



MENDOCINO COUNTY PLANNING COMMISSION

MINUTES FOR THE MEETING HELD ON: July 16, 2015

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

COMMISSIONERS PRESENT: Little, Krueger, Warner, Holtkamp, Hall, Ogle

COMMISSIONERS ABSENT: Nelson

PLANNING & BLDG SVC STAFF PRESENT: Steve Dunncliff, Director
Andy Gustavson, Chief Planner
Dusty Duley, Planner III
Fred Tarr, Planner II
Graham Hannaford, Planner II
Adrienne Thompson, Commission Services Supervisor

OTHER COUNTY DEPARTMENTS PRESENT: Matthew Kiedrowski, Deputy County Counsel
Trey Strickland, Environmental Health
Geoff Brunet, Department of Transportation

1. **Roll Call.**

The meeting was called to order at 9:01 a.m. Commissioner Nelson was 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.**

None.

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 May 21, 2015 and June 4, 2015 Planning Commission Minutes.**

No corrections were submitted.

Upon motion by Commissioner Holtkamp and seconded by Commissioner Little, and carried by a voice vote of (5-0) with Commissioner Ogle abstaining from the vote, the May 21, 2015 Planning Commission Minutes are approved.

Upon motion by Commissioner Holtkamp and seconded by Commissioner Hall, and carried by a voice vote of (5-0) with Commissioner Ogle abstaining from the vote, the June 4, 2015 Planning Commission Minutes are approved.

6. Regular Calendar.

6a. CASE#: A_2014-0009

DATE FILED: 8/11/2014

OWNER: CAPISTRAN RANCH LLC

APPLICANT: ROBERT LASHINSKI

AGENT: JR BARRETT

PROJECT COORDINATOR: GRAHAM HANNAFORD

REQUEST: Placement of 4,107± acres into Agricultural Preserve and Williamson Act contract.

ENVIRONMENTAL DETERMINATION: Categorically Exempt, Class 17

LOCATION: 3.5± miles east of Covelo. Accessed by Short Creek Road (CR 339), 1.5± miles south of its intersection with Mendocino Pass Road (CR 338). Located at 76500 Short Creek Road, Covelo; APN's 032-170-23, 032-270-03, -08, -10, -11, -12, -16, -17, -19, -24, -25, -32, -33, -41, 034-020-10, -75, -76, and 034-010-73.

RECOMMENDED ACTION: Recommend approval to the Board of Supervisors.

Graham Hannaford, Project Coordinator, reviewed the staff report and discussed the history of the property. He noted the proposal was for placement into a Type II Agricultural Preserve for grazing and stated one letter of support had been received from Peter Bauer. Last, he noted that staff was recommending that the Planning Commission recommend approval to the Board of Supervisors.

Robert Lashinski, owner, was in support of the findings in the staff report and available for questions.

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 (6-0), IT IS ORDERED that the Planning Commission recommends approval of A_2014-0009 to the Board of Supervisors, making the following findings, consistent with the General Plan and Mendocino County Code Section 22.08:

Environmental Findings: This project is categorically exempt from CEQA review per Section 15317 of the CEQA Guidelines (Class 17).

Agricultural Preserve Findings: This proposed agricultural preserve meets the requirements of Section 22.08.050, providing more than the minimum production potential of ten animal units (AU) of feed at a rate of 40 acres or less per AU, based on soil type, and providing adequate feeding capabilities for more than ten (10) mature beef or dairy animals. This proposed agricultural preserve contains more than the minimum of 100 acres required by Section 22.08.020(A)(1) as it contains more than 4,000 acres.

Williamson Act Findings: This proposed agricultural preserve meets and exceeds the minimum of 100 acres required by the Williamson Act.

AYES: Little, Krueger, Warner, Holtkamp, Hall, Ogle

NOES: None

ABSENT: Nelson

6b. CASE#: MS_2010-0014

DATE FILED: 1/1/2011

OWNER: MORGAN DeBOLD / SANDRA DARR

APPLICANT: MORGAN DeBOLD / SANDRA DARR

AGENT: SAM POPE

PROJECT COORDINATOR: FRED TARR

REQUEST: Minor Subdivision creating two (2) parcels of 21.8± and 40.8± acres.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: 10± miles north of Laytonville, lying on both side of Bell Springs Road (CR 324) approximately 0.5± mile from its intersection with Highway 101, located at 57800 Bell Springs Road, Laytonville; APN 053-490-08.

RECOMMENDED ACTION: Approve by Resolution as recommended.

Fred Tarr, Project Coordinator, reviewed the staff report and discussed the access road, improvements, and purpose of minor subdivision to allow for additional dwelling units to be built. He noted that comments had been received from several public agencies and other County departments and discussed the key issues of the project. Mr. Tarr noted the parcels were located in a very high fire hazard area and additional fire findings had been made. He recommended the Planning Commission certify the mitigated negative declaration and approve the project with the findings and conditions contained in the Resolution and Attachment A.

Mr. Gustavson discussed the use of the resolution and attached conditions of approval as a new process that should make the document review process more consistent for the Commission.

Commissioner Ogle noted a new field on the first page of the report for the project; date deemed complete.

Mr. Gustavson noted further enhancements would continue to be made in an effort to provide the Commission with the most complete information.

Commissioner Ogle noted that Condition #10 and #12 appeared to be the same with the difference of "any parcel" and asked if they could be combined.

Mr. Tarr noted staff would delete Condition #10 and combine into Condition #12.

Commissioner Little noted that there was existing water and discussed the need for the condition.

Mr. Tarr noted it was a standard condition for subdivisions.

Sam Pope, agent, had no comment.

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

Commissioner Little commented on the recommended fire findings, stating the public entity had not been designated "solely" for structural fire protection.

Mr. Tarr thought the wording was copied directly from the State requirements.

Commissioner Little suggested changing the findings to state that fire protection was organized under the health and safety code for Emergency Services.,

Mr. Tarr noted staff could possibly modify the Fire Protection findings, provided that the finding was consistent with the State Statute.

Commissioner Little made the recommended motion to approve the project, deleting condition #10 and combining into Condition #12, also modifying the Fire Findings, which was seconded by Commissioner Ogle.

Mr. Kiedrowski commented that he would prefer to check the statute for the wording on the fire findings at this time.

Commissioner Little stated he could agree with keeping the original condition and updating the recommendation in the future to allow staff time to review the statute.

Mr. Kiedrowski stated that would be preferable.

Commissioner Little amended his motion to remove the change to Fire Findings and leave as written in the report.

Commissioner Ogle, as the second agreed to the modification.

Upon motion by Commissioner Little, seconded by Commissioner Ogle and carried by the following roll call vote (6-0), IT IS ORDERED to approve MS_2010-0014 and certify the mitigated negative declaration per the findings and conditions contained in the Resolution, deleting Condition #10 and combining "any parcel" into Condition #12.

Division of Land Findings:

- 1.) Pursuant to California Government Code Section 66445(e), the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.
- 2.) The proposed minor subdivision complies with all requirements of the Subdivision Map Act and of the Mendocino County Code. Specifically with respect to lot area, improvement and design, flood, and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability and environmental protection.
- 3.) The proposed minor subdivision is consistent with the applicable goals and policies of the General Plan and consistent with the Zoning Code as subject to the conditions of approval.

Environmental Findings: The environmental impacts identified for the project can be adequately addressed through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is adopted.

Fire Hazard Findings:

- 1.) The existing development on the proposed parcels and any future structures on the proposed parcel will be able to meet the required State Board of Forestry and Fire Protection Regulations that are found in Sections 4290 and 4291 of the Public Resources Code in maintaining defensible space for fire protection of existing and future structures. Cal Fire Condition of Approval listed under Cal Fire File #356-10 includes provisions for maintaining defensible space for fire protection and fire protection of existing and new structures.
- 2.) Structural fire protection and suppression services will be available for the subdivision by a funded public entity (Long Valley Fire Protection District) that is organized solely to provide fire protection services.
- 3.) Ingress and egress for the subdivision will meet Cal Fire and local ordinance regulations regarding road standards for fire equipment access. Cal Fire #356-10 includes the required private road/driveway widths, maximum grades and type of surface required to accommodate fire equipment.

CONDITIONS OF APPROVAL:

Aesthetics

1. The following note shall be placed on the **Parcel Map**:

"All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed."

The Planning and Building Services Department will review and sign-off all building permit applications for new structures and will verify that all future lighting associated with the new structures are downcast or positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed.

Air Quality

2. ** A note shall appear on the **Parcel Map** that the access road, driveway and interior circulation routes be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430. All grading must comply with Air Quality Management District Regulations Rule 430. Any rock material, including natural rock from the property, used for surfacing must comply with Air Quality Management District regulations regarding asbestos content.

Mendocino County Grading Permits for access roads, driveways and interior circulation routes will require sign-off from the Air Quality Management District prior to issuance.

Biological Resources

3. ** This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,260.00 (or current fee) shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to July 31, 2015 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has "no effect" on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

The California Department of Fish and Wildlife filing fee is required to be paid prior to the recordation of the Notice of Determination.

Cultural Resources

4. ** The historic road segment as identified in the Archaeological Survey prepared by John Parker on March 3, 2015 must be avoided during any future ground disturbance activity.

Mendocino County Grading permits will be required prior to any future ground disturbance activity at which time, the Planning Division will have the opportunity to assure that the historic road segment, as identified in the Archaeological Survey which was prepared by John Parker, is avoided. A copy of that Archaeological Survey is kept in a secure location in the office of the Mendocino County Department of Planning and Building Services.

5. ** A note shall appear on the **Parcel Map** that in the event that archaeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

See mitigation monitoring for Condition #4.

Geology & Soils

6. ** The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
 - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

- c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
- d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
- e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.
- f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless wet weather grading protocols are approved by the Department of Planning and Building Services or other agencies having jurisdiction.
- g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 - 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1½ units horizontal (66.7% slope).
 - 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.

A grading permit will be required for construction of roads, driveway and building pads and BMP will be required through the Division of Building Services.

- 7. A notation shall be placed on the Parcel Map/Unilateral Agreement stating that, "Future development of building site(s), access roads or driveways may be subject to the grading requirements and drainage control measures identified in the Conditions of Approval".

Hydrology and Water Quality

- 8. ** The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.

The Division of Environmental Health will be the responsible agency for this mitigation monitoring condition. This must be met prior to recordation of the parcel map.

- 9. ** The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for parcel(s) 1 and 2 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's Land Division Requirements (DEH FORM # 26.09).

See mitigation monitoring for Condition #8.

- ~~10. ** The applicant shall submit to the Division of Environmental Health an acceptable water quantity evaluation (DEH FORM # 26.05) completed by a qualified individual of a water source located on parcel(s) 2 of the subdivision demonstrating an adequate water supply in compliance with the Division of Environmental Health's Land Division Requirements (DEH FORM # 26.09).~~

~~**See mitigation monitoring for Condition #8.**~~

11. ** The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from a source of water on the subdivision.

See mitigation monitoring for Condition #8

- 12.** The applicant shall submit to the Division of Environmental Health an acceptable water quantity evaluation (DEH FORM # 26.05) completed by a qualified individual of a water source located on **any parcel** of the subdivision demonstrating an adequate water supply in compliance with the Division of Environmental Health's Land Division Requirements (DEH FORM # 26.09).

See mitigation monitoring for Condition #8.

Public Services

- 13.a ** The subdivider shall comply with those recommendations and conditions of approval that are found in **Cal Fire** File # 356-10, or other alternatives as acceptable to the **Cal Fire**. Written verification shall be submitted from **Cal Fire** to the Department of Planning and Building Services that these conditions have been met to the satisfaction of **Cal Fire**.

Cal Fire is the responsible agency for this mitigation monitoring condition and the County of Mendocino will not record the parcel map until Cal Fire's conditions are met.

- 13.b** Written verification shall be submitted from **Long Valley Fire District** to the Department of Planning and Building Services that the required regulations have been met to the satisfaction of the **District**.

All of Long Valley Fire District's required regulations must be met prior to recordation of the parcel map.

Transportation

14. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.
15. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed.
16. ** Two standard private driveway approaches shall be constructed to serve Parcels 1 and 2, minimum width of ten (10) feet, and improved length of fifteen (15) feet from the edge of the County road, to be surfaced with surfacing comparable to that on the County road.

The Mendocino County Department of Transportation is the responsible agency for this condition and the parcel map will not be recorded until this condition has been met.

17. Any proposed work within County rights-of-way requires obtaining an encroachment permit from the Mendocino County Department of Transportation.

Standard/Special Conditions

18. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the **Parcel Map**, the subdivider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.
19. All structures to remain on site, shall maintain setbacks to all new property lines in accordance with the Upland Residential Zoning District requirement, Mendocino County Code (MCC) Section 20.048. In

addition, all barns shall maintain 50 foot setbacks to all property lines and 40 foot setback to all residential structures as required by MCC 20.152.015(G).

THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE APPROVED PARCEL MAP IS RECORDED BY THE COUNTY RECORDER.

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

6c. CASE#: U_2014-0012

DATE FILED: 6/11/2014

OWNER: RICHARD VARIAN/ KATHLEEN JACOB

APPLICANT: CELLCO PARTNERS/VERIZON

PROJECT COORDINATOR: DUSTY DULEY

REQUEST: Use Permit to authorize construction and operation of a wireless communication facility consisting of an 85 foot tall "monopine", monopole designed to resemble a pine tree, 9 panel antennas, auxiliary equipment as well as ground based equipment including a 30 kilowatt diesel generator with 132 gallon fuel storage tank and a 195 square foot equipment shelter.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: 3.25± miles northeast of Willits, lying on the north side of Reynolds Highway (CR 310), 2± miles southeast of its intersection with Highway 101, located at 24710 Reynolds Highway; APN 037-221-35.

RECOMMENDED ACTION: Approve by Resolution as recommended.

Dusty Duley, Project Coordinator, reviewed the staff report and presented a power point of the project. He noted several changes since writing the report and stated that Verizon would be changing the equipment shelter to a smaller cabinet and had submitted a revised site plan with the change. He noted the structure would be less bulky in size and would not change the environmental determination of the project. He reviewed the coverage and objective maps and noted the monopine would be the tallest structure in the area at 85 feet. Mr. Duley discussed changes to Condition #6ii, and stated that for safety reasons, the "10 feet" should be increased to "20 feet" above finished grade so that individuals could not climb the monopine. Last, he noted that an archeological survey had been performed that revealed areas of interest, but were not in the direct path of construction; staff had recommended that a professional archaeologist be on site during any earth moving activities related to the project.

Chair Warner asked if this monopine would be stealthed exactly like the comparison photo from the Orr Springs site.

Mr. Duley stated that staff expected the same level of work to be done, but would confirm with the agent.

Commissioner Krueger noted several clarifications on the Resolution, in the first whereas on page 1 and on the second page to add "wide" after 16 feet. He also asked if the expiration date in Condition #31 was correct at November 20, 2024.

Mr. Duley stated the expiration date should be changed to July 16, 2025.

Commissioner Ogle noted her appreciation to the additional language regarding the Telecommunications Act in the staff report and noted a typo and duplicate map attached. She also asked if the coverage would be the same as illustrated on the maps.

Pam Nobel, Agent with NSA Wireless, discussed the coverage maps, noting they were just computer models and that they showed reduced coverage due to topography. She noted that when the tower came on line, it was possible that the coverage would exceed the mapped expectation and had witnessed that in the past. She stated the monopine would be identical in branch pattern, density and paint as the comparison photo from the Orr Springs site, which the applicant had just completed work on.

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 Holtkamp and carried by the following roll call vote (6-0), IT IS ORDERED to approve U 2014-0012 per the findings and conditions contained in the Resolution and as modified during the public hearing to change 10 feet to 20 feet in Condition #6ii and update the expiration date in Condition #31.

Environmental Finding:

1. The environmental impacts identified in the initial study for the project can be adequately addressed through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is certified.

General Plan Finding:

1. The proposed project is consistent with the property General Plan designation of Agricultural Lands (AG) and with applicable goals and policies of the General Plan as subject to the Conditions of Approval found in Exhibit A of the resolution.

Use Permit Findings:

1. That adequate utility, access roads, drainage and other necessary facilities have been or are being provided.

Access to the project site will be provided by new 200 foot long and 16 foot **wide** driveway that extends from Reynolds Highway (CR 310). Power is available to support the project. Condition Number 15 will ensure that adequate drainage facilities will be provided. Condition Number 19 requires the private driveway approach onto the county road be improved and maintained to commercial standards as determined by the County Department of Transportation.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

The nearest off-site residence is located approximately 1,500 feet southeast of the project site. The facility will not be accessed by anyone other than company personnel. Upon completing the Initial Study, staff did not find any impacts from the project that would constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.

3. That such use preserves the integrity of the zoning district.

The A-G zoning district allows for the construction and operation of a wireless communication facility subject to obtaining a major use permit. Based on the small footprint of the project relative, 1,600 square foot lease area and 200 foot long and 16 foot wide new driveway, to the size of the subject property (120± acres), the project is consistent with the intent of and preserves the integrity of the A-G zoning district.

CONDITIONS OF APPROVAL:

Aesthetics

- **1. Exterior surfaces of structures and equipment shall have subdued colors and non-reflective materials selected to blend with their surroundings. Color(s) shall be reviewed by the Department of Planning and Building Services for approval prior to issuance of a building permit.

Prior to issuance of a building permit, the applicant shall provide samples of colors to be used to the Department of Planning and Building Services for approval along with a statement that exterior surface of

structure and equipment will be made of non-reflective materials. Department of Planning and Building Services planning staff will verify compliance with this condition prior to final of building permit.

- **2. The total height of the facility including antennas will not exceed 85 feet in height above ground level. Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height. This condition is a concealment element of the project and exceeding this height limitation shall require a modification of this Use Permit.

Upon completion of the installation of the facility and prior to final of the building permit, the applicant shall confirm that the height is no greater than approved, and shall submit a written certification to the County of the actual height.

- **3. Existing trees and other vegetation, which will provide screening for the proposed facility and associated access roads, shall be protected from damage. No trees or other vegetation that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility. Activities such as removal of poison oak and mowing field are not included in this limitation.

No trees are proposed to be or need to be removed to support the project. The applicant shall provide a written request to the Department of Planning and Building Services prior to removing or trimming any trees within 300 feet of the facility. Request shall include photos of subject trees and a written description including number, size and type of trees/vegetation to be removed or trimmed along with justification for removal/trimming. No trees/vegetation shall be removed unless approved in writing by the Department.

- **4. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the facility and restoration of the site in the event that the applicant abandons operations or fails to comply with requirements for removal of facilities and restoration of the site.

Prior to issuance of a building permit, the applicant shall provide the Department of Planning and Building Services an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel

- **5. If use of any portion of the proposed facility is discontinued for more than one year, all parts of the facility not in use, above grade, shall be completely removed from the site, and the site shall be restored to a natural-appearing condition.

The applicant shall provide written notification to the Department of Planning and Building Services if they discontinue use of any portion of the facility along with a plan to remove subject equipment and restore the site if applicable.

- **6. Branches of the "monopine" shall extend beyond the antennas and fully conceal the supporting structure and antennas. The branches must:

- (i) Be constructed to a density of 3.5 branches for each one vertical foot of pole, and
- (ii) Start attachment at no greater than ~~ten (10)~~ **twenty (20)** feet above finished grade and continue to the top of the pole.

The applicant shall contact the Department of Planning and Building Services upon completing the "monopine". Prior to finalizing the building permit, Department of Planning and Building Services planning staff shall verify that the "monopine" construction is consistent with this condition. Also see Condition Number 8.

- **7. The antenna array shall not extend more than thirty (30) inches from the structure to which it is attached.

The applicant shall demonstrate compliance with this condition on building plans submitted with building permit. The building inspector shall verify compliance with this condition during final inspection and prior to finalizing building permit.

- **8. An evaluation of the facility's stealth capability shall be submitted for review and approval by the Department of Planning and Building Services after the initial construction, one year following construction and every five years thereafter. The report shall assess surrounding vegetation growth, including height and density in the vicinity, and a color assessment to assess fading of material. Replacement or remediation of the wireless facility shall be performed by the applicant if required by the Department of Planning and Building Services.

The applicant shall submit an evaluation of the facility as described above. Department of Planning and Building Services planning staff shall notify the applicant if any replacement or remediation of the wireless facility is necessary. The applicant should anticipate the Department's expectation to complete identified work within 90 days of being notified by the Department. Failure to complete work may be grounds for revocation of this permit. See Condition Number 29.

- **9. Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and shall be turned off except when in use by facility personnel. No aircraft warning lighting shall be installed.

The applicant shall demonstrate compliance with this condition by identifying the location and types of all light fixtures on building plans submitted with the building permit.

Air Quality

10. Prior to the development phase of the project, the applicant shall contact the Mendocino County Air Quality Management District for a determination as to the need for a permit from the District for the proposed generator.
11. All grading activities must comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

Cultural Resources

- **12. A professional archaeologist shall monitor all ground disturbing activities related to the project.

The applicant shall notify the Department of Planning and Building Services prior to any ground disturbing activities related to the project. The applicant shall provide in writing the name and qualifications of the professional archaeologist to be approved by the Department. Should archaeological resources be discovered, all work shall be halted and the applicant shall contact the Department of Planning and Building Services immediately. Work will not commence until such time that all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied as verified by the Department.

13. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

Geology and Soils/Hydrology and Water Quality

14. As soon as practical following completion of any earth disturbance, vegetative ground cover or driveway surfacing equal to or better than existing shall be reestablished on all disturbed portions of the site. Project construction activities are limited to the project footprint. Trenches will need to be filled and resurfaced to match the original surface.
15. All grading and site preparation, at a minimum, shall adhere to the following "Best Management Practices": The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.

- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
- b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
- c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
- d. Temporary erosion control measures shall be in place at the end of each day's work, and shall be maintained until permanent protection is established.
- e. Erosion control measures shall include but are not limited to: seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1st.
- f. All earth-moving activities shall be conducted between May 15th and October 15th of any given calendar year unless an Erosion and Sedimentation Prevention Plan, prepared by a registered civil engineer, has been submitted and approved by the Department of Planning and Building Services which outlines wet weather earthmoving and drainage control protocols. Such plan shall include all appropriate Best Management Practices that shall be installed in accordance with the approved Erosion and Sediment Prevention Plan prior to the start of construction during the rainy season.
- g. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1,524 mm) in height and steeper than 1 unit vertical in 1.5 units horizontal (66.7% slope).
 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 m³) on any one lot and does not obstruct a drainage.

Noise

16. The generator used to support the facility shall be equipped with mufflers and spark arresters, and shall not produce noise levels exceeding 50 dBA at the nearest off-site residence. Routine testing and maintenance shall be limited to weekdays between 8:30 a.m. and 4:30 p.m. Repairs and emergency use are not included in this limitation. If necessary, the generator shall be enclosed by a noise barrier shelter designed by an acoustical engineer and remain oriented and screened to limit excessive noise to surrounding residences.

Public Services

17. The applicant shall complete California Department of Forestry and Fire Protection (CalFire) standard fire safe requirements pursuant to CalFire File #194-14. The applicant shall obtain written verification from CalFire stating that this condition has been met to the satisfaction of CalFire and submit it to the Department of Planning and Building Services.
18. The facility shall provide if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

Transportation/Traffic

19. In conformance with encroachment permit procedures administered by the Mendocino County Department of Transportation, the applicant shall construct and maintain a commercial driveway approach onto Reynolds Highway (CR 310), to a minimum width of eighteen (18) feet, and improved length of twenty (20) feet from the edge of the County road, to be surfaced with asphalt concrete.

20. Prior to any work within County rights of way, the applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation.

Wireless Guidelines

21. Prior to the final inspection by the Building Division of the Department of Planning and Building Services, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on the fence exterior in a location visible when approached from the road, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
22. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
23. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter the site shall be kept free of refuse.
24. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site and to require no more than a reasonable charge for collocation.
25. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.

Standard Conditions

26. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
27. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless the Planning Commission has approved a modification.
28. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
29. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
 - a. That the permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which the permit was granted have been violated.
 - c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.
30. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit boundaries are different than that which is legally required by this permit, this permit shall become null and void.
31. This permit is issued for a period of ten years, and shall expire on ~~November 20, 2024~~ **July 16, 2025**. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date.

32. This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.
33. Future modifications shall be considered cumulatively to determine if request constitutes a “substantial change” to the facility under applicable federal law.

Fish and Wildlife Filing Fee

34. This entitlement does not become effective or operative, and no work shall be commenced under this entitlement, until the California Department of Fish and Wildlife filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services, Said fee of \$2,260.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to August 3, 2015 (within 5 days of the end of any appeal periods). Any waiver of the fee shall be on a form issued by the Department of Fish and Wildlife upon their finding that the project has “no effect” on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

** Indicates Mitigation Monitoring and Reporting Program conditions associated with the Environmental document.

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

[Break 9:50 AM – 10:03 AM]

6d. CASE#: AA_2015-0002

DATE FILED: 6/16/2015

OWNER: MARY SNYDER TRUSTEE

APPLICANT: Sergio Mancilla

APPELLANTS: Carter Momson Knight for Alex Chehada and Anthony Chehada

PROJECT COORDINATOR: GRAHAM HANNAFORD

REQUEST: Appeal of an administrative determination approving zoning clearance for Building Permit BU 2015-0104 to construct a structure for a retail use within a C-2 (General Commercial) zoning district.

ENVIRONMENTAL DETERMINATION: Statutory Exemption, per Section #15268; ministerial permit approval.

LOCATION: 8451 East Road, Redwood Valley, 300± feet south of the intersection of East Road and East School Way; APN 163-132-14.

RECOMMENDED ACTION: Deny the Appeal.

Chair Warner discussed the protocol for the public hearing and noted that questions would be answered at the end of the public comment portion of the hearing.

Mr. Gustavson provided an introduction, noting the item before the Commission was an administrative appeal of the zoning approval of a building permit. He discussed the routine nature of the zoning review process for building permits, which is ministerial; stating the process was performed no less than 100 times per year and were not subject to public notice requirements like a planning application which required discretionary review. He concluded his introduction noting that the Commission was charged with reviewing the appeal based on the information considered during the zoning clearance portion of the building permit application process and that the appeal does not include any other aspects of the proposed development.

Graham Hannaford, Project Coordinator, reviewed the staff report and discussed a power point of the project. He reviewed the necessary steps during the building application review to provide zoning

clearance and the plancheck process that occurred at Planning and Building. He discussed the zoning of the property and stated that the proposed building was an allowed use by right in the General Commercial zoning district and required no other action to approve the building permit. He stated the process was ministerial in nature and not subject to the California Environmental Quality Act (CEQA). He discussed the allowed height limit in the commercial zone and noted the corridor preservation setback from the centerline East Road from the power point. He discussed the plot plan for the proposed development and noted the locations of parking, further discussing the off street parking requirements.

Mr. Gustavson noted that site improvements, such as stormwater retention basins and runoff control were not required for the project as it was not located within a Stormwater MS4 area. He noted locations on the plot plan where the applicant proposed rain catchments, which are not required for development outside the MS4 area.

The Commission noted the oval shapes between the parking lot and East Road, as well as around the north side of the building which were proposed stormwater catchment systems.

Chair Warner asked if any landscaping had been included.

Mr. Hannaford noted it was not a requirement of the development plan, but several trees and various plantings were proposed. He continued his power point and stated that once a use had been established "by right", no further examination was needed by staff as long as the proposed development met the setback requirements, height limit and parking requirements. He stated that CEQA provided a specific exemption for building permits in Section 15268(b) and as such, the building permit was approved for zoning clearance and continued with the plancheck process.

Mr. Gustavson commented that once the zoning clearance was granted, a building permit could be issued, as long as all other responsible agencies/departments involved, such as Environmental Health, Department of Transportation, Redwood Valley Water District, etc. had approved the application.

Matt Kiedrowski, Deputy County Counsel, responded to comments raised by the appellants related to CEQA and various judicial actions. He discussed CEQA as it related to the County's General Plan and discussed Public Resource Code 21080, which states "Ministerial projects" involve a governmental decision requiring little or no personal judgment by the public official and are exempt from CEQA. Pub.Res. Code § 21080(b)(1); ..." He discussed the case law regarding building permit review, and issuance noting the Dollar General in Joshua Tree, which had been subject to a use permit. He commented that Mendocino County, under the adopted Zoning Code, does not have authority to require environmental review for ministerial projects. He also stated that as the application complied with the General Plan goals and policies, and as staff had found no specific incompatibilities with the application, the County did not have authority to deny the building permit.

Commissioner Ogle asked if Mr. Kiedrowski knew if the Dollar General application in Kelseyville, which had been denied by the Planning Commission, included a use permit.

Mr. Kiedrowski did not have information on the application, but thought it was related to a use permit.

Commissioner Ogle asked if the County had Design Review standards, would that have made a difference in the application review.

Mr. Kiedrowski stated that if the County had Design Review standards, staff would have to review the application for adherence to those guidelines, but would not necessarily hinder the approval.

Mr. Gustavson further noted that design review would not consider the use of the property; it would evaluate the aesthetic components of the building, ie. color, materials, scale. Design review, in this case, would not provide a reason to deny issuance of a building permit.

Commissioner Little asked the parcel had been zoned commercial in the prior General Plan or if it was changed in 2009.

Mr. Gustavson was not sure of the previous zoning of the parcel. He noted the General Plan does include specific policies related to Redwood Valley that clearly identify that this core commercial area is to be retained and encouraged.

Brian Momsen, attorney representing the owners of the Redwood Valley Market, discussed the Kelseyville Dollar General application and noted that the Planning Commission had denied the project. He stated that Dollar General had a poor history of community relations and would have a detrimental impact on local business. He discussed the application process and felt it was meaningless without the benefit of environmental review and public hearings. He discussed the 2009 General Plan EIR and felt that it was too generalized and did not study impacts to Redwood Valley specifically. He cited several other cases including the Joshua Tree Dollar General application and Day vs. Glendale, which he felt demonstrated that ministerial projects could be subject to environmental review.

Alex Chehada, owner of Redwood Valley Market, stated his business supports the local community and employees 20 people. He stated that the “strangers” that own Dollar General would not care about the community and would not care about the people’s needs. He stated a petition against the store had been signed by 1700 people.

Sabrina Teller, attorney with Remy, Moose, and Manely representing Cross Development, discussed the reasons the appeal should be denied. She commented that building permit applications were ministerial because the process was based on “by right” development that did not require any further discretionary review by the County. She addressed several points from Mr. Momsen’s letter including the size of the store, noting that at 9000 square feet, it was comparable to a Walgreens or Rite Aid not Walmart or Costco. She dismissed the implication that no environmental review had been completed and discussed the County General Plan, adopted in 2009, which had the parcel zoned Commercial. She discussed the level of CEQA review included in EIR’s and stated that the “worst case scenario” or full buildout potential was analyzed in the document. She also noted that the typical adoption process would include a Statement of Overriding Considerations that would conclude that there could be unavoidable impacts; however Ms. Teller noted that the Mendocino County Code established that General Retail was an allowed use in Commercial zoning. She understood that the community had strong feelings about the application, but noted that building permit applications were a ministerial process that was not subject to interpretation and should not be influenced by opinions.

Commissioner Ogle asked about the water usage for the development.

Ms. Teller was not sure of the usage but noted that the applicant did have a well permit for the property.

Commissioner Little commented, that based on County Counsel’s presentation, the applicant had a right to build the store on the parcel and asked why a developer would continue with the proposed project facing such strong community opposition.

Ms. Teller commented that she assumed the developer had reviewed the market conditions in the area and felt there was a demand not being fulfilled that they could satisfy.

Mr. Gustavson commented that the Commission had received a packet of letters regarding the project and staff would respond to the letters and questions after the public comment period.

Joe Dell, Cross Development, stated that Dollar General was his client and would lease the building, but Cross Development would own the property. He expected water usage to be less than a single family residence and thought that 200-250 gallons per day might be used, but would fluctuate with traffic in the store. He supported denial of the appeal as the property was zoned for the use.

Commissioner Ogle noted the local community was not supporting the application and asked what the developer would do if Dollar General failed and closed its building.

Mr. Dell commented that the building was a significant investment, and would be put up for lease to another tenant. He commented that the store should not impact loyal customers and noted that the Clearlake store was thriving. He also discussed the lack of run-off produced by the development and noted a full landscape plan had been prepared.

Commissioner Ogle noted that Mr. Momsen's letter claimed the store would be better suited to south Ukiah and asked if the area had been pursued.

Mr. Dell was unsure if the area had been pursued, but commented that Dollar General tends to develop in rural communities; Ukiah was already developed with larger tenants like Safeway and Walmart.

The public hearing was declared open.

Leo Bleier was opposed to the project and felt it did not fit into the local community.

Rick Radcliff disapproved of the County's hearing process.

Mary Snyder, property owner, supported staff recommendation and stated the parcel had been zoned commercial when she purchased it in 1978. She thought it was a good location for a store, between the Saving Bank and fire station and commented that it was only 100 square feet larger than an existing commercial building on property.

Christine Boyd was also opposed to the project and felt it did not fit into the rural community.

Sonya Pio was opposed to the project and concerned with water usage and traffic impacts.

Charles Vaughn was opposed to the project and concerned with water usage, traffic impacts and low wage jobs.

Mary Beth Kelley was opposed to additional growth in the County and had a 2004 action plan she asked about.

Virginia Reynolds was opposed to the project and considered it "rural blight".

Ellen Faulkner was opposed to the project and stated corporations were "taking over of tiny places".

Carol Soinila was opposed to the project and stated that the community did not know the true meaning of the "commercial" zoning and felt it was not explained on purpose.

Tarney Sheldon was opposed to "urban sprawl and blight" that she felt the project would create.

Rick Radcliff was opposed to the project and submitted a handout to the Commission and stated the corporation was in substantial debt with multiple stores being closed.

Jaye Alison Moscarello was opposed to the project and wanted Redwood Valley to be locally sustainable.

Sheilah Rogers was opposed to the project.

Bill Taylor was opposed to the project.

Dorothea Dorman was opposed to the project and stated "money was the root of evil".

Donald Burgess was in support of the project and felt everyone had freedom of choice. He stated the property was legally owned, legally developed with all permits and a person should have the right to use their property. He stated that the community could chose not to shop at Dollar General and was pleased that something was being developed in the vacant field.

Steve Scalmanini was opposed to the project and questioned the adequacy of the General Plan if Dollar General was approved by right.

Marie Hanson was opposed to the project.

Dorotheya Dorman asked what the Redwood Valley Market paid.

Alex Chehada stated he pays between \$11-15 per hour.

[Break 12:11 PM – 12:24 PM]

Chair Warner noted the appellant could respond to comments.

Mr. Momsen addressed key legal issues and stated the Planning Commission had the discretion to require further study for the project. He did not feel that the General Plan EIR adequately studied impacts in the area and felt further environmental review was required.

Commissioner Little commented that it was not appropriate to use CEQA as an economic tool to subvert competition. He noted that in each project or case mentioned by the appellant and County Counsel, the applications had been subject to discretionary review as either a use permit entitlement or grading permit, which was not exempt from CEQA. He stated that building permits were a ministerial process and the problem would be asking County staff to evaluate development and find the “threshold” that triggers further review; what would that application be, another market, a Starbucks. He stated that he did not see any evidence to support the requirement for the County to request a CEQA review of the application.

Mr. Momsen commented that any meaningful project should be reviewed.

Commissioner Little stated that without a definition of “meaningful project” that was a slippery slope in which any argument could be made to require further review.

Mr. Momsen felt a Community Specific Plan should be prepared before any development could be considered in Redwood Valley and stated it was too difficult to navigate the County’s Final EIR with its “circular reasoning” to be a reliable development tool for the community.

Ms. Teller commented that the appropriate time to discuss what could be developed on the parcel was during the General Plan update. She stated the parcel was zoned commercial in the 2009 General Plan and the relevant sections in the County Code allow the development by right. She commented that if the project was reviewed by a court of law, two key factors would be reviewed; 1) the CEQA Guidelines for building permits, and 2) the language in the Mendocino County Code pertaining to the zoning and allowed development uses. She commented that there was a level of certainty expected in the zoning of a property and as the building permit process was ministerial, the appeal should be denied.

Chair Warner noted she was interested in the 2004 Redwood Valley Plan.

Mr. Gustavson commented that he believed the 2004 Redwood Valley Plan was prepared by a working group comprised of members from the Redwood Valley community and that some of the principles of the document were adopted and included in the policies of the 2009 General Plan.

Chair Warner commented she was on the Commission during the General Plan update and she was sure that each community area was mentioned in the General Plan.

Mr. Gustavson read policies from the General Plan that specifically address the Redwood Valley community, including CPRV-1, and CPRV-3. He stated the policies encourage smart growth by maintaining the commercial zoning of East Road, reducing sprawl with compact cluster developments, promoting infill to reduce loss of agricultural lands, etc. He stated the allowance for development by right was an incentive for property owners as it provides assurance as to what kind of uses were permitted on their property, as a right that are consistent with the General Plan. He noted

that one strategy to manage development is to adopt design guidelines. He felt they may help to remedy to similar development situations and may warrant discussion with the Board and the community. He commented that the County could not condition a ministerial permit with General Plan Policies and felt a discussion should be brought to the Board about creating design guidelines.

Chair Warner asked if a preferred plan would be more restrictive than zoning code.

Mr. Gustavson commented that the implementation measures of the General Plan call for community design guidelines to be adopted, which would be subject to a public process to allow for community input. He stated that without the implementation measures, the County's current Zoning Code identifies use types and development standards that are consistent with the General Plan land use classification and establishes a framework so people know what the rules are and how they can make investments with a predictable outcome. Otherwise, as of right uses could not be developed without the uncertainty of discretionary review and CEQA.

Mr. Kiedrowski discussed the threshold of ministerial vs. discretionary.

Mr. Hannaford noted the Commission received a list of permitted uses in their packets as well as the zoning clearance letter that had been mailed to the applicant. He further noted that any proposed signs for the building would require an additional building permit and would be subject to review under the County Code, Section 20.184.025c, for compliance.

Commissioner Ogle asked if the department would bring a discussion to the Supervisors for a community meeting.

Mr. Gustavson commented that the discussion would only be brought forward if the community felt the Zoning Code did not provide the tools necessary to guide growth in Redwood Valley.

Chair Warner commented that she believed staff's position was clear and probably correct, but sympathized with the community and would vote to grant the appeal, citing policies from the County's General Plan. Action item DE-78.1 in consideration of developing community design guidelines, and developing a Community Action Plan as referenced in Policy DE-70. Until Redwood Valley can do this, perhaps all new permits in the commercial district should be disallowed.

Commissioner Hall agreed.

Commissioner Krueger stated he did not agree and felt that staff had analyzed the application properly and was bothered by the allegation that the EIR for the General Plan may be deficient. He stated such an allegation against the EIR and General Plan was serious and did not feel the appeal hearing was an appropriate place to discuss deficiencies in the document. He supported staff's actions and stated the process was a ministerial act and the building permit was correctly issued.

Doug Losak, County Counsel, reminded the Planning Commission that the hearing was about a very specific and narrow issue, was the correct procedure followed in approving and issuing the building permit. He stated personal bias regarding the company, property owner, community outrage, etc was not part of the decision and should not be considered.

The public hearing was declared closed.

Commissioner Ogle commented she was concerned with water usage in Redwood Valley, potential blight of a vacant building if the store didn't make it, etc. and understood she could not address those issues under the appeal. As, such she stated she believed the property owner had a right under the Zoning Code and General Plan to develop the property and the only legal action the Commission could take was to deny the appeal.

Upon motion by Commissioner Ogle, seconded by Commissioner Little and carried by the following roll call vote (4-2), IT IS ORDERED to Deny Administrative Appeal #AA 2015-0002, finding that the Building permit #BU_2015-0104 zoning clearance was granted based on staff's correct determination that:

- 1) The building permit zoning clearance for a permitted use is a ministerial decision that is statutorily exempt from CEQA review pursuant to Section 15268 of the CEQA Guidelines.
- 2) The proposed Food and Beverage Retail Sales and Retail Sales, generally are use types permitted by right in the C-2 (General Commercial) Zoning District.
- 3) The location and height of the proposed building complies with the C-2 (General Commercial) development standards and corridor preservation setbacks.
- 4) The proposed onsite parking lot complies with the County parking requirements.

AYES: Little, Krueger, Holtkamp, Ogle
NOES: Warner, Hall
ABSENT: Nelson

Mr. Gustavson noted the appellants had the ability to appeal the Planning Commission's (PC) decision to the Board of Supervisors and must be filed within 10 calendar days of the PC hearing.

7. Matters from Staff.

Mr. Gustavson noted the August PC meeting had been canceled due to lack of projects.

8. Matters from Commission.

Chair Warner noted she would be absent in October, but Commissioner Holtkamp would be present.

Commissioner Krueger noted the past 2 sets of minutes seemed shorter and approved of the minimizations.

Commissioner Ogle asked when the Board would review the Wireless Ordinance and Guidelines.

Mr. Gustavson noted the project was scheduled for August 4, 2015.

9. Adjournment.

Upon motion by Commissioner Hall, seconded by Commissioner Holtkamp, and unanimously carried (6-0), IT IS ORDERED that the Planning Commission hearing adjourn at 1:21 p.m.