set back ordinances.

Dave Hughes – Stated that he would like to address the EA activation. The City of Clearlake doesn't allow outdoor growing within the City limits. The County has a 1000 foot setback from the City. 11 of us have appealed the approval of the one that was approved within the City of Clearlake. Grow sites of A & B are within several hundred feet

within the City not 1000 feet. Water and CEQA talks about cumulative impacts. Mr. Hughes would like to see the letter of support from the City of Clearlake prior to issuance of use permit.

Dave Gulsby – Stated that he also shares the concern for the agriculture cumulative effect on the water table with the losing of wells. He asked what is sustainable in this area with the drawing of more water. He mentioned that they have seen the elks out at pond grove.

Kathy Qualis – Stated that she lives in the Burns Valley area and that ground water is a primary source of the Burns Valley basin. She mentioned that the proposed project is anticipated to increase water demand by 81% in year 2040 - which doesn't even consider large grows. She stated that water is such a large resource and how much water is the project going to pull from the Burns Valley basin? She asked why can we not spread out the grow areas? Further, she stated that Clear Lake is a beautiful draw for people and that people would not want to Lake County because of these huge marijuana grows.

Brian Pensack/Applicant – Stated that Angie Dodd would address the water concerns after all the public comments.

During the public comment period, speakers wanted to speak a second time. County Counsel advised the Commissioners. The Commissioners stated that the public could speak again as long as it was not a comment that was heard previously.

David Hughes – Stated that he just wanted to point out the number of properties owned in the area which are approved growers.

Kathy Qualis – Stated that the ground water table should be checked. She expressed that this was not her opinion, but what had been written by the County for water management.

Angie Dodd - Stated that she wanted to answer some questions regarding the hydrology report which was required by State ordinance. She states that nothing is new, all of her answers are in hydrology report. She shares the complex analysis of groundwater resources as described in the groundwater management plan of 2006. He states that 162 acres of land in Burns Valley are irrigated w/ surface water - 5 acres by groundwater; this has probably changed. This project, talking about wells, there are three water bearing formations; one is alluvial, others are deeper. Three wells for this project are in the deeper formations. Without knowing specifics about wells, it's very difficult to determine why wells go dry. Typically wells in shallower aquifers tend to go dry before deeper wells, and are more impacted by drought conditions. This project is replacing a 13.9 acre hop farm. Hops tend to use 5,800 gallons per acre. Cannabis uses 3,000 gallons per day per acre. Cannabis uses much less on average than hops farms. Department of Public Works estimated the capacity of 4,000 acre-feet, but only 1,300 acre feet of usable storage capacity. Project uses 25 acre feet per year. Additional demand is 66.3 acre feet. In total, about 100 acre feet per year demand; usable storage capacity of 1,400 acre feet in aquifer. Ms. Dodd has written water analyses for cannabis in Lake County; recommends seasonal monitoring to see whether cannabis cultivation is diminishing aquifer, or if it recharges annually. Ms. Dodd states that groundwater is very complex and she will answer questions, if needed.

Comm. Field shares that we need to continue to keep an eye on water draws. County is not doing good job with volatile organic components (odor). County needs to examine this.

Comm. Hess states that he doesn't understand about the mystery of the letter from Clear Lake; not sure why it wasn't made as part of the record. One caller makes legitimate point about if this is still how the City feels.

Alan Flora states that he is not there to actively support the project. City wasn't consulted when the Ordinance was put into place. This is not included in the County ordinance. Because the City was put in the position of being impacted, two issues arose. First, city streets would be impacted. Costs were evaluated and a reasonable share of money was submitted. Second, no sustained law enforcement in that part of the City/County area.

Some resources are needed in case emergency services (police) are needed. Current status is unknown, however no need to return to the City Council. Board of Supervisors could look at revising the City/County cannabis considerations.

11:40 a.m. Public Input - Chair Brown asked if anyone else wished to speak. No one wished to speak and the public input portion of this item was closed.

Commissioner Field thanked everyone who participated in public comments. She expressed that the concerns regarding the water usage is a valid one. She also noted that the hydrology report that was provided has satisfied her concerns and recommended that people go online and review the report. Commissioner Field stated that the county does not have an Ordinance for the volatile organic compounds that are coming off the plants.

Commissioner Hess would like to question the City of Clearlake of how, or when the letter will be made available to the Commissioners, or made part of the record. He would like to know if the City of Clearlake still stands behind the letter as it was written so long ago. Alan Flora stated they are not here to support nor oppose this project, just that they are here to state the mitigation regarding the maintenance of the roads, as well as the first responders that will be responding in the event of an emergency will be the City of Clearlake Police Department and Fire Department. Mr. Flora stated that he does not believe that the City of Clearlake would make any changes.

Mr. Knoll provided a copy of the City of Clearlake letter to the planning commission.

Commissioner Brown had concerns regarding the cumulative impact of this project. He asked County Counsel if there was an appeal by citizens to the City of Clearlake Nicole Johnson, County Counsel, responded that it would not be appealed to the City of Clearlake because the County of Lake is making the decision. An appeal would not go to the City of Clearlake.

Commissioner Chavez asked a question regarding the size of the cannabis grow if there was another drought year? He asked whether the applicant would reduce the size of grow? Mike Mitzel responded that it had been included in the Drought Management Plan. Mr. Mitzel stated that he did not think there would be a problem, but if it comes up, they will take it into consideration.

Commissioner Hess asked County Counsel with the absence of a Commissioner what would a 2:2 vote mean? Would that mean a denial of the project? County Counsel responded that if there is a tied vote then it would be recorded as a denial.

Commissioner Field, made a motion to approve the Mitigated Negative Declaration (IS 19-56) applied for by Lake Vista Farms, LLC on property located at 2050 and 2122 Ogulin Canyon Road, Clearlake, CA further described as APNs: 010-053-01 and 02 with the findings listed in the staff report dated November 10, 2021. The motion was seconded by Commissioner Chavez.

3 Ayes/ 1 Abstention (Brown) – Motion Carried

Commissioner Field, made a motion to approve Major Use Permit Number UP 19-36 applied for by Lake Vista Farms, LLC on property located at 2050 and 2122 Ogulin Canyon Road, Clearlake, further described as APNs: 010-053-01 and 02, [i,ii(g),i(ii)] of the Lake County Zoning Ordinance be granted subject to the conditions and the findings listed in the staff report dated November 10, 2021. The motion was seconded by Commissioner Chavez.

3 Ayes/ 1 Nay (Brown) - 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.

11:55 a.m. Item # 3 – The Commissioners redressed the date of continuance for Item #3. That the date of continuance should be changed to the December 16, 2021 Planning Commission Hearing. A motion was made by Commissioner Field and seconded by Commissioner Chavez.

4 ayes/ 0 Nays – Motion Carried

11:58 a.m. Planning Department Updates - Mary Darby, CDD Director noted that there were no updates at this time.

11:59 a.m. Commissioner Brown adjourned the meeting

Minutes prepared by: Kathleen Soones, CDD Tech-Extra Help
Trish Turner, CDD Tech (Partial Assistance)

Approved by: Mary Darby, CDD Director

Sign: Mary V. Darby Date: November 9, 2021

Sign: _____

Batsulwin Brown,
Planning Commissioner Chair