

**LAKE COUNTY PLANNING COMMISSION
REGULARLY SCHEDULED MEETING**

**MINUTES
March 10, 2022**

Commission Members Present:

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

Staff Members Present:

Mary Darby, CDD Director
Nicole Johnson, Deputy County Counsel
Trish Turner, CDD Tech
Eric Porter, Associate Planner
Andrew Amelung, Cannabis Manager

9:00 a.m. **CALL TO ORDER**

9:00 a.m. Pledge of Allegiance – All

9:01 a.m. Citizen’s Input – None

Any person may speak for three minutes about any subject of concern, provided that it is within the jurisdiction of the Planning Commission, and is not already on today’s agenda or scheduled for a future public hearing. Total time allotted for Citizen’s Input shall be fifteen minutes. Speakers are requested to complete a simple form (giving name, address and subject) available in the Community Development Department office, prior to 9:00.

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.

9:01 a.m. **Item # 1** (Continued from January 27, 2022) Public Hearing on consideration of amendment (MMU 20-11) to Major Use Permit (UP 18-25) and an addendum to Mitigated Negative Declaration (IS 18-110), to grant the expansion of the existing use to legitimize an 8100 sq. ft. building that was built without land use approval or building permits, and is associated with the previously approved Major Use Permit (UP 18-25). The Applicant is KLS-RBS LLC/ Mike Mitzel and Jed Morris and the project is located at 9475 Bottle Rock Road, Kelseyville, CA; and further described as APN 011-004-60.

Eric Porter presented the information via Power Point which included the scope, site description, project analysis and recommendations.

Commissioner Price asked if the applicant is in the zoom room.

Open for public comment

Mary Draper (Zoom Room) –Corrected some information that was given by Eric Porter, she stated she moved out in March of 2020 and Jed Morris took over the property. I went to get my mail from the property and seen there and saw the building and she was assured that there were proper permits for the building. I asked Jed to take responsibility for the building. He stated that he would. He obviously did not. It could be painted another color. This building is needed for processing and drying the cannabis.

Eric Porter – stated that he would like to elaborate on Mary Draper’s comment, I can only go by what is on the deed.

Mike Mitzel (Zoom Room) –stated that have had multiple meetings with Andrew and Eric, we were under the impression that they were softening there SC district. He has talked to him about getting an extension with this, there is 45' for Ag buildings. They have contracted with the Ag commissioner about getting the building as an Ag accessory structure. We have a meeting them next week.

9:21 a.m. Closed Public Comment

Nicole Johnson – clarified that Scenic Combining District does apply to the entirety of the property to which the zoning is applied, however, all zoning districts have parameters which means they have an edge. There are properties which may straddle that edge. It is staff's responsibility to determine when they run into properties that have that particular circumstance where they straddle that edge, as to where the particular zoning district ends. If there is questions as to where the zoning district ends, the zoning ordinance provides processes by which that determination as to where it ends can be made based on maps, and if that is still confusing, they can ask for clarification from the Planning Commission or a determination from the Planning Commission as to where that ends. The ultimate determination is done through analysis by staff. She stated that there is some confusion as to what it means to apply to the entire property, if the property is zoned in a particular way that zoning applies to the entire property unless there is some other criteria that would truncate that application, meaning the edge of the district as described on a map. As far as this particular application goes, if your analysis as a Commission of the facts and circumstances and the evidence presented to you today by staff and the public convinces you that is currently a violation existing on the property than you must vote "no" on approving this permit, and that would be under Article 51, Section 51.4, E6. Section 51.4 is where the mandatory findings are listed for this particular permit and A6 is the finding that there is no violations currently exist on the property, if there are violations that currently exist on the property, you cannot make the finding, and if you cannot make that finding, than you cannot vote to approve the permit. Conversely, if with the material presented to you today, you can make the determination that there are no violations currently existing on the property, than you can make that finding and you can vote "yes" to approve this permit.

Commissioner Hess – stated that the Scenic Combining district is moot giving the height of this building. I don't know what a meeting with the Ag Commissioner will do, unless it is determined that cannabis is an Ag crop and make a determination regarding the height of the building. I do not see any new progress on this project.

Director Darby – stated that she was not aware of any meeting that had been set up the Ag Commissioner.

Nicole Johnson – stated to her understanding from staff's presentation is that there were a number of issues regarding scenic combining and the definition of this particular structure as an AG building where two issues, and the third issue was existing violations which included grading, retaining wall installed without a permit and there was a building installed with a permit. This Commission does not have the authority to approved those kinds of action through this mechanism, because there must make a finding here that here is no existing violations at the time of the approval, so in this moment, in this hearing are there any existing violations, if you can make that finding that there are no existing violations, than you can vote "yes", but if however there are existing violations, than you could not make that finding, and if this building and the grading done related to this building are not permitted, and there is a current red tag on that work, than that is in fact a violation that exists now. You can ask staff to clarify where the red tag process is and you can ask staff to clarify whether this building can be through another process, made permitted and whether or not the grading done could be permitted, but the process to permit these things is not a use permit, not after the fact because they would be fact be current violations.

Commissioner Field stated she is ready to make a motion

Mitigated Negative Declaration (IS 20-110):

On motion from **Commissioner Field**, that the Planning Commission finds that that the **Initial Study (IS 20-110)** prepared for the project submitted by **KLS-RBS LLC** on a property located at **9475 Bottle Rock Road, Kelseyville**, further described as **APN: 011-004-60** will have a significant effect on the environment, and therefore a mitigated negative declaration shall not be adopted based on the findings listed in the staff report dated **March 10, 2022**. Seconded by **Commissioner Hess**. The motion carried by the following vote:

4 Ayes 0 Noes – Motion Carried

Modification (MMU 20-11):

On motion from **Commissioner Field**, that the Planning Commission find that the **Modification (MMU 20-11)** applied for by **KLS-RBS LLC** on a property located at **9475 Bottle Rock Road, Kelseyville**, further described as **APN: 011-004-60** does not meet the requirements of Articles 34 and 60.33 of the Lake County Zoning Ordinance and the Modification **MMU 20-11** be denied with prejudice based on the findings listed in the staff report dated **March 10, 2022**. Seconded by **Commissioner Hess**. The motion carried by the following vote:

4 Ayes 0 Noes – 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's decision, 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 Planning Commission's final determination.

9:30 a.m. Item # 2 - Public Hearing on consideration of a Major Use Permit (UP 20-24) and a Mitigated Negative Declaration (IS 20-27). The project Applicant: Walnut Ranch/ Omar Malfavon is proposing one (1) A-Type 3B Medium Mixed-light Commercial Cannabis License, Three (3) A-Type 1C Specialty Cottage Licenses, and a "Type 13 Self Distribution" License that would allow legal transportation of cannabis to and from the site.

Eric Porter presented the information via Power Point which included the scope, site description, project analysis and recommendations.

9:42 a.m. Open for Public Comment

Paul Kemp (Chambers) – stated that his general welfare will be greatly impacted by this project by all of that traffic goes by my house. He wanted the hours shorted for his welfare and the school bus turns around in front of my house. He also would like to have no construction done on Sundays. The drainage will be impacted by these greenhouses there are four drainages by my house. He want to make sure there will be no drainage problems from the construction or the greenhouses. One of the staff reports stated there should be waddles on the several areas of the site; however the staff report only states there should only be waddles on a small percentage of the property. There are some inconsistencies whether the road is going to be gravel.

Sufyan Hamouda (Zoom Room) – stated he is representing Omar and can definitely answer the questions, the greenhouses will not be padded. So the ground will be permeable, so they will soak up the rain water underneath them. There will be no grading and no erosion. The hours are 8 a.m. – 6 p.m. so he is not sure about the confusion. There will only be four employees on the site.

Commissioner Price asked about construction on Sundays.

Sufyan Hamouda – confirmed there would be no construction work on Sundays. But there are deliveries from 12 p.m. - 5 p.m. on Sundays.

Commissioner Field – stated that to her understanding there has to be a 20 foot entrance, and she wanted know there was an easement for that.

Eric Porter – stated that in talking with CAL FIRE on an unrelated project, the fire chief indicated that CAL FIRE standards apply only on site and that any shared access easements will not be a reason for widening the road. There is a standard condition that states everything on site has to meet CAL FIRE road compliance standards, so that would not include the share access easements, the road leading to the site, it would only be anything that is on site.

Omar Malfavon (Chambers) – stated the applicant is willing to not operate on the Sundays. He wants to be a good neighbor. It has been a long process and thinks this is important.

Sam De La Paz (Zoom Room) – stated he is with 421 Group, a cannabis consulting group from Sonoma County. Omar is an ideal applicant and a neighbor. To have someone that is willing to mitigate and work with the neighbor. Over this property is well suited. It is a very good location. He just wanted to make this statement.

9:54 a.m. Closed Public Comment

Commissioner Field – stated she would like to know if NOI 1 & NOI 2 could be changed to meet the needs of Mr. Kemp. She stated she is admiral of Mr. Kemp’s musical abilities and would like to amend the hours of operation.

Eric Porter – made a recommendation to modify three conditions: New **Condition A22**, would be specific to the hours of operation from 8:00 a.m. to 6:00 p.m. weekdays, 9:00 a.m. to 4:00 p.m. on Saturdays and no work on Sundays. He asked the Commission to verify with the applicant the additional conditions. The second modified **Condition J1** is in regards to hours of delivery. He stated that the applicant may have no control of when there are deliveries. The third is **Condition H7** regarding the straw waddles.

Commissioner Field – stated that the applicant is acknowledging he changes from the audience area.

Commissioner Hess – commented on storage containers. Whenever possible, when visible, let’s consider false siding and roofing.

Commissioner Field – agrees with Commissioner Hess. She stated the photo showed by the planner is a portion of Elk Mountain Road that is not within the Scenic District. The photo the planner showed was from the South.

Eric Porter – confirmed Commissioner Field’s statement.

Paul Kemp (Chambers) – stated he did not look and see where the scenic corridor is, but if it includes the Middle Creek Bridge, and you can stand on Middle Creek Bridge and see the operation, you can see it. He stated the picture that is in the packets from the County was taken from the west, west of the Middle Creek Bridge, and there is a big hill there, you can stand there and take a picture, and well of course you cannot see anything, you go about 400 feet east toward Upper Lake and you look up the valley, you will be able to see it.

Eric Porter – noted on **Condition B2** regarding the screening of the containers. He stated the second part of the condition would allow for a fence 6 feet tall. Per Commissioner Hess’s comment, if the Commission would like to eliminate that as an option and require false siding and false roof on the shipping containers, the second part of the condition would need to be removed. The fence would no longer be on the table.

Commissioner Hess – stated that he would like the applicant to respond.

Commissioner Price – stated that she does not think that the Commission make it a requirement and the applicant uses their best judgment.

Eric Porter – asked for a clarification of **Condition B2**.

Commissioner Price – state it will be left with the options.

Mitigated Negative Declaration:

On motion from **Commissioner Hess**, that the Planning Commission find that the **Initial Study (IS 20-27)** applied for by **Walnut Ranch Farms** on property located at **12182 White Rock Canyon Road and 12206 Elk Mountain Road, Upper Lake**, and further described as **APNs: 022-010-04 and 022-010-05** 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 **March 10, 2022** and as amended today. **Commissioner Chavez** seconded. The motion was carried by the following vote:

4 Ayes 0 Noes – Motion Carried

Major Use Permit (UP 20-24):

On motion from **Commissioner Hess**, I move that the Planning Commission find that the **Major Use Permit (UP 20-24)** applied for by **Walnut Ranch Farms** on property located at **12182 White Rock Canyon Road and 12206 Elk Mountain Road, Upper Lake**, and further described as **APNs: 022-010-04 and 022-010-05** does meet the requirements of Section 51.4 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 **March 10, 2022** as amended today. Seconded by **Commissioner Chavez**. The motion was carried by the following vote:

4 Ayes 0 Noes – 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's decision, 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 Planning Commission's final determination.

10:04 a.m. Break

10:10 a.m. Item # 3 - Public Hearing on consideration of Major Use Permit (UP 20-81) and a Mitigated Negative Declaration (IS 20-97). The Applicant: Red Hills, RHRP1/ Crystal Keesey, is proposing Twenty-five (25) A-Type 3 Medium Outdoor Commercial Cannabis Cultivation Licenses consisting of 35 acres of cultivation area and 25 acres of canopy area, and one A-Type 13 'Self Distribution' license. Also proposed are two (2) 120 sq. ft. sheds; one (1) 64 sq. ft. cannabis waste storage and compost area; one (1) 312 sq. ft. portable office building; one (1) 312 sq. ft. portable building for use as an employee break room; three (3) 60,000 gallon water storage tanks; portable restrooms, and a 6' tall security and privacy fence.

Chrystal Keezy (Chambers) – stated she was notified of the request for continuance. She agreed with staff in regards to the continuance.

Commissioner Field made a motion to continue the item to **March 24, 2022**. Motion was passed by a voice vote.

4 Ayes 0 Noes – Motion Carried

10:14 a.m. Item # 4 - Public Hearing on consideration of Major Use Permit (UP 20-21) and a Mitigated Negative Declaration (IS 20-24). The Applicant: High Valley Oaks, LLC./ Kim Gardner and Cody William Leck is proposing four (4) A-Type 3: "Outdoor" licenses: Outdoor cultivation for adult use cannabis without the use of light deprivation and/or artificial lighting in the canopy area at any point in time from 10,001 square feet to one acre, inclusive, of total canopy size on one

premises; and a Type 13 “Distributor Transport Only, Self-Transport Distribution” license. The project is located at 9850 High Valley Road, Clear Lake Oaks, CA; and further describes as APN: 006-004-19.

Director Darby – introduced Kim Hunter to the Commission as a consultant that will be working with the cannabis department.

Kim Hunter presented the information via Power Point which included the scope, site description, project analysis and recommendations.

Commissioner Fields questioned regarding how far apart the plants are spaced.

William Leck (Chambers) - stated that they are 24 by 24 for smaller plants, to protect the plants from the wind, and to use less water. He stated they plant with a white mulch. We have Angie Dodd on the line to talk about our hydrology.

Commissioner Hess – thanked the staff for addressing comments ahead of time.

10:40 a.m. Open for Public Comment

Jane Negri (Zoom Room) – stated she is the owner of the adjoining parcel 006-004-18. The parcel that is being developed that was in our family for 70 years. It was always used for hunting. Her real concern that there was no survey completed when this land was purchased. She is concerned that the road will be improved and the road will no longer be a rural road.

Andrew Amelung – responded to Jane’s concerns. Stated he has added a condition that there will need to have a survey done. There is no easement on the road.

Commissioner Chavez – stated he would like to speak regarding the Eastlake Elementary and the road.

Andrew Amelung – stated the project is four miles from the school.

Angie Dodd (Zoom Room) – stated she would like to go over the questions regarding the water use. Every cultivator is different depending on the efficiency of the project. She is giving a brief summary on water use during early activation water use in 2020 and 2021.

Jane Negri (Zoom Room) spoke in regards to the septic system. She is concerned how close the septic system is to the property line.

Andrew Amelung – stated it is a few hundred feet from the property line and there is a condition that stated that the Lake County Department of Environment Health has done an inspection and everything seemed to be fine. They could not locate the report, so he stated before that line can be set to be used a new inspection will have to be done.

10:52 a.m. Public Comment Closed

Commissioner Price & Commissioner Chavez – noted his appreciation for all of the work the applicant has put into this project.

Commissioner Field – stated she is interested in the water usage and the wind will dry the plants out. I am really curious to see what the end usage is.

Mitigated Negative Declaration:

On the motion from **Commissioner Chavez**, that the Planning Commission find that the **Major Use Permit (UP 20-21)** applied for by **High Valley Oaks, LLC** on property located at **9850 High Valley Road, Clearlake Oaks**, further described as **APN: 006-004-19** 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 **March 4, 2022**. Seconded by **Commissioner Hess**. The motion was carried by the following vote:

4 Ayes 0 Noes – Motion Carried

Major Use Permit (UP 20-74):

On the motion from **Commissioner Chavez**, that the Planning Commission find that the **Major Use Permit (UP 20-21)** applied for by **High Valley Oaks, LLC** on property located at **9850 High Valley Road, Clearlake Oaks**, further described as **APN: 006-004-19** 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 **March 4, 2022**. Seconded by **Commissioner Hess**. The motion was carried by the following vote:

4 Ayes 0 Noes – Motion Carried

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UNTIMED STAFF UPDATE

Thank you to Kim Hunter from LACO and Andrew Amelung, Cannabis Manager, and the new Cannabis team, Jamie Henry the new Cannabis Tech, and Mary Claybon, the new Assistant Planner for Cannabis.

The new cannabis ordinance will be coming out soon, and will be presented to the Board of Supervisors late March early April 2022. They will also be preparing the stakeholders meetings.

June 9 2022 will need to address in the near future. The Commission will need to decide if they will adjourn the meeting or hold the meeting at a different location.

Sateur Ham has moved on to the BLM.

William Collins is our new Chief Building Official will start on Monday, March 14, 2022.

Jim Feenan will be the new OA III extra help for PC support. So Trish Turner will be relieved of her PC duties.

11:00 a.m. Adjournment

Respectfully Submitted

Christina Price, Chair
Lake County Planning Commission

By:_____

Trish Turner,
Planning Commission Assistant