

# MONO COUNTY PLANNING COMMISSION

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## MEETING MINUTES

May 16, 2019  
(Adopted June 20, 2019)

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**COMMISSIONERS:** Scott Bush, Roberta Lagomarsini, Chris I. Lizza, Dan Roberts & Patricia Robertson

**STAFF:** Wendy Sugimura, director; Hailey Lang & Bentley Regehr, planning analysts; Kalen Dodd, public works; Christy Milovich, deputy county counsel; CD Ritter, PC secretary

**PUBLIC:** Dwain Chichester, Chad Taylor, Cory Zila, Wayne Beaver, Stephane Banta, John Head, Russ Veenker, Terry Heaton, Darryl Despie

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**1. CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Scott Bush called the meeting to order at 10:00 a.m. at the board chambers in Bridgeport, and attendees recited the pledge of allegiance.

**2. PUBLIC COMMENT:** Opportunity

**3. MEETING MINUTES**

***MOTION:*** Adopt minutes of April 18, 2019, as amended: 5A third-to-last graph: Discussed issue at **board Friends of the Inyo** level. (*Roberts/Robertson. Roll-call vote: Ayes: 5.*)

**4. PUBLIC HEARING**

**A. CONDITIONAL USE PERMIT 19-002/Walker River Farms:** Proposal for a cannabis microbusiness on an Agriculture (AG-10) parcel located at 1129 Larson Lane, Coleville (APN 002-110-021). The cannabis canopy will be roughly 8,600 square feet. The entire operation consists of four buildings (20' x 64' each). Microbusiness activities include cultivation, distribution, and non-storefront retail. A CEQA 15183 exemption is proposed. *Staff: Hailey Lang*

Hailey Lang introduced proposal. Non-storefront allows for state cannabis events, no sales on parcel. Long ingress driveway to site with four buildings. Plan policies consistent with General Plan. Overhead utility extension can be approved by PC. Ag operations allowed. Cannabis cultivation = ag operation. Within critical sage-grouse habitat but leks eight miles away. Proposes 12 parking spaces in two areas, 9' x 18' for areas under 7,000' elevation. Home allows up to four employees (maximum 10 employees). No signage proposed. Minimal outdoor lighting around buildings for safety, no interior lighting visible outside. RCI consultants conducted CEQA analysis 15183. Reviewed potential impacts. No public comments received.

Lang indicated Use Permit modification required if use expands.

Sugimura: Operations permit approved by BOS (Board of Supervisors) annually, compliance check to renew. Taxes by Finance based on canopy size to ensure operation not exceed what's permitted.

Plant more cannabis outside? *Sugimura: Modify wording.*

Fence for livestock control? *Lang: Yes.*

Water from river? *Lang: Lahontan approval. Existing well.*

**OPEN PUBLIC COMMENT: Duane Chichester** thought proposal deserved full CEQA (California Environmental Quality Act) review for possible expansion later. Where does power come from? Type of well OK to grow cannabis?

Sugimura: NRCS (Natural Resources Conservation Service) provides funding in farm bill. Mono doesn't enforce another agency's regulations. Between property owner and NRCS. Enough water needs to be supplied in compliance with use permit.

**Chad Taylor:** Letters within 300' involve only six people. More letters to inform others?

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DISTRICT #1 COMMISSIONER Patricia Robertson	DISTRICT #2 COMMISSIONER Roberta Lagomarsini	DISTRICT #3 COMMISSIONER Daniel Roberts	DISTRICT #4 COMMISSIONER Scott Bush	DISTRICT #5 COMMISSIONER Chris I. Lizza
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Employees regulated? *Sugimura: Regulations are part of operations permit approved by BOS. Idea today is review permit on land use issues, siting, odors, visuals. How operation is run not regulated by use permit. How operation is run is important, as actual business plan and hours of operations can impact community as well. Operations permit gets into level of detail. Background checks mentioned but not adopted. Facility operator needs background check, live scan, ensure employees responsible. Keep employee register. More regulations for cannabis than any other.*

Bush reminded cannabis was voted upon by Californians, 60% approved. People in general across CA support. Something very detrimental in order to turn it down.

Signage? *Bush: No retail signage.*

Accountability as lessee to respect area? *Bush: Leasing happens on ag land. Sugimura: Proof of lease to cannabis operator. Documentation subject to all Mono and State regulations.*

If breach of lease? *Sugimura: Lease is private between owner and operator. Mono concerned if in compliance. If not, action against lessee and property owner. **CLOSE PUBLIC COMMENT.***

**DISCUSSION:** Robertson wanted to add condition of housing, as parking spaces were mentioned. *Milovich: complicated, inappropriate. Not requirement in any written provisions or regulations. Discretion of PC. Nothing requires employee housing.*

Part of security plan to have people on site? *Milovich: Not required in General Plan or operations permit. Up to PC. No specific security measures are mandated.*

*Sugimura: No mandated requirement but consistent with policy that project mitigate impacts. Could tie housing for four to permit.*

*Lizza noted 12 parking spaces for employees, plenty of parking. Sugimura: Lang confirmed parking.*

*Lagomarsini opposed mandate of employee housing; maybe employee not want to live on site.*

Security plan taken up at BOS? *Sugimura: Yes. Security plans confidential between CDD and sheriff.*

*Lagomarsini suggested subscribing to PC or BOS to get all information via email.*

*Sugimura stated it is of concern that people get information on these projects. CDD not hiding, using means it has of distribution lists, project to LDTAC prior to PC. Noticing under state law 300' 10-day notice in newspaper in Mammoth. Must maintain fair noticing, no standards to expand noticing for one project but not another. Interested parties may request in writing that notices be mailed.*

***MOTION:*** Find that project qualifies as Exemption under CEQA guideline 15183 and instruct staff to file Notice of Exemption; make required findings in project staff report; and approve Use Permit 19-002 subject to Conditions of Approval. *(Lizza/Roberts. Roll-call vote: Ayes: 5.)*

## **B. CONDITIONAL USE PERMIT 19-006/Tioga Green and REVOCATION OF CONDITIONAL USE PERMIT 34-06-05/Hebert:**

Conversion of an existing vacant 690-square foot commercial building into cannabis retail and revocation of the existing use permit for a drive-through restaurant. The proposal is located at 51005 Highway 395 (APN 021-080-022) south of the Lee Vining commercial core and gains access from Utility Road. Modifications to the property include interior remodel of existing structure, addition of storage shed, new signage, and paving and lighting for parking area. A Class 3 CEQA exemption is proposed. Land use designation is commercial (C).  
*Staff: Bentley Regehr*

Bentley Regehr noted two components, presented background. Hebert transferred ownership. Noted only one sign is allowed. Caltrans wanted construction within boundaries unless encroachment permit. Louis Molina did environmental health site visit, project in compliance. On-site consumption prohibited. Applicant engage with PUD (Public Utility District) for water. Site outside PUD service district.

Robertson: Signage language will be one freestanding double-sided sign.

Roberts: Sign example with green cross = symbol for medical, perhaps not appropriate for this project.

*Sugimura: Site plan shows two signs but only one sign is allowed; consider allowing staff to approve location for single sign.*

**OPEN PUBLIC COMMENT:** Applicant **Cory Zila** cited green cross as international symbol and stated June Lake sign depicts cannabis leaf.

Bush explained drive-through restaurant originally proposed at site. Drive-through cannabis? Old use permit expired. Green cross maybe only medical?

Water? *Zila: Well on site doesn't provide sufficient water. Will renegotiate service with PUD. Employee restroom only, minimal use. Brand new leach field, septic tank.*

Owner and manager? *Zila: Both.*

**Wayne Beaver**, 50-year Lee Vining resident, never thought he'd be discussing this. Maybe add a few more conditions. No thought about kids, schools. Attended RPAC meetings. 600' buffer should be larger. Kids walk past facility. Safe Routes to Schools will extend sidewalk farther from town so Mobil Mart kids can walk. High school kids run cross country daily.

Liquor stores too? *Beaver: Not just cannabis. Issue is safety of children.*

How would building affect safety of kids? *Beaver: Kids get marijuana. Bush: Parenting issue.*

Beaver: Tried to help keep kids off drugs, alcohol, cigarettes by baseball and soccer. Did not vote for cannabis. Kids need to be protected. Understands it's legal for adults in California. Kids still get stuff. Change 600' buffer to 1,500'.

**Stephane Banta**, closest Lee Vining business owner, stated when people come into town on 395, first thing they see is that building. Does it promote drug use in community? Parents use with kids in car; crosswalks not acknowledged; small community has people speeding through town. Put it away from town. Recreational cannabis accessible other places if desired. Not federally legal. Safety of tourists a concern. Not an opioid but used instead of drugs. Get cannabis out of sight, out of mind. What other forms of drugs allowed? Heroin? Hard to test for DUI under cannabis influence. Affecting kids, world tourists to Yosemite (federal) and Bodie ghost town. Drug could be laced. Opens doors to other stuff.

Bush respected closely held beliefs, speaking on this project.

Banta: First thing people see when come to town. Safety risk. Not enough room in community to support. **CLOSE PUBLIC COMMENT.**

**DISCUSSION:** Lagomarsini: Signage should be consistent throughout Mono to address concerns. Green cross means medical marijuana. Parents can educate kids not to go inside. Bars admit no one under 21, maybe there too. No way to deny project unless project doesn't provide unfulfilled service, could go to June Lake or Mammoth Lakes. PC must approve. Sees detriment of drugs.

Bush noted signage size and number. People need to know what's in that building, something that tells what's inside. Keep kids safe. If worried about location, if not at end, then in middle of town? Not offering any way to have anything if can't be at end of town.

Michael Draper stated General Plan Ch. 13 requires clearly legible posting that no person under 18 allowed on premises for medical, 21 for personal use. Project must follow this chapter.

Lizza mentioned comment letter from David Strelneck, nearby property and business owner. Appreciated comments, respected friends and neighbors regarding first thing see coming into town. Equated cannabis to alcohol. All same arguments -- kids come inside to buy candy bars, prevent liquor and cigarettes reaching youth. Laws help prevent kids' access to cannabis. Alcohol a sin, a vice, much worse effects. Tobacco exacts huge societal costs. Society allows products but protects kids. Lizza's father died of alcohol abuse last year. Alcohol far worse than cannabis. Chosen to control product, regulations in place.

Roberts understood concern about kids. Daughter schooled in Lee Vining. Cannabis not suddenly available in Lee Vining; it was available when daughter was there. Hope is by controlling better, less available in black market. Control as do other substances.

Robertson was comfortable with Ch. 13. Public process held. Implored main street businesses to participate in Caltrans program.

Sugimura reminded that 600' and 1,000' buffers were discussed at Mono Basin RPAC; community could have asked for increased buffer. RPAC members and public present did not voice a unified opinion one way or another, therefore the County default of 600' was implemented. The larger 1,000' buffer was not requested, nor was an expanded buffer discussed. At the RPAC meetings, it was pointed out that this specific site (as well as Tioga Inn) is outside both buffer zones on the maps. Caltrans program is street rehab, not safe routes to schools. Operations permit inserted language against products attractive to kids, no gels, no flavored products, warning labels. Christy Milovich noted state law of no advertising cannabis within 1,000' of schools. Consumption incorporated into Code. Can't consume within 1,000'. BOS did not expand. Good detailed definition of what's attractive to youth in County Code. Tried to prevent/eliminate attraction to kids.

Sugimura indicated PC reviews signs for size, location, aesthetics. Could ask removal of green cross sign. Certain words, images prohibited. Could impose a condition.

Milovich: Triggers free speech issues if dictate what can be on sign. PC can't decide verbiage. Green cross is universal for medicinal and appears to be expanding to recreational use.

Roberts clarified that DeCoster's sign in June Lake has artistic impression of marijuana leaf. Lizza wanted planning staff to decide location of sign and the Commission directed staff as such.

***MOTION:*** Revoke Use Permit 34-06-05 for a drive-through restaurant; find that project qualifies as Categorical Exemption under CEQA guideline 15303 and instruct staff to file Notice of Exemption; make required findings in project staff report; and approve Use Permit 19-006 subject to Conditions of Approval. *(Robertson/Lagomarsini. Roll-call vote: Ayes: 5.)*

**C. USE PERMIT & VARIANCE /3D Housing Development:** Conditional Use Permit 18-017 proposes a five-unit housing project on the corner of Howard Avenue and Bruce Street in the community of June Lake. Each unit is approximately 800 square feet. Variance 18-001 is a request for a zero-foot setback from the top of a bank/water course for two units and a portion of the parking area. The watercourse runs along the eastern portion of the project site. The parcel is 0.43 acres in size (APN 015-103-022) and has a land use designation of Multi-Family Residential High (MFR-H). A CEQA exemption 15183 is proposed. *Staff: Bentley Regehr & Gerry Le Francois*

**VARIANCE 18-001:** Bentley Regehr reviewed project. Two bedrooms, 800 sq. ft. Stream on site, requesting 0' instead of 30' setback from top of bank. Side setback reduced because no snow shed.

Gerry Le Francois noted 15183 CEQA checklist looks at peculiar or unique aspects. GHG (greenhouse gas) analysis, not vehicle miles on impact. Triad/Holmes did flood study. Geological hazard evaluated. No biological impacts identified. Historic records request on archaeological came back negative. Project is consistent with approved General/community plan and densities, and so qualifies for 15183.

Regehr reviewed variance findings. Conditions of approval separate from use permit conditions.

Stream from/to? *Roberts: Water year-round, reaches Gull Lake.*

Lizza walked property yesterday. Other parcels along creek with 0' setback?

Le Francois: Heaton and Gonzalez variances, but not zero setback from Reversed Creek.

Ever approved 0' setback from creek in Mono? *Le Francois: PC could approve, modify, continue or deny project. Easier lots already built. Proponent proposes lower cost/sq. ft. can't push buildings closer together.*

Looks like 0' plus bridge. Why not reduce walkways to pull back from creek? *Le Francois: Staff asked about smaller or fewer units.*

Project as presented has no retaining walls or erosion control. *Le Francois: Subject to grading permit. Not allow sedimentation into creek. Dry wells to reduce runoff.*

Multifamily rental or ownership? *Regehr: No condition as proposed. Le Francois: Whatever PC decides, project managed by owners. Could return with condo project later, sell to whomever. Condition for no STR (short-term rental) use.*

Robertson: No standards for multifamily, e.g. recycling and trash management? *Le Francois: Constraints on snow storage. Variance rationale: five units.*

Robertson saw no definition of workforce housing. Think about community benefits to variance.

Lagomarsini noted similar setback for V16-001. Construction close to stream bed. How avoid getting anything into stream? Maybe take out two extra parking spaces to change setback. A lot of building on little lot next to stream bed. Good to have five more housing units but unsure how to address.

Variance 16-001? *Regehr: About 5' from bank.*

Lagomarsini: Maybe modify parking spaces. Bush: Maybe set minimum setback, let applicant reconfigure. Le Francois cited discretion of PC.

Roberts: Appears buildings have relatively small footprint, supported by piers. Robertson: Where does snow go: into stream, into street? *Regehr: Touched on in use permit. Two parking spots could be snow storage. Condition for no snow storage within stream banks.*

Garrett Higerd: Public Works responsible for grading and encroachment, managing FEMA floodplain. Concerns with water quality. Proposed on-site water retention system to prevent sediment into drainage. Some mitigations would apply in grading process. Agree with concerns on snow storage; if snow ends up in drainage channel, no capacity for flood water to flow. Tandem parking become snow storage?

Le Francois: Could look at semi-pervious pavers to ameliorate concern at top of bank vs permanent structure at 0' setback.

**OPEN PUBLIC COMMENT: John Head,** applicant and partner, thanked staff. Retirement goal for 20 years to provide workforce housing. Durable structures 2' off ground, assemble quickly. No grading for foundation. Zero setback not at top of slope, couple feet away. Careful of stream. Construction 40 years.

Steel-frame pier. Vault 4' x 4' below each for utilities. Looked everywhere for land for affordable rent. USFS might want to see units. 2BD/2BA units. Deals on land, reduction of fees offered in Mammoth Lakes.

Support beneath? *Corner posts.*

Why unit 5 14' not 5'? Pull off creek? Parking waiver on lower right corner, get 5' setback. *Le Francois: 5' more conservative than 0'. Stream incised and then levels out.*

Parking for five units? *Ten spaces. Maybe pull parking away from creek.*

Robertson: If pull units in, reduces snow storage. Essentially market rate units. No restriction to house locals or affordability requirements. Any incentives? *Head: Example of what might work in future. Lucky to find site outside Mammoth.*

Lizza noted each bedroom has ingress/egress.

Head: Unusual shape proven all over country. Ski resort housing is goal. Sent email for site visit.

Le Francois: Determine minimum from top of bank, redesign for 5' setback, reduced parking.

**Russ Veenker** opposed variance. Letter from neighbor also opposed variance. Existing guidelines adequate for that property site. Not opposed to developing, just setbacks. Reasons exist for those setbacks. Presented letter from neighbor Kevin Larsen.

**Terry Heaton** asked about "3D Housing." New technique? *No, acronym for initials.*

--- Break 12:45-12:55 p.m. ---

Move units for additional setback from stream? *Bush: Discuss setback, then decide.*

Does 30' apply same as Owens River or other waterway? *Le Francois: Yes. Irrigation ditches too. Standard since the 1980s to protect corridor.*

Roberts: Reduce setbacks to encourage development in that area. Lizza: Zero feet constitutes special privilege. Give this project 5' like other project. Bush didn't recall why 5' before. This home on pylons.

Lagomarsini: Another variance downstream. Heaton property vacant, then red-tagged structure. Heaton wanted addition to structure just downstream.

Vegetation removed around stream? *Le Francois: Working from top of bank out, so vegetation stays.*

**Darryl Despie**, partner. Improve drainage, trim vegetation, foot bridge to access parking. Architectural view beautified. Major waterway, no need to change.

Why 30'? *Le Francois: Input from resource agencies, traditional default. Applicant reached out to CDFW Army Corps of Engineers. No significant concerns with project 0' setback.*

Robertson: Structures unique. Supports variance if applicant amenable to requirements limiting workforce housing to locals.

Le Francois: If somebody local buys unit 5 at reduced setback, could move away or keep as second home. Robertson: Other resorts require locals.

Sugimura: Method most familiar is deed restrictions to certain income levels. Locals-only newer concept not as common. Legality unknown. Issue at hand is while could be defined affordable by design due to type of units, no guarantee available only to workforce. Could be second homeowners. PC determine if requirements meet that intent for workforce. Some other kind of reassurance needed if to be restricted to that intent, falls under General Plan guidance.

Robertson: Work survey showed locals compete with all income levels. Call it workforce but is that what we're doing? In Mammoth Lakes 40 units deed-restricted to locals. Live full time nine months. If move away, must sell. Annually monitor.

Milovich: PC can't require private owner to restrict sale of land. Volunteer to deed restrict or workforce. Not advisable to put restraints on him. Haven't researched.

Bush: Focus on variance to protect creek. Robertson: Increased density increases proceeds.

Lagomarsini: Any other configuration to allow streambank setback? Maybe tilt units 4 and 5. Best design? Bush: Decide on setback, then look at project.

Lagomarsini: Get most housing, protect stream. No less setback than other variance.

Bush: 5' OK? Continue to June meeting or make decision today?

Roberts: Type of construction above ground, pylon away. Go for 0' setback.

Lizza asked applicant to return with shortened walkways, down to three spaces on lower right corner rather than two. 5' setback but additional variance for one less parking spot. Want to look at track record of applicant. Is about local workforce? First project?

Head: To Mammoth Lakes since 1953, first place to try. Deed restrictions cloud property forever.

Intent to condominiumize? Head: Eventually. Affordable homes to own. Tract map later.

Robertson: Affordable not only to locals but also second homeowners.

Despie: Time constraint. Would rather go forward with variance of 5'. Another month might not get constructed before winter. Engineered several times. Work with whatever to get five units, not necessarily this layout. Designed for those who live and work in June Lake.

Rent two years, then buy? *Despie: OK. Vacation rental homes on market.* **CLOSE PUBLIC COMMENT.**

**MOTION:** Find that project is exempt from CEQA as Categorical Exemption under CEQA guideline 15183 and direct staff to file Notice of Exemption; adopt findings in project staff report; and approve Variance 18-001 to allow a ~~zero-foot~~ 5-foot setback from top of stream bank and 10-foot front setback for multi-family housing project on APN 015-102-022. (*Lizza/Lagomarsini. Roll-call vote: Ayes: 5.*)

Le Francois requested building code regulations on doors. Regehr noted the two tandem parking spaces behind unit 4 would be converted to snow storage and eliminate tandem parking.

**CONDITIONAL USE PERMIT 18-017:** Regehr: Stick with 10 units required for parking. Site plan had 12 spaces, with two as added snow storage. No off-site parking. Move extra snow off site.

Kalen Dodd: Didn't want to push snow into creek. Haul elsewhere. Lizza: Could drain into creek but not be pushed into creek.

Le Francois: 15183 exemption from additional EIR requirement. File notice of determination on 15183 under item 2.

Robertson: Multifamily rental requirements for lighting in parking areas? Trash receptacle serviced by dumpster? Recycling provisions? *Regehr: Add conditions. Contract with provisional services.*

Head: Locate and screen dumpster. Or trash for each unit. Does not like dumpsters

Robertson: CA code requires outside public recycling receptacles. Operate and manage to high standards. Think about nuances of managing multifamily property.

Head: Make model project where residents are proud, happy to live there.

Asphalt? Dirt? *Regehr: Paved parking, striped.*

**OPEN PUBLIC COMMENT:** None. **CLOSE PUBLIC COMMENT.**

#### **DISCUSSION:**

Robertson: Snow removal? Condition 3: Move extra off site at owner's expense.

Le Francois: If can't meet 10 spaces parking, come back.

**MOTION:** Find that project is exempt from CEQA as a Categorical Exemption under CEQA guideline 15183 and direct staff to file a Notice of Exemption; make the required findings in the project staff report; and approve Use Permit 18-017 subject to Conditions of Approval as modified -- Condition 3: Additional snow accumulation shall be removed off site at owner's expense; Condition 17: Project shall comply with CalRecycle regulations for multi-family projects. Planning Commission authorized staff to review final, revised site plan that must be approved prior to issuance of building permits. (*Lagomarsini/Lizza. Roll-call vote: Ayes: 5.*)

**5. WORKSHOP:** None

#### **6. REPORTS**

**A. DIRECTOR:** 1) Permits: three cannabis, two to June 20, short-term rental, geothermal use permit; 2) Tioga Inn SP (Specific Plan): SWRCB (State Water Resources Control Board) responses, supplemental EIR for 45-day comment period; 3) June Lake Highlands: SP amendment/TM (Tract Map) amendment; 4) Local Hazard Mitigation plan to BOS for final approval; 5) Housing Element due to BOS Aug. 15, to PC in July to review comments from HCD (Housing & Community Development), also met on HB 2 grant applications; 6) sage grouse conservation work USFWS (US Fish & Wildlife Service) listing comment period open till end of May, final decision to DC in October, no further comments, already participated as much as can; 7) Walker Lake water transfer scoping period open, groundwater management act complete for Tri-Valley area, SWRCB said low priority, separate body to work on ground water sustainability plan; 8) Long Valley wells: LADWP withdrew wells due to drill rig impact to wet meadows, so delayed, will return in slightly different form; 9) OV pump storage by Premium Energy Holding for three reservoirs with raceways or tunnels to pump water up to store, water down when needed. Comments bring up red flags.

Three more cannabis? *Sugimura: Colitas in Walker, Bask at Sierra Business Park, Tillemans in Tri-Valley.*

**B. COMMISSIONERS:** None

**7. INFORMATIONAL:** None

**8. ADJOURN** at 1:52 p.m. to regular meeting June 20, 2019

*Prepared by CD Ritter, PC secretary*