

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of November 17, 2016

The regular meeting of the Solano County Planning Commission was held in the Solano County Administration Center, Board of Supervisors' Chambers (1st floor), 675 Texas Street, Fairfield, California.

PRESENT: Commissioners Walker, Hollingsworth, Castellblanch, and Chairperson Cayler

EXCUSED: Commissioner Rhoads-Poston

STAFF PRESENT: Bill Emlen, Director; Mike Yankovich, Planning Program Manager; Jim Leland, Principal Planner; Karen Avery, Senior Planner; Jim Laughlin, Deputy County Counsel; Davina Smith, Deputy County Counsel and Kristine Sowards, Planning Commission Clerk

Chairperson Cayler called the meeting to order at 7:00 p.m. with a salute to the flag. Roll call was taken and a quorum was present.

Approval of the Agenda

The Agenda was approved with no additions or deletions.

Approval of the Minutes

The minutes of the regular meeting of September 15, 2016 were approved as prepared.

Items from the Public

There was no one from the public wishing to speak.

Regular Calendar

Item No. 1

PUBLIC HEARING to consider an appeal of the Director of Resource Management's determination (LUD-16-01-Bubbling Well) that a pet crematorium is not a permitted use in the Exclusive Agricultural (A-40) Zoning District. (Project Planner: Jim Leland)

Jim Leland provided a detailed yet concise summary of staff's written report. The report explained that Chapter 28 of the County Code establishes a variety of Zoning Districts which apply to lands within the unincorporated county. For each of these zoning districts, the Regulations provide a table that lists a variety of land uses and identifies whether the land use is allowed by right, authorized upon issuance of a permit, or prohibited within the district.

When a property owner applies for a land use permit, the application must identify the type of land use being proposed and describe various details about the proposed use. If the type of land use being proposed does not exactly match one of the types of land uses listed in the table for the zoning district, the Director must determine whether the proposed use is substantially similar to one of the listed land uses. If the Director determines that the proposed land use is substantially similar to a use listed in the table, then the Department will process the application as if it were for that listed use, applying the same development standards as are applicable to the listed use. If the Director determines that the proposed use is not substantially similar to any of the uses listed in the table for the zoning district, then the proposed use is a land use that is prohibited in the zoning district. The applicant may appeal the Director's determination to the Planning Commission. The Commission may either uphold the Director's determination or make a new determination that the proposed use is in fact substantially similar to one of the uses in the table. The Commission's determination then becomes the governing determination.

Cannon Partners owns land within the Exclusive Agricultural District and have indicated their desire to relocate the Bubbling Well pet crematorium from their site on Peabody Road in Fairfield to their site on North Gate Road. Staff indicated that a pet crematorium was not a permitted land use in the A-40 Zoning District. The Director of Resource Management issued his determination that a crematorium is a "general service" use and is permitted in the Commercial Service District, but a crematorium is not substantially similar to a slaughterhouse or any other land use listed in Table 28.21A for the Exclusive Agricultural District and is therefore a prohibited land use in that district.

The applicant initially advanced the argument that the proposed crematorium is allowed in the Exclusive Agricultural District as a "similar use" to a slaughterhouse. Pursuant to Table 28.21A, slaughterhouses are permissible in the Exclusive Agricultural District upon the issuance of a use permit. The Exclusive Agricultural District states in Section 28.21.11 Purpose of Agricultural Districts, that the "Board of Supervisors has determined that the promotion and preservation of agriculture is of vital interest to the county". A slaughterhouse is an agricultural use, listed under the Agricultural Heading and Animal Operations sub-heading in Table 28.21A. Slaughterhouses exist to kill or dress animals for the production of meat. Slaughterhouses are a part of the agricultural process of producing food or fiber. Crematoriums are not a part of an agricultural process which is engaged in the production of food or fiber.

Staff recommended that the Commission deny the appeal of Cannon Partners and uphold the Director's determination that a pet crematorium is not a permitted use within the Exclusive Agricultural District.

Commissioner Walker made a disclosure by stating that during this past year he had an occasion to use a third party vendor, a company called Lap of Love Veterinary Hospice, who came out and euthanized his dog at his home. That company contracted with Bubbling Well to provide him the cremains. Mr. Walker stated that there was no discount offered to him and he did not have any other relationship with Bubbling Well at this time.

Chairperson Cayler opened the public hearing.

Frank Andrews, 1107 Kentucky Street, Fairfield, stated that he is one of the owners of Canon Partners who are a landowner and developer in the Fairfield Train Station Specific Plan area, and also the owner of the property that is being discussed. Mr. Andrews said as part of that train station specific plan planning process, all of the existing uses in the Peabody Road area are required to be relocated. Canon Partners had made a commitment at the time that the plan was adopted that they would aid the businesses located there in their relocation because they are going to be replaced with high density residential housing, retail and commercial zoning. Mr. Andrews stated that they are recommending that Bubbling Well, because of the type of use it is, fits well in the location they are proposing. He disagreed with staff's position, stating that uses similar to Bubbling Well such as a concrete batch plant, veterinary hospital, kennel, and those types of things are allowable uses in an agricultural zone with a use permit. They believe geographically and the location itself next to the recycling facility is a very convenient and good location for this use. Mr. Andrews stated that Bubbling Well also provides services for agricultural uses, although predominately it is for non-agricultural use. He commented that kennels are allowed in an agricultural zone as well as other similar non-agricultural uses. Mr. Andrews stated that they are trying to fulfill their commitment they made to relocate the businesses that are being displaced in the Peabody Road area.

Jason Andrews, 1107 Kentucky Street, Fairfield, stated that they believe a pet crematorium has more in common with a veterinary hospital than it does with a muffler shop and that is why they believe it is similar to an agricultural use. He commented that Bubbling Well is a unique use and a use that is needed. He stated that the county allows on ag zoned land large animal hospitals or veterinary clinics, kennels, concrete and asphalt batch plants, slaughterhouses, transitional industrial commercial refuse disposal, incineration, recycling and surface mining. He said the proposed site has Class III soil with approximately 2 feet of clay on top of 20 feet of sandstone, and is located between a future business park and an existing concrete recycle yard. Mr. Andrews said they believe a pet crematorium falls somewhere between an asphalt batch plant or slaughterhouse and a veterinary clinic. He noted that veterinary clinics often have their own incinerators. Mr. Andrews stated they believe Bubbling Well has enough in common with agricultural uses to be an allowable use.

Dan Harberts, 2462 Atlas Peak, Napa, stated that he is the owner of Bubbling Well Pet Memorial Park. He said now that circumstances are changing he has to make the effort to plan for the future. He shared some background as to how his business was established in the early 1970s. He said in his 40+ years of service in this field there has been a dramatic shift in awareness and acknowledgment that animals of all types have considerably deeper emotional character and sensitivity than ever imagined. Mr. Harberts said he reviewed the table of allowable uses in the agricultural district and saw many animal related categories. The table shows slaughterhouses, kennels, and cattery as an allowable use. In addition, veterinary hospitals and clinics are considered an allowable commercial service use. Mr. Harberts said it makes sense to include the respectful and dignified after life care facility that is proposed in the A-40 zoning district where it really belongs. He said the county has determined the use should be zoned under general service uses which include such things as an auto repair garage, cabinet shop, copper smith shop, machine shop, and the like.

Mr. Harberts stated that for over 40 years his family has been providing valuable and indispensable services to pet owners, vet clinics and hospitals, pet emergency centers, the SPCA of Solano County, county animal control, and ranchers and farmers. He said as sensitive and important issue the process of assisting pet owners and livestock owners can be, the location of these types of facilities can at times and over time as communities grow come into conflict with surrounding neighbors and land uses. Mr. Harberts stated that in his opinion this proposed location represents an ideal compatible long term private space for their necessary and unique business.

Commissioner Castellblanch inquired about the relocation. Mr. Harberts stated that his business is currently in a light industrially zoned area but the property has been annexed into the city and there are now going to be residential housing in that area.

Jim Leland mentioned that the Department will be happy to assist the business owner in finding an appropriate location in the proper zoning. He noted that there is "CS" zoning throughout the unincorporated area away from residential subdivisions. There is also the potential of an "MG" zoning which is what it was zoned prior to annexation. Mr. Leland stated that staff knows the business has to move out of the City of Fairfield and appreciate the burden that Mr. Andrews is facing in relocating all those businesses, but we need to find a site where the zoning allows for his relocation to take place.

Since there were no further speakers, Chairperson Cayler closed the public hearing.

Commissioner Castellblanch stated that he was still a little perplexed as to why a pet crematorium was not an allowed use in the zone when an animal hospital, slaughterhouse and kennel were allowed uses.

Commissioner Walker stated that he can appreciate where the applicant is at in their interpretation of the zoning tables. There are definitely some uses that do not seem to fit what would be considered to be agricultural uses. And of course it is always a little more perplexing when a specific use type is not identified clearly in any zoning district. Mr. Walker said he can appreciate staff coming back with a general service-commercial service use because it does fit that category, but given the other uses that are allowed in the ag district, particularly slaughterhouses although that is for food generation ultimately, and an allowance for kennels and veterinary hospitals, it is not as clear as he would like it to be in order to render a decision, although he appreciates Mr. Leland's comments about the Board in 2001 removing a number of previously authorized uses from these zoning districts in order to retain an agricultural integrity.

Chairperson Cayler stated that in looking at the information she could not find an address of the relocation site. She commented as a planning commissioner when she finds out something is going to be built, she likes to drive by the site and see what it looks like and how much sense it makes for whatever is being proposed. She stated that uses such as wineries are located in the agricultural zone and felt that maybe a crematorium might not be such an appealing use to have next door. She felt that a commercial zone for a pet crematorium would probably be a better fit.

Jim Laughlin commented that a pet crematorium is an unusual type of use and this may be the only one in the county. He noted that the decision before the commission tonight is to decide whether the use is substantially similar enough to another type of use that is listed in the code and therefore be treated the same way because from all outside appearances it is essentially the same type of use. He emphasized that what is not in front of the commission tonight is whether a pet crematorium should be an allowed use in the agricultural zoning district. He said that would require a zone text amendment and there is a process for doing that. Mr. Laughlin said a pet crematorium may be an appropriate use and the commission has heard some arguments as to why it might be, and if the commission thinks it is appropriate then they should direct the department to bring back a zoning text amendment to make it an allowed use or a conditionally permitted use within the ag zoning district. Mr. Laughlin said that at this hearing the commission is limited to this narrow issue of whether the use is so closely similar to another type of use that is listed in the code that we need to treat it the exact same way as the similar use. Mr. Laughlin said that in this case the property owner is suggesting it so close to what a slaughterhouse is that it should be considered such.

Mike Yankovich stated that currently there is only one pet crematorium and one pet cemetery in the unincorporated county. This is not a use that is normally seen so that is why the commission is being asked to make a determination as to whether it is consistent with some other use that is also in the agricultural district. He spoke of the train station specific plan stating that it is a major project within the city and involves some annexation of county area where businesses are and are now being forced to relocate. The improvements are going to be made with regard to not just the public utilities, but also the types of uses that will be a part of the specific plan. Mr. Yankovich said that is part of the reason why the commission is coming across these uses that are looking for different areas within the county. He said the unincorporated area of the county does not have a lot of commercial industrial but does have some.

Commissioner Walker inquired as to why this parcel was chosen as opposed to a potentially more appropriate parcel in a commercial services district. Mr. Laughlin said that the commission's decision tonight is not limited to this particular pet crematorium or this particular parcel, the decision made will from this point forward affect whether a pet crematorium will always be treated exactly like a slaughterhouse within the county regardless of where it proposes to locate.

A motion was made by Commissioner Hollingsworth and seconded by Commissioner Walker to deny the appeal of Land Use Determination LUD-16-01 (Bubbling Well) and uphold the Director's determination that a pet crematorium is not a permissible use in the A-40 Exclusive Agricultural Zoning District. The motion passed 3-1 with Commissioner Castellblanch dissenting. (Resolution No. 4641)

Item No 2.

PUBLIC HEARING to decide whether to recommend that the Board of Supervisors adopt an ordinance to amend Chapter 28 (Zoning Regulations) to allow for non-commercial cultivation of cannabis for personal and caregiver use indoors in all zones that allow a residence, and to ban outdoor cultivation of cannabis for personal and caregiver use; to collect public input on whether the County should consider allowing some types commercial cannabis activity in the

manufacturing and industrial zones such as indoor cultivation and cannabis testing laboratories and prohibiting all other commercial cannabis activities in the unincorporated county.

Karen Avery provided the commission a PowerPoint presentation of staff's written report. She stated that Solano County is considering adopting regulations for personal cannabis cultivation to prohibit outdoor cultivation, requiring instead that all personal cultivation occur inside the user's residence or other permanent building on the parcel that contains a residence. The draft regulations are to reflect both the Medical Cannabis and Safety Regulations Act (MCRSA) and the Adult Use of Marijuana Act (AUMA) which allow local jurisdictions to further regulate cannabis. The staff report noted that the Board of Supervisors considered this issue and has directed staff to develop an ordinance on personal cultivation. Attachment A to the report highlighted the specific Board recommendations.

Ms. Avery noted that staff is also researching the possibility of allowing some type of commercial cannabis activity such as laboratory/testing and indoor cultivation of less than 10,000 sf. in industrial areas. Currently, the County has adopted an interim urgency ordinance that prohibits the commercial cultivation, testing, manufacture, distribution, sales, transportation and delivery of medical cannabis in the unincorporated areas of the county.

Commissioner Castellblanch commented on the amount of information provided to the commission and wanted to know what agencies staff has been in contact with. Ms. Avery replied that county staff has met with law enforcement officials and public health representatives, as well as attended seminars and webinars. Staff has also read numerous articles on what other jurisdictions are doing across the state.

Davina Smith, Deputy County Counsel stated that this is a new area of law. She said that most counties are holding back from adopting regulations. They are pretty much banning everything, particularly outdoor, but may be regulating some indoor personal cultivation. Local governments are waiting to see what the state develops in their regulations. The state is currently holding scoping meetings relating to medical marijuana and it is hoped that draft regulations will be available in the next few months.

Ms. Smith noted that the state has just started on the recreational portion for the regulations so it is unknown if those regulations will mirror those on the medical side or will be a completely separate area. She said that it is a consensus amongst her peers that they see these ordinances as likely to change over time as this process moves forward. As life with marijuana as a constant evolves, Ms. Smith believed that the county's regulations will evolve as well. Ms. Smith noted that the direction given by the Board of Supervisors in going forward in this research and bringing this before the commission was to be conservative. She commented that it is easier to loosen up the language later on than to try and tighten it up. Ms. Smith stated that staff wanted to try to reduce the nuisance impacts as much as possible given that almost all of the county zoning districts allow homes; making it a possibility that marijuana can be grown in potentially every single zone in the county.

Commissioner Castellblanch inquired about the registration process and wanted to know what it would entail. Ms. Smith explained that a person would need to visit the Department of Resource Management, fill out a registration form and pay a fee. That person would need to confirm that if

they are a renter, their landlord has given approval. They would need to be in compliance with all building and electrical codes.

Bill Emlen, Director of Resource Management commented that when the Board looked at this a few weeks ago they wanted staff to provide as broad a list as possible of potential standards relative to personal cultivation; whether they go with the extent of that list ultimately is up to them. Mr. Emlen said that he believes what the Board wanted the commission to do is start to look at that list and determine what was best for the county and most reasonable in terms of implementation. Part of what the commission will be asked to do tonight is go through that and provide recommendations to the Board as to what they think is appropriate for moving forward with personal cultivation regulation.

Commissioner Hollingsworth gave recognition to staff for their work on the staff report calling it an exceptional report. He wanted to clarify that the commission understands what they are being tasked with, reiterating that the Board has instructed staff to come back with a set of regulations that logically control the use of growing marijuana in a house for personal use. Staff is now coming forward with those rules to logically control the growth of the six plants the state has directed, but the commission is not here to change the state laws or anything else. Also the commission will take public input with regard to commercial cultivation above and beyond the six plants. Karen Avery responded in the affirmative.

Commissioner Walker provided his compliments to the staff for a comprehensive staff report. Mr. Walker noted that this conversation is not just about the six plants and allowing them to be grown in an interior enclosure within a home or an outbuilding, the ordinance is also banning outdoor cultivation, both personally and commercial. He said it is also making banning recommendations that may or may not be modified down the road. Mr. Walker asked staff why it was decided that the county would ban personal cultivation and focus all the direction on the interior spaces.

Ms. Avery stated that the Board directed staff to be very conservative. She explained that the AUMA does not allow the county to ban personal indoor cultivation; it does allow for the ban of outdoor personal cultivation. Mr. Emlen added that the sheriff has weighed in and what they have found is that outdoor cultivation generally is harder to manage versus having it indoors in terms of potential criminal activity.

Commissioner Castellblanch inquired about the registration requirements. He questioned the 24 hour notice for inspection and wanted to know if that was a standard requirement.

Mr. Emlen said that it is hard to say that anything is standard at this point because it is an evolving area and all jurisdictions are struggling with it. He noted that staff has seen similar kinds of provisions in some jurisdictions but certainly not all. Ms. Smith added that the one year registration limitation was a standard condition.

Chairperson Cayler commented that the registration process would be similar to that of a business license that a small business operating down the street would be required to obtain and renew each year.

Ms. Smith stated that she believed a lot of what is in the ordinance is the desire to be as conservative as possible. She said it is a concern and fear about what might happen. There have been news stories reporting problems with indoor and outdoor grows. The north counties have been hit very hard by some of the environmental problems with outdoor grows and all counties in the state have been harmed by indoor grows done irresponsibly; homes that have burnt down due to poor wiring and landlords whom have had to spend thousands of dollars to fix up rental properties after a renter turned it into a grow house. Ms. Smith stated that the county is moving forward with an abundance of caution because of these issues. She said there are many people who grow responsibly and know how to do it right, they have no intention of violating the electrical and building codes and know the proper use of chemicals, but there are those few bad apples who spoil it. She said it is easiest to start conservative and open it up at a later point when it is seen that there are no problems or issues.

Since there were no further comments or questions from the commission, Chairperson Cayler opened the public hearing.

Joseph McNeill, 5245 Tapestry Court, Fairfield, stated that he has been active in the cannabis community for almost a decade. He commented that a registration process for personal use is not a regular standard at all and he has been involved in these types of meetings in numerous cities and counties from Humboldt to Monterey. He said to give up your right to privacy to exercise another right seems wrong. He commented to the ban on mixed light usage with greenhouses, saying that they can be very secure. The material used for the structure is made with unbreakable material and the smell can be reduced just as effectively as with indoor grows. The water can also be reclaimed which reduces water usage. Mr. McNeill commented that the county should consider Type 10 dispensary licenses. He said a nursery license should not be limited to 10,000 square feet. A person should be able to provide for multiple businesses as well as personal use. Limiting them to the same canopy size does not seem right. Mr. McNeill also stated that 1,200 watts for personal use in a 100 square foot area is not enough and that amount should be doubled.

Ronald Koci, 7554 Locke Road, Vacaville, spoke to the issue of the prohibition of growing outdoors and wanted to attest to the public nuisance created by outdoor cultivation and processing of marijuana. He noted that he lives approximately 1,000 feet from a large scale grow on Hartley Road and they have 99 plants. He noted that for over 1 month this year the whole area to about a ½ mile radius of that grow has been permeated by the strong heavy pungent odor that he finds sickening. Mr. Koci stated that he has talked with the sheriff's office and they have talked to other neighbors who also find it offensive, but the Sheriff has not been able to find a way to do anything about it. The nearby residents are subjected to the unknown effects of prolonged low dose exposure to the fumes from the marijuana. Mr. Koci remarked by saying what other drug is there that because you get to take it, everyone else in the neighborhood has to take it as well. Mr. Koci believed the county has a duty to the people who do not want to use the drug to protect them from the exposure to the sickening smell and the effects of the drug.

Anthony Adams, 614 Canvasback Avenue, Suisun, stated that this is a property rights issue and he believed it is a very dangerous precedent to set. People buy homes here and pay property taxes every year to have a reasonable expectation to be able to do what they want to do on

their property as long as they do not create a direct nuisance to their neighbors. The state has set regulations at six plants and it has been working for a long time. He stated that this is not a new thing. Medical marijuana has been around for a long time and in many counties it has been working really well. Mr. Adams said that for the county to outright ban it does not make sense. There are also additional costs associated with growing indoors such as the use of electricity, needed grow space, and equipment. Additional downsides are requiring people to use more electricity to grow a plant which will increase greenhouse gases, fire risk, fire inspection costs, and privacy issues due to having to join a registry. The state has not made any solid regulations yet and he did not believe it is the county's place to set the precedent for the state. Mr. Adams suggested waiting to see what the state does or what other state jurisdictions have done. He said requiring a license every year is an unreasonable restriction for personal cultivation.

Commissioner Hollingsworth asked Mr. Adams what he would think would be the acceptable, logical rules for growing in a residential area while maintaining the property values in the area.

Mr. Adams said that he did not believe anyone was advocating growing the plants in the front yard. This would be a backyard activity which is fenced where no one would see in. Mr. Adams said that it is not someone else's responsibility to tell a homeowner what they can do on their own land unless there is a personal nuisance being created. If that nuisance is being created then a complaint can be made to the reporting authority. Mr. Adams suggested that the rules can be similar to what the states of Colorado and Washington have done which appear to be working for them.

Pat Byron, 259 A Logan Street, Rio Vista, stated that the cost of growing indoors is expensive. He said that he currently grows cannabis for medical use and uses 2280 watts of electricity in a 100 sf area. He said that there is a lot that goes into growing and it is not feasible for most patients. Outdoor cannabis develops different terpenes and a different cannabinoid profile than indoor grown cannabis. The sunlight offers a different spectrum of light and it gives outdoor cannabis very particular medical qualities as opposed to indoor cannabis that has been grown under synthetic light. Mr. Byron said in his opinion growing cannabis outdoors should be no different than growing hops, grain or corn that can easily be turned into alcohol and sold for profit. Cannabis farmers are real farmers. People who grow cannabis put a lot of time and effort into it; they care greatly for their crops and they protect their crops. Mr. Byron proposed that the commission allow for the six plants without the need for a special permit. He believed that was the intent of the state and the intent of the voters when they approved Prop 64. This measure was not just to legalize the use of cannabis this was about criminal justice reform and reforming our legal system because we know that prohibition does not work. With the current laws right now that prohibit cultivation we have all kinds of problems. We have unregulated growing, we have people who are growing hundreds of plants as indicated by the former speaker which is clearly not within the current regulation and is not getting dealt with because law enforcement officers are out chasing people who would be legal patients under a reasonable law. Mr. Byron said that a lot of this opposition is based on fear. He said medical patients like himself have come down here and have asked time and time again for help and the county continues to ban and prohibit this and they continue to suffer.

Monica Brown (*no address given*) appeared before the commission and commented that she was here to learn. She assumed that this item was going to go before the Board of Supervisors

and it sounded to her that more time was needed to discuss the matter because it does not appear that everyone is working together. Ms. Brown commented that Prop 64 did pass and reiterated that she was here at the meeting to learn.

Thomas Lamothe (*no address given*) also appeared before the commission. He said that he is a patient and is here to respond to the public hearing notice. With regard to forcing indoor cultivation, he spoke to the power wattage and said that he did not know of anyone who uses that much power that consistently. There is significant chemical use in indoor grows that is not used outdoor which produces a more natural holistic medicine and as a patient he said that there are significant differences between the efficacy and other factors. There is increased risk for fire. Mr. Lamothe said that he believed the impacts do not exempt this matter from CEQA and causes concern for some kind of environmental document to be done regarding indoor cultivation. This is a complex issue and some of these perspectives can be overlooked easily because there are so many things to go over. Medical patients have a right under law to confidentiality and constant permitting and licensing and regulations negate that. Under severability, Mr. Lamothe said that he would like to see a separate definition for a medical cannabis patient and a recreational marijuana consumer. Mr. Lamothe commented that odor is not a public nuisance, it is a private nuisance and recovery is civilly available to everyone. Mr. Lamothe stated that outdoor cultivation protects the safety of the public in other instances as well and quoted Section 11362.5, subsection B.2 (*Mr. Lamothe did not reference which code that section was cited from*).

Commissioner Hollingsworth asked Mr. Lamothe if with all the costs associated with the indoor grow if it would be cheaper to go out and buy it someplace else or if it would be cheaper to grow it himself. Mr. Lamothe responded by saying that it is an increase of about 1,000% and electricity and chemicals contribute to that cost. He said by requiring it indoors is a violation of Section 11362, subsection B.1.C (*Mr. Lamothe did not reference which code that section was cited from*) by not implementing a plan to provide safe and affordable distribution of marijuana for patients who need it.

Jorge Espinoza, 3611 Sonoma Blvd., Vallejo, stated that he represents Better Health Group which is the oldest and longest compliant dispensary in Solano County. He talked about personal cultivation and the new passage of laws. He said that after hearing the conversation it sounds to him like the county is doing everything possible to make it difficult for these patients and for people to exercise their right. A proposition was just passed overwhelmingly in the State of California and it appears that every time localities or government does not like a new law they do everything in their power to fight it. Mr. Espinoza said six plants is not a lot and can be grown in a small space. He did not understand the need for a permit or to excessively regulate something that is already permitted by right, and if overregulated people are not going to come in and obtain permits. The reality is that it is a right the people have and the county can challenge it as a nuisance but it is going to cost the county more money. Mr. Espinoza said the point of growing your own medicine is that the cost is more affordable and the patient does not have to go to the dispensary which can be burden if their mobility is challenged. He said the county should consider regulating and allowing dispensaries in the county. Mr. Espinoza commented that if he lived in the county he would challenge the county's overregulating something that calls for reasonable regulation. The county should talk to patients and growers in the community or surrounding communities. Mr. Espinoza said that he welcomed the

commission to come to Vallejo to visit the cultivation facilities to see how much work it takes for something that is commercial vs personal. As for the criminal activity associated with outdoor grows, he noted that if someone were to enter your backyard that is a crime and that alone should protect it.

Commissioner Castellblanch offered the scenario where someone lives in a household where two people smoke marijuana and smoke a joint or two most nights of the week. He wanted to know how many plants a person would need, and how the six plants would sync up with a household that smokes marijuana.

Mr. Espinoza responded by saying that it is dependent upon how it is grown. Indoor plants are going to produce a way less yield than outdoor plants; outdoor plants can only grow once a year through a season. Outdoor cultivation is not going to be all year round; there would be one harvest and usually that harvest would last about a whole year. He noted that the majority of the odor comes out during the drying process. An indoor grow can yield 3 to 4 harvests but the amount of medicine is a lot smaller, approximately 1 to 2 ounces vs 4 to 5 ounces for an outdoor harvest.

Commissioner Walker commented with regard to dispensaries noting that three years ago the Board of Supervisors prohibited medical marijuana dispensaries in the unincorporated county and so that issue is not under the commission's consideration at this time.

Chelsea Taylor (*spelling not given*), 412 North California Street, had several alternatives for the commission to consider and asked Pat Byron to relay those suggestions on her behalf. Mr. Byron made these suggestions: for personal use medical indoor with no permit, personal use medical outdoor with a permit to ensure proper security; recreational: indoor with a reasonable permit, temporary ban on outdoor only so the county can use the permit on the medical side to monitor the medical outdoor grow. Mr. Byron said that would open it to a limited segment of people who have experience with the issue and over time if everything works out, the regulations could be lightened up.

Robert Dellenbach (*spelling not given*), 3322 Colonial Court, Fairfield, spoke to the danger of having an attractive nuisance in a neighborhood and how growing marijuana outside can be an attractive nuisance. He told a story of how his neighbor attacked his son and claimed the boy was trying to get into his backyard to steal his medical marijuana. The neighbor complains that kids are in his yard all the time trying to get to his plants. Mr. Dellenbach did not believe every grower of marijuana is like this particular individual, the man is a convicted killer and has served 7 years in prison for shooting someone. Mr. Dellenbach said he would like to see this man not be able to have an attractive nuisance in his backyard. If kids are coming into his yard to get at the plants he needs to protect them in a way that he would for example a swimming pool; he needs to put a fence around it. Ideally the man would not be able to grow it outside so the kids would not have that enticement. Mr. Dellenbach said that he did not believe this man should be able to have a license to grow marijuana because he has a propensity to be violent and has taken action into his own hands to try and protect his plants at the expense of a 14 year old boy. Mr. Dellenbach commented that this is probably a very unusual case however regulations are meant to protect kids and neighborhoods. He also believed the value of the homes in his neighborhood is less because of this guy.

Crystal Rowe (*spelling not given*), 1208 Mayfield Circle, Suisun, stated that she has worked for Solano County for 12 years. She said the county is wanting to put all this regulation on indoor grows which are dangerous if not done properly especially when Prop 64 just passed giving the citizens the right to grow six plants outdoors. She questioned the reasoning to not allow growers the ability to use the sun and natural earth to get a season's worth of grow in order to have their medicine. Ms. Rowe said the harvest would be organic, they would have grown it themselves, and they would know where it comes from and what has gone into it. Ms. Rowe commented that her husband is disabled and it is something he needs to use and it can be very expensive if they have to get it at a dispensary. Mr. Rowe said one thing she has learned, especially from being a part of a union, once you give something up you never get it back. She said that they do not want to give up what was just voted in a week ago. She urged the commission to give it a chance, evaluate the process after a years' time, and go from there.

Since there were no further speakers, Chairwoman Cayler closed the public hearing.

Commissioner Castellblanch said that he is concerned about some of the rules for registration and felt them to be unnecessarily restrictive: the 24 hour notice of inspection of a home, no cause, just someone coming into your residence at any time; as well as the 1 year renewal. He commented that this activity is not a business use. Mr. Castellblanch said that this is for some people a practical matter and something that can be really important so he did not feel comfortable at this point to just ban it outright from being outdoors. He spoke with regard to the CEQA issue saying that this may be something that needs review. He indicated that according to the PEW Research Center 12% of Americans smoked marijuana in the last 12 months so he estimated about 10% of the population is smoking marijuana and this county has close to ½ million people so he figured the county has approximately 50,000 marijuana smokers. If those folks are now required to grow indoors, he questioned if that was still a small matter in terms of CEQA.

Mr. Castellblanch stated that due to his concerns he did not feel he is ready to sign off on this ordinance. He believed that when a matter this complex comes up it would be better if the commission had some time to have a hearing without the conclusions already set out, and then move from what the commission has learned.

Commissioner Walker commented that since Solano is an agricultural county he was surprised that someone did not have something to offer with regards to the commercial applications and cultivation information in relation to what the commission has received. Mr. Walker stated that he believed staff and the vast majority of speakers who made the point that it sounds a lot more dangerous to grow the cannabis inside than to grow six plants outside. He pointed out that the focus is on the unincorporated county so it is not like the cities where residences are stacked up close to one another. Most of the zoning in the county is minimum 2½ acres. There are some urbanized areas and perhaps the county could set very specific rules for those areas if needed in order to insure safety. Most of the zoning districts in the county are massive and so the residents are somewhere towards the middle or even several thousand feet away from the nearest private road. So ostensibly if growing six plants which is a very small footprint it would be by virtue of distance already shielded and out of the public viewshed.

Commissioner Walker spoke to the issues with over lighting or drawing too much power potentially causing fires. He voiced concern about those issues and in that regard is why he can see some of the requirements for permitting because the structures, depending on the age, may not be able to support the amount of energy that would be consumed in order to light the plants sufficiently; whereas with natural sunlight they grow naturally. Mr. Walker said that he definitely has a problem with a registration component and he would not want someone knocking on his door to make sure he is doing what he is supposed to be doing. He stated that this is not a business venture and nothing is being sold, therefore he would not want his rights infringed upon. Commissioner Walker stated that he appreciated the exhausted amount of effort made by staff but he would not be able to support the ordinance at this time.

Chairperson Cayler said the one thing she has heard is complaints about the odor from people who do not use marijuana but their neighbors do. She was curious if breathing second hand marijuana smoke would show up on a drug test for someone who is standing nearby.

Ms. Smith stated that there is no conclusive evidence or studies that she is aware of to show that someone standing nearby would feel the effects of the marijuana. Ms. Smith noted that there has been a little work done on the smell of growing marijuana and there are sensitive receptors such as people who have asthma and there has been some discussion and research started on whether that exacerbates the problem.

Chairperson Cayler commended staff for their many hours of work on the staff report. She spoke with regard to the registration requirement. She said if you are the homeowner and damage your own home then you are responsible, but if a renter is in the home and the home gets damaged due to irresponsible growing, the property owner is at risk. That is where the registration comes into play. She commented that the permit fees required would pay for the cost of a safety inspection. The permit fees are designed to pay for the cost of doing business wherever that business is located. Requiring registration and charging a fee could in turn help hinder what happened to the gentleman who spoke that had issues with a convicted felon living and growing marijuana next door. Chairperson Cayler stated that for those reasons she could support the registration and some kind of permitting process. She supported starting out more conservative and then later on, if necessary, loosening up the requirements.

Commissioner Castellblanch checked the National Institute for Drug Abuse website to inquire if someone could fail to pass a drug test from second hand marijuana smoke and the answer is probably not since the amount of THC exhaled by marijuana smokers is so low it would take a lot of second hand exposure to fail a drug test.

Jim Laughlin, Deputy County Counsel outlined several options for the commission. He stated that the purpose for this hearing is to make a recommendation to the Board on whether they should adopt this zoning ordinance or not. There are a couple of decisions the commission can make. The first is whether the commission is ready to make a recommendation, if the commission believes they need to hear more testimony they have the option to continue this item. If they have heard enough to make a recommendation then it would be advised to proceed. When it gets to making the recommendation the commission has 3 options: to recommend that the Board adopt this ordinance as proposed; reject this ordinance, or go through this draft ordinance and mark up what they want to keep or delete and present that

revised ordinance to the Board as the commission's recommended ordinance.

Commissioner Hollingsworth asked if the commission needs to address the commercial cultivation aspect. He commented that he believed there is money to be made in commercial cultivation and it is money the county could use. Ms. Smith stated that staff plans to come back before the commission with the commercial pieces, but are still in a fact finding and exploration mode in that area. If the commission has specific items they would like addressed, she would welcome any feedback from commissioners.

Commissioner Castellblanch stated that there are a lot of pros and cons with the relation to commercial cultivation. He said he has done some research and has found enough information to realize that this is going to be hard due to some of the issues relating to the use of pesticides, water usage, and large amounts of cash being involved. He said he is trying to learn more about sustainable forms of agriculture as it might apply in this context because this may be a case where we would start to go forward in that direction since it would be new form of agriculture. He said with the county's proximity to UC Davis there may be some synergy that could be developed.

Commissioner Hollingsworth questioned if it is possible to make rules for different sizes of parcels. Ms. Smith said that it is possible to gear the regulations based on parcel size. The county would have to allow zoning to a certain extent because of the AUMA which requires that the use is allowed anywhere there is a residence. Staff could write that anywhere a residence is allowed, if the parcel is 20 acres or greater, a property owner can grow outside with setbacks from property lines and easements. With smaller parcels, maybe that might be a place where the county would want to limit growing indoors because of the small lot size.

Commissioner Walker commented that he felt 2½ acres to be large enough as the base. The county would have to get more creative when addressing the more urbanized densities throughout the unincorporated territory. He stated that he is not willing to prohibit any commercial cannabis activities until it is actually known what that is going to look like because he believed that could be money left behind, and he would like to see some economic revenue generated for the county. Commissioner Walker said that he is more in favor of outside growth on a small scale, and certainly for safety the indoor component minus the registration, although he knows it is duplicitous since a permit is required for a building inspection. He would be more concerned about Chairperson Cayler's point if a tenant burns down a rental property. He stated that that would be whole different layer and so he was not sure how the commission may want to address that issue.

Commissioner Walker said he was not sure how the county can reconcile an indoor permit without requiring some kind of a registration. He would be in favor of continuing this item to give staff an opportunity to come back with recommendations for a more lenient small outdoor component. He commented that the framework for an indoor component is established so there probably is not a lot that needs to be tightened with regard to that. He questioned if in a proposed ordinance the commercial component even needs to be addressed until the county is ready. He said that he would hate to close things off with the provision that it will come back because often times when something is banned it stays that way.

Chairperson Cayler suggested that staff speak with representatives from the insurance industry because sometimes in the fine print on insurance policies it may indicate that the property policy will not cover expenses if there is a marijuana grow at the residence.

Commissioner Castellblanch spoke with regard to the outdoor grow. He felt that some kind of setback might be helpful. He commented that he lives in Benicia and he did not believe there is anywhere on his lot that is 30 feet from a fence line.

Commissioner Hollingsworth commented that when a new person moved into his neighborhood and wanted to open a child care center, the city sent letters to all of the surrounding property owners notifying them and provided the neighbors with the ability to file an objection. He said if the 2½ acre is the chosen threshold and someone has acreage less than that maybe there should be some way where the neighbors could participate in the process. Mr. Hollingsworth stated that he felt a permit on the outdoor grow should have a cost associated with it because he believed that there will be an increase in law enforcement costs. With regard to indoor, he said that it appears a permit is basically not required and that this would have to be something that is further thought out.

Chairperson Cayler said that she would support some kind of a permitting or registration process. She said that it is a safety factor for emergency workers who need to know what they are facing before they enter a residence which could lead them into a dangerous situation. She suggested working with fire department personnel and public safety representatives.

Jim Laughlin stated that the building code requires an electrical permit if someone were to install a new outlet or fan so that permitting requirement is going to apply regardless of what is required for registration.

Commissioner Hollingsworth said that he would agree with the 2½ acres but also wanted staff to provide a process to deal with acreage that is less such as with the idea of notifying surrounding property owners.

Commissioner Walker commented to the area of the county referred to as Homeacres which are a bunch of tiny little lots right next to each other. He questioned how that will be affected because Prop 64 allows this right for everyone even though the county has the right to place restrictions. He said that ideally he would like to see something that can work for everyone even if those smaller parcels need to have different rules because they are smaller. He felt the key point is to keep everyone safe including those growing or using and the surrounding neighbors. Mr. Walker said that in the smaller districts it may need to be so many feet from a fence line or may be it is just not doable on some of the smaller lots. If that is the case then it would need to be an indoor requirement. Commissioner Walker said that he believed that in zoning districts where it is 2½ acres or greater it would be a whole lot easier and certainly more cost effective and healthier to be outside.

Bill Emlen commented that staff hears the direction the commission has given in terms of things they want staff to explore as part of a revamp of this ordinance. He did mention that the Board members who have looked at this and gave staff the initial direction did express concerns about outdoor cultivation so it is possible that when the commission comes forward with a

recommendation they may still not accept the proposal for outdoor cultivation. Mr. Emlen said with regard to the concerns about a registration process the commission could focus on cultivation indoors with setting some basic standards. Some standards are already in the ordinance in terms of odors and having locked doors and the like. But it is basically something that the county would deal with on a compliant basis so we have some standards without having to go through a registration process and dealing with personal information and that sort of thing. That is another approach that could be used for indoor cultivation. Mr. Emlen said he felt the commission should move forward with both standards for indoor and outdoor to give the Board choices for when this item comes before them.

A motion was made by Commissioner Castellblanch and seconded by Commissioner Walker to continue this matter to the regular meeting of January 19, 2017. The motion passed unanimously.