

**MINUTES**

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**1. CALL TO ORDER**

Chairman Hoard called the meeting to order at 7:00 p.m. Members present: Mike McHugh, Dan Frasier, Diana Stewart, Graham Matthews and Richard Hoard. Staff present: Interim Planning Director Leslie Hubbard, Associate Planner Scott Watkins, Associate Planner Colleen O'Sullivan, Deputy County Counsel Joe Larmour and Clerk Ruth Hanover. Director of Transportation Richard Tippett present 7:56 p.m.

Chair Hoard stated before we move forward there is a slight change to tonight's Agenda. Item No. 5 we are waiting on Director Rick Tippett to arrive to discuss as he has some pertinent information in regard to that.

**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 John Brower and Drew Franklin.

**3. MINUTES – April 12, 2018.**

Upon motion of Commissioner Matthews, seconded by Commissioner Stewart, approves the Minutes of April 12, 2018, as corrected. Motion carried unanimously.

**OLD BUSINESS** – None.

**NEW BUSINESS**

**4. PROPOSED MITIGATED NEG. DEC., REZONE AND USE PERMIT**

**P-17-36**

**Public Hearing:** Mitigated Negative Declaration, rezone from Unclassified to Agriculture 40-acre minimum (A40) and Use Permit to allow a six-guestroom bed and breakfast facility, small conference room, employee housing, two outdoor kitchens and an agricultural building on a 33.53-acre parcel. Located at 6301 South Fork Road, Salyer. APN: 008-130-01. Applicant: Wood.

Interim Planning Director Hubbard presented the staff report. She said this application is requesting three different actions: approving the Negative Declaration, a Rezone of 33.53 acres from Unclassified to Agriculture 40-acre minimum and a Use Permit for a bed and breakfast. She said staff is recommending approval, but prepared two different recommendations on the rezone, one is from Unclassified to Agriculture (A), the other is from Unclassified to AgForest (AF). Staff is recommending approval.

Commissioner Stewart asked if the idea of a tent campground is off the table. Associate Planner Colleen O'Sullivan responded yes.

Commissioner Matthews asked in terms of traffic, it says 161 average daily trips on South Fork Road, where is this measured, is it right near Highway 299? Planner O'Sullivan responded no, it's from the junction of Highway 299 and South Fork Road. Matthews said most of the development is between this project and 299. He asked what's the threshold of significance for increasing the average daily trips? O'Sullivan responded she didn't know. Chair Hoard asked if there were any thoughts regarding Agriculture vs. AgForest. Matthews said he's inclined to go with what the applicant would like. Commissioner Stewart said she feels the same and she actually felt Ag would probably fit better. Matthews said there's more forest on the east side. Chair Hoard said he's inclined to side with the applicant as Agriculture, being that the parcel to the south is zoned Ag as well.

Chair Hoard opened the hearing to public comment.

Comments received from Judy Nelson.

No further comments being received, Chair closes public comment on the item.

Commissioner Matthews asked if there is a requirement for water supply since it will be a commercial project with an agricultural component. Planner O'Sullivan responded Environmental Health checks this as part of the permitting for the Use Permit. Matthews asked if it is up to the applicant to prove they have water. O'Sullivan responded yes. Chair Hoard, referring to Conditions of Approval, signage, asked if this is something that comes later as he knows agriculture has sign requirements. O'Sullivan responded we just have general development standards for signs.

Commissioner Stewart moved to (1) adopted the mitigated Negative Declaration, finding that on the basis of the whole record before the Commission, including the initial study and comments received, that there is no substantial evidence that the project will have a significant effect on the environment and that a negative declaration reflects the Commission's independent judgment and analysis; (2) approve the Rezone from Unclassified to Agriculture 40-acre minimum, finding the action to be consistent with the overall goals and policies of the Trinity County General Plan; (3) approve the Use Permit to allow a six-guestroom bed and breakfast facility, a one bedroom residence (employee housing), a small convention/meeting room (maximum 20 people), an agricultural building and two outdoor kitchens, based on Findings of Fact 1 through 3, and subject to Conditions of Approval 1 through 13, as stated in the staff report. Seconded by Commissioner Matthews. Motion carried unanimously.

Chair Hoard stated since Director Tippett isn't here yet we will move on to Item No. 6.

Interim Director Hubbard advised that all of the Variance requests up to this point have been erroneously noticed with Ordinance No. 315-816, Sec. 320-iv(5)(b) which was the Urgency Ordinance. The permanent ordinance is Ordinance No. 315-823, Sec. 43(5)(iii), and the subject Minutes and the Variances themselves up to this point, and notices going forward, have been or will be corrected to reflect the change.

**6. VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK CCV-18-12**

**Public Hearing:** Request for "annual variance" from required 350' Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 6821 State Highway 299, Salyer. APN: 008-370-30. Applicant: Dixon.

Associate Planner Scott Watkins presented the staff report. Staff is recommending approval.

Commissioner Matthews stated we have a letter from Josh Schizter and asked do you know what parcel that is. Commissioner Stewart said she had the same question, is that the parcel that is affected? Watkins

responded he did not have the parcel number on that, it just came in the other day. Commissioner Stewart said the report says that “based on satellite review and in-person site visit, the subject property does not have any viable alternatives for relocating the cultivation”, but then it goes on to say “Cody Smith, Code Compliance Specialist, has reviewed this project and says that “Due to the size of the parcel, cultivation area could possibly be relocated”. She asked is that referring to the fact that it had to be relocated from the Flood Zone. Watkins responded Smith was out there before we found out bus stops were relocated, so he thinks the bus stops prevented it from being relocated where Smith thought it could be.

Chair Hoard opened the hearing to public comment.

Comments received from Agent Deidra Brower of Downriver Consulting.

No further comments being received, Chair closes public comment on the item.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 120 feet from the residence on APN 008-370-29, based on Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4, as stated in the staff report. Seconded by Commissioner Matthews and carried unanimously.

7. **VARIANCE FROM REQUIRED 350’ COMMERCIAL CANNABIS SETBACK** **CCV-18-13**

Public Hearing: Request for “annual variance” from required 350’ Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 240 Brady Road, Hayfork. APN: 014-450-09. Applicant: Chang.

Associate Planner Watkins presented the staff report. He said the property is pretty boxed in by the 350 foot residential setback, there is really no viable alternative to relocate the garden. Staff is recommending approval.

Commissioner Stewart stated in the staff report under project evaluation says 16 feet, but she assumes that is the 106 feet. Watkins agreed. Commissioner Frasier said on the first page of the pictures it says “Wyatt”. Watkins said that is a typo also. Frasier said he just wanted to make sure we were looking at the right pictures, the APN numbers were right, but the name was wrong so he was confused.

Chair Hoard opened the hearing to public comment.

Comments received from Agent Deidra Brower of Downriver Consulting and John Brower.

No further comments being received, Chair closes public comment on the item.

Commissioner McHugh said since this is in the opt out area of Hayfork and since our precedence last time was to not allow it, he’s inclined not to support this. Commissioner Stewart stated they have every right to be approved because the Hayfork Water District, the Trinity County Waterworks District #1, does not close to cultivation licenses until July 1<sup>st</sup>. McHugh argued this is not cultivation, it’s a variance. Stewart responded yes, it is, it’s a variance to allow them to cultivate, and they have a right to get this because it is still open. Chair Hoard asked McHugh if he was referring, in light of the actions taken at our last meeting in terms of opt out zones, that no further development of cultivation activities. McHugh responded no, there was another variance request in the Lewiston opt out zone. Stewart said Lewiston was already closed. McHugh said this has nothing to do with dates of closure, that person had made the date so the closure/open thing is irrelevant; this has to do with someone who had made the date, now coming back asking for further entitlement.

Deidra Brower asked for a point of order. She said there have been approval of variances in this water district prior as well, as opposed to Lewiston.

McHugh stated he didn't think that was true under the permanent ordinance, he thinks all of those occurred under the urgency ordinance. He said his position is that the notion of the opt outs was to allow farmers already farming to farm, but not extend the entitlements; not only is this a variance, but it's four different homes impacted by this, we've also used a large number of homes as a guiding principle, also in Hayfork, although not in the district, out on Morgan Hill Road, we should use that same logic. In principle he thinks the communities that wanted the opt out wanted to not be in this cannabis business, the Board allowed "grandfathering" in of some farmers, that's fine, but this is not just getting cultivation license, it's adding on top of it a variance. He thinks the practice ought to be not to extend the grows in the opt out.

Commissioner Stewart argued that the Board of Supervisors extended the period when people could apply for cultivation licenses which includes the ability to request variances for a reason, and that was to allow those people in the Hayfork opt out area to have the opportunity to grow.

Counsel Larmour stated you are given some latitude, but in general the discussion should be following a motion and a second, so if we can have a motion on the table the discussion can take place.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 220 feet from the residence on APN 014-450-10, from 350 feet to 79 feet from the residence on APN 014-100-00 and from 350 feet to 106 feet from the residence on APN 014-100-13, subject to the conditions of approval and based on the findings of fact as stated in the staff report. Seconded by Commissioner Matthews.

Commissioner Matthews stated he's not so concerned with the opt out areas, he's concerned regarding the number of structures and how close they are. Commissioner Frasier said that was his concern also.

Commissioner Frasier moved to deny the variance, based on the fact that four houses and one under construction are affected, and we didn't get any letters of support. Commissioner McHugh seconded the motion.

Commissioner Stewart stated no letters of support were received due to language barrier and she feels that is reasonable. Commissioner Frasier said it's in the middle of a neighborhood and we don't have to grant where it doesn't fit, we need to protect the community. Commissioner Stewart said Brady Road has X number of commercial cannabis cultivations, they are all over the place, the number of residences makes no difference. Chair Hoard said he feels like the neighbors which are 106 feet and 79 feet, if they were truly concerned about the activities of the cannabis grow, those neighbors should have written letters of opposition; furthermore, he believes that the applicant is within the right to apply for the variance since they are under the July 1, 2018 deadline, and a variance could be allowed if it comes under that time threshold, so there is no reason not to approve based on those facts.

Chair Hoard called for the vote on Commissioner Frasier's motion to deny the variance. Commissioners Frasier and McHugh-Aye; Commissioners Stewart, Matthews and Hoard-Nay. Motion failed 2-3.

Chair Hoard called for the vote on Commissioner Stewart's original motion to approve the variance. Commissioners Stewart, Matthews and Hoard-Aye; Commissioners McHugh and Frasier-Nay. Motion carried 3 to 2.

8. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-15**

**Public Hearing:** Request for “annual variance” from required 350’ Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 311 Ward Placer Place, Weaverville. APN: 024-680-35. Applicant: Caldwell-Johnson.

Associate Planner Watkins presented the staff report. He said this applicant is in Weaverville, but it is outside the opt out area. The applicant did update his site plan. He said looking at Page 5 of the staff report there is a typo that says “Dodson” which is up next. Watkins said in looking at the satellite image the cultivation site cannot be located without still needing a variance. Staff is recommending approval.

Chair Hoard opened the hearing to public comment.

Comments received from Agent Deidra Brower of Downriver Consulting, Applicant D’Andre Caldwell-Johnson and John Brower.

No further comments being received, Chair closes public comment on the item.

Commissioner Matthews moved to approve to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 320 feet from the residence on APN 024-380-29, from 350 feet to 326 feet from the residence on APN 024-680-30, from 350 feet to 152 feet from the residence on APN 024-580-32, based on Findings of Fact 1 through 4, and subject to Conditions of Approval 1 through 4. Seconded by Commissioner Stewart.

Commissioner McHugh asked for clarification of the APNs. In one place it says 024-380 and the other two places it says 024-680. Watkins responded the correct numbers are 024-680. Commissioner Matthews amended his motion to reflect the correct numbers of 024-680 and Commissioner Stewart amended her seconded to reflect the same.

Chair Hoard called for the vote. Motion carried unanimously.

9. **VARIANCE FROM REQUIRED 350' COMMERCIAL CANNABIS SETBACK** **CCV-18-16**

**Public Hearing:** Request for “annual variance” from required 350’ Cannabis cultivation setback from a neighboring residential dwelling [Ord. 315-816, Sec. 32.O.IV(5)(b)], located at 470 South Meadow Lane, Hayfork. APN: 017-440-26. Applicant: Dodson.

Associate Planner Watkins presented the staff report. He said Code Compliance Specialist Jeff Dickey reviewed the site and says the applicant could not move the cultivation area and meet the setback requirements. He said letters of support have been received from the affected property owners. Staff is recommending approval.

Chair Hoard opened the hearing to public comment.

Comments received from Applicant Matthew Dodson and Justin Hawkins.

No further comments being received, Chair closes public comment on the item.

Commissioner Stewart moved to approve the variance to allow reduction of the cannabis cultivation setback from 350 feet to 160 feet from the residence on APN 017-440-26, based on Findings of Fact 1 through 4 and subject to Conditions of Approval 1 through 4 as stated in the staff report. Seconded by

Commissioner Matthews and carried unanimously.

Chair Hoard stated since Director Tippett isn't here yet, we will move forward with Item 5 without him.

5. **PROPOSED AMENDMENT TO ZONING ORDINANCE ALLOWING FOR  
NON-STOREFRONT RETAIL COMMERCIAL CANNABIS LICENSES**

**PW-18-03**

**Public Hearing:** Proposed amendment to Zoning Ordinance allowing Non-Storefront Retail Commercial Cannabis Licenses. Located county-wide. Applicant: County of Trinity.

Director Hubbard presented the staff report. She stated this item was before the Board of Supervisors twice, once on April 3<sup>rd</sup> and April 17<sup>th</sup>, and then here at the Planning Commission on April 26<sup>th</sup> and is being brought back tonight to meet noticing requirements. She said you did make some revisions last time and those are incorporated in the document before you. She said staff had no more input.

Chair Hoard opened the hearing to public comment.

Director Tippett present 7:56 p.m.

Comments received from John Davis, Katie Quinn, Justin Hawkins, Adrian Keyes, Terry Mines, John Brower, Dave Holiday, John Letton and Everette Harvey.

No further comments being received, Chair closes public comment on the item.

Commissioner Stewart asked since Director Tippett is present can we bring it back to staff. Chair Hoard agreed to the request.

Director Tippett stated he has given a lot of thought over the last couple of weeks about the opt out areas. He said one thing he has learned as Director over time is that you have to ensure that if you have an activity going in on a spot that they do have the ability to, what he would say, in this particular instance, provide the opportunity for compliance. We do allow through the opt out, which is very restrictive rules, properties to develop and cultivate, but if they create impacts we really have to mitigate those through time and through our process. It concerns him that sometimes when you restrict things or allow things there is always that situation of unexpected return and that you might create a situation where you have a problem. He said one of his concerns is that in the opt out areas you say you are allowed to cultivate, but you're not allowed do anything as far as distribution, and one of the things he has learned in this program, to be quite candid with you, if you don't give them a route, they push the route. He said that's why he gets back to the word opportunity, for compliance, it's one thing we need to look for, is to make sure we have that route for people to be compliant and do what they are supposed to do.

Tippett said one thing he will say about this cannabis program, and he will attest to simply you look at the Cultivation Ordinance, it's been modified four times, that when we go and put on fingers on what the problems are, we do go back and mitigate those problems and try to make sure that the neighbor is not impacted. That's very important, that the neighbor is not impacted; but in these situations he looks at what the potentially biggest impact outside the cultivation is already happening is going to be, to him it's traffic, it's going to be people that are coming to going to deliver a product for \$3,000 or less; his recommendation would be to look at that as a Finding that if you were to want to put further restrictions in opt out areas, that you look at restricting the thing that we know is going to be a problem, which the one thing he can see is traffic like he's already mentioned. He said so just look towards that, but he reminded the Commission that if we do restrictions in opt outs that we have to make findings.

Commissioner Matthews asked so you are saying if we approve this as presented to us, we would need to

adopt findings that support the restriction in the opt out areas? Tippet responded if you say you can cultivate there, but you cannot manufacture or sell there, he was just saying that you need to be very definitive as to why you do that for the record so we can show why we are saying we don't want to have it in that particular area.

Commissioner Matthews asked if we could get an opinion from counsel since that's not something we've done before, having to come up with Findings on the spot. Counsel Larmour responded ultimately when you place a restriction or you make a denial, you're making specific Finding as to why you are doing that, even if you don't necessarily list the specific Findings staff is including them in the record as to how you made your decision. Matthews asked like the general finding that cannabis can be a nuisance or something like that? Counsel Larmour responded correct and he thinks that the issue is that some of these properties are already approved for the cultivation of cannabis in this area and he thinks what Tippet is saying is that in these smaller farms that creates the issue of the ability to legally move it and distribute it off the property. He said it's to facilitate for those in those restricted areas that have already been granted licenses. Matthews asked if we needed to craft Findings tonight or are there Findings that staff has that supports this ordinance that is presented to us. Counsel Larmour stated he thinks the Commission could suggest Findings and have staff prepare those, or you can make those findings on the record tonight and staff can codify those. Commissioner Stewart asked couldn't we also suggest that certain areas such as the Trinity County Waterworks District #1, which by the way is Hayfork, be included as an exception and not eliminated. She said it eliminates the need for findings for that area. Larmour said to clarify, you are talking about Sections e, f, g and h that have been lined out? Stewart responded she is talking about g, the lined-out area. Matthews said so you would keep the exception, or you could just strike it from the previous paragraph. Stewart responded you would keep the exception. She said how ever it is most affective to leave it in and not eliminate it from the ability to have non-storefront retail.

Commissioner McHugh stated so I understand the logic here, the logic is that someone who is growing in an opt out area and you are arguing that they can't find a licensed distributor to do the distribution for them, who would take care of testing, they can't find a retail outlet that could sell to them outside the opt out area, that's what you're saying, so the cultivators themselves have to do it in the opt out area. Today cultivators can deliver through a distributor who has a license anywhere in the state and what he's hearing is the cultivators in the opt outs so they have to do their own. Tippet responded he's going to turn it over to Director Hubbard because she knows this one better than he does, but the part is the processing and getting it ready.

Director Hubbard stated first in response to your question, they could find a distributor, but they want to have that ability to be able to do the delivery themselves without having to rely on an outside distributor if they did self-transport they could also be their own distributor. McHugh asked transport only? Hubbard responded in the affirmative. She said if they can do non-storefront retail, transport only will not allow them to go to retail, but this would allow them to take it to retail without having to go to a full distributor. McHugh said so the Board has already established Findings in the Cultivation Ordinance, the preamble to that, there's Findings about this being a nuisance, not only is it in the Cultivation Ordinance, it's in the Personal Grow Ordinance declaring it a nuisance, so apparently it's a nuisance and they have also found that in the high density areas essentially it's a big nuisance, and they drew boxes and said those are the opt out areas and in areas of high density we don't want this going on, now we will grant an exception for cultivators and the principle was they are being grandfathered in, but he understands dates have moved and so people can run out and get them even if they aren't grandfathered in they can go out and get one. Okay, but that was the intent of that, was to allow people that are already cultivating to do that. Now, and we have stacks of letters of people saying pleased don't grow the business in the opt out areas, so the notion is that growing the business in the opt out areas is concert to what the people want in the opt out areas, whether some opt out areas want to opt out of being an opt out, that's a different discussion and it's a fine discussion to have. But in the areas where the folks in the opt out don't want a spread of the

business in the opt out, he doesn't understand that because we grandfathered in this grower, the grower wants to be his or her own distributor that we need to allow that. He said that one is lost on him, if you recall when MRSA first came out all this vertical integration was not in there, you couldn't do all these things, he thinks you had two license types that you could have. Prop 64 kind of relaxed that a little bit, but the whole notion back when MRSA was making this stuff legal was you were going to have to go find a distributor somewhere to do your distribution, that was built in to the whole model. That got relaxed, but we have Findings that say it's a problem and who is in the opt outs, the Board has established those Findings; we have the public showing up saying yep we agree with that and he's lost on the logic that says because someone is cultivating we need to allow them to do manufacturing, distribution and retail, and he doesn't know what else you are asking for, but those are the three he's heard tonight.

Tippett responded just to abbreviate it, we allow processing of the product that they have grown. McHugh said that's part of the ag product, isn't trimming and all that part of the agricultural business pre-distributor, so that is the processing. He said in fact, at one point it made sense to him that we have centralized processing facilities, build a ware house and trim everyone's product there, maybe that's a good idea. Processing is maybe something that you carve out and look at separately. He said the logic is simply escaping him on the opt outs. He thinks we have Findings in the Cultivation Ordinance that we can borrow and it speaks directly to the opt out definition, these are high density population areas it's a nuisance, we're going to allow cultivation because it's grandfathered. He said the idea was these people had already invested, the expansion of it we are hearing direct input that it is not wanted.

Commissioner Stewart said she was fine with Lewiston, Trinity Center, Coffee Creek not being part of this, but the Hayfork area is till accepting new licenses. All those people who are currently cultivating and those people that are being granted new licenses should be able to have access to all other manufacturing, distribution, micro businesses, whatever, because it's really not an opt out area, at this point it's an opt in area. People are opting in to it because they have until July 1<sup>st</sup>.

Chair Hoard said that he is swayed by the action and organization the Lewiston Community has taken in protecting what they feel are their inherent rights against the nuisances they are being subjected upon. He thinks the decision we made last meeting to completely eliminate anything going forward in the Lewiston community was a fair choice; now that we should have stricken every single exception listed, he doesn't believe it was. In his opinion, he thinks it was abrupt. He said he's in favor of letting stand the complete cross out of Item f Lewiston Community Services District from any further ordinances being able to be developed in that community; but, he doesn't believe we should cross out Trinity County Waterworks District, definitely not, if they choose, or if it's the Commission's pleasure, to actually have them opt in, that can be further discussed. He said Coffee Creek Volunteer Fire District and Trinity Center, he really hasn't seen much interaction from that community for quite some time or have we received any letters or emails from residents of that community looking to be further opt out or having a cap put on further enacted ordinances, so he believes this should be revisited in terms of the other communities, but in Lewiston should stand as what was decided last meeting.

Commissioner Stewart said she agrees with that and she's fine with Lewiston opting out of everything, but she doesn't feel it's necessarily right for every one of these areas. Commissioner Frasier said he has a problem with saying that because we haven't heard from these other opt out areas like we heard from Lewiston that we should disregard those, they opted out and they think they are done. These people think they opted out, that they don't have to worry about it anymore. He would rather us leave this like it is, if there is actually as much of a drive in Hayfork as we are hearing at these meetings then he thinks Hayfork should go to the Board of Supervisors and be taken out as an opt out area all together, but that's not for him to decide, he's looking at these are opt out areas, the intention was to keep it out of these areas, it says right above the yellow stricken out "which are in high density areas, and therefore, create a substantial risk of a public nuisance," that is what we are trying to avoid and going around the opt out areas as much as we



can help the people in them. The Opt out areas are designed to protect the people in them that aren't cultivating and the cultivators that are in there peeked in under the wire, to him the ultimate goal would be to have cultivation move out of those areas. Those are high density, they aren't agricultural areas, the cultivators that are there the ultimate goal would be to make enough capital to move into an area that is better suited to cultivation. Any business that's in the wrong area, their ultimate goal should be to move to an area that suits them. He doesn't think it's a good idea to encourage growth in these areas. That's not the intention of opt out.

Commissioner Stewart said the Trinity county Waterworks District does not even close until July 1, 2018, it hasn't even closed yet, there is no cap on these, as many people as want can make their application and that is not exactly the definition of an opt out area, it does not fit and so it should not be included. Frasier said it should not be an opt out area. Commissioner Stewart said we can define it here.

Chair Hoard it's a land use issue, we can make an assessment of it and submit it to the Board of Supervisors if that's the will of the Commission. Commissioner Frasier said we've heard from Hayfork, but we haven't heard from all the people in Hayfork. Stewart said she represents Hayfork and she's heard from enough of them. Frasier said you put a notice in the newspaper that we're going to talk about removing Trinity County Waterworks District No. 1 from the opt out and then take public comment, that way everyone knows what's going on. He thinks we should stick with the original intent of the opt out areas. Stewart said she has no objection after July 1<sup>st</sup>, unless the Board of Supervisors changes it if that is their determination after July 1<sup>st</sup> then it becomes an opt out area. It obviously isn't right now because anybody, as many people as want, can apply for a Cannabis Cultivation License, that is not the definition of an opt out until it closes on July 1<sup>st</sup>. She said in Hayfork a lot of the areas that are perfectly suited for some of these extra activities are in the Waterworks District and it's not even a question of where the cultivation is happening, it's the land that the buildings are sitting on, the way they are zoned, they are suitable for some of these other things. Commissioner Matthews said we are only talking about non-storefront retail and people keep bringing up manufacturing and other things. Stewart said she knows, but the thing is obviously the people in Lewiston want everything to be excluded and she's afraid if we aren't careful she's afraid that is going to end up happening with everything, and nothing is going to be allowed in those opt out areas, except for those few people that have cultivation licenses. McHugh said and that's the point of the opt out. Stewart said no, she believes if they have a cultivation license in the Hayfork area they should be allowed to do other things. McHugh said he likes Commissioner Frasier's suggestion that we actually have a hearing, notice that and let the public come in and talk about it, and they want to delete the opt out entirely, if that's what that area wants, then great we can delete it. In the meantime, we have Board Findings that says it's a high density opt out area and that's the framework we are working in, but if the reality is they are ignoring the opt outs, they can't be getting licenses and it is not unlimited when we hit 500 then there is 30, he means there is a limit. He asked how many licenses have been issued in the opt out area in Hayfork is. Director Hubbard responded she didn't know what the current number is. McHugh said it would be good to know because the last number he heard you could count on fingers, there were very few, it's been awhile since he got his numbers, so there's probably more now, but it's not hundreds and hundreds lined up in there, so if the people of Hayfork want this in Hayfork then terrific they should be able to do that. He said when we do the General Plan and the Community Plan they can put in there we want to be marijuana central in the County, that's great, that's what communities do.

Director Tippett said there's two things real quick, there was some confusion about manufacturing and distribution licenses and this license, and he directed the Commission's attention to 2.M, which should provide clarification. And then the opt out discussion has to be in the form of a request to the Board of Supervisors and then they will send it back to us.

Commissioner McHugh said what 2.M says is if you are a non-storefront retail licensee you may also be a manufacturing licensee under the rules of manufacturing, so if that's not allowed in the opt out then you

can't do any of this. If you are a non-storefront retailer outside all of the opt outs, and if the manufacturing ordinance passes, then you could be allowed to have that ordinance. That's what he reads into this. This says that two licenses can co-exist. Tippet said his point was you did allow it and if you were to allow it that that is part of the ordinance and it would be effective where you allow it. That was just his point. McHugh said that's not how he reads it. Commissioner Frasier if they were granting them those licenses with their non-storefront they are able to apply for those license types too, which if they don't fit they wouldn't be allowed to get that license, so he doesn't really see that would affect our decision here.

Commissioner Stewart asked so basically what you're saying is we just make the recommendation to the Board that we go with this exactly the way it is written and you are not willing to make a recommendation to the Board that the Hayfork area be an exclusion? Commissioner McHugh said he wouldn't be in favor of making that recommendation today, he would be favor of making a recommendation that this go to the Board. Frasier said she was saying you would not be in favor un-striking Hayfork in this Ordinance. McHugh responded correct, he would send up two recommendations, hypothetically here for thinking off the top, that we send this up as it is and we send up a request that they consider having a public hearing, either there or here, on the whole subject of the Hayfork opt out.

Counsel Larmour stated we've gotten beyond the point of discussion and into the decision making, so at this point we need a motion and a second.

Chair Hoard stated that he likes the idea of noticing, but he fears that is just going to carry on and carry on and we are going to revisit it two months down the road. We recommended this to the Board last meeting and he doesn't see why we can't recommend to the Board to actually reverse, specifically, Trinity County Waterworks District No. 1, reverse crossing it out of the exception. He said as we stated before adhere to the Lewiston Community, their intent and desire to be excluded from here on out. He said we recommended this last time and doesn't see why we can't recommend a reversal.

Commissioner Frasier suggested someone needs to make a motion one way or the other. Chair Hoard agreed. Commissioner McHugh stated there's a couple of other things we may want to put in the motion. Counsel Larmour stated you can allow her make her motion and if she doesn't get a second or you want to make a competing motion. McHugh said we've heard some other things, there's some words missing and some other changes that should be made in the thing we ultimately send up. Counsel Larmour said ultimately that's fine whether you want to make a motion, but she has a motion on the floor

Commissioner Stewart moved that we forward this to the Board of Supervisors as written, with the exception of Section 2.I.g, the Trinity County Waterworks District 1, that it be un-stricken and be an exception.

Counsel Larmour stated he wanted to clarify for the record that she is talking about Section 2.I subsection g. Commissioner Stewart responded yes, that is correct.

Tippet said he also wants to provide clarification that you are only talking about this ordinance, not the overall question about opt out areas. Commissioner Stewart responded yes, this ordinance.

Commissioner McHugh seconded the motion.

Commissioner McHugh said he thinks we need to reinstate the last sentence in paragraph d "An exception to this limitation is allowed to applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by the following dates:" and then put that date back in.

Commissioner Stewart agreed, stating she is amending her motion to include “An exception to this limitation is allowed to applicants who have submitted an application for enrollment under NCRWQCB Order #2015-0023 by July 1, 2018 in the Trinity County Waterworks District No. 1”. McHugh seconded the amended motion.

McHugh said staff might want to look at this because this is no longer accurate, you no longer apply to the North Coast Regional Water Quality Control Board and that Water Board order is no longer in effect. He said there were some points made under I.i. I the first sentence where it says “Non-Storefront Retailers are only allowed in zones...”. That should read “Non-Storefront Retail licensed premises” are allowed. He said there was a whole question about cleaning up what we call the retailer, the person vs. the license vs. the premise, there are definitely some confusion points in here, and so maybe premise needs to be defined. He said a careful reading would call out spots like that.

Chair Hoard called for the vote on the amended motion: Vote polled: Commissioners Stewart, McHugh and Hoard-Aye; Commissioners Matthews and Frasier. Motion carried 3-2.

## **10. MATTERS FROM THE COMMISSION**

Commissioner Frasier stated in our last meeting he didn’t answer Director Tippett when he brought up including Class K Housing in the General Plan in the Housing Element Update. Frankly he was a little shocked when that suggestion came forward because this whole thing started during public comment when we updated the Housing Element last time and we were told by staff this wasn’t the place to put this, and we didn’t do it then. He said when he took that back to the people he’s been talking with about this in his district, the general consensus was that staff is either slow-walking or stonewalling and would like this to die. He said he would like to see an explanation or some movement in this area. He said it’s not that difficult of a thing to deal with and it was brought up under the Housing Element and the people were told before that wasn’t the place for it and now we are being told that’s when we are going to do it. He said there is a bit of confusion for him and the people who brought it up in that area once before.

Director Tippett said if he recalls correctly, we did say that, we were trying to get the Housing Element through at that time, it was something that warrants being brought up, we said we would look at it prior to the next Housing Element being developed and approved, so he felt that fits in there well. The Housing Element is due in two and a half or three years. Commissioner Frasier responded one year, 2019 he believes. It was two years late by the time we got done last time, so he doesn’t really count on 2019 being the date certain, even for the Housing Element, it’s going to be undoubtedly late; once again tonight we heard in public comment why don’t we move forward with this, it’s something that the County can get behind, people are interested in it. He’s talked to a lot of people who didn’t realize we don’t have it yet. He said he thinks the County can benefit, he knows of a lot of houses in his area that if you gave them an avenue would go get a permit, go on the tax rolls. He said these are not shacks out in the woods, these are homes that people have constructed and have lived there their entire lives and can’t afford to build a house following precise code, but they’ve built the house that’s up to code but with homemade lumber or recycled windows or whatever. He said they want to be compliant and they want to pay their property taxes because they don’t want that cloud hanging over them, but at the same time the County isn’t providing that avenue.

Chair Hoard stated since this whole Class K topic came up, we received a set of documents emailed from Tom Ballanco three or four weeks ago, he has reviewed those documents and is currently reading Mendocino County, Mono County and Sonoma County limited density ordinances to see how those can incorporate directly into Trinity County. He said he’s also been reading FEMA documents and plans on meeting with the Assessor’s Office, licensed realtors and Building officials and inspectors to get their feedback. He said he understands from staff’s point of view the ordinance, it’s more than just

ordinances, it's implementation, and that carries a lot of time, a lot of tweaking and what not. He said he wants to see this Commission move forward on this Class K and if we have the valued input from all these different areas that will be affected, he thinks we can present a document that can sustain and help implement it. He said he's very much in favor of moving forward with this and seeing it through. He said he's hoping to present something to the Commission by July actually.

Commissioner Matthews advised that he will not be here the first meeting in August.

Commissioner McHugh stated he will be gone on June 14, 2018.

**11. MATTERS FROM STAFF**

Interim Planning Director Hubbard said staff is looking at the best way to handle variances, because we have a large number right now, and staff is currently talking to County Counsel about using a consent agenda for handling those. So, we are trying to work out the bugs and have it by the next Planning Commission meeting. She said she will keep them posted as to how it is coming along, so you will know what to expect during the next meeting.

Commissioner Matthews stated as we've heard some 80%, basically we don't have any problem if they have written permission from the affected landowners, couldn't those just be done administratively and not have to come to the Commission. Hubbard responded that's part of the conversation we are having with County Counsel. She said we are supposed to be noticing them. Matthews asked you just have to go through the public noticing process, right? Hubbard responded correct. Commissioner McHugh said right now the ordinance says it has to go to the Planning Commission or Zoning Administrator.

Director Tippettt stated right now, the Board had chosen that process, they can always choose another process, but we are looking at how best to accommodate so we can get through it expeditiously as we can. Counsel Larmour stated our office is currently looking into that issue, whether a public hearing can go on the consent agenda. He said he hopes to have an answer by June 1<sup>st</sup> if it can be Implemented at that time.

**12. ADJOURN**

The Chair adjourned the meeting at 8: 55 p.m.