

**MINUTES**

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**1. CALL TO ORDER**

Chair Mike McHugh called the meeting to order at 7:00 p.m. Members present: Richard Hoard, Dan Frasier, Diana Stewart, Graham Matthews and Mike McHugh. Staff present: Director Richard Tippett, Deputy Director Leslie Hubbard, Deputy County Counsel Joe Larmour, Assistant Planner Bella Hedtke and Administrative Coordinator Ruth Hanover. Others present: Mark Chaney, Principal Scientist, SHN Consulting.

**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 Veronica Kelly Albiez, Andrew Franklin, and Liz McIntosh.

Ms. McIntosh requested the matter of the Smith Tailings CUP Project revocation be agendized.

Director Tippett advised he became aware of the work going on out at that location late this afternoon. He said his first impression was this had something to do with CalTrans and the cleanup they are doing at Valdor Road. He said he did request, last time when the Big French Creek slide was over, that CalTrans would call and coordinate with us and he did not receive a call, so we are going to be following up to verify that, and if it wasn't that, then we will find out what's actually going on. He said he wanted to let Ms. McIntosh know that we are looking into it. Chair McHugh requested Director Tippett report back with his findings at the next meeting.

**3. MINUTES – None.**

**OLD BUSINESS – None**

**NEW BUSINESS**

**4. PROPOSED MITIGATED NEG. DEC., REZONE AND USE PERMIT FOR CANNABIS DISTRIBUTION FACILITY.**

**P-17-45**

**Public Hearing:** Proposed Mitigated Negative Declaration, Rezone from Highway Commercial (HC) to Heavy Commercial (C3), and Conditional Use Permit for Cannabis Distribution Facility. Located at 30661 State Highway 3, Douglas City. APNs: 015-490-08, 09, 10 & 11. Applicant: Mines. *(Continued from January 10, 2019)*

Chair McHugh stated he wanted to let the public know this is a complex item, there are actually three items that the Commission will be looking at. There's a CEQA document, it's an Initial Study the Mitigated Negative Declaration which will be reviewed by the Commission, then there is a Rezone of four parcels from Highway Commercial to Heavy Commercial and then there's a Conditional Use Permit. He said it is a tiered set of actions, each action needs to move forward so we can consider the next action, so we will take them in that sequence. For each one of those we will have a 3-minute public comment period for each item. It will extend the evening a bit, but he thinks it gives us the most open

opportunity for the public and the applicant to engage on this.

Director Tippett said he wanted to go through a little bit of the history of use permits and using consultants because there seemed to be some earlier confusion so he wanted to touch on that real quick. He said when the Board first established this program a lot of these projects were going to require a use permit, and as you may recall there was concern about a large number of use permits. We have a limited staff and when you are in those types of situations, it is quite common that county staff will go out and seek a consultant to help augment getting the work done with the consultant's staff. He said in this case we went to SHN a little more than a year ago to have assistance to do on-call work which had to do with cannabis and planning activities. It could have been anywhere from a difficult permit to a use permit, but essentially what they do is serve as an extension of staff to keep doing the work while we are moving through things. Tippett said we did initially assign this project to SHN and they were our consultants through this project, they had the same responsibility as staff would have had, which is to look at this project with an unbiased approach and make the assessments that needed to be made. Actually, being that they are consultants out of the area, it could probably be said they would be a little more independent than staff would be. As he mentioned, they are there to do the use permit, they have been working their way through it, the applicant has had some discussion with them about timelines and presenting information. He said we do keep the applicant's interaction with the consultant limited so we can get a report prepared that is based on the facts, rather than opinions either left or right. They presented the report, one of the things he wanted to mention is that in that report there's requirements that have to be met in order for it to be a mitigated negative declaration, which essentially, there's environmental impacts that are mitigated back to not significant, and when we're in that situation, and it meets all County Codes, it's staff's duty to recommend that project and move it forward. So, with that, unless County Counsel has anything else to say, he introduced Mark Chaney who is the Principal Planner for SHN and he will be presenting the project tonight as an extension of staff.

Mark Chaney stated he was with SHN Engineers & Geologists of the Redding Office, and presented a Power Point along with the staff report.

Commissioner Stewart asked with the light, the residences are down the slope, did you look at or address the height of light standards? Because obviously the taller the light standard, the more impact it would have on those down slope residences. Mr. Chaney responded currently, as proposed, there are no light standards proposed for the project. Light could be affixed to the bases of the buildings or maybe some lower perimeter lights on the fencing, we don't have any indication that there's going to be light standards for us to talk about. The typical light shielding, it does spread the light down obviously, but it doesn't spread the light out. The intent of the light shielding is for the dark sky and other state and federal regulations and try to minimize that as much as possible so we're not getting up-lighting. He said we do recognize the properties behind and down below, there is a slope there, and the current cannabis distribution facility is closer to Highway 3 than it is to Marshall Ranch Road and it's frankly a lighting standard, and then to have to go through the enforcement process in terms of is there a problem, but at this point in time we don't have any lighting standard [inaudible].

Commissioner Stewart said she also has a question about traffic, both pedestrian and vehicular. You indicate that access is from Highway 3, but you don't make that a condition, that access only, both pedestrian and vehicular, be from Highway 3 and not from Marshall Ranch Road. She asked if there was a reason that was not made a condition. Mr. Chaney responded we're not trying to condition the project for some of the items that are kind of outside of their prevue. When we looked at traffic and transportation, the proposed access is coming off Highway 3. He said that's what we looked at, the impacts from there. We could make all sorts of recommendations for conditions of approval that may not be pertinent, so that's really kind of one of those things, whereas the Planning Commission decides this project should have, in your opinion, additional conditions, that would be in your prevue.

Commissioner Stewart said her last question is about a generator being used in an emergency situation. She did not see anything about generator noise and possibly shielding or insulating against ambient noise from that. Mr. Chaney responded the only indication that we have, is that because it does have power from Trinity Power, that's the primary source, temporary emergency type uses that may or may not be used is pretty difficult to analyze. He said you are correct that we have a note in there that indicates any generator sources have to comply with State requirements for those generation sources in terms of the noise and air quality. So, whether that is a separate shielding, whether that's in a building, you know it really depends on how, what type of generator comes in, and since it's temporary minor, not a permanent part of the project; if it was a permanent part of the project that was proposed, and we have projects throughout this and other counties that are run on generators, if it is that, then we have to look at that in terms of a stationary source and go through the air quality calculations and make sure it meets that and has the noise condition as well.

Commissioner Matthews said he has one question, you show the three residences that are adjacent to the proposed project and asked are there other undeveloped parcels in there? None of the maps show the parcels in that RR 2.5. Mr. Chaney responded according to the map there are six or seven, there's three that are developed now, some type of development associated with the residences and there are other parcels that are vacant or undeveloped.

Director Tippett said he wanted to talk about conditions of approval. There is a condition in there that requires downcast lighting and lighting that doesn't go off the property [inaudible]. The current lighting technologies with the proper screening can greatly reduce ambient lighting [inaudible].

Chair McHugh asked if the applicant or agent would like to comment on the CEQA.

Applicant Terry Mines of Junction City stated it looks like a very good and thorough CEQA document. He said the reason we went off Highway 3 is because that's the way we're going to go, it's a business and we didn't want to go through Marshall Ranch Road residential neighborhood, that's why it was set up that way. He said as far as the lighting goes, going back towards Marshall Ranch Road, that's all motion detector lighting, the more serious lighting is going to be out in the front towards Highway 3 where the actual business comes and operates to and from. He would hope it stays pretty quiet back there because of the fencing and nothing's moving and wouldn't really have that kind of effect.

Chair McHugh opened the public hearing to comments on the Initial Study/Mitigated Negative Declaration only, asking the public to keep their comments to three minutes, no clapping and show respect to the speaker.

Comments received from Veronica Kelly-Albiez, Michael Snyder, David Albiez, Gail Goodyear, Veronica Veronica Dudin and Jed Medin.

No further comments being received on this portion of the item, Chair closes public comment period.

Commissioner Frasier asked if staff was prepared to give more information on the existing septic, if you have a residential septic that's existing on the parcel, how would that be compatible with up to twenty employees, plus incoming business., that's a major difference from a two-bedroom or three-bedroom home. Mr. Chaney responded in terms of looking at the documentation provided to us in terms of the septic system, we've received no additional comments from Environmental Health in terms of additional work. They were notified we were looking at the site for the cannabis distribution facility in terms of the CUP for that one, for the existing septic. According to the County Environmental Health at this point in time, they had no comments about expanding it at this time, they would want to have the applicant come

in at the time of development to say I need to have additional septic, or a failed system, but there's no standard requirement when we noticed the Environmental Health department to provide any additional comments. So, from that standpoint, we had no additional information, other than the septic information we already had. He said for the CEQA document, the applicant wasn't required to develop a septic system report for additional soils analysis, that's something that usually comes along with the Building Permit, because you take a risk that you can get septic on your property, or you can get approved for a larger system, then you can't build your project or your project can't meet county standards, that is a risk that the owner has to accept themselves.

Commissioner Hoard stated in light of Commissioner Frasier's comments, he has some comments. In regard to the bathroom, he believes OSHA requires if you have a minimum of 15 employees, then you need to have two restrooms, so it's clear that one-half bathroom and sink that serves a concurrence sewage disposal system seems to be inadequate, if in fact, a business proposal, is proposing between 16 and 10 employees. In light of that and before we move forward, he believes that an engineering study to test the capacity of wastewater discharge at that location should be conducted. He said he doesn't know if this is something that should be required before we move forward or continue to address the Rezone and Conditional Use Permit, or is it something that can be added as a condition when we address the CUP, but he wanted to bring it to light. We've heard testimony from multiple areas and residents and also, it's clear and evident from the reports we've received that the percolation is very poor in that area and this is a weighty concern, how is the sewage or expansion of the sewage may be obtained and even feasible.

Chair McHugh said he had a question about the traffic study in the IS/MND. It used the standard book, he thinks it referenced manufacturing is the type of facility that was used to come up with the 43 tops; this isn't a manufacturing facility, this is specifically a facility targeted at distribution, which under the license includes transport, so, in other words, the distribution facility has traffic coming and going, has traffic going to testing labs, let alone a daily commute by up to 20 people, and asked are you confident that 43 is representative of what a distribution facility is as opposed to a manufacturing facility? Because you're only 7 away from 50. Director Tippett responded yeah but 50 is for [inaudible] peak hour, 40 is, if he recalls, the daytime expected trips that you have coming in and going out; but even then, first of all, also this rests along the CalTrans Highway 3 corridor, so if you do any type of improvement on Highway 3 would be generated by CalTrans for any type of additional improvements. What we're looking for is, is there anything that would trigger some type of improvement, and one of the things he wanted to point out is the level that we have here is very very close to approaching insignificant, even at that, he would point out that Tom Bell Road does not have a left turn encroachment, yet that goes to the county dump and in volumes in excess of that [inaudible] although some day we are putting up a left turn, but there isn't one there now. Another example would be East Weaver Creek Road, he was trying to pick examples of roads that do not have left turns, but still function as they are. He said what he looked at when he was looking at this, it has very little design, it does not generate anything additional or unusual to all the other types of businesses that are along the type road we are looking at and so therefore, there was really nothing that would trigger any type of improvement recommendation or improvement plan.

Chair McHugh said one other comment was about cumulative impact, and that strikes him as relevant in the sense of, what is the cumulative impact of deleting four more Highway Commercial parcels. The Community Plan emphasizes Highway Commercial, in a vacuum we could look at these four as four parcels, but it's actually four fewer parcels in the entire county, the entire area, Douglas City. He asked Mr. Chaney did you think at all what's the impact of four more Highway Commercials going away?

Chaney responded the answer is yes and no. Yes, we did look at if it would reduce Highway Commercial properties in the county; and no, we did not look at this as a CEQA issue, because reducing the lines on the map potentially, changing the colors on the zoning map, doesn't have any direct environmental

triggers. The appropriate analysis under your scenario is the General Plan and Planning Commission issue in terms of does that make sense, do we want to have that type of an impact from a non-CEQA issue in terms of our neighborhood community compatibility land use designations planning. So, it doesn't have a direct CEQA impact. He can't draw an analysis that says if I change the color from one to another there's automatically a direct CEQA impact. There may be some indirect things, but in terms of the context have them change county-wide, no. Chair McHugh said we'll come back to that point.

Commissioner Matthews said on Page 19, under Cultural Resources, under the Findings for that section, it says "...it will be included in the EIR prepared for this proposed project." He said it might be an error. Mr. Chaney responded the EIR, unfortunately for those of us working on CEQA, EIR and the Initial Study/Negative Declaration are often times interchanged. The intent is not that this is an EIR clearly, and even in the CEQA Guidelines it the State has printed and mandated in their guidelines and directions, it specifically states in there EIR and Mitigated Negative Declaration relate to CEQA and not necessarily to the specific action. It's clear that this document is a Mitigated Negative Declaration, it has gone through process of noticing for that and there's no intent to be an EIR in terms of the procedural process. He said it was an oversight. Commissioner Matthews said okay because every other, and the findings talk about what the impacts were, if there weren't any, and if they were mitigated. He said this is pretty different. Mr. Chaney agreed, stating they are working on three other EIRs right now, so there are sometimes mental blocks.

Commissioner Hoard said he has a couple of comments which he should have piggybacked off the last comments about septic, and its relation to Section 18, which is on Page 42, Utilities and Service Systems, Item (d) says "Have sufficient water supplies available to serve the project which serves or may serve the project from existing entitlements and resources...". One thing that has been noted from many neighbors is the lack of water, he knows the EIR states the well produces 10 gallons per minute. He said actually last night he called Laura Lynn who owns the Douglas City Garage and had a lengthy conversation with her. She's been there over 30 years, was a personal friend of Lee Shelton who has passed and was owner of the trucking company, she had actually made mention that those businesses there have experienced many water shortages over the years. When Lee Shelton owned it, she said "on a seasonal basis water had to be trucked in just to cover basic business needs, let alone fire suppression." He said also in addition to that, the testimony of many residents that their wells have run dry seasonally and what not, only exacerbates this concern, so he thought it prudent to bring this up to the Commission. Lastly, another thing he wanted to bring up is noise which Section 12 of the EIR, Page 34, (d) says "A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project". This got him thinking of hours of operation, he reviewed the Cannabis Distribution Ordinance and Section 22.5 which is related to Heavy Commercial in our Zoning Ordinance and none of it specifies any limitation on hours of operation, so just a suggestion to the Commission, if the Conditional Use Permit does get approved, he thinks it would be prudent to add some kind of hours or limitation on hours of operation just in relation to the proximity of the residence. Again, just a suggestion for the Commission to consider. Chair McHugh said he believes there is some noise rules in the General Plan [inaudible] time of day limitations.

Chair McHugh said we've talked about water a lot, water availability from a well and waste water septic discharge capacity for this project, or any other C3 projects that might be on these parcels. The question is, do those issues require further study in the Commission's opinion? Commissioner Frasier said he thinks it would require more study, because it seems to him like we are looking too much at what the proposed project is, rather than what the future could hold for four C3 parcels right there in regard to water and sewage disposal capability. If you put four C3 projects on that ground and we already have people talking about lack of water and inability for sewage disposal, we could create a major problem down the road.

Director Tippett stated when we are looking at this, we are looking at what would be the difference of use between Highway Commercial and C3, and it's hard to determine the specific change in use; but one thing he wants to point out is that any time you are creating a lot, creating a lot in itself in this action, this water would be something you have to verify and validate. In this particular situation, we are not creating lots, we are rezoning lots, so where the condition comes into play is at the time of the building of any type of structures or the final proposed use. We are rezoning from HC to C3, but we're not specifically saying what you're going to do; and so, what you can do, is you can say it must be able to percolate for the amount of employees you have, it must provide water as required for fire service and use. Actually, most properties what they are looking for is more the amount of water that it can produce for fire service, than they really are for drinking, because that's when water really comes out, because when you have a problem on your property you need a high volume of water. He said it's common to put those conditions in there, and when they pull a Building Permit a developer has to come in with his proposed project and say this is how many people are going to be there. He has to prove in his Building Application that he can serve what he proposes.

Chair McHugh said he accepts that argument on the other three parcels, but on this particular parcel we know what the use plan is and this is the CEQA document applied to that. Tippett responded and he did produce a well report that showed he could produce 10 gallons per minute and the well report was done by a licensed contractor and is something we're [inaudible]. Chair McHugh said but is that well on this parcel? Tippett responded no it is not. Chair McHugh asked so this project only works if we treat all four parcels as the CUP parcels? Tippett responded again, he had to prove water for the parcel that he is going to use. We are not creating parcels here and that's the important thing to remember. Chair McHugh responded no, but we're doing an environmental analysis of a specific activity that's been applied for on a parcel, point one, and point two, it's not only the potable water, it's the septic water issue for up to 20 employees. He notes specific numbers about, we're leaping ahead to the CUP part of the conversation, but this environmental study is specifically targeted at a use. This isn't a random study about a random parcel, this is a study about a Rezone and a CUP that we will consider in the future, but do we accept this environmental study as valid given we know what the parcel is going to be used for? Director Tippett said he would say in this situation, his usual advice is that this is handled through a condition, and as you say, if he cannot meet that condition, he cannot build that building, and so from the information that was provided earlier, we believe that he can meet that service, it is within the Planning Commissioners prevue to place a condition on the project that he shall do this in order to get that Building Permit. Chair McHugh asked it's a condition of the permit? Tippett responded yes. Chair McHugh said okay so that would come up again in the permit discussion? Commissioner Stewart responded yes. Commissioner Frasier said it seems intertwined. Chair McHugh agreed, saying it is very intertwined and it's interesting that we're being asked to recommend an environmental study for a purpose whereby it's unclear that it meets the environmental needs or not. Director Tippett responded again, those are handled through a condition that place restrictions, that make requirements that we need certain things. Chair McHugh asked so might a condition be that you've got to put the well on the parcel that's getting the permit. Tippett responded yes, you can make that condition. Chair McHugh asked so the environmental study would be telling us that in that area you can come up with a well that some times of the year produces 10 gallons per minute, but as a condition of approval that permittee has to develop a new well on that site that produces adequate water as a condition of approval for that building for that parcel. Tippett responded yes.

Commissioner Matthews asked if there were other options, could the applicant form a mutual water company for these four parcels and have a distribution system that would entitle each parcel to have some water from that well? Tippett responded he can propose, because when you're writing a condition, you don't say well, you say a rate that must be produced and you can say that it must come from that parcel, but he does have the ability to tie into a mutual water system, and that could be something that can be proposed for all the water for all the parcels. That's quite common in subdivisions, that they have parcels

that produce water, the other half can't, so they form a water district and they produce enough water for everyone. Commissioner Matthews stated in the well report he thinks it stated they tested for four hours, and asked do we have that information? He said he thinks he remembers that the description said it ran 3½ hours and it broke suction, they let it rest for 15 minutes and then started up again after that 15 minutes, which he thinks would have been 11:45 a.m., and it was still running at Noon when they ended the test. He asked if that's the standard test that a well would go through? Director Tippett responded he couldn't answer that specifically, he looks to his staff to tell him that this can produce what it needs or what they're looking for. Matthews said if the well was producing 10 gallons per minute, then for that 3½ hours that would be 2,100 gallons that it produced and we don't know really how much it did after that, his question really is does that meet the standard, you said it's a licensed professional, that test is accepted by the County? Tippett responded yes, its reviewed by Environmental Health and they sign off on it.

Mark Chaney of SHN stated he could give a little more information on the general concept of that. He said Director Tippett mentioned there are numerous types of well production tests that go on, what we see typically for a well such as this on single parcel that has a what we would consider low volume of use, is the typical 3½ to 4-hour pump test. A well driller would normally come out and look at it and give us [inaudible]. He said there are other tests, there are standards for production of 8-hour, 24-hour, 48-hour, there's certain levels of production, but it's always based on the volume of water you need to get, whether it be for a production use or some other type of well. So, the answer is, 4 hours is kind of the standard that Environmental Health Departments across most of the Northern State are using. There are cases where they will require longer tests if they feel that it's needed or sometimes the applicant will run a longer test just to show there's adequate water. Commissioner Stewart stated it seems to her there is enough water for one parcel, if he is going to use the other three parcels, either he is going to have to submit to the County a plan and come up with more water, or it's going to come to us with a CUP and we are going to have to look to see if there's going to be enough water, because right now there's enough water for that one parcel. Chair McHugh asked that actually gets determined at the CUP time, when it comes into Building, not the CUP? Tippett responded when it comes in as a Building Permit, it's conditioned that you supply adequate water for the use that's proposed and then they go through and propose what the use is, what the well production is, we sometimes require tanks with it. He said fire, the biggest one is usually a fire condition that says when you've got to produce this, and most wells do not produce fire flows. To give you an example, the jail needed 1,500 gallons per minute, so you would have to have huge tanks to do that if you were doing a well; but water systems can do it, but what they do is on a lot of residential homes they require you to fill the tank, or put a tank on the side of the house so when the fire truck rolls up they can connect and get that water. But that water is stored water that comes out [inaudible], so it's a condition that you do if you do [inaudible] approve or not approve. It is [inaudible].

Commissioner Stewart moved to recommend to the Board of Supervisors that they certify the Initial Study and Mitigated Negative Declaration is consistent with the California Environmental Quality Act ("CEQA") requirements and adopt the Mitigation Monitoring and Reporting Program ("MMRP"), based on Findings that the IS/MND for the project has been prepared in accordance with the current California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq., and the State CEQA Guidelines, and the resources in the project area were evaluated in the IS based on the thresholds of significance identified in the CEQA Guidelines. Seconded by Commissioner Hoard. Motion carried 4 to 1, with Commissioner Matthews voting No.

Chair McHugh moved on to the Rezone portion, stating this will also be treated as a separate action by the Commission and will have a public comment period associated with this. He asked if there was a staff report for this. Mark Chaney of SHN responded there is not, the staff report covered the full project.

Director Tippett said he wanted to mention now we're getting more into the conditions. The Mitigated

Negative Declaration talks about the mitigation, this is where you get into conditions for use permits [inaudible]. Commissioner Frasier said we don't need the conditions in order to do the Rezone. Commissioner Stewart said she thought we were handling these separately. Tippett responded we are handling them separately, but the conditions kind of blend. Chair McHugh stated the conditions end up on the permit, not the Rezone. Mark Chaney responded that's correct, it gives clarity there, in your packet on Page 16 are some of the recommended conditions of approval for the Use Permit. You could look at those, there may be other ones that you want to include or delete depending on additional comments relating to the Rezone; so, this would be a Use Permit and Rezone would be combined, so at the end of the day, if this was approved by the Board of Supervisors, and a permit was issued, the conditions of approval for that action could include items with the Rezone. It could be staggered to have certain items must be done prior to issuance of a permit, define the Rezone, there's different ways it can be done, either this body or the Board of Supervisors. Director Tippett stated building on that, earlier you were asking should we do this on four parcels, that would be a Rezone question, or should we do it with just the building itself, that would be a Building Permit question.

Chair McHugh stated the subject at hand is the Rezone of those four parcels from Highway Commercial (HC) to Heavy Commercial (C3). He invited the applicant to speak to this.

Applicant, Terry Mines, stated he wanted to clean up the water issue. He said Mr. Shelton was using his eighteen logging trucks and washing them daily, he was bringing in extra water to wash his trucks and that was it. The craziness here of fearmongering over water, there's plenty of water on this parcel, we've had it tested by Isabelle Peterson, since then we've had it tested many times because we wanted to make sure you guys had all the tests, previous and future. He said as far as the Rezone, Highway Commercial property would use a lot of water also, probably more than C3. You have the same uses, you have major traffic on Highway commercial property, he thinks everyone forgetting what this is changing from and changing to. It will actually have less traffic on a C3 than it would on Highway Commercial, especially if I had a restaurant or I did something that was promoting say a fairground, or something of that nature, hotels. That's what this property is zoned for, we're actually changing it to a much smaller use and a lot of the numbers are in hopes that we are actually successful. We actually have to do this to be successful, we're all into a new portion of regulation here so it's part of that, so as far as changing use, this is very simple land use, there's already C3 there, there's a wrecking yard next door with Laura Lynn. There's never been an environmental study and our property has already been through environmental Studies, Laura Lynn's would never pass it because of what she does there, but our property is extremely environmentally safe and we're going to keep it that way.

Chair McHugh asked Laura Lynn's property is which? Deputy Director Hubbard responded Douglas City Garage.

The Chair opened the hearing to public comment on the Rezone only.

Comments received from Veronica Kelly-Albiez, Gail Goodyear, Liam Gogan, Chris Duyer, Dave Albiez, Chloe Albiez, Veronica Dudin, Justin Hawkins, Lisa Wright. Carol Fencil, Theresa Ickes, Bob Hunt, Kristy Bevard, John Brower, Steve Rhodehouse, Tom Ballanco, Marlinda Resick, Cheryl Myland, Everette Harvey and Gene Goodyear.

No further comments being received on the Rezone portion of the item, Chair closes public comment period.

Commissioner Stewart stated she feels very much like the gentleman who stated why are we rezoning four parcels, why aren't we just rezoning the one that needs to be rezoned? And why does it have to be C3, why can't it be C2? Because C2 would allow for distribution. She said she understands that if we



make that change, that it would have to go back through CEQA, she believes, again. Mark Chaney stated he didn't believe that is the case if you've gone through the process, the CEQA document evaluated all the properties, the action to zone or rezone is your decision in terms of how you want to allocate land uses out there and to determine that the rezone could only be done for one parcel or two parcels or however you wanted to do it. CEQA looked at all of the project as a whole.

Chair McHugh asked if he could ask his cumulative impact question again. Mr. Chaney responded he could do that any time he wanted. Chair McHugh said there are six Highway Commercial parcels that remain there, there's the so-called auto repair. Mr. Chaney said there's four parcels in this proposal, there's the auto repair/dismantler to the north, there is the mini storage to the south, and then there is the logging truck yard. McHugh said so seven Highway Commercial parcels in this core district area, along the stretch there, and the proposal is to take four of them out of play as Highway Commercial. That's a big percentage. He said he's sympathetic to the argument that the community's Community Plan called for Highway Commercial type activities along this stretch of the road, and they put in at the time of the Plan eight, or nine counting the one that turned into Rural Residential, and now we're down to seven, he thinks, and four of those are taken out now, and that's a big chunk; so, the impact of reducing Highway Commercial down to a couple of parcels, and maybe they go away, on the eve of redoing the General Plan. He said he's going to encourage the people of Douglas City to get to work on your Community Plan Update, because the Board is threatening to initiate the General Plan Update this year, maybe next year, but a big piece of the input to that is the Community Plan; but we have the one we have, and that says that's in the core district of Douglas City and it's Highway Commercial, taking that much out of it at this juncture strikes him as a big impact, and back to his cumulative impact, all Highway Commercial in Douglas City, what's the picture there, what does it do to it, and maybe even extend it a little bit outside Douglas City for the traveling public, Highway Commercial, and he doesn't get the sense that we looked at it that way in this study. Mr. Chaney said that's correct, we didn't look at that in this study, again, because we weren't looking at General Plan consideration of how that zoning may or may not change. Chair McHugh said okay so it's not a CEQA question, but it is a cumulative impact question so he's kind of standing on the fence, but it's an issue and he thinks we need to consider somewhat along the lines of Commissioner Stewart's question, four parcels is a lot to rezone here. It's a big chunk of what's left in Douglas City along that stretch. He said he agrees, there's no restaurant there yet, but he doesn't think the answer is let's make sure we don't get one. Chaney said to amplify on his question and comment, that is exactly the point of having the three items on the agenda tonight, is the fact that you can have approval of one or two, but not a third or fourth, there's levels in there. Chair McHugh said he wasn't getting at what work had already been done. He said he thinks that's an issue and thinks this is where we do get to talk about socioeconomic issues, it's not in CEQA, but it's at the Board and it's at the Planning Commission and he thinks there are relevant issues here in those two areas.

Director Tippett said he does have some, what he believes might be, cumulative impact comments. He gave statistics through our County GIS System: There are 144 Highway Commercial zoned properties in the county, with 15 being in the Douglas City area. For Heavy Commercial in the county, we have 36 zoned properties, with none in Douglas City area. Chair McHugh stated with all due respect to the GIS System, we know that two of those Highway Commercial things in the GIS System are not Highway Commercial, so he would say it's probably largely accurate, but we're splitting hairs over whether we take four out of seven or four out of nine, it's a big impact, that's his main point. Tippett said being he had the information, he thought he would share it.

Commissioner Hoard stated he understands the complexity that was brought up by Ms. Goodyear and it does make sense to him. If so, the complexity of three other applications for C3 activities business proposals specific uses would have a significant cumulative impact in the area, to the neighboring residents. Furthermore, to change the zoning on APN 015-490-11 from RR to C3 with the lack of housing that exists in Trinity County seems inappropriate. So, if we move forward as a Commission, he

thinks it is important and prudent to just rezone the property in question that is specifically related to this CUP. He doesn't really see the need at the moment to rezone all three parcels. Just a suggestion to the Commission. Mr. Chaney said he would like to provide clarification for that, and asked in terms of the four parcels here, your concern is one of them is zoned Residential? Commissioner Hoard responded, isn't it? Chaney said no it is not, it has an existing non-conforming use, meaning that there is an existing residence on there, it doesn't conform with the zoning, but it's allowed because it existed at the time the zoning was implemented, and so it is an HC Parcel, it's not a residential zoned parcel. But there are residential uses on the parcel. He said it may not make any difference, but it is a clarification.

Commissioner Hoard thanked him and stated in fact, due to his argument in the cumulative impacts, it does not change his argument. The fact is three separate, so then if the rezone goes through, that would be four separate potential businesses, and with the controversy we are having now, imagine three more potential businesses coming to the area of impact. He doesn't believe the rezoning of all four parcels is appropriate measure to take at the time.

Commissioner Matthews said obviously it's a challenging issue. When he first looked at it, he said oh well, there's some precedent, right, we have an HC parcel rezone to C3 right there, and you look at the existing uses in the area, they are more like C3 than they are HC; and if you look through the list, and as people have told us, HC are probably more intensive uses for water and wastewater than C3, so at least on the surface, it would appear to make sense that a rezone would be fine. It would be in character with what is out there and historically what has happened. Commissioner Frasier asked what's the precedence then? Matthews said but he thinks when you consider the neighborhood opposition, if nobody wants it in Douglas City, then he has a hard time supporting something that all the residents adjacent to are against. That's what's tough for him. Basically, what we know is those parcels really don't support much use at all, whether it's HC or C3. The Community Plan has been out there for over thirty years, it would be great if there were HC uses there for the community. They've had thirty years and they've never really been developed, so do we need to give C3 a shot, he doesn't know but we have a proposal here, it's a really tough issue, but he would come down on the side of the residents, that's where he has a problem. If there were no opposition to it, then we can keep moving forward, but in other land use issues that we've had where there's been extensive opposition, we've rarely moved forward with the proposal.

Commissioner Stewart stated she's heard from at least some of the people in opposition that they're not so much against the Cannabis Distribution Facility, they're against rezoning all four parcels to C3 and if you don't need it to be C3 in order to have your distribution facility, why make it C3? She said it's kind of a compromise, this is not so much rezoning as it is the CUP, but with the fact that the Hoffman enterprise is not going to happen, we will not have a distribution facility, we are in desperate need for a distribution facility. One of the reasons she is hesitant to zone all four parcels C3 is because looking what has happened when you have a large chunk of land that has been rezoned and the fact that then they have then been put out for sale and she doesn't think that is what Mr. Mines plans; but, like happened with Mr. Hoffman, his partnership fell apart and he was then undercapitalized. She said she's looking at a compromise.

Commissioner Frasier stated he can agree that, he doesn't see a reason behind rezoning the entire strip C3 and leaving no Highway Commercial, so if you do want a Highway Commercial use, you would have to fit it in on C3 or go through another rezone. It seems like if we were going to rezone limiting to the parcel in question, might also cover some of the concerns he had. Personally, he doesn't know if the CEQA is adequate for the rezone part, whether or not we looked at what could happen if we rezoned all this Heavy Commercial as part of CEQA, he still has an issue with that. It seems to him that CEQA is more geared toward the one parcel that something that has already been proposed for. He said he would have less of a hard time if we were only talking about rezoning that one parcel with the proposed plan on it, rather than all four. At this time, he would lean more in favor of the community of Douglas City who

spoke out in opposition to the rezone.

Commissioner Matthews asked could we ask County Counsel about, we were reminded about spot zoning by a member of the audience tonight. Counsel Larmour responded spot zoning is an issue where you ultimately place some benefit on one property owner over another, or you could create some zoning specific to a use to the benefit of one party, rather than their typical zoning. Spot zoning isn't triggered where you have a commercial property and the use is somewhat different and you are conforming to that use. Commissioner Matthews asked are you saying that HC to C3 on one parcel would not be spot zoning? Counsel Larmour responded spot zoning is, without taking you through the cases, it's a highly complicated issue, but basically what the court is looking for is where a commission is, for the benefit of one party, to the detriment of the other parties, specifically assisting them in a way that they wouldn't be assisting another resident; or that you are creating a zone for something that otherwise couldn't. So, it's not that it couldn't exist. He said there's four cases and he wouldn't say there's a bright line rule, but it's a very specific circumstance and he doesn't think falls into this. Commissioner Matthews asked so if we chose to proceed with rezoning a single parcel as opposed to the four that's proposed, to the layman that seems more like a spot. He said he's just curious. Counsel Larmour responded it's the number of parcels that you change the zoning on would not be considered spot zoning; so, although the term makes you think you are creating some small section, how large of an area you rezone and the number of parcels in it wouldn't be one of the factors in spot zoning. Commissioner Stewart said so it's more preferential treatment. Counsel Larmour responded in the affirmative. Commissioner Matthews asked and the preferential treatment was related to whether or not that use would be able to occur somewhere else, but not on that, if you didn't do the rezone? Counsel Larmour responded the cases that are triggered here, like he said, there's really four of them that follow that line, but it would be basically the Planning Commission understanding that something is not in the benefit of the community, and zoning it for the benefit of somebody against that rule. Now when he says the best interest of the community, that doesn't necessarily mean that people aren't impacted by a rezone. A lot of these rezones are impacting.

Chair McHugh asked what's the pleasure of the Commission. Commissioner Mathews said so we've got a proposal for C2. Commissioner Stewart said why don't I just go ahead and do a motion and then we can discuss.

Director Tippett said he wanted to make sure County Counsel hears this, he would recommend that we allow the applicant to speak to that issue before you make a motion. Mark Chaney stated County Counsel and he were discussing and want to make clarification that in order for, according to the County Ordinance, the distribution facility must be on a C3. Commissioner Stewart disagreed saying distribution is C2. We need to take a look at those ordinances, we need to clarify, our understanding was it would be C3 zoning for distribution facilities.

Chair McHugh invited the applicant to step forward if he cares to. He said the question for the applicant would be, if we were to select one parcel, would you be amenable to... Commissioner Stewart said before we do that, under C2, Ordinance No. 315-711. Chair McHugh asked the applicant would you be amenable to one parcel being rezoned and would you be amenable to something other than C3? Mr. Mines responded as long as it applies and it allows our application, he thinks that's fine; but could he discuss a couple of minor things. He said he thinks we're getting a little off track here, it's a simple rezone, it's a land use issue and we're taking a lot of things into play here. People are putting down like, they're comparing him to Somi Hoffman, it's very upsetting because he has a long track record of legal, regulated sales, and regulation is what brings safety. There's a lot of fearmongering going on here that's very unfortunate because it's not accurate. That's why we all came to this room once upon a time was to bring regulations and part of it was for safety purposes and he feels like that's getting totally deluded in fiction and it's not true. He thinks we need to focus on what's really here and this is a simple land use issue and that's what's in front of you. He said he's okay with changing it to C2, but you actually need to

quit thinking about less than 3%, less than like 0% of this County and understand that you said it multiple times, these parcels have not been in use for a long time, he's willing to invest heavily, we have multiple farms already, we've invested heavily as a family, we're not in debt, we own this property outright. You are accusing me of being Somi Hoffman who's underfunded. He said he's far from it, he's heard this come up a number of times, Somi's name come up over and over again. He said please understand, he's committed to this community, he has children in this community, they go to school, he works in this community; he's going to attempt this, he can't guarantee he will be successful and it be the winner of all this, but like you said, no one is doing this in the County and he's willing to take a foot and step forward. He can't guarantee success, but he will try and he's not selling. There's three farms that he has to distribute for himself.

Commissioner Stewart apologized to Mr. Mines, stating she was not trying to compare him to Mr. Hoffman at all, and if you recall she said that she did not believe that he was planning on selling. She asked Mr. Chaney if he was able to verify she was correct. Mr. Chaney responded we're trying to work our way through the ordinance. Director Tippet said both 2 and 3 [inaudible].

Commissioner Stewart moved to recommend to the Board of Supervisors that APN 015-490-10 be rezoned from Highway Commercial (HC) zoning designation to General Commercial (C2) zoning designation as provided in the County Zoning Ordinance No. 315, Section 21, General Commercial, with the Findings listed in the staff report on Pages 16 and 17, except for C2 instead of C3 and one parcel and not four.

David Albiez called for point of order, stating just to save the Commission from a mistake, the building height is over 25-feet which does not allow for C3, he doesn't know about C2. He said it describes that in the CEQA. Director Tippet looked it up, C2 is 25-feet and C3 is 25-feet, the existing structure would be grandfathered in.

Chair McHugh said no second?

Motion died for lack of second.

Commissioner Matthews moved to recommend to the Board of Supervisors the rezone of all four parcels be denied, based on the oral and written testimony we've received at the Commission. Seconded by Commissioner Frasier.

Commissioner Stewart said she feels it's a mistake, we desperately need the distribution and it's a question of economic development for the County, and especially for the Hayfork area and the 299 corridor.

Commissioner Frasier stated he can see where she's coming from there and he realizes our County could use some economic boost, but he also thinks we should not sacrifice the people who live in the community for said economic gain, so he feels that due to the overwhelming response from the people in Douglas City, that we should deny the rezone.

Commissioner Hoard stated needless to say this is a difficult topic and difficult decision. He said he believes the Commission has a responsibility, since we have put arduous hours, so has County Supervisors, the staff, ad hoc, to try to facilitate the mechanisms of the cannabis industry in and those that have heavily invested in it; but at the same time, we are responsible and we have that equal servitude due to the community members. He said he's not comparing Mr. Mines to Mr. Hoffman whatsoever, but just the fact that, that application went quite smoothly just because of the lack of community opposition and the location of such application and project, it's a difficult decision.

Chair McHugh calls for the vote on the motion to recommend denial of the rezone.

Commissioner Matthews asked Counsel if he needs to come up with more concrete Findings for this. Counsel Larmour responded he thinks your Findings probably should have some facts that are sensitive to opposition, so you can put in the Finding as far as economic value in the statements you are going to be making across the board. Matthews said so basically Finding No. 2, instead of saying not injurious, it would be injurious to the public health, safety and welfare, and asked if that was sufficient. Counsel Larmour indicated it was. Commissioner Frasier stated he would amend his second too.

Chair McHugh called that motion to a vote. Commissioners Matthews, Frasier and McHugh-Aye; Commissioners Hoard and Stewart-Nay. Motion carries 3 to 2.

Chair McHugh stated this application is being denied, that being the case, there's no tiering down to the CUP and we won't bring up that issue.

Mark Chaney stated he believes you need to discuss the right to appeal.

Chair McHugh advises Mr. Mines he has the right to appeal the decision to the Board of Supervisors and they can uphold it or overturn it, in which case they would probably send it back to us to consider the CUP. He believes those would be the next steps, and you have 10 days to file that appeal. Counsel Larmour clarified 10 working days. Mr. Mines asked if it costs money. Clerk Hanover advises there is a \$500.00 fee.

**5. MATTERS FROM THE COMMISSION**

Chair McHugh advised he will not be here January 24<sup>th</sup>, for scheduling purposes. Commissioner Matthews stated there's a strong chance he won't be here also. Commissioner Stewart asked if we are planning a meeting next week. Director Tippett indicated yes. Chair McHugh asked if the subject of that is public yet. Tippett responded in the affirmative, stating Mass Grading Permits, or Ordinance. Chair McHugh stated so next week's Agenda, the item would be Mass Grading Ordinance discussion. Commissioner Matthews asked is it a discussion or an actual ordinance. Tippett responded an actual ordinance

**6. MATTERS FROM STAFF – None.**

**7. ADJOURN**

The Chair adjourned the meeting at 9:35 p.m.