

MINUTES

1. CALL TO ORDER

Chair Mike McHugh Called the meeting to order at 7:00 p.m. Members present: Richard Hoard, Diana Stewart, Graham Matthews, Dan Frasier and Mike McHugh. Staff present: Deputy Director of Planning Leslie Hubbard, Director Rick Tippett, Deputy County Counsel Joe Larmour, Associate Planner Bella Hedtke and Administrative Coordinator Mary Beth Brinkley.

2. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendized for a future meeting. No action may be taken on these matters at this meeting.

Comments received from Justin Hawkins, Tom Ballanco and Veronica Albiez.

3. MINUTES – None.

OLD BUSINESS – None.

NEW BUSINESS

4. APPEAL OF PLANNING DIRECTOR’S DECISION UPHOLDING W.A.R.C. DECISION APPROVING MODIFICATION OF AESTHETICS FOR MCHD CLINIC EXPANSION P-16-11

Public Hearing: Appeal of Planning Director’s Decision upholding Weaverville Architectural Review Committee (WARC) decision approving modification of aesthetics for MCHD Clinic Expansion. Located at 31 Easter Avenue, Weaverville. APN 001-040-55. Applicant: Mountain Communities Healthcare District. Appellant: Susan J. Corrigan. *(Continued from 11/8/18)*

Deputy Director Hubbard presented the staff report. She said since the Planning Commission Meeting on November 8, 2018 there have been two meetings on-site at the clinic expansion with Weaverville Architect Review Committee, the Applicant, and Appellant, to consider aesthetics, that was the direction that we received from the Commission on Nov. 8th. The outcome of those two meetings are in your agenda packet, and there was a letter that was submitted to you that’s available to the members of the public here as well, with the Applicant’s summarization of what they submitted to the Weaverville Architectural Review Committee to mitigate aesthetics related to the project, so that is where we left off.

Deputy Director Hubbard stated before the matter is opened to public hearing, the Appellant and Applicant would like to speak.

Appellant Susan Corrigan stated she would like to that each and every one of you for your service to our community. She said she would also like to thank the WARC Committee for the very difficult position it was put in regarding this project. So, here we are five months from original Appeal, which is driving home our point in November, that this project did not have all paper work up to speed and ducks in a row for this project to have been approved by Mr. Tippett. It also has been shared with me that due to

Mr. Tippet's load on his plate, traffic lights, new jail, and of course cannabis that is taking away all processes in our County. Mr. Tippet should have turned this over to staff and not made the decision on his own. Not only were completed plans, renderings and review not performed properly by Mr. Tippet, this project did not go through all proper channels like all other projects that take place in our County. In November, we requested that this project be halted and sent back to the Planning Department for proper process and review and public input. At the last meeting Leslie Hubbard did her best instructing you the options before you in November, but we don't believe that that was fully explained at the time and since Mr. Tippet was not in attendance, representation of full disclosure was not complete. Three years ago, when MCHD began this project it was a sensitive project then and these modules have not improved that situation. Carson Anderson, the Senior Planner at the time, proposed that this project be given a Conditional Use Permit with mitigation measures being addressed by the WARC Committee. It has been explained to me that most Conditional Use Permits are handled by written approval of use of conditions. Making changes to a project has to go through Planning staff for acknowledgment and written approval, which staff would follow Ordinance 315, Section 32 on the Use Permit, which I asked to be included in your packet this evening.

Ms. Corrigan stated current staff has shared that they do not understand why Mr. Anderson set this project up the way he did. With that said, the WARC Committee was assigned to the original project and should not have been deciding if this project was a go or not, nor should they have been put in the position to mitigate the aesthetics as this proposal is nowhere near the original project. She asked that Section 17.32 be given to you as there are several descriptions in that section that staff could have turned to and should have turned to, and denied this project and send it back to the drawing board, like other projects would have had to have done. There are two that stand out the most in this Ordinance and that's Section 32.070.C.1 which reads "A use for which a use permit is granted must be established within two years after such a permit is issued. If such a use is not established, the use permit is deemed to have expired and shall be null and void". It was after two years since the original project was heard, which that time frame had passed, especially since it was a Conditional Use Permit in a sensitive area the project was impacting. Also, in Section 7.32.070.E it states "Abandonment. Any use permit, the use of which is voluntarily interrupted for a period in excess of one year, shall be deemed automatically revoked". She said this one for sure applies to this situation, because they have not started anything for well over a year. There is also 17.32.060 which is "Deviation". Many of those things in that deviation paperwork you will see apply to this matter. So, as you see, none of these, staff turned to nor did Mr. Tippet to enforce the very ordinance he is hired to uphold. So, where does that leave us all this evening? Well, it leaves the neighborhood disappointed that the very people who showed concern and compassion towards this historical area did not have our backs. It has tarnished the opinion of the hospital drastically, friendships have ended, and it brought about the worst in people to the extent that someone was so upset, they wrote all over the on buildings, which is called "tagging". Exactly what they wrote was what most of us were feeling. Of course, we were blamed for the tagging, which is even more ugly than the buildings themselves, and she doesn't need to write it out, she is here before you speaking the truth to all of you personally. They are butt ugly, even after the mitigation measures, which are no fix for this situation, the mitigation measures are just trying to hide it, cover it up. They have already had leaking and are a band aid that will last only ten years if lucky. Soon they will have sick building syndrome and the hospital will have to move due to earthquake retrofitting that has happened to the hospital by 2030. She said she cannot believe that the hospital didn't go back to drawing board, save the money they are wasting on this temporary fix and work with the community to make a plan to build a new state-of-the-art hospital in a location appropriate for expansion and growth, not in a historical residential neighborhood.

Ms. Corrigan said in closing, she doesn't believe that any of you sitting up there or MCHD Board, or the Supervisors, feel that these modules are appropriate for this site. She also believes that there is not one person with backbone to say no to this project and send these ugly excuses for a clinic down the road. She said she also reminds the Commission that Mr. Tippet warned them not to bring them in until a decision

was made, that it would be their expense if it was decided that it was not a fit. They took that risk, so no sob story about how they can't afford to remove them, or that the project is too far along to abandon. That's BS. they truly can't afford to keep them and their upkeep. She means really, this is the best MCHD can do for the community? She said it is up to all of you to now take a stand, stand up to due process and following our ordinances and regulations that are in place, to take a stand on how we allow projects to proceed in our County. If you can't take a stand, then she asks that you make some stipulations tonight. Both Taylor Street and Garden Gulch are in serious need of attention. The pavement on Taylor Street is crumbling and dangerous to walk up and down. Garden Gulch walk path is overgrown and you can't see the line. Two years ago, Mr. Tippet assured us that 25 mph signs and Slow signs would be put up and attention would be given to these roads. Well none of that has happened. We have seen the speed of the traffic increase over the years and especially since the modules have come in. She feels it is a direct reflection of the disrespect mentality that these modules have brought to our neighborhood. She would also like a clause given that when the hospital relocates, at their expense, the modules be removed at that time, so that we are not stuck with these crappy buildings forever.

As you see, her last requests are based on the fact that she doesn't think any of you have what it takes to send these modules down the road. Based on how this project was handled, your very own ordinances and the sensitive areas these modules have landed, you ethically and morally should deny the Conditional Use Permit. Due to the mishandling of this project, she also feels you should send this to your Supervisors for a final decision, which is her understanding you can have happen, saving us all the expense of filing an appeal, since we are being encouraged by the Supervisors to bring it to them, especially after the snarky newsletter that was sent out in January by MCHD, leaving many appalled. She said she would like to point out that we had over 40 signatures objecting to this project, and it is not just the same people that are upset. Let's give the BOS the opportunity to decide this matter. We may also be the last few here standing up, as most people feel we are stuck with this, or we can't change it. It's been 5 months and the momentum we had going, for sure, has fizzled, because people feel they're stuck. We may not be able to change it, but she was taught to see things through. It is not over until it's over. You have to stand up for what's right. This entire project has not been handled right. Ms. Corrigan said she respectfully concludes her Appeal and shame on all involved for taking our beautiful town and settling for anything less than the standard that she always thought set us apart from other small historic towns in this country. She said she encourages you to ask your staff about the ordinances, and an explanation to why written approvals were not required; and dig into the process and the timelines that were not followed with this project, because you will find that you have reasons that this Conditional Use Permit should have been denied and you can deny it tonight. She said she would also like to point out that she searched the last two newspapers and there was not public notification about this Appeal in either one of the papers. So once again, processes, processes, processes were not met. Timelines were exceeded. This should have completely gone back to Planning staff and public review before these modular landed on Taylor Street, and literally, landed. Ms. Corrigan said thank you for your time, I appreciate it.

Attorney Jim Underwood, on behalf of the Applicant, MCHD, stated he won't take a great deal of time, because the District's position summarizing what they believe to be the actual issues and really what was directed by the Commission back to staff and WARC, are the aesthetic issues that the staff report properly addresses, in which he believes have been addressed to the satisfaction of WARC with the input from the Historical Society and even Master Gardeners, so they're outlined, and if you have questions he would be glad to try to answer them, but he believes they have been fully addressed. He said there have been some new issues raised today, but he thinks that the focus has to be on whether or not the specified roof design, exteriors, landscaping, lighting, and other issues of aesthetic concern have been adequately addressed and they believe, based on the unanimous recommendations of WARC, they have been. It just simply isn't properly before the Commission to keep raising new issues. What's before the Commission tonight is whether or not the aesthetic concerns, that have been properly raised, and no one will disagree that it would have been ideal to have these resolved earlier, but they have been resolved, and so the District is certainly

anxious to move forward, implement them, improve the site conditions and seriously expand the health care opportunities for this community. So, he would be glad to answer any questions, if you don't have any, the Districts' position certainly outlines [inaudible].

Chair opened the hearing to public comment.

Comments received from Edward Harvey, Randall Walker, Kelly Corrigan, Susan Alexander, Kari Kennedy, Maryann Cole, Dero Forslund, Veronica Kelly-Albiez, and Chris Parkan.

No further comments being received, Chair closed public comment period.

Commissioner Matthews said he should ask Counsel. He said his recollection of our meeting in November, before it was continued, was that we were having a discussion about our options basically, in terms of the different avenues that we could go down, and it didn't seem to him like the staff report speaking about aesthetics only, was exactly the discussion we had at that time. There was talk that we could revoke the Conditional Use Permit, that we had concerns about noise and various other things that haven't been addressed yet he guessed, so he's a little unclear as to how the staff report was written and what our options are and if you could help us put that, maybe that will set the stage for our discussion.

Counsel Larmour responded you are correct, the Commission had before it an Appeal of the Director, who had approved the change and so the aesthetics is one part of that, but it's not the only part. The other option that the Commission had was to make a determination that the change was of such a nature that it was a modification beyond the Conditional Use Permit, which at that point, you would be *withdrawing* the Conditional Use Permit, requiring them to start a project description over again with the new buildings. So, if the Commission finds that the modifications were so great that the Director should not have approved those changes, that would draw the Conditional Use Permit back, and in fact require them to file a new request and go through the approval process. You also have the option to find those modifications are not of that nature, at which point you're looking at whether the approval based on the changes in aesthetics is sufficient. The issue of the air conditioning units was brought up and, as he recalls, one of the things that he had expected to see tonight was the Commission did have some questions having to do with the decibel level of those units. He knew that was an issue that the Planning Commission had concerning [inaudible] and wanted a little more information on, as well as to give the aesthetics conditions a little bit more time to work through those positive changes, so that you would have an understanding what those changes were, and then with that understanding, you would be better able to make a determination of whether to approve or retrack the [inaudible].

Chair McHugh asked if that begged some further discussion. Commissioner Matthews responded it seems likely we may have a difference of opinion on how to proceed, maybe not.

Commissioner Matthews moved to disagree with the Planning Director's characterizations that this was an appropriate amendment under the Conditional Use Permit and should be resubmitted as an independent project and go through the normal process. Seconded by Commissioner Frasier.

Commissioner Stewart said she had a question, so by doing so that would in essence force looking at things like the decibel level of the air conditioners and all of the various problems that have been raised? Counsel Larmour responded yes, she is correct, he thinks the terminology was for the... you as the Planning Commission, are making a determination of the substantiality of the changes, and is it so substantial that it requires changing the CUP. If that is the case, and he believes that's what the motion is. Commissioner Matthews responded correct. Counsel Larmour said if that's the case, then essentially this project would have to start over, staff would need to look at what's there and work towards approval. That's what he understands the motion to be and the answer to your question is yes, they would have to

essentially go back to the beginning and look at the project anew.

Commissioner Matthews said that's essentially agreeing with the Appeal, right? Counsel Larmour responded yes, if you make a determination that the change was so substantial that it requires the Conditional Use Permit to go back through the process, you are essentially denying the Director's direction and it would have to go back to staff for the Conditional Use Permit process to start all over. Commissioner Stewart asked and then if the clinic does not like that, they can Appeal that to the Board of Supervisors? Counsel responded he would have to look that section up; he does believe that they would appeal that to the Board of supervisors and believes they would have 10 days.

Commissioner Hoard stated he has a question, there's also the option of modifying the CUP as well. He asked are presented that option, is that available to us? He knows that the WARC has put lots of time in the clinic as well, so to not start anew, but to make modifications to the Conditional Use Permit, is that considered an option as well? Counsel Larmour responded he will let staff address the process, ultimately when he says start anew, it would be a new application based on what's there, it doesn't necessarily mean that staff would have to start from scratch. Some of the work that has been done may be able to be upheld, but he would like to [*inaudible*].

Chair McHugh asked Commissioner Hoard if he would like to talk to staff about that? Commissioner Hoard responded he guessed we could address that, we are at the discussion phase at this point, to start anew, there's just a lot of avenues that may lead to some litigation. There is some misunderstanding that, from what I read from the staff report, that the project was approved and these modulars were at the risk of the community District, so there is some gray area there, but of course there are some concerns other than aesthetics, he knows that a lot of the previous discussions have been the focus on aesthetics; but of course there's issues of snow loads, the buildings are engineered and he's seen the plans, he's gone to the Planning office and did see it in the plans, they are engineered for 20 pounds per sq. ft., the allowable snow load in Weaverville as we know is 40 lbs., so that alone really raises some red flags. And of course, the HVAC units and the decibel thresholds for the noise element. Basically what he's trying to say is he doesn't see the need for the project to be revoked entirely, but he would like some of these issues to be addressed and looked at more closely, and as he said at our last meeting, to provide our Planning Department the leverage to be able to dig deeper into those issues and address them or correct them or whatever appropriate procedure would be. He asked if staff has any thoughts on that? He guessed we are just planning or we're trying to see how to proceed on all this and what our options are? Deputy Director Hubbard responded for one, we do have a copy of section from code regarding use permits and there are copies for each of you, and asked if they received it, and members of the public. Chair McHugh stated he didn't receive a copy. Commissioner Stewart stated she would like a copy as well. Ms. Hubbard provided copies to the Commissioners.

Director Tippett said he wanted to chime in. One of the problems with staff is we can't dictate or [*inaudible*]. We essentially do a review of what's presented and then forward it to you [*inaudible*]. So, what we do is we look to the applicant to present a design application, then we go from what they present and bring it forward to you, we don't dictate that design or tell them what to do. Now in this case, we did recommend that it did go through, the direction was to go to the Architectural Review Committee and that was based on the fact that those folks were here in Weaverville, and they did provide some suggestions to that design, which they had tried to incorporate into that design. But, again, it's one of the things that in the Planning Department, the Planning Department facilitates an application, moves it forward, but we're not the ones that actually go and take care and look at the aesthetics and look at the design which is common on the impacts that it makes and how it's to be [*inaudible*], you know if you put a brand-new contemporary building in the historic area, yeah that would show up in our discussion, but it's what matches what the other facilities are, then we would present the project as proposed.

Chair McHugh asked but you would address an issue, for example, a 40 lb. snow load requirement with a 20 lb. roof? Tippett responded well that's plan check issue, that's handled during the plan check. There's stuff they have to verify with the Building Code, but they only have to verify Building Code issues, not issues related to aesthetics. Chair McHugh said no, he understands that, but this issue has come up a couple of times now, and asked but that is something you look at is snow load? Director Tippett responded that was looked at and the Building Official deemed it appropriate. Chair McHugh said okay good.

Dero Forslund, a member of the public, stated he knows the Commission doesn't usually allow official comments, but it looks to him like you're getting ready to take action for something that's not on the agenda, so he's hoping maybe the Commission would let us make some additional comments.

Counsel Larmour stated it is agendaized, you are looking at a director's approval, we're here on the appeal of that, the language may be a little bit grey as to which [inaudible]. Chair McHugh said he's not sure he understood Counsel's comment. Counsel Larmour responded ultimately, the very beginning of the language says that you are here on an Appeal of the Planning Director's upholding the changes to the buildings, but you can take action on it tonight. Chair McHugh asked that's what's been advertised as the decision? Counsel responded correct. Chair McHugh asked so the upholding the Directors decision on the Architectural Review results, is that what you are saying? Counsel Larmour responded well, the Planning Directors review of the architectural and aesthetics has to do with the change in the project, so as the Planning Commission, if his acceptance of that is still in your mind substantial and should have been a new CUP, you can still do that [inaudible]

Chair McHugh stated he thinks we are not going to take any more public comment. Dero Forslund responded there's a lot of discussion of what you guys are talking about that you are not getting. Chair asked the Commission if there is any other thoughts, comments or motions to be made?

There being none, Chair McHugh made a subsequent motion that the Planning Commission does accept the Planning Directors decision that of scope of the change, the nature of the change, and that we do accept the work that was done by the WARC as we asked them to do last November and they reached an unanimous conclusion that the changes would meet the local architectural appropriateness of the neighborhood, so his motion is that we deny the Appeal.

Commissioner Frasier said he's having issues with that because he does see where you are coming from there, but also, at the same time, he thinks we would have a lot better finished product if we start over from scratch. Basically, the public comment, to hear what everybody has to say from the Clinic and what everybody has to say from the public, and have it all laid out in order according to the project that's going ahead now. It's kind of a convoluted mess that we've ended up with, with the different meetings and Minutes from the WARC Committee and we haven't actually heard the entirety of the plan. It's like we are getting bits and pieces, and bits and pieces of public comments, and everything has changed since we started. That's why he would like to see the CUP for the modulars, rather than... He said he does see where Chair McHugh is coming from, if they have done the work, it's hard to shut them down. Chair McHugh said hearing no second, the motion dies.

Commissioner Stewart asked Commissioner Hoard, since you brought up the question about the snow load, and maybe she just doesn't even understand, but it seems to her that if they are going to be working on the roof design and putting up the Mansford Roof and doing all that, it would that give them the opportunity to increase the snow load. Commissioner Hoard responded yes, his understanding is that the exterior walls can support the added Mansford Roof and the snow load, but it is the interior walls in the way. He said he has not walked it, but like he said, he's seen the structural design and the interior building cannot support the added snow load, so that is a concern he has, and then part of the Mansford

Roof, he guessed, will be held by added posts on the exterior of the building, so that's going to help with the weight of the Mansford Roof. Counsel Larmour stated this is a building issue. Chair McHugh agreed, stating we've already heard from the Director that this is an issue they have make sure it is up to code. He said on other structures, we don't address whether the poles are big enough. Both Commissioners Hoard and Stewart agreed.

Commissioner Hoard said he had one thing he wanted to clarify and asked what if we approve this and the building does fails? And the County approved this project, who shares in that responsibility, is the County liable? Who lands with that responsibility? Would the County share some of that responsibility? This is a concern.

Counsel Larmour stated, again, we this is not what we are discussing, liability is getting in the way. Chair McHugh agreed stating we're getting way off topic. He said the way he sees it, there's the choice between us is to deny the Appeal and accept the design change and the work of the WARC to fix the aesthetics, or to not accept the WARC work, but still accept that was a minor change and therefore send it back for more work on that, or find that it is too great of change that that decision was not appropriate and it sends it back for more work on the CUP, to start all over, is the way it's been put to us. Counsel Larmour responded that is correct, those are your options. Chair McHugh said the motion on the table is to do the latter, to start over. He just wants to be clear that's clear that is what you are imposing on the District by this decision.

Commissioner Matthews stated he thinks the decision or the discussion that the WARC had unanimously approved these modifications that will mitigate the aesthetics is somewhat inaccurate. There's no question that the Committee unanimously approved various changes that were proposed by the applicant; but it was very clear at the end of our process that we felt we were doing the best we could under the circumstances. You could ask Bob Morris who is the Chair, that none of us felt that what we approved completely mitigated the structure as [inaudible]. He said he wants to be clear, and anyone can ask Bob, but we were tasked with trying to improve the aesthetics of that building as it was delivered and installed on the site. He said we did the best we could working with what we had, but none of us felt, maybe he should just speak for himself, there should be in the Minutes from the last meeting, basically, at the very end of the meeting, there was consensus on the Committee that we were not fully mitigating the issue. He said there's only so much you can do. He feels a little bit uncomfortable about some of the comments that have been made that everything was mitigated based on [inaudible], to him, it's a little bit inaccurate. It had nothing to do with the motion he made.

Commissioner Frasier said he has less of an issue with the WARC work than with the fact that he does remember one of our last big discussions at the last meeting concerning this was air conditioning units and These mitigations are trying to hide the air conditioning units, but that's not the only issues with the air conditioning units, there was the noise and the other stuff. So, if the aesthetics are fixed, that's one thing, but he's thinking that there's more issues with the Director's decision than only aesthetics. He thinks that modular buildings changed the entire scope of the project. The aesthetics is something that jumps out that everybody notices right off, but he thinks that there's more to it than aesthetics and he thinks that having a Director's use on top of it, oversteps the bounds of a small change. Chair McHugh stated it's unfortunate we didn't reach this conclusion in November. Commissioner Frasier responded we thought we were going to have more stuff coming back to us at this meeting also. Commissioner Matthews stated his opinion is that we would have reached that decision at that meeting if we hadn't felt it necessary to continue it.

Commissioner Hoard stated he would like to make a competing motion. It says here under Section 32, Section G, Modification or Revocation of a Use Permit, specifies that the "Planning Commission may revoke or modify Use Permits if upon a determination that the use is being conducted in a manner

detrimental to the public health, safety or welfare, or in a manner that constitutes a public nuisance.” He said his opinion is the HVAC units, with the information given to us by Mr. Underwood at the last meeting of the decibel level of the units depending on the distance, so in his opinion, the fact that the HVAC units are not being mitigated in any way, and that issue is not being visited, he would make a competing motion.

Commissioner Hoard moved to modify the Use Permit on the basis of the public nuisance of the HVAC units and give Planning staff the opportunity to make modifications or suggestions on how those HVAC units and the sound emitting from them, can be lessened or mitigated. He asked Counsel if the motion sufficed. Counsel Larmour responded well, he thinks again that’s a probably something that’s a reason or a finding, but he thinks that the main issue is the Director’s change and mitigating the change [inaudible]. Chair McHugh stated he’s not sure he understands the motion in context of the... it sounds like that sends it back to get mitigation of noise. Commissioner Hoard responded yes that is correct, that is his intent. Chair McHugh asked where does that leave all the other issues? Commissioner Hoard stated he’s okay with the other issues. Chair McHugh asked so then would you look for a subsequent motion to approve all the other WARC changes? Are you basically saying your motion...? Counsel Larmour interjected that his current motion would send it back for modification to mitigate the noise of the air conditioning units, is his understanding, but it would have no other effect on the changes of WARC recommendations rather than mitigations. Commissioner Hoard said that is correct. Commissioner Matthews asked how does that relate to the appeal?

Chair McHugh called for a second on the motion. Motion seconded by Commissioner Stewart.

Chair McHugh said let’s continue the discussion on the implications of this. So, this motion would send this back to staff. He said he guessed he would hate to see us end up with, is the same discussion the next time this comes back where we then declare a major modification and send this thing back to square one. He said he’s sympathetic to this motion where we are actually addressing the issue of noise, and not just the aesthetics of the air conditioning units. All the other issues having been dealt with, but we haven’t actually said by this motion we think this is going to be okay, and then he’s leery of ending up right where we are now at the next meeting with some momentum to send it back to start at square one, He said he would like to get that resolved tonight, but your motion is a valid motion.

Counsel Larmour stated he wanted to give Mr. Tippet a chance to let you know exactly what that motion would do at the staff level. Director Tippet stated where he sees it problematic is, it’s his understanding there is no noise and the results that were given by the tester, there’s nothing identified making it problematic. So, if it meets the code requirements, it meets the requirements of the environmental document, he has nothing to force a change on. It’s a direction to do that change and depending on how it is, it could be a code issue or many different things, but if they show they mitigate what the requirements are, then they’ve met the conditions and he doesn’t have anything to force a change on.

Chair McHugh said the noise requirement, the General Plan Noise Level. Tippet said yes, let’s say you can only go up to 80 dd, if you give him a thing that says well, we only see it going up to 75 dd, then at staff level the concern [inaudible]. Chair McHugh said it’s compliant. Tippet responded yes, it’s compliant. Chair McHugh asked and is it compliant? Tippet responded he can’t answer that question; he hasn’t seen those numbers specific

Commissioner Hoard said he has seen those numbers and actually did read the Noise Element and it says L_{eq} and L_{max} are two different conditions. L_q is equivalent continuous sound levels and from 7 a.m. to 7 p.m. that decibel level should be at 55 db. Based on the information Mr. Underwood gave us in November that the 9 units equals 81 decibels at 10 feet, at 40 feet more, there [inaudible] at 77 levels, he means 69.6 decibels. Actually, to achieve the LQ required in the Noise Element to 55, you would have to

be 210 feet away from the HVAC units. He said he's made the calculations, there's on-line calculators for decibel distances and what not. He doesn't believe they do meet... He knows the residence on 170 Taylor Street they are at 92 feet away, which decibel level would be 62.4, which is higher than the 55. So, we're not quite splitting hairs, but he knows that it is getting a little [inaudible], but the Noise Element, he doesn't think it does. That is the reason for his motion and that's the reason that he believes it should be addressed. Commissioner Hoard said and especially lastly, also in speaking to Mr. Morris, he guesses two layers of Evergreen fencing that is going to be put up, he means this is not an immediate solution, these evergreen bushes or fences are going to take four years to mature, that is four years that the noise buffering or that mitigation will not be in place, so that's another concern of his.

Chair McHugh asked would you consider a motion modification that accepts the Directors decision that this is a minor change, and that the noise has to go down the path you just suggested? Nonetheless, they would even mitigate this. He said and the answer to that yet you are still leaving the axe hanging over somebody's head, that this will go back to square one decision down the road. Commissioner Hoard responded yes, he would accept that. He said he doesn't necessarily want to see this project go back to square one. He doesn't know what the timeframe that would take and how long those modular are still going to be sitting there with improvements done upon them, and to determine that in the eventuality that they might be deemed sufficient or approved. So yes, he would accept that as a minor modification given the WARC, accepting the work of the WARC as aesthetic recommendations, but addressing the noise issues. Commissioner Stewart stated she would second that modification.

Director Tippett stated because you had talked about time [inaudible] modification within two years. You're looking for the modification of the... that complies with that code, either add [inedible] within two years to establish a certain time.

Commissioner Hoard stated he didn't understand Director Tippett's comments. Commissioner Stewart said he wants to know what timeframe you want that modification to occur. Do you want them to be found compliant by the time they move in? Commissioner Hoard responded yes, he thinks that would be acceptable. Tippet stated the reason he is asking, because you mentioned it takes four years for those plants to grow in; so, if he gets a proposal that takes time to time to mature, is that acceptable? That is where he was kind of focusing. He said either you allow a little bit of time for that to happen or [inaudible]. Commissioner Hoard responded right when we open, he thinks that should be acceptable, that should be a condition he believes.

Chair McHugh asked Commissioner Stewart if she was still seconding the motion. Commissioner Stewart responded yes. The Chair asked if there is any more commentary or discussion of that subsequent motion? Commissioner Frasier stated he's just wondering, and asked staff, what's the probability that those mitigation measures are going to come back before the Planning Commission and we are going to have to do this again before somebody knows what's going on. Tippett responded you are giving him very specific direction to review one specific condition in the overall project. We've discussed the aesthetic issues, if you were to accept this motion, essentially you are asking him to go back to the air conditioners noise issue, go back and review that and make a determination whether it's compliant or not, and then he would share that during Director's Report. Commissioner Matthews said would that then involve an analysis by a Sound Engineer. Tippett responded he would have to go back and look at it. He said his recollection specifically what was provided, he doesn't remember right now, so he would have to go back and look at what we have, that has been provided, and if additional information is needed, then we would call for it. Commissioner Matthews stated his opinion is that noise is not the only outstanding issue, and said he's not supportive of this motion.

Chair McHugh stated we have a subsequent motion before us. He said he believes the motion is to accept the decision by the Director that this would fundamentally be a minor change, except that the aesthetics

are addressed by the WARC work, with the exception of mitigating the actual noise levels, which staff will take back and determine if further mitigations are necessary and impose those as conditions. Commissioner Stewart said it must be addressed and resolved prior to opening. Commissioner Hoard responded that is correct.

Chair McHugh called for the vote on the motion. Motion passed 4 to 1, with Commissioner Matthews voting Nay.

Chair McHugh advised the way it works, since there was a subsequent motion was voted on and passed, the first motion becomes moot.

5. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-2019-03

Public Hearing: Request for “annual variance” from the required 350’ cannabis cultivation setback from neighboring residential dwelling [Trinity County Code 17.43.050.A.8], located 91 Shasta View Drive, Douglas City. APN: 025-140-25. Applicant: Xong Vang.

Associate Planner Hedtke presented the staff report. She said the applicant, Xong Vang, is here tonight. She wanted to clarify something Chair McHugh pointed out, that on Pages 3 and 11, she initially wrote BLM gave conditional approval; they’re a federal agency and can’t ever really recommend approval. She said correct her if she’s wrong. There was no approval, it should have just said condition recommended. So, the condition was that the applicant survey their property, but the applicant had a survey done of their property in January 2019. Lastly, she said she did put together a kind of more robust Findings of Fact list from SHN which is more straight forward in her opinion, it sites some examples of other projects.

Chair McHugh opened the hearing to public comment.

Comments received from Applicant Xong Vang, Edward Harvey, Steve Rhodehouse, John Brower and Justin Hawkins.

No further comments being received, Chair closed public comment period.

Commissioner Stewart moved to approve the Commercial Cannabis Variance Application No. 2019-003 in order to allow the reduction of the commercial cannabis cultivation setback provision outlined in Trinity County Code 127.43.050.A.8 from 350 feet to 110 feet from the residential structure located on APN 025-140-23-00, based on Findings of Fact 1 through 5, and subject to Conditions of Approval 1 through 4, as outlined in the staff report. Seconded by Commissioner Hoard and carried unanimously.

Commissioner Stewart stated she feels the applicant has gone above and beyond in seeking his own CEQA, along with his neighbors, and this is the kind of person that we want to have as a cultivator. Chair McHugh stated he is encouraged that issuing variances is driving people in the black market out of town.

6. MATTERS FROM THE COMMISSION

Commissioner Hoard stated he was interested in Mr. Ballanco’s comment about the General Plan Committee, ad hoc, it seems like an interesting idea. He said he, for one, would be willing to jump on board if that be the case. Chair McHugh said he thinks maybe we should hear what’s going on from staff. Director Tippett stated we’ve been down that road. You might recall, the Housing Element, many years ago, he thinks Commissioner Stewart was on board, and that was the Housing Element that came from the community and is running 40 years behind. He said we made a substantial investment to change the last General Plan. He always hears a substantial investment is of hundreds of thousands of dollars [inaudible]

start the last General Plan. Essentially, we have found that you do need a coordinator and that's what you're hiring a consultant for, a General Plan Update. It is still a document that has to go to the community for input, especially this one, because we're going through and taking all the Unclassified, our desire is to have that finally classified. So, you know those kinds of things are going to take a lot of community input and a lot of community time, but we have to have people to put that together, take the notes, create the maps, create the data points and the input that we need to essentially present that. He said there is a lot that is written by the consultant, but quite honestly, it's boilerplate, meeting State Code and the other requirements; but the body of it and the spirit of it still can come direct from the community through public meetings that we will have to have to make the findings to change the zoning. Chair McHugh asked if he could give the Commission some visibility into a timeline to get going? Tippett responded probably in a year. Chair McHugh said the project will start a year from now? Tippett responded yes, and it will probably take two or three years. Chair McHugh asked is there any direction from the Board to accelerate that any or are they okay with just not doing this for a year? Tippett responded we are going back to the Board because of the priorities, to look at them, but the problem that we've had, for example, we are trying to hire a Senior Planner, Associate Planner and Assistant Planner for well over a year and did hire Bella. He said it's very typical we are recruiting Planners, but the problem right now is the salary and the Planner history up in this area.

Commissioner Stewart stated this could be a rhetorical question, so, it's okay to keep collecting \$1,000 from everybody who wants to apply for a license and not starting it for another year? Tippett responded well the General Plan is a very expensive document and he doesn't believe we've collected enough. He said the question about is it warranted? Yes, because essentially what is driving the absolute need for an updated General Plan is it has no marijuana component in it. Commissioner Stewart said her question wasn't so much why are we doing it, it was is it okay, given that we're collecting this money, to put it off so long. Tippett responded we don't want to put it off, it's just essentially a staffing issue. Tippett said we could bring it forward, but anything that has to go in that place, will have to be displaced until [inaudible].

Commissioner Matthews asked so you are saying if we try to create some sort of committee and start a process, that it would serve no function, or it couldn't be supported by existing staff at all, and that we would have to do somehow on our own? Tippett responded his advice would be to the Board that we not head that way because we've had experiences that have left us with laboring documents that take a lot of work to bring forward. Chair McHugh stated we've had experience with outside consultants driving it. Director Tippett stated he thinks we would have better luck picking right, and again, the person that writes the General Plan he likes to think of more of [inaudible], but there are some really good folks out there that experienced in preparing them, and they are the ones telling you when to hold the meetings, what information [inaudible]. Commissioner Matthews said he thinks we talk to our Supervisors. Chair McHugh said he suggests you do. Perhaps they can adjust their priorities with appropriate support for staff to pull it off.

Chair McHugh said there was one item, a request to agendize an Appeal, and asked if there is an Appeal headed our way? Director Tippett responded no. He said that item, unfortunately County Counsel left, who should address it, but that he would address it briefly. He said the requester did not identify what condition he was seeking relief from, it was a general request for Appeal and when you appeal something you are supposed to focus on that item that you are appealing. For instance, you've got to run your generator from 9 to 4 and I want to run my generator all day long, I would appeal that condition. Commissioner Stewart said just as a general question, in a situation like that what do they do? Tippett said the issue is, again, he is kind of answering for County Counsel, if you are not fulfilling the conditions, you're appealing the rules of the ordinance, and that rests not in this forum, it rests with the Board. As he said earlier, if you don't like to rules that's something you write to your Supervisors or you bring up in public comment, but you can't appeal the rule because that was established

through ordinance, Appeals were not formulated to fight the rule [inaudible].

7. **MATTERS FROM STAFF**

Deputy Director Hubbard discussed the meeting schedule.

Commissioner Hoard stated it seems our attendance has dwindled and that is in light of Dero (Forslund) recording these and providing them on You Tube. He's heard comments from people in Hayfork and Hyampom, they actually appreciate it because they don't have to drive all the way here, yet they can be involved in the community and keep up with what's going on, and thanked him for that. Dero responded you are getting about 100 hits per meeting, so people are watching.

8. **ADJOURN**

The Chair adjourned the meeting at 8:58 p.m.