

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

August 13, 2020

Commission Members

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

Staff Members

P Scott DeLeon, Interim CDD Director
P Tocarra Thomas, Deputy Director
P Mark Roberts, Principal Planner
P Nicole Johnson, Deputy Cty Counsel
P Kate Lewis, Office Assistant III

REGULAR MEETING

August 13, 2020

9:02 a.m. CALL TO ORDER

Pledge of Allegiance was led by Daniel Suenram.

9:03 a.m. ACTION ON MINUTES

Comm. Malley moved, 2nd by Comm. Hess to approve the minutes from the July 23, 2020 Planning Commission meeting.

5 Ayes 0 No – Motion carried, approved by roll call vote.

9: 05 a.m. CITIZEN'S INPUT - None

- 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 a.m.

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.

9:05 a.m. Public Hearing on consideration of a Minor Use Permit (MUP 18-28) and a Mitigated Negative Declaration (IS 18-33). The applicant is Noble Farms, proposing a six phase development for Commercial Cannabis that would include three commercial

cannabis cultivation licenses: two A-Type 2B Mixed Light Cannabis licenses to allow 15,000 square feet of cultivation area within ten greenhouses by the end of Phase Six; and a Type 13 Self Distribution license that would allow legal transportation of cannabis to and from the site. The project location is 18211 Ponderosa Trail, Lower Lake, and is further described as APN: 012-048-11. Staff will recommend that this item be pulled for further consideration.

Tocarra Nicole Thomas, Deputy Director of CDD explained that Staff wanted to pull the item from the agenda due to further work needing to be done by the applicant and some changes that needed to be made.

Nicole Johnson, Deputy County Counsel stated that the Commissioners could do a roll call consensus.

Comm. Malley asked if they needed to open it to Public Comment.

Nicole Johnson said that comments would not be appropriate at this time due to the item being pulled from the agenda.

Roll call consensus to pull the item from the Agenda indefinitely.

5 Ayes 0 No – Motion Carried, approved by roll call vote.

9:10 a.m. Public Hearing on consideration of a Major Use Permit (UP 18-48) and a Mitigated Negative Declaration (IS 18-71). The applicant is Spencer Clark, proposing (1) A Type 3 (outdoor) Commercial Cannabis Cultivation license consisting of 43,560 square feet of canopy area. The project is located at 21242 Morgan Valley Road, Lower Lake, and further described as APN: 012-069-08.

Victor Fernandez, Assistant Planner, verbally presented a power point presentation discussing the permit request, the project description, the site description, the project analysis and Staff's recommendations and conditions.

Comm. Suenram asked if the applicant was present on Zoom.

Victor Fernandez stated that either the applicant, Spencer Clark or his representative, Perry Clark, were on the Zoom.

Comm. Hess said that he did not have any questions for staff but may have some after they hear from the applicant or the applicant's representative.

Comm. Suenram mentioned that it states in the property management plan that there is an existing cultivation on the site, which would stand as a code violation, and asked for clarification.

Perry Clark, Applicant's Representative, said there is no current cultivation; they were going to do an early activation permit but decided against it, so there is no cultivation.

Victor Fernandez said that staff confirmed that there was no active cultivation on the site during a site visit.

Perry Clark thanked Victor for his presentation and said they have a large piece of property with good water and hopes it is a suitable use for the property.

Comm. Suenram asked about the access to the property.

Perry Clark said the access is large and more than 20ft wide, maintained by them and they are adding more turnouts for emergency vehicles.

Comm. Malley said that when he looks at the photographs from the power point, it appears as though there are signs of ground work having been done, and asked if it had been done because of rain water or by other means.

Victor Fernandez said the property was disturbed by the 2015 Valley Fire and they had to do some clearing of burnt trees and brush after the fire damage.

Perry Clark said that the property actually burned twice, with the Valley Fire as well as the Rocky Creek Fire; they left some things there to see if it would grow back, when it didn't they cleared and planted cover crops trying to get root retention. He said some of the land is zoned for vineyard which was done ten years ago.

Comm. Malley said he sees no indication of a cover crop and that it seems to be barren land. He said it shows a logging skid road then another picture shows a blank field with a burned out tree. He is concerned with the bare ground and does not know if it is in the actual cultivation area, because there is no indication.

Comm. Suenram said that he read through the Property Management Plan and said it looks as though they have pretty in-depth operation plans to prevent erosion.

Comm. Malley said he read it and was more concerned with what he saw in the pictures as opposed to what he read in the plan.

9:30 a.m. OPENED PUBLIC COMMENT

Sally Peterson, Middletown Rancheria Tribal Council Chairwoman, wanted to note for the record that they have been working with the property owner since last year and they have entered into a contract with them; she thanked the property owner for their cooperation with the Tribe. She acknowledged CDD staff, especially Victor, and thanked everyone for their hard work on the project and stated that she supports it.

9:33 a.m. CLOSED PUBLIC COMMENT

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission find that the Initial Study and Mitigated Negative Declaration (IS 18-71) applied for by Spencer Clark on property located at 21242 Morgan Valley Road, Lower Lake, and further described as APN: 012-069-08 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 August 3, 2020.

5 Ayes 0 No – Motion Carried, approved by roll call vote

Comm. Hess moved, 2nd by Comm. Malley that the Planning Commission find that the Major Use Permit (UP 18-48) applied for by Spencer Clark on property located at 21242 Morgan Valley Road, Lower Lake, further described as APN: 012-069-08 does meet the requirements of Section 51.4 and Article 27, Section 1 [i,ii(g),i(ii)] of the Lake County Zoning Ordinance and the Major Use Permit be granted subject to the conditions and with the findings listed in the staff report dated August 3, 2020.

5 Ayes 0 No – Motion carried, approved by roll call vote

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.

9:36 a.m. UNTIMED STAFF UPDATE

Nicole Johnson let the Commissioners know that they could not attend Staff's Planning Meetings without violating the Brown Act. She also discussed the process for reviewing the Cannabis Annual Inspection Reports.

Comm. Suenram asked when the 33 reports they have will be ready for review. He said this is a new process and they will not know how it is supposed to go until they start the process.

Tocarra Nicole Thomas explained that Staff has completed approximately 7 inspections; they have not conducted any of the annual progress reports; staff has given permittees a deadline of September 30th. Staff does not currently have any annual reports to provide to the Planning Commission.

Comm. Hess asked Nicole Johnson about the legal noticing of these reviews and the parameters of public comment; he asked for clarification about how much of the materials are going to be provided to the public.

Nicole Johnson said that if the Commission is reviewing the reports, they would have to be provided to the public for review as well. She said that the permittee would be noticed and given a chance to respond as would the Public be given the opportunity to comment. She said that if the Commission was reviewing a public report, then it would have to be made available to the public as well.

Comm. Hess said he was not suggesting they limit public comment.

Nicole Johnson said that this review cannot be a reevaluation of a permit; this is strictly to evaluate the success of a permittee. The only decision that comes out of it is that the Commission will deem it necessary to have more frequent reports or less frequent reports from each permittee based on their progress and success.

Comm. Suenram stated that the Commission cannot impose more requirements on them if there are issues.

Nicole Johnson said that they can, but not at that particular hearing. She clarified that there is a different process and a different

structure in the Ordinance; there is a process for Staff to bring this before the Commission for a revocation of permits.

Comm. Suenram said this is also to see how effective the Ordinance is currently.

Nicole Johnson said that is correct and if during these reviews, they find something that is not working properly, they can put in a request for an amendment to the Ordinance for the Board of Supervisors to review.

Scott DeLeon, Interim Director of CDD, said that Staff has done a number of inspections and suggested that perhaps Staff can develop a report to summarize the inspections and give it back to the permittee for their inclusion in their report; perhaps they can get a half dozen together for the Commission and do a trial run to see how it goes and to test it out. If things appear to be in good shape, they can delegate back to the department.

Nicole Johnson asked Scott if he was suggesting that Staff bring in the inspection reports before the performance review report.

Scott DeLeon said he was not suggesting that, but he was saying that they've done a number of inspections, and they need to do inspection reports and give those back to the permittee so they can prepare their performance review report per the Ordinance. Once they receive a handful of the performance review reports from the permittees, staff can get them on the Agenda and bring them back to the Planning Commission.

Nicole Johnson said that as it stands right now, the Planning Commission is the only authority to review the report. Should the Planning Commission delegate the authority to review the reports to the director or staff, they will no longer have the authority to review the reports. She said the Commission may always ask for an update or summary, but they would not have an active role in the review if they delegate that authority.

Scott DeLeon said he is only suggesting that they bring a handful in and start developing a process for review since it is a new process.

Comm. Suenram agreed with Scott and asked to get a few of them on the Agenda and bring them to the Commission. He asked for a bullet point list of what they are looking for in the review. He said it depends on how the permit was written so it may vary for each.

Comm. Hess agreed that it was a great suggestion from Scott DeLeon on the plan.

Comm. Malley agreed that Scott is on the right track and that Staff is able to pick out the bad actors as well as give recommendations for the good actors. If there are problems, the Planning Commission needs to be involved, but if not, he is ok with whatever procedure the Planning Staff and the Director want to work out.

Comm. Brown asked Nicole Johnson if reviewing these reports were going to open them up to releasing confidential information.

Nicole Johnson said no, and that Staff would be mindful of not including any information that is confidential. She said most if not all of the information should be public information anyway, because the permits are public information.

Comm. Brown raised concerns about AB-52 consultations and Tribal Cultural Resources reports being released.

Nicole Johnson clarified that Staff would double check and ensure that those protected pieces of information would not be released.

Tocarra Nicole Thomas publicly thanked the Community Development Team for all of their hard work.

10:06 a.m. ADJOURNED

Daniel Suenram, Chair
Lake County Planning Commission

Respectfully Submitted,

By: _____
Kate Lewis,
Planning Commission Assistant