

# MONO COUNTY PLANNING COMMISSION

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## SPECIAL MEETING MINUTES

October 19, 2017  
(Adopted November 16, 2017)

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**COMMISSIONERS:** Scott Bush, Roberta Lagomarsini, Chris I. Lizza, Mary Pipersky, Dan Roberts.

**STAFF:** Scott Burns, director; Gerry Le Francois, principal planner; Wendy Sugimura & Michael Draper, analysts; Nick Criss, compliance officer; Christy Milovich, assistant county counsel; CD Ritter, commission secretary

**GUESTS:** Carmen Hernandez-Smith; Eric Edgerton; Dorothy Burdette; Patti Heinrich

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**1. CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Dan Roberts called the meeting to order at 10:05 a.m. in the Town/County Conference Room in Mammoth Lakes, and attendees recited the pledge of allegiance to the flag.

**2. PUBLIC COMMENT:** No items

**3. MEETING MINUTES**

**MOTION:** Adopt minutes of Sept. 21, 2017, as amended: 7A: Roberts saw elimination of huge sections of communities. Highly sought properties for cannabis, **an unintended result of reevaluation of properties**. Youth using less in areas where **grows are cannabis is legal**. (*Lizza/Bush. Ayes: 4. Abstain due to absence: Pipersky.*)

**4. PUBLIC HEARING**

**A. CONDITIONAL USE PERMIT 17-013/Overton.** Proposal is for use of a studio unit as a short-term rental with owners living on site (Type 1). The property is located at 165 Aspen Terrace in the community of Crowley Lake. This parcel (APN 060-240-010) has a land use designation of Single-Family Residential (SFR). A CEQA exemption is proposed. Lago

Michael Draper presented overview of proposal. New owners have done improvements such as paving. Draper summarized four comment letters received: primarily poor experience from past illegal rentals plus parking issue, possible rent increase, noncompliance with requirements. Staff thinks mitigation is possible.

Illegals? *Type II.*

Pipersky recalled legal changed to illegal by HOA at Whiskey Creek condos.

Draper stated unit never rented long term. Owners must adhere to Ch. 25/26, conditions of approval. Trouble enforcing illegals, so more enforceable with use permit. Access via S. Landing Road, CofO (Certificate of Occupancy) to complete construction permit by former owner.

Option to approve or deny based on reasonable opposition from neighbors directly affected. CC&Rs? *No.*

Pipersky noted letters came from Whiskey Creek condos, 0.1 mi away.

**OPEN PUBLIC HEARING:** Kelly Overton just learned of 2001 permit application.

Actual bedroom? *Big open floor plan. Originally in-law unit*

Total square footage? *400' above two-car garage, 620 sf.*

Bush mentioned parking in back, entrance at South Landing Road. Pipersky noted guests park on South Landing, but owners enter from Aspen Terrace. House overlooks studio, see all that's happening. Deck runs between unit and studio. **CLOSE PUBLIC HEARING.**

**DISCUSSION:** Bush thought if ever situation was set up to succeed, this is as well suited as any imaginable. All opponents are from condo world. Owner on site to monitor would have control and could mitigate problem quickly.

Pipersky disagreed. Removed from main house, not quite fit into language that allows Type I. Park at different spot. Four letters in opposition. Possibly deny based on that.

Bush countered that no next-door neighbors opposed. Making people guilty of original sin that owners were not part of. On same lot, not necessarily same house.

Overton suggested no reason to abuse use permit. Only want two renters in queen bed. Small views of lake, busier in summer than winter. Lived in Mammoth Lakes condo 15 years. That culture not looking to be 20 minutes away from

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DISTRICT #1  
COMMISSIONER  
Mary Pipersky

DISTRICT #2  
COMMISSIONER  
Roberta Lagomarsini

DISTRICT #3  
COMMISSIONER  
Daniel Roberts

DISTRICT #4  
COMMISSIONER  
Scott Bush

DISTRICT #5  
COMMISSIONER  
Chris I. Lizza

party hub. Friends with local law enforcement, could call. Direct second-homeowner neighbors OK with it. Paving for ease of snow blower, water abatement.

Lizza noted studio for a couple, one car. Neighbors mostly professionals working elsewhere in county, locals in opposition. Use permits run with owner, not property. Keeping up place. Not workforce housing unit, would keep available for family and friends. If use permit approved, consider workforce housing if no longer needed for visitors.

Lagomarsini noted house on left side drives in from S. Landing Road as well. Don't know what to do about workforce. Comment writers not show up, and **these were brief letters, not from next door neighbors, not directly on point to the issue so not that significant to the decision in this issue.**

. Mechanism to shut down if problems arise.

Bush indicated five letters, three from Whiskey Creek condos, and none from next door. Other two not identify where live, maybe philosophical belief.

Roberts noted opposition comments from down street, on different road. Contained same laundry list of complaints from every opponent of STRs in general. Not see anything extra that makes it more reasonable.

Roberts stated concerns addressed through conditions. Good property for this, not suitable for workforce if kept for family in off times. Would be chief concern if an option. Inclined to favor.

Lizza noted condition to limit occupancy to two persons. *Overton thought couple or anglers to fish Crowley.*

Pipersky thought it not just up to commission, but local people.

Bush opined if it's really important, people show up, not just write few paragraphs.

***MOTION:*** Approve CUP 17-013 subject to the findings and conditions contained in the staff report; and find that the project qualifies *with two persons* as a Categorical Exemption under CEQA guideline 15301 and file a Notice of Exemption (*Lizza/Bush. Ayes: 3. Noes: Lagomarsini, Bush*)

Bush was originally against [short-term rental] process, didn't see need or desire. But, happening several years now. If stuff is on books, let it happen. If approved, keep an eye. Contentious in Mono, but if process is available, dip toe in water. Not see "reasonable" opposition by immediate neighbors. People down street had prior bad experiences.

Pipersky thought it likely to pass, but go on record "perfect" places found. Stood with four commenters she knows.

Lagomarsini opposed limitation, but would approve without.

Burns cited Building Code arena. No limit on people in houses. Quasi B&B, limited to 10 before a change. Burns reminded no fee on appeals, so could expect more. Nice to lay out rationale.

Roberts wanted to clean up language in code and handle case by case.

Even though owner volunteered limit, Bush did not like precedent set.

Lizza thought conditions address specific concerns in given UP. Not setting precedent, just addressing concerns.

Bush thought setting precedent in Lizza's mind = changing to one bedroom = two people.

Milovich saw it as gray area. Nature of use permit is placing conditions on uses. Inconsistency not a legal problem.

**B. GENERAL PLAN AMENDMENT 17-03:** New General Plan language in the Land Use and Conservation/Open Space elements related to legalization of commercial cannabis activities under Proposition 64, which was passed by California voters in November 2016. The General Plan text contains Issues, Opportunities and Constraints in the Land Use and Conservation/Open Space elements, as well as Objectives, Policies, and Actions in the Land Use Element. Potential commercial cannabis activities are defined by the State's licensing structure, and include uses such as cultivation, nursery, manufacturing, testing, retail, distribution, and microbusiness. Specific regulations governing site-specific requirements (such as setbacks, etc.) are not part of this General Plan amendment. In accordance with State law, this project is exempt from the California Environmental Quality Act.

Wendy Sugimura presented next step after September workshop, also went to BOS, extra maps in packet. BOS focused on policy items. Today she will review BOS direction. State is delaying release of regulations. Taxpayers will not bear burden of costs. Hard to take back approvals/impacts. Easier to start conservative, become more permissive later if consequences are not huge. Strong commitment to provide/allow business ASAP. Split General Plan policy adoption, height, setbacks, aesthetics, and lighting. Policies based on RPAC input. Wait till tax measure goes to voters? No specific timeline.

Pipersky indicated State set tax regulations. Local entities can add another layer of taxation, as no State revenues return to local jurisdictions. Grant opportunities nebulous.

Milovich noted general tax at general election. Special election could be for November 2018. Tax only recreational, not medical. Could tax cultivation, retail. Not figured out yet.

Sugimura stated highly regarded consultant on board, tax information later. Focus on policies now, regulations later.

Bush noted Mono has spent much time on topic, growers would lose next year's growing season. Did BOS discuss?

Sugimura replied yes, but timing was not refined. No idea how State issue permits. Application requirements are out, process in flux. Takes a month to enact an ordinance.

Bush stated cultivators are up in air. Sugimura responded *everybody* is up in air, waiting to see.

**Manufacturing:** Allow in MU and C designations. BOS split on volatiles, which other processes also contain.

Edibles? *Edible = final product that can be consumed.* Milovich added concentrates as well.

Sugimura stated Type 6 license includes extraction of oils. Packaging and labeling of products similar to commercial uses, not true manufacturing.

Roberts reminded that sodas are edible but not foods, thus taxable.

Sugimura will spell out clearly how it applies to MU in Antelope Valley. Could return to RPAC.

Bush mentioned abandoned gas station, in-laws living on back part of his property. Some things OK to do in front half, but not back. Sugimura stated MU still applies overall. Intense activities may be more appropriate along 395.

Does Mixed Use have commercial and residential side? Sugimura indicated it's not the intent. MU applies across whole parcel.

--- Commissioner Lagomarsini departed at 11:25 am ---

Buffers: BOS wanted 1,000-ft buffer. AG land, but only few owners who could grow.

Sugimura cited consistency analysis with activities allowed. RR (Rural Residential) not compatible as commercial use.

Burns noted people in other parts of county showed interest in changing RR to AG. Do we treat people same throughout county? Equity issue.

Bi-State: Bi-State Action Plan recommended buffer around leks of 5 km, not 5 miles. BOS extended buffer to all agricultural activities, added language to Conservation/Open Space Element. Tri-Valley had water concerns. Outdoor personal cultivation. BOS noted possibility of banning outdoor grows, but vote was split. Get more information from other jurisdictions.

Lizza noted Mono Basin wanted approval of some regulations. Sugimura responded that BOS preferred one big package. Personal cultivation is completely separate, allowed outright under state law. Mono could adopt regulations, but not ban outright altogether. Not taxable.

Draper noted State allows six plants indoors. Some counties require annual permit, renewal process. Others have size limitations outdoors and indoors. 100 sf to control size of plants. Many areas still uncertain. Multifamily units: Up to them how they divide six plants.

Lizza stated Mono Basin RPAC opposed identifying growers, as it would impact ability to do their jobs. Sugimura indicated Long Valley thought personal grow should be regulated. Bush reminded people could grow only on own land, as growing on federal land is illegal.

**OPEN PUBLIC HEARING:** Carmen Hernandez-Smith noted Sugimura did not mention if outdoor grow affects wildlife. If it does, then fencing is needed. How much water used? Waste product disposal?

Roberts thought growers would have interest in protecting crop from wildlife.

Sugimura stated some issues at CEQA analysis level.

**Eric Edgerton**, Coleville, of Tilth. Supports permitting, regulating, taxing. Job creation + income.

**Sally Rosen:** Spoken to entities. Done good job on safety concerns. Antelope Valley Cannabis Association. Delay of regulations till tax measure to voters is serious issue for success of industry. Mean small businesses not able to apply for State license in January. Mono no tax benefits (property tax, payroll tax). Lose competitive edge. Cooler temps, higher altitudes. Proximity to 395 positive. Handful of business hopefuls in Antelope Valley. Other counties started to regulation and approve apps. Mono wait till 2019 to apply for state license if delayed. Lose out on 20 jobs/one-acre grow. Illegal market incentivized. Easier to regulate permitted vs. unpermitted. Ask for Planning Commission to provide feedback to BOS to allow prior process, pilot program before 2018 election. If work with Mono staff, come up with regulations that work. Result in longer, more-successful program. Allow Mono staff to work with people in industry. LUD: Interested in RR land allow grows. Equity to re-designate: Regulations not set in stone. Plant grows just like tomatoes, has odor like garlic, and is lucrative. Conduct selves in responsible, ethical way to benefit community. **CLOSE PUBLIC HEARING.**

**DISCUSSION:** Lizza thought increasing buffer zones contradicted policies. Planning Commission comfortable with 600', but BOS expanded and included other facilities. Kids are exposed to alcohol and tobacco in his business. Did not see harm in kid walking by facility, farm or factory. Why not include gas stations where kids air up bike tires, retail where kids buy candy? Why have buffer zones? Is it the product itself, activity happening, character of people using those facilities? Adult businesses have 500' buffer *on some discussed in General Plan*. Do adult businesses have less impact? 1,000-ft buffer inconsistent with General Plan. Change to 600' buffer to schools.

Bush noted kids go everywhere. Protected if not see it? Set 1,000 feet from schools, but 600' for others.

Lizza asked if cannabis is worse than alcohol, tobacco, or adult shops. He wondered if extra 400' would protect kids more. Can't have liquor license *and* state cannabis license.

Pipersky & Roberts found 600' buffer reasonable, as voters approved. Extreme buffers eliminate entire business districts in communities. After legalization in other states, interest by youth has diminished. Trying to completely eliminate? If intent is to facilitate cannabis business, contradictory.

Pipersky, Roberts & Lizza agreed on no further regulations.

Draper noted AG parcels had 71 unique landowners of 134. Cottonwood Canyon is just outside buffer. At conferences, Public Health doesn't want to normalize cannabis like tobacco and alcohol. Thought process: If not all over place, it's not huge societal problem.

Bush thought the more people are told they can't have something, the more they want it. Lizza noted some thought people blew it with alcohol, so get this one right. Sugimura cited carryover commonly seen in interest of not exposing minors. Bush thought if intended to exclude Crowley Lake, state that. Pipersky supported consistency throughout county.

***MOTION:*** Adopt Resolution 17-01 with edits stated by staff, recommend that the Board of Supervisors approve General Plan Amendment 17-03, and find that the proposed amendment is consistent with the county General Plan and applicable area plans. (*Lizza/Pipersky. Ayes: 4. Absent: Lagomarsini.*)

### **GPA 17-03: Draft Commercial Cannabis Policy Edits**

Planning Commission: Oct. 19, 2017

#### **LAND USE ELEMENT: Countywide Policies**

**Action 1.L.1.b.** Provide consideration for manufacturing uses, such as edibles and packaging/labeling, that are substantially more similar in use to food-service establishments or retail/service trades, despite falling under a single state license type that includes more traditional manufacturing uses, such as extraction.

**Action 1.L.2.c.** Placeholder: ~~If desired, regulations regarding personal outdoor cultivation. (Staff will provide an update on this item.)~~

**Action 1.L.3.a.** ~~Remain consistent with state requirements prohibiting commercial cannabis activities from locating within 600' of any school providing instruction to kindergarten or any grades 1 through 12, day care center (as defined in HSC §1596.76), youth center or licensed child care facility. Cannabis businesses shall not locate within 1,000' of any of the following facilities that exist at the time the application is accepted: schools providing instruction to kindergarten or any grades 1 through 12, day care center or youth center, parks, ballfields, playgrounds, libraries, community centers, and licensed child care facilities. An additional corridor of exclusion applies in Crowley Lake on Crowley Lake Drive between the library/park (3627 Crowley Lake Drive) and the ballfield (526 Pearson Road) to protect minors that may be traveling between these attractions.~~

#### **LAND USE ELEMENT: Antelope Valley Policies**

**Action 4.A.2.d.** To promote main street and economic development as provided by other policies (Objectives 4.D. and 4.E.), emphasize commercial character and uses on US 395/main street frontages in the Mixed Use (MU) designation, ~~and residential uses along residential street frontages.~~

#### **CONSERVATION/OPEN SPACE ELEMENT: Biological Resources**

**Add to the bulleted list under Action 2.A.3.e.:** To protect nesting and brood-rearing habitat, agricultural cultivation shall not disturb or remove sagebrush habitat within three miles of an active lek, or as determined through an informal consultation process with applicable Bi-State Conservation partners.

--- Commissioner Bush departed at 12:37 pm ---

## **5. WORKSHOP**

**A. JUNE LAKE AREA PLAN UPDATE** – Short-term Rental Policies: Wendy Sugimura suggested continuing item, but accepting comments:

**Dorothy Burdette**, Petersen Tract resident, got five more signatures on petition to CAC.

**Ian Fettes**, full-time Clark Tract resident, twice Clark Tract asked for opinions. Split, but bias toward positive side. Second survey by resident Ann Tozier erred on negative side on STR, but showed impartiality. Showed 52% favored Type I. Definite positive feeling in Clark Tract. Last CAC had no vote, but general opinions were 4-2 in favor. Commissioner Roberts noted Tozier was surprised at results.

**Carmen Hernandez-Smith**, Petersen Tract, helped Burdette with petition. Wanted to continue with part-time residents.

**Patti Heinrich**, CAC chair, expressed surprise at Commissioner Bush's comments that letters don't weigh in as much as people present. She thought everybody's opinion needed to be known. **Commissioner Bush clarified that letter writers aren't present to be questioned or confronted on the thought process behind their opinion – just as he was not present to clarify his comment.** Survey in packet? Sugimura indicated it was not available at the time. Heinrich noted minutes of vote, chart. Tozier got more information for CAC with general questions. Heinrich was surprised at

information gathered, personally opposed some of it before vote. Changed vote on Type I, as did Tozier. Another workshop later?

Sugimura: Not take massive amount of information at once. Workshop to review process, gathered, CAC recommendation. No specific policies written up yet. No action item till another meeting or two. Workshop at November meeting.

Roberts expressed gratitude to Sugimura et al. for series of workshops to get a meeting of minds on the issue.

**6. REPORTS**

**A. DIRECTOR:** 1) Recruiting: Temp planner starts Monday, open positions for compliance & planning analysts.

**B. COMMISSIONERS:** No reports. Nick Criss indicated Leonard Avenue received citations for three STRs. Appeal was denied. Milovich stated 20 days to appeal government agency decision. Rainbow Ridge also facilitated illegal rentals. Business license revocation. Owner offered to pay fine, not engage anymore. BOS held four hearings already.

**7. INFORMATIONAL**

**A. CAL FIRE:** Interplay between Cal Fire and County on Permits & Permitting

**8. ADJOURN** at 12:54 pm to November 16, 2017

*Prepared by CD Ritter, commission secretary*