



LAKE COUNTY PLANNING COMMISSION
REGULARLY SCHEDULED MEETING

MINUTES

JUNE 23, 2022

Commission Members Present:

A - John Hess, District I
P - Everardo Chavez, District II
A - Batsulwin Brown, District III
P – Christine Price, District IV
P – Maile Field, District V

Staff Members Present:

Mary Darby, CDD Director
Nicole Johnson, Deputy County Counsel
Jim Feenan, Office Assistant III
Andrew Amelung, Cannabis Manager

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

9:00 a.m. **Pledge of Allegiance – All**

9:00 a.m. **Consideration of the adoption of Assembly Bill 361 Findings Authorizing Teleconference Meetings during a State of Emergency.**

On the motion from **Commissioner Chavez**, that the Planning Commission continue Teleconference Meetings during the State of Emergency. Second by **Commissioner Field**.

The motion was carried by the following vote:

3 Ayes 0 Noes – Motion Carried

9:01 a.m. - **Approval of Minutes from the May 12, 2022 and May 26, 2022 Planning Commission Hearing.**

On the motion from **Commissioner Field** that the Planning Commission approved the minutes from the **May 12, 2022 & May 26, 2022**. Planning Commission Hearing. Second by **Commissioner Chavez**.

The motion was carried by the following vote:

3 Ayes 0 Noes – Motion Carried

9:03 a.m. - **Citizens Input**

Any person may speak for three minutes about any subject of concern, provided that it is within the jurisdiction of the Planning Commission, and is not already on today's agenda or scheduled for a future public hearing. Total time allotted for Citizen's Input shall be fifteen minutes. Speakers are requested to complete a simple form (giving name, address and subject) available in the Community Development Department office, prior to 9:00. Agendas of public meetings and supporting documents are available for public inspection in the Lake County Courthouse, Community Development Department, Third Floor, 255 North Forbes Street, Lakeport, California

Request for Disability-Related Modification or Accommodation: A request for a disability-related modification or accommodation necessary to participate in the Planning

Commission meetings should be made in writing to the Planning Commission Assistant at least 48 hours prior to the meeting.

No other individuals stepped forward or raised their hand in the Zoom Room. Citizen input is closed.

9:05 a.m. – (Continued from April 28, 2022) (Request for Continuance to July 28, 2022). Public Hearing on Consideration of Major Use Permit (UP 19-42) and a Mitigated Negative Declaration (19-61). The applicant, BOTTLE ROCK FARMS FJA TRUST is proposing two (2) acres of medicinal commercial cannabis canopy area and two (2) acres of adult-use commercial cannabis canopy, for a total of four (4) acres of outdoor canopy area. The project includes, one (1) 4,750 square foot processing building and a 1,000 square foot immature plant area. The project is located at 9900 and 10030 Bottle Rock Road, Kelseyville, CA; and further described as APNs: 011-057-22 and 011-057-23.

Upon motion by seconded by **Commission Chavez**, second by **Commissioner Field**, and carried by a voice vote of (3-0), IT IS ORDERED, that the matter be continued to July 28, 2022 at 9:05 a.m. Planning Commission Meeting.

3 Ayes 0 Noes – Motion Carried

9:10 a.m. Item #2 – Public Hearing on Consideration of Major Use Permit (UP 20-47) and that a determination has been made that this project required a Mitigated Negative Declaration to consider the adoption of an Initial Study IS 20-59. The applicant, EMERALD MOUNTAIN FARMS, INC. (NORMAN GRIMM) is proposing two (2) A-Type 3 outdoor cultivation licenses with a total canopy area of 68,562 square feet, and A-Type 13 Distributor Transport Only, Self-Distribution. The proposed project is located at 1850 Ogulin Canyon Road, Clearlake, CA 95422; further described as APN's: 010-053-03 and 010-011-01.

Jim Feenan – Legal notice has been determined on this matter.

Byron Turner - presented the information via Power Point which included the scope, site description, project analysis and recommendations.

9:17 a.m. Open Public Comment

Chambers

Norman Grimm – addressed the Commission and thanked them for its time to hear this matter and stated it has been an amazing journey to reach this point.

Danielle Fountinou – introduced herself to the Commission. Thanked the Commission for its time.

Trey Sherrell – clarified that most of the cultivation areas are located in the frontal Clearlake Burns Valley watershed however the ground water well that supplies water to the site is located in the Grizzly Creek north fork Cache Creek watershed, the project site sits along the watershed boundary.

Dave Hughes – stated that he represents 40 neighbors who want to protect their water. He stated he had addressed the Commission on a previous date. He handed out documents to the Commission and staff. He discussed the water usage issues with the Commission. He discussed the monitoring of the Burns Valley watershed. He emphasized the pumping issue. He has also contacted a hydrologist regarding the water pumping. He pointed out the vineyard on the map provided to the Commission. He read from the statement of facts from the appeal that was heard by the Board of Supervisors. He pointed out items listed on the hydrology report.

Commissioner Field – asked Mr. Hughes about the map that was handed to them.

Andrew Amelung – stated there is not presently a grow on this site.

Trey Sherrell – addressed the amount of pending projects. He read from the Lake County ground water management plan. He mentioned the condition of approval regarding well monitoring. There was a discussion regarding depth of the well with the Commission.

Dave Hughes – noted a letter that he had received. He read from the hydrology report. He discussed the map and how many parcels were shown. He stated if it is out of the Burn Valley watershed than it does not concern them. He thinks it should be studied more closely.

Commissioner Field – asked Mr. Hughes if he was requesting a continuance.

Dave Hughes – stated that if a continuance would help than it would like to have more discussion on this project.

Randy Wilk – stated that there is a 12 year mega drought occurring. He feels that this is a new precedent that needs to be taken into consideration. He stated that we need water from all viable sources. He mentioned water usage for planting.

Commissioner Chavez – asked the applicant a question regarding water usage. He discussed the outdoor grow procedure.

Trey Sherrell – addressed the water usage and how the cultivation area will be reduced.

Olga Martin Steel – asked a question regarding how many projects are pending and is there a list of pending projects.

Andrew Amelung– stated there is a spread sheet show the pending 128 projects that has been shared with the public.

Zoom Room

Richard Baron– stated it is a very modest cannabis grow under 2 acres. He feels it will not impact anyone. Stated it was very well laid out. He was very impressed.

9:55 a.m. Closed Public Comment

Andrew Amelung – made some clarifications regarding the project regarding the conditions in the staff report. He stated the project had been scaled back. He stated there will be ground disturbance. There will be a monitoring of ground disturbance.

Commissioner Chavez – stated he does not believe that the item needs to be continued. He also stated that cumulative impact information will help the Commission in the future.

Commissioner Field – stated she feels that she cannot deny this project.

Commissioner Price – She feels that cumulative impacts are something that will be felt in the future. She stated she wants to look at each project case by case. She stated that communication with neighbors is important. She stated there is common ground and it can work. She feels that they could be opening a flood gate.

Commissioner Field – stated that the Board of Supervisors makes the ordinances and does not feel they can ask more from a property owner. She feels they have been cooperative. She stated that these are difficult decisions.

Nicole Johnson – she stated the Commission does consider the impacts of existing uses in the area, and it is not necessarily a requirement that the uses you consider to be legal uses, you can look at the impact to the particular resource that is being evaluated and whether or not to weigh that in relation to the findings that you have to make.

Mitigated Negative Declaration:

On the motion from **Commissioner Chavez** that the Planning Commission find that the **Mitigated Negative Declaration (IS 20-54)** prepared for **Emerald Mountain Farms, Inc.** for the property located at **1850 Ogulin Canyon Road, Clear Lake**, further described as **APNs: 010-053-03 and 010-011-01** will not have a significant effect on the environment and therefore a determination of a Mitigated Negative Declaration with the accompanying **Mitigation Monitoring and Reporting Program (MMRP)** shall be approved with the findings listed in the staff report dated **June 23, 2022**. Seconded by **Commissioner Field**. The motion was carried by the following vote:

3 Ayes 0 Noes – Motion Carried

Major Use Permit (UP 20-47)

On the motion from **Commissioner Chavez** that the Planning Commission find that **Major Use Permit (UP 20-47)** applied for by **Emerald Mountain Farms, Inc.** for the property located at **1850 Ogulin Canyon Road, Clear Lake**, further described as **APNs: 010-053-03 and 010-011-01** 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 with the amended site plan and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated **June 23, 2022**. Seconded by **Commissioner Field**. The motion was carried by the following vote.

3 Ayes 0 Noes – 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 fees must be submitted prior to 5:00 p.m. on or before the seventh calendar day following the Commission's final determination.*

10:05 a.m. Item #3 - Public Hearing on Consideration of Major Use Permit (UP 21-06) and that a determination has been made that this project required a Mitigated Negative Declaration to consider the adoption of an and to adoption of an Initial Study (IS 21-06) The applicant, **AKWAABA, LLC** is proposing a major use permit two (2) A-Type 3 “Medium Outdoor” licenses with a total combined outdoor canopy area of 73,560 square feet , and an A-Type 2B “Small Mixed-Light” license with a total combined mixed-light canopy area of 9,720 square feet. The project is located at 11795 North Drive, Clearlake Park, CA; further described as APN’s: 010-019-15 and 010-019-10.

Jim Feenan – Legal notice has been determined on this matter.

Byron Turner - presented the information via Power Point which included the scope, site description, project analysis and recommendations.

Commissioner Chavez – when was the barn built.

Trey Sherill – stated the barn was built in 2021.

Commissioner Chavez – asked about the survey issue.

Andrew Amelung – addressed the fence line issue and read part of the survey report.

Nicole Johnson – wanted staff to address the phasing of the project.

Byron Turner – stated the project was in phases not stages.

Trey Sherill – stated that they have hired a surveyor.

Commissioner Field – wanted to know if the CEQA issue was resolved.

Andrew Amelung – he stated that the issue was resolved.

10:20 a.m. Open Public Comment

Commissioner Chavez – asked about the tree removal

Trey Sherill – addressed tree removal question.

Commissioner Field – has some issues with the project.

Nicole Johnson – discussed the options of the project with the Commission.

Commission asked staff how long of continuance they would need to find out regarding the water sources.

10:25 a.m. Closed Public Comment

Break 10:31 a.m. – 10:41 a.m.

Nicole Johnson – noted that it the Commission duty to take in an action and make a decision on the action.

Commissioner Chavez and Commissioner Price – stated they support a continuance on this item.

Upon motion by seconded by **Commission Chavez**, second by **Commissioner Field** and carried by a voice vote of (3-0), IT IS ORDERED, that the matter be continued to July 28, 2022 at 9:10 a.m. Planning Commission Meeting.

3 Ayes 0 Noes – Motion Carried

10:38 a.m. Item #4 - Public Hearing on Consideration of Major Use Permit (UP 21-14) and that a determination has been made that this project required a Mitigated Negative Declaration to consider the adoption of an Initial Study (IS 21-15). The applicant, MONTE CRISTO VINEYARDS, LLC is requesting a major use permit for twenty-two (22) A-Type 3 “Medium Outdoor” licenses, with a combined outdoor canopy area of 958,320 square feet. The project is located at 11230 and 11250 Cerrito Drive; Clearlake Oaks, CA 95423; further described as APN’s: 006-007-17, 006-007-23, and 006-007-30.

Jim Feenan – Legal notice has been determined on this matter.

Byron Turner - presented the information via Power Point which included the scope, site description, project analysis and recommendations.

Commissioner Chavez – asked if this project was approved for early activation.

Andrew Amelung – stated it was not included in early activation.

10:57 a.m. Open Public Comment

Chambers

Terry Yellitz – stated he is opposed to the project. He addressed the break-ins on the vineyard. He is located within 100 feet of the entrance to the vineyard and was not notified of any request for permits. He addressed the noise and traffic. He stated he believes there are 10 employees who work on the property. There is no pavement after 10 feet from the entrance and it is a very steep incline. He addressed the dust issues. He stated that they do not water the road or the hill to keep the dust to a minimum. He addressed the semi-truck issue on the roads up to the vineyards between 1:30 a.m. and 5:30 am.

He addressed the water use issue on a 20 acre grow farm. He addressed collapsing aquifers from digging the wells deeper and deeper. He address other areas of California and Mexico City where the water tables were sinking. He address the egress and aggress issues that create safety issues for the children during school hours. He addressed the fire safety issue and what happens if the road access gets blocked. He stated that there are 20 to 30 semi-trucks a week that use the road to the vineyard.

Jacqueline Dharmapalan – gave a brief overview of her family life and family business. She discusses family farming practices and life. She discussed her tireless work on trying to keep her property safe from fires and how she has worked with local agencies to make her farm safe from fire disasters. She stated she believes in doing the right thing for her neighbors. She stated that she feels they can follow the county ordinances and safely grow the cannabis crop and it will have a minimum impact the neighbors. She stated that the parcel where they are growing has been purposely placed in the area farthest away from all the neighbors. Her personal priority is to be conscious of the environment and our community. She stated her intention has always been to practice ethical farming. She asked the Commission to consider the permit today.

Trey Sherill – stated they are applying for a commercial cannabis license. He stated there are 16.7 employees on site for harvesting and will increase to 18.4 with the cannabis addition. He stated it is a 450 acre project. He stated they will have to remove 40 acres of vineyard in order to plant their cannabis crops. He believes that there will be a reduction of water usage.

Commissioner Chavez – asked how many acres will be removed.

Randy Wilk – stated he attended the meeting today to represent his neighbors. He stated it is very hard to get to the meetings to voice an opinion. He asked the Commission if they received the petition. He stated the project affects the spear of influence. He addressed the traffic congestion on a narrow road. He showed the Commission a picture of a sign that says semi-trucks should not use the road. He addressed the water usage for this project. He addressed the wild fire issue. He addressed the notice of intent that issued regarding this project and the dates of public review. He addressed the use of marijuana and cannabis language in the public notice. He stated the County has not addressed the road issues. He stated there is ambiguous language regarding the time of operation. He addressed heritage cultural report. He feels there should be a traffic study done.

Jane Thompson – she is located 400 feet from the property. She stated issues with the roads in the area. She discussed the initial study report. She addressed the pond water usage. She discussed the traffic on the road and how the workers do not respect the law and speed and through trash out their windows. She asked the Commission to please deny the project.

Olga Martin Steele – she stated she was a Planning Commission at one point. She discussed the impacts on the ground water. She stated there should be an EIR done on this project. She feels that there is not enough information to understand the full project. She did attend the site visit. She says it is not personal against the applicant. She wants to urge the Commission to deny the project. The staff report does not address all the wells in the area. She stated that it may be a fractured rock aquifer. She feels that the hydrology report should be done by an independent hydrologist.

Johas Jahobwitz – stated he has lived near the property for 40 years. He stated they are not good neighbors. He stated he does not support the project.

Trey Sherill – he addressed the wild fire issue. He compared commercial use to agricultural use. He addressed the amount of employees that would be present during the harvest season. He stated the cannabis harvest would be much smaller than the grape harvest. He stated there would be 88 acres of vineyard to harvest compared to 22 acres of cannabis. He agreed that EIR's are not necessary for a project of this scale. He discussed the economic issues related to cannabis.

Olga Martin Steele – she stated that everyone is entitled to clean drinking water. There is no mitigation measure when a family's well runs dry.

Shane Klaser – stated he has lived next to the applicant for 40 years and supports the project. He stated that they are diversifying by planting a cannabis farm. He stated he does not feel the dust and dirt will increase due to the fact it is a commercial operation. He stated that there will be the same amount of water usage. He addressed the fact that the vineyard created a fire break during the 2018 fire.

Randy Wilk – he address the egress for this project. He addressed the road access and issues with the road. He addressed the child safety. He addressed the petition that was signed by the public. He addressed the location of the school. He addressed the hydrology report.

Olga Martin Steele – she addressed luval versus fractured aquifer. She stated the issue is data, data, data.

Jonathan Dharmapalan – he thank everyone for the effort to get the project before the Commission. He stated this is a big project. He addressed the concerns regarding the project. He stated he is asking communication from the neighbors to help enforce the law. He wants everyone to reach out to them and help them meet the standards.

Randy Wilk – he discussed the recent fires. He stated the property value would suffer and the seller would have to put a disclosure on the property if they would put their property up for sale. He address Mendocino & Sonoma County on how the cannabis grows are limited in size. He wanted to know where the county was coming up with these large cannabis farm size limits. He felt Clearlake Oaks was being picked on with 13 of 16 cannabis farms. He addressed the flammability of the cannabis plants when there is a fire.

Zoom Room

Chuck Lamb – he address the fact the staff has recommended a Mitigated Negative Declaration for this project. He addressed the conditions of approval. He addressed the roads and conditions that are present on the road up to the vineyard. He addressed children safety regarding the road. He stated the road is used up to 24 hours a day. He addressed the fact the wildfire box was not checked on the staff report. He stated they have not reached out to the neighbors or their community. He requests the Commission denied this use permit.

Jennifer Smith – she stated she hears the neighbors' concerns lode and clear. She stated they all want to be good neighbors. She stated there are no significant changes in conditions when converting from a vineyard to cannabis, it is still a plant. She feels that this project should move forward and be approved. She has meet with the applicant and feels that their cannabis grow is in line with what the county is requiring. She stated you cannot see their fence line or grapes from the water.

Donna Mickiewicz – asked if any cannabis has been grown on this property. She stated she thinks there needs to be an environmental impact report done on this project.

Richard Darby – stated he was impressed with the vineyard. He stated the farm has been there for many years. He thinks that this project will benefit the community. He would recommend approval of this project.

Jaime Arroyo – stated he has been living there since 2016. He stated the community is super friendly and they love living there. He agrees with the child safety issues. He asked the Commission what they are going to approve. He asked the applicant why they want to change it from a beautiful vineyard to a cannabis farm. He would ask the Commission to deny this project.

12:17 p.m. Closed Public Comment

Commissioner Field – she noted the information brought up about the hydrologist study. She addressed the fact that the applicant is hiring the hydrologist could be a conflict of interest. She stated that the Commission could be setting a precedence regarding destroying Ag lands.

Commissioner Chavez – stated he has concerns about water usage and traffic. He also addressed the issue that cannabis plant excrete a product that could affect the grape vineyards. He asked the applicant are they worried about this happening to their crop. He addressed the water usage with the applicant.

Jonathan Dharmapalan – stated that cannabis is a very sensitive product and it is regulated. He addressed pesticides and how they affect the cannabis crops. He stated they do not use Round Up pesticides on their vineyards.

Discussion occurred between the **Commissioner Chavez and Mr. Dharmapalan** regarding water usage and traffic road conditions.

Commissioner Field – She stated that this is not who you are, this is about land use planning. She stated the permit goes with the land. She agrees with Mr. Jaime Arroyo's statement regarding changing this beautiful vineyard. She addressed her concerns about the health, safety and welfare of the neighbors and overwhelming opposition to the project. She address the egress issue, no cultural resources response, day care within a 1,000 feet.

Jonathan Dharmapalan – he addressed the Lake County Ordinance. He gave an explanation of why they have decided to grow cannabis on his property. He wanted to diversify his business.

Commissioner Chavez – He stated he understands the impacts of the project. He discussed the use of vehicles. He stated he is not opposed to the project.

Byron Turner – addressed some of the issues regarding the environmental review of the project regarding the distance to the daycare center, biological report and the archaeological report. He addressed the noticing requirements and how it is based off the Assessors latest roll.

Nicole Johnson – wanted clarification if there was a motion on the floor.

Commissioner Field – asked for clarification on the response from the Mannitol Tribe.

Andrew Amelung – stated that they did respond and had no concerns on the project. He stated that when they do the environmental review they start with baseline conditions. He discussed the issue that were brought up by the public regarding traffic, crime, wildfires, notifications, wells, hydrologists issues and operation hours.

Nicole Johnson – stated that if Commissioner Price wanted to make a motion, she could pass the gavel to another board member and make the motion.

Commissioner Price – addressed the efforts on this projects.

Commissioner Chavez – addressed that is tough when they do not have a full Commission.

Nicole Johnson – restated that the Commission has the same options as used in the previous agenda item. They can approve, deny or continue the matter. If there is an abstention than the project would automatically be denied and automatically be appealed to the Board of Supervisors.

Commissioner Chavez and Commissioner Price – stated they support a continuance on this item.

Upon motion by seconded by **Commission Chavez**, second by **Commissioner Price** and carried by a voice vote of (2-0), IT IS ORDERED, that the matter be continued to July 28, 2022 at 9:15 a.m. Planning Commission Meeting. The motion **FAILED** by the following vote

2 Ayes 1 Noes (Field) – Motion Does Not Carry

Mitigated Negative Declaration:

On the motion from **Commissioner Chavez**, that the Planning Commission find that the **Major Use Permit (UP 21-14)** applied for by **Monte Cristo Vineyards, LLC** on property located at **12250 Cerrito Drive, Clearlake Oaks**, further described as **APN: 006-007-17, -23, and -30** 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 **June 23, 2022**. Seconded by **Commissioner Price**. The motion **FAILED** by the following vote:

2 Ayes 1 Noes (Field) – Motion Does Not Carry

The Planning Commission recommends this project UP 21-14 (Monte Cristo Vineyards LLC, be moved to the Board of Supervisors due to the fact the Planning Commission could not reach a passing quorum vote. It is order that the Staff provide a summary of proceedings in the staff report to the Board of Supervisors.

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.

12:47 p.m. UNTIMED STAFF UPDATE

Nicole Johnson – stated that she will not be available for the July 14, 2022 Planning Commission meeting.

Commissioner Price – asked if there would a replacement for the meeting.

Commissioner Field – asked Ms. Johnson if she would prefer the meeting not be held.

Nicole Johnson – stated that the meeting should go forward and there is no legal requirement that counsel be present.

Adjournment at 12:48 p.m.

Respectfully Submitted:

Christina Price, Chair
Lake County Planning Commission

By: _____

James (Jim) Feenan,
Planning Commission Assistant