

MINUTES

1. CALL TO ORDER

Chair Hoard called the meeting to order at 7:00 p.m. Members present: Dan Frasier, Mike McHugh, Graham Matthews and Richard Hoard. Members absent: Diana Stewart. Staff present: Deputy Director of Planning Leslie Hubbard, Deputy County Counsel Joe Larmour, Assistant Planner Bella Hedtke and Clerk Ruth Hanover.

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.

No one came forward.

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.

Deputy Director of Planning Leslie Hubbard presented the staff report. She said this is an appeal of the Planning Director's decision acknowledging that the Weaverville Architectural Review Committee (WARC) made a decision regarding the aesthetic impacts for the proposed clinic expansion. Hubbard said we want to keep the discussion tonight really focused on that appeal specifically; there are a lot of overlapping issues that will come up, but that is what was publicly noticed. She said we have received written public comments, 2 in favor of the Planning Director's decision and 3 in favor of the Appellant's position. We also received a petition signed by 39 people, requesting the Planning Commission have a meeting in the future to discuss modulars vs. stick-built, which was originally proposed for this project. She said she included the petition in order to be transparent, but that's not what we're discussing this evening.

Hubbard said although the Director said publicly that the item would go to the Planning Commission, he went back and reviewed the file more carefully and decided this was not a substantial deviation from the original Use Permit, the modular unit going in, and that there was a Mitigation Measure regarding impacts to aesthetics that was included in the Use Permit that was approved, that would deal with what the difference was in putting the modular units in instead of stick-built. WARC did provide input regarding siding, roofing, colors, they looked at several different options for mitigating impacts that would allow the proposed building to fit in with the Historic setting of the Taylor Street neighborhood. Hubbard said the

Planning Director looked at those decisions and said yes, I accept those, I think that those are consistent with the Use Permit. She said according to the Zoning Ordinance the Commission can revoke or modify a Use Permit, it's at your discretion, if you choose to do that.

Hubbard said typically we don't include alternatives in our staff reports, we have a staff recommendation. She said she wanted to give the alternatives are, these don't specifically have to be in a box. The Commission could uphold the Planning Director's decision, uphold the Appellant's position and direct staff either modify or revoke the Use Permit. Hubbard said when this item was approved there were a few revisions made in July of 2016 in which the Department of Transportation had initially included a condition to include sidewalk, curb and gutter that would go down Taylor Street to the north end of Court Street, and that was removed; denying request for 4 on-street parking spaces along Taylor Street was removed; and requiring the widening of Garden Gulch Road parking lot entrance/exit and corresponding narrowing of the Taylor Street driveway to discourage traffic accessing Taylor Street from the clinic parking lot. She said once again, we are really focused on the WARC has been positioned to be able to deal with any impacts associated with aesthetics, the Planning Director after having looking at how this project is going to be proposed decided that those were the likely impacts and there was a Mitigation Measure in the Use Permit that would allow us to mitigate them.

Commissioner Matthews said the most obvious questions is the Architectural Review Committee process is not yet complete, so it seems like some of this is premature. He sits on the WARC and at the meeting on the 24th of September he made a motion, basically a concept, of trying to address roofline issues and mitigating some of the aesthetic changes. Since then he has heard through the grapevine for structural reasons that motion that was approved by WARC to modify the roofline and try to make it a more attractive building could not be implemented. Matthews said he knows that a group has been meeting separately trying to come up with alternatives beyond what WARC approved, but it hasn't come back before the WARC yet and so the process of the WARC is not complete, so he's not sure that we can really address this issue of aesthetics until the WARC has finished their process. He said that's a question for Deputy Director Hubbard and Counsel, aren't we premature? There's no final approval of the project by the WARC, we've presented a concept, all we know is that's not moving forward, there might be other concepts but those haven't been presented to the Committee yet. He is wondering why we are here even.

Deputy Director Hubbard responded somebody does have the ability to appeal the Planning Director's decision at any time. She said of the alternatives that she gave, if the Commission does decide to uphold the Planning Director's decision, the Appellant then has the ability to appeal to the Board of Supervisors from this decision at the Planning Commission level, and if the Commission upholds the Appellant's position, the Applicant, Mountain Communities Healthcare District, also has the ability to appeal to the Board of Supervisors, or if the Commission chooses to send the Use Permit back for an amendment or modification, they could follow the Use Permit back. She said those are a few options and consequences.

Commissioner McHugh asked for clarification of the decision the Commission is being asked to review. If the architectural committee has not in fact rendered a decision, what is it that the Director is upholding that we have under appeal? Hubbard responded when the WARC looked at options, particularly regarding roofing, and here's where it is difficult, because it's iterative, and yet somebody can step in and appeal the Planning Director's decision at any time, and so there is that potential of getting into an appeal purgatory, we don't want to do that. We want to establish that the Planning Director is recognizing the WARC's authority in this position; it's not within the Historical District, but because the WARC was designated in the Use Permit as being able to be the guiding body, or the body that somebody could go to for input, then that's how they have the role in this case. It's unusual because it's not where they normally operate.

Commissioner McHugh said he's not sure Hubbard answered his question. Hubbard responded we are looking at wanting to make sure the WARC's decisions regarding aesthetics to deal with this project are acceptable to the Planning Director. McHugh asked even though those recommendations are still in play?

Hubbard agreed, they are still in play. McHugh said so it sounds like we are being asked to uphold the Director's decision that when the WARC comes up with a solution he'll accept that presumably we're affirming... Counsel Larmour said this is the first he's heard tonight that the provisions set out by the WARC were not feasible or not going to be implemented, so that issue is a little bit of a question, as Commissioner Matthews stated, whether we are in a position to make a determination on whether upholding is appropriate if they are still in flux. The other issue though is that the mitigation in the Use Permit was for them to seek the advice of the WARC and essentially have input as to those mitigations; one of the questions tonight is whether the Commission wants the Use Permit to as it is, giving that Committee the authority and input and allowing the Planning Director to accept their input as the mitigation for that Use Permit.

Commissioner McHugh stated he's trying not to be difficult, so that sounds like we are reaffirming our own condition in the Use Permit and delegating to the WARC, whom is still meeting and considering this issue, so we would be reaffirming our delegation to the WARC. If it's true they have not yet made their final recommendation to the project, then when they do that and then if the Director upholds it, then an appeal of his decision would be an appropriate thing to do. He asked is that the sequence? Counsel Larmour said some of the confusion came with the information that those recommendations by the WARC can't be implemented, that's not part of the staff report, that's not part of the information that he had until just recently, that wouldn't prevent an amendment to the Conditional Use Permit based on what the Appellant's position is, but it would probably make it somewhat difficult to decide if you're upholding what the mitigation plan that has come out of the WARC would be. Commissioner McHugh asked Commissioner Matthews if a plan has come out of the WARC. Matthews responded he would say it was a concept. McHugh asked if the WARC was meeting again to continue the discussion? Matthews responded it hasn't been scheduled, so he doesn't see how we can be put in that position of making aesthetic recommendations without having a final proposal from the District. McHugh said he's still confused about the subject.

Chair Hoard said in addition, from what he understood and from what was noticed before the meeting apparently, the Minutes for the WARC meetings have not been approved either, therefore, they cannot become public information yet. He believes that's a substantial piece of this, being able to review those aesthetic determinations or recommendations, so at the same time we are waiting to be able to review those Minutes as well and see what those recommendations are.

Chair Hoard said this item does carry a public hearing, but before opening public hearing he wanted to make note that many letters that were submitted for the Commission's review and consideration concerned items about Building Codes, occupancy, different ratings of sorts. He said he just wanted to state that Building Codes are dictated by State and County law and are not under the preview of tonight's Planning Commission meeting. With that said, we have been traditionally holding a 3-minute time limit for each speaker, since Mrs. Sue Corrigan is the Appellant, she will be allowed as much time as needed and, in the case, this might go on to litigation, she needs make note her concerns.

Chair Hoard opened public comment on this item.

Comments received from Marlene Elliott, Chris Kennedy, Kelly Corrigan, John Hayward, Appellant Susan VanMatre Corrigan, Lani Rhoades, a man from audience who elected not to give his name, Bob Morris, Attorney Jim Underwood representing MCHD, Traci Jackson, Jeffrey Manning, Duane Heryford, Chris Parkan, Keri Kennedy, Mary Cole, Thurston Wilson and Anne Duckett.

No further comments being received, Chair closes public comment period. He thanked everyone for their comments.

Chair Hoard said he has a question for staff, one point that Mrs. Corrigan brought up was that there was

no set of engineered plans prior to the placement of the modulars, is that correct or how did that proceed, because he assumed the original intent in the plans drawn by Jack Griffin, the architect of Eureka, was presented, but prior to placement of the modulars, was there any revised engineered plans or anything submitted to indicate these changes? Deputy Director Hubbard responded plans were submitted, she's not sure what date they were submitted, but that was something she deferred to Jim Santiago, the Building Official.

Commissioner McHugh asked if we could get some explanation on the drawing submitted by Mr. Underwood. Chair Hoard agreed and invited Mr. Underwood up to the podium.

Commissioner McHugh asked if the first three pages of the drawings are the original plans. Underwood responded that is correct, the intention was to provide those for background information and show contrast on site and elevation issues. McHugh asked if the next page, the Master Site Plan, the orange square, is that the present location of the modular. Underwood responded that is correct, it shows in contrast to the original footprint, how in fact it is significantly set back from Easter Avenue approximately the same from Taylor. Commissioner McHugh asked the next drawing, pencil drawing of an elevation is facing south, that is to the neighboring parcel? Mr. Underwood responded yes, this was just intended to make known, as we all have to accept, it doesn't look very appealing as it was delivered to the site, to contrast that we have proposed solutions on roof, siding and additional landscaping. McHugh went on to the next drawing that shows Taylor Street, are those boxes the air conditioning units in question? Underwood responded yes, the white rectangulars are windows, the built-in HVAC unit are the gray rectangles. McHugh asked if that was a brick treatment or what, the foundation, is that what that is, just to the right lower elevation? Underwood responded yes, basically what is proposed, and he thinks this is what is intended, is that the lower third of the sides will be 12-foot horizontal hardy board, above that, the upper two-thirds would be 3-foot vertical hardy board with 16-inch bats to help with the aesthetics, in a way very similar he understands, to the existing clinic building. McHugh said the next one shows the overhang of the roof? Underwood said yes that is an illustration of proposed Mansford Roof overhang system. He said the only thing this doesn't fully incorporate are proposed gables, such as that shown on the Taylor Street illustration, that can easily be added to this Mansford Roof System to help with breaking up that length and just getting a little more depth, and make it a little more aesthetically pleasing; and that is feasible, it's not an engineering structural problem, that can be done. McHugh said the final elevation shows a different roof treatment? Underwood asked contractor Thurston Wilson what's the overhang. He said it would go up about 48" above the peak of the roof. McHugh said but this shows a significant overhang. Mr. Wilson responded that was just a design there and if the Architectural Committee liked the design, it was something that could be done. Underwood stated those are all consistent with this kind of Mansford Roof concept that really changes the appearance; and as you will see in comparing the site plan, the landscape plan, it won't be intruded upon at all, certainly on Easter Avenue and to some degree on Taylor Street, it can be enhanced as well to deal with, what they think are nominal, additional noise sources and visual impacts. He said those are the aesthetic treatments that the District would like to have more feedback, discussion with architectural review folks and come up with a final plan, they think it is solvable, and these are illustrations that show that's the case in comparison to the original.

Commissioner Matthews said he doesn't really think the orange rectangle is set in the correct location. He was there yesterday walking around and it certainly doesn't appear to him that setback, if that original setback from Taylor Street is 35 feet, and then as Mr. Parkan mentioned there's at least another 20 feet back to the original proposed building; so, this would be saying it's 50 feet back from the street? Mr. Wilson said we measured it at 48 feet from the center of the road, the County measures from the center of the road. Underwood said and 35 feet from the center line on Easter Avenue, in contrast to the 10-foot setback under the original plan on Easter Avenue, so there's increased setback. A member of the audience started speaking, but it was inaudible. Sue Corrigan showed the Commission members a picture on a laptop of the view of the modular from across Taylor Street.

Commissioner McHugh said back to his opening comment, he's inclined to favor a scenario that says we let the Architectural Committee and the District finish their work, and then come back with a final plan. He said he doesn't know if that means we continue the item at this point or what, because he's not sure whether that leads to upholding the decision of the Director or upholding the Appeal. He feels like it's a work in progress, the District has asked to complete the work for the Architectural Committee, and until that work is done, he's not sure what the Director approved is a complete thing yet. It's still in that stage where he feels like we're in limbo and we are being asked to make the final call on that.

Commissioner Matthews said he agrees with that, but he also agrees with some of the testimony we heard tonight. Under Section F, he thinks Director Tippett failed to consider the significance of the changes in the project, he thinks there was a material change in the orientation and location of the structure, that's one of the six conditions here. That makes him uncomfortable and he's certainly concerned for the residents there, he thinks noise is an issue that wasn't be addressed, certainly the original use permit and original structure does not have nine air conditioner units facing Taylor Street. It would have made noise in other ways, but they probably would have had heat pumps somewhere, sited somewhere differently in the center of the parcel which probably would have reduced the noise significantly. He said he definitely has these concerns, he hasn't made up his mind what the appropriate action is yet, but he thinks it's going to be pretty difficult to make the modular buildings not a nuisance in the community. They can definitely make them look better, is that an acceptable level of mitigation?

Commissioner Frasier said he's still having difficulty with what we are being asked to do. It seems like we are being asked to uphold our own mitigation measure, seems like we are being asked if Director Tippett had a good reason to allow the modulars saying that it would be mitigated by an already existing mitigation measure, and do we think that mitigation measure is going to be sufficient. He said it's not a very good mitigation measure, it leaves too much open to interpretation and it's difficult knowing what we are getting in, so it is difficult to make a decision when it says it's "recommended" that they meet with the Architectural Review Committee; they've already met that mitigation measure, they've met with the Architectural Review Committee. It doesn't say in that mitigation measure whether or not they have to implement the suggestions of the Architectural Review Committee. Do we want to lean on that mitigation measure, it's pretty weak? Commissioner Matthews said the concern he has is that mitigation measure was for the original use permit, which was a stick-built, attractive, large building that was somewhat out of scale for the neighborhood, but because the way it was designed and with roof lines, the complexity, it was a very attractive building, and so that mitigation measure basically would have had, talking about the color or something, something trivial, that's basically what it was. They said we've designed this wonderful building, it's really attractive, what do we need to mitigate, and we probably would have said gee it looks good to us. He said now the mitigation is the most important part of the project, really, to try to make this eyesore somehow fit into the neighborhood, and he agrees there is no specificity to it, there's no requirement in it and that is worrisome. Matthews said that would be a reason to argue that we should have staff review the use permit and potentially evaluate noise and evaluate different mitigation measures that would require more effective treatment. We obviously heard testimony that many many people believe it's impossible to mitigate this rectangular structure aesthetically, probably the only real way to do it would be to completely hide it with vegetation screening, some sort of fencing, a lot of trees and basically try to make it disappear. He said he agrees with Commissioner Frasier.

Commissioner Frasier said this is a hard one because we don't know what we're deciding. He thinks if we deny the Appeal, basically we're accepting the project as is, reading these mitigation measures, because they've already met the mitigation measures. Depending on the good will of Mountain Communities Healthcare District... Commissioner McHugh said his approach to that is, he's still debating in his head if this is a significant change; he believes if the Architectural Review Committee reviewed this in conjunction with the District and came up with a set of modifications, and came back, then we would have the ability to look at a modified use permit that makes those get implemented, and not simply have a recommendation they have a meeting as a mitigation.

Chair Hoard said he would agree with the rest of the Commission, he believes the use permit needs to be revisited, there's issues with noise as has been brought up, he's seen the site himself, we don't have information and he doesn't believe staff has information either of the model of these HVAC units, how loud these decibels are, and as the comment, in conjunction with multiple units going off at once; also the landscape plan that's provided, that was for the original design, obviously there's going to cover most of this building or to mitigate some of the aesthetics, the landscaping design will completely have to be revisited, he believes that's something that would constitute modification of the use permit. Also, as stated by all the Commissioners, the mitigation measure says "meet and if justified"; there is specific language in the mitigation measure, basically it does not pose any obligation on the Healthcare District to actually impose these or go forward with recommendations. He said these are gray areas that leave much to be desired. He said how do we proceed at this point, he knows the Commission's task here tonight is to approve what the Planning Director's decision was, or to uphold the Appellant's position, but he doesn't know if either of those is the proper channel to address what is going on with so many uncertain questions.

Counsel Larmour stated he thinks they are two separate things. First of all, the question of whether it's a significant change, if you need to make a finding that it's a significant change that requires an amendment to the CUP, then you really don't need to go back to the question of revisiting the architectural and the mitigations in that sense, because if you've made a finding that it's a significant change, then that requires an amendment to the CUP. If you find that it's not a significant change, then he thinks a continuance for more information would be appropriate.

Mr. Underwood provided a copy of the specifications on the HVAC Units that show the noise.

Chair Hoard asked Counsel Larmour if the Commission believes it's a significant change, what does that entail, does it require environmental review, is it something that staff can take and modify the Conditional Use Permit? Counsel Larmour responded it would most likely be a modification of the Conditional Use Permit to take into account the significant change that the Commission identifies and if other required mitigations are necessary, then staff can make those recommendations and bring back before you.

Commissioner McHugh made a motion to continue this item and that it come back before the Commission after the final meeting between the Architectural Committee and the District to give the Committee all the data, all the diagrams, all the noise, and look at that to make a complete set of recommendations back to the District, and we will continue the matter. At the continued meeting we will revisit the same thing, if the Director is still upholding and the Appeal is still in place, we rule on that then.

Commissioner Matthews asked can we address the noise currently without finding the CUP needs to be revisited. Counsel Larmour responded he believes what you are asking is for this to go back to the Architectural Committee, which would not, for all practical purposes, be the body that would address decibel levels; however, decibel levels are controlled by code, so if there is a violation of code on that, that issue would have to be addressed. Whether that's something that has been addressed by staff, he is not aware.

Commissioner McHugh stated the General Plan specifies the decibel levels, he doesn't know if this complies, but it would have to be broadened, it's a code issue. Counsel Larmour responded correct. Commissioner Matthews said he was just commenting on the fact that McHugh's motion also included noise. McHugh responded there is a reference to noise in the ST Zoning, which is the Architectural Review purview; so, he thinks you can look at noise and say a large increase of noise is not consistent with [inaudible].

Bob Morris, Weaverville Architectural Review Committee stated there are currently no specs within the Architectural Review Ordinance dealing with noise. We've never dealt with that before.

Commissioner Matthews stated in the interest of having more complete information available before we make a decision, he will second Commissioner McHugh's motion.

Counsel Larmour stated the Appeal could be withdrawn; so, if it was withdrawn based in the architectural changes, it could be gone at that time. He said he would ask for clarification that the motion be for a continuance for further information to be provided by the Weaverville Architectural Review Committee. If we add into the motion the discussion back and forth, he thinks it would be an unclear motion. McHugh said he would add to the motion to have staff pick a date.

Commissioner Matthews said the primary issue for the WARC all along is having inadequate information presented to us. He said he wouldn't say it's an actual design, it's a concept; so, it's really up to the applicant to provide complete plans that the WARC can review. What would be an acceptable level of information? What we've had in the past is completely unacceptable in his view. He said he doesn't know how we can pick a date, we can go down this road again and if the WARC doesn't get appropriate information, we spin our wheels and feel uncomfortable, and feel we are being railroaded into making a decision, or make a recommendation that turns out to be unfeasible, it's counterproductive, so he's not sure how we do that.

Commissioner Frasier suggested picking a date and then putting the ball in the District's court. [inaudible]. Chair Hoard said his concern is noise levels have never been addressed and he's concerned about Commissioner Matthew's comment about very little information being provided to WARC. He said he's leaning towards declaring this a significant change and allowing a modification to the Use Permit, it doesn't mean approval is being denied, it just gives more leverage to the Planning Department to address more issues and dig deeper into the noise concerns, the landscape redesign, to mitigate some of these aesthetic issues, and anything else that comes forth from a deeper look at the change from the original project to what is being proposed now. He said he does favor the significant change, to give staff a better opportunity to review them in more detail, then the WARC can go back and meet with the Healthcare District and try to come up with more feasible solutions.

Commissioner McHugh said he would amend his motion to say that the item come back at the regular meeting on December 13th. Commissioner Matthews seconded the motion.

Chair Hoard made a competing motion to determine that the project is going through significant changes and this will allow staff to modify the use permit.

Commissioner Matthews asked if we need Findings. Counsel Larmour said Hoard is making a Finding that opposed to the Director's Finding that it is not a significant change which requires an amendment to the use permit, he's made the Finding in his motion that it is significant. Matthews said it seems like this 32(f) spells out six different conditions that would require... Counsel Larmour said it probably would be best if the motion kind of triggered one of those items. Chair Hoard read 32(g), paragraph 3. He said based on the diagram presented, the Project Overview Master Plan of the location of the building and the location of the original, he believes that a material change in orientation or location of the structure, especially presenting the proximity to the setback line.

Counsel Larmour said you can amend your motion to state that you find the relocation of the building is a substantial change requiring amendment to the Conditional Use Permit.

Chair Hoard stated he would amend his motion to state the same. Commissioner Frasier seconded the motion.

Commissioner Frasier said he thinks It warrants discussion whether we want to revisit the CUP or if

WARC and the District can work out the aesthetics. Is aesthetics is the main concern here or is it actually the change in the building, which one of those motions we should go with. Chair Hoard said personally he is introducing the change in orientation of the building because it gives me a Finding, but truthfully his intent is to give more leverage to the Planning Department to look at other issues, other than just the orientation or aesthetics. His main concern is not the orientation of the building, but to give the Planning Department a little more leverage to address other issues that haven't been brought up by the public.

Chair Hoard calls for the vote on his motion finding the relocation of the building is a significant change which will require amendment to the Conditional Use Permit. Motion failed 2-2. Commissioners Matthews and Hoard –Aye, Commissioners McHugh and Frasier – Nay.

Chair calls for the vote on Commissioner McHugh's motion to continue this item and that it come back before the Commission, after the final meeting between the Architectural Committee and the District, at its Regular Meeting on December 13, 2018. Motion carried 3-1. Commissioners McHugh, Matthews and Frasier - Aye, Commissioner Hoard – Nay.

5. MATTERS FROM THE COMMISSION

Commissioner Frasier stated he talked to Deputy Director Hubbard about the change in date for the Class K Housing Workshop. Staff was directed to notice it for tonight, but it got changed for some reason. His concern is he had already told a lot of people in his area that it would be on the agenda tonight and they were very upset it was not. Frasier asked that in the future, if a matter is directed to be on the agenda, that it actually be put on that agenda and if needed, we can continue it at that time.

Chair Hoard asked if the matter was actually noticed for tonight. Clerk advised it was not.

6. MATTERS FROM STAFF

Deputy Director Hubbard advised we will have a second meeting this month on November 29th for the proposed Ordinance on Class K Housing

Commissioner Matthews advised he will be unavailable from Christmas through New Year's. Chair Hoard advises he is unavailable on December 27th.

7. ADJOURN

The Chair adjourned the meeting at 9:11 p.m.