

SHASTA COUNTY PLANNING COMMISSION MEETING

MINUTES

Meeting

Date: May 9, 2019
Time: 2:00 p.m.
Place: Shasta County Administration Center
Board of Supervisors' Chambers

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ROLL CALL

Commissioners

Present: Jim Chapin District 1
Steven Kerns District 3
Tim MacLean District 2
Roy Ramsey District 4

Absent: Patrick Wallner District 5

Staff Present: Paul Hellman, Director of Resource Management
Kim Hunter, Planning Division Manager
James Ross, Assistant County Counsel
Lio Salazar, Senior Planner
Tara Petti, Assistant Planner
Jimmy Zanotelli, Shasta County Fire Marshal
Charleen Beard, Supervising Engineer
Tracie Huff, Administrative Secretary I/Recording Secretary

Note: All unanimous actions reflect a 4-0 vote.

PUBLIC COMMENT PERIOD - OPEN TIME: Maggie Osa representing the Citizens in Opposition to the Fountain Wind Project, spoke in opposition to the Fountain Wind project and urged the county to deny the project and place a moratorium on all future use permits for industrial wind turbine developments in Shasta county. Ms. Osa provided written materials to the Planning Commission.

REGULAR CALENDAR:

R1: APPROVAL OF MINUTES:

By motion made, seconded (Kerns/Ramsey) and carried unanimously, the Planning Commission approved the Minutes of April 11, 2019, as submitted.

By motion made, seconded (Ramsey/Maclean) and carried unanimously, the Planning Commission approved the Minutes of April 26, 2019, as submitted.

CONFLICT OF INTEREST DECLARATIONS: None

Ex-parte Communications Disclosures: None.

R2: **Use Permit 18-0006 (New Cingular Wireless PCS, LLC dba AT&T Wireless):** The applicant has requested a use permit for the construction and operation of an unmanned wireless telecommunications facility consisting of an 85-foot tall monopine tower, a 64-square-foot equipment shelter, and diesel standby generator with an attached 190-gallon storage tank. The project is located at 20803 Antlers Road, in Lakehead, on a 1.2-acre parcel adjacent to and east of Antlers Road, approximately 0.10 miles north of the intersection of Antlers School Road and Antlers Road (APN 083-340-027). Staff Planner: Tara Petti. Simple Majority Vote.

Tara Petti presented the staff report. Commissioner Ramsey asked for clarification on the ability to approve the project despite the code compliance issues with the property. Ms. Petti explained that because the project would be limited to a small lease area within the property that is not not affected by the compliance issues that it would not be a problem.

The public hearing was opened and Jim Harkabus thanked the Commission for accepting public comments, and thanked Tara Petti for her professionalism. Mr. Harkabus spoke in opposition of the project raising concerns of radio frequency in close proximity to the property where Canyon Creek elementary school is located and the impact on the health and safety of those who use the property. Mr. Harkabus explained that while the school is inactive, the property is still used by children, families, and emergency services and urged the Commission to deny the project.

Sara King, a representative for AT&T, addressed the concerns Mr. Harkabus raised. Ms. King explained to the Commission how cell towers are designed to work, and how the process for building them would ensure complete compliance with FCC regulations and stated that the proposed cell tower would not be a detriment to the health and safety of the community. Ms. King noted that the proposed location would be ideal in improving the emergency service communications in the area.

Commissioner Chapin asked if it was going to be strictly a cell phone tower and if there were any complaints on towers near other residential areas. Ms. King explained that the tower would be cell and wireless internet and that there were not any complaints validated by scientific evidence.

Commissioner Kerns inquired about why the proposed location was chosen for this particular tower. Ms. King explained the factors that can influence the decision of where a tower is proposed including loss of cell phone coverage, zoning that supports towers, topography, and the avoidance of high density residential areas. She noted that if the towers are not near to people they cannot provide service to people. She stated that for the proposed location, the mixed use zoning was ideal in that the tower would provide coverage without being near any high density residential areas creating visual impact, it would be away from natural land and open spaces, and that it was far enough away from the mountains to not limit the full benefit of cell services to the area.

Commissioner Kerns asked if any of the towers on the peak south of Dog Creek were owned by AT&T. Ms. King explained she did not know. Commissioner Kerns pointed out that most companies are using the peak. Ms. King explained that while peaks are great from a transmission

standpoint they are more visually intrusive.

There being no other speakers, the public hearing was closed.

Mr. Ross explained to the Commission that under federal law, the approving body cannot consider Electromagnetic Field (EMF) emissions in the denial of a project provided the project complies with FCC regulations.

Commissioner Ramsey stated that the cell tower was needed and asked for clarification on how the Commission could approve the cell tower on a property with code compliance issues.

Planning Division Manager Kim Hunter explained that the determination was made based on a prior code case where a similar situation existed, where a review of the Federal Telecommunications Act by County Counsel found that leased land for cell towers was protected from being included in unleased land that had code compliance issues.

Commissioner Kerns asked for clarification on the difference between denying a project for health and safety concerns and denying a project on EMF emissions. Mr. Ross explained that if the health and safety concerns were based on the EMF emissions that the Commission was prohibited by federal law from taking that into account provided that the cell tower complies with FCC regulations.

Commissioner Chapin raised concerns about allowing a lease for a cell tower on a property that has code compliance issues and that allowing or not allowing one could be used as leverage to encourage compliance. Kim Hunter explained that the Telecommunications Act has provisions to meet the need of cell towers and that while generally a permit would not be issued on a property in violation, cell towers are a unique circumstance. Mr. Ross added that the Telecommunications Act was very specific and provides different standards for considering these types of projects.

Commissioner Kerns asked if another spot for the cell tower could be considered. Sarah King advised the Commission that moving the tower would create coverage issues that this project is addressing. Mr. Ross added that there was a deadline to make a decision based on the tolling agreement that is already in place.

Commissioner Chapin asked if any alternate locations were considered and why this location was chosen. Ms. King explained the process of looking at alternative locations, explained what locations they did look at, and stated that this location was the best place for the coverage that was needed.

Commissioner Kerns asked if the project could be moved to the north end of the subject parcel. Ms. King explained that there were setback restrictions. Director of Resource Management Paul Hellman clarified that the project could be moved based on the current setback requirements of the Mixed Use zone district. Commissioner Kerns clarified that he was wondering about moving the project to the northwest corner. Ms. King stated that there would possibly be access issues with moving the project to that location.

Paul Hellman clarified the minimum setback specifications but added that changing the location could potentially create a change in noticing requirements for the members of the public closer and

would require extending the tolling agreement to meet new noticing requirements.

Kim Hunter stated that the owner of the subject property also owns the property to the north.

Commissioner MacLean asked if there was a way to condition the project so that the cell tower would not be operational until the code compliance issues were taken care of. Mr. Ross explained that due to the complex standards of approval and denial through the Telecommunications Act, he would need to research that question and provide feedback.

Paul Hellman explained to the Commission that findings for denial would have to be made independent of the health issues that cannot be taken into account, and pointed out that there had not been any concerns raised by the public that the Commission could consider for a denial of this project.

By motion made, seconded (MacLean/Ramsey), and carried by a 3-1 vote with Kerns opposing, the Planning Commission adopted a resolution to: a) adopt the California Environmental Quality Act (CEQA) determination of a Mitigated Negative Declaration; b) adopt the recommended findings listed in Resolution 2019-009; c) and approve Use Permit 18-0006 based on the recommended findings and subject to the conditions of approval set forth in Attachment A to Resolution 2019-009.

R3 **Use Permit 19-0002 (Novak):** The applicant has requested approval of a use permit to operate a beer and wine bar within an approximately 1,800-square-foot existing commercial space in the shopping center main building. The project is located at 20633 Gas Point Road in Cottonwood on an approximately 0.3-acre parcel within an existing shopping center located immediately south of the intersection of Rhonda Road and Gas Point Road (APN 087-300-007). Staff Planner: Lio Salazar. Simple Majority Vote.

Lio Salazar presented the staff report. A memo was distributed to the Commission adding a condition to require security cameras based on a comment letter received by the Sheriff's Office. The public hearing was opened and, there being no speakers, the public hearing was closed.

By motion made, seconded (Ramsey/MacLean), and carried unanimously, the Planning Commission adopted a resolution to: a) find the project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301; b) adopt the recommended findings listed in Resolution 2019-011; c) and approve Use Permit 19-0002 based on the recommended findings and subject to the conditions of approval set forth in Attachment A to Resolution 2019-011, as amended.

R4 **Zone Amendment 18-0007 (Shasta County):** The project is an amendment to the Title 17, Zoning Plan, of the Shasta County Code to update and modify section 17.88.320 to establish zoning restrictions for the personal cultivation of cannabis pursuant to State law. Staff Planner: Kim Hunter. Simple Majority Vote.

Kim Hunter presented the staff report.

Commissioner MacLean asked for clarification regarding the number of plants and where they would be allowed to be grown. Ms. Hunter clarified that the proposal is to allow six plants to be grown in a primary residence or in a residential accessory structure.

The public hearing was opened and there being no speakers, the public hearing was closed.

Paul Hellman advised the Commission of an error in the draft ordinance and recommended that the Commission replace a definition and code section as they were changed by recent ordinance SCC 2018-01 adopted last year.

By motion made, seconded (MacLean/Ramsey), and carried unanimously, the Planning Commission adopted a resolution recommending that the Shasta County Board of Supervisors adopt a resolution: a) finding that Zone Amendment 18-0007 is not subject to and exempt from the California Environmental Quality Act (CEQA) for the reasons stated in the resolution; b) finding that Zone Amendment 18-0007 is consistent with the Shasta County General Plan for the reasons stated in the resolution; c) adopting the zone amendment findings listed in Planning Commission Resolution 2019-010; and, d) recommending that the Board of Supervisors introduce, waive the reading of, and enact an ordinance to amend Title 17, Zoning Plan, of the Shasta County Code identified as Zone Amendment 18-0007 regulating cannabis cultivation, as amended.

PLANNING DIRECTOR'S REPORT: Director Paul Hellman advised the Commission of the opportunity to attend an APA Planning Commissioner training. Mr. Hellman stated that the final Environmental Impact Report for the Tierra Robles project is anticipated to be completed by the end of the month and that copies will be provided to the Commission at that time well in advance of the tentatively scheduled July 11, 2019 hearing on this project.

CONSENT ITEMS: None.

ADJOURNMENT: The Planning Commission adjourned at 3:31p.m.

Submitted by:



**Paul Hellman, Director of Resource Management
Secretary of the Planning Commission**