



AGENCY: City Council
MEETING DATE: October 3, 2017
DEPARTMENT: Community Development Dept.
PRESENTED BY: M Jones
EMAIL ADDRESS: mjones@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

RECEIVE REPORT, CONDUCT PUBLIC HEARING AND PROVIDE DIRECTION TO STAFF REGARDING APPEAL BY DAWN FERREIRA, ANNE MARIE CESARIO, JEAN STUBENRAUCH AND 26 OTHERS OF PLANNING COMMISSION USE PERMIT USP 9-03/17 MODIFYING EXISTING USE PERMIT USP 9-03 FOR THE HOSPITALITY HOUSE

ISSUE:

Please note that new material is in purple text.

Background. On August 23, 2017, the Planning Commission held a hearing to consider the adoption of a resolution adding 18 Special Conditions to Use Permit 9-03. This hearing was to determine whether modification of Use Permit (USP) 9-03 was appropriate, due to code violations by the operator of the Hospitality House homeless shelter. As such, the Community Development Director served as the prosecutor of the case and was advised by the City Attorney. The Planning Commission sat in a quasi-judicial role as the adjudicator and received legal advice from an outside independent attorney. Mendocino Coast Hospitality Center (MCHC) was also represented by an attorney. Shortly before the meeting, MCHC submitted a 44-page document into the record. MCHC's submission included a proposed revised resolution, which indicated substantial acceptance of most of the Special Conditions recommended by the prosecution. Upon review of the revised resolution, the prosecution felt that the revisions were modest and largely left in place all the Special Conditions recommended by the prosecution and supported by the evidence in the record. The prosecution indicated that it would largely accept the modified conditions. The City and MCHC negotiated a clarifying change to one of the special conditions and reached agreement. This information was conveyed to the Planning Commission.

Because the parties had reached a tentative agreement, City staff did not present the staff report at the hearing. However, the staff report is part of the administrative record (Attachment A and sub-attachments A1-A24). In response to the City's concern that the resolution, since it was based on agreement rather than the presentation of evidence, be binding, MCHC acknowledged that the resolution "is binding and enforceable against the Hospitality House with regard to the Use Permit modification and all conditions, and that the Hospitality House waives any legal insufficiency of the resolution with regard to findings or otherwise."

Should the City Council decide to affirm the Planning Commission's decision by denying the appeal, staff recommends that the following "Whereas" clause be added to the resolution:

WHEREAS, during the public hearing, counsel for the Mendocino Coast Hospitality Center (MCHC) acknowledged that the resolution is binding and enforceable against the Hospitality House with regard to the Use Permit modification and all conditions, and that the MCHC waived any and all legal insufficiency of the resolution with regard to findings or otherwise.

After extensive public comment, the Planning Commission discussed the use permit modification and the resolution. Commissioner Rogers moved for a continuance of the matter in order to afford

additional time to review the materials that were submitted at the start of the hearing, but a majority of the Commission voted not to continue the hearing. After further discussion, the Planning Commission voted 3 to 2 to adopt the modified resolution (see Attachment A-24).

Appeal. On August 31, 2017, the City received an appeal of the Planning Commission's decision. Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch appealed the August 23, 2017 Planning Commission Modification to Use Permit 9-03/17. The appeal seeks changes to nine of the 18 Special Conditions and the addition of three new Special Conditions (see Attachment B and all sub-attachments). The appeal also requests a revocation of the Use Permit as an alternative to the changes sought to the Special Conditions (see Attachment C). The appellants submitted the \$1,000 appeal fee at the time of submitting the appeal.

The appeal has been filed by an eligible person(s) as required by the Inland Land Use and Development Code (ILUDC) section 18.92.030A.

Filing and Processing of Appeals – Eligibility. An appeal in compliance with this Chapter may be filed by any aggrieved person as defined in Section 1.06 of the Municipal Code except that in the case of a decision on a Use Permit, Variance, and/or other Commission decision that followed a public hearing, an appeal may only be filed by a person who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed, or who otherwise informed the City in writing of the nature of their concerns before the hearing.

Both signatories on the appeal, Dawn Ferreira and Ann Marie Cesario, attended the August 23rd Planning Commission meeting and spoke during the public hearing about their concerns with the Use Permit Modification. Jean Stubenrauch submitted written comments to the Planning Commission in advance of the August 23rd Public Hearing. These three individuals are thus valid appellants of the Planning Commission's decision. *Additionally, the following individuals submitted letters to the Planning Commission anonymously and also joined the appeal: Dana Kjeldsen, Tina Thompson, Jennifer Carlson, Gene Mertle, Leopoldo Narez, Pat Lang, Cindy Lang, Dolly (Diolinda) Giusti, Tom Ferreira, Helen Ferreira, Tim Powell, Fred Giusti, Manual Ornelas, Luis Jose Segura, Maria Segura, Josephina Flores, Walker Ferreira, Jaime Nieto, Rosa Nieto, Garth Ogle, Carolyn Petersen, Charlie Melendrez, Ashley Johnson, Jennifer Giannini, Annette Reynolds, and Raine Sanchez. Staff confirms that these individuals submitted letters seeking the revocation of the Use Permit to the Planning Commission but asked that their letters be submitted anonymously to the Planning Commission. Please see Attachment E-12, which includes the relevant letters.*

POSSIBLE ACTION(S):

1. Deny the appeal, uphold the Planning Commission decision, and adopt the attached City Council resolution for Use Permit Modification USP 9-03/17.
2. Accept the appeal and hear the evidence presented by the appellants and MCHC, and:
 - a. Modify the proposed Special Conditions based on evidence and findings provided in the staff report to the Planning Commission;
 - b. Negotiate with MCHC to impose new Special Conditions that are not supported by the provided evidence; or
 - c. Direct staff to develop new evidence and findings for new Special Conditions or revocation of the Use Permit, and return to the Council at a future meeting.

ANALYSIS:

Hospitality House Use Permit Modification

The ILUDC limits the scope of planning permit appeals per Section 18.92.030C as follows:

Scope of planning permit appeals. An appeal of a decision on a planning permit shall be limited to issues raised at the public hearing, or in writing before the hearing, or information that was not known at the time of the decision that is being appealed.

In the table below, staff has: 1) compared the issues raised in the appeal with the issues raised at the August 23, 2017 public hearing and in writing before the public hearing; or 2) identified if new information was provided by the appellant which was not known at the time of the decision. In order for a matter to be appealable, an issue must pass one of these two tests per section 18.92.030C.

The table below also includes: 1) the Special Conditions which were adopted by the Planning Commission; 2) the appellants' proposed changes to some of the Special Conditions adopted by the Planning Commission; and 3) staff's analysis of the proposed changes as to legal enforceability and evidence in the record that could support or necessitate the proposed Special Condition to address a nuisance that is otherwise not sufficiently addressed by the Planning Commission's adopted Special Condition.

Special Condition 1	Planning Commission Adopted Condition	The total number of overnight guests at the homeless shelter shall not exceed 24. An increase in the number of overnight guests is not permitted unless a Minor Use Permit or Use Permit Amendment is applied for and obtained. If this provision is violated, operator shall pay a code violation fee, as determined by the City's Fee Schedule for each occurrence of violation.
	Appellant proposes the following addition to Special Condition 1	The Fire Marshall shall evaluate the maximum occupancy of each room guests are staying in and a maximum occupancy sign shall be posted outside of each guest room at all times. The Hospitality House shall be inspected by the Fire Marshall once a year and the Hospitality House will comply with all safety requirements of the Fire Marshall.
	Staff Analysis	<p>This issue was raised both at the public hearing and in comment letters to the Planning Commission, so this issue is appealable.</p> <p>This special condition is unnecessary as it reiterates Fire Code requirements which must be adhered to by the Hospitality House.</p> <p>Staff recommends that Special Condition 1 be retained as adopted by the Planning Commission.</p>
Special Condition 2	Planning Commission Adopted Condition	The homeless shelter operator shall permit periodic inspections by City staff, which may be conducted without prior notification, to ensure that the limitation on the number of overnight guests is not exceeded.
	Appellant proposes the following revision to Special Condition 2	The Hospitality House Administrator or Managers on duty shall permit periodic inspections by City staff which may be conducted without prior notification, to ensure that the limitation on the number of overnight guests is not exceeded.
	Staff Analysis	<p>This issue was raised both at the public hearing and in comment letters to the Planning Commission, so this issue is appealable.</p> <p>This special condition modification may proceed without additional evidence, as it clarifies the term "operator." Staff does not consider this change a substantive change.</p> <p>Staff recommends that Special Condition 2 be retained as written.</p>

<p>No changes are requested to Special Conditions 3 and 4 as adopted by the Planning Commission.</p> <p>3. Hospitality House shall serve all food on premises. Food shall not be prepared or served “to go” for clients to carry off-site.</p> <p>4. Hospitality House shall provide at least two 50-gallon trash receptacles on site for clients to dispose of personal trash. Trash cans shall be emptied on a regular basis to ensure sufficient trash capacity.</p>		
Special Condition 5	Planning Commission Adopted Condition	Hospitality House shall provide a restroom facility for non-guest clients starting one hour before the breakfast meal program each day.
	Appellant proposes the following revision to Special Condition 5	Hospitality House shall provide restroom facility for non-guest clients between the hours of 6:30am and 7pm, 7 days a week, 365 days a year. Hospitality House shall post public restroom signs on their alley gate along with other signs.
	Staff Analysis	<p>The hours of operation of the restroom were not addressed in the correspondence to the Planning Commission, however the issues were brought up during the public hearing and are therefore appealable.</p> <p>This special condition modification may require additional evidence that demonstrates that the current hours of operation of the restroom contribute to nuisance conditions, and that keeping the restrooms open from 6:30am to 7:00pm would remedy the nuisance conditions more than Special Condition 5 as currently written. If City Council wants to revise this Special Condition, staff recommends that the City Council direct staff to return with evidence supporting the further modification.</p> <p>Staff recommends that Special Condition 5 be retained as adopted by the Planning Commission.</p>
Special Condition 6	Planning Commission Adopted Condition	Hospitality House shall provide a location on Hospitality House premises for clients to gather and wait for the meal program to open. The gathering area shall be available to clients starting one hour before food service each day. The gathering area shall be monitored by Hospitality House staff.
	Appellant proposes the following revision to Special Condition 6	Hospitality House shall allow residents/guests to be on premises during the day. Hospitality House shall allow nonresident and guest clients to be on the premises from 6:30am to 6pm daily. This gathering area shall be monitored by Hospitality House managers.
	Staff Analysis	<p>The expansion of the operation of the Hospitality House as a day shelter was not addressed in any of the correspondence addressed to the Planning Commission. This issue was also not brought up during the Public Hearing. Thus, staff’s recommendation is that, pursuant to ILUDC Section 18.92.030C, this issue is not appealable.</p> <p>The Council could allow the appeal, if it determines that the appellant has submitted new evidence that proves that the operation of a day shelter would significantly reduce nuisance conditions in the neighborhood and that the elimination of the old day shelter contributed to current nuisance conditions. However, it is not clear how the City can compel the Hospitality House to operate a day shelter through this Use Permit modification process. While the Hospitality House may choose to offer a day use shelter at the Hospitality House, staff would consider this an intensification of use that would have to go through a Use Permit modification process that specifically includes the notification of neighbors and the community about the intensification of use at the Hospitality House. Furthermore this intensification would contradict</p>

		<p>proposed Special Conditions 17 and 18. If City Council and MCHC agree that the operation of a day shelter at the Hospitality House is desirable, staff recommends that: 1) Special Conditions 17 and 18 be modified to allow the operation of a day shelter with the approval of a Use Permit modification; and 2) MCHC apply for a Use Permit modification to operate a day shelter at the Hospitality House.</p> <p>Staff recommends that Special Conditions 6, 17 and 18 be retained as adopted by the Planning Commission.</p>
Special Condition 7	Planning Commission Adopted Condition	Hospitality House shall monitor client behavior on and adjacent to the Hospitality House premises and shall report illegal behavior to the Police Department and cooperate with the Police Department to address client behavior that disturbs the peace. "Adjacent to" means the sidewalk directly in front of the Hospitality House property and the alley directly behind the Hospitality House property.
	Appellant proposes the following revision to Special Condition 7	Hospitality House shall pay for and install closed loop security cameras. Hospitality House shall hire/provide professional private security to monitor client behavior 24 hrs/day 7 days a week. Hospitality House security officer will report illegal behavior to the Fort Bragg Police Department and serve as the agency liaison to the Police Department.
	Staff Analysis	<p>The number of calls for service and the impact on the Police Department were addressed in correspondence to the Planning Commission. This issue is therefore appealable.</p> <p>The appellants claim that private security is necessary as client behavior results in numerous documented police calls and incidents. The appellants also note that the City only has two officers on duty from 4:00pm to 7:00am and they allege that repeated night calls to the Hospitality House might impact community safety as officers are unavailable to respond to other crimes.</p> <p>Staff has not identified evidence that calls to the Hospitality House disrupt the ability of the Police Department to respond to other calls. Private security contractors have limited response capabilities and generally would need to call the Police Department in the event of a crime or a disturbance at the shelter. There is no evidence to support the claim that the addition of a private security contractor would significantly reduce calls for service at the Hospitality House, improve security, or reduce nuisance conditions. The closed loop camera requirement is already included in Special Condition 8.</p> <p>Staff recommends that Special Condition 7 be retained as adopted by the Planning Commission.</p>
Special Condition 8	Planning Commission Adopted Condition	Hospitality House shall establish rules of conduct for clients, aimed at curtailing behaviors that are unlawful and/or disturb the peace. Clients who violate the rules of conduct shall be denied service by Hospitality House in accordance with policies approved by the MCHC Board of Directors. The Hospitality House shall establish a "ban list" which identifies individuals who are temporarily and/or permanently banned from the Hospitality House property. The "ban list" shall be shared with the Police Department and the Police Department may recommend the addition of individuals who have been cited and/or arrested for illegal acts occurring in locations other than the Hospitality House premises. The Hospitality House shall abide by the "ban list." Closed loop surveillance cameras shall be installed in the interior and exterior public spaces of the Hospitality House. With regard to sharing video footage with the Police Department, MCHC and Hospitality House will comply

		with their obligations to their clients under State and federal privacy laws, including but not limited to HIPAA.
	Appellant proposes the following additions to Special Condition 8	Hospitality House will develop policy and procedures that clearly state the rules of conduct and criteria for "banning" clients. The criteria will require written documentation of infractions and consequences. A clear and detailed appeal process that includes appealing directly to the Board of Directors if they are discriminated against or treated unfairly will be included in the written policy. Hospitality House shall continue to require guests to be clean and sober to qualify for homeless shelter.
	Staff Analysis	<p>The issue of enforcement of and the content of the rules of conduct at the Hospitality House was addressed in the correspondence to the Planning Commission and at the public hearing. This issue is therefore appealable.</p> <p>The appellant claims that allowing people under the influence of drugs and alcohol increases the risk of violence and compromises the safety of special populations staying at the Hospitality House, and adds to the nuisance in the neighborhood.</p> <p>The proposed change is unnecessary as the Hospitality House already has rules and sanctions procedures which include progressive discipline and a process of appeal to the Board of MCHC. See Attachment A-14. Further, Hospitality House rules note that individuals found to be intoxicated will be given a written warning the first time and discharged the second time. In the Planning Commission staff report, staff noted that the rules do not appear to be followed, as clearly intoxicated individuals were present when staff checked the property for compliance with the 2003 Use Permit Special Conditions. However, as adopted by the Planning Commission, Special Condition 8 would allow the Police Department and the Community Development Department to address the issue of intoxication and the negative effects of such on children, elders and the disabled.</p> <p>Staff recommends that Special Condition 8 be retained as adopted by the Planning Commission.</p>
No changes are requested to Special Condition 9.		
9. The Hospitality House rules of conduct shall prohibit drug use and drinking on Hospitality House property. Clients that violate these rules of conduct shall not be served meals and/or provided with a room for the evening.		
Special Condition 10	Planning Commission Adopted Condition	The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering. The signs shall also provide a phone number to reach a member of the Hospitality House staff during Hospitality House operating hours from 4pm to 9am.
	Appellant proposes the following revision to Special Condition 10	The Hospitality House shall post signs on the front and back property entrances that prohibit drug use, drinking, intoxication and loitering. The signs shall provide notice of public restrooms from 6:30am to 7pm and a telephone number to reach the Hospitality House Administrator or security officer between the hours of 7am and 5pm, Monday through Friday.
	Staff Analysis	<p>The issue of communication of the rules of conduct at the Hospitality House was addressed in the correspondence to the Planning Commission. This issue is therefore appealable.</p> <p>Please see analysis of Special Conditions No. 5 and 8, above. For this condition to be added, the City would need to require, through this Use Permit modification process, that: 1) Hospitality House operate the restroom between the hours of 6:30am and 7:00pm; and 2) a security contractor be required on</p>

		<p>the property.</p> <p>Staff recommends that Special Condition 10 be retained as adopted by the Planning Commission.</p>
<p>No changes are requested to Special Conditions 11 & 12.</p> <p>11.The Extreme Weather Shelter shall not be operated from the Hospitality House.</p> <p>12.The Hospitality House shall be managed by a competent person who has both the requisite training (at least 20 hours) and experience to successfully manage a homeless shelter.</p>		
Special Condition 13	Planning Commission Adopted Condition	The Hospitality House manager shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood.
	Appellant proposes the following revision to Special Condition 13	The Hospitality House Administrator shall be responsible for oversight of all activities on the premises and shall work to minimize the negative impacts of the facility and its clients on the surrounding neighborhood. The Hospitality House shall be managed by an Administrator who is a competent professional with formal education that exceeds a high school diploma, years of formal training and experience in social work or a related field. The Administrator will be employed full time and present on the property 5 days a week with on call back up on the weekends.
	Staff Analysis	<p>The issue of management at the Hospitality House was addressed in both the correspondence to the Planning Commission and the public hearing. This issue is therefore appealable.</p> <p>There is no evidence in the record supporting the claim that the qualifications and terms of employment requested by the appellant would remedy an existing nuisance.</p> <p>Staff recommends that Special Condition 13 be retained as adopted by the Planning Commission.</p>
Special Condition 14	Planning Commission Adopted Condition	The Hospitality House shall have a trained person on site at all times when clients are present.
	Appellant proposes the following revision to Special Condition 14	The Hospitality House shall have a trained Manager on site at all times when clients are present.
	Staff Analysis	<p>The issue of management at the Hospitality House was addressed in both the correspondence to the Planning Commission and the public hearing. This issue is therefore appealable.</p> <p>The Hospitality House currently operates with a trained manager during the day, but it does not currently operate with a trained manager in the evening. Instead, the Hospitality House selects a client of the shelter to operate the facility as an intern. Special Condition 12 requires that, in the future, the intern must have at least 20 hours of training.</p> <p>Staff recommends that Special Condition 14 be retained as adopted by the Planning Commission.</p>
<p>No changes are requested to Special Conditions 15-18.</p> <p>15. The Hospitality House Management shall cooperate with the Police Department and Police Officers when they respond to complaints and calls for service at the Hospitality House, or when undertaking investigations at the Hospitality House.</p>		

<p>16. The Hospitality House shall not expand the hours of meal service. Meal service shall be limited to 20,000 meals per year (2017 use rate).</p> <p>17. Other homeless services currently offered at the facility shall not be intensified or expanded, with the exception of showers and laundry.</p> <p>18. The Hospitality House shall not offer new services that attract additional clients to the facility at other times of day or otherwise intensify the utilization of the facility, including but not limited to: counseling, educational services, mental health services, mail service, computer access, food pantry, etc.</p>		
New Proposed Special Condition 19	New Proposed Special Condition	MCHC shall employ a licensed medical professional – RN, FNP, PA or MD –to manage client medications that are surrendered and distributed to residents of the Hospitality House.
	Staff Analysis	<p>There was testimony at the public hearing that client medications result in nuisance conditions at the facility. This issue is thus likely appealable.</p> <p>Staff does not believe that the City has the authority to require Hospitality House to hire a licensed medical professional to store client medications. Staff has been unable to identify a State statute that regulates this activity, although there are model policies for medication management in homeless shelters. There is no evidence in the record indicating that the lack of a licensed medical professional creates a nuisance condition. If the Council wishes to add this condition, staff requests additional time to determine if there is sufficient evidence for a finding in support of this new condition.</p> <p>Staff recommends that the appellant's new proposed Special Condition 19 not be adopted.</p>
New Proposed Special Condition 20	New Proposed Special Condition	MCHC shall expand their Board of Directors and add 4 seats, 2 of these seats shall be filled by property owners/residents who live within 400 feet of the Hospitality House or the Hospitality Center and 2 shall be filled by business owners who operate within 400 feet of either the Hospitality House or Hospitality Center. No elected city officials or city employees are eligible to fill these four seats. No employees or board members of 501(c)(3) nonprofits are eligible to fill these 4 seats.
	Staff Analysis	<p>The issue of management at the Hospitality House and participation on the MCHC Board was addressed in both the correspondence to the Planning Commission and the public hearing. This issue is therefore appealable.</p> <p>Staff does not believe that the City has the authority to dictate the membership of the MCHC Board of Directors. However, MCHC has expressed a willingness to allow community members to attend the Board meetings.</p> <p>Staff recommends that the appellant's new proposed Special Condition 20 not be adopted.</p>
New Proposed Special Condition 21	New Proposed Special Condition	The Hospitality House will have a written policy and procedure manual available on site at all times so that it may be reviewed by guests/clients, nonresident guests, personnel, concerned citizens and city staff upon request.
	Staff Analysis	<p>The issue of rules and policy was addressed in both the correspondence to the Planning Commission and the public hearing. This issue is therefore appealable.</p> <p>There is no evidence in the record suggesting that lack of a policy and</p>

	<p>procedure manual is causing a nuisance, or that having a manual available would remedy an existing nuisance condition.</p> <p>Staff recommends that the appellant's new proposed Special Condition 20 not be adopted.</p>
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Hospitality House Use Permit Revocation

The appellants also request a revocation of Hospitality House's Use Permit. This issue was brought up both at the public hearing and in written comment letters to the Planning Commission. Therefore, this issue is appealable.

The table below summarizes the evidence submitted by the appellants for revocation of the Use Permit and staff's analysis of that evidence.

Evidence	Staff Analysis
No evidence of written notice appears to have been sent to the neighborhood prior to the Planning Commission Hearing in regard to the permit modifications proposed in July or in August. Evidence of written notice to the neighborhood is contained in exhibit part 2 in the prior hearings that were conducted in 2003 and 1989. Appellants request that this evidence be presented if we are in error.	<p>Please see Attachment D, which provides all contact information for the neighbors within 300 feet who received notice of the August 23rd Planning Commission hearing and the October 3rd City Council meeting.</p> <p>Also, if appellants were correct here, and the Planning Commission meeting had been improperly noticed, the remedy would be to re-notice and repeat the hearing, not to revoke the Hospitality House's use permit.</p>
A petition with 151 signatures of mainly business owners, residents of the neighborhood and people who work in the neighborhood was submitted asking City Government to revoke the Hospitality House permit. (See petitions in part 2 of exhibits, identities of signatures can be verified by city staff, Marie Jones and would be made public should this go to litigation.)	Comment noted. Because this petition was submitted anonymously, it likely has no evidentiary value and cannot be used to support a revocation. Moreover, substantively, the comments in the petition are insufficient to support revocation in that they do not call out specific violations of the use permit or nuisance conditions.
<p>The following use permit violations are documented in City Staff Report dated July 7, 2017. (See letter from City Staff and 2003 permit conditions in part 2 of exhibits, letters from FB Fire Department in parts 1 and 2 of exhibits.)</p> <ul style="list-style-type: none"> • number of beds found exceeded use permit • number of meals served exceeded use permit • numerous nuisance violations with police calls documented and complaints submitted • fire code requirements that are clearly stated in the 2003 permit packet were also found to be violated: <ul style="list-style-type: none"> ○ beds blocking egress 	These use permit violations were documented in the Staff Report. The Planning Commission and MCHC have agreed that the appropriate remedy is to modify the use permit as provided in the Planning Commission's August 23, 2017 decision.

<ul style="list-style-type: none"> ○ fire alarms non operable ○ sprinkler inspection tags outdated 	
<p>August 23, 2017 fire department inspection found some of the fire alarms remained broken after one month. (See page 37 of 44 page letter submitted by Attorney for MCHC at hearing on 8/23/2017 in part 2 of exhibits.)</p>	<p>This Fire Code violation is not of sufficient severity to revoke the use permit. City staff understands that this violation has been remedied.</p>
<p>Evidence in the packet proves that:</p> <ul style="list-style-type: none"> ▪ MCHC has housed more than 24 guests (see page 8 of 44 page letter from MCHC attorney) ▪ MCHC has provided more meals than allowed (almost double) ▪ MCHC homeless shelter has operated in violation of fire codes ▪ The presence of MCHC in the Central Business District has and continues to cause public Nuisance violations- photographs and letters from residents and business people document this ▪ The fire department has never evaluated occupancy limits and this must be done prior to making a decision in this matter for obvious reasons 	<p>These use permit and Fire Code violations were documented in the staff report. The Planning Commission and MCHC have agreed that the appropriate remedy is to modify the use permit.</p>
<p>In 2003 when the permit was granted for expanded use there was a DAY SHELTER located next door. From 2003 until recently a DAY SHELTER was a component of the programs available to the homeless in Fort Bragg.</p> <p>Currently MCHC has decided to eliminate the DAY SHELTER from the programs available for the homeless in Fort Bragg.</p> <p>MCHC's decision NOT TO PROVIDE A DAY SHELTER places nuisance responsibility directly on the agency because:</p> <ul style="list-style-type: none"> ▪ MCHC does not allow guests and/or non-guest clients in the Hospitality Center located on Franklin Street during the day unless they are meeting with staff or getting coffee. They limit guest/non-guest/client stay on the premises to a half hour according to staff interviewed. ▪ MCHC does not allow all guests or non-guests/clients on the premises of the Hospitality House during the day. 	<p>The lack of a day shelter is not a sufficient reason to revoke the use permit.</p>

RECOMMENDED ACTION

Staff recommends that City Council deny the appeal of the Planning Commission's decision and adopt a Resolution of the Fort Bragg City Council Making Findings Based on The Evidence Presented to Modify Existing Use Permit 9-03 (USP 9-03) to Include Additional and Revised Conditions to Address Nuisance Conditions and Ongoing Violations of Special and Standard Conditions of the Use Permit.

FISCAL IMPACT:

The Hospitality House code enforcement action has resulted in significant costs to the City for staff time and legal services. If the use permit modification is approved by City Council, it may result in

fewer calls for police service which may free officer time up for other law enforcement activities.

IMPLEMENTATION/TIMEFRAMES:

If adopted by resolution tonight, the modified use permit will go into effect immediately.

ATTACHMENTS:

- A. August 23, 2017 Use Permit Modification (USP 9-03/17) Staff Report to the Planning Commission
 - A.1. July 7, 2017 Notice of Violation and Hearing to the Hospitality House
 - A.2. July 20, 2017 Letter from Pamela Cohen, Disability Rights California
 - A.3. Application & Planning File SA 3-87; VAR 5-88
 - A.4. Application & Planning File SA SCR 13-03 and USP 09-03
 - A.5. Extreme Weather Shelter Limited Term Permit LTP 13-16
 - A.6. Site Photos – Internal
 - A.7. Floor plan with number of beds per room
 - A.8. MCHC Guest Log
 - A.9. Police Activity Log Calls for Service to Hospitality House
 - A.10. Police Activity Log Calls for Service to Golden West Saloon
 - A.11. Police Activity Log Calls for Service to Cucina Verona
 - A.12. Police Activity Log Calls for Service to Country Inn
 - A.13. Code Complaint Letters Regarding Nuisance Conditions
 - A.14. Hospitality House Policy and Rules
 - A.15. Letters Regarding the Proposed Use Permit Modification
 - A.16. Site Location Map
 - A.17. Site Photos - External
 - A.18. Petition to Revoke USP 9-03
 - A.19. Petition to Modify USP 9-03
 - A.20. Petition in Support of the Hospitality House
 - A.21. Submitted photos
 - A.22. Hospitality House Proposed Changes to Special Conditions for USP 09-03 Modification
 - A.23. August Hearing Notice
 - A.24. Resolution of The Planning Commission to Modify USP 09-03
 - A.25. [Additional letters regarding Hospitality House Use Permit Modification](#)
- B. Appeal of Planning Commission Use Permit Modification USP 9-03/17 by Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch seeking changes to nine of the 18 Special Conditions and the addition of three new Special Conditions.
- C. Appeal of Planning Commission Use Permit Modification USP 9-03/17 by Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch seeking a revocation of the Use Permit, as an alternative to the changes sought to the Special Conditions.
- D. Appeal Attachments Received from Appellant During the Appeal Period
- E. Additional Submissions from Appellant
 - E.1. Hospitality House 2011 990 Form
 - E.2. Hospitality House 2012 990 Form

- E.3. Hospitality House 2013 990 Form
- E.4. Hospitality House 2014 990 Form
- E.5. Hospitality House 2015 990 Form
- E.6. Hospitality House 2016 990 Form
- E.7. Appellant Transmittal Email
- E.8. MCHC HHSA Grant Agreement
- E.9. MCHC HHSA Grant Agreement
- E.10. Appellant Transmittal Email
- E.11. Appellant Letters to the Planning Commission
- E.12. Signed Appellant Letters
- E.13. Reso \$386250 Hospitality House Sub-recipient Agreement 10-24-05
- E.14. 04-STGB-2006-1897 Final GPR w/Numbers of Homeless Served & Demographics
- E.15. Reso 3134-2008 \$281,035
- E.16. Reso 3521-2012 \$670,625
- E.17. 10-07-14 CDBG Award \$1,038,206 Plus Amount 14-CDBG-9881 2014 NOFA
- E.18. MCHC Amendment 2 re \$462,500 Job Descriptions and Amount to MCC signed
- E.19. Reso 3787 - \$41,000 Solar and Floor HH 2015
- E.20. MCHC Contract Consultant \$8,750 Employment Training Study
- E.21. Reso 3778-2015 \$462,500 MCHC MHHIP Amend 2 Budget Adjustment
- E.22. Reso 3781-2015 \$186,047 MCHC Garden Subrecip Agreement
- E.23. Relevant Land Use and Development Code Sections
- E.24. Emergency Solutions Grant Program NOFA
- E.25. Law Section CFR 576.405 – Homeless Participation
- E.26. Law Section CFR 91.220 – Action Plan

F. Letters Received After Appeal Filed

- G. Resolution of the Fort Bragg City Council Denying the Appeal Submitted by Dawn Ferreira, Anne Marie Cesario and Jean Stubenrauch and Upholding the Fort Bragg Planning Commission's August 23, 2017 Decision to Modify Existing Use Permit 9-03 (USP 9-03) for the Hospitality House Shelter Thereby Placing New Special and Standard Conditions on the Use Permit (USP 9-03/17)

H. Hospitality House Submitted Attachments

- H.1. MCHC Letter to City Council 9-28-17
- H.2. Policies and Procedures Manual
- H.3. Continuum of Care Letter
- H.4. HHS Letter
- H.5. Certificate of Appreciation
- H.6. Use Permit Spreadsheet
- H.7. Lynelle Johnson Letter
- H.8. Anderson Letter
- H.9. Administrator Position Description
- H.10. House Manager Position Description
- H.11. Housing Element Excerpts
- H.12. Abbreviated Consolidated Plan
- H.13. Fire Inspection report

NOTIFICATION:

1. "Downtown Businesses" Notify Me Subscriber List
2. "Homeless" Notify Me Subscriber List