MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON:	**January 19, 2017**
LOCATION:	Mendocino County Board of Supervisors Chambers 501 Low Gap Road, Room 1070 Ukiah, California
COMMISSIONERS PRESENT:	Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle
COMMISSIONERS ABSENT:	None
PLANNING & BLDG SVC STAFF PRESENT:	Steve Dunnicliff, Director Mary Lynn Hunt, Senior Planner Robert Dostalek, Planner III Adrienne Thompson, Commission Services Supervisor Nash Gonzalez, Interim Chief Planner Beth Burks, LACO
OTHER COUNTY DEPARTMENTS PRESENT:	Matthew Kiedrowski, Deputy County Counsel Marlayna Duley, Environmental Health

1. Roll Call.

The meeting was called to order at 9:04 a.m.

2. Planning Commission Administration.

2a. Election of Chair and Vice Chair.

Upon motion by Commissioner Nelson, second by Commission Little; Commissioner Holtkamp is nominated Chair, and Commissioner Ogle is nominated as Vice Chair.

The Chair and Vice Chair accepted their nominations.

2b. Determination of Legal Notice.

The Clerk advised the Commission that all items had been properly noticed

2c. Acceptance of the 2017 Planning Commission Calendar.

The Commission accepted the 2017 Planning Commission Calendar.

3. Director's Report and Miscellaneous.

Mr. Dunnicliff presented a verbal Director's Report.

4. Matters from Public.

No one was present from the public who indicated a desire to address the Commission.

5. Consent Calendar.

None.

6. Regular Calendar.

6a. CASE#: MS_2003-0001

DATE FILED: 1/1/2011
OWNER: WOOD KENNETH E & LYNN
REQUEST: Minor Subdivision creating four (4) parcels of 12,100, 12,091, 12,096, 27,982 sq. ft. and a Remainder Parcel of 31,225 sq. ft. Also requested is an Exception to the 60-foot road width requirement and the naming of the private roadway "Wood Lane".
ENVIRONMENTAL DETERMINATION: NEGATIVE DECLARATION
LOCATION: Approximately 2 miles northeast of Ukiah near Lake Mendocino Drive, one (1) mile east of the intersection of North State Street (CR 104) and Lake Mendocino Drive (CR 227B), lying on the south side of Lake Mendocino Drive, located at 1021 Lake Mendocino Drive; APN 168-241-41.
STAFF PLANNER: ROBERT DOSTALEK
RECOMMENDED ACTION: Approve project as recommended.

Robert Dostalek, Staff Planner, reviewed the staff report and discussed the key issues. He presented a power point of the project, noting the location map, access by private driveway, and existing developments. He discussed the surrounding area and stated it was zoned Suburban Residential (SR) and had access to water services but not to sewer hookups. He noted the project had been put on hold due to the water moratorium, but could now be processed due to the lifting of the moratorium in 2015. He stated that the applicant had requested an exception to County Code for the roadway easement, which the Department of Transportation and Ukiah Valley Fire District had found acceptable. Mr. Dostalek noted that staff was recommending approval of the project and corrected a typographical error in the conditions of approval.

Commissioner Ogle noted several other typo's on Page 1 and 7 of the resolution, Page 4 of the staff report and item 4 of the initial study. She also stated that Page 2 of the Resolution referenced the remainder parcel to the south, which should actually be west or southwest. She discussed the Biological Resources from Page 3 of Exhibit A to the Resolution and noted no comments had been received from the Department of Fish and Wildlife. Commissioner Ogle noted she had met with the applicant and visited the site.

Mr. Dostalek stated the remainder parcel was located "southwest" of the proposed subdivision.

Commissioner Warner asked why it was a requirement to have the existing well capped.

Katherine Gamble, Environmental Health, noted that the existing well was a shallow hand dug well, approximately 20 feet deep and did not meet current standards or codes; thus it was required to be abandoned or destroyed.

Ken Wood, owner, thanked staff for the preparation of the report. He discussed an existing road used by the Army Corp. of Engineers and an existing easement for PG&E, and underground utilities. He disagreed with the condition related to payment of Fish and Wildlife and felt the date should be changed regarding the Fire District letter. He discussed parcel sizes and lines and also disagreed with the in-lieu fee for affordable housing, road width requirements, property addressing and street sign.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Chair Holtkamp discussed the Dept. of Fish & Wildlife (DFW) condition.

Nash Gonzalez, Interim Chief Planner, noted the filing fee to DFW was a state requirement that the Commission could not waive.

Commissioner Nelson commented that the applicant could file an appeal with DFW regarding the fee.

Mary Lynn Hunt, Senior Planner, discussed the waiver process, but noted she had seen DFW grant very few waivers and never for a subdivision.

The Commission noted their hands were tied when it came to reducing or changing the fee; however they encouraged the public to complain to DFW, especially since they do not submit comments regarding any projects.

Chair Holtkamp discussed the fire letters, dated April 20th and September 20th and asked the district to comment.

Kevin Jennings, Fire Marshall, stated the April letter was related to general recommendations, and the later request was regarding a minimum road width. He stated the Fire District would allow a 20 foot road.

Ms. Hunt noted staff was agreeable with the Fire Districts comments, which could be modified because Condition #10 included language "or other alternatives as acceptable to the Fire District". As long as PBS received a clearance letter the condition would be satisfied

Chair Holtkamp discussed the affordable housing trust fund.

Mr. Gonzalez discussed the Housing Element Update and Ukiah Valley Area Plan, which involved a lawsuit against the County for affordable housing. He stated that the inclusionary housing fee was a requirement from the settlement agreement and could not be waived by the Commission.

Chair Holtkamp noted that the remedy to paying the fee was to build an affordable housing unit.

Matt Kiedrowski, Deputy County Counsel, commented that the Commission could not waive the fee; however a fee waiver could be brought before the Board of Supervisors for consideration. He noted that the applicant may have to pay the fee however and submit for a refund at a later date.

Commissioner Warner stated that the fee was created for a reason; to create affordable housing which was critical and desperately needed in the County. She noted that she did not want to waive the fee.

Chair Holtkamp asked if the Department of Transportation (DOT) could accept a 20 foot wide road.

Geoff Brunet, DOT, noted the standard for a subdivision was a 26 foot road. He noted it was impossible to tell who would buy the parcels in the future and if additional dwellings would be served.

Chair Holtkamp asked if there was sufficient space for a 26ft road.

Commissioner Ogle commented that Lake Mendocino Drive was only 20ft wide, and the County would be asking for a wider road than what exists as the main access road.

Mr. Brunet noted that Lake Mendocino was an old road and should be upgraded to current standards, and commented that DOT was asking for more.

Commissioner Warner commented that the minor subdivision was in a residential area, but thought the development standards may not match old roads. She did not think that the lack of width on Lake Mendocino was a reason not to enforce a wider road for the proposed subdivisions.

Commissioner Nelson agreed that since there was a 30ft easement, the County should keep the road at 26 feet. He noted that Lake Mendocino would be improved to a wider standard at some point.

Commissioner Warner sympathized with the applicant, but noted it was late in the process to be requesting a redesign of the road.

Mr. Gonzalez agreed that the late request would require a revised map and additional staff time for reconsideration before another public hearing.

Chair Holtkamp noted she would not mind if the road sign was not changed, as long as the Fire District and emergency service access was met.

Mr. Gonzalez understood the applicant's request, however the private road needed a sign to distinguish that it was not part of the County Road system.

Commissioner Nelson suggested the applicant add a sign that said "No River Access" to deter trespassing.

Mr. Kiedrowski also noted that the property addressing ordinance had recently been revised by the Board, which required all official private roads to be posted for EMS access.

Mr. Wood discussed the drainage and maintenance of the road.

Commissioner Ogle commented that it appeared the road would be 26 feet wide and named Wood Lane. She asked if the address would be off of Lake Mendocino or if the lots would have new addresses of the individual lots.

Ms. Hunt stated that each parcel would be addressed off of Wood Lane.

Mr. Wood stated that his house and 4 other houses have been on Lake Mendocino Drive for 50 years and did not want new address. He thought that the addressing and naming was part of his exception agreement.

Mr. Dostalek noted that the exception Mr. Wood had applied for was to road width requirements and did not pertain to naming or addressing of a private road.

Ms. Hunt noted that the addressing was required for emergency services and commented that there was potential for second units. She noted that if the applicant did not want to change any addresses on the road, staff would need to continue the hearing to allow for the County Addressor to review access for each parcel.

Commissioner Krueger asked if the existing home's address would be changed or would remain on Lake Mendocino.

Commissioner Nelson asked if the applicant wished to continue the hearing or go ahead with the project as proposed.

Mr. Wood stated he would proceed and did not have an issue with the access.

Mr. Dostalek commented that the project had been referred to the County Addresser prior to the public hearing, and his comments stated that it was appropriate to have a new private road dedicated to serve the proposed parcel due to an increase in services and potential for second units.

Mr. Wood commented that he did not agree with the condition requiring formation of a road association.

Commissioner Nelson stated he was a huge proponent of road associations and would prefer to keep the condition on the project.

Commissioner Krueger agreed and noted that with at least 4 people using the road, it could be difficult to decide who would pay for the maintenance; however with a road association the decision would be taken care of and creating the agreement should not be complicated.

The Commission agreed they would like the condition on the proposed project. They also noted support for the applicant in submitting a waiver of the Fish and Wildlife filing fee, which was required in Condition #4.

Upon motion by Commissioner Ogle, seconded by Commissioner Hall and carried by the following roll call vote (7-0), IT IS ORDERED to adopt a Negative Declaration and approve MS_2003-0001 per the findings in the Resolution and conditions of approval contained in Exhibit A of the Resolution as modified during the public hearing to correct the typographical error in #26b to state "twenty six" feet and change the location of the remainder parcel to the southwest.

AYES: Little, Krueger, Nelson Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: None

[Break 10:16 AM – 10:30 AM]

Chair Holtkamp discussed the order of meeting and noted the cannabis discussion would be split into two parts. She stated the Williamson Act discussion would be first, followed by discussion of the medical cannabis ordinance.

6b-1. CASE#: OA_2016-0003
APPLICANT: COUNTY OF MENDOCINO
AGENT: DEPARTMENT OF PLANNING AND BUILDING SERVICES
REQUEST: Amendments to County Policies and Procedures for Agricultural Preserves and Williamson Act Contracts related to cultivation of cannabis. This amendment is being proposed to satisfy mitigation measure AG-3 of the Public Draft Initial Study and Environmental Checklist prepared for the Mendocino County Medical Cannabis Cultivation Regulation (State Clearinghouse Number 2016112028).
ENVIRONMENTAL DETERMINATION: This action is included in the analysis of the Public Draft Initial Study and Environmental Checklist prepared for the Mendocino County Medical Cannabis Cultivation Regulation (State Clearinghouse Number 2016112028).
LOCATION: All unincorporated areas within Mendocino County, excluding the city limits of Ukiah, Fort Bragg, Willits and Point Arena.
RECOMMENDED ACTION: Recommend adoption to the Board of Supervisors.

Mary Lynn Hunt, Senior Planner, reviewed the staff report and discussed Williamson Act policies and procedures; noting cannabis would not qualify as a use for Agricultural Preserve contracts.

Chuck Morse, Ag Commissioner, discussed the redline of the documents he had submitted, which he felt reflects the desire of the Board of Supervisors. He was in agreement with the programs proposed mitigation.

The public hearing was declared open.

Frost Pauli, spoke for the Farm Bureau and as a property owner, and asked that agricultural interests be promoted and protected in the County. He stated there was a general concern among the 1200+ Farm Bureau members that Williamson Act properties would be converted to cannabis cultivation. He commented that section 9.4e addressed his concern by stating that cannabis cultivation must be incidental and subordinate to an agricultural use.

Corrine Powell was concerned about the definition of agriculture in the County and skeptical of the process. She felt the definitions in the ordinance missed the intention at the State level.

Hannah Nelson was concerned that there would be confusion with the definitions moving forward as commercial cannabis activities increased. She felt the State's option was clear that cannabis was not incompatible with Williamson Act and felt the County should take a different approach.

Devon Jones, Farm Bureau, noted that the Department of Conservation directed each County to determine how cannabis would directly relate to Williamson Act and the Farm Bureau was concerned with rangeland and timberland. She commented that the tax benefit involved in Williamson Act contracts was to maintain agriculture.

Seeing no one else wishing to address Williamson Act policies, Chair Holtkamp called the discussion back to the Commission.

Commissioner Warner noted there seemed to be confusion regarding the use of cannabis as agriculture and commented that in the Policies and Procedure the difference was clearly the size of the activity and if it was related to agriculture, but cannabis was not a qualifying activity on its own.

Chair Holtkamp noted the recommendations would be part of the final motion after discussion of the ordinance.

6b-2. CASE#: OA_2016-0003 (Continued from 12/15/2016)

APPLICANT: COUNTY OF MENDOCINO
AGENT: DEPARTMENT OF PLANNING AND BUILDING SERVICES
REQUEST: The Mendocino County Board of Supervisors proposes two amendments to the Mendocino County Code to add: (1) Chapter 10A.17, Medical Cannabis Cultivation Ordinance, to the Agriculture Code (Mendocino County Code Title 10A), which will be administered by the Agricultural Commissioner's Office; and, (2) Chapter 20.242, Medical Cannabis Cultivation Site, to the Inland Zoning Ordinance (Mendocino County Code, Title 20, Division I), which will be administered by the Department of Planning and Building Services. Together, these two regulations (referred to as "Medical Cannabis Cultivation Regulation") will govern agricultural activities related to the cultivation of medical cannabis and establish limitations on the location and intensity of cannabis cultivation in the unincorporated area of Mendocino County, not including the Coastal Zone. The Medical Cannabis Cultivation Regulation is intended to complement a variety of actions by the State of California to establish a legal framework for the cultivation of medical cannabis.
ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration
LOCATION: Unincorporated County, Outside the Coastal Zone, as defined by the County's Local Coastal Program.
RECOMMENDED ACTION: Recommend adoption to the Board of Supervisors.

Mary Lynn Hunt, Senior Planner, introduced staff for the discussion and noted the Commission would be making a recommendation on the zoning ordinance Chapter 20.242, as well as the Williamson Act Policies and Procedures; she reiterated that the discussion was for approval of the Medical Cannabis Cultivation Regulations only.

Beth Burks, Senior Planner with LACO, discussed the proposed changes including the Air Quality condition for burning and referral response from Fish and Wildlife as it related to BIO-1. She clarified the need for dwelling units on legal parcels and discussed the lighting requirements.

Commissioner Ogle noted several typos; one on Page 2 regarding "burning" and the second on Page 3 after the table to change cultivation suite to site.

Mike Nelson, Planning Manager for LACO, discussed the background of the document and hoped that growers would participate so staff would know what isn't working. He felt the regulations would protect health and safety and not be overly burdensome to cultivators. He encouraged the Commission to add an Oak Woodlands ordinance, since it was discussed in the General Plan and asked that the Commission clarify their intent regarding the requirement for a legal dwelling unit in various zonings, including RR1 and RR2.

Commissioner Warner commented that she recalled the Commission agreeing to remove the requirement in Upland Residential (UR); however the Commission had not discussed RR1 or RR2.

Ms. Hunt stated her notes reflect that the Commission's direction was to remove the housing requirement from UR, RR10 and RR5 zonings, but not much discussion took place regarding RR2 parcels. She discussed the map that had been distributed to the Commission noting the populated areas and noted the location of Rogina Heights.

Commissioner Nelson commented that if the housing requirement was eliminated from the RR2 zoning, it would appear to have no impact based on the maps.

Ms. Hunt stated the RR2 area that would be impacted by the requirement was in the area near Fort Bragg.

Chair Holtkamp noted that she would like to have the RR5 zoning banned from cultivation, and find a mechanism to allow communities to opt in to cultivation.

Commissioner Ogle agreed that she would like to remove all residential zonings, up to RR10, and change the zoning to allow certain residential areas to grow cannabis, such as Laytonville.

Mr. Morse continued his presentation and noted that the same information would be presented to the Board of Supervisors at their next meeting.

Mr. Kiedrowski noted that County Counsel was working on the Administrative Penalties section for nuisance abatement procedures that would specify levels of procedure and, more specifically, how something could be considered a nuisance.

Chair Holtkamp commented that it was interesting to see a flow chart on how Ag interacts with Air Quality, the Sheriff, PBS, and third party inspectors.

Mr. Kiedrowski noted staff could provide a future presentation to the Commission once the Board had adopted the nuisance procedures.

Commissioner Ogle discussed Page 89 in Chapter 10A.17, item F, Section 10A.17.040, stating "all cultivation shall not utilize illegal diversions", etc. and asked about enforcement.

Mike Makdisi, Deputy County Counsel, noted he has been working with PBS to revise and update the Code Enforcement nuisance abatement process. He discussed the ability to enforce administrative citations, the due process procedures and noted that several new sections would be added to the County Code for nuisance abatement, such as Chapter 1.08, Chapter 8.75 and 8.76.

Ms. Hunt concluded the presentation from staff and requested direction from the Commission.

The public hearing was declared open.

Chris Brennan stated that cannabis was not a row crop and was still considered a drug. His main concern was protecting rangeland, proliferation of "hoop houses" and enforcement of violations.

Donna Mecca was concerned with cultivation in residential neighborhoods and requested that all cultivation be forced out of neighborhoods where homes were used for grows.

Pat Hartley read her letter into the records. She requested that cultivation be removed from residential zonings, but supported allowing an exemption so that the Laytonville area could continue to grow.

Carol Hester stated cultivation was incompatible with residential zonings and asked that the Commission protect residential communities and phase out residential zonings.

Candy Dickenson read her letter into the record and agreed with the previous speaker; to remove future cultivation sites from residential zonings and phase out all existing sites.

Phil Boynton commented that 2 groups of people came to Mendocino County to grow; those who intend to produce illegal crops and those that are semi legal. He stated that cultivation must be removed from residential areas, as it increased crime, devastates the environment, and generally reduces the quality of life for those individuals that are doing an honest day's work and enjoying the beautiful environment.

Barbara McLean stated she strongly supports prohibition in all residential zonings and agreed that a 2 year transition phase to remove current sites in residential areas would be appropriate. She disagreed with allowing indoor grows and stated that it defeats the purpose of the ordinance.

Paul Hansbury thought provisional licenses were needed as the growing season was approaching and the ordinance was not in affect. He also felt a mechanism for appeal or some sort of variance procedure was needed.

Susan Tibbon, representing the California growers association, discussed having different tiers of regulation on all license types. She thought language for a variance process was needed as well as exceptions for all types of applications and stated provisional licenses were critical.

Julie Bawcom submitted photos of illegal grading to the Commission and stated that a better grading ordinance was needed. She was also concerned with unpermitted ponds.

Sandra Hognestad stated the reality was that cannabis is grown in rangeland and she did not see how the ordinance could be approved without improving County roads. She was concerned with environmental impacts to streams, rivers and the wildlife from cannabis cultivation.

Sean Trainor discussed the impact of the ordinance and noted that the County and growers had the opportunity to make this a positive impact. He was aware of over 300 applicants and discussed the strict water board conditions that would make compliance difficult and could deter many growers from participating in the program. He commented that some individuals may want to relocate sites, but would not financially be able to do so and asked if the Planning Commission could provide a transfer site.

David Drell commented that he thought the ordinance and MND as written were a good start and should go forward to the Board for approval.

Tom Rodriguez commented that he was a small winery owner and stated that Mendocino County was the 12th poorest County out of the 58 counties in California. He stated that Humboldt and Sonoma Counties had embraced cannabis and were collecting revenue benefits.

David Troxil commented that provisional licenses were crucial and stated there was a misconception that cannabis farmers had a "sack of money" available. He thought many farmers were one season away from losing farms and emphasized that there are 2 types of growers; the legal growers in the room participating in the program and those that break the law and give everyone a bad name. He hoped the system could work with those farmers that were trying to be legal.

Valerie Edwards thought the suggestion to eliminate cultivation from residential zonings up to RR10 was acceptable, but noted that her area in Laytonville was RR1 and the neighborhood was happy growing. She hoped some sort of compromise could be made for the zoning districts to keep everyone happy.

[Lunch 12:05 PM to 1:15 PM]

Larry Desmond supported the MND as written, but felt the process should slow down to avoid errors. He also felt that provisional licenses for growers were necessary.

Kate Marionchild supported additional mitigations, such as AG2, as written, and thought a more comprehensive grading ordinance was needed.

Park Steiner, a fisheries biologist, discussed salmon, steelhead and the fish economy prior to 1960. He stated that illegal water diversions, dams, land use compliance, clearance of riparian area and other grading issues were his main concern. He felt that protection of the environment would be cheaper than repairs/restorations.

Ellen Drell, Willits Environmental Center, noted her sympathies for smaller residential parcels and felt that there were "social" issues that could not be solved by the MND. She felt the ordinance had a sound structure and felt the Commission should move forward. She asked that before the next phase of the ordinance, the Commission consider an oak woodlands and grading ordinance.

Linda Gray noted her support for an oak woodland and grading ordinance. She discussed the Greenfield Ranch subdivision and asked if the ordinance could be changed to allow each "tenant" to cultivate 10,000 square feet, as many parcels in the subdivision had multiple occupants that were not property owners.

Fred Marshall noted he had been an organic farmer since early 1970 and supported an oak woodland and grading ordinance. He also felt the process was moving too quickly.

Frost Pauli, Mendocino County Farm Bureau, discussed the need to protect "traditional" agriculture and stated that the impact to ag zoned parcels was unknown. He discussed the potential for increased subdivisions on larger ag parcels and the fact that land sales would artificially inflate values in the short term, which could have a long term impact on farmers and ranchers in the industry. He discussed the effect of "wine taint" and noted some farms could lose their lease to cannabis growers because they could pay more for useable land and asked that cultivation not be allowed on Ag zoned parcels.

Devon Jones, Mendocino County Farm Bureau, discussed the effect of "regulatory creep" and noted the increased regulations for cannabis cultivation. She agreed with the involvement of Fish and Wildlife, but asked the scope of their review. She felt WATER-1 was important, but asked what a watershed assessment was and what it would look like. She noted the County does have a grading ordinance, in Appendix J of the Building Code, Chapter 18.70, and discussed Stormwater regulations found in Chapter 16.3.

Allen Harris, a licensed contractor, stated provisional permits were needed and felt that residential zonings should be allowed to cultivate if their neighbors agreed. He was not in favor of a sunset clause.

Jeanette Iglesias, Small Farmers Association, felt that excluding rangeland parcels was discriminatory to cannabis growers and should be allowed for prior cultivation.

Jamie Warm, Artifact Nursery, supported removing cultivation form residential or upland residential zonings. He also felt the requirement for housing was unnecessary on any parcel.

Ashley Oldham stated there were different kinds of growers in the County and asked the Commission to consider keeping residential zoning in the ordinance if the property could abide by setbacks and regulations to be permitted. She felt the regulations were overwhelming and hoped a streamlined process could be created.

Valerie Edwards discussed the Ag Chapter 10A.17.030 Section D, qualified patients and caregivers, and asked what exemption from fees there would be. She felt the zip tie program had been extortion.

Phoebe Smith, thought it was "fundamentally wrong" to withhold the ability to cultivate cannabis and asked the Commission to consider education and learning versus enforcement.

Corrine Powell supported the removal for the legal dwelling unit in the upland residential zoning. She was concerned with the effort being put into abatement and eradication versus protecting the legitimate, compliant growers. She also felt the definitions needed further work and asked what sensitive receptor meant, what was involved in the watershed assessment, and asked staff to define how parcels with permits were transferrable.

Jude Tillman agreed with the previous speaker and stated the ordinance was overly complicated by fear. She stated the need for provisional licenses.

Joshua Kin Kahn agreed that there were different kinds of growers and noted the power of ag. He hoped to heal the land and regenerate resources.

Ben Anderson commented that the MND assumes illegal activity exists and felt the regulations would reduce negative impacts. He felt that anyone who could prove prior cultivation from January 1, 2016 should be included in the permits.

Jerilyn Harris was concerned with cultivation in residential zonings and stated she and her neighbors were requesting up to RR5 be removed from allowed zonings. She noted that marijuana was still illegal on the federal level and it did not belong in residential areas.

Johanna Mortz felt cannabis could be compliant in every zoning if the bad farmers were removed. She noted that she lives and grows in the R5 zoning and hasn't had any issues with her neighbors.

Cyril Guthridge discussed tenants in common and hoped people could work together as a community.

Sandra Berman supported the removal of the requirement to have a legal dwelling unit in the RR10 zoning and discussed Ag Chapter 10A.17.040, outdoor, indoor, and mixed light cultivation. She felt cannabis was protected by the right to farm ordinance.

Hannah Nelson discussed the memo she had submitted to the Commission and felt nuisance and abatement should be clear, time limits on referrals were needed, provisional permits were necessary, and asked if permits went with the land or person that had applied.

The public hearing was declared closed.

[Break 2:25 PM – 2:33 PM]

Chair Holtkamp brought the discussion back to the Commission.

Commissioner Warner commented that it might be easier to address each item from staff's memo and individual concerns as they related to each topic.

Chair Holtkamp asked the Commissions preference in removing AIR-2, based on AQMD recommendation.

Ms. Burks stated that was staff's recommendation.

Commissioner Nelson commented the removal of AIR-2 would be consistent with other ag in the County.

Commissioner Warner discussed the suggested changes to the document and asked if third party inspectors could prepare referrals to increase efficiency in the process.

Mr. Morse commented that third party inspectors could not complete referrals and the document as written was appropriate.

Commissioner Nelson commented on the amount of work the individuals were required to do up front and hoped it would not scare off applicants trying to be compliant.

Mr. Morse noted that the intent was to gather proper analysis up front, so that a complete application would be referred to the responsible agencies.

Chair Holtkamp asked if the analysis was needed on every referral or if some steps could be skipped.

Ms. Burks stated that once DFW was confident in County resources, the process would be turned over to the County. She noted that DFW wanted to make sure the County was appropriately staffed and trained to handle the requests.

Commissioner Nelson asked what the next step was when an individual applied for a permit with Regional Water.

Ms. Burks was not sure if RWQCB was interacting with DFW or if it was autonomous participation.

The Commission agreed to remove AIR-2.

Commissioner Ogle discussed the mitigation in the AIR section related to processing and trimming activities of cultivation.

Ms. Hunt stated that processing was not part of the ordinance.

Mr. Morse noted that trimming might be covered, but processing was excluded.

Commissioner Little suggested removing the reference to "phase" and noted a period was needed after cultivation.

Commissioner Hall asked if it would be possible to host workshops for applicants to attend and gain an understanding of the ordinance.

Chair Holtkamp asked if a neighborhood could conduct a water assessment to lower the cost.

Commissioner Ogle agreed that she would like to see groups of people working together to form a response.

Commissioner Nelson noted that there seemed to be confusion on the definition of "fully shielded", which did not mean a 360 degree cover over lighting.

Commissioner Krueger suggested the phrase "during the flowering phase" be removed from the document.

Chair Holtkamp asked if BIO-1 was removed.

Ms. Burks commented that DFW would be performing pre-permit inspections and could ask for additional studies; however the County did not have discretion and were limited to specific requirements until the process was handed back to the County.

Commissioner Little asked what the referral fee was to DFW.

Mr. Kiedrowski noted there was a fee in the DFW code.

The Commission discussed the length of time between when a referral was sent and the response was requested. The Commission recommended a 30 day response; if no comment, the applicant should be allowed to move on.

Chair Holtkamp asked about having multiple cultivation sites.

Commissioner Warner asked how "tenants in common" would work.

Mr. Morse stated that the Board had capped the number of permits per legal parcel and that wording was reflected in the ordinance, thus having tenants in common would be contrary to the Board directive.

Chair Holtkamp thought one recommendation to the Board should be to revisit how the ordinance is working after implementation.

Commissioner Krueger noted that minor subdivisions would be an option for those individuals that wanted tenant in common properties.

Ms. Hunt asked the Commission about their recommendations for an oak woodland ordinance.

Commissioner Little commented that he did not think it was realistic to have an oak woodland ordinance or more extensive grading ordinance in affect prior to 2020 and suggested a statement be added to require the permittee to obtain a grading permit in accordance with Chapter 18.70.06 of the Mendocino County Code where any grading is completed as referenced in Section 18.70.05, and/or where use of unsurfaced roads occurs between November 1st through April 1st. Also, in the interim no true oak shall be removed or otherwise harmed in association with a cannabis cultivation operation.

Chair Holtkamp noted there would be a learning curve before Phase III took effect.

Commissioner Warner commented that it was important to pass along to the Board that having oak woodland protections was important and noted various policies in the General Plan.

Commissioner Hall agreed.

Commissioner Nelson asked if there was protection included for archaeological sites, or if something should be added.

Chair Holtkamp asked if the Commission approved of Commissioner Little's wording and if a revised grading ordinance should be considered.

Commissioner Nelson supported adding the wording now so it was in place by Phase III.

Chair Holtkamp agreed and did not want to begin Phase III without greater protection in place.

Ms. Burks discussed mitigation measures and noted that conditions would be added by RWQCB pertaining to roads and development for cannabis.

The Commission and staff discussed Best Management Practices, (BMPs), standard conditions, and what was enforceable.

Mike Nelson, LACO, commented that it might be more pertinent to add language to the grading ordinance specific to cannabis rather than making detailed recommendations to the Board, which could be difficult to include in the MCCR.

Commissioner Warner asked how recreational cannabis would be addressed.

Ms. Burks commented that there was the option to request a recommendation from the Board, but thought that for the current ordinance, grading was sufficiently mitigated.

Commissioner Warner asked if staff should rethink the wording of Commissioner Little's statement.

Commissioner Little noted that if staff felt Water Quality would handle the conditions, the language did not need to be added.

Chair Holtkamp asked the Commission's opinion on removing the requirement for a legal dwelling unit in RR10 zoning.

Commissioner Nelson stated he would like to eliminate the allowance of cultivation in all RR1, RR2, and RR5 zonings.

Commissioner Warner noted the requirement for a legal dwelling unit had been eliminated from the UR zoning.

Commissioner Nelson stated that at a minimum, cultivation should not be allowed in RR1 or RR2, but could be convinced to allow cultivation in RR5, RR10 or UR, without requiring a legal dwelling.

Commissioner Hall asked how patient and caregivers would work if cultivation was not allowed in RR1 or RR2.

Commissioner Warner commented that she did not think RR1 parcels could support cultivation and meet setback requirements. She thought a sunset clause should be added to remove cultivation from RR1 and RR2 and no new permits should be allowed.

Commissioner Nelson agreed and stated he did not approve of cultivation in the RR2 zoning.

Commissioner Little discussed the allowance of cultivation for RR1.

Ms. Hunt stated that no cultivation was allowed on RR1 parcels, unless it was an existing grow, or for personal use as a caregiver, which could be grandfathered in.

Commissioner Little discussed the Agriculture Chapter 10A.17.03D.

Mr. Kiedrowski stated there were two separate issues at play, the zoning compliance and agriculture permits. He discussed Table 1, which notes the existing sites.

Commissioner Nelson discussed the need to require a residence.

Ms. Hunt commented that the issue also related to the County's need to maintain a supply for housing.

Commissioner Warner thought RR5 parcels should be required to have a legal residence, but not RR10 and felt that an Administrative Permit should be required for infrastructure.

Commissioner Hall suggested a site plan be required with the application to delineate housing.

Ms. Hunt commented that an Admin. Permit may be needed for parcels under RR10 to preserve housing and infrastructure.

The Commission agreed that housing should not be required for RR10 parcels, but could not agree on requiring housing for RR5.

Chair Holtkamp noted the County's long term issue with providing enough housing sites and preferred having something on site to show where a residence could be built.

Commissioner Warner commented that RR5 parcels could be small enough that staff would need to know everything on site.

Mr. Kiedrowski noted language could be added to the findings for Admin. Permits on cultivation sites that infrastructure, such as a residence, primary and secondary leach field, etc. might be needed.

The Commission agreed that modified language regarding requirements for infrastructure were needed.

Commissioner Krueger noted the permit must be renewed annually and stated that dwellings were required on RR1 and RR2 and felt that without dwellings on the RR5 and RR10, Admin Permits would not be needed.

Commissioner Warner commented that she did not want to eliminate all possible housing sites.

Chair Holtkamp noted that in RR zones less than 2 acres, only indoor or greenhouses were allowed for cultivation.

Commissioner Nelson commented that even for grandfathered in sites, he would like the option to sunset any parcel less than 2 acres and have them move to a new site within 2 years.

Chair Holtkamp discussed provisional licenses.

Mr. Kiedrowski noted that Humboldt used an affidavit until issuance of a permit but was unsure of how enforcement might work. He noted the discussion was still before the Board for approval

Commissioner Nelson commented that if it was feasible, he would like to support the idea of provisional permits to allow applicants time to acquire permits and complete their responsibilities.

Chair Holtkamp commented that she wanted compliance from cultivators before Phase III took effect, but hoped the County could be flexible with the current people trying to complete the process. She also felt a sunset clause was needed in the original permit process to end the use of "provisional permits" to reduce procrastination. Chair Holtkamp asked if the permit was issued to the site or owner and if an owner could have more than 2 permits.

Mr. Morse stated that the permits were issued to the individual prior to cultivation and discussed the permit issuance process.

Ms. Hunt commented that an individual could lease as many parcels as they want, but would only receive 2 cultivation permits.

Mr. Kiedrowski asked the Commission's direction on cultivation permits in the RR2 zoning district.

Chair Holtkamp stated she did not feel cultivation was appropriate in RR1 an RR2 and wanted it removed.

Commissioner Nelson commented he would like a sunset clause to move cultivation out of all the smaller residential zonings within 2 years.

Chair Holtkamp commented that the Commission didn't need to settle on the fine points and would leave the final decision to the Board.

Ms. Hunt commented that a specific list all residential zonings to remove from cultivation should be created.

Mr. Kiedrowski stated that it was not "disallowing", but adding a sunset period.

Commissioner Little noted the issue in Laytonville, and thought individual communities should be able to apply for an exemption to the sunset clause.

Chair Holtkamp stated she would like individual communities to be able to appeal the sunset clause to allow cultivation.

Commissioner Little recommended the Board consider a method for exclusion from the limitation of residential zoning by community petition, and create a process to allow cultivation.

Commissioner Ogle asked if creating a new zoning to allow cultivation would require a General Plan (GP) Amendment.

Ms. Hunt stated it would require a GP Amendment.

Commissioner Nelson noted it was something to consider in the long run.

Commissioner Ogle commented that RR2 needed to be deleted from table.

The Commission discussed enforcement of odor from the December 15th staff memo.

Mr. Morse noted enforcement language would be added that mirrored part of the 9.31 regulations.

The Commission and staff discussed possible enforcement options that would increase funding to full time code enforcement positions within Planning and Building Services.

Commissioner Nelson discussed the potential for 2 acre sites in Phase III.

Mr. Morse commented that 2 acre sites were included in the Board policy, and would depend on their final decision whether they were eliminated.

Commissioner Nelson discussed page 10, AIR1, regarding grading.

Mr. Morse noted the response would be to Air Quality for such projects due to asbestos and particulate emissions, etc.

Commissioner Nelson noted the amount of staff time required for the program and asked if the County would be in a deficit from implementation of the ordinance.

Mr. Morse noted each department was responsible for cost recover and thought Ag and Planning would be able to recover costs.

Ms. Hunt commented that planning would be charging a fee for each property profile to confirm zoning compliance with the ordinance and there was potential for administrative permits and use permits.

Commissioner Nelson asked if there was a way to allow cultivation in Rangeland and mitigate the potential for subdivisions. He was concerned that the price of vineyard land would be artificially inflated by the ordinance and inability to grow on RL parcels.

Ms. Burks commented that the CEQA analysis pulled out residential uses because they were being converted to a non-residential use. She felt it was more a question of social impacts vs. CEQA impacts.

Chair Holtkamp commented that the ordinance should be reviewed after 2020 to see how implementation went. She felt all RL parcels were not the same and it might be clearer in the future how to delineate where cultivation in rangeland was acceptable.

[Break 5:05 PM - 5:12 PM]

Commissioner Nelson suggested the Board investigate allowing cultivation on rangeland parcels with potential mitigation after the year 2020.

Commissioner Krueger suggested both TPZ and FL could be added to the request after 2020.

Commissioner Nelson hoped to discourage certificate of compliance and subdivisions.

Chair Holtkamp did not object trying to discourage CC's and subdivision; however she thought it was not appropriate to bring up to the Board now and should be done at a later date.

Commissioner Nelson was concerned with what could happen to Agriculture.

Commissioner Warner noted that the discussion would show in the minutes.

Commissioner Nelson made a motion to suggest the Board of Supervisors investigate allowing cannabis cultivation in Rangeland, Timber Production and Forestland Zoning Districts with limitations at a later date. The motion was seconded by Commissioner Ogle.

By voice vote Commissioner Krueger, Commissioner Nelson, Chair Holtkamp, Commissioner Ogle, and Commissioner Hall voted yes; Commissioner Little and Commissioner Warner dissented.

Mr. Kiedrowski discussed edits to the final resolutions and inclusion of a sunset clause.

The Commission agreed they would like a sunset clause to remove cultivation from all restricted residential zonings within 2 years.

Upon motion by Commissioner Hall, seconded by Commissioner Warner and carried by the following roll call vote (7-0), the Planning Commission recommends, by resolution, that the Board of Supervisors approve the proposed amendments to the Mendocino County Code to add Chapter 10A.17-Medical Cannabis Cultivation Ordinance and add Chapter 20.242-Medical Cannabis Cultivation Site Regulations to the Mendocino County Inland Ordinance as revised during the public hearing.

AYES: Little, Krueger, Nelson Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: None

Commissioner Nelson asked about the track and trace program.

Mr. Morse noted track and trace was a State program and would not interface with the local programs.

Commissioner Nelson also discussed "wine taint" and unpermitted cultivation and wondered if cannabis taint would be an issue.

7. Matters from Staff.

Ms. Hunt commended the Commission for their constant dedication to the County.

8. Matters from Commission.

None.

9. Approval of the November 3, 2016 and November 17, 2016 Planning Commission Minutes.

Commissioner Ogle submitted corrections by email and read them into the record.

Upon motion by Commissioner Warner, seconded by Commissioner Nelson and carried by a voice vote of (7-0), the November 3, 2016 and November 17, 2016 Planning Commission Minutes are approved as corrected.

10. Adjournment.

Upon motion by Commissioner Nelson, seconded by Commissioner Hall, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 5:45 p.m.