

**LAKE COUNTY PLANNING COMMISSION**

**MINUTES**

**REGULAR MEETING**

**November 8, 2018**

**Commission Members**

**P John Hess, District I**  
**P Bob Malley, District II**  
**P Eddie Crandall, District III**  
**P Dan Camacho, District IV**  
**P Daniel Suenram, District V**

**Staff Members**

**P Michalyn DelValle, Director**  
**P Byron Turner, Principal Planner**  
**P Shanda Harry, Deputy County Counsel**  
**P Danae Bowen, Office Assistant III**

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**9:06 a.m.     CALL TO ORDER**

Moment of silence for the thirteen victims in Thousand Oaks, California and for the Police Officer who gave his life in the line of duty.

Pledge of Allegiance was led by Eddie Crandell.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley to approve the minutes from October 11, 2018.

**CITIZENS INPUT**

Richard Derum, Realtor, spoke to the Cannabis Application, which states you need to be enrolled in the Water Quality Control Board prior to “April 19, 2018.” He said that he brought this error on the application up to the Board of Supervisors a month ago and they said that they would take care of correcting the date. He noted that this date change is important, so that future buyers of properties can feel assured that they have the ability to grow cannabis in Lake County. He asked if the Planning Commission could take some action on this discrepancy in the application.

**9:09 a.m. Public Hearing on consideration of a General Plan Conformity Report (GPC 18-06). The project applicant is LAKE COUNTY SOCIAL SERVICES proposing to place a 40’x8’ cargo container on-site for the storage of disaster supplies. The project is located at 15975 Anderson Ranch Parkway, Lower Lake and further described as APN 012-038-11. Environmental Evaluation: Categorical Exemption. (Daniel Houck)**

Daniel Houck, Assistant Planner, provided background information and a power point presentation on the project application. He pointed out a correction in the staff report page 3; V. Recommendation A, which reads: “*Find that the Parks Maintenance Facility rebuild is categorically exempt from CEQA as a Class 3 exemption*” and should read: “***Find that the Storage Maintenance Facility...***”

Comm. Malley said in the past the Commission has discussed storage containers and the use of a storage container that was allowed near the Drive-In Theater. He said there were stipulations on sidings and appearance. He asked if this was a temporary use or will this be permanent.

Mr. Houck said that this container is proposed to be permanent.

Michalyn DelValle, Community Development Director, explained that General Plan Conformity Reports for the County itself and Social Services are exempt from the

Zoning Ordinance. She said what Comm. Malley is speaking of are the regulations in the Zoning Ordinance, which require storage containers to have siding to look like a shed.

Comm. Malley said that he did not have a problem with it, the location is good and it is to the North is Anderson Marsh State Park and they cannot see that side of the building from anywhere in the park.

**9:18 a.m.      Opened Public Hearing**

No one present wished to speak.

**9:18 a.m.      Closed Public Hearing**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find this Storage Facility is exempt from CEQA because it falls within Categorical Exemption Class 3.

**Categorical Exemption Approval 5 Ayes 0 Noes**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission report that the placement of a cargo container for storage of disaster supplies as proposed by County of Lake Social Services is in conformity with the Lake County General Plan with the findings listed in the staff report dated October 26, 2018 and as amended today.

**General Plan of Conformity 5 Ayes 0 Noes**

**9:20a.m. Public Hearing on consideration of a Lakebed Encroachment Permit. The project applicant is LEONARD TUCKER proposing construction of a pier, gangway, dock, and boat lift with 10 pilings. The project is located at 9729 Crestview Drive, Clearlake and further described as APN 036-421-30. Environmental Evaluation: Negative Declaration based on Initial Study. (Peggy Barthel)**

Peggy Barthel, Associate Resource Planner, provided background information and a power point presentation on the project application.

**9:23 a.m.      Opened Public Hearing**

No one present wished to speak.

**9:23 a.m.      Closed Public Hearing**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Hess that the Planning Commission find on the basis of the Initial Study (IS18-42) prepared by the Planning Division and the conditions of approval which have been added to the project, that the Lakebed Encroachment Permit as applied for by Leonard Tucker will not have a significant effect on the environment and therefore a negative declaration shall be issued with the findings listed in the staff report dated October 26, 2018.

**Negative Declaration 5 Ayes 0 Noes**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Hess that the Planning Commission find that the Lakebed Encroachment Permit applied for by Leonard Tucker on property located at 9729 Crestview Drive, Clearlake does meet the requirements of the Clear Lake Shoreline Ordinance and that the Planning Commission has reviewed and considered the Negative Declaration which was adopted for this project and the Lakebed Encroachment Permit be granted subject to the conditions and with the findings listed in the staff report dated October 26, 2018.

**Lakebed Encroachment Permit Approval 5 Ayes 0 Noes**

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

**9:26 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-16).The project applicant is ERIC SKLAR/LC PRIVATE RESERVE HOLDINGS, Owner is WILDERNESS POINT INVESTMENTS LLC, proposing a Commercial Cannabis Cultivation license for A-Type 2B indoor grow up to 10,000 square feet of canopy area within 3 greenhouses. The project is located at 13333 Big Canyon Road, Lower Lake and further described as APN 012-006-55. Environmental Evaluation: Categorical Exemption. (Eric Porter)**

Eric Porter, Associate Planner, provided background information and a power point presentation on the project application.

Comm. Camacho asked for verification of the location of this project application.

Mr. Porter apologized that the location is in the Cobb Area Plan and not Lower Lake, although the data base shows the Lower Lake address.

Comm. Suenram asked if it specifically says what the water is used for in their water rights and is it specifically written for the commercial operation of the resort.

Mr. Porter said he has not read the water rights and will have to defer to the applicant on those questions.

**9:39 a.m. Opened Public Hearing**

Eric Sklar, the applicant, stated that their water rights are general and do not specify resort or agriculture. He said all of that is taken place on the land for a 150 years and there is an enormous amount of water. He commented on the process of the application and complimented the staff on the ordinance and the process, which is enormously complex. He shared his concerns with tax issues and the square footage numbers that have come up, which include parking and other things. He said it was his understanding, that the cultivation tax is on the cultivation area and would like that to be reviewed. He also said he has concerns about taxes for 2018 when there has not been any cultivation in 2018 and there are no use permits yet, so his concerns are taxes on 2018 when there will not be any cultivation until 2020.

Mr. Sklar said he would either like to apply for an extension of the 30 days that they have to pay the taxes before it becomes active, for something like 90 days, while they work through this process and figure this out, so he can continue to move forward with his state permits.

Comm. Suenram asked how far the vineyard was from his property and was he was worried about spray drift going down the hill.

Mr. Sklar said that they cannot have any contamination to their crop and they have tested regularly throughout the season. He said he is worried about perterritus and powdery mildew, which can be dealt with Sulphur. He said those two things are in the air and around Lake County. He said they have found organic compounds that block the receptors and protect it. He said there is not a problem with drift of chemicals, only the natural biological agents.

Henry Blohm, Big Canyon Road resident, said he has the adjoining parcel next to the project application and he can smell the odors a quarter of a mile away. He said he was opposed to this project.

Eric Sklar said that they have an odor control plan as part of their property management, which is a telephone notification system.

Larry Rugoff, Grounds and Forest Manager for the Mountain of Attention, said he is supportive of the project and bringing good paying jobs into the area and is a direct neighbor to this project application.

Marshal Bruckner, direct neighbor to the project application, said he was in support of this project application.

**9:54 a.m. Closed Public Hearing**

Comm. Hess asked staff about the odor control plan that Mr. Sklar has with a telephone notification system in place and asked if there was something more in terms filtration for the conditions or requirements that the County could impose.

Mr. Porter said they are required to have an air quality mitigation plan with the Air Quality Board and they have proposed some mitigation measures.

Comm. Malley said this application is for a 10,000 square foot greenhouse and asked if it was a hoop arrangement.

Mr. Porter noted that staff has not seen any of the details yet and hoop houses are prohibited. He also clarified that staff has not included parking in the cultivation areas, and it only has to do with the areas within the fence for each of the four sites and any buildings that are directly related to it that may be outside the fence enclosure and that is the basis for the taxation.

Comm. Malley said he had concerns about lighting at night and if it would affect the night sky. He also shared concerns with what kind of buildings and amount of windows there are and communication between neighbors to ease their fears.

Mr. Porter said there are conditions about treatment of lighting and screening. He said they will need to submit a lighting plan and it will have to comply with darksky.org, so there are safety measures regarding lighting.

Comm. Hess responded to the applicant's concerns about the tax window and asked if it could be worked out.

Michalyn DelValle, Community Development Director, said staff has been advised that the applicant would need to speak directly to the Tax Collector and that the taxes are due as soon as the applicant has legally authorized cannabis. She said the condition states that you have thirty days to pay your taxes and if the Commission approves the project today, the taxes will have to be prorated through December 31<sup>st</sup>. She said any projects brought before the Commission as of January 1st, staff would prorate their taxes through June 30<sup>th</sup>, and any variations from that would need to be discussed with the tax collector.

Comm. Suenram agreed with Comm. Malley's comments on this project and felt there was an issue that he felt needed to be addressed, which was the duration of the permits, which are for ten years.

Ms. DelValle said it is within the Planning Commission's authority to reduce that.

Comm. Suenram said he was not comfortable approving for 10 years. He said he would like to see information on the water and what is specifically written and what the State Water Board has to say.

There was further discussion on the time limits on the permits and yearly inspections on the project sites to make sure conditions are being met and followed per use permit guidelines and the possibility of homes being built closer to the grow site.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-16) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 is exempt from CEQA because it falls within Categorical Exemption Class 4 set forth in the staff report dated September 20, 2018.

**Categorical Exemption 5 Ayes 0 Noes**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-16) applied for by Eric Sklar representing Lake County Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated September 20, 2018.

**Major Use Permit 5 Ayes 0 Noes**

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

Ms. DelValle said it was brought to her attention and wanted to state for the record that hoop houses can be permitted for commercial cultivation and they are prohibited for personal adult use.

Comm. Malley added for the record, that he would not be in favor of a building on the property with large of ambient light generated from it.

Comm. Suenram agreed with Comm. Malley.

**10:14 a.m. Break**

**10:20 a.m. Back to Order**

**10:20 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-17). The project applicant is ERIC SKLAR/LC PRIVATE RESERVE HOLDINGS, Owner is WILDERNESS POINT INVESTMENTS LLC, proposing a Commercial Cannabis Cultivation license for A-Type 3 outdoor permit to allow up to 43,560 square feet of outdoor cultivation area. The project is located at 13333 Big Canyon Drive, Lower Lake and further described as APN 012-006-55. Environmental Evaluation: Categorical Exemption. (Eric Porter)**

Eric Porter, Associate Planner, provided background information and a power point presentation on the project application.

**10:26 a.m. Opened Public Hearing**

Eric Sklar, the applicant, explained that outdoor gardens will have no lighting other than security lighting triggered by a motion detector. He said the green houses have metal and glass and are permanent structures and there are no hoop structures. He added that they will have tarp material inside the greenhouses, which can be pulled down during the day when they want a shorter day for the plants and at night if they are going to use light in the winter they will be pulled down so the light does not show outside. He said he is a big proponent of dark skies.

Henry Blohm, neighbor to the site, spoke to water sources issues and the scenic corridor with this project application.

**10:29 a.m. Closed Public Hearing**

Comm. Suenram said that he was opposed to outdoor grows that are anywhere near neighbors and odors travel well over a quarter of a mile and can be extremely nauseating for some people. He said if he were to make a motion, because this is in his District, he would be denying the motion, because he is opposed to outdoor grows.

Shanda Harry, Deputy County Counsel, said he could make the motion, however, if he wants to make the motion, it may die for lack of a second or a second motion could be made, depending on if someone else wants to make it.

Comm. Suenram said the categorical exemption and the use permit are separate motions, and his grounds for not approving be the same for the other two motions.

Ms. Harry said there could be differing motions and differing decisions on each motion. She said having the Commissioner whose district the project is in make the motion is not a requirement, it is just a courtesy, so Comm. Suenram is not required to be the one to make the motion.

Comm. Suenram said he defers and will let someone else make the motion.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-17) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 is exempt from CEQA because it falls within Categorical Exemption Class 4 set forth in the staff report dated September 20, 2018.

**Categorical Exemption 3 Ayes 2 Noes (Comm. Suenram and Comm. Camacho)**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-17) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated September 20, 2018.

**Use Permit 3 Ayes 2 Noes (Comm. Suenram & and Comm. Camacho)**

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

**10:37 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-18. The project applicant is ERIC SKLAR/LC PRIVATE RESERVE HOLDINGS, Owner is WILDERNESS POINT INVESTMENTS LLC, proposing a Commercial Cannabis Cultivation license for A-Type 2 outdoor permit to allow up to 10,000 square feet of canopy area and up to 12,900 square feet of outdoor cultivation area. The project is located at 13333 Big Canyon Drive, Lower Lake and further described as APN 012-006-55. Environmental Evaluation: Categorical Exemption. (Eric Porter)**

Eric Porter, Associate Planner, provided background information and a power point presentation on the project application.

**10:38 a.m. Opened Public Hearing**

Henry Blohm said this area is heavily populated and shared his concerns with property values diminishing, because of cannabis grows.

Comm. Malley expressed his opinions on cannabis and how he has been opposed to it over the years and fought it at every turn. He said this is the new reality and he does not like the way things have gone in California, but he has had a hand in developing this ordinance and it has been six or seven years that an ordinance has been worked on. He said he did not like it anymore than Mr. Blohm does, but understands the financial impacts to the state and the decisions that he has made were simply pragmatic in knowing that it was going to happen and for us to have as much control as to where and when it happened in our own County. He said it is out of their hands and they have done what they could do to fight it, but we lost that battle. He said it is now a law and we have to go along with it and have developed an ordinance that they think works best for our County.

#### **10:46 a.m. Closed Public Hearing**

Comm. Hess said he appreciates his colleagues' comments, but we have no choice but to implement the law.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-18) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 is exempt from CEQA because it falls within Categorical Exemption Class 4 set forth in the staff report dated September 20, 2018.

#### **Categorical Exemption 5 Ayes 0 Noes**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Use Permit (UP 18-18) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated September 20, 2018.

#### **Use Permit 4 Ayes 1 Noes (Comm. Suenram)**

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

**10:49 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-44). The project applicant is ERIC SKLAR/LC PRIVATE RESERVE HOLDINGS, Owner is WILDERNESS POINT INVESTMENTS LLC, proposing a Commercial Cannabis Cultivation license for an A-Type 2 Outdoor permit to allow up to 10,000 square feet of canopy area and up to 20,000 square feet of cultivation area. The project is located at 13333 Big Canyon Drive, Lower Lake and further described as APN 012-006-55. Environmental Evaluation: Categorical Exemption (Eric Porter)**

Eric Porter, Associate Planner, provided background information and a power point presentation on the project application. He said that staff has pointed out that the Commission be reminded that the cultivation area, which is critical to the tax base for the applicant, is misrepresented in the first paragraph of every condition, but it is accurately depicted in condition A1 and for the record, it is staffs understanding that they are given consent by the Planning Commission to amend that the conditions accurately reflect the true cultivation areas.

Comm. Malley asked if the abandoned well is filled in or as open as it looks.

#### **10:53 a.m. Opened Public Hearing**

Eric Sklar, the applicant, spoke to the well and retention pond and they will be filling in that concrete box, which was the geothermal well head that never got

built. He added that he did reach out to all of his neighbors on this project application.

**10:54 a.m. Closed Public Hearing**

Comm. Hess moved, 2<sup>nd</sup> by Comm. that the Planning Commission find that the Use Permit (UP 18-44) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 is exempt from CEQA because it falls within Categorical Exemption Class 4 set forth in the staff report dated September 20, 2018.

**Categorical Exemption 5 Ayes 0 Noes**

Comm. moved, 2<sup>nd</sup> by Comm. that the Planning Commission find that the Use Permit (UP 18-44) applied by Eric Sklar on behalf of LC Private Reserve Holdings LLC on property located at 13333 Big Canyon Road, Lower Lake further described as APN: 012-006-55 does meet the requirements of Section 51.4 of the Lake County Zoning Ordinance and the Use Permit be granted subject to the conditions and with the findings listed in the staff report dated September 20, 2018.

**Use Permit 4 Ayes 1 No 1 (Comm. Suenram)**

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

**10:56 a.m. Public Hearing on consideration of a Variance (VR 18-05) The project applicant is LIYU SHEN proposing a Variance to allow for a Type 1C indoor Cannabis Cultivation site. The project is located at 14725 Catholic Church Road, Clearlake Oaks and further described as APN 010-046-06. Environmental Evaluation: Categorical Exemption (Byron Turner)**

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

Comm. Malley disclosed he received a call from Dennis Churno who lives on Catholic Church Road who was not in favor of this project. He said this was grouped in with schools and other facilities and an addiction center. He said obviously if you have an addiction center you probably would not want it next to a marijuana grow. He said he agrees that it is not in an optimum location.

Comm. Suenram, Camacho and Hess agreed with Comm. Malley. He said the 1,000 foot delineation is there for a good reason and in this case it should not be within 300 feet of an actual recovery center.

**11:03 a.m. Opened Public Hearing**

Beverly Van Pelt, Clearlake Oaks resident, asked how many residential homes are on that side of Highway 20 where this is being proposed.

Comm. Malley said he did not know the exact amount, but there are probably about six to ten houses in that area.

Ms. Van Pelt said her main concern was the closeness to the Hilltop Recovery Center.

Liyu Shen, the applicant, had a translator to speak for her. He reviewed the site and the reasons for the Variance Application.

**11:09 a.m. Closed Public Hearing**



Comm. Suenram said that the Commission worked long and hard to get the ordinance that they have in place and he did not like to see variances issued to the ordinance, because then what would be the value of the ordinance if they approved variances time and time again.

Comm. Hess said he appreciates the applicant's comments and there is no doubt that they are good neighbors. He asked if a medical grow would be allowed to continue uninterrupted since it was already there and is the reason that this cultivation application is different because it would be a larger operation.

Mr. Turner said Article 72 is no longer in place and they have to reapply for the new ordinance.

Comm. Suenram moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Variance (VR 18-05) applied for by Liyu Shen, on property located 14725 Catholic Church Rd., Clearlake Oaks, does not meet the requirements of Section 27(at)(3)(i)(a) of the Lake County Ordinance and deny the Variance subject to the conditions and with the findings listed in the staff report dated October 29, 2018.

**Variance Denial 5 Ayes 0 Noes**

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

**UNTIMED STAFF UPDATE**

Shanda Harry, Deputy County Counsel, introduced Nicole Johnson who will be her replacement for the Planning Commission Hearings.

**ADJOURNED 11:14 a.m.**

Eddie Crandell, Chair  
Lake County Planning Commission

Respectfully Submitted,

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