



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON:

November 17, 2016

LOCATION:

Mendocino County Board of Supervisors Chambers
501 Low Gap Road, Room 1070
Ukiah, California

COMMISSIONERS PRESENT:

Krueger, Warner, Holtkamp, Hall, Ogle

COMMISSIONERS ABSENT:

Little, Nelson

PLANNING & BLDG SVC STAFF PRESENT:

Steve Dunncliff, Director
Andy Gustavson, Chief Planner
Bill Kinser, Senior Planner
Mary Lynn Hunt, Senior Planner
Adrienne Thompson, Commission Services Supervisor
Nash Gonzalez, Land Logistics

OTHER COUNTY DEPARTMENTS PRESENT:

Matthew Kiedrowski, Deputy County Counsel
Katherine Gamble, Environmental Health

1. Roll Call.

The meeting was called to order at 9:03 a.m. Commissioner Little and Commissioner Nelson were absent by prior arrangement.

2. Planning Commission Administration.

2a. Determination of Legal Notice.

The Clerk advised the Commission that all items had been properly noticed.

3. Director's Report and Miscellaneous.

Mr. Dunncliff did not have a report for the Commission.

Commissioner Holtkamp asked staff the timetable regarding the Medical Cannabis Ordinance.

Andy Gustavson, Chief Planner, discussed the circulation of the CEQA document for public review and stated the ordinance had been noticed for a public meeting on December 1, 2016 at 3:00 pm; no action would be taken. He further noted the ordinance would come back to the Commission on December 15, 2016 for final action.

Commissioner Ogle noted the meeting on December 1st was noticed for 1:00 pm.

Mr. Gustavson stated that was correct as there was one project on the agenda before cannabis, which was set as a timed item to begin at 3:00 pm. He noted the Commission was not required to stay past 5:00 pm to take public comment and discussed a strategy for the meeting.

4. Matters from Public.

No one was present from the public who indicated a desire to address the Commission.

5. Consent Calendar.

None.

6. Regular Calendar.

Commissioner Holtkamp made a motion to change the order of the items on the agenda and proceed with item 6b prior to 6a. noting the applicant had called to state they would be late. The motion was seconded by Commissioner Hall and approved by a voice vote of (5-0).

6b. CASE#: OA_2016-0001/R_2016-0002 (Continued from 8/18/2016)

DATE FILED: 5/9/2016

APPLICANT: COUNTY OF MENDOCINO

AGENT: PLANNING AND BUILDING SERVICES

REQUEST: Amend the Mendocino County Zoning Code – Division I, Title 20 (Inland) to add Chapter 20.147, Community Character (CC) Combining District and Rezone all the C-1 (Limited Commercial) and C-2 (General Commercial) zoning districts to apply the CC Combining Zoning in the County. The areas not included are, the city limits of Ukiah, Fort Bragg, Willits and Point Arena. Not applicable to those areas within the designated Coastal Zone Areas of the County. The proposed amendments will replace the formula business moratorium set by the Board of Supervisor's on September 22, 2015 and require a formula business use permit to establish a formula business by locating a new use either on a vacant lot or within a substantially renovated structure.

ENVIRONMENTAL DETERMINATION: Categorically Exempt per CEQA Guidelines Section 15308.

LOCATION: All unincorporated inland areas within Mendocino County. The areas not included are, the city limits of Ukiah, Fort Bragg, Willits and Point Arena. Not applicable to those areas within the designated Coastal Zone Areas of the County.

STAFF PLANNER: MARY LYNN HUNT

RECOMMENDED ACTION: Recommend the Board adopt the Ordinance.

Mary Lynn Hunt, Staff Planner, reviewed the staff report and discussed the background of previous hearings. She noted the ordinance would add a new Chapter 20.147, Community Character, to the inland zoning code. She discussed the Exemption Map attached to the packet and discussed how the various Municipal Advisory Council (MAC) comments had been addressed, including the early notification process.

Chair Warner discussed the new referral process and asked if the application packets would be posted at least 3 months prior to a public hearing.

Ms. Hunt stated that some packets would potentially be posted 6 months prior to a hearing as issues were addressed with staff and the request in the application was modified.

Commissioner Holtkamp commented that it would be helpful for someone from Planning and Building to go on the radio and describe the process to the residents. She felt many people were unaware of how to receive notice of an application in their area.

Commissioner Hall commented that early public notice could be handled by the MACs and noted that the comments seemed to indicate that a newspaper notice was requested.

Ms. Hunt commented that providing an early notice in the newspapers, prior to scheduling any hearings could result in confusion between project descriptions. She noted that the request from an individual's application was not necessarily the request that was noticed for a public hearing. She also felt that it would be costly to provide numerous newspaper notices every time something changed in the application process.

Mr. Gustavson commented that there would be tradeoffs for early access; what might be posted online as an early notice might not be what was distributed for review. He noted some projects linger, which might lead to confusion.

Commissioner Holtkamp suggested adding a heading to the referral link stating, "First submission" so the public would know to check for the final version.

Commissioner Ogle asked what the expiration date was for planning applications.

Ms. Hunt noted that once a project was deemed complete and referrals sent out, if an issue arose, most projects would be put on hold versus expired. She noted there could be applications that were waiting for further information that could be expired or withdrawn at the applicant's request.

Commissioner Ogle discussed the comment from the MAC stating a public hearing should be required before the Planning Commission, not the Zoning Administrator.

Ms. Hunt stated that the Zoning Administrator was a public hearing process; however it was a one person hearing body versus the seven member Commission. She stated all items were noticed to adjacent property owners and a notice was printed in the closest newspaper of circulation near the project.

The public hearing was declared open.

David Roderick, representing the Hopland MAC, felt the Commission was missing some critical discussion and did not support the ordinance as written. He felt more time and consultation with the MAC's was needed and thought that Hopland should be included in the "Exemption" area.

Char Warner commented the Board had the option to discuss and change language during their hearings also and hoped the MAC's would stay involved.

Mr. Roderick stated that Hopland intended to make their own Town Plan, similar to the Mendocino Town Plan, which he felt would supersede the County General Plan and any ordinance amendments approved by the Board. He stated they were currently working on the Hopland Town Plan in conjunction Hopland Main Street Plan.

Chair Warner noted the MACs would need support for approval of a town plan.

Mr. Roderick stated they had hired LACO to work on the documents and stated they will get Supervisor Hamburg's support for approval.

Hal Voege discussed the letter he had submitted to the Commission and felt the ordinance was missing a remedy to the various impacts of an application beyond the boundaries of the application. He felt the noticing should be expanded beyond 300ft and should include the entire community; noting how Redwood Valley was blindsided by Dollar General. He felt the staff recommendation for early noticing was not sufficient to inform the public.

Commissioner Ogle commented that the matter of notification seemed to hinge on educating the public on how to find resources.

James Houle stated he had nothing to add.

Eric Boyle felt CEQA should be required to protect the County and have healthy communities. He stated the ordinance fails to capture significant impacts beyond the property lines of the application site. He also felt more information should be required of applicants, such as a financial impact study, and greater mitigation for development.

Nancy Jameson stated she was blindsided by Dollar General and felt the ordinance did not protect the community.

Bill Taylor stated that protecting architecture wasn't that important in places like Redwood Valley, which is all the ordinance seemed to accomplish. He felt the County should be allowed to discriminate on formula versus local business and set up an economic measure, such as wages, to determine which businesses would be allowed in the County. He also felt more time was needed on the ordinance.

James Houle commented that he had been working with Eric Boyle and Hal Voege on comments to the ordinance and felt there was no need for formula businesses.

Sheilah Rogers, Redwood Valley MAC, noted that she had a great experience working with staff and appreciated their efforts. She noted the current draft was not specific, which is what it needed to be, and felt that community plans were the key to protecting the County.

Joel Sonila thought the Planning Commission should spend more time on the ordinance before it went to the Board.

The public hearing was declared closed.

Chair Warner commented that it appeared several communities wanted to create their own town plans and she noted that the General Plan did recommend that community specific plans be created. She felt Hopland and Redwood Valley should move forward on creating their own town plans to be included in the General Plan, but felt that should occur outside of the adoption of the Formula Business Ordinance. She thought the current ordinance should move forward to the Board.

Commissioner Holtkamp agreed that the document needed to move forward and understood the communities concern with the ordinance. She noted that it was not a perfect solution, but felt that if the process was delayed further, the momentum would be stalled and perhaps never be completed.

Commissioner Ogle felt the ordinance was worded well, and noted that Dollar General was ultimately approved because it was zoned correctly and conditions could not be placed on the building permit. She stated that the ordinance would require a use permit, which the Planning Commission could condition. She agreed that each concerned community should create their own community specific plan, which would carry more weight than just the General Plan.

Commissioner Holtkamp further commented that she was concerned that the MAC's do not fully represent the communities needs either and felt a community plan was needed; however long it might take.

Commissioner Krueger stated that more time would not satisfy the people who had submitted comments on the ordinance either and felt the document should move forward. He felt the proposed ordinance did the job; it required a use permit and public hearing for the proposed formula business, which is what was requested, and agreed that the communities needed their own specific plan. He also asked what "newly constructed" meant on page 6 of the redline ordinance.

Mr. Gustavson noted the language was created to catch a situation similar to Dollar General, where a building was being proposed not as a formula business, but where the ultimate leasee who occupied the building would be a formula business.

Commissioner Krueger agreed and understood the intent, but felt the language needed to be clarified; perhaps by defining "newly" constructed.

Ms. Hunt commented that in reading the "prohibitions" section of the document, the context of the statement newly constructed seemed clear.

Commissioner Hall commented that the ordinance should be a tool for staff to use in situations like the Dollar General application, and by requiring a use permit; the ordinance seemed to do the job. He noted that public input and noticing was required and the Planning Commission could add conditions, which they could not do before.

Mr. Gustavson commented that by requiring a use permit, there would be findings to determine if a project was consistent with the General Plan, and if key issues relating to environmental findings and use permit findings could be made.

Chair Warner noted that the findings related to each project could differ depending on location, such as traffic impacts in Hopland versus Redwood Valley. She asked if the overall size of the store could be limited in square footage.

Mr. Gustavson noted that size can be limited by things such as setbacks, parking requirements and site improvements. He noted that currently, there was no prescriptive way to limit floor area ratio. He stated that the Zoning Code would need to be amended for such a limitation.

Commissioner Holtkamp commented that any regulation that was put in place could be bypassed in some way and she hoped that the communities would take the time to create community specific plans. She also felt that there was not total agreement between the communities and the MACs.

Commissioner Krueger agreed that the community plans process would be helpful and the documents could be incorporated into the General Plan.

Mr. Gustavson noted there was a chapter in the General Plan for specific policies and noted the process for adopting a community plan was similar to the UVAP. Staff would need the Board to direct the commencement of the process to begin with community meetings.

Mr. Nash Gonzalez commented that the community plan process was based on public input and would take time to develop and put in place. He noted that applications are currently referred to the MACs for comment and those comments are considered when staff reports are written.

Chair Warner commented that she does look for MAC recommendations in staff reports and felt the ordinance should move forward. She stated the ordinance allowed for conditions to be added to projects and if, in the future, a square footage limitation could be added, the document was suitable.

Commissioner Hall agreed that the document seemed to be worth putting in place as the community plan process would be lengthy.

Chair Warner commented that she hoped the motion included a recommendation for community plans to be established.

Commissioner Ogle agreed that creating community specific plans would be great as long as it left the General Plan open for future changes.

Mr. Kiedrowski noted that plans change over time and it would be possible to make amendments to the General Plan, etc. in the future. He also noted that the ordinance required use permits, which allowed for conditions to be placed on permits along with a public hearing and clarified that the ordinance amendment was not subject to CEQA, but future use permits that came forward to the Commission might require CEQA review.

Ms. Hunt suggested adding wording to the sentence related to new construction to clarify the intent versus adding a new definition and offered, "a structure not previously occupied by a formula business."

[Break 11:00 AM – 11:15 AM]

Chair Warner discussed some edits to the redline version on page 3 and suggested all the formatting be consistent.

Ms. Hunt read the language to add to new structures and the start date of the formula business ordinance as, "in a newly constructed... for purpose of this chapter any structures built after 9-22-2015,

Commissioner Hall commented that he would prefer some sort of "standard protocol" as notification for the public instead of relying on the website and various MAC's to spread the word.

Mr. Gustavson noted there were other entities to ask for assistance such as Community Service Districts, Fire Districts, Water/Sewer districts, etc. and the early consultation referrals were a way to engage further review.

Ms. Hunt commented that in the coastal zone, the applicant was required to post the site with a written statement of intent prior to submitting an application on a project and the Commission could recommend a similar process to the Board.

Chair Warner felt that posting the site was better than nothing, and preferred to pass the burden to the applicant instead of burden staff with posting or additional notice requirements.

Mr. Gustavson noted the Planning Commission would need to express a desire to the Board to consider community plans for future adoption. He commented that the Board would need to authorize/direct staff to work on specific community plans.

Commissioner Hall made the recommended motion to the Board of Supervisors to adopt the Formula Business Ordinance, with modifications as requested by the Planning Commission to require posting of the site similar to coastal zone requirements, clarify the language on page 6 regarding "newly constructed" and encourage the preparation of community specific plans for future inclusion into the General Plan.

The motion was seconded by Commissioner Holtkamp.

Under discussion, Chair Warner commented that she hoped the Board would do what they can to encourage the communities to take the lead in preparation of community specific plans.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp and carried by the following roll call vote (5-0), IT IS ORDERED to recommend the Board of Supervisors adopt Ordinance Amendment OA_2016-0001/R_2016-0002 with the modifications proposed by the Planning Commission to add noticing requirements similar to the Coastal Zone for posting of proposed formula business sites, clarify the language related to newly constructed on page 6 and encourage the preparation of community specific plans for future inclusion into the General Plan.

AYES: Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Little, Nelson

6a. CASE#: U_2014-0006

DATE FILED: 2/28/2014

OWNER/APPLICANT: EDYTHE & ROBERT MICHEL

AGENT: WYNN COASTAL PLANNING

REQUEST: Coastal Development Use Permit for the construction of a single family dwelling unit and barn with included shop (music studio) and to convert an existing unpermitted single family residence to a Farm Employee Housing unit, and legalize existing unpermitted Guest Cottage, and accessory site improvements (sheds, solar panels, water tanks, septic).

ENVIRONMENTAL DETERMINATION: Class 3 Categorical Exemption

LOCATION: Within the Coastal Zone, 2± miles south of the City of Point Arena, off a private road, lying north of Iversen Road (CR 503), 1± mile east of its intersection with Highway 1, located at 56030 Iversen Road, Gualala; APN 027-511-28.

STAFF PLANNER: BILL M. KINSER

RECOMMENDED ACTION: Approve project as recommended.

Bill Kinser, Staff Planner, reviewed the staff report and discussed the request, accessory improvements, and ag operation on the site, which allowed for the second residence. He reviewed the key issues with the project and stated the request was consistent with the General Plan and would meet the development standards, as proposed. He noted that a memo had been distributed to the Commission recommending corrections to the staff report regarding Condition #19 and #20 as well as several minor clarifications.

Commissioner Ogle referenced page 2 of the report and asked the definition of an ag operation and if the proposed 1 acre of Asian pear trees could qualify.

Mr. Kinser noted that an ag operation must be developed in order to allow for farm labor housing in the coastal zone and read a portion of page 5-6 into the record.

Commissioner Holtkamp asked when the ag determination was made; when the trees were planted or when the pears were sold.

Mr. Kinser noted the estimate was 5-7 years to become an ag operation.

Commissioner Ogle commented that 20 pear trees did not seem sufficient to qualify as an ag operation and asked if there was a monetary determination to qualify.

Mr. Kinser stated the applicant estimated they would need to plant 100 trees or 1 acre crop to produce between \$30,000-\$120,000 of income per year, which is the minimum.

Blair Foster, Wynn Coastal Planning, discussed Condition #17 3c and 3e, and asked if the language could be refined to state "ground disturbing", which she felt illustrated the intent of the condition more clearly.

The Commission and staff discussed the interpretation of the condition.

Mr. Kinser did not think adding the language would be an issue.

Amy Wynn, agent, further clarified that the request to add "ground disturbing" would allow interior work to be completed on the structure during the rainy season when outdoor projects could not be completed. She noted that similar language had been accepted in previous applications by the Department of Fish and Wildlife and the Coastal Commission.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Commissioner Krueger commented that there was not enough commercial timber for the TPZ zoning to be an issue and it would not impact development.

Mr. Kinser noted the handouts that had been provided to the Commission illustrating new figures and a revised site plan should be included in the record.

Upon motion by Commissioner Hall, seconded by Commissioner Ogle and carried by the following roll call vote (5-0), IT IS ORDERED to adopt a resolution accepting the Class 3 Categorical Exemption and grant approval of Use Permit, U_2014-0006, as conditioned, based on the facts and findings in the record and subject to the conditions of approval in Exhibit A, as revised by the Planning Commission during the public hearing to clarify Condition #19, #20, #3c and #3e.

AYES: Krueger, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Little, Nelson

7. **Matters from Staff.**

None.

8. **Matters from Commission.**

Chair Warner wished Mr. Gustavson a smooth transition to his new job with the City of Santa Rosa.

9. **Adjournment.**

Meeting to be adjourned. Staff and Commission to meet at Slam Dunk Pizza for luncheon in recognition of Andy Gustavson.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp, and unanimously carried (5-0), IT IS ORDERED that the Planning Commission hearing adjourn at 12:09 p.m.