MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON:	**August 18, 2016**
LOCATION:	Mendocino County Board of Supervisors Chambers 501 Low Gap Road, Room 1070 Ukiah, California
COMMISSIONERS PRESENT:	Little, Krueger, Nelson, Warner, Holtkamp, Hall, Ogle
COMMISSIONERS ABSENT:	None
PLANNING & BLDG SVC STAFF PRESENT:	Steve Dunnicliff, Director Andy Gustavson, Chief Planner Mary Lynn Hunt, Senior Planner John Speka, Planner III Adele Phillips, Planner II Adrienne Thompson, Commission Services Supervisor
OTHER COUNTY DEPARTMENTS PRESENT:	Matthew Kiedrowski, Deputy County Counsel

DRAFT

1. Roll Call.

The meeting was called to order at 9:07 a.m.

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. Dunnicliff was available for questions.

4. Matters from Public.

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

5. Consent Calendar.

5a. Approval of the June 16, 2016 Planning Commission Minutes.

Upon motion by Commissioner Nelson, seconded by Commissioner Ogle and carried by a voice vote of (5-0), with Chair Warner and Commissioner Little abstaining, the June 16, 2016 Planning Commission Minutes are approved.

6. Regular Calendar.

6a. CASE#: AA_2016-0002 (Continued from 6/16/2016)

DATE FILED: 4/14/2016
OWNER: GARD & WHITNEY COOKSON
REQUEST: Administrative Appeal of the Planning Staff's interpretation of Section 20.168.020 (E) of the Mendocino County Inland Zoning Ordinance: "Exclusions. The provisions of this Section are not intended to include or regulate private gatherings such as weddings, housewarmings, family gatherings, barbeque, etc"; and Section 20.168.020 (B): "Duration. The period of operation of the circus, carnival, concert, rodeo, community festival, lecture, art or antique show, religious assembly or other similar activities shall not exceed five (5) days in any six (6) month period" also applies to temporary gatherings of fewer than 99 people.
ENVIRONMENTAL DETERMINATION: Categorically Exempt.
LOCATION: 6± miles northwest of Cloverdale, lying on the south side of Highway 128, 1000± feet west of its intersection with Mountain House Road (CR 111), located at 33430 Highway 128, Yorkville; APN 049-380-38.
STAFF PLANNER: ANDY GUSTAVSON
RECOMMENDED ACTION: Uphold Staff's Determination of the Zoning Code.

Commissioner Nelson recused himself from the item.

Commissioner Ogle noted she had visited the site with Mr. Cookson.

Commissioner Little noted he had watched the video and could participate in the discussion.

Chair Warner noted she had also watched the video and commented that the public hearing had been closed; however the Commission may reopen the public hearing since so many people were present. She asked that testimony be kept relevant and to the matter at hand.

Andy Gustavson, Project Coordinator, summarized the appeal of staff's determination regarding temporary event regulations. He discussed the restriction to host events for no more than 5 days in a 6 month period with less than 100 attendees. He noted staff's opinion was that the facility was for commercial use and the wedding events were not for personal family use. Mr. Gustavson noted the applicant had a use permit for larger events, which could be modified to include any number of events. He noted the project had been continued to allow for the full Commission to take action on the project.

Commissioner Ogle asked what the applicant would need for the use permit.

Mr. Gustavson noted the applicant may elect to modify the existing use permit to add additional activities associated with the Bed &Breakfast. He stated the project would come back to the Planning Commission for findings to ensure that the use was consistent with the zoning, and not detrimental to the health, welfare and safety of the area.

Commissioner Ogle noted the typical processing time for a use permit was 6 months and asked if the application could be expedited for the owner.

Mr. Gustavson noted that without the need for an environmental document, the processing time to hearing would be reduced.

Commissioner Krueger commented that if the applicant was going to apply for a modification to the permit, he would be able to include the total number of events desired without restrictions.

Mr. Gustavson confirmed Commissioner Krueger's statement and noted the applicant would submit an application that requested a total number of events. Staff would then process the application to see if the request could be granted or if there was a conflict with zoning, etc. The application would also be considered by the Planning Commission during a public hearing for final approval.

Commissioner Krueger asked if the Planning Commission could waive the application cost.

Mr. Gustavson noted that only the Board of Supervisors could waive a fee.

Chair Warner commented that she had not performed a site visit because she did not feel it was necessary. She stated the issue was whether the site was appropriate, just a question of the type of permit needed, if any to host weddings.

Gard Cookson, owner, presented a power point of his facility and discussed the upgrades that had been completed and permitted by the County. He discussed County Code and stated that private weddings were excluded from the regulations. He also noted that he had received a permit from Caltrans to construct a private access so he would not be sharing a driveway with his neighbors. He noted the Commission had asked about a major use permit for the project and stated that while he felt one was not required, he had contacted the department to inquire about the process. Mr. Cookson stated he had been to the County and pulled the records for the 7 most prominent wedding event centers in the County and found that not a single one had a permit to host weddings. He noted that most permits were transient habitation, resort, or wineries with tasting rooms, etc. and did not have any conditions on the project related to hosting weddings. He also noted that most renewals of the use permits had a 20 year expiration date, whereas his administrative permit was only for two years. Mr. Cookson reviewed his previous discussions with staff at PBS, which he felt demonstrated that a permit was not required for private weddings of less than 100 attendees, and stated his events were exempt from the code section. He also felt that the reference to "commercial" use was not relevant as the County Code did not discuss commercial.

Chair Warner commented on the email from staff that Mr. Cookson had used in his power point and noted the information was silent on number of events. She was curious if the other wedding venues that Mr. Cookson had looked up had other permits, or were lacking major use permits.

Mr. Cookson stated some had permits for things such as a winery and tasting room, or nail salon, but there were no restrictions on weddings.

Chair Warner stated that with numerous individuals wishing to speak, she would like each speaker to keep the discussion brief and to the point.

The public hearing was declared open.

Dr. Frederic Frye immediate neighbor to the south, stated he had no complaints with the events and could not hear any noise during operations. He felt the Cookson's were superb neighbors and had mailed a letter of support to the Commission.

George Lee retired physician VP Wine Growers Inc., noted his numerous involvement in committees in the Yorkville/Cloverdale area and stated he had no complaints against the events and could not hear any noise. He felt it was a needed establishment in the community and would like to see the use expanded.

Kurt Feitchmeir owner of Raven Ridge Cottages, stated his support of the operation and thought the rules had been changed on the Cookson's. He felt the language in the code was clear and the County had no authority to regulate private weddings.

Adrian Card, resident on Elkhorn Road, was in support of the Cookson's project.

Margot Rawlins also noted support of the Cookson's project.

Curt Frost noted his support of the Cookson's project.

Peter Gordon noted his support and stated the events were a on benefit to Anderson Valley.

Mark Rawlins noted his support and stated he had mailed a letter to the Commission. He felt the operation was a benefit to the community.

David Roderick felt the County should be promoting and encouraging business in Mendocino County and noted his support of the project.

Deborah Mefferd, John M. Gaudette and John J. Gaudette all stated support for the Cookson's.

Ronald Rice, owner Yorkville olive ranch, stated weddings brought business to Anderson Valley and increased his olive oil sales. He stated support for the Cookson's.

Peter Brodigan, Katherine Lee and Gerald Reis all stated support for the Cookson's.

Tom Rodrigues, owner Maple Creek, noted his support for the Cookson's.

Diane Taylor and Bill Gawthrop noted their support for the Cookson's.

Jonathan Rubenstein, Toll House Inn, had general comments as an inn owner in Anderson Valley. He stated he had received permits for his business and felt the use permit process was challenging. He noted a streamlined process would be appreciated.

Paddy Goodheart stated she strongly supports the Cookson's.

Bill Taylor commented that the County was being too strict and had handled the Cookson's with "sternness", where he felt the County should go easy on the locals.

The public hearing was declared closed.

Chair Warner asked staff how many other venues had permits for wedding events.

Mr. Gustavson could not comment directly on the number of transient use types with permits in the County, but provided a follow up comment on the regulatory review process for PBS. He noted that it was unclear how events smaller than 100 people were being treated currently and commented that evaluation and interpretation were the core issues and grounds of the appeal. He discussed the difference between hosting an event for family, or coworkers, such as a barbeque or wedding, and noted the evaluation that would be required for events up to 100 people, such as road/parking improvements, septic capacity, site improvements, etc. He noted the continuous use of the property went beyond the allowed "incidental use" that was exempt from the code and could impact the general health, welfare and safety of the public.

Commissioner Little commented that the most important interpretation of the code was to provide consistency. He also felt that when there was uncertainty in an interpretation, the benefit of the interpretation should side with the applicant. He stated that when a situation occurred and staff was faced with a conflict, either the code should be revised or staff should ask the Board of Supervisors for approval of the interpretation.

[Break 10:13 AM – 10:23 AM]

Commissioner Ogle agree with Commissioner Little's interpretation and felt the benefit should have been given to the applicant. She also felt that the site view she had performed was beneficial as she found site specific items that had been done to mitigate noise factors for the neighbors. She also felt that the support of the neighbors and community illustrate that the events are not a nuisance, and with the private access being upgraded, gated entrance and distance from Highway 128, there was little if any further mitigation needed. Commissioner Ogle's final comment referenced the use of the word "commercial", which was not present in the Code Section and she felt not applicable to the discussion at hand.

Commissioner Holtkamp noted she had learned a lot from the presentation and had originally sided with staff, but was beginning to feel, to some extent, that the applicant had the correct interpretation.

Commissioner Krueger commented on the excellent presentation and felt the regulations focused on the number of people at an event, which for permitting purposes seemed to start at 100. He felt there was no permit required for less than 100 people and supported the applicant.

Commissioner Hall commend that he had supported staff in their findings, but also understood the Cookson's predicament and felt they were caught in an ambiguous situation.

Chair Warner commented that she felt the greatest factor that influenced her opinion was that weddings at a paid venue for profit of the establishment are not private affairs and she felt staffs interpretation of commercial use should prevail. She noted the code was written in 1986, was outdated and did not evaluate potential impacts of current development. She commented that 90 cars traveling on a dirt road could impact air quality and other vehicles would need to traverse the road for catering and to set up music. She felt the Cookson's events were well done, but thought a major use permit should be required to protect the neighbors and community and in reviewing just the facts, she agreed with the staff interpretation.

Matt Kiedrowski, Deputy County Counsel, commented on the recommended motion and noted that if the Commission wished to change the language, the decision should be tied to wording in the code, not individual characteristics of the project.

The Commission and staff discussed their interpretation of the code and the use of private versus non-private, and whether less than 100 people would require a permit.

Commissioner Little agreed with the Chair and pointed out that when the code was written in 1986, these sort of wedding venues were not prevalent. He felt the code should be updated and did not see any wording present to support staff's interpretation.

Mr. Gustavson agreed that, over time, these types of facilities have changed and expanded. He noted staff was making an effort to bring any project they were aware of into compliance.

Commissioner Ogle agreed with Commissioner Little that the wording in the code did not support staff and further stated that she felt the Cookson's events were private and exempt.

Commissioner Hall noted the distinction relied on the whether the events were public or private and he was somewhat unsure of his stance. He noted that application for a use permit would take some time and effort and did not come without a cost.

Chair Warner noted that the events in question were considered public and not exempt from regulation, the Cookson's will have exhausted all the events for their permit and could have no further events on the property until a new permit was in place.

Mr. Gustavson noted that was correct; no further events could occur on the site if the Commission denied the appeal. He noted that if the Commission upheld the appeal, then the Cookson's could host smaller events without limitation.

Commissioner Hall noted smaller events were less than 100 people.

Commissioner Little commented he felt it was fair to allow the applicant to continue the smaller events and if the County recognized that there was an issue with the regulations, then they would expedite an amendment to the Zoning Code. He noted, if at a future date, the County required a major use permit, the applicant would be required to comply with the code and take out any and all necessary permits.

Chair Warner asked how staff would proceed with amending the code and how staff would identify other event centers to bring them into compliance.

Mr. Gustavson noted that as establishments came to the County seeking approval for entitlements, they would be brought up to code for compliance. He commented that in order to modify the code, staff would need to reach out to the lodging community to communicate the issues and express advantage if compliance.

Commissioner Hall noted that since the previous recommended motion had failed, he felt someone should make an alternate motion.

Commissioner Little made a motion to uphold the appeal of the applicant, stating the Commission feels Mendocino County Code Section 20.168.020 does not apply.

The motion was seconded by Commissioner Ogle.

Mr. Kiedrowski asked the Commission to clearly state in the motion their interpretation that weddings are excluded in Section 20.168.020E of the County Code and are private events.

Commissioner Little clarified his motion.

Commissioner Holtkamp asked if the appeal would affect the Cookson's existing permits and if the entitlement was permanent for the property owner. She was also curious how long the determination was good for and how long it might take the County to update the language.

Mr. Gustavson commented that an appeal action had no impact on an existing permit and stated the Cookson's administrative permit would have to be renewed every 2 years. He also noted that for planning and building services, the appeal would mean that wedding events under 100 people were considered ordinary and incidental uses of a property and not subject to permit until the code was corrected.

The Commission further discussed the need for a permit to protect other residents in the County from unregulated wedding venues. They discussed the distinction between private and public and the number of individuals allowed on a site without a permit.

Mr. Gustavson noted he would like to take a short break to craft more appropriate motion language.

[Break 10:58 AM – 11:05 AM]

Mr. Gustavson read his language into the record. "The Planning commission upholds the appeal, determining that private weddings attended by less than 100 persons hosted by the guests of a transient occupancy use are private gatherings that are not subject to the County's limitations on temporary gatherings found in County Code section 20.168.020."

Chair Warner agreed to allow Mr. Cookson to speak again.

Mr. Cookson stated staff was confusing the code with the exclusion and stated the County had no authority to place provisions on a private gathering, which included weddings, etc.

Chair Warner asked the motion to be read again.

Mr. Kiedrowski read the motion.

The Commission discussed whether they were satisfied by the language or if they felt it did not address the issue. Ultimately, they decided that the code should be amended to clarify the intent so that future events can be placed under the same regulations.

Commissioner Little amended his motion with staff's suggested language; Commissioner Ogle as the second agreed to the change in the motion. By a roll call vote (4-2), IT IS ORDERED that the Planning commission upholds the appeal, determining that private weddings attended by less than 100 persons hosted by the guests of a transient occupancy use are private gatherings that are not subject to the County's limitations on temporary gatherings found in County Code section 20.168.020.

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

RECUSED: Nelson

6b. CASE#: OA_2016-0001/R_2016-0002 (Continued from 6/16/2016)

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.

Mr. Gustavson introduced the item and noted the discussion had been continued from the June hearing.

Mary Lynn Hunt, Staff Planner, reviewed comments from the previous meeting and noted the changes that had been completed. She noted additional language had been added to support the intent and signage sections and the item had been continued to allow the various MAC's more time to review and comment on the language.

Chair Warner commented on the g excellent maps and asked about the letter from Ms. Ogelsby.

Ms. Hunt noted the parcel had not been recently rezoned and was residential fronting State Street, but would be overlaid with the combing district.

[Commissioner Nelson returned to his seat]

Mr. Kiedrowski noted that the Board of Supervisors had extended the moratorium until 2017, which would allow for additional review time; however the desire was to have the ordinance before the Board as soon as possible.

Ms. Hunt discussed the comments that had been received and noted Laytonville MAC's concern with industrial parcels. She noted that an industrial parcel already required a use permit for commercial development and would not be necessary to include that zoning in the ordinance.

Mr. Gustavson further noted that the overlay district was to provide discretionary review on project that previously could have been developed by right without benefit of review or public hearing.

Commissioner Krueger was confused by Section 20.147.04, the last paragraph of the document.

Ms. Hunt clarified the statement and noted that no approval or entitlement could be granted unless the provisions of the Formula Business chapter had been met.

Mr. Kiedrowski noted that exceptions to the ordinance could be clarified further, but the intent was to make sure that nothing slipped through the cracks.

The public hearing was declared open.

David Roderick noted he was a member of the Hopland MAC, but was speaking for himself. He was concerned with staff's interpretation of the sentence "designed to integrate with adjoining properties" and felt there was too much open for interpretation. He felt there would need to be exemptions along the Highway 101 corridor so that applicants were not held "at the mercy of staff interpretation."

Courtney Smith, representing Laytonville MAC, noted that they were generally in favor of the ordinance, but would like to address preservation of community character and asked that all applications be heard by the Planning Commission rather than the Zoning Administrator.

Bill Taylor thought the ordinance was a good idea, but was opposed to the document as currently written. He felt it only focused on aesthetics and did not take into account the economic analysis of where money goes or is spent. He was concerned with potential litigation, CEQA review and felt more community input was needed.

Eric Boyle was concerned that there was no strong point in the document and felt it did not give staff the support needed to deny development applicants. He did not think it could protect the citizens and provide the County with the authority needed to keep ill placed ill-conceived development out of the County.

Perry Kaller asked for clarification on the intent of the ordinance and how the County plans to accomplish to goals set forth in the ordinance. He asked how the ordinance would impact local business and community residents.

Christine Boyd, Chair of the Redwood Valley MAC, noted they would like more time to submit comments. She commented that having limitations was a good thing, but she wasn't sure there were enough limitations to keep out certain "big box formula businesses". She thought the ordinance was more of a speed bump in the road and wanted each community to have the ability to outlaw/prohibit certain stores if they wished.

Sheilah Rogers noted she was also on the Redwood Valley MAC and felt a stronger document was needed as well as different guidelines for each community and along the Highway 101 corridor. She was interested in investing in local business to encourage economic development.

Alex De Grassi noted he was also on Redwood Valley MAC and was the chair of the ad hoc committee designated to submit comments to the Planning Commission. He urged the Commission to grant the MAC's more time to review the ordinance and submit comments. He also felt there should be continuity in reference to the General Plan and area specific plans. He felt that industrial areas should be added to overlay district to ensure that nothing slipped through the cracks. He thought it seemed reasonable to require a use permit for establishment of a formula business.

Hana Haas noted she was a resident of Laytonville and agreed that further clarification in the definition section was needed. She also felt that the Highway 101 corridor would need special consideration and was concerned with community character, economic impact review, developer financing, and fighting against chain stores. She commented that additional language was needed regarding the application and public hearing process for a minor user permit and stated the ordinance should serve the needs of the community and grow with the County.

Chair Warner commented she would agree to a continuance.

Commissioner Nelson agreed that a continuance seemed in order.

Mr. Gustavson commented that the Board had extended the moratorium; however the Board had requested a recommendation from the Planning Commission. He asked if there were specific issues staff could address in order to move forward at the next meeting.

Commissioner Holtkamp noted it sounded like the ordinance may need to differentiate between the communities, such as Hopland vs. Redwood Valley. She also agreed that policy specific language was needed for Highway 101 frontage. She felt more community input was needed.

Commissioner Nelson asked if a minor use permit could apply to all areas to make sure nothing slipped through the cracks.

Chair Warner commented that it would be important to decide how to differentiate between applications; would local business have preference over big box stores.

Commissioner Holtkamp asked how the County could incentivize planning.

Nash Gonzalez, consultant, noted there could be a benefit to districts like a tax sharing agreement; however it would require a formal contract, similar to what State and Counties use. He discussed how the General Plan looked at each community for the Community Specific findings and noted each application would need to be reviewed by area. He also noted staff could revise the document to require all applications be sent to the Planning Commission for review.

Chair Warner commented that each community would probably need their own contract and thought that could be a viable option in the future. She understood why staff had selected the Zoning Administrator for the hearings, but felt staff should consider sending all applications to the Planning Commission. She did not think the County could put an outright ban on all stores of a certain size, but liked the idea of requiring the applicant to submit an economic analysis.

Mr. Gustavson noted it was appropriate to adopt a floor area or square foot area to trigger the level of review and noted that a floor area standard would not distinguish between local or national. He felt it would be difficult to protect local operators without discriminating against an organization.

The Commission discussed the importance of community specific plans and noted many different documents and been reviewed during the General Plan Update.

Commissioner Little commented that many community plans were outdated and noted that the general public had not been engaged in the discussions of General Plan Update or Ukiah Valley Area Plan.

Commissioner Holtkamp noted she would agree to continue the item, but did not want it to drag on.

Mr. Gustavson clarified that the Commission would like more opportunity for the MAC's to comment and have staff respond and refine the information to come back for review. He noted the Commission could move forward and make a recommendation to the Board, acknowledging that the MAC's will be submitting additional comments for review.

The Commission noted that all public comments should be submitted to staff by October 7th to allow review time for the November meeting so a recommendation could be made to the Board of Supervisors.

Upon motion by Commissioner Little, seconded by Commissioner Nelson and carried by a voice vote of (7-0), OA_2016-0001/R_2016-2 is continued to the November 17, 2016 Planning Commission Meeting.

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

[Lunch 12:43 PM – 1:50 PM]

6c. CASE#: MS_2015-0004
DATE FILED: 12/16/2015
OWNER: MARTIN & STASI CARR
AGENT: RON FRANZ
REQUEST: Minor subdivision of a 1.0± acre lot into 2, 0.5± acre lots.
ENVIRONMENTAL DETERMINATION: Negative Declaration
LOCATION: 4± miles north of Ukiah, lying on the south side of Antoni Lane (CR 227E), 500± feet east of its intersection with East Side Calpella Road (CR 227), located at 231 Antoni Lane; APN 168-201-29.
STAFF PLANNER: ADELE PHILLIPS
RECOMMENDED ACTION: Approve project as recommended.

Commissioner Nelson was not present when the Commission returned from lunch.

Mr. Gustavson introduced Adele Phillips.

Adele Phillips, Staff Planner, reviewed the staff report and discussed a larger map that had been distributed to the Commission. She noted there was an existing access easement and water hookup available and stated the subdivision was consistent with the General Plan and Zoning Code. She noted staff was recommending approval of the project.

Stasi Carr was present.

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

Upon motion by Commissioner Ogle, seconded by Commissioner Little and carried by the following roll call vote (7-0), IT IS ORDERED to approve minor subdivision MS_2015-0004 by resolution, adopt a Negative Declaration and grant a Subdivision Map for the Project, as proposed by the applicant, based on the facts and findings, and subject to the conditions of approval.

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

6d. CASE#: U_2015-0010
DATE FILED: 3/27/2015
OWNER: GARMAN FAMILY LAND COMPANY LLC
APPLICANT: CELLCO PARTNERSHIP, VERIZON
AGENT: NSA WIRELESS, PAMELA NOBEL
REQUEST: Use permit to authorize construction and operation of a wireless communication facility consisting of a 135 foot tall "monopine," nine (9) panel antennas with auxiliary equipment, ground equipment including a 30 kw diesel generator, 132 gallon fuel tank and a 194 square foot equipment shelter all to be located within a fenced 30x30 foot leased area.
LOCATION: 7.5± miles north of the City of Willits, lying on the west side of Highway 101 at its intersection with Shimmins Ridge Road (CR 310B). Located at 30710 No Highway 101; APN 037-080-16, -19, 037-530-13 and 037-050-54.
STAFF PLANNER: JOHN SPEKA
RECOMMENDED ACTION: Approve project as recommended.

John Speka, Staff Planner, reviewed the staff report and displayed several maps on the projector. He reviewed the location of the facility directly across from Shimmins Ridge Road and noted the project was consistent with Wireless Guidelines. He discussed the key issues from the staff report and noted a comment had been received the night before the hearing from Chuck Williams with the Native Plant society. He discussed the aesthetics of the project and noted the tower was proposed for the top of a small hill, but should blend in with surroundings as the backdrop was larger ridgelines. Mr. Speka also noted that the applicant had relocated the equipment shelter and fuel tank, which should further reduce impacts as it negated the need for one additional access road.

Commissioner Little asked about the impacts biological entities and the proposed mitigation measures.

Mr. Speka commented that the biological survey did not find any “milo bakers lupine” present; however mitigation measures for the “western pond turtle” had been included on the access roads in case of migration.

Commissioner Hall asked about the possibility of cell towers burning during wildfires.

Mr. Speka deferred to the agent.

Pam Nobel, Agent for NSA Wireless, discussed the road location and fencing mitigation to protect the pond turtles. She discussed the proposed project area and noted the property had already been developed and would not require grading or road work.

Mr. Speka noted a previous application had been submitted for project; however the tower was straddling the property line and a boundary line adjustment had been completed to correct the issue.

Ms. Nobel continued with her presentation and discussed aesthetics and well as collocation possibilities and, noted that the existing tower on Black Bart Drive would not meet line of sight requirements for coverage to the north.

The public hearing was declared open.

Chuck Williams, CA Native Plant Society, commented that he had met with Pam Nobel and his letter was no longer necessary. He noted his specialty was grasses and the tower location was near forested areas that would not contain the species of grass he was specifically concerned about. He also made a general statement that he was surprised that out of the 27 rare species located on the topo maps, the botanist only performed a survey for one plant. He felt the survey was inadequate and there was potential for one of the other 26 species of plants to be present on the site.

Susan Templeton was opposed to the project and stated the location of the tower was directly in her viewshed. She stated the tower would destroy the roads and damage the environment.

Ms. Nobel commented that she has spoken with Ms. Templeton and had an email from her accepting the project location. She also noted that the Department of Fish and Wildlife (DFW) had accepted the biological survey and found the information sufficient to proceed with development along with the additional mitigation for the pond turtle.

Chair Warner assumed the antenna would be focused in a direction.

Ms. Nobel noted the antenna would be focused on Highway 101 north to Longvale to provide coverage and commented that the antenna was an acceptable distance from residences.

The public hearing was declared closed.

Commissioner Nelson asked where the coverage maps were for the proposed tower.

Chair Warner asked the distance of the nearest residence to the tower.

Mr. Gustavson commented that with the letter from DFW, there was sufficient evidence to suggest that the biological review was properly completed. He noted that if the Commission wished, they could request that site alternatives be reviewed and continue the meeting to a later date.

Ms. Nobel commented that a site analysis was submitted with the application along with the standard coverage maps. She felt the project was vetted, compliant with regulations, and could be approved.

Commissioner Little noted the staff report indicates comments were received on May 16th regarding the review of the biological survey and he assumed no issues were found.

Mr. Speka noted that he had received and email from DFW stating they concurred with the findings in the survey and as long as the proposed avoidance and minimization measures to special species were followed, they had no objection to the project.

Commissioner Little further stated that he assumed the botanist followed a standard, accepted protocol. He understood that numerous species were listed on the topo map, but also felt that a focused survey was more efficient with limited time and staff. He felt the report should be accepted since it was prepared by a professional, stamped with their name and reviewed by Fish and Wildlife for approval.

Mr. Speka noted there were standard protocols to follow and staff had relied on DFW for their expertise in review of the findings.

Mr. Gustavson also added that the survey had been referred to DFW and they did not find any deficiencies in the study. He felt there had been enough discussion to indicate that the survey was a complete assessment of the resources on site.

Mr. Williams commented that he had used the "Jepson Manual" as well as the California Natural Diversity Database (CNDDB) to located the rare plants.

Mr. Gustavson commented that the Jepson Manual was an identification tool, not a location map and noted staff also reviewed the CNDDB maps during project review.

Commissioner Little stated that at some point the survey is done and either staff had to accept the professional judgment of the person preparing the report or second guess the material. As there was no specific evidence of any rare species present, he was prepared to move forward with the project.

Chair Warner agreed with Commissioner Little's statement and stated the survey was acceptable. She asked the distance from the tower to the nearest residence.

Mr. Speka stated the required setback was 500% the height of the tower, which would put the minimum distance at ¼ mile.

Commissioner Little made the recommended motion to approve the project by resolution and adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and grant the use permit for the Project based on the facts and findings and subject to the conditions of approval in Exhibit A.

Mr. Kiedrowski commented that language should be inserted into the resolution regarding the revised project description and read the following language into the record. "Whereas, a revised site plan was submitted at the August 18, 2016, hearing, showing that the equipment shed will be developed next to the monopine site instead of at a separate location at the bottom of the hill, which changed location is environmentally superior to the original location closer to Outlet Creek; and"

The motion was seconded by Commissioner Nelson.

Under discussion, Mr. Kiedrowski added one further line to the motion, after adoption of the resolution and Exhibit A "as depicted by the project site map submitted at the August 18, 2016, hearing."

Upon motion by Commissioner Little, seconded by Commissioner Nelson and carried by the following roll call vote (7-0), IT IS ORDERED to approve the project by the Revised resolution and adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and grant the use permit for the Project based on the facts and findings and subject to the conditions of approval in Exhibit A, as depicted by the project site map submitted at the August 18, 2016, hearing.

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

7. Matters from Staff.

7a. Cancellation of the September 1, 2016 Planning Commission Meeting.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by a voice vote of (7-0), the September 1, 2016 Planning Commission Meeting is canceled.

Commissioner Ogle noted she would be absent for the October 6, 2016 meeting.

8. Matters from Commission.

Commissioner Ogle asked the height of a fence before a permit was required.

Mr. Gustavson noted that a fence could be up to 7 feet in height before a permit was required.

Chair Warner noted that fences along the corners of a property must be shorter, so as not to impair visibility.

Mr. Gustavson stated that was correct; fences could only be 3.5 feet tall on a corner.

Commissioner Ogle asked the difference between administrative permits and minor/major use permits.

Mr. Gustavson commented that administrative permits and minor use permits were heard by the Zoning Administrator, which was a single person, and major use permits were heard by the Planning Commission.

Commissioner Ogle used the Cookson project as an example and asked if a minor or major use permit was required.

Mr. Gustavson noted the Cookson's had a major use permit for the Bed & Breakfast. He also commented that if the Zoning Administrator felt a project had community wide interest, the review could be elevated to the Planning Commission level.

Commissioner Ogle noted she had attended the Redwood Valley MAC's monthly meeting.

Chair Warner commented that since the Planning Commission Bylaws had been updated, she hoped the approval of minutes could be moved back to the end of the meeting.

Commissioner Holtkamp asked who in the County was following the abandoning of cooper phone lines.

Mr. Dunnicliff noted the County had hired Trish Steele to follow the issue.

9. Adjournment.

Upon motion by Commissioner Hall, seconded by Commissioner Nelson, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 3:21 p.m.

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