



County of Santa Cruz

DEPARTMENT OF COMMUNITY DEVELOPMENT AND INFRASTRUCTURE

701 OCEAN STREET, FOURTH FLOOR, SANTA CRUZ, CA 95060-4070
Planning (831) 454-2580 Public Works (831) 454-2160

Matt Machado, Deputy CAO, Director of Community Development and Infrastructure

Carolyn Burke
Assistant Director
Unified Permit Center

Stephanie Hansen
Assistant Director
Housing & Policy

Kent Edler
Assistant Director
Special Projects

Steve Wiesner
Assistant Director
Transportation

Travis Cary
Director
Capital Projects

Kim Moore
Assistant Director
Administration

Agenda Date: September 28, 2022

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Subject: Receive staff report on Old Mount Road project appeal and instruct staff to place an item on the Board of Supervisors' next available agenda advising the Board of the withdrawal of the project application and closure of the file without taking further action.

Members of the Commission:

Background/Analysis:

On July 13, 2022, the Commission conducted a virtual hearing to consider an Appeal of the Zoning Administrator's March 4, 2022, decision to approve development permit application 211083, a proposal to operate an outdoor "Class A" co-location cannabis cultivation facility with a maximum of 20,000 square feet of canopy on the property located at 375 Old Mount Road in Felton. At the hearing, the Commission engaged in a robust discussion and individual Commissioners shared their perspectives on the project. Following debate, the Commission granted the appeal and denied the permit for the project. At the time, it was recommended that the Commission issue specific findings that linked the evidence (or lack of evidence) in the record with the conclusions of the Commission that supported denial of the project. In response, Commission members made further oral comments supporting denial, but chose to move forward without making specific findings.

The applicant subsequently appealed the Commission's project denial to the Board of Supervisors. On August 23, 2022, the Board of Supervisors heard the appeal and determined that the Planning Commission erroneously failed to make adequate findings. The Board directed that the matter be returned to the Planning Commission to issue findings consistent with the rules outlined in the California Supreme Court's *Topanga* decision.

Staff had intended to return today with an item addressing the Board's request; however, on September 19, 2022, staff was informed that the applicant was withdrawing their application.

Because there is no longer an application on which to act, the matter is now moot; therefore, staff recommends that rather than continuing to work on the matter by making findings that will have no practical impact, that the Commission instead direct staff to place an item on the next available Board of Supervisors' agenda notifying the Board about the change in status of the application and the Commission's direction to take no further action given that the application was withdrawn.

In an effort towards continuous process improvement, the Commission may want to consider holding a training in the future with legal counsel to discuss the Commission's legal obligations associated with making quasi-judicial decisions and discuss options for addressing making findings in circumstances where the Commission does not wish to accept staff recommendations in a matter. For example, in appropriate circumstances, a matter can be continued to a future meeting date along with direction to staff to create draft findings consistent with *Topanga* that reflect the Commission's discussion and direction. The Commission could then further revise the findings and approve at that later meeting. Alternatively, for less complex projects, the Commission could recess for a short period of time with direction to staff to draft findings for denial and upon reconvening the meeting the Commission could review, discuss, revise, and adopt the findings. Staff looks forward to assisting the Commission in meeting the need to create clear evidentiary records in administrative quasi-judicial proceedings.

Recommended Action:

Direct staff to place an item on the next available Board of Supervisors' agenda notifying the Board about the change in status of the application and the Commission's direction to take no further action given that the application was withdrawn.