

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

December 13, 2018

Commission Members

**P John Hess, District I
A 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 Nicole Johnson, Deputy Cty Counsel
P Shanda Harry, Deputy Cty Counsel
P Danae Bowen, Office Assistant III**

9:00 a.m. CALL TO ORDER

Pledge of Allegiance was led by Eddie Crandell.

CITIZENS INPUT – None

9:05 a.m. Public Hearing on consideration of a General Plan Conformity Report (GPC 18-08). The project applicant is COBB AREA WATER DISTRICT proposing to upgrade the Cobb Area Water System consisting of distribution system upgrades and replacements in the Summit Area of the Cobb Water District located solely within existing County road right-of-way. The project is located in Cobb, CA with multiple APNs. Environmental Evaluation: Mitigated Negative Declaration (Byron Turner)

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

9:08 a.m. Opened Public Hearing

No one present wished to speak.

9:08 a.m. Closed Public Hearing

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission find on the basis of the Initial Study No. 18-65 prepared by the Cobb Area Water District for the County of Lake and the mitigation measures which have been added to the project, that this project will not have a significant effect on the environment and therefore a mitigated negative declaration shall be issued with the findings listed in the staff report dated November 29, 2018.

Mitigated Negative Declaration 4 Ayes 0 Noes 1 Absent (Comm. Malley)

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission report that the system upgrades for the Cobb Area Water District is in conformity with the Lake County General Plan with the findings listed in the staff report dated November 29, 2018.

General Plan of Conformity 4 Ayes 0 Noes 1 Absent (Comm. Malley)

9:09 a.m. Public Hearing on consideration of a General Plan Conformity Report (GPC 18-07). The project applicant is COBB AREA WATER DISTRICT proposing to consolidate the Hill 9 & 10 and Branding Iron Water

Companies in the Cobb Area Water System. The project includes a physical connection of the two water systems consisting of piping location in private and county right-of-way, treatment and storage improvements in the Branding Iron Water System on two parcels owned by Branding Iron, and well site, distribution and storage improvements in private right-of-way in Hill 9 & 10. The project is located in Cobb, CA with multiple APNs. Environmental Evaluation: Mitigated Negative Declaration (Byron Turner)

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

There was discussion on grant funds involved for paying for improvements on this project, issues with the longevity of the well and concerns with the connection of the two districts relying on one well, possible hydrological study on the projected life of the well and residents not being informed on what is going on.

Mr. Turner said there was a significant initial study prepared for this project and it was reviewed by the Water Resources Board and a study was completed and acknowledged. He said the purpose of this hearing is to terminate the termination of the consolidation and that it is consistent with the General Plan.

Michalyn DelValle, Community Development Director, noted that if the Commission wishes, this item could be continued and staff could reach out to the water district and invite them to the next hearing.

Comm. Suenram said he would feel more comfortable with a continuance and he would like to ask more questions.

Comm. Hess, Crandell and Camacho were in support of a continuance.

Mr. Turner pointed out that because there is a funding component, he suggested to continue this right away and putting this off to the January 24, 2019, he did not know what it would do to the funding of this project.

Mr. Turner asked that he reach out to the applicants during the course of this hearing to get input from them as to their deadlines and take this item up after the next items.

All the Commissioners were in agreement to move this item to the last item on the agenda, so that Byron Turner could reach out to the project developer, Branding Iron Water Company to find out when the deadline is for grant purposes.

9:20 a.m. Public Hearing on consideration of a Minor Use Permit (MUP 18-16). The project applicant is SANDRA STOUVENOT, BENMORE VALLEY RANCH, LLC, proposing a Commercial Cannabis License M-Type 3 Outdoor to allow up to 9,600 square feet of canopy area and up to 15,000 square feet of cannabis cultivation area within five cold-frame greenhouses. Each greenhouse is approximately 1,920 sq. ft. The project is located at 2976 Benmore Valley Road, Lakeport and further described as APN 007-001-35. Environmental Evaluation: Categorical Exemption Class 4. (Mark Roberts)

Comm. Crandell stated that Benmore Valley Ranch, LLC donated money to his political campaign and recused himself from the items up for review. He passed the gavel to Comm. Hess and stepped out of the Chambers.

Mark Roberts, Associate Planner, provided background information and a power point presentation on the proposed project.

There was extensive discussion on environmental impacts, employment opportunities, air quality/odor control plan, water use/well monitoring, mitigation of issues, CEQA exemption and cumulative impacts.

9:40 a.m. Opened Public Hearing

Angie Dodd, the Applicants Representative, responded to questions and provided information on the project application. She noted this project was similar to the applications presented for Benmore Valley Ranch in October 2018. She said it is rural property and there is not anyone near the operation.

Cliff Ruzicka, Civil engineer for the project, reviewed the anchoring of the cold-frame greenhouses

Sally Peterson, Tribal Counsel Vice Chairwoman for Middletown Rancheria, pointed out that this project is close to the creek and Cow Mountain. She said that there is no reference to the involvement of the Tribal Nations and had concerns from the nations on this project area. She said it was common practice to include mitigation measures to the Tribal Nation and was surprised that there was not more involvement with them because of the location and wanted this noted for the record.

Comm. Hess noted that this is not the first project the Planning Commission has approved in this area.

Mr. Roberts noted condition D1 in the permit conditions and that cultural resources work would be stopped immediately if anything was discovered.

Bob Scalla, stated that he was in agreement with Ms. Peterson's statements.

Comm. Hess pointed out that that the Commission has to have a unanimous vote on this project.

Comm. Camacho moved, 2nd by Comm. Suenram that the Planning Commission find that the Minor Use Permit, MUP 18-16 applied by Sandra Stouvenot on property located at 2976 Benmore Valley Road, Lakeport, CA 95453 further described as APN: 007-001-35 is exempt from CEQA because it falls within Categorical Exemption Class 4 set forth in the Staff Report dated November 28, 2018.

Categorical Exemption 3 Ayes 0 Noes 1 Absent (Comm. Malley) 1 Recused (Comm. Crandell)

Comm. Camacho moved, 2nd by Comm. Suenram that the Planning Commission find that the Minor Use Permit, MUP 18-16 applied by Sandra Stouvenot on property located at 2976 Benmore Valley Road, Lakeport, CA further described as APN: 007-001-35 does meet the requirements of Section 50.4 of the Lake County Zoning Ordinance and grant the Minor Use Permit subject to the conditions and with the findings listed in the Staff Report dated November 28, 2018.

Minor Use Permit 3 Ayes 0 Noes 1 Absent (Comm. Malley) 1 Recused (Comm. Crandell)

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

9:53 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-13). The project applicant is ASTER FARMS COLLECTIVE, LLC, NOAH CORNELL proposing a Commercial Cannabis Cultivation License for one (1) A-Type 3 Outdoor to allow up to 25,000 square feet of canopy area with a maximum cultivation are of 65,000 square feet and two (2) Type 1C Specialty Cottage (mixed lighting) which allows 2,500 square feet each or less of total canopy size and maximum cultivation of 5,000

square feet. All three Cannabis Cultivation licenses result in 31,000 square feet of cannabis cultivation area. The project is located at 6776 Old State Highway 20, Upper Lake and further described as APN 002-019-06. Environmental Evaluation: Mitigated Negative Declaration. (Mark Roberts)

Mark Roberts, Associate Planner, provided background information and a power point presentation on the proposed project.

Noah Cornell, the Applicant, provided a power point presentation of the project application.

There was discussion on water plans and storage capacity for an acre-foot reservoir and riparian rights,

10:18 a.m. Opened Public Hearing

No one present wished to speak.

10:18 a.m. Closed Public Hearing

Comm. Crandell moved, 2nd by Comm. Crandell that the Planning Commission find on the basis of the Initial Study No. 18-17 prepared by the Planning Division and the mitigation measures which have been added to the project, that the Major Use Permit, UP 18-13 as applied for by Aster Farms Collective, Inc. (Noah Cornell) will not have a significant effect on the environment and therefore a mitigated negative declaration shall be issued with the findings listed in the staff report dated November 28, 2018.

Mitigated Negative Declaration 4 Ayes 0 Noes 1 Absent (Comm. Malley)

Comm. Crandell moved, 2nd by Comm. Hess that the Planning Commission find that the Major Use Permit, UP 18-13 applied by Aster Farms Collective, Inc. (Noah Cornell) on property located at 6776 Old State Highway 20; Upper Lake, CA, further described as APN: 002-019-06 does meet the requirements of Section 51.4 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 November 28, 2018.

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

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

10:21 a.m. ITEM 2 – Back to Order - COBB AREA WATER DISTRICT proposing to consolidate the Hill 9 & 10 and Branding Iron Water Companies in the Cobb Area Water System. (Byron Turner)

Benjamin Lee Murphy, General Manager Cobb Area County Water District and Jeff Lucas, Principal Owner of small consulting firm, Community Development Services were called to the hearing discuss the project deadlines for grant purposes.

Comm. Suenram said that his biggest concern was for the longevity of the Branding Iron Well and what the studies have shown on that well, as opposed to other wells and springs in that area that have dried up.

Benjamin Lee Murphy, General Manager Cobb Area County Water District, said one of the things that the project will do is to refurbish that well and drill another new well and put iron and manganese treatments and generator backup, so the well will be drilled deeper and a second well will be put in for redundancy in from the grant. He said there has not been a hydrology study done.

Comm. Suenram concerns were for running out of water in the Branding Iron Well and asked what the timeline was on the grants for the well.

Mr. Person said the proposed fix on the well will give no less than 150 gallons per minute with solid water capacity.

Jeff Lucas, Principal Community Development Services, said they have gone through the public hearing process and the project has been submitted for a state grant and meets all the criteria, and they anticipate that it will be approved and should be funded.

Comm. Crandell said if the Commission continued this item to a January hearing, would that affect the grant funding in moving forward.

Mr. Person and Mr. Lucas said they have been working on this project since 2015 and they both were hopeful that the Commission would approve the project today without a continuance.

Comm. Crandell asked County Counsel, because Comm. Suenrams well will be affected by this project, would it be a conflict of interest for him to vote on this item.

Shanda Harry, Deputy County Counsel, said there are concerns with the two people who came to the table, who did not state for the record who they were representing, and she also had concerns with Comm. Suenram being on the Board of the Branding Iron Water system, which should have been disclosed in a more public manner to begin with. She said Comm. Suenram's questions are perhaps more as a member of that board versus a member of the Planning Commission. She also added that we were not aware Comm. Suenram was a member of that board, and he did not disclose that in the beginning of this item. She said some of these issues are getting off the topic for what was noticed for this meeting and are beginning to seem like questions that should be asked in Comm. Suenram's other capacity.

Comm. Suenram asked if he should recuse himself from the vote.

Ms. Harry said she is not saying that it is required, but it is something that he may want to consider.

Comm. Hess said if Comm. Suenrams recusal would permit the Commission to act today in the spirit of getting this done the sooner the better, and Comm. Suenram is comfortable with that, than that may be the most straight forward way to proceed.

Comm. Suenram said in his capacity as a Planning Commissioner looking at whether this meets the qualifications of what we are voting on, he believed they are good to move forward with this project today and he recused himself from the vote and left the chambers.

Ms. Harry said recusals should happen at the beginning of the item, so we are in imperfect territory here, and now he has recused himself based on information we have and we should move forward from there.

Jeff Lucas clarified that he is the Principal Owner of small consulting firm, called Community Development Services in Kelseyville. He said they are in contract with the County of Lake to pursue this Community Development Block Grant Funds for infrastructure improvements in Lake County for; sewer, water, roads and other projects and this is one of those projects that they worked on.

Ben Murphy, General Manager of the Cobb Area County Water District was present for questions.

10:38 a.m. Opened Public Hearing

Sally Peterson, Tribal Counsel Vice Chairwoman for Middletown Rancheria, commented for the record that she has been in contact with Ben Murphy in regards to engaging into a cultural resource monitoring agreement for this project and that is why she is present to make sure the agreement is valid.

Mr. Lucas stated that the County cannot enter into that kind of an agreement until they have an agreement with the State to receive the funds and that agreement is still in process of approval and it may be another month or two before it happens. He said the County is relying on the CDBG funds to cover all of the costs associated with the project and they do not have a commitment from the funding source yet and for them to enter into an agreement obligating the County to cover the costs for anything would be premature.

Michalyn Delvalle, Community Development Director, stated in looking at the staff report, the applicant was the Cobb Area Water District and it was not the County of Lake and it is not part of the County's General Plan of Conformity process to address any such agreement. She said it is something that needs to be worked out with the applicants.

10:44 a.m. Closed Public Hearing

Comm. Camacho moved, 2nd by Comm. Hess that the Planning Commission find on the basis of the Initial Study No. 18-64 prepared by the Cobb Area Water District for the County of Lake and the mitigation measures which have been added to the project, that this project will not have a significant effect on the environment and therefore a mitigated negative declaration shall be issued with the findings listed in the staff report dated November 29, 2018.

Mitigated Negative Declaration 3 Ayes 0 Noes 1 Absent (Comm. Malley) 1 Recused (Comm. Suenram)

Comm. Camacho moved, 2nd by Comm. Hess that the Planning Commission report that the consolidation of Hill 9 & 10 and Branding Iron water companies by the Cobb Area Water District is in conformity with the Lake County General Plan with the findings listed in the staff report dated November 29, 2018.

General Plan of Conformity 3 Ayes 0 Noes 1 Absent (Comm. Malley) 1 recused (Comm. Suenram)

10:46 a.m. Public Hearing on consideration a Major Use Permit (UP 18-14). The project applicant is JOSHUA ALTER, ECOLAND GROUP GRAY ROAD CALI RLS, LLC, proposing Commercial Cannabis Cultivation license, A-Type 3 (outdoor) to allow 40,750 square feet of cultivation area. The project is located at 9185 Gray Road, Kelseyville and further described as APN 115-006-12. Environmental Evaluation: Mitigated Negative Declaration. (Eric Porter)

Eric Porter, Associate Planner, provided background information and a power point presentation of the project application. Mr. Porter pointed out an error on Attachment 6 Conditions and said the date should read; 2020 instead of 2028. He also noted that the next item on the agenda should read that way as well. He also verified that the legal noticing for this project extends 725 feet from the project site.

Michalyn DelValle, Community Development Director, clarified that if the Planning Commission does decide to approve this project and there ends up being public nuisances in the future, and becomes a code enforcement case, the hearing body would be the Board of Supervisors.

Comm. Suenram said that it was mentioned that Gray Road is accessible off of Seigler Canyon, Seigler Springs or Diener Road and asked what would be the Main route for the access for employees.

Joshua Alter, the applicant said that depends on the car that the employee drives, because one route is a dirt road and some of the routes are in bad condition during several months of the year. He said to get to Clearlake they would have to travel the back roads.

Comm. Suenram said he had concerns with Diener Road, because in the summertime a lot of dust generated.

Mr. Alter said they are familiar with those issues and they drive slowly on that road to minimize the dust and ask that of their employees as well.

11:01 a.m. Opened Public Hearing

Sally Peterson, Tribal Counsel Vice Chairwoman for Middletown Rancheria, said that this project is located in an area that is sensitive. She said CEQA guidelines gives the Commission the authority to place an additional condition on the permit to engage with the tribes for Cultural Resource Monitoring, which the Commission has done in the past. She asked that the Commission require the applicant to engage in a cultural resources monitoring agreement with their tribe so they could be onsite and monitor ground disturbances. She said the blanket verbiage that is always used is not adequate for mitigation measures and respectfully asks that the Commission place a condition as a mitigation measure for the Negative Declaration per CEQA Guidelines.

Mr. Alter said that they had Cultural Resource Evaluation done by Dr. John Parker and asked if that was adequate or if she is asking for an additional evaluation.

Ms. Peterson said they are familiar with Dr. Parker and he is a highly respected Archeologist, but it is different when there is ground disturbance, and the workers are not going to stop, because they are not going to know what they are seeing. Ms. Peterson asked that there be a monitor present during ground disturbance only.

Comm. Crandell asked Mr. Alter if he had any objections in having a Tribal Monitor on site when there is ground disturbance.

Mr. Alter said he would be fine with that.

11:06 a.m. Closed Public Hearing

Comm. Suenram asked if a motion needed to be made to add that condition.

Ms. Harry clarified that they can make consultation with the tribe a condition of the permit, but we cannot make entering into a cultural monitoring plan a condition. She said negotiating a plan or agreement is between the applicant and the tribe, the requirement for consultation is something that can be included in the conditions, but it seems that has already been agreed to between the applicant and the tribe.

11:07 a.m. Reopened Public Hearing

Ms. Peterson said that CEQA gives the authority to the government, being Lake County to make that requirement and they have spoken to their attorney and those provisions have been made in the past.

Ms. Harry said that the County has not made those conditions in that way, when the applicant does not agree to it ahead of time. She said if the applicant wishes to agree to enter into a cultural monitoring plan that is one thing we have accepted as a County we cannot require for issuance of the permit that they enter into a plan. She said the County would be requiring that the applicant enter into a certain set of terms as requested by the tribe and that is not something the County will get involved with.

Comm. Hess said with that information he suggested that the Commission do everything that they are empowered to do and further encourage the applicant and the tribe to have a conversation.

Ms. Peterson asked if a process could be worked on and the tribe could do a consultation with the Commission so that this can be outlined what the Commission is

allowed to do and not allowed to do ahead of time, which would prevent her from having to attend these hearings in the future. She said she respectfully disagrees with Counsels comments.

11:10 a.m. Closed Public Hearing

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission find on the basis of the Initial Study (IS 18-19) prepared by the Planning Division and applied for by Joshua Alter representing WEST COAST 009 ECOLAND INC. on property located at 9185 Gray Road, Kelseyville, and further described as APN: 115-006-12, that the use permit as applied for by Joshua Alter 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 30, 2018 as amended today

Mitigated Negative Declaration 4 Ayes 0 Noes 1 Absent (Comm. Malley)

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission find that the Use Permit (UP 18-14) applied for by Joshua Alter representing WEST COAST 009 ECOLAND INC. on property located at 9185 Gray Road, Kelseyville, and further described as APN: 115-006-12 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 November 30, 2018 as amended today.

Use Permit 4 Ayes 0 Noes 1 Absent (Comm. Malley)

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

11:13 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-15). The project applicant is JONATHAN WERTENTEIL, RED HILLS ORGANICS proposing Commercial Cannabis Cultivation license, A-Type 3(outdoor) to allow 39,540 square feet of cultivation area. The project is located at 11275 Diener Drive, Kelseyville and further described as APN 115-006-03. Environmental Evaluation: Mitigated Negative Declaration. (Eric Porter)

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

Comm. Hess said that he is inclined to support this project application just like the previous item. He said in other applications that have been brought before them, canopy size has always been calculated and wanted to know why in these two applications it was not possible to make those calculations.

Eric Porter, Associate Planner, said he was inclined to agree with Comm. Hess and he thought it needs to be clearly stated. He said it was his mistake for not clarifying the canopy area in this project application.

Jonathan Wertenteil, the applicant said they had it measured by an engineer and it is stamped on their site maps report so it is exact.

11:24 a.m. Opened Public Hearing

Sally Peterson, Tribal Counsel Vice Chairwoman for Middletown Rancheria, said her comments are similar to the last project and they would like it noted for the record that they would respectfully request that the applicant engage in a Cultural Resource Monitoring Agreement with their tribe, Middletown Rancheria to better protect possible cultural resources in the area that they are aware of. She said with their experience with the Valley Fire, they did find unrecorded sites in this area, and for ground disturbances they would like to be present for that. She said the conditions that were placed on this permit under cultural resources, says that should any archeological, pathological or cultural materials be discovered during site development, all activities shall be halted in the vicinity of the finds

and the local overseeing tribes shall be notified and a qualified archeologist retained to evaluate the findings. She said that can be adequate, but it has been their experience that the workers who are doing the ground disturbance do not know what they are looking for and the tribe will never get called, so that is why they insist on an agreement for ground disturbance only.

Comm. Crandell asked Mr. Wertenteil if this was acceptable.

Mr. Wertenteil agreed to the monitoring.

11:27 a.m. Closed Public Hearing

Shanda Harry, Deputy County Counsel, said confusion arose and it was touched on briefly by Mr. Porter, but there is a difference between the Google Map location of the project and the actual address. She pointed out for the record, that discrepancy could be noted again, because in terms of the issue of cultural monitoring, the address has Kelseyville, but the Google map says it is in Middletown, which needs to be addressed as clearly as possible for the record. She said there is a process involved in notifying the tribes.

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission find on the basis of the Initial Study (IS 18-20) prepared by the Planning Division and applied for by Jonathan Wertenteil representing Red Hills Organics on a property located at 11275 Diener Drive, Kelseyville further described as APN: 115-006-03, that the use permit as applied for by Jonathan Wertenteil 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 December 3, 2018 as amended today.

Mitigated Negative Declaration 4 Ayes 0 Noes 1 Absent (Comm. Malley)

Comm. Suenram moved, 2nd by Comm. Hess that the Planning Commission find that the Use Permit (UP 18-15) applied for by Jonathan Wertenteil representing Red Hills Organics on property located at 11275 Diener Drive, Kelseyville further described as APN: 115-006-03 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 December 3, 2018 as amended today.

Use Permit 4 Ayes 0 Noes 1 Absent (Comm. Malley)

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

Michalyn DelValle, Community Development Director, expressed her congratulations for Shanda Harry and Eddie Crandell moving into their new positions. She presented a plaque to Comm. Crandell for his service as a Planning Commissioner.

ADJOURNED 11:33

Eddie Crandell, Chair
Lake County Planning Commission

Respectfully Submitted,

By: _____
Danae Bowen
Office Assistant III

