

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

September 24, 2020

Commission Members

Staff 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

- P Scott DeLeon, 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

September 24, 2020

9:00 a.m. CALL TO ORDER

Pledge of Allegiance was led by Daniel Suenram.

9:01 a.m. ACTION ON MINUTES

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley to approve the minutes from the August 13, 2020 Planning Commission meeting.

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

Comm. Hess moved, 2<sup>nd</sup> by Comm. Price to approve the minutes from the August 27, 2020 Planning Commission meeting.

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

9: 04 a.m. CITIZEN’S INPUT

Paul Fisher, resident of District V, spoke about a problem with Code Enforcement having red tagged a neighbor, and instead of holding the property accountable they gave them a building permit issued by Scott DeLeon. Property owner is a gang member. The one protection they had as citizens was Code Enforcement but that was ripped away from them because someone wanted to get it off their desk. Property has decreased, afraid because they are gang members. Wants to know what the County plans on doing.

**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.

**9:07 a.m. Public hearing on consideration of a Major Use Permit (UP 19-50) and a Categorical Exemption (CE 19-96). Applicant is Richard Sereghy, proposing retail sales of cannabis. Project location is 8466 Lake Street, Lower Lake; further described as APN: 012-054-25.**

Victoria Kim, Assistant Planner, gave a presentation on the project which included the responses to the concerns that were raised at the June 25, 2020 Planning Commission meeting when this project was first brought before the Commission.

Comm. Malley said that it bothers him that the Commission asked for a traffic study to be done, and staff is now saying that it does not meet the necessity for a traffic study. The applicants don't know what the actual use is going to be and how many customers they will have every day. He does not see any changes since the last time they spoke about this.

Comm. Hess said that he does not understand the reference to the 100 trips per hour in one of the attachments and is troubled by 100 trips per hour or 75 trips per day.

Victoria Kim said that planning staff and one of the engineers were looking at the greatest amount of trips possible, however the reality would be much less on a day to day basis.

Comm. Suenram asked what is the current traffic rate on that road at any given hour, especially when there are students on the road.

Comm. Malley said that the problem right now is that the traffic is light because there is no school; usually there is a lot of traffic going back and forth, usually in a rush because of school. The elementary school has everything choked down to the entrance of the school in the mornings and afternoons and the traffic gets really heavy during those times of the day. There is a very large housing unit built at the end of Dam Road and Lake Street and a lot of kids walk back and forth there in the morning and afternoon. His study would be to measure that traffic on a normal day when school is in session, to see just how busy that street actually is on a normal day. From 7:30am- 9am and 1-4pm those streets are very busy. High school kids, who have cars, in a hurry to be somewhere else and they are not paying attention and you're adding more situations of stopping cars and turning into this establishment. The traffic study means everything to him in terms of this project and it is needed. He still sees nothing but problems with the location of this store. He feels nothing has changed since the last time.

Victoria Kim asked Comm. Malley if he felt that another type of business at that location would be better than retail cannabis.

Comm. Suenram clarified that regardless of what kind of business goes into that location, the County needs to look at what is going on with the traffic in that area. The road is at a certain classification,

but the traffic may be above that classification and wondered if the County was even aware of that possibility.

Comm. Malley said they spot zoned it and it never should have been zoned Commercial. It is not zoned to be a retail outlet, even though it says commercial, it was meant to be a fraternal fellowship, not retail commercial. He said it was not meant to have traffic in and out of it every day, seven days a week. He said it is a poor place to have a piece of commercial property.

Comm. Hess says he does not think that the revised staff report speaks to the concerns that Comm. Malley and Comm. Brown raised at the June 25<sup>th</sup> meeting. He feels it does not speak to the type of specificity about times per day that the Commission asked for. He said he is eager to hear from the applicant.

Comm. Suenram directed them to Attachment 3, page 2, the applicant marked that this will generate substantial additional traffic. He asked what they consider as substantial, and what the County deems substantial, as well as what the Planning Commission deems substantial.

Scott DeLeon, Director of CDD, said he wanted to clarify on behalf of the Public Works Department, that they were mindful of the traffic study, the staff engineer looked at it and explained that a lot of things go into the requirements for a traffic study and this project did not meet those requirements to trigger a traffic study.

**9:37 a.m. Opened Public Comment**

Scot Candell, attorney for the applicant, thanked Victoria Kim for the detailed report. He said that the concerns from the Commissioners seem to just be that the parcel is improperly zoned, and while that may or may not be true, that should not be the issue during this hearing. The question is, given the current zoning that the County has implemented, is this an appropriate business for that zoning. He said that the applicant would be happy to work with the Planning Commission to mitigate some of the traffic issues, such as a crossing guard; but to deny them the right to do business there based on a traffic study, when staff found that one was not needed, it would be unfair.

Comm. Hess asked Comm. Malley if the issue is that school children would be crossing the road or walking on the road.

Comm. Malley said that a security guard would not be needed as he/she would only be a witness to any accidents. He said he doesn't think they cross anywhere near there. He said he doesn't see them crossing the road unless they run out to catch a ball.

Richard Sereghy, applicant, said he hears a lot of opinions but not a lot of facts from the Commission. The owner of the property said there is no traffic issue. He noted that the Walmart build did not even trigger a traffic study. He said that 75 visits per day is much overstated, and they overestimated how many people would be coming. The security guard and security cameras are going to deter people from acting poorly; they will happily ban customers who cause traffic issues. He said they are willing to work with the Planning Commission and the County and that he wants to be a partner, but he thinks this issue is not about traffic.

Becky Salato, Konocti Unified School District Superintendent, respects the applicant's sincerity and appreciates him stating how much he wants to be a partner. Her concern from the school district is about the safety and security of the children. Her concern has nothing to do with the type of business, but rather with the zoning of a commercial business. She said that the traffic is very bad in the mornings and afternoons, and currently, the traffic is less because of students not being in school due to COVID-19. She said she is not trying to prevent the applicant from starting his business, however she is saying that any type of business there would increase the traffic concerns.

Peter Schiffman, owner of the property, he said he has owned the property for 5 years, and is in and out of the building all day long including during school hours, and while they do have children walking past the building, there are not a lot of children that go by. He said there has been no traffic backup anywhere around their property. He said he does not see any additional issues with a retail business going in there. He said the biggest problem is people who are speeding, but that is out of their control.

Terry Larson said the biggest concern is the curve where cars come flying around the corner. She said the way to solve that is to bypass their property by putting in two crosswalks, which will take the traffic away from their building, and it creates a safe space for pedestrians from the speeding traffic.

Peter Schiffman said there have been no accidents on that side of the street in the last 5 years since they have owned the building. He feels that saying it will cause more traffic issues is unfounded.

Comm. Suenram asked for clarification on the average of transactions during the day.

Peter Schiffman said they are looking at 4 transactions per 15 minutes, which could be 1 car or 4 cars or 16 transactions per hour.

Craig Billings, resident across the street from the building, says he does not want to see them access the building from Bryant Road, as he does not want the extra dust that would be generated from extra traffic. He said the major concern is the added traffic to the school traffic that already exists.

Richard Sereghy said he did consider the neighbors on Bryant, which is why he put the access on Lake Street. He said that denying them a permit now does not fix the problem. They are a business that meets all criteria and the zoning should not have anything to do with approving the permit.

Peter Schiffman said that to address the neighbor's comments, we are not going to use Bryant as an access to the building. He said they want to do everything to satisfy all concerns.

Scot Candell, suggested that this hearing is getting a bit sidetracked about the zoning, since the applicant has met all criteria for this permit.

Comm. Malley clarified that he never said he wanted to stop anything because of the spot zoning. He withdrew his comment about the traffic study as the County and Staff do not take the same position he does.

**10:17 a.m. Closed Public Comment**

Nicole Johnson, Deputy County Counsel, clarified that this is not a ministerial process; this is a hearing for a Major Use Permit and the Commission needs to weigh the evidence that is being presented.

Comm. Suenram cited an agency comment from CalFire and asked if it was dealt with.

Victoria Kim said that those comments from CalFire are generic. She clarified that there is no cultivation happening at this location and that the CalFire comments were the generic responses for commercial cannabis cultivation.

Comm. Suenram said that it does not matter what type of business it would be, they would still need to upgrade to the current fire standards for fire suppression.

Mark Roberts, Principal Planner, said that there is a condition of approval that addresses CalFire concerns.

Comm. Malley said he did not see a letter from the Lake County Fire Protection District.

Mark Roberts said that usually they will defer to other agencies, such as CalFire, for comments.

Comm. Malley said he assumes they will be adhering to the fire suppression equipment requirements for the commercial building.

Victoria Kim said she spoke to the Building Division and if the applicant does install a fire sprinkler, they will have to go through the Building Division for the necessary permits.

Comm. Suenram noted from the staff report that this area is a high risk area for wildland fire; he said they need to be in compliance and he just wants to make sure it is not being overlooked.

Scott DeLeon said there is a fire hydrant on Lake Street and Bryant, which is directly across the street from the corner of this property; which qualifies for them not needing fire storage.

Comm. Brown said his concern going into this was purely with traffic and that his concerns are lifted since the application does not meet the threshold to trigger a traffic study.

Comm. Hess said he supports the application and appreciates his colleagues concerns. He suggested blinking traffic stop signs.

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find the Major Use Permit (UP 19-50) applied for by Calizonaoz, LLC on property located at 8466 Lake Street, Lower Lake further described as APN: 012-054-25 is exempt from California Environmental Quality Act Guidelines Categorical Exemption Class 1 §15301 based on the findings set forth in Staff Report dated September 1, 2020.

**4 Ayes, 1 No (Comm. Suenram) – Motion carried  
Approved by roll call vote.**

Comm. Hess moved, 2<sup>nd</sup> by Comm. Malley that the Planning Commission find that the Major Use Permit (UP 19-50) applied for by Calizonaoz, LLC on property located 466 Lake Street, Lower Lake further described as APN: 012-054-25 does meet the requirements of Section 51.4 and Article 18 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 September 1, 2020.

**4 Ayes, 1 No (Comm. Suenram) – 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.*

**10:36 a.m. Public hearing on consideration of a Major Use Permit (UP 18-29) and a Categorical Exemption (CE 19-48). Applicant is Alex Beck (Better Nature Holdings, LLC) proposing one A Type 3 (outdoor), One A Type 2 (small outdoor), and two A Type 1C (specialty cottage) Commercial Cannabis Cultivation licenses consisting of 58,320 square feet of canopy area located within 68,400 square feet of cultivation area. Location is 13306 Elk Mountain Road and 13052 White Rock Canyon Road, Upper Lake; further described as APN: 002-023-93.**

Victor Fernandez, Assistant Planner, gave a power point presentation on the permit request, project description, site description, project analysis and recommendation.

Comm. Suenram asked about regulations regarding the allowance of onsite storage containers.

Mark Roberts explained the regulations, including having to be screened away from public view and specific types of siding.

Alex Beck, Applicant, stated that he is aware of these regulations.

Comm. Suenram asked about the lack of comments from the Department of Water Resources regarding Middle Creek.

Victor Fernandez said that he sent the project out for agency comments and everything is included in the attachment.

Comm. Suenram asked about the flooding that happened in 2018/2019 when Middle Creek flooded.

Alex Beck said that the Central Valley Regional Water Quality Control Board came in and did an assessment and this property is outside of that flood area. He said there has been improvements made for flood containment.

Comm. Hess cited the late letter that was sent this morning and asked the applicant about his fencing.

Alex Beck said that he is using woven wire that is traditionally used for pastures, as well as opaque screening. They are considering planting fire tolerant, drought resistant plants. He said he wants to

maintain and preserve the scenic quality of the property and be as inconspicuous as possible and blend in with the environment.

**11:04 a.m. Opened Public Comment**

Lance Williams, Lake County Cannabis Alliance, said that trusts Victor and CDD and wanted to give his blessing and encourage the approval of this project.

**11:05 a.m. Closed Public Comment**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Hess that the Planning Commission find that the Categorical Exemption (CE 19-48) applied for by Alex Beck on property located 13306 Elk Mountain Road and 13052 White Rock Canyon Road, Upper Lake, and further described as APNs: 002-023-90 & 002-023-93 will not have a significant effect on the environment and therefore a Categorical Exemption shall be approved with the findings listed in the staff report dated September 14, 2020.

**4 Ayes, 1 No (Comm. Suenram) – Motion carried  
Approved by roll call vote**

Comm. Malley moved, 2<sup>nd</sup> by Comm. Hess that the Planning Commission find that the Major Use Permit (UP 18-29) applied for by Alex Beck on property located at 13306 Elk Mountain Road and 13052 White Rock Canyon Road, Upper Lake, further described as APNs: 002-023-90 & 002-023-93 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 September 14, 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.*

**11:10 a.m. UNTIMED STAFF UPDATE**

Katherine Schaefer, Assistant Planner, gave a power point presentation on Hemp.

Mark Roberts continued the discussion on Hemp.

Comm. Hess asked about the total acreage planted with hemp versus cannabis.

Katherine Schaefer said that there has only been 6 applications for hemp, while we have granted 180 for cannabis and have 200+ in the queue; there is no definitive number for acreage comparison.

Katherine also mentioned that there will be legislation coming in the future that may necessitate changes to the Lake County Zoning Ordinance.

**11:43 a.m.    OTHER NEWS**

Scott DeLeon and other Commissioner Bob Malley’s last Planning Commission meeting. He is retiring after over 10 years on the Commission. Kate Lewis showed the plaque that the Department had made for him to commemorate this occasion.

**11:52 p.m.    ADJOURNED**

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Daniel Suenram, Chair  
Lake County Planning Commission

Respectfully Submitted,  
  
By: \_\_\_\_\_  
Kate Lewis  
Planning Commission Assistant