



SAN BENITO COUNTY PLANNING COMMISSION

Eduardo Navarro
District No.1

Valerie Eglund
District No. 2

Robert Eggers
District No. 3

Robert Gibson
District No. 4

Robert Rodriguez
District No. 5

*County Administration Building - Board of Supervisors Chambers, 481 Fourth Street,
Hollister, California*

REGULAR MEETING AGENDA January 15, 2020 6:00 PM

6:02 PM ~ CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

Commissioners Present: Chair Robert J. Rodriguez, Vice-Chair Valerie Eglund, Robert Gibson, and Eduardo Navarro, Commissioners Absent: Robert Eggers.

Staff Present: Principal Planner, Taven M. Kinison Brown; Permit Technician Anita Gutierrez;

PLANNING COMMISSION ANNOUNCEMENTS DEPARTMENT

- *Commissioner Robert Gibson moved Commission Announcements to end of agenda*
 - *Commissioner Valerie Eglund asked why the move.*
 - *Commissioner Robert Gibson stated for the public*
 - *Announcements moved to end of agenda*
- *Planning Commission Gibson motion to adopt 3rd Wednesday of each month for planning commission meetings. Planning Commission Gibson Robert Rodriguez second the motion. Motion carried 4/0*

DEPARTMENT ANNOUNCEMENTS

- *Principal Planner Taven Kinison Brown announced need to elect new Planning Commission Chair and Vice Chair*

Planning Commissioner Robert Gibson nominated Commissioner Valerie Eglund for chair. Planning Commissioner Eduardo Navarro second the motion. Motion carried 4/0

Planning Commissioner Eduardo Navarro nominated Commissioner Robert Gibson for Vice Chair. Planning Commissioner Robert Rodriguez second the motion. Motion carried 4/0

PUBLIC COMMENT

- *No comment, Public Comment closed.*

CONSENT AGENDA

- *Acknowledgement of public hearing*
- *Acknowledgement of certificate of posting*
- *Adoption of Action Minutes*
 - *Draft Meeting Minutes from December 2019*

The Commission acknowledged the certificate of posting and public hearing and adoption of action minutes was motioned to accept minutes by Commissioner Gibson and Commissioner Navarro seconded the motion. Motion carried 4-0.

REGULAR AGENDA PUBLIC

HEARING

- 4. County Counsel - B. Thompson. Hold Public Hearing, and Adopt a Resolution making CEQA findings and making the recommendation that the Board of Supervisors approve changes to the County's sign ordinance as a result of the Supreme Court case Reed v. Town of Gilbert.**

Minor changes to the Draft Sign Ordinance. Changes to section #3 and election signs. Election signs to be treated as temporary signs allowing sign time from 30 days to 100 days. Which will take effect 30 days after approved by Board of Supervisors.

Commissioner Rodriguez motion to adopt sign resolution, Commissioner Gibson seconds the motion. Motion carried 4/0

- 5. County Counsel – J. Ellinwood. Hold Public Hearing regarding amendments to hemp ordinance, County Code Chapter 7.04., makes recommendations to Board of Supervisors.**

County Counsel Joel Ellinwood presented: Background first year of legal cultivation of Hemp State Industrial hemp farming act, State law required registration or notification to the Agricultural Commissioner office. County adopted regulation in September at the end of the season and did not affect the 1st year of cultivation. In first year of cultivation several problems came to The Board of Supervisors attention which caused them to adopt an AD HOC committee. The AD HOC committee recommended the Board adopt a moratorium on Hemp Cultivation which was adopted on December 10th and at that time initiated series of meetings with staff and ultimately with Stake Holder groups, Farm Bureau, Wine Industry, Hemp Cultivators, Processors, General Public and residents effected by cultivation. Group met on January 5th and recommendation from staff developed amendments seemed to be well received, next step of the adoption process is public hearing to be conducted with a

review of proposed changes by the Planning Commission which is being done tonight. Next conduct a Public hearing for anyone who wishes to provide comment and for Commission to adopt a resolution making recommendation to the Board.

Problems identified were strong odor in residential areas and Wine overlay zone which led to complaints. Principal approach to remedy the problem would be to identify the areas and create a setback or buffer zone of 1 mile from those residential properties, the Wine hospitality zone, sphere of influence of the City, any County Service Area and any School bus stops. In addition to those conflicts the Sheriff's office had several service calls including some high speed chases, CHP interventions and Helicopter interdictions, for hemp cultivations near County roads and Highways for the stealing of hemp, thinking they were stealing cannabis.

In order to prevent theft and vandalism and associated crime problem staff recommendation was to establish a 500 ft. setback from the road. AD HOC committee would like to advice of the Commission on an alternative. AD HOC committee would like reduce setback if there is a 6 ft. fence and visual screening. AD HOC committee would like recommendations on what reduced setback should be and type of screening.

Drying and processing facilities problem with odor. Draft amendment would require a Conditional Use Permit and in the Wine Overlay Zone a broaden 1 mile public notice so that any conflict in uses can be identified.

State Law and the US 2018 Farm bill conflict with one another is in the area of research. State had a two part definition on what a research facility could be. Federal Government has narrowed it down to saying accredited Universities or Colleges have to be associated with the facilities. The broader State law allowed public or private institutions engaged in Agricultural research. Anyone can self-identify as being a research institution and grow 100 acres of hemp without any bonafide agricultural research activity, and harvesting for commercial sale using a loop hole.

Draft amendment is to prohibit research cultivation and make people follow state law for commercial cultivation of hemp.

Draft amendment would require written consent property owners for registration for cultivation and application for Conditional Use Permit. Registration is with the Agricultural Commissioner's office.

Draft amendment would increase the minimum 10 acres to 20 acres. Two contiguous 10 acre parcels owned by same owner can be combined to meet that requirement.

Draft amendment would increase residential setbacks from 100 ft. to 1000 ft. to reduce conflict of odor traffic and other problems.

Draft amendment would require uniform signage to be specified by the Agricultural Commission. That clearly identifies as being hemp and not cannabis around the grow area that would have to be posted in frequent intervals around the crop.

Draft amendment transportation harvested hemp would need to be transported in covered secured trucks to prevent litter.

Draft amendment would require post-harvest field treatment to make sure any remaining

hemp or stubs would be shredded and incorporated into the soil to prevent any residual odor.

Draft amendment would require consent to entry and testing to confirm hemp and not cannabis. To enable law enforcement to be more effective.

Public Comment

Speaker 1 Russell Dotson- Oak Hill Ranch farmed this season without incident and is a responsible grower, now at risk of not being able to farm because he falls in the Wine Hospitality zone. Because he falls in this zone he will need a CUP. CUP are not needed for farming. Preference of treatment for one crop over the other.

Speaker 2 Kevin Moore The Wine Hospitality Overlay is taking up to much usable ground CUP process takes over 2 years. We don't have 2 years under time restraints for seed and seed production. Need to make decisions by end of January. Please take a look at this area of map that takes away viable usable ground.

Speaker 3 Christian Pilsbury representing wine growers on Cienega Road. No problem with cultivation of hemp, just the impacts of crime, thrash, stench and other impacts. CUP make sense and gives a voice.

Speaker 4 Michael Helprin 30 year farming leasing 2 parcels being impacted. Two hemp growers leasing land and one will not be coming back. Thought right to farm ordinance would protect growers but doesn't seem to be the case. Complaints coming from people who signed an agricultural disclosure. Disclosure advises buying a house near a farm could have impacts. Now they are having the impacts and if you are hearing their complaints you are allowing them out of a binding contract. Second I would like to address the captain from law enforcements comment as for crime happening at time of harvest, my vegetables aren't stolen until time of harvest. Stated that crime is higher in areas where there is housing, since 2010-2016 lost 60,000 in equipment and supplies. If supplying statistic he should state if crime has gone up or down are there more felonies less felonies. Just throwing out statistics really doesn't do anything.

Speaker 5 Patrick Wirz Wine grower in Cienega Valley and past President of Farm Bureau. Map needs to be tweaked, the 3 wineries have been impacted by smell, map needs to be reworked all wineries within 2-3 miles of each other. Main problem is smell coming from drying area. Thrash and blocking of driveways are not hemp issues; they are the growers, farmer, processor, labor contractor and workers. Cannot blame the hemp for that. 500 ft. setback a little excessive.

Speaker 6 Craig Spellman if a CUP required would it is possible to streamline the process, possibly a checklist.

Speaker 7 Elia Salinas Hemp advocate this is legal. Ordinance is really strict. Need to find balance between hemp and the wine industry. CUP process was a mess. Cannabis grower made millions and the County made zero. Extend ordinance for 1 year.

County Counsel Joel Ellinwood clarifies Mr. Dotson comment CUP is before Planning Commission not Agricultural Commissioner. The Hemp registration is done with the Agricultural Commission.

Principal Planner Taven Kinison Brown CUP is needed if you cannot meet performance

standards. If unable to meet setbacks, fence or screening may work. If screened well, possible no signage needed.

What if we have a 2nd tier, set of standards more neighborly, better signage, and development standards?

Kevin Moore seed grower time sensitive takes 8-12 to take seed and germinate seed and make that seed into a viable plant. If germination doesn't take it will take a few more weeks. As far as farming goes it takes a lot of time, leasing property, buying and setting up irrigation equipment, crop design. Many months of planning, limited amount of seed available to the public. If not done late January early February will push crop back to May or June. Companies require up front non-refundable deposit for seed.

Chair Egland questioned time line of 8-12 weeks for seed to transplant into the ground. How long to harvest. Kevin Moore is you plant in June harvest in September or October. Time sensitive matter.

Planning Commissioner Robert Gibson question to staff what is basis for saying no Hemp cultivation in Wine Hospitality area unless you get a CUP? Broad area of land, just to say here's a burden we are going to put on you for growing an agricultural commodity, seems like an unfair burden.

County Counsel Joel Ellinwood – Staff and AD HOC Committee GPA established Wine Hospitality Zone and two zones in conflict and should be separated.

Agricultural Commissioner Karen Overstreet 26 sites growing hemp within the Wine Hospitality zone. 22 of those sites did not cause problems. There was 1 drying facility located near the wineries which caused problem. The others are those located in or near The County Service Areas or residential areas.

Planning Commissioner Robert Rodriguez maybe there should be a restriction on the drying area and not the growing facilities.

Principal Planner Taven Kinison Brown question to drying facilities if you had an indoor drying facility how large would the roof structure need to be? Does there need to be one for each farm or can there be a central coop drying facility.

Speaker Russ Dotson Almaden Barrel Room 145,000 sq. ft. facility dried about 190 acres of product in 140,000 sq. ft. building through a drying room system with fans and dehumidifiers. Not practical to say you can grow 140 acres and dry it in a one acre barn. Process of growing produces a smell similar to growing garlic. Intense process to dry. The process is evolving. Extraction is number one product.

Principal Planner Taven Kinison Brown if go get a CUP is because County wants to add additional conditions for livability among neighbors in different industries, if we know what those handful of things are we could make them a second level of standards which yes they come with an expense, but they don't come with a timeline of you go get a CUP and go to Planning Commission. Ask the industries are you scared of an uncertain long processes or the limitation that you need to do additional things that someone deeper and more remote in the County does not have to do, like build a fence?

Planning Commissioner Robert Gibson would like to see the language of the Wine Hospitality

priority area language removed as far as an exclusion zone and simply not allow any activity within a certain distance of a winery or tasting facility similar to that of a 1 mile setback in residential zone. That would be more specific rather than blocking off an entire area. Because if someone needs to get a CUP you might as well just ban them.

Principal Planner Taven Kinison Brown question if you have a new wine tasting room coming in wanting to grow within the 1 mile set back of an existing hemp grow do you disallow the winery wanting to come in within its district or do you allow it to come in and buyer beware?

Planning Commissioner Robert Gibson would like revisions to page 6 section 7.04.040 section C. Strike 7.04.030 prohibitions c, strike no hemp cultivation within the boundaries of the San Benito County Wine Hospitality Priority area as identifies in 2035 San Benito County General Plan figure 3-4, p3-19 within 500 ft. of any public road and change to 100 ft. from road if properly fenced. Strike page 8 section 7.04.040 section E. Strike 7.04.030 prohibitions strike no hemp cultivation within the boundaries of the San Benito County Wine Hospitality Priority area as identifies in 2035 San Benito County General Plan figure 3-4, p3-19 except as provided in 07-04-050. And just disallow within 1 mile of an existing permitted visitor serving wine or Wine Hospitality site. Future wine facility will be allowed to do but would not be allowed to eject the hemp farmer. Buyer beware.

Planning Commissioner Robert Gibson would like to accept the language unless the grow is covered with a six foot high fence reduce setback to 100 feet if fenced or visual barrier placed. Massage language for type of fence and screening otherwise keep the 500 ft. setback if you don't want to do any fence or screening.

Principal Planner Taven Kinison Brown if they have a good fence would you want the sign provision on fence to remain.

Planning Commissioner Robert Gibson if good fence no sign needed.

County Counsel Joel Ellinwood Federal Law & State Law both requires signs.

Public- signage needed near grow not on fence.

Planning Commissioner Robert Gibson motion to adopt with amendments, Planning Commissioner Eduardo Navarro 2nd motion to adopt. Motion carried 4/0

DISCUSSION

6. Continued Discussion of Approaches to General Plan Implementation

Commissioner Gibson asked to please be kept up to date on GPA

ADJOURN 7:57 PM

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APPEAL NOTICE: Any person aggrieved by the decision of the Planning Commission may appeal the decision within ten (10) calendar days to the Board of Supervisors. The notice of appeal must be in writing and shall set forth specifically wherein the Planning Commission's decision was inappropriate or unjustified. Appeal forms are available from the Clerk of the Board at the San Benito County Administration Office, 481 Fourth Street, Hollister and the San Benito County Planning Department, 2301 Technology Parkway, Hollister.

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