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TRANSCRIPT OF COUNTY OF HUMBOLDT
BOARD OF SUPERVISORS REGULAR MEETING
TUESDAY, JUNE 23, 2020
(Agenda Item: Planning and Building
Department, Item 2: Redwood Properties Appeal of
The Planning Commission Approval of The Emerald
Triangle Group, LLC Co's Special Permits to Allow
Cannabis Distribution and Non-Volatile
Manufacturing in the C-2(D) Zoning District)

Transcribed by:
Denise Herft CSR# 12983

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(2:07:01 to 2:47:58)

CHAIR FENNEL: So we'll go on now to an appeal coming to us from the Planning and Building Department. It's the Redwood Properties Appeal of the Planning Commission's approval of the Emerald Triangle Group's special permit to allow cannabis distribution and non-volatile manufacturing in the Downtown Garberville.

So I'm going to open up the public hearing and receive the staff report, and then testimony by the appellant and then the applicant. So I will go to Director Ford, please.

DIRECTOR FORD: Thank you, good morning Chair Fennel and members of the board, John Ford with the Planning and Building Department. Joining me this morning is Cliff Johnson and Stephen Luther to present the Redwood Properties appeal of the Planning Commission's approval of the Emerald Triangle Group, LLC's special permits to allow cannabis distribution and non-volatile manufacturing in the C-2 zoning district within the Garberville area.

1 The public hearing for this item was
2 opened by the board of supervisors on May 19,
3 2020, after it was pointed out by the appellant's
4 attorney that there was a court case pending on
5 this application and that the applicant's
6 corporation had expired, the appellant's attorney
7 indicated that the board di not have authority to
8 act on the appeal and indicated they would
9 discontinue participation in the hearing.

10 The board continued this item to today's
11 date to give the Court the opportunity to weigh in
12 on the matter of jurisdiction and to allow the
13 applicant to address the status of their
14 corporation.

15 We have received confirmation that the
16 applicant has reinstated their corporate status
17 with the state of California so they are a legal
18 entity. The court was also scheduled to meet
19 yesterday and did meet and Judge Neal signed an
20 order denying the request for a stay based upon
21 the lack of legal support.

22 The Court has rejected the petitioners or
23 appellant's request to have the Court stop the
24 county process. The board of supervisors is not
25 under obligation at this point to wait for any

1 further court action.

2 Since this is an appeal of an issued
3 permit, just want to point a couple things out to
4 you: First that the planning commission did
5 approve this with a 4-2 vote, but the appeal is de
6 novo, meaning that the board of supervisor will
7 take action on both the appeal and upon the
8 applications. The board will need to not only
9 consider the facts related to the appeal, but also
10 the facts related to the special permits.

11 The staff recommendation is to basically
12 uphold the planning commission's decision, which
13 would be to deny the appeal and approve the
14 special permits. It has been a month since this
15 item was introduced so at the pleasure of the
16 board, we are prepared to provide a presentation
17 of the matter to refresh everybody's memory on
18 what the nature of the application is and the
19 nature of the appeal, or staff is prepared to
20 answer any questions that you might have.

21 CHAIR FENNEL: As the chair, I would
22 request that you at least give us a refresher
23 basically because the last time we had this
24 hearing, it was somewhat fragmented by the
25 argument regarding the court's jurisdiction. I

1 think if we can you now focus on the task at hand,
2 it's important for the supervisors to hear what
3 the issues are.

4 DIRECTOR FORD: Very good.

5 Mr. Luther.

6 MR. LUTHER: Thank you, Chair Fennell,
7 supervisors.

8 I will go through the presentation
9 quickly. So the project is for distribution and
10 manufacturing, although that does tend to evoke
11 images of ethanol activity, the project site would
12 be using --

13 CHAIR FENNEL: Excuse me, Stephen?

14 MR. LUTHER: Yes.

15 CHAIR FENNEL: Are we supposed to be
16 seeing your desktop now because we don't?

17 MR. LUTHER: Oh.

18 CHAIR FENNEL: It's just black.

19 MR. LUTHER: Okay.

20 SUPERVISOR WILSON: I can see it.

21 SUPERVISOR MADRONE: I can see it.

22 CHAIR FENNEL: Okay. I can't.

23 MR. LUTHER: Okay. Well, the -- it would
24 be light equipment and vehicle type would be a
25 Sprinter van, a small-type vehicle. The project

1 is located on Redwood Drive on a commercial block.
2 The project would occur on the first floor of this
3 three-story building. Half of the floor would be
4 devoted to the distribution activity, which
5 involves (inaudible) products, and the other half
6 would be devoted to extraction using presses and
7 other mechanical needs.

8 There would be no ethanol extraction in
9 this building. Minor alterations would include
10 moving the wall partitions, installing stainless
11 steel work desks and adding secured entryways.
12 There would be no expansion of this building.

13 The use of the second floor office space
14 and the third floor residence would not change as
15 a result of this project.

16 There would be five employees per shift
17 with two eight hour shifts per day with the
18 business hours being Monday through Friday from
19 6:00 a.m. to 10:00 p.m. and Saturday and Sunday
20 from 9:00 a.m. to 5:00 p.m., and the Sprinter vans
21 would each make two deliveries per day.

22 The project does include a viewing area
23 for tourists, which was added to the project
24 following the appeal. Once inside the secured
25 viewing area, tourists would be able to see the

1 work area, and observe mechanical manufacturing
2 processes, except for the limited use, the project
3 would not be open to the general public or have
4 customers on sites.

5 The project is proposing to demolish this
6 concrete building and construct in its place a 180
7 square foot metal building to house a closed-loop
8 ethanol extraction unit, subject to an H-1
9 occupancy building permit.

10 The new building would be in the same
11 size as the building being removed. The structure
12 would be built according to the California
13 Building Code and fire codes. The third building
14 in the rear of the lot is a two-story storage
15 building, and that would be retrofitted with a
16 walk-in refrigeration unit to store cannabis.

17 So the project is located here in
18 downtown Garberville. The stars show churches
19 that are within 600 feet. However, the project
20 does meet all the required setbacks of the CMMLUO.
21 Shown here the project is in the community
22 commercial C-2 zone. This zone principally
23 permits uses such as furniture stores and retail
24 bakeries, banks, restaurants. The CCLUO
25 principally permits distribution in the C-2 zone

1 and permits non-flammable manufacturing with a
2 special permit.

3 The CMMLUO, which is the applicable
4 regulation for this project permits both
5 distribution and manufacturing uses in the C-2
6 zone with a special permit. The nature of the
7 special permit allows us to ensure compatibility
8 with the surrounding land uses.

9 The county has approved a number of other
10 distribution and manufacturing uses in the C-2
11 zone. As Director Ford mentioned, the project was
12 approved at the planning commission and is now
13 being heard here.

14 The issues raised in the appeal, first
15 the claim that the CEQA exemption for existing
16 facilities does not apply because the project
17 represents an expansion of use.

18 The second issue is an argument that
19 there is substantial evidence that the project
20 will result in adverse environmental impacts.

21 The third issue contends that the project
22 does not but should comply with the provisions and
23 Commercial Cannabis Land Use Ordinance.

24 This is the view of the proposed it
25 facade. The appellant asserts the California

1 Environmental Quality Act Exemption for existing
2 facilities cannot be used for the project claiming
3 that the project is an expansion of use beyond
4 what the site has been used or could otherwise be
5 principally permitted at this location.

6 The exemption for existing facilities is
7 appropriate because its proposed use will not
8 change the nature of area, result in changes to
9 the physical environment. It's proposing to
10 continue the commercial use of the space with
11 minor alterations to the existing buildings.

12 Proposal to demolish the concrete
13 building and construct in its place 180-square
14 foot structure all within the CEQA exemption for
15 construction of new small structures.

16 Prior uses of the site include Miranda's
17 rescue thrift store, the Garberville Boutique, and
18 The Healthy Choice Ice Cream Smoothy Shop. The
19 commercial grade equipment that would be used in
20 the manufacturing of cannabis products is of a
21 similar character of the types of equipment used
22 in an ice cream shop.

23 The amount of traffic generated by the
24 project is no different than a closing store and
25 could be even less due to the lack of customer

1 traffic. The change of use from one commercial
2 use to another use with similar characteristics
3 that results in minor alterations to the existing
4 buildings is entirely consistent with the
5 categorical exemption for existing structures.

6 The appellant claims there's possibility
7 of substantial adverse affects of the project such
8 as odor, ethanol, traffic, parking. No
9 substantial evidence has been provided that
10 impacts occur. Members of the public raise
11 concerns of potential odor impacts from the
12 project, condition of approval that is applied to
13 all cannabis projects and enclosed buildings
14 requires that applicant install odor control
15 filtration systems.

16 In regards to the proposed ethanol
17 extraction, this would be housed in a metal
18 building that would be designing specifically to
19 house this unit. It would be subject to an H-1
20 building occupancy, which in staff's opinion
21 addresses any potential impacts resulting from
22 potential fire danger.

23 The parking demand that would result from
24 the project is seven spaces. There would be five
25 employees per shift plus the two delivery

1 vehicles. This would be less than the 12 parking
2 spaces that would be required under County code
3 for the typical retail use in the same location.

4 The project would generate approximately
5 28 trips per day. The building on the rear of the
6 lot was being used as a mini storage facility. We
7 will discontinue this use, which will result in
8 less traffic down the alley. The parking and
9 traffic resulting from this project are no more
10 than what would otherwise be created from a
11 permitted commercial use at this location.

12 Third issue raised in the appeal was that
13 the project should be subject to the setback
14 requirements of the Commercial Cannabis Land Use
15 Ordinance, however, the CMMLUO is the applicable
16 regulation and does not require a setback for
17 manufacturing and distribution.

18 So it's the recommendation of staff that
19 the board adopt the resolution and make the
20 findings to reject the appeal and approve the
21 special permits.

22 Thank you.

23 CHAIR FENNEL: Thank you, Stephen. I
24 request that you take your presentation off the
25 screen, please, thank you.

1 Okay. So any further items from the
2 staff before I go to the appellant?

3 DIRECTOR FORD: Not at this time.

4 CHAIR FENNEL: Okay. Thank you. So
5 we'll now go to the appellant and speaker for the
6 Redwood Properties. You could speak to this
7 issue, please.

8 Ryan, do we have Ms. Jackson or any of
9 the team from Redwood Properties in the room?

10 MR. SHARP: Chair Fennell, I do not have
11 them in the attendee queue. I checked with Cliff
12 Johnson, and he confirmed that the information and
13 link was sent to them, but that's all the
14 information I currently have, and I don't have
15 anyone here representing currently.

16 CHAIR FENNEL: Planner Johnson, if I
17 might, can you confirm for me when the invitations
18 was sent and what the regulations are in terms of
19 informing the appellant that a hearing is moving
20 forward, aside from the fact that we calendared
21 this on May 19th when we had the first part of the
22 hearing?

23 PLANNER JOHNSON: Chair Fennell, so as
24 you mentioned, they were in attendance at the
25 May 19th hearing when it was continued to this

1 date. Yesterday when the Zoom link became
2 available I did e-mail that to Ms. Jackson and,
3 again, sent another reminder e-mail this morning
4 with that link.

5 CHAIR FENNEL: Have you got any
6 responses from Ms. Jackson or the appellant?

7 PLANNER JOHNSON: I have not.

8 CHAIR FENNEL: I don't really know where
9 this leaves us except -- Sabrina, you had your
10 hand up, sorry.

11 MS. TELLER: Yes, Chairman, I wanted to
12 inform the board that in the hearing on the motion
13 for a stay that the court heard on Friday,
14 Ms. Jackson represented in that hearing that it
15 was her intent not to participate in the board's
16 appeal hearing due to her belief that the board
17 did not have jurisdiction to hear the appeal.
18 Obviously the court has now rejected that position
19 in rejecting the motion for a stay, but I would
20 take from that the failure to appear is
21 intentional.

22 CHAIR FENNEL: Let me ask you this, I
23 really want to the record to be very clear on
24 this, were there any of the appellant's present in
25 the court hearing? In other words, is it your

1 understanding that the appellant's would be aware
2 of Ms. Jackson's decision not to attend?

3 MS. TELLER: I can't speak to that. The
4 court hearing was by Zoom as well, and the only
5 attendees were the attorneys.

6 CHAIR FENNEL: Okay. But in a case like
7 this, it would -- the appellant, first of all,
8 would have known from the May 19th meeting that
9 this was happening. Was there any further
10 communication the appellant aside from their
11 attorney?

12 MS. TELLER: No. To my knowledge, the
13 appellant has been acting solely through their
14 attorney. I couldn't gotten any indication that
15 they intended to participate on their own behalf.

16 CHAIR FENNEL: Thank you.

17 Counsel Billingsley.

18 COUNSEL BILLINGSLEY: Yes, Chair. I
19 would recommend that out of abundance of caution
20 I've heard representations, perhaps a five-minute
21 break, planning staff could reach out and
22 reiterate the hearing is happening now, and that
23 Ms. Jackson is welcome to attend. I think that
24 would be prudent at this point, come back in five
25 or ten minutes, and proceed with the hearing if

1 they're choosing not to participate, that would be
2 their choice.

3 CHAIR FENNEL: Thank you, Counsel
4 Billingsley.

5 Supervisor Bass.

6 SUPERVISOR BASS: Thank you, Madam Chair.
7 I think that suggestion is good. My concern is if
8 they're not able to be reached, though certain
9 people may be able to have a -- some people may be
10 able to reach this attorney, I don't know. My
11 question would be if we can't, would we then want
12 to put this to after our closed session, maybe at
13 3:00 or something. I'm looking at -- I hate to
14 not move forward with this just based on we can't
15 find somebody in ten minutes to confirm that they
16 don't plan to be here. Just wondering what the
17 options are if we don't find him in ten minutes?

18 CHAIR FENNEL: Counsel Billingsley.

19 COUNSEL BILLINGSLEY: Chair, if I might
20 in response, it's fairly clear that the hearing is
21 noticed for this day. I'm not saying that
22 anything we've done is insufficient. I'm just
23 saying why don't we take one more opportunity to
24 see if they'll participate. I think everything
25 we've done is completely fine at this point. They

1 just in a hearing several days ago. They know the
2 hearing is set for today.

3 CHAIR FENNEL: Thank you, Counsel
4 Billingsley.

5 Supervisor Bohn.

6 SUPERVISOR BOHN: What actions we take
7 today, are they appealable to the State?

8 MS. TELLER: Um.

9 SUPERVISOR BOHN: What action we take
10 today, is that appealable to the State?

11 MS. TELLER: Whatever action the board
12 takes today would be presumably the board's final
13 on action on the permit and the appeal, and,
14 therefore, the next steps any recourse would be in
15 State Superior Court.

16 SUPERVISOR BOHN: I kind of -- I get the
17 gut feeling that that's where we're headed, but
18 I'm just -- because I mean it's been on the
19 agenda, I think the opposing counsel would
20 probably know that. I don't know, I'm just --
21 so --

22 CHAIR FENNEL: Well, okay. So I think
23 out of an abundance of caution, I will take
24 Counsel Billingsley's suggestion, but I do kind of
25 like what Supervisor Bass recommended. Since this

1 was not a listed as a time certain item, could we
2 continue it to after closed session and that would
3 give everybody time. The inconvenience here would
4 be for the applicant, and so the question for them
5 would be, would that be amenable to them to wait
6 until 3:00 p.m. today or to give us 15 minutes to
7 see if we could contact the appellant or their
8 attorney?

9 Yes, Mr. Dillon.

10 MR. DILLON: Good morning. There are a
11 few people on behalf of the applicant I think
12 would like to speak to the issue. I generally can
13 summarize it to say that Ms. Teller indicated that
14 this was an intentional decision not to join this
15 call. I think it just extends everybody's day
16 longer than necessary. The fact that Counsel
17 Billingsley indicated that we can make a quick
18 phone call to confirm what she said in open court,
19 I think that's fine.

20 Pushing this all the way to 3:00 p.m.,
21 our preference certainly is to not do that and to
22 just have this resolved. Had it not been for the
23 company being inadvertently suspended and just
24 because of COVID-19, not being able to work
25 through the state process in a fast enough time

1 for the May hearing, we would have already been
2 done.

3 Again, I don't want to step on anyone's
4 toes. I want to be respectful and polite, but at
5 the same time I believe Ms. Jackson expressed an
6 intent not to be here and so I would -- I would be
7 fine with making a quick call to confirm that. I
8 think pushing this to 3:00 p.m. ends up making
9 everybody's day a lot longer for somebody who is
10 expressed an intent not to show up. Thank you.

11 CHAIR FENNEL: Thank you, Mr. Dillon.
12 Mr. Alan.

13 Mr. Alan: Yes, I was just going to say
14 this is a public hearing. It's been notified.
15 She's had well enough time to basically
16 participate. Giving that 15 minutes break and
17 giving her a call is bending over backwards, but
18 we might as well do it.

19 But at this point, I -- personally I have
20 a problem with the board of supervisors having
21 public hearings during business hours. I'm a
22 working person, and I've wasted two and a half
23 hours sitting here, and I can't -- I can't come
24 back at 3:00. I have work to do. I have to make
25 money. So I would say take a break and we come

1 back. Thank you.

2 CHAIR FENNELL: Thank you, Mr. Alan.

3 Supervisor Wilson.

4 SUPERVISOR WILSON: I have a clarifying
5 question with regards to the appellant and the
6 appellant's attorney in terms of are we secure in
7 the idea that the appellant's attorney is the --
8 is the sole representative in this matter?

9 I want to make sure that we're not --
10 that we're not going to be coming back and the
11 appellant wasn't let -- the attorney, and I just
12 want to make sure that that's clarified. I don't
13 understand that part of that. Maybe an attorney
14 can help with that.

15 CHAIR FENNELL: Well, with that in mind,
16 let's go to Sabrina Teller.

17 MS. TELLER: Yes, hi. I believe I recall
18 that she filed the -- Ms. Jackson filed the appeal
19 on behalf of Ms. Lehman. She is holding herself
20 out as his representative. Of course all
21 attorneys have a duty to keep their clients
22 informed of developments in their case, and that
23 would hold true with this appeal as well as the
24 pending litigation.

25 I don't see any evidence or implication

1 that her client is not being kept informed.
2 Absent you hearing that, I think you have to
3 assume that the attorney is acting on behalf of
4 her client.

5 SUPERVISOR WILSON: Madam chair, if what
6 I'm hearing is that the attorney is not informing
7 her client of this action, that that attorney
8 would then be in breach of her code of conduct, I
9 guess, as that relationship is -- IS that what I'm
10 hearing?

11 MS. TELLER: That would be a matter of
12 basically ethical enforcement between the client
13 and the attorney. It would not be a matter that
14 the board would need to concern itself with.
15 Again, in the absence of any evidence that you've
16 received that the appellant is not being kept
17 informed by his attorney.

18 CHAIR FENNEL: Okay. Thank you.

19 Well, I'm going to take our county
20 counsel's advice here, and I'm going to give us a
21 15-minute break.

22 Can you explain for me what's going to
23 happen in that 15 minutes? Is it Counsel
24 Billingsley? Who is going to contact appellant's
25 attorney?

1 Counsel Billingsley.

2 COUNSEL BILLINGSLEY: Chair, I believe
3 the planning department can reach out and inform
4 Ms. Jackson that the hearing is going on.

5 Again, just to reiterate. I think the
6 notice has already been proper. This is just sort
7 of an extra courtesy to make sure that something
8 hasn't happened and that she's truly choosing not
9 to attend. And if they reach out and there's no
10 answer, I think that's -- that equals the same
11 response.

12 CHAIR FENNEL: Thank you, Counsel
13 Billingsley. Right now it's 25 to noon. We'll
14 come back at 10 to, so 11:50 we'll come back.

15 Sorry, before we do, Supervisor Bohn had
16 a question.

17 SUPERVISOR BOHN: I just want to be aware
18 that my feet aren't up on my desk. I want to let
19 Mr. Alan know that we all got work to do. We're
20 sorry to inconvenience you, but to follow the
21 proper protocol, I just wanted to say that we all
22 have work to do and take offense to -- I don't
23 even -- not fully sure what your capacity is on
24 this, but I just want to say we all have work to
25 do today.

1 CHAIR FENNEL: Supervisor Bass.

2 SUPERVISOR BASS: Hang on, Chair. I
3 don't mean to beat a dead horse, but I was going
4 to say the very same thing. Thank you, Supervisor
5 Bohn, for beating me to it.

6 CHAIR FENNEL: Thank you for that.

7 Again, we will be back here at 11:50 and
8 continue with the hearing. Thank you.

9 (Recess)

10 CHAIR FENNEL: Okay. We're back in
11 session. I will go directly to Director Ford for
12 a report on the last 15 minutes.

13 DIRECTOR FORD: Thank you, Chair Fennell.

14 I did reach out to Ms. Jackson and also
15 reached out to colleague within her law firm, she
16 evidently is behind a closed door meeting and
17 cannot be disturbed.

18 One of the things about this that
19 disturbs me greatly and I am -- I don't like to
20 say this, but if the end of the meeting we did say
21 that we re-notice this hearing and we did not
22 re-notice it, and with that, it would be my
23 recommendation that we not conduct public hearing
24 today and we re-notice this.

25 CHAIR FENNEL: Yes. Okay. If you did

1 say you would re-notice and you didn't, I believe
2 your conclusion would be the best way to move
3 forward, but I will ask for comment from the rest
4 of the board, if there is any?

5 Supervisor Bohn.

6 SUPERVISOR BOHN: I understand what he
7 did. I would like to hear from our counsel if
8 that is enough to preclude not moving forward.

9 CHAIR FENNEL: Counsel Billingsley.

10 COUNSEL BILLINGSLEY: Chair, at the
11 meeting on the 19th the public hearing was closed
12 at the end of the meeting, so unfortunately the
13 way to continue it would be to leave the hearing
14 open and continue it, but once it was closed,
15 Director Ford is correct, it should be re-noticed.

16 CHAIR FENNEL: All right. That being
17 the case, Supervisor --

18 SUPERVISOR WILSON: Just to expedite
19 this, I'm wondering do we require this to be a
20 regular board meeting date, or can we actually
21 have it as a special meeting?

22 CHAIR FENNEL: I don't believe I --
23 okay, so we're our next regularly scheduled board
24 meeting would be July 7th, and would that give the
25 Director time enough to notice for that?

1 DIRECTOR FORD: I don't think there's
2 enough time to notice that. We will -- actually
3 it's not enough time. We would need to go to
4 July 14th.

5 CHAIR FENNEL: All right. That being
6 the case, unless -- at this point are you saying
7 that -- Counsel Billingsley, are you saying that
8 this was not continued?

9 COUNSEL BILLINGSLEY: I was under the
10 impression that it was going to be re-noticed, but
11 it sounds like that did not happen.

12 CHAIR FENNEL: Okay. All right.

13 DIRECTOR FORD: Supervisor Chair.

14 CHAIR FENNEL: Yes.

15 DIRECTOR FORD: Now, if I could, it's a
16 little bit confusing. The point was to continue,
17 but there was discussion at the hearing that it
18 would be re-noticed, and my fear right now is that
19 that would be a glitch in the proceedings if we
20 didn't re-notice.

21 CHAIR FENNEL: Okay. So that's in
22 everybody's best interest is if we take this kind
23 of cautious approach.

24 Supervisor Bass.

25 SUPERVISOR BASS: Thank you, Madam Chair.

1 If you had found out during the break that
2 Ms. Jackson was not planning to be here anyway,
3 would you still feel that it was -- I mean, I
4 guess sound like technically it was not in the
5 motion, yes, there was conversation about it, but
6 if it was based, you know, I don't -- I don't know
7 if that's not why -- okay. How do I put this?

8 If she's purposely not here, and she
9 doesn't plan to be here, she doesn't plan to be
10 here whenever we hear this, or the county council
11 for the folks do you -- would you still feel that
12 you need to re-notice it? Because something tells
13 me it wouldn't matter. Because she -- I don't
14 think anyone will be here then either. I don't
15 have any inside knowledge.

16 CHAIR FENNEL: Counsel Billingsley.

17 COUNSEL BILLINGSLEY: If I may through
18 the Chair, I think the issue is that the notice
19 would be to more than Ms. Jackson, so there could
20 be complaints on behalf of the other parties, the
21 neighboring property owners that they didn't
22 receive notice and didn't have a chance to
23 participate.

24 CHAIR FENNEL: And actually to be
25 perfectly blunt, that was my concern is because I

1 know that there are local business owners and
2 residents who have concerns about this. We're not
3 part of the appeal, as I understand it. So I
4 think that we should continue this now to
5 July 14th, and with apologies to all concerned.
6 That's what we must do.

7 Mr. Owens.

8 MR. OWENS: Would it be possible to get a
9 time certain on July 14th so that I'm not waiting
10 for the hearing effectively all day long? I know
11 it would save costs for the applicant. I know he
12 has to spend less money on attorney's fees.

13 CHAIR FENNEL: I will make sure that
14 happens, Mr. Owens. It will be on time certain.

15 MR. OWENS: Thank you.

16 CHAIR FENNEL: You're welcome.

17 Counsel Billingsley.

18 COUNSEL BILLINGSLEY: Chair, if the board
19 wants a time certain, I would recommend making it
20 part of your motion so Director Ford can put that
21 time in the notice.

22 CHAIR FENNEL: Okay. Great. So we need
23 a motion to continue? Okay. If nobody else is
24 making that motion, I will make that motion that
25 we continue this to July 14th and that will be

1 heard at a time certain.

2 SUPERVISOR WILSON: Are we continuing or
3 closing and then? I thought we couldn't continue
4 because it hadn't been noticed. Just a
5 clarification.

6 DIRECTOR FORD: If I could through the
7 Chair?

8 CHAIR FENNEL: Absolutely.

9 DIRECTOR FORD: The motion would be to
10 re-notice this for the meeting of July 14th at and
11 then whatever specific time the board wishes
12 whether it be 10 o'clock, 11 o'clock.

13 CHAIR FENNEL: Okay. So thank you so
14 much for your help on that Director Ford. I will
15 amend a motion but before we go forward with that,
16 asked for the pleasure of the board in terms of
17 what time would be appropriate considering that we
18 probably will be having our usual COVID update,
19 et cetera, typically we do time certain at 1:30,
20 but we can do it earlier if that's the pleasure of
21 the board.

22 Okay. I'm going to say we'll re-notice
23 this meeting for July 14th -- sorry, Supervisor
24 Bohn.

25 Supervisor Bohn: I want to know if the

1 attorney that's not here, are they going to be
2 here for the next time? Is the same issue --
3 whatever issue that's holding this up going to be
4 the same issue. I would like to see that
5 addressed or verified or something, because I mean
6 we can do this again on the 14th, 21st, 28th, we
7 can stay away from everybody's summer break and do
8 it then too. We probably should follow up.

9 CHAIR FENNEL: Thank you. Absolutely,
10 go ahead Director Ford and then Supervisor Bass.

11 DIRECTOR FORD: Thank you, Chair Fennell.
12 The thing that I want to say to Supervisor Bohn is
13 that the attorney may not come to the next
14 meeting, but the thing that a court document will
15 not include is that the board took inappropriate
16 action because it said it was going to re-notice
17 the hearing and didn't and took action anyway.
18 It's really removing that avenue of appeal to the
19 court.

20 SUPERVISOR BOHN: All right.

21 CHAIR FENNEL: Supervisor Bass.

22 SUPERVISOR BASS: Thank you, Madam Chair.
23 When you said the 14th I wanted to take a look, if
24 there's a way we could do it in the morning, that
25 would be appreciated because that's the day I'm

1 trying to get connected with -- (inaudible) --
2 morning session that would be preferable to me, if
3 possible.

4 CHAIR FENNEL: Thank you for reminding
5 me, Supervisor Bass. I have the 14th up here on
6 my list, yes.

7 Let's say 11:00 a.m. Is that all right
8 with everybody? Okay. I see Dustin nodding,
9 everybody is giving me a thumbs up. Okay.

10 So, Ryan, for your benefit I'm rewording
11 the motion to re-notice this for meeting of
12 July 14th at 11:00 a.m.

13 MR. SHARP: Correct. I have a motion but
14 I don't have a second.

15 CHAIR FENNEL: Any second on this
16 motion?

17 SUPERVISOR BASS: Second.

18 CHAIR FENNEL: Supervisor Bass second.
19 Okay, I will take -- Counsel Billingsley.

20 COUNSEL BILLINGSLEY: Chair, I also
21 believe there's at least one person who wants to
22 give public input on this item before you vote.

23 CHAIR FENNEL: I noticed that too.
24 Thank you.

25 So we will now go to public comment on

1 this item.

2 PUBLIC SPEAKER KENT: Thank you for my
3 comment. I don't know whether I will be able to
4 make an international call on the 11th or not. I
5 appreciate comment -- I appreciate the fact that
6 you're getting this straightened around.

7 I did wish to make comment on your staff
8 report. It says here, "There will be no
9 additional effect on the general fund. The
10 appellant has paid in full the appeal fee
11 associated with this appeal."

12 I understand you're dealing with an LLC
13 that's had some problems in the past, crossing its
14 Ts and dotting its Is, so I would question the
15 pocket. Of course I believe they had to sign an
16 clause -- an indemnification clause regarding any
17 costs the County would incur, but that's only as
18 good as the pocket that you're dealing with.

19 So possibly if this moves forward, you
20 would be requiring some kind of additional bond or
21 something so that the -- our dollars will be
22 protected. On the staff report it also says,
23 "Strategic Framework: This action supports your
24 board's strategic framework by enforcing laws and
25 regulations to protect residents."

1 I understand you're protecting the person
2 in this thing, the person who has done the
3 application for the permit but maybe the other
4 people you're not protecting. I think you got a
5 lot of incorrect information from your staff. And
6 this building, they're trying to say it's not
7 changing use, but it clearly is. You have no
8 retail out front, but all of a sudden I think it
9 has to go back to the planning commission because
10 the project has evolved after the appeal was
11 filed.

12 So I think you out to really consider
13 taking that back to the planning commission in its
14 existing state and start over again. That's just
15 my recommendation there. Maybe I misunderstood
16 what was communicated regarding that from staff.
17 That building doesn't look like it's up to code
18 for what would be required for separation between
19 the light industrial use, which is going in there
20 and the office and apartment up above. So that
21 whole building would have to be brought up to
22 standard building code.

23 Now staff tried to tell you it was an
24 existing or equal use before, that's incorrect. I
25 would give a legal determination on that before

1 you allow the permit. I recommend on the 14th
2 that you go ahead and support alternatives, go
3 with number 1, grant the appeal and deny the
4 project.

5 Thank you for my opportunity to speak.

6 CHAIR FENNEL: Thank you, Kent.

7 And I believe there are no further
8 requests or comments on this item.

9 MR. SHARP: Correct.

10 CHAIR FENNEL: Thank you. Bring it back
11 to the board and now go to you -- unless there's
12 further discussion, I'll go for a vote from the
13 board on that motion.

14 MR. SHARP: Can you take a vote, please.

15 SUPERVISOR BOHN: Yes.

16 MR. SHARP: Thank you, Supervisor Bohn.
17 Supervisor Bass?

18 SUPERVISOR BASS: Yes.

19 MR. SHARP: Supervisor Wilson?

20 SUPERVISOR WILSON: Yes.

21 MR. SHARP: Supervisor Madrone.

22 SUPERVISOR MADRONE: Yes.

23 MR. SHARP: And Supervisor Fennell?

24 CHAIR FENNEL: Yes.

25 MR. SHARP: 5-0, thank you.

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CHAIR FENNELL: Thank you. I appreciate
that. So that will take us to our next item.

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CERTIFICATE
OF
CERTIFIED SHORTHAND REPORTER

I, the undersigned, Certified Shorthand Reporter of the State of California do hereby certify:

That a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date
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