



**TALENT PLANNING COMMISSION  
MEETING MINUTES  
TALENT TOWN HALL  
MARCH 23, 2017**

***Study Session and Regular Commission meetings are digitally recorded and will be available online at:  
[www.cityoftalent.org](http://www.cityoftalent.org)***

The Planning Commission of the City of Talent will meet on Thursday, March 23, 2017 in a regular session at 6:30 P.M. at Talent Town Hall, 206 E. Main Street. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder at 541-535-1566, ext. 1012. The Planning Commission reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and/or meeting.

**REGULAR COMMISSION MEETING- 6:30 PM**

*Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the Minute Taker. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the "Citizens Heard on Non-agenda Items" section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the Planning Commission.*

**I. Call to Order/Roll Call 6:31 P.M.**

**Members Present:**

Commissioner Dolan  
Commissioner Milan  
Commissioner Pastizzo  
Commissioner Riley

**Members Absent:**

Commissioner French  
Commissioner Hazel  
Commissioner Schweitzer

**Also Present:**

Darby Stricker, Mayor  
Zac Moody, Community Development Director  
Jeff Wilcox, Minute-Taker

**II. Brief Announcements**

Moody stated there is an upcoming Site Plan Review and Variance request for a 16-unit apartment complex on the undeveloped parcel on Suncrest Rd, near the intersection with HWY 99; located between Autumn Ridge and Suncrest Rd. The applicant was mailed an Incompleteness letter because what was currently provided doesn't contain enough information for Planning Commission to review and decide on.

Moody added, he expects to see a Camelot Theater Variance application for an illuminated sign proposal. It has not been received yet, but may be forthcoming.

**III. Consideration of Minutes**

**Minutes for February 9, 2017**

Riley asked if these February 9<sup>th</sup> Minutes were the same as those that were submitted to City Council. Moody said there was one change requested by Commissioner French to add that she spoke on Inclusionary Zoning.

Moody explained that February 9<sup>th</sup> was the set of Minutes that commissioners commented that items were missing from the Minutes. Moody added that upon asking the commissioners for feedback regarding this comment, Milan said the Draft Minutes were fine, French asked to add the section on Inclusionary Zoning (page 8). No other comments were received.

**Motion:** Riley moved to approve the Minutes for February 9, 2017. Milan seconded. Discussion: none. All ayes. Motion passed unanimously.

**Minutes for February 23, 2017**

**Motion:** Riley moved to approve the Minutes for February 23, 2017. Dolan seconded. Discussion: none. All ayes. Motion passed unanimously.

**IV. Public Comments on Non-Agenda Items**

None

**V. Action Items**

None

**VI. Public Hearing (Legislative) Consideration of Text Amendments to the Talent Zoning Code adding Title 8, Chapter 3, Division J, Article 11, Special Use Standards. New language provides regulations for special uses in the City, including marijuana related uses, backyard chickens and temporary uses. File: DCA 2017-001. Applicant: City of Talent.**

The opening statement and approval criteria were read into the record.

*Staff Report*

Moody started by explaining that these standards are difficult to find Comprehensive Plan regulations to provide support or denial from. Moody wants to make sure commissioners have an opportunity to review the standards as they're written and make sure they're fine with this and open the public hearing. He added that the Planning Commission can open the public hearing at this meeting and continue it to next meeting so that public can speak on the Findings. Moody reminded the commission that they had worked on this in August and November of 2016 and at the later meeting, they had worked in-depth on all three subjects.

Moody asked the commissioners if they'd be ok with asking questions and providing feedback as he provides his Staff Report, then the commission could continue the public hearing and deliberations to the next planning commission meeting. The Planning Commission informally and unanimously agreed.

Moody explained there is no ideal place to put these items in the existing code, they don't fall under Site Plan Review or any other specific chapter that currently exists. However, most cities have a catch-all section of code for this type of language; this was somewhat modeled after City of Ashland Special Use code. Moody explained that if someone were to apply for a marijuana processing operation in a new building, it would be a Type-3 review; but if the applicant was requesting to use an existing warehouse, it might be a Type-2 review. For other marijuana-related uses and backyard chicken uses, they're outright permitted, but there are some guidelines the City may want people to follow. The same is true for the Temporary Use section, the applications may be over-the-counter for uses such as food trucks, but this gives staff opportunity to review requirements with the applicants.

#### *Naming*

Riley asked if it would be possible to could come up with something other than Special Use for this proposed code. Special Use doesn't seem that helpful; she prefers something more specific. Moody explained he does not see a problem with considering alternatives. No new names were suggested.

#### *Agency Comment*

Riley asked which agencies provided comment on this Land Use Action. Moody explained Rogue Valley Sewer Services, Department of State Lands, Department of Environmental Quality, Jackson County Fire District 5, Public Works and Police Department were notified. He added that most of these uses the City currently allows, he is just trying to tighten-up how the City processes them. Therefore, he isn't surprised that few comments have been received. Temporary Uses like food trucks currently require a Site Plan Review, which is expensive and time-consuming for applicants. Moody said as far as marijuana is concerned, state law allows up to 12 plants, the current proposal allows up to 6 plants.

#### *Homegrown marijuana and indoor/outdoor cultivation*

Moody explained that this subject didn't substantially change based on their last work session. However, section B is a new addition, for marijuana-related businesses. Moody thought it was an important addition for marijuana processing in the industrial zone. Currently this Land Use is run through the CUP process. Moody believed that it would be good to address lighting, disposal and not storing items in trailers, containers, outdoor vehicles etc. This would be helpful for protecting adjacent residential zones from negative externalities.

#### *Lighting & Dark Sky Ordinance*

Riley asked if the City has any light shedding ordinances; the current language feels like targeting. Moody explained that path lighting must be directed downward, otherwise, not much currently exists. He added that with indoor growing, lighting and fencing standards and storage of materials outside are addressed by other cities and they've chosen to do this because OLCC isn't readily able to enforce these things. Moody explained this section can be removed if the commissioners prefer.

Milan asked if the City received an application for indoor hydroponic flower/vegetable growing operation, would the lighting standards be any different than for marijuana? Moody replied, maybe the light and glare issue could be rewritten separately from the marijuana section. Dolan recommended grouping the restriction with other indoor agriculture businesses.

Stricker explained that one thing worth considering is that light and glare is unique to the marijuana growing business and it is a predominant use now. This is only addressing light and glare on the outside of the structure, it doesn't matter what happens inside. She acknowledged that it IS targeting, so the best way could be to address this here, and then later in a more general ordinance. Moody agreed and

explained that lighting and a dark sky ordinance would be worth considering, many cities have adopted something similar due to mounting public interest.

Dolan expressed concern that the proposed light regulation may be too strict. Pastizzo countered, if the language is too vague it may be difficult to enforce. Moody explained that if a complaint was received, we'd need to make sure it's a reasonable complaint. The intent was to limit the amount of grow light coming from the grow/production buildings, not necessarily that from offices.

Moody asked for direction from the Planning Commission. Pastizzo recommended providing light guidance on this and seeing what the public thinks, the commission could use this to test the waters for a more general light pollution ordinance in the future. Pastizzo would like to see a dark sky ordinance some day in the future. Moody will bring back dark sky code language with the next set of code amendments if he has direction from Council with what they want done regarding light. The upcoming revisions are mostly custodial, not terribly controversial.

Moody asked the commission if they are good with leaving it as it is for now and then beginning working on a light ordinance. Milan asked about greenhouse grow lights, does this mean you can't use a grow light system even if the windows are covered? Moody said the Planning Commission can strike that line, intent is to prevent light from coming from growing system. Commissioners informally and unanimously agreed.

#### *Marijuana-Related Uses*

*A.1. The resident grower must live on the property where the cultivation of marijuana is located and that same property must be the primary residence of the resident grower;*

Riley explained that tenant landlord laws may preclude the City from imposing this code. She explained that this is limiting what someone can do with their property. Dolan explained that she thinks the intent is for the house to be occupied. Moody explained this language is consistent with Phoenix and Ashland and it has likely been vetted through their legal counsel. He added that the intent is that if I am the homeowner and I am living here, I'm not going to lease out property for someone to grown on who doesn't live there. Pastizzo asked where is the line between personal use and commercial use; if you have an empty house, you must be planning to grow marijuana beyond personal use, at which point you're already into a commercial use. Moody referenced indoor cultivation:

*A.9.(d) marijuana cultivation shall not be the primary use of the dwelling.*

Moody explained we are trying to prevent someone from having a vacant house and using it as a second grow. Moody suggested moving A.9(d) to A.1; this would keep it simple and get the point across. The Planning Commission informally and unanimously agreed.

Riley asked, in reference to:

*A.5. The use of explosive or flammable gas products for marijuana cultivation or processing is prohibited;*

Is this legal under state law? Moody answered, individuals can process with CO2 and Butane under current state law. Moody added that this is more for the commercial processor. He explained the impetus for this was a couple of local explosions due to hash oil production in City of Medford, that's what this section is intended to prevent.

#### *Noxious/Toxic Gasses and Odors*

Riley asked what the difference is between *noxious* and *toxic*. Stricker explained they're essentially synonyms. Milan asked Moody if he could refresh his memory on how the Nuisance Ordinance reads. Wilcox explained that the Nuisance Ordinance does address "noisome odors" but it is not very specific

and difficult to enforce. Moody elaborated, complaints are somewhat commonly received for marijuana odors, but these violations are difficult to enforce due to personal preferences. Moody explained that by limiting the plants to 6 (from 12, per state law), it helps reduce the potency of odors. Moody explained that if Planning Commission would feel more comfortable removing “noxious gasses,” he can do that. Planning Commission agreed. No other changes were proposed for this section.

#### *Lots, Taxlots and Parcels*

Riley noticed *lot* is used twice in A.8., Riley explained that there are: lots, taxlots and parcels. This should be clarified. Moody explained that the code is talking about legal lots of record. Parcels are created with a partition; lots are created by subdivision. Moody explained he could change it to: *one legal lot*. The intent is to prevent individuals from taking advantage of adjacent lots to grow additional, unsecured marijuana. Riley asked if she could only grow 6 plants even if she had two lots next to each other, it seems restrictive. Moody concluded the discussion that *contiguous lots* is going to have some language that talks about one of those lots being vacant; and will bring it back in a redline version at the next commission meeting for consideration.

#### *6-plant Limit*

Riley asked why the plant limit is half of what the state allows. Moody explained this is what the Planning Commission decided at the previous work session and it is consistent with what other cities are doing. No changes were proposed for this section.

#### *Marijuana Setbacks*

Riley asked about setback for marijuana, as it won't make the smells go away. Stricker believes it's to prevent theft from passersby, however, she thinks 20ft is excessive. Moody said he spoke with the Planner at Ashland and confirmed that's the general rationale behind the setback. It also makes the plants less visible from the right-of-way if they are setback. No changes were proposed for this section.

#### *Dust, glare, heat & noise*

Dolan explained that the section on dust, glare, heat and noise seems redundant. She suggested combining; move outdoor and indoor cultivation subsections to Homegrown section. Moody agreed and indicated he would add this to his revisions.

#### *Marijuana Laboratories, Processing, Production, and Wholesale*

Moody explained this is a new section that has not been previously discussed. Moody explained that the City has provisions in the code for keeping retail operations a certain distance from each other, but labs, processing and industrial should be kept away from residential to insulate against criminal activity. Moody explained this code is very similar to what Phoenix and Ashland have in place. Stricker asked for clarification on which zone(s) marijuana labs, processing, production and wholesale are currently allowed in. Moody explained that currently, it is a use that is permitted subject to administrative or Planning Commission review in industrial and commercial highway zones. Stricker expressed concern that this code may restrict a new industry from serving this community and limit the rights of those (industrial) property owners. Moody acknowledged her concern, referring to Items B.2.a & c, he explained that if the City changes a use in a zone, or add a new use, or disallows a property for a specific use, a Measure 56 notice may be required by state law. Dolan stated she would be fine with taking out the whole section and suggested that by limiting these Land Uses, it could negatively impact future tax revenue. Riley agreed. The commissioners informally and unanimously agreed to strike section 2. Moody explained he will make these changes and bring them back to the Planning Commission at the next meeting during his Staff Report.

*B.1.f ...If any portion of the premises of a proposed marijuana related-business is within 1,000 feet of an approved marijuana related business of the same type, it may not be approved...*

Riley requested *may* be changed to *shall*. Moody agreed and indicated he would add this to his revisions.

#### *Temporary Uses*

Moody explained the intent of this section had to do with food carts and temporary vending. This section also covers standards for a temporary office (for commercial construction) and secondary dwelling on property during construction.

Riley explained that on 3.B. (Secondary Dwelling on Property), it seems like it would be difficult to not receive a Certificate of Occupancy (CofO) until the original house is demolished. Moody explained that the City can grant a Temporary CofO for up to 3 months. A building permit may be issued while the existing home remains and construction is ongoing. Pastizzo asked if it would be possible for the City to roll the Temporary Use and Temporary CofO together. Moody explained it could be a condition of approval on the building permit. Moody explained that the building form could include something similar to the following: "As a condition, only a Temporary CofO may be issued until the site has been cleaned up."

#### *Temporary Food Vending*

Moody explained that most common use in this section is mobile food vending and he would like to hear the commissioner's thoughts on how this section is shaping up since the last work session.

Under C.2., Dolan asked why the permit only lasts for 1 year. Moody explained this provides an opportunity to follow up with the permit holder to ensure they're in compliance with city code and there are no outstanding violations. He added, it would also make sure there are no setback issues, and in the past there have been issues with people putting signs on the sidewalk. He concluded, some cities charge lofty fees to mobile food businesses fees to compensate for the expensive brick-and-mortar systems development charges. No changes were proposed for this section.

#### *Temporary Sales and Events*

Moody explained that C.1., is different than a Special Use Permit, which currently is intended to be used for events that lasts for a very short period of time. Dolan asked if these Permits would be site specific. Moody explained that yes, they're site-specific as currently written; further, a single property could have multiple mobile food trucks at same property. Dolan asked if an expiry clause should be considered if a Temporary Use is discontinued. Moody said if this proves to be an issue in the future, that may be worth considering. Moody explained that a good example for a Temporary Use Permit would be the Friday Market, since it lasts for more than 1-2 days at a static location. Moody explained that the fee schedule for Temp Uses have not been worked out yet, but it will be based on staff time on an hourly basis, the cost may be similar to the Special Use Permit. Dolan expressed concern about not wanting to be too restrictive, especially with Talent's new Maker City status and wanting to encourage walkability. Moody explained that it really depends on the scope of the intended use, if there will be noise, or other potential issues such as liquor licensing, permitting needs to be addressed.

#### *Backyard Chickens*

Moody explained that this section used to be 3 pages, after the work sessions it has been reduced to just 1. At the last work session, commissioners considered using open space to determine a cap on chickens. Commissioners briefly discussed how the maximum amount of allowed chickens should be calculated;

should the proportion of building footprint to lot size matter? Moody explained that the calculation is based solely on actual lot size as currently written. The footprint of structures does not count against the maximum number of chickens that may be on the lot. Moody explained he would change *lot area* to *lot size*, to clarify this point.

#### *Chickens, Ducks, and other Fowl*

Referencing A.2., commissioners briefly discussed which type of agricultural fowl should be allowed by this code. Moody will modify the language to allow chickens and ducks, but no roosters or geese, per commission request.

#### *Chicken Structures*

Pastizzo explained that for some homes, space for enclosures and structures to protect chickens is not available in side or back yards; he asked the commission, how should chickens be secured if they're allowed in the front yard. Pastizzo recommended in section 5, address chicken structure maximum height; not to exceed 8ft in backyard, not to exceed 3ft in front yard. The commission informally and unanimously agreed.

#### *Appealing a Temporary Use Permit*

Riley asked what happens if a Temporary Use Permit is appealed. Moody explained that all Type-I reviews are appealable to LUBA because they are Ministerial (standards based).

Moody concluded his Staff Report by recommending the Planning Commission open the public hearing and continue it to the regular April meeting.

#### **PUBLIC HEARING OPENED** at 8:48 p.m.

Pastizzo asked for a motion.

**Motion:** Dolan moved to continue this open hearing to April 27. Riley seconded. Discussion: none. All ayes. Motion passed unanimously.

Moody explained that when the Planning Commission reconvenes on April 27, staff will provide Findings from the Comprehensive Plan to go with the Development Code Amendment, and he will incorporate the changes recommended tonight by the Planning Commission. At that meeting, the public could review these items and provided there are no concerns, the Planning Commission would then close the Public Hearing and they could make their recommendation to City Council.

## **VII. Discussion Items**

### *Bed and Breakfast (BNB) / Boarding House*

Moody that explained each of the commissioners had been mailed a copy of this complaint straight from the complainant. The complaint was regarding a BNB/Boarding House operating at 20 Logan Way. The Planning Commission had approved this land use by Site Plan Review (SPR 2014-006). Moody explained that staff has spoken with the complainant and addressed the fact that this was an approved land use application, however staff would address the outstanding condition of approval. Moody explained that if a condition of approval is not satisfied, it becomes a code violation, and the applicant could resolve the issue by addressing that condition of approval. In this case, it required having Public Works install a no-parking sign and curb paint at the street corner adjacent to 20 Logan Way, the fee would be paid by the applicant since it was a condition of approval clearly identified in the Final Order and that decision was never appealed.

Pastizzo asked if it was required for the applicant to live on-site? Moody explained that the City doesn't have any code that makes that a requirement and it was never made a condition of approval by the Planning Commission. Moody recommended commissioners think about future priorities, if they want to see regulations for BNB and similar uses. Stricker recommended setting up criteria for BNBs and vacation rentals. She added, if they function like vacation rental, the criteria should be different. Moody explained that BNBs can be taxing on neighbors, and the City currently has few standards to apply to them. He added, there are 2 BNBs that are approved by the City, and approximately 20 that are not, according to preliminary findings. This is also a substantial source of tax revenue.

Dolan stated that it is important to balance the burden on neighbors with a legitimate property use and income for the City. Moody explained that some cities strictly regulate this use, and others do not. The City of Medford is fairly accommodating; however, Ashland does limit certain types of BNBs and vacation rentals. Moody added, another thing to consider is: should this Land Use be reviewed by the Planning Commission, or City staff? Dolan expressed interest in hearing community input. Moody explained that the current atmosphere regarding BNB is fairly hostile. Stricker made a note to direct staff to prioritize the BNB and vacation rental issues. Moody acknowledged. Moody concluded by explaining that he expects this specific code violation to be resolved soon, and that Planning Commission made a solid decision on the land use approval for SPR 2014-006 based on the code criteria available.

#### **VIII. Subcommittee Reports**

Pastizzo asked for subcommittee reports. Moody responded, stating that he does not believe there are any active Citizen Advisory Committees (CAC) as of this time. Stricker explained that the Planning Commission needs to disband Citizen Advisory Committees (CAC) at the end of their use. Moody asked how this group was to be disbanded, Stricker responded the Commission just needs to make a motion. Dolan and Moody expressed interest in seeing the CAC standards. Moody stated he thought the purpose of the Goal 1 efforts was to create the CAC policy.

Stricker explained that CACs are government bodies and are subject to public meeting laws and ethics. She copied Planning Commission on a complaint that has been submitted against a CAC member. Because the CAC was a governing body enacted by a motion, they should be disbanded via motion as well for good housekeeping. Moody asked if the HNA CAC should remain until the HNA is adopted by Council. Stricker questioned staff in regards to what decision. Stricker agreed that CAC should remain until the Housing Element is adopted.

Dolan asked if members can be removed from a CAC if they violate state standards. Stricker answered affirmatively. Dolan explained that she was alarmed to see a CAC member emphasize a housing emergency, then submit a land use application for a development shortly thereafter, she felt it was an ethics violation. Moody explained the Housing and Economy element were two different animals. Moody went on to say that for the Economy Element, all CAC members had an economic interest in the Community, whether that is right or wrong, he is unsure. Dolan reiterated her concerns that someone on the Housing Element CAC would use their position to generate urgency about housing, stated she has nothing to do with ethics complaint.

Milan stated that to his recollection, the sense of urgency wasn't just generated by that individual, there were many members of that committee who had that same sense based on the information they had. That person wasn't the only one that had that same sense of urgency. Moody added that Nancy Buono



provided similar testimony during that Public Hearing. He concluded by mentioning that the issue has been forwarded to the City Manager and Attorney.

Dolan recommended that going forward, if CAC members had a financial stake, that it should be disclosed. Dolan went on to say that she would likely have to recuse herself if she had a financial interest in a development before the Commission. Stricker explained the recusal process, stating that if you were on the Economic CAC and had a financial interest you would have to recuse yourself and not vote. She asked if there was any action Planning Commission had to take now, Riley explained this issue is above their paygrade and immediately began discussing the next topic.

#### *Planning Commission Bylaws*

Riley reminded the commission about the need to update the Bylaws and recommended adding it to the next agenda. Moody questioned Ms. Stricker as to the current process going through Council discussing Council rules and asked if we should wait until that process had been completed. Moody stated he had no issue adding to next agenda. Stricker explained that it is important to include what defines misconduct that could subject you to a hearing for removal. The Planning Commission needs to make sure that there is a definition for misconduct and a process that is well defined. Stricker explained that Planning Commission is obligated to update bylaws and the Bylaws can be easily amended. Staff explained that it made sense to start the process of amending the bylaws and then complete them when the Council is complete with their work, so that we don't have to immediately amend them again.

**Motion:** Riley moved that on the next agenda, the Planning Commission reviews the Bylaws to get them up to date and take part in discussion on this subject. Dolan seconded. Discussion: none. All ayes. Motion passed unanimously.

#### *Goal 1*

Stricker explained that City Council directed staff to begin work on Goal 1 and that this had been discussed with the City Manager. This involves staff making an announcement and assembling a committee, per City policy, and setting them on the task of developing a Citizen Involvement Plan (CIP), putting the City in compliance with statute. Stricker stated that the State statute requires a CIP in our Comprehensive Plan. After speaking with City Manager, Stricker believed this should be handled at the Planning Commission level but would move this issue to the Council if Planning Commission doesn't want to take this project on. Stricker stated she spoke with City Manager and he agreed that it wouldn't be a good idea to circumvent the Planning Commission. Dolan asked if a CIP pertains to land use only, Or other city projects as well. Riley explained that CIPs are for land use. Stricker agreed with Riley and stated that it could be used for other projects. Riley suggested it be put on the next agenda when all Commissioners are in attendance. Stricker suggested that only the Planning Commission work on the CIP as that would produce the highest and best document. Stricker continues by stating this is an element of the Comprehensive Plan and in some ways, it will flush out policies as to when to use AD HOC or CAC and will create criteria and give everyone an idea of how a governing body comes to be. Riley again suggested the item be on the next agenda. Moody reminded the Planning Commission that there are at least one, but possibly two public hearings on the next agenda; this item may not be able to fit it on the April 27 agenda but he will make sure it happens soon. Stricker stated she doesn't see it getting done soon, if not at next meeting, could be soon. Moody agreed. Riley commented on the potential variance application with concerns about bright light in the old downtown. Stricker said for Planning Commission to let her know, that her original intention was to just create an Ad Hoc committee and bring it to the Planning Commission. Dolan expressed interest. Riley stated she would find similar CIP from other cities. Stricker reminded staff that this was directed by Council and to not "let it fall off".

**IX. Propositions and Remarks from the Commission**

None

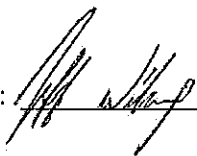
**X. Next Meeting**

The next regularly scheduled meeting will be held on April 27, 2017.

**XI. Adjournment**

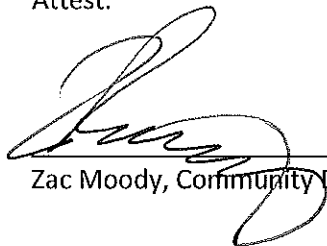
There being no further business to come before the Commission, the meeting was adjourned at 9:21 p.m.

Submitted by:



Date: 3/27/2017

Attest:



Zac Moody, Community Development Director



David Pastizzo, Planning Commission Vice Chair

\*Further information on the Code amendments is available at the Community Development office.

Note: These Minutes and the entire agenda packet, including staff reports, referenced documents, resolutions and ordinances are posted on the City of Talent website ([www.cityoftalent.org](http://www.cityoftalent.org)) in advance of each meeting. The Minutes are not a verbatim record: the narrative has been condensed and paraphrased to reflect the discussions and decisions made.

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