

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

February 27, 2020

Commission Members

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

Staff Members

P Scott DeLeon, Interim Director
P Mark Roberts, Principal Planner
P Nicole Johnson, Deputy Cty Counsel
P Danae LoDolce, Office Assistant III

REGULAR MEETING

February 27, 2020

9:03 a.m. CALL TO ORDER

Pledge of Allegiance was led by Daniel Suenram.

Comm. Hess moved, 2nd by Comm. Malley to approve the minutes from January 23, 2020

9:03 a.m. CITIZEN'S INPUT

9:05 a.m. Public Hearing on consideration of a Minor Use Permit (MUP 19-11) and Categorical Exemption (CE 19-95). The project applicant is NICK NEEDHAM proposing (1) A Type 2 (medium outdoor) Commercial Cannabis Cultivation license. The project is located at 1409 & 1419 Vernal Drive, Lakeport and further described as APNs 007-059-02 & 007-059-03. (Victor Fernandez)

Victor Fernandez, Assistant Planner, provided background information and a power point presentation on the proposed project.

Comm. Malley asked if there were photos of existing barn or onsite inspections of the buildings and do they appear to be permittable. He asked if it was fully enclosed barn, how old the septic was, the condition of the roadway, concerns for firetruck turnaround and if there was sufficient water hook-up for the fire department.

Mr. Fernandez said that it is an as built permit and the site plan for 200 square feet does not require a permit, just a zoning clearance. He said Environmental Health will need to look at the site plans for approval, then provide those plans to the planning and building divisions. He said it is a fully enclosed barn with an opening on one of the sides and there are areas that could qualify for a turnaround. He noted in the conditions there is a section that requires them to widen the road and have turnarounds. He added that one of the requirements for the fire access is that they have a water tank for emergency access. He said they will be using spring water and referenced the water rights in attachment 2 of the staff report dated March 12, 2020, which allows them to utilize up to 42,000 gallons per day, however depending upon the month, that usage will fluctuate.

Comm. Malley asked how many vehicles do they expect in-and-out each day during the peak season.

Mr. Fernandez explained per their application they are proposing a maximum of three employees, including the applicant. He said there is a condition that they must submit a parking plan to Community Development prior to cultivation.

Comm. Hess asked if a six-foot fence was standard.

Mr. Fernandez said that the applicant would be replacing the existing fence with a fully enclosed fence.

Comm. Suenram asked about the fire hazardous vegetation within the grow site.

Mr. Fernandez said that staff has included a condition for hazardous removal, which is in attachment 3, item 4 of the staff report.

9:23 a.m. Open Public Hearing

Steve Hajik, Lake County Ag. Commissioner, stated that the applicant will need to have an identification number to use pesticides.

Michael Green, said there are a number of requirements for licensed cannabis cultivators that may not be exactly spelled out in the project conditions, however there is a general condition that they comply with all applicable state, federal and local laws.

Dennis Herzog, applicant's neighbor, said he has a pond that the County uses during the fire season, which is 200 feet from the applicants property. He does not have any protests with this project and said there is more than adequate water there.

Lance Williams, Lake County Cannabis Alliance, said it looks like this project meets all the requirements and hopes that the Commission will approve it.

9:27 a.m. Closed Public Hearing

Nicolas Needham, Lake County Cannabis applicant said that he is a Branch 2 Applicator for pesticides and he works for a pest control company and he will be adhering to all federal, state and county procedures.

Robert Dixon, applicant's representative, said they have a good team and they will make sure they take care of the land.

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission find that the Minor Use Permit (MUP 19-11) applied for by Nick Needham on property located at 1409 Vernal Drive and 1419 Vernal Drive, Lakeport, further described as APN: 007-059-02 and 007-059-03 is exempt from CEQA because it falls within Categorical Exemption Class 4 (15304), based on the findings set forth in Staff Report dated February 12, 2020.

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

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission find that the Minor Use Permit (MUP 19-11) applied for by Nick Needham on property located at 1409 Vernal Drive and 1419 Vernal Drive, Lakeport, further described as APN: 007-059-02 and 007-059-03 does meet the requirements of Section 50.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Minor Use Permit be granted subject to the conditions and with the findings listed in the staff report dated February 12, 2020.

Minor Use Permit (MUP 19-11) 4 Ayes 0 Noes 1 Absent (Comm. Brown)

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>

9:30 a.m. Public Hearing on consideration of an Amendment to the Lake County Zoning Ordinance (AM 20-01) and Categorical Exemption (CE 20-07). The County of Lake is proposing a Zoning Ordinance Text Amendment to Amend the Lake County Zoning Ordinance to establish regulations and development standards for the cultivation of Industrial HEMP.

Said amendments shall include:

- **The addition of "(ab) Industrial Hemp APZ, A, TPZ, RL, RR, SR, PDC, and O" to Table 27.2 of Article 27 of the Lake County Zoning Ordinance to add industrial hemp as a use generally permitted with a zoning permit;**
- **The addition of Section 27.3 (ab) Industrial Hemp to Section 27.3 Conditions of approval requiring the proposed uses permitted by a zoning permit of the Lake County Zoning Ordinance to provide as follows:**
 - **(a) The provisions of this Subsection shall not apply to any of the provisions outlined in the Article 27.11;**
 - **(b) The parcel shall contain a minimum of one (1) acre for indoor/greenhouse cultivation and a minimum of five (5) acres for outdoor cultivation;**
 - **(c). If grading is required, all grading shall comply with the standards set forth by Chapter 30 of the lake County Code;**
 - **(d) Hemp cultivation site shall be setback a minimum of 150 feet from an off-site residence: (i) A waiver signed by neighboring property owners can be submitted which may decrease the minimum setback;**
 - **(e) Hemp cultivation is prohibited within 1000 feet of Community Growth Boundaries as described in the Lake County General Plan;**
 - **(f) Seed production of any type shall only be grown indoors or within an engineered greenhouses with filters. (Mark Roberts)**

Mark Roberts, Principal Planner provided background information and a power point presentation

9:42 a.m. Opened Public Hearing

Steve Hajik, Lake County Ag. Commissioner, spoke to his concerns with "TPZ" and "RR". He reviewed the differences with the Hemp/Cannabis crops and that there will be dust, odor, night lights and illegal camping for both crops.

The following people spoke: Mike Mitzel, Dennis Herzog, Tom Nickel, Kevin Romley, Sarah Pistone, Paul Bernarchio, Michael Green, Leonard Lumas, Hank Lecher, Jennifer Clark, Lance Williams, Jud Hodges, John Oliver, Brenna Sullivan, Erin McCarrick, and Richard Derum.

Concerns expressed were for: Buffers on cannabis grows to at least 1,000 feet; both cannabis and hemp emit the same odors; no fences are required for hemp and hemp should have the same regulations as cannabis does. The public addressed their concerns for: dust issues; zoning issues close to existing subdivisions; safety/enforcement issues; encampment of RVs to attend grows; sewage handling; fire zones; water issues; right-to-farm issues; engineered greenhouses/pollen production; urgency ordinance for environmental impacts; a moratorium to study impacts; larger setbacks for hemp production to protect cannabis investments; THC and CBD comparison levels in hemp production; testing hemp for THC; 150 foot setbacks for hemp/existing cannabis grows; setbacks from community growth boundaries and industrial hemp is not tested for pesticides.

Bruno Sabatier, Lake County District II Supervisor, and Hemp Ad Hoc Committee Chairman, spoke to the enforcement arm of Hemp, which will go to the Ag. Department, which does not need to be required in the Zoning Ordinance Amendment.

Comm. Hess asked how the sub-committee came to the figure of 150 foot setback from an offsite residence.

Supervisor Sabatier explained that they have done comparisons with the cannabis ordinance, which is 200 feet from the property line and they did look at other counties with comparable ordinances for Hemp and it seemed like the 150 foot setback was appropriate. He said they do take into consideration the odor and the nuisance of cross-pollination and they are mindful that this is an agricultural county and that this is a federally legal agricultural product.

Comm. Malley said that 150 feet from the property line can be different than 150 feet from an existing residence.

Supervisor Sabatier said that it is an option and understands that it could be a nuisance.

There was further discussion on monitoring dust/air quality, noise impacts and enforcement guidelines.

Scott DeLeon, Interim Community Development Director, said the proposed language states: *"All grading shall comply with a standard set forth by Chapter 30 of the Lake County Code."* He said Chapter 30 addresses both dust and time of operation, so it would be a Code Enforcement issue and if it is an agricultural operation, Air Quality Management would not get involved.

Comm. Suenram noted that would be for the construction period and not necessarily for ongoing operations. He thought it would be something that would need to be addressed in depth moving forward, where this County sits as-far-as agriculture goes.

Supervisor Sabatier spoke to the Hemp Ad Hoc Committee and the hemp growing that was permitted the past season. He said there were 13-16 permits for hemp and they received their permit from the Ag. Department, but did not ask any further questions or have any knowledge about the process that everyone else would take about the next steps that they were doing the right process for any type of agriculture. He said what the committee is trying to create is a check list for the Ag. Department and until you get cleared by Community Development with a Zoning Permit, you do not get to have a license unless Grading and CEQA

are completed. He said this would diminish the issues that occurred last year, because there were zero regulations.

11:13 a.m. Closed Public Hearing

The Planning Commission further discussed that there needs to be an ordinance in place, and it was not clear if the Planning Commission had any role in addressing the hemp issues and if it was going to be fully contained in the Ag. Department or if it can be handled by two departments. Comments were made if the Commission could object to the production of something that was a legal agricultural product. Setbacks from the property lines were addressed for providing the Commissions thoughts to the Board of Supervisors.

Comm. Suenram asked staff what the timeframe was to get this to the Board of Supervisors, if this was not approved today, because it is timed to the grow season.

Nicole Johnson, Deputy County Counsel, did not have a comment on the timeline for the growing season, and there was a resolution from the Board of Supervisors however, she did not know if there was a timeframe. She said this step with the Commission was to go over the resolution to change or recommend it as it is, then send it back to the Board with the recommended changes or adopt as is, then the Board would adopt the Ordinance, which is a specific legal document.

Comm. Hess suggested that the setback should be set to 200 feet from the property line.

Comm. Suenram said that the 1,000 foot setback should be maintained. He said the minimum size requirement of the parcel for outdoor

Comm. Malley said if it is not going to be in the Community Growth Boundaries and it is limited to Ag. parcels, then the five acres may or may not be enough. He said ten acres might make it easier to situate on the property itself, depending on where it is at. He said this is not Cannabis, this is hemp and the product that is deemed by the Federal Government as being an agricultural product. He said the Commission was within their rights with the first ordinance with the Marijuana Ordinance and did not know how much they could limit an Ag. development inside the community growth boundaries.

Comm. Hess said that the Commission is not the department of jurisdiction.

Comm. Suenram thought the proximity to housing developments that are outside the community growth boundaries should be addressed with setbacks.

Mr. Roberts asked for clarity with the setbacks and said our current zoning ordinance for the cannabis it is 100 foot setback from the property line and 200 feet from an offsite residence.

Comm. Suenram said he thought it would depend on the size of the hemp grow that they are planting, and recommended that the Board of Supervisors look at the considerations of the setbacks from a subdivision or a place where there is community water. He said he was asking for protections for the residents and surrounding properties.

Mr. Roberts asked what distance from a lot line or subdivision was he recommending.

Comm. Suenram said he personally would recommend 1,000 feet, but that would be a discussion for the Board of Supervisors to have.

Comm. Malley asked if the subdivision would be protected from grape vineyards moving right next to their property.

Comm. Suenram said there was a process to go through before a vineyard could be approved.

There was further discussion about odor issues from any type of ag product and they should not apply more stringent rules to one ag. product over another, but concerns were for residential neighbor and pointed out the nuisance of Hemp odors vs. the odors from a lavender field.

Ms. Johnson said the question she is hearing is should there be regulations to treat one agricultural crop differently from others.

Comm. Malley said as far as singling out hemp vs. grapes or another Ag. crop that is allowed, it would be up to the County to determine that the odor is such a nuisance, which needs to be regulated more stringently.

Ms. Johnson said that hemp would be defined as a nuisance in that respect.

Comm. Malley suggested telling the Board of Supervisors that the Planning Commission thinks that the ordinance moving forward should include a reference to parcels and parcel size for the surrounding area and the residential areas should be considered when allowing hemp farms installation and that the biggest concern, which has been addressed, is the odor and the practices of outdoor farming as far as dust, drift and pesticides. He said the Board will make the decision of where it will be allowed and there are areas of large groups of houses and there should be a buffer where this should be a problem.

Comm. Suenram said they are also suggesting a 200 foot buffer from an offsite residence, which is the only change to this. He added in regards to CEQA that we are exempting this text amendment from CEQA and not the actual applications or projects.

Ms. Johnson said her understanding was, that this was a change by adding a particular crop to a list of other crops that can be grown in specific areas and did not actually change the functional use of each of those areas.

Mr. Roberts said if an applicant applies for a zoning permit and if it triggers a grading permit it may trigger an environmental analysis.

Mr. Roberts reviewed the areas that the Commission has concerns with:

- Residential area setbacks
- Setbacks from property lines
- Odors
- Practice of outdoor farming with reference to: dust, pesticides and storage.

Ms. Johnson said it was her understanding, if the Commission offers up amendments to the text, the Board can adopt the amendment, but if suggestions are sent to them, they will have to send it back to the Planning Commission, which will prolong the process. She thought perhaps amendments could be suggested.

Comm. Suenram said it was his recommendation that the Planning Commission recommend that the Board of Supervisors, with the change of the 200 feet of the offsite residence to the existing language and setting it as a temporary ordinance for this growing season.

Comm. Malley said we need to recommend to adopt this version with whatever change is made, as an emergency ordinance to get through until there is a more specific work product. He said there are things that need to be addressed and changed and if they agree, then they can pass it as an emergency office.

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission find this Zoning -Code Text Amendment, AM 20-01 is Categorically Exempt (CE 20-07) from the California Environmental Quality Act (CEQA) Guidelines pursuant to §15061(b)(3).

Categorical Exemption Approval 4 Ayes 0 Noes 1 Absent (Comm. Brown)

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission recommend approval of the proposed Zoning Code Text Amendment, AM 20-01 applied for by the County of Lake for the reasons listed in the staff report dated February 18, 2020 and as amended here today. The Planning Commission recommends that this be adopted as an emergency ordinance and any changes to this ordinance take place over the next 12 months.

Text Amendment Approval 4 Ayes 0 Noes 1 Absent (Comm. Brown)

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Scott DeLeon, Interim Community Development Director, said that there is a backlog in Planning and staff is working to make improvements and processes and felt that they were heading in the right direction. He said that there are a number of projects that need to be brought to the Commission and a Special Planning Commission Meeting will be held on March 19, 2020.-

ADJOURNED 12:01

Daniel Suenram, Chair
Lake County Planning Commission

Respectfully Submitted,

By: _____
Danae LoDolce
Planning Commission Assistant