

**LAKE COUNTY PLANNING COMMISSION**

**MINUTES**

**REGULAR MEETING**

**October 24, 2019**

**Commission Members**

**P John Hess, District I**  
**P Bob Malley, District II**  
**P Batsulwin Brown, District III**  
**A Christina Price, District IV**  
**P Daniel Suenram, District V**

**Staff Members**

**A Michalyn DelValle, Director**  
**P Byron Turner, Principal Planner**  
**P Nicole Johnson, Deputy Cty Counsel**  
**P Danae LoDolce, Office Assistant III**

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**REGULAR MEETING**

**October 24, 2019**

**9:00 a.m. CALL TO ORDER**

Pledge of Allegiance was led by John Hess.

Comm. Malley moved, 2<sup>nd</sup> by Comm. Suenram to approve the minutes from June 27, 2019, July 11, 2019, August 8, 2019. Comm. Malley moved, 2<sup>nd</sup> by Comm. Brown to approve the minutes from September 12, 2019 and Comm. Malley moved, 2<sup>nd</sup> by Comm. Suenram to approve the minutes from September 26, 2019.

**9:00 a.m. CITIZEN'S INPUT - None**

**9:05 a.m. Public Hearing on consideration of a Major Use Permit (UP 19-14), Variance (VR 19-03) and Categorical Exemption (CE 19-28). The project applicant is OPHIRA PROCESSING LLC proposing Type 6 non-volatile cannabis oil extraction in an existing structure and Type 11 Cannabis Distributor License. The project is located at 109 Soda Bay Road, Lakeport and further described as APN 008-019-60. (Byron Turner)**

Byron Turner, Principal Planner, provided background information and a power point presentation of the proposed project.

Matt Cummings, Ophira Processing CEO, explained that all of the equipment is closed looped, so all of the processes are contained within the equipment. He said there is some vapor, but according to the plan and the air evacuation system, there is a detector that determines the ethanol particles in the air and can evacuate the entire room in that event. He said it has been circulated to every department for a 30 day review and there were no major concerns and they have all signed off on it.

Comm. Suenram shared his concerns with safety and wanted to make sure there were safety precaution measures in place, because this is the first project like this to come before the Planning Commission. He referenced the setback with there being a volatile compound onsite and he has an issue with there not being any fire suppression system in place and because of the chemicals onsite, he wanted to know what the risks are and asked if it would be prudent to have something in place for that.

Mr. Cummings said he has employed a mechanical and structural engineer for this project. He said they came up with the air evacuation system to appease fire concerns. He noted that a majority of the extraction is set further back from Soda Bay Road.

Comm. Suenram asked about residences on the neighboring property and asked what the distance was to these residences.

Mr. Turner said the distance is at least 100 feet.

There was further discussion on the closed loop system, containment area, safety/hazardous issues from alcohol burning, Type 6 & 7 training for volatile materials, concerns with not enough information on storage and the extraction process. There was also discussion on how this process will be done and an evacuation plan for safety when ethanol vapors are present.

Comm. Suenram noted that he would like to go through the management plan on this project, before he makes any decision on this, because of safety issues.

Mr. Cummings said that the state has required them to submit security waste removal and transportation. He said he has submitted an operations manual in May 2019, which has been available this entire time.

Comm. Malley said the state cannot envision the problems on the local level and his concerns are with a problem arising and an explosion happening in an area as close to Lakeport.

Mr. Cummings said he is still open to making some changes and this layout is subject to change with the reliance on 3<sup>rd</sup> party manufactured equipment and a Mechanical Engineer planning the room.

Comm. Suenram asked if there was a state regulating agency and if they have a state certified inspector certified for this equipment to certify that everything is connected properly.

Mr. Cummings said that they are on review and will do a site visit upon the issuance of a license.

Comm. Hess said what he is hearing from his colleagues is that the transport of used material from the storage area to the pickup area, is what needs to be addressed.

Mr. Cummings said it is a very simple fix.

Comm. Suenram spoke to the area evacuation system and felt it should include everywhere where there is ethanol vapors present.

Mr. Cummings said that is absolutely reasonable.

Comm. Brown said all of his concerns have been addressed.

#### **9:43 a.m. Open Public Hearing**

Patricia Silvia, resident across the street from the project site, asked why the other neighbors did not get a notice for this hearing. She asked if this would be a seasonable operation, because the odors bother her. She also had concerns with her property value and how close this operation was to the creek.

Mr. Cummings said that it will be ongoing all year around.

Mr. Turner said that notifications are given to people within 725 feet within the project sites boundaries.

Claude Brown, Westgate Petroleum and resident of Hidden Valley Lake, explained that Mr. Cummings is using is a food grade ethanol and it is not what they put in gasoline. He said there is a risk in everything and he does what Environmental Health and the Fire Department tells him to do and they are charged with the responsibility of educating the business people. He said he will provide the Commission with any further information about the supplier.

**9:56 a.m. Closed Public Hearing**

Comm. Malley asked what are the next steps.

Mr. Turner said if approved, there is an appeal period and then they will go through the building permit process and review all the conditions of approval. He said staff feels that they have reviewed everything that was required in the ordinance.

Comm. Malley asked Mr. Cummings if he was onboard with all of the conditions that staff has proposed.

Mr. Cummings said he was.

Comm. Suenram said he would like to see if their concerns could be addressed concerning the work flow and the rooms and make sure the safety precautions are in place. He said he was leaning towards a continuance, but if everyone else was ok with where they are and the Planning Department can address better access from the storage area to the loading area.

Mr. Cummings said that he can submit to the Planning Department new drawings within a day.

Mr. Turner said a condition can be added that the site plan can be reconfigured to whatever way the Commission would like it.

Comm. Hess wanted the applicant to know that there are more things that the Commission would like to see done internally.

Mr. Cummings said if that is the condition of approval that is an easy fix.

Comm. Suenram asked if the applicant planned on processing hemp at this site.

Mr. Cummings said he did not want to go through another round of licensing and did not plan on processing hemp at this site. He said their primary business is in cannabis.

Comm. Malley asked if he anticipated the need for more alcohol storage onsite.

Mr. Cummings said yes, pending business. He said he is required to sign an affidavit with Environmental Health if he exceeds the 55 gallons. He said they will do inspections and he will be transparent about what is being held there.

Comm. Malley asked how much alcohol he anticipated going through daily or weekly.

Mr. Cummings said it was hard determine, but a few multiples of the 55 gallons, if it goes according to plan.

Comm. Malley said he was ready to make a motion.

Comm. Malley moved, 2<sup>nd</sup> by Comm. Brown that the Planning Commission find that the Use Permit, UP 19-14 applied by Ophira Processing, LLC on property located at 109 Soda Bay Road, Lakeport, CA 95453 further described as APN: 008-019-60 is exempt from CEQA because it falls within Categorical Exemption Class 1 set forth in the Staff Report dated September 23, 2019 with any changes that were discussed today.

**Categorical Exemption 4 Ayes 0 Noes 1 Absent (Comm. Price)**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Brown that the Planning Commission find that the Use Permit, UP 19-14 applied by Ophira Processing, LLC on property located at 109 Soda Bay Road, Lakeport, CA 95453 further described as APN: 008-019-60 does meet the requirements of Section 51.4 and Section 27(av) of the Lake County Zoning Ordinance and grant the Major Use Permit subject to the conditions and with the findings listed in the Staff Report dated September 23, 2019 with any changes that were discussed today.

**Major Use Permit 4 Ayes 0 Noes 1 Absent (Comm. Price)**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Brown that the Planning Commission find that the Variance 19-04 applied by Ophira Processing, LLC on property located at 109 Soda Bay Road, Lakeport, CA 95453 further described as APN: 008-019-60 meets the requirements in Article 52 of the Lake County Zoning Ordinance subject to the conditions and with the findings listed in the Staff Report dated September 23, 2019 with any changes that were discussed today.

**Variance 3 Ayes 1 No ( Comm. Suenram) 1 Absent (Comm. Price)**

- For further details, discussion and public comments on the above items from the above Planning Commission Hearing, please go to the following link: <https://countyoflake.com/calendar.aspx>

**10:07 a.m. Break**

**10:18 a.m. Back to order**

**10:18 a.m. Public Hearing on consideration of a Major Use Permit (UP 19-09). The project applicant is VALLEY OAKS LAND DEVELOPMENT proposing a Major Use Permit for a new 18,000 sq. ft. grocery store (Grocery Outlet) and new access road. The project is located at 18196 & 18426 S. State Highway 29 and 18765 Hartmann Rd., Hidden Valley, CA and further described as APNs 014-260-51, 014-260-24 and 014-260-36. Environmental Evaluation: Previously approved EIR and Addendum. (Byron Turner)**

Comm. Hess disclosed that he is friends with Fletcher Thornton and Ken Porter and they have discussed the project a number of times.

Byron Turner, Principal Planner, provided background information and a power point presentation of the project application. He said that the applicant has requested changes to the following conditions:

- #18 – To the maximum extent feasible, methods other than burning shall be used to minimize air quality impacts
- #23-#25 – These are general landscaping conditions that do not apply to the specific project site.
- #26 – Within Valley oaks village, there shall be a fifty (50) foot wide landscape/open space easement along the property line adjacent to Hartmann Road from Valley Oaks Boulevard to Parcel G.
- Proposed: The applicant is requesting the setback be reduced to 7 to 10 feet, due to the loss of land provided to Caltrans for the roundabout.

Mr. Turner went on to say that because these conditions are addressing the entire site, staff is not recommending changing them at this time, because they are dealing with one specific location and that will be landscaped appropriately. He addressed additional requested changes to conditions:

- #33-#36 – Conditions relating to signs, including the prohibition of billboards and signs visible from Highway 29.
- Proposed: The applicant is requesting that all signage be subject to Lake County Zoning Ordinance Section 25.
- Analysis: Staff does not support changing the Conditions of Approval with regard to billboards or signage on property deemed Open Space. The requirement that “Commercial freestanding or commercial wall signs that are visible from Highway 29 are prohibited” may make it difficult for the applicant to find tenants in the Commercial property, if signage is not visible from Highway 29.

Mr. Turner said that they have added some additional conditions:

- #51 – Pursuant to the Traffic Analysis prepared by W-Trans, a left-turn lane is required for any further development beyond what is authorized with this permit.
- #52 – MS4 (stormwater permit)

Comm. Malley asked about the roundabout and the distance between Hwy. 29 exit to the entrance of the new roadway and how far it is.

Ken Porter, KIMCO Development Representative, said it was about 1/10<sup>th</sup> of a mile. He said the new proposed left turn pocket is 528 feet long and fits within the County right-of-way. He said they did an additional traffic study to analyze the road and they call it; Oak Meadow Drive and to analyze Oak Meadow Drive coming into Hartmann Road, in that traffic study they recommended any additional building a left hand lane would be required.

Comm. Malley said his concerns are for during times specific, and people coming home from work. He said they will get to that point and get something at the store, and there is a potential of stacking up five or six cars making a left turn. He said that would be his concern in going to a left turn pocket.

Comm. Hess also shared the same concerns and said why not put in that left turn pocket. He also shared his concerns with setbacks. He said the ground has already been prepared, but you are now asking for a variance, which he felt was putting the cart before the horse.

Mr. Porter provided pictures of a site plan and elevations to the Commission. He said that they stopped preparing the land when they were told they needed a permit.

#### **10:42 a.m. Opened Public Hearing**

Claude Brown, Hidden Valley Lake resident, spoke to shopping outside the County, because of the lack of businesses similar to this. He said it is time to work something out and get this project moving relatively soon for the community and the County. He thought it was a viable project and was in support of it.

#### **10:44 a.m. Closed Public Hearing**

Comm. Hess said he was in support of this project.

Comm. Malley asked if the Middletown Area Plan extended out to Hidden Valley.

Mr. Turner said the Area Plan does cover Hidden Valley and there is a specific section of the plan that refers Coyote Valley. He said that is extensively covered with all the conditions of approval for the entire Valley Oaks Project.

Comm. Malley asked if what is in front of us will satisfy the Area Plan as far as the aesthetics.

Mr. Turner said for that portion of the Area Plan, yes. He said the way that Specific Plan of Development was written, we are back here whenever they try to develop something. He said this is the first specific sub-plan of development and each subsequent phase will be brought here depending if it's a minor a major use permit.

Fletcher Thornton thanked the County Planning and Building department and looked forward to working with them in the future and personally thanked Mr. Turner and Ms. DelValle for their support.

Comm. Brown asked Mr. Porter if there was a cultural monitor involved in the recent earth moving that was not permitted.

Mr. Porter said that they were involved.

Comm. Hess said the rules are that the Chair cannot make the motion if the project is in their district, but he is giving up the chair for this motion, because he supports this project and would like to make the motion, because it is in District I.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission certify that the Addendum to the Environmental Impact Report prepared by the Planning Division for the Valley Oaks project Phase 1 has been completed in compliance with CEQA and Section 15164 of the State CEQA Guidelines.

**Addendum to EIR 4 Ayes 0 Noes 1 Absent (Comm. Price)**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 19-09) applied for by Kimco Inc. on property located at Highway 29 and Hartmann Road, Hidden Valley, Middletown 18196 and 18426 South State Highway, Middletown, and 18765 Hartmann Rd., APN 014-260-51, 14-260-24, 14-260-36, does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and that the Planning Commission has reviewed and considered the EIR and Addendum which was adopted for this project and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated October 10, 2019.

**Use Permit Approval 4 Ayes 0 Noes 1 Absent (Comm. Price)**

Comm. Suenram noted that there is a seven (7) calendar day appeal period provided by the Lake County Zoning Ordinance.

- For further details, discussion and public comments on the above items from the above Planning Commission Hearing, please go to the following link: <https://countyoflake.com/calendar.aspx>

**STAFF UPDATE**

Michalyn DelValle, Community Development Director, updated the Commission on the vacancies in the department and that they have hired two new planners. She announced that a new Chief Building Official has started this week and his name is David Casian. She also said that the remodel of the office is ongoing and should be completed within the next couple of weeks.

**ADJOURNED 10:53 a.m.**

John Hess, Chair  
Lake County Planning Commission

Respectfully Submitted,

By: \_\_\_\_\_  
Danae LoDolce  
Office Assistant III