



SAN BERNARDINO COUNTY
PLANNING COMMISSION MEETING MINUTES
County Government Center
Covington Chambers
385 N. Arrowhead Avenue, 1st Floor
San Bernardino, CA 92415

Thursday, October 21, 2021

COMMISSIONERS PRESENT

Jonathan Weldy, Chair, First District
Ray Allard, Vice Chair, Second District
Michael Stoffel, Commissioner, Third District
Tom Haughey, Commissioner, Fourth District
Kareem Gongora, Commissioner, Fifth District

STAFF PRESENT

Heidi Duron, Planning Director, LUSD
Jason Searles, Deputy County Counsel
Ignacio Nuñez, Code Enforcement Chief, LUSD
Karen Watkins, Senior Planner, LUSD
Irene Romero, Planner, LUSD
Rosie Griffith, Land Use Technician Supervisor, LUSD
Lupe Biggs, Administrative Assistant, LUSD

The Planning Commission meeting of October 21, 2021, was called to order at 9:00 a.m. by Chair Weldy. Commissioner Haughey led the Invocation and Commissioner Gongora led the Pledge of Allegiance.

1. a. ADVANCE SCHEDULE

The advanced schedule was presented by Lupe Biggs, Administrative Assistant

b. DIRECTOR'S REPORT

Heidi Duron, Planning Director, introduced Yvonne Nemeth, Senior Planner for LUSD. She also summarized the procedures for the Great ShakeOut taking place this morning.

c. COMMISSIONER COMMENTS

Commissioner Gongora asked when the presentation material for the November 18, 2021, meeting will be available. Ms. Duron replied the Friday prior to the meeting. Chair Weldy shared he had received several emails from constituents regarding item #3 on today's agenda. He also disclosed that he shared the emails with staff prior to the meeting.

Commissioner Stoffel noted he also received emails and followed the same procedures as the Chair.

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2. PUBLIC HEARING

APPLICANT: Land Use Services Department t
COMMUNITY: Countywide
PROJECT NO: PMISC-2020-00005
LOCATION: Countywide
STAFF: Irene Romero, Associate Planner
Ignacio Nuñez, Code Enforcement Chief
PROPOSAL: Development Code Amendment to add Section 84.34.080 to Chapter 84.34 of Division 4 of Title 8 of the San Bernardino County Code relating to items typically used to facilitate the cultivation of cannabis and amend Section 86.09.090 of Chapter 86.09 of Division 6 of Title 8 of the San Bernardino County Code, relating to classifying all violations of the Development Code as misdemeanors unless otherwise stated.
CEQA RECOMMENDATION: The proposed amendment is within the scope of the General Plan Environmental Impact Report (EIR) in terms of the potential environmental effects of the proposed changes to the Development Code. The programmatic mitigation of the General Plan Update and Development Code will apply to subsequent development that may be proposed in the future.
EST. TIME: 30 minutes

STAFF PRESENTATION:

Irene Romero, Planner, and Ignacio Nuñez, Code Enforcement Chief, presented the staff report and memo to the Planning Commission, which is on file with the Land Use Services Department.

RECOMMENDATION:

That the Planning Commission recommend that the Board of Supervisors take the following actions:

1. **FIND** that the Ordinance is exempt from CEQA pursuant to CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3);
2. **ADOPT** the findings as contained in the staff report;
3. **ADOPT** the proposed Ordinance to add Section 84.34.080 to Chapter 84.34, Division 4, Title 8 of the San Bernardino County Code, and amend Section 86.09.090 of Chapter 86.09, Division 6, Title 8 of the San Bernardino County Code, relating to illegal cultivation sites and classifying violations as misdemeanors unless otherwise stated; and
4. **DIRECT** the Clerk of the Board to file a Notice of Exemption.

COMMISSION COMMENTS:

Commissioner Stoffel asked questions regarding language stating recreational vehicles (RVs) and campers will need to be removed. Mr. Nuñez explained there are abatement provisions to address that. Commissioner Stoffel asked if there is coordination with the sheriff's department. Mr. Nuñez replied yes and described their collaborated work. Commissioner Stoffel then asked what the fine is for illegal grading. Mr. Nuñez summarized the fine tiers and described the items that define the misdemeanors. Ms. Duron provided additional clarification. Commissioner Stoffel

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then asked how a property owner is noticed of a violation if they are renting out the property. Mr. Nuñez explained the violation notice process. Commissioner Stoffel shared a similar circumstance as an example. Mr. Nuñez stated staff tries to work with the property owner and described Code Enforcement's process.

Commissioner Gongora asked Jason Searles, Deputy County Counsel, what the Planning Commission's actual authority is over this item. Mr. Searles described the County's evaluation of the types of violations related to the Zoning Ordinance. Commissioner Gongora also asked if there are plans to identify zones where it would allow cultivation. Ms. Duron replied it is currently prohibited.

Commissioner Haughey noted the clean-up and enforcement makes sense for this item.

Vice Chair Allard wanted to confirm that cultivation is not allowed at all in the County. Ms. Duron replied it is not allowed at the commercial level. Vice Chair Allard shared some knowledge he has regarding this matter.

Chair Weldy described his thoughts on the item from the perspective of a property owner and shared his familiarity with this item. Mr. Nuñez responded that Code Enforcement is willing to work with the property owner and described the different programs the division offers that can help the property owner. Chair Weldy spoke to the issue of trespassing on large pieces of property and the liability the property owner could encounter. Mr. Searles provided legal input and clarified the abatement regulations. Chair Weldy shared additional thoughts and views regarding how this affects landowners. Mr. Searles also provide additional legal input. Chair Weldy encouraged staff take property owners into account during their enforcement.

Mr. Searles and Commissioner Haughey asked what the number of cases for illegal cultivation is. Mr. Nuñez shared there are over 600 cases open regarding illegal cannabis growth.

Chair Weldy described Operation Hammer Strike and its progress.

Vice Allard asked if the goal is to stop illegal cannabis or to clean-up properties. He also shared an example and added that clean-up will need to be expanded to include homeless encampments.

Commissioner Stoffel stated he agrees with the Chair's comments regarding property owners that aren't aware of the illegal activity.

Commissioner Gongora shared some thoughts on commercial cannabis versus personal cannabis.

APPLICANT COMMENTS:

There were no comments.

PUBLIC COMMENTS:

Neil Nadler, resident of Lucerne Valley, spoke in favor of the Project, stated he has noticed a lot of illegals growths in the Lucerne Valley area. He acknowledged the Chair's comments referencing property owners and stated he owns a large piece of land. He shared some of his experience with Los Angeles County regarding homeless encampment issues on one of his properties. He suggested the state should be providing funding for this matter.

ADDITIONAL COMMENTS:

There were no comments.

COMMISSION ACTION:

Commissioner Haughey made a motion to approve staff's recommendation. Vice Chair Allard seconded the motion. The motion passed with a 5-0 vote.

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COMMISSION VOTE

MOTION: Haughey
SECOND: Allard
AYES: Weldy, Allard Stoffel, Haughey and Gongora
NOES: None
RECUSED: None
ABSENT: None
ABSTAIN: None

3. PUBLIC HEARING

APPLICANT: Land Use Services Department
COMMUNITY: Countywide
PROJECT NO: PMISC-2020-00005
LOCATION: Countywide
STAFF: Karen Watkins, Planning Manager
PROPOSAL: An ordinance to amend various sections of Divisions 2, 3, 4, 5, 8 and 10 of Title 8 of the San Bernardino County Code, related to renewable energy land uses, regulations and the implementation of goals and policies of the Renewable Energy and Conservation Element.
CEQA RECOMMENDATION: The proposed amendment is within the scope of the General Plan Environmental Impact Report (EIR) in terms of the potential environmental effects of the proposed changes to the Development Code. The programmatic mitigation of the General Plan Update and Development Code will apply to subsequent development that may be proposed in the future.
EST. TIME: 60 minutes

STAFF PRESENTATION:

Karen Watkins, Planning Manager, presented the staff report and memo to the Planning Commission, which is on file with the Land Use Services Department.

RECOMMENDATION:

That the Planning Commission take the following actions:

- (1) **DIRECT** staff to prepare an ordinance amending various sections in Divisions 2, 3, 4, 5, and 10 of Title 8 of the San Bernardino County Code as illustrated in Exhibit B as redline changes to the existing Development Code text (the Ordinance).
 - (2) **RECOMMEND** that the Board of Supervisors take the following action:
 - A. **ADOPT** the Addendum to the Program Environmental Impact Report and Supplemental Environmental Impact Report (SCH No. 2005101038).
 - B. **ADOPT** the findings as contained in the staff report.
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- C. **ADOPT** the proposed Ordinance amending various sections in Divisions 2, 3, 4, 5, and 10 of Title 8 of the San Bernardino County Code, related to renewable energy land uses, regulations and the implementation of goals and policies of the Renewable Energy and Conservation Element.
- D. **DIRECT** the Clerk of the Board to file a Notice of Determination.

COMMISSION COMMENTS:

Vice Chair Allard asked for clarification of how a utility scale is defined. Ms. Duron provided the information and described how a project will go through an environmental review.

Commissioner Stoffel asked staff if they had read the letter from Frazier Haney. Ms. Watkins replied yes. Commissioner Stoffel referenced one of the concerns listed in the letter. Ms. Watkins explained where the information can be found in the Finding and summarized some of the requirements for a Conditional Use Permit. Commissioner Stoffel asked how this document, or the Development Code would make it easier for developers to find the information they need. Chair Weldy and Ms. Duron discussed the purpose of the Development Code and the Renewable Energy and Conservation Element document.

Commissioner Gongora asked what the current noticing requirements are for this type of item. Ms. Watkins stated it is 1,000 feet based on the utility scale. Ms. Duron provided clarification for core and utility scale oriented areas. Commissioner Gongora reference a letter that shared concerns for brownfields. Ms. Watkins shared where that information is listed. Commissioner Gongora asked how high conflict areas and California Environmental Quality Act (CEQA) evaluations are addressed. Ms. Duron explained the application review process. Commissioner Gongora asked what the requirements for water storage and usage are. Ms. Watkins summarized the requirements and stated staff included a section for that information.

Commissioner Haughey thanked staff for their report and responses to the comment letters.

APPLICANT COMMENTS:

There were no comments.

PUBLIC COMMENTS:

Pat Flannigan, resident of Twentynine Palms, spoke in favor of the Project, stated she would like a workshop to further discuss this item. She also reviewed dust concerns for the desert community due to utility scales. Ms. Flannigan also discussed greenhouse gasses stored in the desert. She listed her recommendations for the item.

Paul Smith, resident of Twentynine Palms, spoke in favor of the Project, described some climate change concerns, and summarized the letter he submitted. He further discussed various climate issues.

Neil Nadler, resident of Lucerne Valley, spoke in opposition of the item, stated staff's presentation was rushed. He also stated the item does not make sense for a developer. Mr. Nadler asked the Planning Commission to defer the vote and provide a workshop. He stated that federal and state Open Space is not County jurisdiction, but they should remain involved.

ADDITIONAL COMMENTS:

Ms. Watkins stated staff is able to make the information more understandable.

Vice Chair Allard asked what the County's involvement with Tribal land is and how it is regulated. Ms. Duron stated County does not have jurisdiction over those lands, but they do coordinate with the County. Vice Chair Allard asked if they are governed by the state. Ms. Duron stated it is owned by the federal government. Vice Chair Allard discussed the Development Code's requirements for accessory wind permits. Ms. Watkins explained it is a building permit.

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Ms. Duron added that staff can provide more detailed information regarding the item prior to going to the Board of Supervisors.

Commissioner Haughey thanked staff for their presentation.

Commissioner Gongora thanked staff for their work and stated he isn't prepared to support the item.

Commissioner Stoffel noted staff answered a lot of questions.

Chair Weldy stated he doesn't completely understand the item and discussed the Planning Commission's options of how to proceed with their action. Ms. Duron summarized some of Ms. Watkins' points and discussed additional information staff is able to include.

Vice Chair Allard asked for delineations of the content that was changed in the document.

Chair Weldy suggested there needs to be longer notice period and provided direction to staff.

The Planning Commission discussed a tentative motion.

Mr. Searles advised the Planning Commission regarding re-noticing the item.

COMMISSION ACTION:

Commissioner Gongora made a motion to continue the item to November 18, 2021, with a request for additional explanation of proposed changes and adequate time for Commission and public review. Commissioner Haughey seconded the motion. The motion passed with a 5-0 vote.

COMMISSION VOTE

MOTION: Gongora

SECOND: Haughey

AYES: Weldy, Allard Stoffel, Haughey and Gongora

NOES: None

RECUSED: None

ABSENT: None

ABSTAIN: None

4. PUBLIC COMMENTS:

Chair Weldy opened the Public Comments at 11:31 a.m. Having no requests to speak Chair Weldy closed the Public Comments at 11:31 a.m.

5. ADJOURNMENT:

There being no further business, Commissioner Haughey made a motion to adjourn the meeting. Commissioner Gongora seconded the motion. The meeting was adjourned at 11:32 a.m.

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Chair Weldy **Date**
Chair Weldy, Planning Commission

Heidi Duron **Date**
Planning Director, Land Use Services Department

Lupe Biggs **Date**
Administrative Assistant, Land Use Services Department
