



MENDOCINO COUNTY PLANNING COMMISSION SPECIAL MEETING

MINUTES FOR THE MEETING HELD ON:

November 27, 2018

LOCATION:

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

COMMISSIONERS PRESENT:

Pernell, Warner, Holtkamp, Hall, Ogle

COMMISSIONERS ABSENT:

Nelson

PLANNING & BLDG SVC STAFF PRESENT:

Brent Schultz, Director
Julia Acker Krog, Chief Planner
Bill Kinser, Senior Planner
Adrienne Thompson, Administrative Services Manager
Caitlin Schafer, Staff Assistant III

OTHER COUNTY DEPARTMENTS PRESENT:

Matthew Kiedrowski, Deputy County Counsel

1. Roll Call.

The meeting was called to order at 9:15 a.m. Chair Holtkamp noted that Commissioner Nelson was absent.

2. Planning Commission Administration.

2a. Determination of Legal Notice.

The Clerk advised the Commission that all items had been properly noticed.

3. Director's Report and Miscellaneous.

Mr. Schultz presented a verbal Director's Report and noted his appreciation to the Commission for attending the Special meeting. He apologized that the meeting had not been agendized for a 10:00 am start and stated that the notices would reflect the later time for the January meetings. Last, he commented that the Commission had requested the list of Department Priorities, which he would provide to the Commission and could be discussed at the December 6, 2018 meeting if they wished.

4. Matters from Public.

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

5. Consent Calendar.

None.

6. Regular Calendar.

6a. CASE#: GP_2006-0008/R_2006-0012

DATE FILED: 1/1/2011

OWNER: WILLIAM & TONA MOORES

APPLICANT: WILLIAM MOORES

REQUEST: Amendment to the Coastal Land Use Map and Coastal and Inland Zoning Maps for the following General Plan Classifications and Zoning Districts: Coastal Zone General Plan Amendments: RL160 *2C to RR5:PD [RR1:PD] and C:PD; RR5:PD [RR1:PD] to RR5:PD [RR2:PD]; RL160 to RL160*2C/FL160; and changes to Urban/Rural Boundary. Coastal Rezone from: RL160:FP*2C to RR5:PD:FP [RR1:PD:FP] and C:PD; RR5:PD [RR1:PD] to RR5:PD [RR2:PD]; FL160 to TP160; RL160 to TP160; RL160 to RL160:*2C/TP.

Inland: Rezone from RL160 to TP160.

LOCATION: Within the Coastal Zone, between 3 and 4± miles north of Manchester, consisting of property on either side of Hwy. 1, within the general region of the Irish Beach Subdivision; Multiple Addresses assigned (APNs: 131-110-04, -07, -16, -17, -36, 132-210-37, -38, -39, -40, -41, 132-320-06, -07, -24, -26, -27, -42, -43, & -45).

ENVIRONMENTAL DETERMINATION: Statutory Exemption

STAFF PLANNER: Bill Kinser

Mr. Bill Kinser, staff planner, reviewed the staff report and discussed the request, which included a rezone of approximately 18 parcels. He discussed several maps in the staff report and the general areas contained in the project request, noting that there were 4 main development areas; northwest, subdivision area, northeast, and southeast all with various components requested for change. He commented that the request was detailed and complicated as each of the 4 areas had multiple issues for consideration, which spanned roughly 218 acres. Mr. Kinser discussed the previous Planning Commission meeting on April 6, 2017, and noted that the applicant had submitted information at the hearing, which could not be considered at that time, thus the Commission had recommended denial of the project in its entirety. He stated that after consulting with the applicant on the newly submitted information, this hearing had been scheduled, and discussed the General Plan Amendments and Land Use map changes contained in the staff report on page PC 2; Table 1. Mr. Kinser discussed how each section of the request was evaluated in the table by Assessor Parcel Number and concluded that staff could support the rezoning of several parcels to TPZ, but all other aspects of the project were recommended for denial. He discussed a comment from LAFCO related to the slow buildout of the subdivision, which was a key component for staff and stated that the background of the project spanned more than a decade. He continued to discuss various key issues from the staff report on page PC 8 and noted that staff felt the commercial component of the rezoning was not appropriate for the parcel. He discussed expansion of the urban boundary as premature as less than half of the subdivision was currently developed. He also noted that staff was concerned with what future uses could result from the commercial rezoning. He stated that the purpose of the urban boundary was to concentrate infill development. Mr. Kinser noted that in staff evaluation of the request, the overall need for the General Plan amendment and multiple rezoning had not been justified and he did not see a significant reason to transfer the visitor accommodation use to another parcel. He continued to discuss the transfer of the *2C zoning and stated that the relocation could result in reduced public access to the coast. He was also concerned with reclassification on the property from rangeland to rural residential. Again, Mr. Kinser elaborated that a claim of "limited use" of a property did not necessarily justify the expansion of the urban boundary, which would increase development; with the number of vacant parcels in the subdivision, staff was opposed to the request. He also noted that a revised memo had been distributed to the Commission, which discussed the implications of commercial and planned development aspect of the request. He also noted that the current location of the inn site, when developed, would provide a buffer to the rural area and transferring the location would "leap-frog" development.

Ms. Acker Krog commented that staff had prepared a revised resolution, which would recommend approval of only the TPZ rezoning in the northeast area, if the Commission wished to discuss that portion of the request further.

Commissioner Pernell asked staff to clarify the approval process for the application.

Mr. Kinser stated that the Planning Commission would make a recommendation to the Board of Supervisors, who would have final approval, except that the Coastal Commission would need to certify the map change for the coastal parcel; if the inland portion of the rezone was recommended for approval, the Board's action would constitute final action.

Commissioner Pernell asked if staff could provide any timeline for such an action.

Mr. Kinser commented that it was never easy to guess at Coastal Commission approval, but if no further update of information was needed, it could take approximately 90 days to complete the coastal process.

Mr. Bill Moores, Owner/Applicant, discussed the exhibits that had been mailed to the Commission. He tried to simplify the project request for the Commission into four overall locations; northwest, southeast, blufftop and Irish Beach. He stated that the TPZ rezoning's should be approved, and staff had supported approval since he had a qualifying letter from a licensed forester supporting inclusion. He noted that in the future, he would combine the southeast TPZ parcels into 1 single 75+/- acre parcel to reduce the overall number of parcels in the area.

Commissioner Warner asked Mr. Moores where on the map was the *2C area.

Mr. Moores discussed the location of the parcel from the Zoning exhibit map, which showed the TPZ parcel as blue and the *2C as yellow towards the bottom of the page. He stated the TPZ parcel was a canyon and the *2C was open grassland.

Commissioner Ogle asked if the parcels being rezoned were separated or one single parcel.

Mr. Moores stated that there were 4 existing parcels in the blue and yellow areas. He continued his presentation and discussed Exhibit 6 in the packet he had submitted, of the ocean front pink parcel, which was the intended location of his real estate office. He stated that the current location of the office was not feasible for expansion and he could not upgrade parking as the Coastal Commission had found the culvert and setback was all ESHA. He stated there was no significant space to build his 20 unit inn without transfer of the visitor accommodation designation. He also stated that he could not move the real estate office to another location in the subdivision because the CC&R's prohibit commercial development. He commented that he had consciously chosen to down-zone several parcels within the subdivision as a way to counter the expansion of the urban boundary and keep development within the densities of the adopted Coastal Plan. He also stated that the pink parcel was within the Irish Beach water district and he felt changing the urban boundary could be a simple process.

[Break 10:26 AM – 10:34 AM]

Mr. Moores continued his presentation and discussed the findings in the Resolution. He stated that the ocean front, pink parcel, was not prime Ag lands and had included a letter from Carol Mandel, Resource Conservation District, to illustrate the facts. He noted that there was already a parcel outside the urban boundary designed for visitor accommodations, which was farther north than his proposed site and felt his request was justified. He concluded by stating that staffs findings in discussed in the resolution were not factual, and not correct.

Commissioner Ogle asked how long the real estate office had been in its current location.

Mr. Moores thought it had been on site at least 25 years, but stated the area could not be expanded without a parking increase and there was not sufficient space to accomplish that due to the ESHA. He also noted that the office had originally been permitted as a house, and to continue with a real estate office would require proper permits.

Commissioner Ogle asked how the wetlands were discovered in 2010.

Mr. Moores stated he had applied to the County for additional parking, which had been approved, but the project was appealed to Coastal Commission and they had rescinded approval of the permit.

The **public hearing** was declared open.

Stephen Whitaker, homeowner in Irish Beach, noted his opposition to the entire project and felt he represented most of the homeowners in the subdivision. He commented that he had purchased 2 lots so that there would be open space around him and he did not want further development, or a reduced density from rezoning, and stated his opposition to the TPZ rezoning request.

Commissioner Ogle asked Mr. Whitakers location on the map of Irish Beach.

Mr. Whitaker noted he was near firehouse, on edge of Irish gulch.

Ms. Acker Krog noted the location with the pointer.

Commissioner Warner asked if Mr. Whitaker knew why homeowners would be opposed to rezoning the forestland to timber production.

Mr. Whitaker stated they did not want any disruption from logging trucks or changes to the environment. He stated there were not many "developer" owned parcels in the area.

Commissioner Ogle commented that there were numerous other parcels zoned TPZ.

Mr. Whitaker understood other TPZ areas were present, but stated they were not near the homes.

The **public hearing** was declared closed.

Mr. Kinser responded to comments and noted that staff could support the rezoning to TPZ for the southeast parcel also, should the Commission wish to approve that portion of the request.

Ms. Acker Krog clarified for the Commission that the TPZ zoning was not the only allowable zone for timber harvest and stated that anyone could contact CalFire/the Department of Forestry for a timber harvest plan. She noted that the timber production zone was more related to conservation for the future than what could be harvested.

Mr. Kiedrowski noted that if the Commission wished to include the southeast parcel in the TPZ rezoning, staff would need to revise the resolution to refer to additional parcels.

Mr. Kinser continued his response to comments and stated that development of the northwest and real estate office would need a survey for commercial rezone, which was the reason for staff's recommendation for denial. He noted that the potential infeasibility of development on one parcel was not the appropriate reason for increased residential or commercial development. He discussed staff's concern with incremental improvements that would have a cumulative impact on coastal resources.

Commissioner Pernell asked if the northwest pink area would allow for the establishment of the real estate office without General Plan or Rezone.

Mr. Kinser stated that a real estate office could not currently be developed. He commented that some commercial accessory uses were allowed with the inn designation.

Ms. Acker Krog discussed the allowance in the Zoning Code for a Home Occupation or Cottage Industry permit that would allow for limited employees, up to 10 customers per day. She felt there were ways in the code that Mr. Moores could accomplish his goals without the General Plan and map changes.

Commissioner Ogle asked if the office could separate from a residence or would have to be square footage within the home.

Ms. Acker Krog stated that the site must have a home, but once that was established the office could be established with a County Business License.

Commissioner Ogle asked if there were any wetlands identified on the pink parcel.

Ms. Acker Krog was not sure and deferred to Mr. Kinser; she did note the presence of the Point Arena Mountain Beaver (PAMB), which would cause restrictions on the site.

Mr. Kinser stated that the environmental review did not identify any wetlands on the site.

Commissioner Ogle asked if staff knew the likelihood of the Coastal Commission's approval of the project, should the County approve the request. She also asked if there were vacant parcels on Hwy 1 in the Irish Beach subdivision, could the office be established on one of those parcels.

Ms. Acker Krog noted it was hard to determine the Coastal Commission's response. She noted that the pink parcel had PAMB restrictions and the commercial use was more intensive, which was not the intent of the original zoning, and did not know how the request would be considered along with protection of coastal resources.

Mr. Kinser commented, that while they did not approve or condone the use, the Coastal Commission did say a real estate office would be considered an allowable use within the coastal zone.

Commissioner Ogle clarified that the applicant would need to develop a residence for the accessory structure to be allowed.

Mr. Kiedrowski commented that, while the Coastal Commission commented that the project would be appropriate, they did not approve of this particular project or any particular location, so for any future action by the County, the Coastal Commission did not say where or how.

Commissioner Ogle asked if any existing parcels in the subdivision could be used for the office.

Mr. Kiedrowski deferred to Mr. Kinser.

Mr. Kinser noted the subdivision parcels could be used, however Mr. Moores had claimed the CC&R's would prevent commercial development. He also clarified that by placing the commercial PD zoning on any parcel, the development would not be limited to specifically an inn or real estate office, so the PD designation did not provide specific protections against future uses.

Ms. Acker Krog also discussed the allowance for the temporary use of a trailer/coach as the real estate office, if Mr. Moores was developing a residence. She noted there were mechanisms in the code to use with the existing zoning.

Mr. Moores felt staff's analysis was critically flawed in that in order to avoid rezoning to commercial, he would need to develop a residence on site and he would be limited to only 10 visitors per day, which was too small. He stated that he could not agree with the restrictions.

Commissioner Pernell asked if cottage industry allowed a greater number of visitors.

Ms. Acker Krog noted the numbers were the same per day for home occupation or cottage industry and limited to 10.

Commissioner Pernell discussed the accessory use regulations and asked if there was a limitation on square footage for the office.

Ms. Acker Krog commented that there was no strict prohibition on the square footage for the office, if established outside of the home occupation or cottage industry standards; however it must be incidental and subordinate to the site. She also noted there could be a Director Determination made on the merits and appropriateness of a project.

Commissioner Holtkamp asked if the permits for the inn would need to be submitted or would the structure need to be built before the accessory use.

Ms. Acker Krog noted the applications could be submitted in conjunction; however there must be a permit in place for the inn prior to building the first accessory structure.

Commissioner Pernell asked if the applicant could use a temp trailer as the office while the inn was being built and then integrate the accessory structure.

Ms. Acker Krog commented that potentially, that would be acceptable, but without a formal proposal from the applicant, she was unsure of how to accommodate the request.

Commissioner Ogle asked the applicant if the issue with the current real estate site was mainly additional parking.

Mr. Moores stated the main issue was the lack of parking, but he also did not have room to expand the leach field.

Commissioner Pernell asked if there was any reason or requirement to discontinue use of the existing site, or if this was his own desire to expand.

Mr. Moores stated that no one was challenging the location of the office, but he was thinking of the future. He noted that he has family that would like to be involved in future development of the subdivision and he thought vacation home rentals would increase in the future. He hoped to have a better facility for the future that would be a well planned expansion.

Commissioner Ogle noted that the average appeared to be 4 residential units per year developed since the 1960's and asked how much development was expected in the next five years.

Mr. Moores stated that development had increased recently, and between 7-8 units per year have been developed. He also noted that with 19 grandkids and 3 sons-in-law interested in development, the increase was likely to remain steady.

Commissioner Warner commented that her main concern was the transfer of the inn designation. She felt it was more appropriate on bluff and did not agree with switching the location or modifying the urban boundary.

Chair Holtkamp noted that there were vacant parcels within the subdivision that could be developed.

Commissioner Pernell noted that it was not impossible to change CC&R's.

Commissioner Ogle stated she would like to see the inn and office use combined on one parcel, but she did agree that a larger office was needed.

Commissioner Warner understood the convenience of having the office in a new location, but did not support the transfer.

Chair Holtkamp noted an individual with a rental could be responsible and meet a prospective renter themselves to provide keys, etc.

Commissioner Ogle noted she was sympathetic to the applicant and hoped to provide a solution.

Commissioner Pernell agreed with Commissioner Warner and stated she would like to see the inn and office use combined on the northwest parcel. She noted the potential for accessory uses and temp trailers and commented that the applicant could also pursue a modification to the existing CC&R's. She felt there was a benefit to community advocacy and if Mr. Moores explained the situation, perhaps a suitable location could be found. She did not agree with expanding the urban boundary and did not want to see the existing development footprint changed; she felt the existing boundary provided an appropriate transition from urban to rural development.

The Commission and Mr. Moores discussed potential parcels in the Irish Beach Subdivision to accommodate the real estate office.

Commissioner Warner discussed the required setbacks to rangeland and the ability to reduce those setbacks for development.

Mr. Moores stated that the existing 50 foot setback in rangeland was not necessary and part of the problem and if he could have the setback reduced; it could provide as much as 30,000 square feet of total developable space.

Ms. Acker Krog stated that the code already allowed for reduced setback through the Variance process, which was another public hearing process that the applicant could apply for.

Commissioner Hall stated he was prepare to make a motion.

Mr. Kiedrowski commented that if the Commission wished to support the TPZ rezone, the resolution would need to be revised with the additional parcels. He felt there was enough evidence to support the TPZ rezone and the action was statutorily exempt from CEQA and it was possible to segregate the applicants request to move forward for the Board.

Commissioner Hall made staff's recommended motion to split the applicants request and approve the TPZ rezoning portion, while recommended the remainder of the request for denial to the Board of Supervisors.

Commissioner Ogle asked that the zoning portion be clarified on the parcels included.

Mr. Kiedrowski noted the parcels on the map included in the TPZ rezoning.

Commissioner Ogle noted that the lower parcel would become split zoned by the decision.

Mr. Kiedrowski commented that the applicant could perform a boundary line adjustment at a later date to combine the parcels to comply with the split zoning. He also stated that Government Code did not forbid split zoning, although the County had a policy to discourage such practices.

Commissioner Ogle clarified that there were three areas to rezoned.

Commissioner Hall, as the maker of the motion, asked staff if they could take a break and revise the resolution with the additional parcel to be rezone.

[Break 11:40 AM - 11:51 AM]

Ms. Acker Krog discussed the revised Resolution, which was displayed on the overhead, for the Commission. She illustrated the strikeouts and additions, related to the Assessor Parcel Numbers and locations of the TPZ rezoning. She clarified the findings and stated that new finding #4 and #5 were consistent with the requirements to rezone the parcels to TPZ while recommending the remainder of the project for denial.

Commissioner Pernell clarified that the parcels under consideration for rezoning to TPZ would still be eligible for timber harvest without approval of the rezone and the Commission's action would not change any allowed use.

Ms. Acker Krog confirmed that the rezone would not changing uses. She noted the applicant had commented on completing several timber harvests on site, which is allowed regardless of zoning.

Commissioner Pernell asked what the specific benefit was to rezoning.

Ms. Acker Krog believed that there was a tax benefit to the TPZ zoning; it would also encourage greater preservation for the future.

Commissioner Ogle clarified that the yellow parcels on the map were not included in the rezone.

Ms. Acker Krog stated that was correct; the Commission was not recommending approval of any changes to that parcel.

Commissioner Hall amended his motion to recommend approval to the Board of Supervisors of:

1. Rezoning the Northeast Area consisting of rezoning of APN 131-110-07 in the Coastal Zone from FL160 to TP 160 and the rezoning of a portion of APNs 131-110-16 and 131-110-17 in the Inland Zone from RL160 to TP 160 is consistent with the General Plan including the Coastal Element, the Inland Zoning Code (Title 20 – Division I) and Coastal Zoning Code (Title 20 – Division II) and Chapter 22.07 Timberland Production Zoning.
2. Rezoning the Southeast Area consisting of rezoning of portions of APNs 132-210-37, 38, 39, 40 and 41 from RL160 to TP160 is consistent with the General Plan including the Coastal Element, Coastal Zoning Code (Title 20 – Division II) and Chapter 22.07 Timberland Production Zoning.
3. Denial of all other aspects of the project request.

Commissioner Warner seconded the revised motion.

Upon motion by Commissioner Hall, seconded by Commissioner Warner and carried by the following roll call vote (5-0), IT IS ORDERED that the Planning Commission recommends the Board of Supervisors:

1. Approve the Rezoning the Northeast Area consisting of rezoning of APN 131-110-07 in the Coastal Zone from FL160 to TP 160 and the rezoning of a portion of APNs 131-110-16 and 131-110-17 in the Inland Zone from RL160 to TP 160 is consistent with the General Plan including the Coastal Element, the Inland Zoning Code (Title 20 – Division I) and Coastal Zoning Code (Title 20 – Division II) and Chapter 22.07 Timberland Production Zoning.
2. Approve the Rezoning the Southeast Area consisting of rezoning of portions of APNs 132-210-37, 38, 39, 40 and 41 from RL160 to TP160 is consistent with the General Plan including the Coastal Element, Coastal Zoning Code (Title 20 – Division II) and Chapter 22.07 Timberland Production Zoning.
3. Deny of all other aspects of the project request as indicated in the revised Planning Commission Resolution.

AYES: Pernell, Warner, Holtkamp, Hall, Ogle
NOES: None
ABSENT: Nelson

7. Matters from Staff.

Ms. Acker Krog noted that Bill Kinser was retiring and this was his last meeting with the Planning Commission. She thanked Mr. Kinser for his years of service and wished him well in retirement.

Mr. Kinser thanked the Commission for their continued efforts in the County and noted how much he had learned.

The Commission thanked Mr. Kinser for his service.

8. Matters from Commission.

Commissioner Warner noted she would be absent for the second meeting in February.

9. Adjournment.

Upon motion by Commissioner Pernell, seconded by Commissioner Hall, and carried by a voice vote of (5-0), IT IS ORDERED that the Planning Commission hearing adjourn at 11:59 a.m.