

FINAL

MONTEREY COUNTY PLANNING COMMISSION

July 28, 2004

MINUTES

The Planning Commission met at 9:00 a.m. at the Board of Supervisors Chambers of the Courthouse at 240 Church Street, Salinas, California.

A. ROLL CALL

Present: Miguel Errea, Sharon Parsons, Laurence Hawkins, Cosme Padilla, Keith Vandevere, Juan Sanchez, Martha Diehl, Aurelio Salazar, Don Rochester, John Wilmot

Absent: None

B. COMMENT PERIOD

Public – Marjorie Kay requested that the Land Use Advisory Committee nominations be held before other agenda items and that the North County LUAC reappoint Frieda Jackson, whose term expired July 1, 2004, and Kim Solano and Peter Beard.

Chair Wilmot denied request.

Commission – Commissioner Sanchez commented on the Rippling River Nursing Home problem as reported in the Monterey Herald and requested a report back from staff.

Jeff Main, Planning and Building Inspection Department, stated that he was not aware of the department's involvement in the project but would report back.

Laura Lawrence, Environmental Health, stated they are looking at relocating to the Carmel Valley area.

There was Commission discussion on Rippling River regarding insurance coverage, time frame period, and when eviction is going to take place.

Commissioner Padilla made a motion that the request of Ms. Kay to bring LUAC appointments forward be granted, it was seconded by Commissioner Diehl.

E. OTHER MATTERS

Advisory Committee Appointments

It was moved by Commissioner Padilla, seconded by Commissioner Rochester and passed by the following vote to reappoint Kim Solano and Peter Beard to the North County Coastal Land Use Advisory Committee.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Parsons, Diehl, Salazar, Rochester, Wilmot

NOES: None

ABSENT: None

It was moved by Commissioner Diehl, seconded by Commissioner Rochester, and passed by the following vote to appoint Ned Callahan, Steve Schindler, and Dan Priano to the Big Sur Land Use Advisory Committee.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None

It was moved by Commissioner Parsons, seconded by Commissioner Errea, and passed by the following vote to appoint Lochlan McVicar to the Spreckels Neighborhood Design Review Committee.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None

Commissioners asked why Frieda Jackson and David Evans of North County Coastal LUAC have not been scheduled. Recording Secretary Linda Rotharmel stated that letters were sent to Commissioners, but have not requested them to be agendized. It was noted that Frieda Jackson and David Evans would be on the August 11, 2004, agenda.

C. APPROVAL OF MINUTES

Commissioner Errea moved, seconded by Commissioner Hawkins, and passed by the following vote to approve the minutes of May 26, 2004.

AYES: Errea, Parsons, Hawkins, Padilla, Vandevere, Sanchez, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None
ABSTAIN: None

Commissioner Errea moved, seconded by Commissioner Hawkins, and passed by the following vote to approve the minutes of June 9, 2004.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None

Commissioner Parsons did not vote on the part of the minutes where she was absent.

Jeff Main advised that the minutes for June 30, 2004, were not included in the packet and were continued to August 11, 2004.

D. SCHEDULED ITEMS

1. ZONE CHANGE (PD030204)

Patrick Kelly presented the project and changed the staff recommendation from denying to approving the zone change and advised the Commission that if they approved the zone change that they would need to adopt a Resolution of Intent and continue the item so staff could prepare the appropriate findings and evidence.

Wendy Strimling, Deputy County Counsel, stated the meeting could be continued to a date certain to hear and consider new findings and evidence to support a Resolution of Intent to approve the zoning change. In addition, she advised that the zoning could be changed and Planning Commission can initiate and decide on such a change.

There was discussion by the Commissioners that the subject parcel is one of several Heavy Commercial areas in the Carmel Valley vicinity and that a zoning change should apply to all the Heavy Commercial parcels. There also was concern over the use of these commercial parcels by persons residing outside the area.

Public Comment

Donna Hagerty, Patricia Kaufman, Renee Sanders, and Paula Lotz (Carmel Valley Association) spoke in favor of the project.

Further, the Commission discussed how the zone change could be changed to include all lots.

Wendy Strimling, Deputy County Counsel, addressed the protocol for hearing and deciding on the zoning change for the subject parcel and other parcels as necessary.

The Commission discussed going forward with a Resolution of Intent for this project and requested staff to proceed with the other lots.

Commissioner Errea moved to approve a Resolution of Intent to bring only the subject item back at the next regularly scheduled hearing with the Findings and Evidence to recommend the Zoning Change to the Board of Supervisors for PD030204, seconded by Commissioner Diehl.

Staff commented that more time would be needed to revise the Findings for a Resolution of Intent and create an Ordinance to recommend to the Board for the Zone Change.

Commissioner Errea amended his motion to continue it to August 25, 2004.

Commissioner Diehl spoke in support of the motion, commented on timing for report preparation, and supported a zoning change for the other parcels.

A motion was made and seconded and was passed by the following vote.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandever, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None
ABSTAIN: None

Commissioner Diehl moved that the Commission adopt a Resolution of Intent to recommend changing of all Heavy Commercially Zoned properties within the Mid Carmel Valley area to Light Commercial for the same reasons as previously mentioned, seconded by Commissioner Rochester.

Wendy Strimling, Deputy County Counsel, stated that current item of discussion is not on the Agenda and the maker of the motion may want to amend, to direct staff to put that issue on the agenda.

Commissioner Diehl moved to amend the motion, as directed by Counsel. Motion amended to direct staff to place on the Agenda a Resolution of Intent to recommend changing of all Heavy Commercially Zoned properties within the Mid Carmel Valley area to Light Commercial for the same reasons as previously mentioned, seconded by Commissioner Rochester.

Commissioner Vandevere requested a part of that motion be to direct staff to see if parcels other than the subject parcel could be consolidated, in terms of hearing, with the subject parcel (PD030204) so people from the Carmel Valley neighborhood containing all the parcels do not have to come to different hearings.

Commissioner Diehl requested if staff thought it was possible and further suggested that, the Ordinances reach the Board of Supervisors at the same time.

Wendy Strimling, County Counsel, commented on the procedural issues related to considering and consolidating zoning amendments for different parcels.

Jeff Main gave suggestions on the consolidation to ensure that all zoning items would reach the Board at the same time for final consideration.

Commissioner Diehl supported Mr. Main's suggestion and called for the question.

The motion was passed by the following vote to direct staff to place on the August 25, 2004, Agenda a Resolution of Intent to consider a zone change to the other parcels in Mid Carmel Valley that are currently Heavy Commercial and changing them to Light Commercial:

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None
ABSTAIN: None

2. BLISS BETSY W TR (PLN030071)

Eric Lee passed out a handout regarding the correct staking and flagging elevations that were referenced in the staff report and are reflected in the revised project plans, presented the project, deleted Mitigation Measure #5, and revised Condition #13 and Mitigation Measures #10 and 11. The Carmel Highlands/Unincorporated Land Use Advisory Committee recommended approval with concerns about truck trips, project visibility, tree protection, and drainage and erosion issues.

Jeff Main, Planning and Building Inspection, corrected the elevations in Condition #13 to be 283 feet.

The Commission discussed ridgeline development, potential glare and visibility, drainage, access roads, driveways, and truck traffic.

Eric Lee addressed the issues.

Anthony Lombardo, representative for Betsy Bliss, addressed the ridgeline, smaller house, less fill, and truck trips. He requested Condition #13 be changed to 283 feet, Conditions #15 language be changed to pave driveway after grading activities, Mitigation Measure 10, delete off-site restoration because there is no nexus, and Mitigation Measure 11, delete section (a). Mr. Lombardo supports Staff's recommendation and accepts conditions as amended per his suggestions.

The Commission discussed changes to the Findings and Evidence and Conditions of Approval. Changes were made to Condition #15, to include grading and proper erosion control methods approved by the Monterey County Water Resources Agency instead of paving; Mitigation #10, delete second sentence relating to restoration of off-site to only on-site restoration and not to include restoration on the house footprint or any other driveway footprint; Mitigation #11 delete (a) and last sentence of MM#11; added Monitoring Action #3(c); Condition #13 modified to reflect 283 feet; Finding #3 amended to add changes that replacement of mitigation measures are equivalent or more effective in mitigating or avoiding potential significant effects and of themselves do not cause any potentially significant effect; amended heights of staking based on Babcock letter of July 21, 2004; and delete Mitigation #5.

Commissioner Diehl moved, seconded by Commissioner Rochester, and passed by the following vote to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approve the Combined Development Permit based on the amended Findings and Evidence and subject to the amended recommended Conditions of Approval in PLN030071 (Resolution #04032).

AYES: Errea, Sanchez, Hawkins, Padilla, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: Vandevere
ABSENT: None
ABSTAIN: None

3. GRAHAM WILLIAM & KIM (PLN030542)

Jeff Main, Planning and Building Inspection Department, advised that originally the project was proposed in an area that required a Use Permit because it was adjacent to the Carmel River in the floodplain area. He stated that the project has since been redesigned to avoid the flood plain and staff is requesting it be removed off the Agenda and referred to the Zoning Administrator as the appropriate decision-maker.

Commissioner Vandevere moved, seconded by Commissioner Hawkins and passed by the following vote to refer PLN030542 to the Zoning Administrator.

None one in the public spoke on this referral.

Commissioner Rochester called for the question.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandevere, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: Parsons
ABSTAIN: None

4. DOUD JOHN EDWARD (PD040368)

Commissioner Diehl advised that she had prior knowledge of this particular application; however, she has no financial interest and believed she could make a fair and impartial decision, based on the information presented in the public record.

Carl Holm presented the project to include a proposed amendment to the Big Sur Land Use Plan and zoning designation by re-designating the Doud property to WCS to be consistent with a settlement agreement with State Parks to change ownership back to Doud. Mr. Holm recommended that the Commission adopt a Resolution of Intent directing staff to prepare the appropriate report and environmental review that would allow the Planning Commission to consider amendments to the Big Sur Land Use Plan and zoning designation for a 2.5 acre parcel located north of Garrapata Creek, south of Garrapata Park, and west of Highway 1 along the coastline of Big Sur. Mr. Holm clarified that he just learned that the property had never been owned by State Parks as stated in the staff report. Although State Parks initiated condemnation on the property, title never changed ownership.

The Commission was concerned that the property was designated open space but was never owned by State Parks, that the property is located in the critical viewshed, and was questioning what kind of development could be placed on the subject property under the proposed designation.

Mr. Holm addressed the issues stating most of the site is located within the critical viewshed, and advised that there is one other residence located north of Garrapata Creek between the subject property and Highway 1. He further advised that part of the requested review would require evaluation of potential development/environmental impacts resulting from development.

Michael Cling, on behalf of the applicant, reiterated that the property never changed ownership, requested that the County start the process to give this 2.5-acre parcel the same zoning as other privately owned property in the area, gave an overview of the project, and supported staff's recommendation.

Wendy Strimling, County Counsel, advised that the record reflect the correction that property was never owned by State Parks.

Carol Fisch, owner of adjacent property, spoke in opposition of the project. She expressed concerns with impacts to this extraordinary stretch of coast and views, trails across the site, Garrapata Park and Beach, noticing, section lines, limited water supply (Garrapata Water Company), that the Palo Colorado fault transverses both properties and other unique geological attributes, frontage on Doud property, the Big Rock peak, and an archaeology site.

Arden Handshy stated that the Doud property should be zoned WSC and that a house can be built out of critical viewshed, and was in favor of the project.

The Commission was concerned with changing the zoning, the fees involved, and that it was probably a State Parks mistake that needs to be corrected.

Jeff Main responded it was an issue that staff looked into rather extensively, prior to making a recommendation and that a number of files were reviewed from the time residents and the county contemplated the designation to open space. Wording in the documents note that the County intended for this parcel to be part of the Garrapata Park, due to the State condemnation action. It was not until after the Big Sur Land Use Plan was adopted and certified that conditions changed. Since the County made a conscious decision to make this part of the park, staff finds that we cannot consider the issue as a mapping error. The Resolution of Intent means that the Planning Commission would be initiating this request and therefore there would be no fee to the applicant.

Commissioner Parsons requested staff's recommendation be revised to "amend the Big Sur Land Use Plan" and delete the language "to consider amending the Big Sur Land Use Plan."

Wendy Strimling, County Counsel, responded that the amendment would have to be formally before the Commission to take the action proposed by Commissioner Parsons. Technically, it was not an error, legally speaking, because the County did not accidentally designate the Doud property, but intended to assign the OR designation to the Doud property. However, as staff has explained, by bringing it forward as a Resolution of Intent, the Commission is initiating the re-designation process. She advised that the Amendment cannot be recommended today, because an environmental review and formal analysis needs to be prepared for the re-designation. Staff is proposing that the Commission "consider" amending because the amendment is not yet before the Commission. Staff will bring forward to the Commission the Amendment language at a future date.

Commissioner Parsons moved to adopt a Resolution directing staff to prepare the appropriate report and environmental review that would allow the Planning Commission to consider amending the Big Sur Land Use Plan and zoning ordinance, seconded by Commissioner Diehl and passed by the following vote.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandever, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None
ABSTAIN: None

5. ORDINANCE TO UPDATE CODE ENFORCEMENT PLN040372

Dale Ellis, Assistant Director of Planning and Building Inspection, outlined the key features and issues of a proposed ordinance amending Chapter 1.20 of the Monterey County Code relative to the enforcement of the Monterey County Code. Key points included: compliance agreements, enforcement appeals, appeal process, voluntary compliance, and administrative citations and penalties.

Max Chaplin, Victoria Ruegg, Margaret Robbins, Arden Handshy, and Carolyn Anderson spoke in general support of the ordinance, adding there needs to be changes in fines, enforcement that is more orderly, clearly define violation, and an independent hearing officer.

Paula Lotz, Donna Hagerty, Jan Mitchell, Gillian Taylor, Marjorie Kay, and Lee Lotz requested a continuance for staff to work with citizens on possible refinements to the ordinance. Staff concurred in this request.

Commissioner Diehl moved to continue this to a date uncertain, with the request that would include continuance to the Board of Supervisors, for the purpose of reviewing public input related to this proposed ordinance, incorporating suggestions where appropriate, and incorporating additional stakeholders. Commissioner Hawkins seconded the motion.

Commissioner Rochester called for the question.

AYES: Errea, Sanchez, Hawkins, Padilla, Vandever, Parsons, Diehl, Salazar, Rochester, Wilmot
NOES: None
ABSENT: None

6. CRIST FRANK & ELIZABETH PLN010393

Patrick Kelly described the project and that it was continued to the current hearing date with a Resolution of Intent and requested the Planning Commission deny the cottage industry winery Use Permit without prejudice pending Board of Supervisors' consideration within one year of land use regulations governing micro wineries, based on the recommended Findings and Evidence.

Commissioner Rochester moved, seconded by Commissioner Errea, and passed by the following vote to accept staff's recommendation to deny without prejudice, and that "denial without prejudice" in this case shall mean the applicant may reapply for the micro-winery within one year of the denial action, or upon adoption of new regulations addressing micro-winerries, whichever comes first, subject to appropriate environmental review, and that no additional filing fees will be required (Resolution #04034) and to consider new zoning regulations governing the establishment and operation of micro-winerries and directs staff to prepare said regulations for its consideration (Resolution #04035).

AYES: Errea, Hawkins, Padilla, Vandevere, Parsons, Diehl, Rochester, Wilmot
NOES: None
ABSENT: None
ABSTAIN: Sanchez, Salazar

E. OTHER MATTERS

Department Report

Jeff Main, Secretary to the Commission, responded on the first item brought up by Commissioner Sanchez on the Rippling River Senior Center. He advised that he had conferred with Mr. Ellis, Assistant Director, and was informed that there is no specific application for a new facility proposed. He advised that there have been several public meetings and discussions with the County over the feasibility of different sites for the facility, but there is no formal application and the Housing Authority is in the process of pursuing a new site for the facility including pursuing the related environmental review process.

F. ADJOURNMENT

The meeting was adjourned at 12:15 p.m.

ATTEST

Jeff Main, Secretary

JM/lmr