

CLIFFORD PAULIN
1ST DISTRICT
COMMISSIONER

ELORA BABBINI
2ND DISTRICT
COMMISSIONER

ALISON PERNELL
3RD DISTRICT
COMMISSIONER
CHAIR

MARIE JONES
4TH DISTRICT
COMMISSIONER

DIANA WIEDEMANN
5TH DISTRICT
COMMISSIONER
VICE-CHAIR



JULIA KROG, DIRECTOR
PLANNING AND BUILDING SERVICES

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MENDOCINO COUNTY PLANNING COMMISSION

ACTION MINUTES – September 15, 2022

BEFORE THE PLANNING COMMISSION

**COUNTY OF MENDOCINO – STATE OF CALIFORNIA
FAIR STATEMENT OF PROCEEDINGS**

(PURSUANT TO CALIFORNIA GOVERNMENT CODE §25150)

AGENDA ITEM NO. 1 – OPEN SESSION AND ROLL CALL 9:00 A.M.

Present: Commissioner Clifford Paulin, Commissioner Marie Jones, Commissioner Elora Babbini, Vice Chair Diana Wiedemann presiding.

Absent: Chair Alison Pernel.

Staff Present: Julia Krog, Director; Brooke Larsen, Commission Services Supervisor; Matthew Kiedrowski, Deputy County Counsel.

AGENDA ITEM NO. 2 - PLANNING COMMISSION ADMINISTRATION

2a. Discussion and Possible Action Including Adoption of Resolution of the Mendocino County Planning Commission Finding that State or Local Officials Continue to Recommend Measures to Promote Social Distancing in Connection with Public Meetings.

Commissioner Paulin asked if the Board of Supervisors had begun meeting in person.

Director Krog replied that the Board of Supervisors had indeed begun meeting in person.

Commissioner Paulin asked if that would be a possibility for the Planning Commission.

Director Krog explained that the Planning Commission was not yet able to use the new Board Chambers. She further explained that the Planning and Building Department did not have the staff available to facilitate

a hybrid meeting, so when the Planning Commission did start meeting in person it would either be via Zoom or in person.

Commissioner Jones asked if it was possible to have some hybrid meetings.

Chair Wiedemann agreed that it was time to start meeting in person.

Upon motion by Commissioner Jones, seconded by Commissioner Babbini, and carried by a roll call vote of (4-0), IT IS ORDERED, that the Planning Commission adopts the Resolution of the Mendocino County finding that State or Local Officials Continue to Recommend Measures to Promote Social Distancing in Connection with Public Meetings.

AYES: PAULIN, JONES, BABBINI, WIEDEMANN

NOES: NONE

ABSENT: PERNELL

2b. Determination of Legal Notice – The Clerk advised the Commission that all items on the agenda had been properly noticed.

AGENDA ITEM NO. 3 – DIRECTOR AND ASSISTANT DIRECTOR REPORT

Director Krog acknowledged the Commission's desire to start meeting in person. She stated that there would be no special meeting in the month of September, and that the next Planning Commission meeting would be the regularly scheduled meeting.

AGENDA ITEM NO. 4 – MATTERS FROM THE PUBLIC

Public Comment: There were no matters from the public.

AGENDA ITEM NO. 5 – CONSENT CALENDAR

No items were set for the consent calendar.

AGENDA ITEM NO. 6 – REGULAR CALENDAR

6a. Noticed Public Hearing – CASE#: U_2017-0036

Overview: CASE#: U_2017-0036 (Continued from September 1, 2022)

DATE FILED: 12/22/2017

OWNER: AT&T CORP

APPLICANT: AT&T MOBILITY

AGENT: EPIC WIRELESS GROUP, LLC

REQUEST: Coastal Development Use Permit to authorize construction and operation of a wireless communication facility consisting of a 76-foot-tall faux water tank with various appurtenant equipment and ground equipment including a generator and equipment cabinet. Associated improvements include establishment of access to the site via a gravel road and trenching of power and fiber to the site location. The proposed faux water tank will be located within a 1,800 square-foot fenced compound. Fencing is proposed to be 6-foot-tall redwood fencing.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

LOCATION: In the Coastal Zone, 1± miles north of the community of Manchester, on the north side of Kinney Road (CR 512), 1± miles west of its intersection with Highway 1, at 44601 Kinney Road (APN 133-010-04).

SUPERVISORIAL DISTRICT: 5 (Williams)

STAFF PLANNER: JULIA KROG

Staff Presentation: Director Krog summarized that the reason for a resolution of denial was that the project was inconsistent with the visual resource policy of the local coastal program.

The public hearing was declared open.

Public Comment: No Public Comment was received.

Telecomments: No telecomments requested.

The public hearing was declared closed.

Commissioner Jones expressed gratitude to Director Krog for a well written resolution.

Upon motion by Commissioner Jones, seconded by Commissioner Paulin, and carried by a roll call vote of (4-0), IT IS ORDERED, That the Planning Commission, County of Mendocino, State of California, Adopt a Resolution of Denial of the application

AYES: PAULIN, JONES, BABBINI, WIEDEMANN

NOES: NONE

ABSENT: PERNELL

6b. Noticed Public Hearing –

Overview: Discussion and Possible Action including Presentation by Planning Commission Ad Hoc Committee on Short Term Rentals and Possible Adoption of a Resolution providing clarification regarding interpretation of the applicability of Mendocino County Code section 20.164.015(L) and 20.024.135 as they relate to occupancy of a single -family residence as a transient habitation.

Ad Hoc Presentation: Commissioner Jones presented a summary of the Resolution.

Chair Wiedemann added that she looked forward to updating the ordinance.

Chair Wiedemann invited other Commissioners to discuss the resolution.

Commissioner Babbini asked about the section “E” and the zoning ordinance being exclusively Inland and not “Coastal”.

Commissioner Jones clarified that “Inland” zoning is anything east of Hwy 1, and that “Coastal” included some areas along waterways.

Chair Wiedemann stated that the use of the terms “Inland” and “Coastal” referenced the General Plan.

Commissioner Babbini expressed concern that the higher expense of a Major Use Permit could be cost prohibitive to many local people.

Commissioner Jones agreed with Commissioner Babbini and stated that most vacation rentals produce a large enough income to offset the initial cost of the Use Permit, and that the process would allow neighbors to weigh in on the process.

Chair Wiedemann added that a short-term rental should be viewed as a business, and that the Major Use Permit needed to be seen as a business investment.

Commissioner Paulin firstly agreed that with Commissioner Babbini that the Major Use permit could be cost prohibitive, and he questioned the idea that the income of most rentals would offset the cost. He asked what the probable cost of a Major Use permit would be.

Director Krog answered that a typical Major Use Permit was \$6-8,000 plus CEQA filing fees of about \$2,000, and a business license.

Commissioner Paulin then stated that he had heard from multiple constituents that had difficulty navigating the County’s process of permitting a short-term rental. He also requested that this topic be more publicly noticed.

County Counsel Kiedrowski stated that previously the interpretation was under “room and board” and that currently, the thought was that it would go under the “Transient Habitation.” He added that in regard to Noticing there was no requirement for Noticing, but the Commission had every right to ask for a certain level of Noticing.

Chair Wiedemann commented that people who already operate a permitted short-term rental should be “grandfathered in” and that this interpretation would not affect them. She also mentioned that this would not just affect the “Coastal” areas, but also Anderson Valley.

Commissioner Jones stated that the analysis of housing throughout the County indicated that short term rentals accounted for 3% of the housing stock. She mentioned the issue that industries have in the County with attracting employees due to the lack of available housing.

Director Krog commented that the Board of Supervisors had requested that Room and Board Major Use Permits be processed as Major Use Permits, but charged a Minor Use Permit cost, which would reduce the cost to \$2-3,000, and that on a case-by-case basis each permit could be deemed Categorical Exempt from the CEQA filing fees.

Commissioner Paulin contended that the idea of “transient energy” was really limited to increased vehicle traffic and asked what the total housing stock of the County was. He agreed that there was a housing crisis in the county but countered that much of the vacant housing/second homes would continue to remain vacant with this resolution.

Chair Wiedemann added a Major Use Permit was already required for any properties not taking access from a County Road.

Commissioner Jones said there were 42,000 housing units in Mendocino County (as of 2001), and if 3% of housing was used as short-term rentals, then that would mean that about 1,200 houses were in that category. She agreed with Chair Wiedemann that this interpretation would “level” the playing field for everyone. She asked County Counsel whether a Motion was needed to continue the discussion to a later date.

Mr. Kiedrowski stated that a motion was not necessary, as the topic had not been Noticed for this project.

Director Krog explained the cost and details of Noticing in Newspapers.

Commissioner Paulin suggested that people who already pay the Transient Occupancy Tax (TOT) could be mailed a Notice directly.

Chair Wiedemann mentioned directly Noticing people who were on the TOT list would be considered “Cherry-Picking,” and that if the County was going to send a Notice, then it would need to be publicly available.

Commissioner Jones defended her involvement in property that had short-term rentals, and that it did not qualify as a conflict of interest and that this interpretation would not make a significant change, but that it would move awareness in a positive direction. She added that one Noticing possibility could be taking out a small “ad,” as the “noticing” section of the newspaper wasn’t necessarily a well-read section.

Commissioner Paulin offered an apology to Commissioner Jones.

Director Krog acknowledged the Commission’s desire to provide adequate Notice for this resolution.

Chair Wiedemann noted that in a review of the tourism destinations of the County the primary destination was Anderson Valley and District 5. She stated that the other more rural districts didn’t generate as much tourism.

Commissioner Jones offered to compile a “non-biased” report based on the comments and questions brought up by the Commission during the discussion. She asked for a general announcement to go out to the public, for a date certain with enough time for people to be able to plan to attend.

Director Krog recommended that the date certain be October 20th at the earliest.

Chair Wiedemann stated that she would not be available for the October 20th meeting, and would like to Notice the Resolution for some time in November.

Director Krog offered November 3rd.

Chair Wiedemann asked if a Motion was needed to Continue this discussion?

Mr. Kiedrowski recommended referring to Commissioner Jones.

Commissioner Jones stated that this was not a hearing item, and was only an agenda item, so no Continuance was needed.

Commissioner Jones Moved that this discussion be moved to the November 3rd meeting.

Commissioner Paulin seconded the motion.

The public hearing was declared open.

Public Comment: No correspondence received.

Telecomments: No telecomments requested.

The public hearing was declared closed.

Upon motion by Commissioner Jones, seconded by Commissioner Paulin, and carried by a roll call vote of (4-0), IT IS ORDERED, the Planning Commission, County of Mendocino, State of California, Agreed to move the Discussion on the Ad Hoc Committee Short Term Rental Resolution to a Date of November 3, 2022.

AYES: PAULIN, JONES, BABBINI, WIEDEMANN
NOES: NONE
ABSENT: PERNELL

AGENDA ITEM NO. 7 – MATTERS FROM STAFF

7a. None

AGENDA ITEM NO. 8 – MATTERS FROM COMMISSION

Director Krog introduced the context for the letter received from Ryan Rhoades, and clarified that that letter should have been introduced under Public Expression.

8a. Discussion and Possible Action regarding an amendment to the Planning Commission By-Laws, to limit the number of times a project may be continued, before the project would require re-noticing.

Director Krog offered a verbal discussion of the potential costs that would be required for re-noticing of a project. She defined the Noticing process for a project.

Mr. Kiedrowski clarified that the difference between By-Laws and Rules would be determined by majority votes.

Director Krog asked that the Commission make allowances for the times when Staff would need an extension of time.

Commissioner Jones commented that there were two different issues under review. The first was when a project had been continued so many times that it was too far removed from the initially noticed time. The second issue was the inconvenience to Commissioners when an item on an agenda was continued, particularly if it was the only item on the agenda. The inconvenience was substantial while on Zoom, however when traveling long distances, the inconvenience would be much greater.

Chair Wiedemann stated that Staff had a time-line in regards to Cell Towers.

Director Krog agreed that there was a “Shot-Clock” requirement due to a Federal Law.

Chair Wiedemann noted that the requirement was one of the reasons it had become so complicated.

Director Krog agreed that a one-item agenda was more of a “Staff practice.” She added that it was the nature of Public Hearings that sometimes, for reasons outside of the control of Staff, that multiple or all, items on an agenda could be continued.

Commissioner Jones suggested that Rule 14 be limited to a 6-month time-frame instead of “Continued 3 times”.

Director Krog stated that any change would be a policy choice for the Commission to make. She pointed out that the recently continued projects would have fallen in to the suggested time frame, so a policy change would not have altered the outcome of the many continuances.

Mr. Kiedrowski added additional context that when a project was continued to the “next meeting” it may not allow for legal discussions, if required, and to take that into consideration when continuing an item.

Commissioner Jones asked that maybe a little more awareness would be helpful instead of implementing a rule change.

Director Krog offered to have a list of tracked projects for potential future meeting dates.

Chair Wiedemann agreed that it would be helpful for continuing projects.

Mr. Kiedrowski stated that a motion could be presented, or the Commission could simply announce “No Motion,” and move on.

Chair Wiedemann asked for a Motion.

No Motion was made.

AGENDA ITEM NO. 9 – MINUTES

9a. August 18, 2022

Upon motion by Commissioner Paulin, seconded by Commissioner Jones, and carried by a roll call vote of (4-0), IT IS ORDERED, the Planning Commission, County of Mendocino, State of California, Approved the August 18, 2022 Draft Minutes.

AYES: JONES, PAULIN, BABBINI, WIEDEMANN
 NOES: NONE
 ABSENT: PERNELL

AGENDA ITEM NO. 10 – ADJOURNMENT

THERE BEING NOTHING FURTHER TO COME BEFORE THE PLANNING COMMISSION, THE MENDOCINO COUNTY PLANNING COMMISSION ADJOURNED AT 10:20 A.M.

Attest: Brooke Larsen
 Commission Services Supervisor

Diana Wiedemann
 DIANA WIEDEMANN, CHAIR

Brooke Larsen

NOTICE: PUBLISHED MINUTES OF THE MENDOCINO COUNTY PLANNING COMMISSION MEETINGS.

- Effective March 1, 2020, Planning Commission minutes will be produced in “action only” format. As an alternative service, public access to recorded Commission proceedings will be available on the Planning and Building website.
- LIVE WEB STREAMING OF COMMISSION MEETINGS is now available via the County’s YouTube Channel. If technical assistance is needed, please contact Mendocino County Planning & Building Services at (707) 234-6650.
- Minutes are considered draft until adopted/approved by the Planning Commission.

- The Planning Commission action minutes are also posted on the County of Mendocino website at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>.
- To request an official record of a meeting contact the Mendocino County Planning and Building Department at (707) 234-6650.
- Please reference the departmental website to obtain additional resource information for the Planning Commission at: <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>.

Thank you for your interest in the proceedings of the Mendocino County Planning Commission.