

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING

September 23, 2021

Commission Members

P John Hess, District I
P Everardo Chavez, District II
P Batsulwin Brown, District III
P Christina Price, District IV
P Maile Field, District V

Staff Members

A Carol Huchingson, Interim Deputy Director
P Eric Porter, Associate Planner
P Sateur Ham, Assistant Planner
P Nicole Johnson, Deputy City Counsel
P Kerrian Marriott, Office Assistant III

REGULAR MEETING

9:00 A.M. CALL TO ORDER

Pledge of Allegiance lead by Comm. Brown

9:01 A.M. ACTION ON MINUTES

Comm. Price Motioned to approve minutes from the August 26th, 2021 Planning Commission Meeting, Seconded by Comm. Hess.

5 Ayes, 0 Nays – Motion Carried

9:05 A.M. CITIZEN'S INPUT –

Melanie McCovour Planning Commissioner of Humboldt County spoke of an upcoming State wide Planning Commission conference held between October 15th and 16th, 2021 by the California County Planning Commissioners Association (CCPCA). The event will be held in the town of Eureka and is centered on cannabis planning as well as housing. Spoke of the speakers that would be in attendance. Ms. McCovour mentioned that the reason for her call was that they had not received registration from the

Commissioners of Lake County. Ms. McCovour stated that the event would include workshops packed with CEQA updates and how to be a planning commissioner. The information could be located at site ccpca.org.

9:08 A.M. Public Hearing to consider MAJOR USE PERMIT (UP 19-48) and INITIAL STUDY (IS 19-68). Applicant/Owner: Blue Oak Farms, LLC. Applicant is applying for a total of 89,620 square feet "Outdoor" canopy area within a 2.65 acres cultivation area. The project includes storage sheds, security, portable toilets, and (2) 2,500-gallon water tanks. Location: 1756 Ogulin Canyon Road, Clearlake, CA. (Sateur Ham)

Sateur Ham Assistant planner gave a PowerPoint presentation on the proposed project, the presentation included the Project Description, Project Setting, Project Analysis, Environmental Review, Findings and Staff Recommendations.

Comm. Chavez asked that since the property was located in a high fire zone what evacuation plans the applicant had.

Richard Knoll planning consultant for the project introduced himself along with Kim Gardner the applicant and mentioned Annje Dodd who were all available for questions. Mr. Knowles mentioned an additional access point which could be utilized for evacuation purposes.

Comm. Chavez confirmed the trimming of the 18 trees mentioned in staff report.

Richard Knoll responded that the site was well maintained and confirmed that the trees would only be trimmed as well as the underbrush having been mowed.

Comm. Field asked what hazardous material as it pertained to farming methodology would be utilized for the project.

Kim Gardener applicant stated that the materials used were OMRI approved organic materials but are referred to as hazardous for human consumption.

Comm. Field asked if there was going to be a fuel storage onsite.

Kim Gardener responded that there was no plan but if needed it would be in the required containment area.

Richard Knoll stated that minor fuel storage might be needed and the material would be stored within a storm proof enclosure with locks.

Comm. Brown asked if the access road to the proposed site was public or private and who was responsible for addressing transient concerns on that road.

Richard Knoll stated that there were other businesses in the area and Ogulin Canynon Road was a publicly travelled road and he was not sure what the status of a right of way or easement was. The entry to the proposed site was considered an easement, with recorded documentation. Mr. Knowles stated that if transients were the cause of any concern, he believes law-enforcement would need to get involved. Mr. Knowles also stated that there were gates to the site with several being locked and one requiring a knocks box for emergencies.

Comm. Brown stated that from highway 20 to highway 53 was known for high number of transients and is historically known as a dumping ground.

Comm. Hess asked for clarification on if the trees were only going to be trimmed and not removed.

Richard Knoll stated there were no tree removals currently planned.

Comm. Hess asked about the grading permit request and how much grading was needed.

Richard Knoll stated that they had submitted for a grading permit through Bill Vanderwall a civil engineer for parking and storage around the area but the proposed site would not need to be graded as it was fairly level.

Comm. Field gave clarification that the Staff Report noted that Ogulin Canyon road was a paved city and county maintained road in response to Comm. Browns question.

Comm. Chavez asked about the well referencing the staff report which stated that the well would generate 50 gallons of water per minute and when was the well last tested.

Richard Knoll referenced a copy of a well report completed March of 2017 which stated that the well produced 50 gallons per minute. Mr. Knowles stated that a newer hydrologist report had been submitted.

Comm. Chavez asked if the new well report also stated that the recharge was 50 gallons per minute.

9:34 A.M. Public Comment – NONE

Comm. Chavez Moved to Motion, Seconded by Comm. Price find that the Major Use Permit (UP 19-48) applied for by Blue Oak Farms LLC on property located at 1756 Ogulin Canyon Road, further described as APNs: 010-055-46 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 September 23, 2021.

5 Ayes, 0 Nays – Motion Carried

Comm. Chavez Moved to Motion, Seconded by Comm. Price find that the Major Use Permit (UP 19-48) applied for by Blue Oak Farms LLC on property located at 1756 Ogulin Canyon Road, further described as APNs: 010-055-46 does meet the requirements of Section 51.4 and Article 27, Section 1(at) [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 23, 2021.

5 Ayes, 0 Nays – Motion Carried

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.

9:37 A.M Break

9:43 A.M. Public Hearing to consider MINOR USE PERMIT (MUP 20-27) and an appeal of Early Activation (file no. AA 21-03). Applicant: Flower Lady Farms. Owner: Malcolm Dunshee. Proposed Project: A-Type 2B small mixed light commercial cannabis license, and a 'Type 13 Self Distribution' license that would allow legal transportation of cannabis to and from the site. Location: 12345 Seigler Canyon Road, Middletown, CA. (Eric Porter)

Nicole Johnson County Legal Counsel gave an introduction to the item as it related to an appeal of the applicants Early Activation permit and the Use Permit requested, stating that they were two separate items addressed as one. Counsel's recommendation was to either continue the item and have staff separate the permit request from the EA appeal or the commissioners had the option of hearing the use permit first, followed by the appeal

request. Under rule 27.4 of the zoning ordinance Early Activation of use section part D states that an EA will only last for 6 months or will expire when a decision made on the parallel permit (use permit). Once the Use permit is approved or denied the EA permit would no longer exist. Ms. Johnson also stated that if the commissioners were to continue the item, the appeal at that point would need to be discussed and decided on.

Comm. Field asked if someone should move to amend the agenda

Nicole Johnson stated that a motion could be made to trail the appeal until after a decision had been made on the Use permit.

Comm. Field Moved to Motion, Seconded by Comm. Hess.

5 Ayes, 0 Nays – Motioned Carried

Eric Porter Associate Planner gave a Power point presentation on the proposed site which reviewed the project details and the separate phases of the project, along with the Vicinity Map, Zoning of Site and Surrounding Area, Cultivation and Wetland Site, Project Analysis, Water Analysis Summary, Minor Use Permit Findings. Article 27 findings for approval. CEQA Studies and Staffs recommendations

Nicole Johnson stated that CEQA required that phased projects be analyzed in a certain way. Ms. Johnson recommended that the commission ask staff if the project was actually phased or if staff was mislabeling parts of the project that had been analyzed to the fullest extend for the entire build out. Was staff labelling the parts of the project as phases in the order they were going to be achieved? Also recommended that staff be asked with the new well being drilled what were the impacts associated.

Comm. Hess referenced staff report page ten which reviewed the requirements for the new well. Comm. Hess asked if the well would be drilled based on the conditions of approval or based on if the conditions of the drought declaration was extended.

Eric Porter responded that prior to any cultivation under the use permit. Mr. Porter referenced COA A19 for the exact language.

Comm. Hess asked Mr. Porter to speak to the use of the term phases.

Eric Porter stated that the phases were within the same footprint, phases one, two and three consisted of the same land area so there would be no expansion or contraction from one phase to the next. Staff was comfortable with the Initial Study as it was clear what was going to happen within each phase all within the same footprint.

Comm. Field referenced a letter from Mike Wink fire chief, stated that the road was required to be two 10 ft. lanes but that the road was only 12 ft. wide.

Eric Porter responded stating that the road measured out on the GIS database to be more than 20 ft. but if it measured less than it would need to be enlarged.

Comm. Field stated that she visited the project site and she would find it difficult to believe that the lane was in fact 20 ft. wide.

Comm. Field asked about the water storage tanks that would have to be steel or fiber glass. On her visit she stated that the tanks she saw were plastic.

Trey Sherryl consultant to applicant stated that the irrigation tanks were plastic, to be 4290 compliant would require a metal fire water storage tank with up to 5000 gals of water. Mr. Sherryl stated that the purpose of the new well was to take water from a different aquifer than the wetlands and would be located in the volcanic hills on the parcel.

Comm. Field stated that after reviewing the hydrology report it showed allot of boron in the water, she researched the toxicity levels of boron to plants which did not yield allot of results. Comm. Field then asked referencing the staff report that the parcel was previously used for intensive agriculture and did the applicants know what type of AG.

Scotus Dunshee applicant stated the former agricultural use to his knowledge was a farm in the 80's, it was a truck stop farm for produce, which had some difficulty due to the boron level. Mr. Dunshee stated that boron levels were included in the hydrology report and based on the decision made by the commissioners they intended to look into different options to treat the water.

Comm. Field asked the applicant if they had any intentions of trucking water to the site.

Scotus Dunshee stated they had no intention of trucking water in.

Comm. Field asked about the Historic analysis of the Hobergs landing strip and requested that the applicants speak to it.

Trey Sherryl responded that the landing strip was on a different parcel and it was what separated the proposed site from the wetlands. Mr. Sherryl continued, stating that the existing well was approximately 100 ft. from the

wetland and the cultivation site approximately 400 ft. away. Mr. Sherryl also stated that cannabis needed boron to be healthy and allot of fertilizers had boron in them as it more likely for the product to be boron deficient than to have too much. Mr. Sherryl also stated that the new well would not have high levels of boron in it.

Scotus Dunshee stated in response to Comm. Field's access road concern that it was a non county maintained road to the site off of Siegler Canyon Road and was over 20 ft. wide and the site had a wraparound that was over 12 ft. and is an ingress and egress, entrance and exit and was 4290 compliant.

Comm. Field stated that it looked as though someone could get by if needed. Com. Field asked the applicants about importing organic matter and what quantity was being considered.

Scotus Dunshee stated that yards of soil were brought in from Kelseyville. Any sprays utilized would be OMRI approved and they plan to bring in very little fertilizers which would be compliant with state regulations and they anticipated very little run off as they would be placing ground cover and a drip irrigation system at the site.

Comm. Field stated her concern was the volume of soil brought in.

Trey Sherryl stated that they anticipate no more than 50 cubic yards of import and less than 500 cubic yards of earth disturbance.

Comm. Field clarified so approximately two truckloads.

Comm. Hess stated that the main source of boron was leached from rocks and asked if any surveys completed involved the volcanic rocks that would be drilled into for the second well, was it going to require further study to determine the boron content.

Trey Sherryl responded that boron binds to organic material so they are not anticipating high concentrations of boron in the volcanic aquifers.

10:15 A.M. Public Comment –

Steve Zalusky Principal biologist gave a presentation utilizing the vicinity map in Mr. Porter's presentation. Mr. Zalusky has a restoration project adjoining the proposed site, further drawing a map to demonstrating his concerns with the project. Which included current depth to ground water level, recharge of ground water level well test. Mr. Zalusky requested that the secondary well be a required condition of approval drilled in the confined

aquifer which would not impact his wildlife preserve and wetland, the other concern was boron level and the potential effects to animals on his wildlife preserve. Mr. Zalusky would like the project to be organic and voiced his concern if the project were to have too much lighting as it would have an underrated impact on wildlife if brightly lit at night.

Richard Durham cultivator and neighbor is familiar with the project stating that mellow creek ran in two different directions to replenish the aquifer, also on the opposite side was a large spring which helped Segular Canyon creek to flow, states there is plenty of water to replenish aquifer. Boron is mitigatable through filtration and stated that he was happy to see the project at the proposed site.

Malcolm Dunshee parent to applicant stated that most of the public in attendance were in support of the project. The project would create opportunity which was needed in the community. Is in support of the project.

Robert RoffMidge neighbor has known applicants since childhood, local community based operation. Feels that this business is a plus and would draw energy back to the neighborhood. Spoke on the characteristics of the applicants. Has visited the farm and was impressed.

Steven Reed neighbor supports the project, believes it would utilize less water than grapes and had strong economic benefits. Spoke on his knowledge of the applicants.

Helen Pengelli neighbor spoke in support of the project, has known applicants since childhood, spoke of the applicants integrity as well as the proposed site being ideal for the project. Spoke of the economic growth the project would provide.

William Gilgaland supports project, neighbor to applicants and good friends of the applicants. Spoke of the applicant's integrity and reliability and sense of community.

William Stranger neighbor spoke of the integrity of the community and what was important to himself and his neighbors, he believes the applicants would maintain the integrity of the community and believes them to be stewards of the land.

Duncan Gamlen neighbor voiced his support for the project stating that he had visited the site and was impressed. Knows the applicants and believes them to be competent and responsible, believes they would always choose to do the right thing.

Erin McCarrick is in support of the project as well as in support of the communication between the applicant and Mr. Zalusky. Stated that the boron concern was a concern for many others in the area and allot of advancements had been made in that regard and believes that the applicants would continue to work with Mr. Zalusky to meet conditions not only relevant to their property but to the surrounding area as well. Strict testing for products prior to the public distribution.

Steve Alexander neighbor stated his support for the project, the principles of the applicants and that they had the community interest at heart.

Elliot Hurwutts neighbor, Chair of Cob Counsel stated his support for the project recognizes the importance of cannabis for the economy and for the community in general. His concern was that the project needed to be done right, responsible development, permitted, right scale and locally owned. Would like to have a discussion with Mr. Zalusky about the cumulative impact of the different AG farms in the area.

Lance Williams stated his support for the project, has met with the applicants.

Jonathan Greene neighbor has known applicants for many years, spoke on the applicants attributes and considers them stewards of the land. Stated his support for the project.

Dave Johnson stated that he trust the applicants integrity but also loves the wetlands and was curious as to how the project would negatively impact it but after listening to the biologist and with the relocation of the well, is now in support of the project.

11:04 A.M. Public Comment Closed

Comm. Hess stated that he absorbed and appreciated the support from the surrounding neighbors and that he was in support of the project. Comm. Hess also noted that the project would have to adhere to the dark sky conditions as it pertained to lighting concerns.

Comm. Field thanked the public, stating that the applicant were going about their project the right way but had concerns which she addressed to County Counsel about the CEQA review and could the project proceed without a complete review?

Nicole Johnson stated that without a complete CEQA review the project could not continue, the question here was, was there an incorrect use of the

word phased because per CEQA a phased project is one that is split for development overtime and thus surveyed as such.

Comm. Field stated that the way the project was presented was as a phased project but the main point of concern which was a condition is the addition of the new well. Comm. Maile stated that a hydrology report could not be reviewed until the well was completed and asked if the item should be tabled for a later date.

Nicole Johnson stated that with all the finding made from the report one of those findings was if CEQA had been met, then the commission could proceed. If a commissioner was unclear, clarification could be requested from staff. If the commissioner still felt that all the findings were not met, said commissioner could vote no or recommend that the project be continued.

Comm. Field stated that she would like to see the analyst for the new well prior to approving the project.

Trey Sherryl stated that an application was submitted for a new well permit, can understand CEQA being required since the well would be used for a commercial operation but should be a mitigation measure for the existing well as it was sufficient. Mr. Sherryl stated that the applicants have shown good faith and are moving in that direction however due to the drought well drillers are currently nine to twelve months out and would prefer to utilize what they have to start cultivating.

Scotus Dunshee stated that the project was funded through family and private funds and the delay of a year would be crippling for the cultivation.

Comm. Field stated that the well requirement was a condition of Staff and asked Mr. Porter to speak on it.

Eric Porter stated that the project each year would have something different on the ground however, nothing projected superseded the ground that had been surveyed during the CEQA review with the exception of the new well, which would have to be monitored, an annual well report required and a condition could be added pertaining to quality of water in addition to quantity of water.

Comm. Chavez stated that he believed all the information to move the project forward was presented so he was ready to move forward with the motions.

11:17 A.M. Public Comment Reopened

Steve Zalusky stated that the goal was not to appeal the project. His main concern was if boron was found in the water in the new well that the applicants would need to pull water from another source, he had no issue with the applicant using the unconfined aquifer with the understanding that there would be a time limit to have the new well up and functional.

Nicole Johnson stated that CEQA analyses the projects impact on the environment, not the environments impact on a project. Ms. Johnson stated that it was partly correct that if a contaminant exist and could have a potential impact that would be a part of the CEQA analyst but partly incorrect It is not the job of the commission to police contaminates as a result in any cannabis product that may come down the line.

Ben Grizzo applicant stated that he understood the boron concern but there were approximately four other wells in the surrounding area, and he had not been made aware that there was an issue. The project cannot financially survive suspension for a year.

Malcolm Dunshee Stated that the commissioners should support this project as it would be a loss to the community if not approved.

Helen Pengelli stated that it was unclear as to whether or not the applicants needed to drill a new well. Requested that the commissioners approve the application with a provisional permit.

Comm. Hess stated that it was a condition of approval that a new well be drilled but was not in support of a cutoff date with the nature of the drilling market currently. Comm. Hess also stated that other projects had previously been approved in the area that did not have a boron imposed standard

Ty Huchingson neighbor stated he was impressed with the applicants and the proposed project and was in support.

William Stranger referenced the CEQA act and its presence to protect the environment.

Duncan Gamlen stated that no one knew what the boron levels in the undug well would be and there were treatments available for removing boron from the water and believes it is a non-issue.

11:31 A.M. Public Comment Closed

Comm. Field Moved to Motion, Seconded by Comm. Chavez find that that the Initial Study (IS 20-112) prepared for the project by Flower Lady Farms, LLC on a property located at 12345 Seigler Canyon Road, Lower Lake, further described as APN: 012-024-43 on a property located 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 September 23, 2021.

5 Ayes, 0 Nays – Motion Carried

Comm. Field Moved to Motion, Seconded by Comm. Chavez find that the Minor Use Permit (MUP 20-27) applied for by Flower Lady Farms, LLC on a property located at 12345 Seigler Canyon Road, Lower Lake, further described as APN: 012-024-43 does meet the requirements of Section 50.4 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 September 23, 2021 and as amended here today.

5 Ayes, 0 Nays – Motion Carried

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.

11:34 A.M. UNTIMED STAFF UPDATE

Office News

Nicole Johnson stated that as of September 30, 2021 the Governors waiver of the Brown Act requirements would expire, which meant that remote attendance would no longer be permissible unless the Brown Act for remote attendance for Commissioners were met, this entailed notification of the remote location and accessibility for the public to participate in the meeting from said location be published. An amendment to the Brown Act would allow remote attendance should the individual body hold a meeting to determine there was a state of emergency and that remote meetings were necessary. There were steps prior to that happening, there were findings that needed to be made in relation to the state of emergencies and the safety risk of meeting in person and it required that it be decided every thirty days.

Comm. Chavez asked if someone was not in attendance would they need to post their location.

Nicole Johnson per the Brown Act absent the emergency should a commissioner decide to join remotely, they would have to notify the public of that location prior to the meeting said notification would need to be posted and available to allow the public to listen and participate in the meeting from said location.

Comm. Chavez asked why the commissioner remote location would need to be publicized if the public had the zoom option.

Comm. Brown asked if he were to notify the public of his remote location. How far in advance would it need to be done?

Nicole Johnson stated she would have to confirm however it should be 72 hours for regularly scheduled meetings and 24 hours for emergency meetings.

11:42 A.M. Adjournment