



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON: December 17, 2015

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 Dunicliff, Director
Andy Gustavson, Chief Planner
John Speka, Planner III
Fred Tarr, Planner II
Adrienne Thompson, Commission Services Supervisor

OTHER COUNTY DEPARTMENTS PRESENT: Matthew Kiedrowski, Deputy County Counsel

1. **Roll Call.**

The meeting was called to order at 9:04 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. Dunicliff 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 October 15, 2015 Planning Commission Minutes.**

Upon motion by Commissioner Nelson, seconded by Commissioner Ogle and carried by a voice vote of (7-0) the October 15, 2015 Planning Commission Minutes are approved.

6. **Regular Calendar.**

6a. **CASE#: UR_2014-0001**

DATE FILED: 3/26/2014

OWNER: GARMAN FAMILY LAND COMPANY LLC

APPLICANT: WYLATTI RESOURCE MANAGEMENT

AGENT: RAU & ASSOCIATES

PROJECT COORDINATOR: JOHN SPEKA

REQUEST: Use Permit and Reclamation Plan Renewal to allow continued extraction from an instream gravel bar operation on the Middle Fork of the Eel River. Activities would entail an average of 15,000 cubic yards (cy) of gravel per year with an allowance for up to 20,000 cy per year twice over the 20 year entitlement period. Included in the request is the continued allowance to stockpile up to 8,000 cy of material within a staging area along Highway 162.

ENVIRONMENTAL DETERMINATION: Addendum to a previously adopted Mitigated Negative Declaration.

LOCATION: 1± mile east of Dos Rios, on the south side of Highway 162, along the north side of the Middle Fork Eel River at its confluence with Cable Creek. Located at 50510 Covelo Road; APN 035-030-39.

RECOMMENDED ACTION: Approve resolution as recommended.

John Speka, Project Coordinator, reviewed the staff report and discussed the request, including the extraction amount, expiration of the permit, stockpile location and presented a power point of the project. He noted the key issues of the project, stating the request was consistent with the General Plan and zoning of the parcel and discussed the memo that had been distributed to the Commission with additional findings and modified conditions. He discussed the comments that had been received from the State Office of Mine Reclamation, Department of Fish and Wildlife (DFW) and NOAA Fisheries. He also noted correspondence had been received from Ms. Shannon Zeen with photos that had been emailed to the Commission. He commented that staff recommended the permit be granted for a 10 year period to coincide with the stream alternation agreement, which had been a comment from DFW with concurrence from NOAA. He discussed a possible clarification that could be made to Condition #5b regarding the removal of the access road and read the modification into the record. Mr. Speka noted staff was recommending approval of the project, based on the previously adopted Negative Declaration approved in 2004, stating there were no major changes or substantial increase from the previous request.

Commissioner Holtkamp asked if the tires would remain during the final reclamation process and asked what a thalweg was.

Mr. Speka commented that he believed the tires had historically been there and was comfortable with allowing them to remain as a way of helping to prevent downcutting and scour in Cable Creek. He noted the thalweg was the lowest point of the river.

Mr. Gustavson further noted that the thalweg described the line that traversed the lowest course of the river.

Commissioner Hall commented on the letters received and asked how many days the operation was allowed on the river.

Mr. Speka was not sure how long the operation took place on the river bar, but understood that the applicant would be restricted by DFW and deferred to the agent. He noted the season normally ran from July 1 until October 15 of any given year.

Commissioner Ogle asked for clarification of the permit terms.

Mr. Speka noted the stockpile location was existing, and commented that the applicant had requested a 20 year permit; however staff was recommending only a 10 year renewal. He also noted that the maximum cubic yards allowed in a year had been reduced from 30,000 to 20,000 in the request.

Commissioner Little asked how the average extraction amounts were calculated and noted with the expiration date recommended by staff, the applicant would only have 9 operating seasons.

Mr. Speka deferred to the agent regarding the average extraction amounts and noted that if the Commission wished, the expiration date could be moved out another year.

Commissioner Krueger noted on Page 5 of the Resolution, item 5b mentioned cross sections of a bridge and asked if that should be revised.

Mr. Speka believed the information as correct and that SMARA referred to any bridge within one mile of an instream extraction project.

Commissioner Little asked if it could apply to Highway 162 bridge.

George Rau, agent, stated the bridge reference is required by SMARA within 1 mile of a project site and does refer to the Highway 162 bridge. He stated that gravel was extracted from the river for 14 days in 2015 and then hauled from the stockpile for another 28 approximately. He stated that this year 3,450 cubic yards had been extracted. He discussed the extraction methods used and how the average was calculated. He noted the project request was much higher than he thought the applicant might need, and commented that previous years averaged between 7,000-10,000 cubic yards. He noted the request for a 20 year permit was to extend the operation and allow for the same amount of gravel to be extracted as the 10 year permit, but reduce the cumulative effect. He noted that various state agencies reviewed the permit on annual basis including Fish and Wildlife and OMR and he thought that there would be enough additional oversight to allow for a 20 year renewal. He noted a typo in the reclamation plan on Page 2 and noted his request to modify Condition #5 regarding the removal of the road.

Commissioner Little discussed the road condition and stated that if in the future the applicants intent was to request a renewal, removal of the road would be inconsistent with the use.

Mr. Rau noted the applicant would typically renew prior to expiration of the project; however if the site was not feasible then the final reclamation would take place.

Commissioner Little discussed the complaint of dust and asked where the water source was for the operation.

Brian Hurt, owner, stated the water was from his Covelo plant.

Commissioner Little asked if Mr. Hurt had adequate water supply if additional water was needed to suppress dust, if a requirement was added.

Mr. Hurt commented that he had sufficient water and also requested the Commission consider a 20 year renewal. He noted his Rowland Bar project had been renewed for 20 years and would like to keep the terms consistent.

Chair Warner asked if Mr. Hurt was aware that the hours of operation hours began at 8:00 am, not earlier and the Commission had received a complaint from his neighbors.

Mr. Hurt did not know the hours of the permit began at 8:00 am and thought the hours were the same as his other operations that began at 7:00 am. He noted he had been operating outside the bounds of his permit in that respect, but had been ending at 5:00 pm.

Chair Warner asked staff if removing material from the stockpile was considered part of the operation that would comply with the 8-5 hours of operation.

Mr. Speka was not sure if the stockpile was included, but assumed that the stockpile was considered part of the operation.

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

Mr. Speka noted the application had requested a 7:00 am start time, but the original permit was set with 8:00 am and staff had not changed the hours.

Chair Warner noted the photos that had been received and asked about the ponding area by the gravel bar.

Mr. Hurt stated he did not remove gravel from that area.

Mr. Speka commented that the upper 3rd of the gravel bar was untouched.

Commissioner Little commented that he did not agree with the language in Condition #6 and noted that the permit with Fish and Wildlife was 1602 not 1603. He suggested alternate language to replace the condition. "if prior to issuance of the stream bed alternation permit the Department of Fish and Wildlife reviews the gravel operation and determines the amount of gravel replenished to be inadequate and upon notification to the Department of Planning and Building Services (PBS); PBS shall limit the extraction to less or halt the extraction for the season."

Mr. Gustavson felt the condition was appropriate to address the need for responsible agencies to comment and review as necessary or on an annual basis and to make sure the operator fulfills their requirements.

The Commission discussed whether to update the condition language or not and chose to leave it up to the person who made the motion to consider.

Commissioner Little discussed the hours of operation and what would constitute an "operation".

Mr. Speka commented that if the language was not specific to exclude the prep work, then that portion of the day would be included in the operation and limited to the hours specified in the permit.

Commissioner Little asked if the reclamation plan would be amended after the hearing to match the changes that had occurred. He noted that if an individual relied upon the plan that had been prepared for the hearing, they could be deceived by the differences between the draft and approved plans.

Mr. Speka noted the modifications would be part of the record.

Mr. Rau commented that he could take the final conditions and make a Mitigation Monitoring and Reporting Program so there would be no confusion regarding which agency was responsible for approving conditions.

The Commission discussed the potential for the applicant to renew the entitlement in 10 years administratively without a full staff report and public hearing.

Mr. Speka noted that it was his understanding that the other agencies permits would take precedence over the use permit.

Mr. Gustavson commented that a 20 year expiration date could lead to inconsistencies with zoning and noted the permit would exceed the General Plan lifetime. He also noted that a shorter renewal period would allow for review of potential noise and dust issues.

Mr. Hurt noted that many of his permits expired yearly and it would be helpful to have a longer period between use permit renewals.

Commissioner Little asked if other agencies notified Planning and Building when a permit was renewed.

Mr. Speka noted other agencies typically did not contact staff; most correspondence pertained to new issues.

The Commission continued to discuss with staff the ability to extend the permit to 20 years and what qualifying events might justify that length of renewal.

Commissioner Hall noted the letter from Tom Daugherty requesting a 10 year permit renewal due to sediment transport and was not sure that 20 years should be allowed.

Mr. Hurt stated they could not overharvest the gravel bar as their permit was limited to 2 feet above the low water mark.

Chair Warner noted the spawning grounds.

Mr. Hurt commented that he had a specific time period, from June to October, due to fishery studies.

Commissioner Little proposed an additional condition related to dust suppression.

The Commission discussed the date of a 10 year expiration for the entitlement.

Mr. Gustavson noted that whatever action the Commission takes, for either a 10 year or 20 year permit, the use permit helps to ensure consistency with land use, CEQA review and potential policy changes.

Commissioner Holtkamp asked if the entitlement was allowed for 10 years, would the applicant have to provide a full report to the Planning Commission for renewal.

Mr. Gustavson noted the applicant would have to submit a plan, or update if there was a need to reflect modifications to the permit.

Mr. Speka commented that OMR did not have an issue with the 20 year expiration date.

Mr. Gustavson noted that the use permit could be "uncoupled" from the reclamation plan to allow for different expiration dates.

Mr. Rau commented that an addendum to an existing reclamation plan created substantial work. He stated that each issue noted from the previous permit must be revised and noted as unchanged or be modified to withstand the scrutiny of additional review.

Commissioner Little stated he was prepared to make a motion with the suggested changes and asked if staff could clarify the language.

Staff noted they would revise the Resolution and Exhibit A during the break for the Commission's review.

[Break 10:39 – 10:53 AM]

Mr. Gustavson noted the resolution with changes, in strikeout/underlines, was displayed on the projector screen.

Mr. Speka discussed the modifications that staff had made based on the Commissions comments.

The Commission reviewed the revised resolution.

Upon motion by Commissioner Little, seconded by Commissioner Ogle and carried by the following roll call vote (7-0), IT IS ORDERED to approve Use Permit and Reclamation Plan UR_2014-0001 per the revised Resolution and Exhibit A; including the findings for a use permit, the environmental findings, the notice findings and the conditions as amended by the staff memo dated December 17, 2015 and as modified and reviewed during the public hearing.

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

6b. CASE#: MS_2014-0005

DATE FILED: 2/25/2014

OWNER: ARVIN REED AND AARON & MARY ELLEN NORTH AND CHEYANNE RIVER

APPLICANT: CHEYANNE RIVER

AGENT: JIM RONCO

PROJECT COORDINATOR: FRED TARR

REQUEST: Subdivision of a 4.7± acre parcel to create a 2.3± acre parcel and a 2.4± acre parcel.

ENVIRONMENTAL DETERMINATION: Negative Declaration

LOCATION: 1.5± miles southwest of Laytonville, lying east on Branscomb Road (CR 429), 500± feet north of its intersection with North Road (CR 319E). Located at 901 Branscomb Road; APN 014-180-22.

RECOMMENDED ACTION: Approve resolution as recommended.

Fred Tarr, Project Coordinator, reviewed the staff report and discussed the request, location and surrounding zonings. He discussed key issue #2, regarding a solid fence along the front of the property in violation of County Code Section 20.052 and was requesting that the fence be removed or replaced with a visible, see through, product. He commented that a rare plant was found in the area and was requesting a condition that a botanical survey be required for any development in that location. He noted that staff had completed the environmental review and recommended the Commission certify the Negative Declaration and approve the Resolution and Exhibit A.

Chair Warner discussed the hydrology, water quality conditions.

Mr. Tarr noted the agent has said that the parcels have hookups from the Laytonville County Water District, but nothing had been received in writing from the District. Staff suggested an addition to Condition #15 that the applicant must submit a letter from the water district stating that they will receive service for both lots, or the conditions from the Division of Environmental Health must be met.

Chair Warner clarified that there were no buildings on the site.

Commissioner Ogle asked for clarification on the issue with the fence.

Mr. Tarr discussed County Code requirements that restrict solid board fences in the front yard setback, primarily because they obstruct site view, and noted comments received from the Department of Transportation. He also noted that fences over seven (7) feet in height require a building permit.

Jim Ronco, agent, stated that 2 water hookups had been paid for by the applicant and were available from the district. He stated he would provide the letter to staff and was agreeable to the conditions of approval.

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

Upon motion by Commissioner Little, seconded by Commissioner Ogle and carried by the following roll call vote (7-0), IT IS ORDERED to approve Minor Subdivision MS_2014-0005, certifying the Negative Declaration and making the findings and conditions and presented in the Resolution and Exhibit A with the modification to Condition #15 to supply letter from the Laytonville Water District that service is available.

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

7. Matters from Staff.

Mr. Gustavson reflected on the year of projects that had been before the Commission and asked about the workshop that Chair Warner had attended at Sonoma State.

Mr. Dunnington noted that the Commission would elect a Chair and Vice Chair at the first meeting of 2016.

Commissioner Ogle asked about the PC By-laws and Dollar General development.

Mr. Gustavson believed the PC By-laws would be before the Commission in February and discussed the Board's decision to uphold the zoning clearance for Dollar General; thus there was nothing to stop work on the development.

Commissioner Little asked for an update on the Harris Quarry vested rights court decision. Mr. Kiedrowski stated that nothing had been finalized, however the vested right had been undone by the Board. He stated the applicant was still able to work under the approved use permit.

8. Matters from Commission.

Chair Warner discussed the information presented at the Sonoma State Planning Commissioner Conference, which included presentations on groundwater management and basin plans, urban growth over 500 units, resale of subdivisions, etc. She provided a handout to the Commission and a web link for anyone that would like to download the information. www.sonoma.edu/ensp/planning-conference

Mr. Gustavson noted it was an annual conference if the Commission wished to attend in 2016.

Commissioner Ogle noted the 700 Forms would be due in the new year.

9. Adjournment.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 11:38 a.m.

DRAFT