



COUNTY OF MODOC PLANNING COMMISSION

MEETING MINUTES

MARCH 23, 2022

10:00 AM

Planning Commissioners
Vacant , District 1
Greg O'Sullivan, District 2
Brian Cox, District 3
Carolyn Carey, District 4
Dennis Fanning, District 5

Interim Planning Director
Sean Curtis

1. Call to Order

The meeting was called to order at 10:01. Commissioner Carey, Commissioner Fanning, and Commissioner Cox were present. Staff present was Planning Director Sean Curtis, Jackie Froeming, Associate Planner, and Sarah Simon, Executive Secretary. Members of the public who attended are Stephen Burich, Minty O'Callaghan, Retha Roberts, Willie Roberts, Jo Thompson, George Wistos, Mike Watkins, Ed Wistos, Chase Taylor, Sandy Stevenson, Debbie Hinman, Jeff Hinman, Mike Poindexter, Kelley Poindexter and several others whose names cannot be made out on the sign-in sheet.

2. Re-Organization of the Planning Commission (Elections of 2022 Chair and Vice-Chair)

Commissioner Fanning was voted to be Vice Chair of the Commission.

Discussion of possibly writing a letter to the Board of Supervisors to get the vacant position filled.

3. Approval, Deletions or Modifications to the Agenda – Director Curtis suggested moving item

2 on the agenda to the end of the meeting in order to deal with the issue the public was there to discuss. Motion made by Commissioner O'Sullivan to move item # 2 to the end of the meeting. Seconded by Commissioner Fanning. All in favor. Motion passed unanimously.

4. Public Forum – None

Public Hearing

5. **UP2021-05 (Burich)** – Director Curtis started the discussion on UP2021-05 by explaining that during the last meeting in January, there was an error in how the Planning Commission and Planning staff handled the denial of the permit. The Planning staff discussed with the County Council, and they want the Planning Commission to reopen the Burich Permit hearing because the permit should have been continued to be addressed in the March (this meeting) meeting. Because the Commission doesn't "deny" permits, they adopt a Resolution to deny the permit. The proper way to deny the permit is to reopen the hearing and have a motion to adopt an appropriate resolution.

Since the last meeting, the applicants have met with the Planning and Building staff and now have greater knowledge about what they can do and would like to amend the project to address public concerns. It is the staff's recommendation to consider the changes and move the permit forward. The permit can move forward if the proper modifications are made to the permit and the Commission approves it.

Commissioner O'Sullivan stated that he believes the application needs to be completely redone. He does not understand why the County Council wanted the hearing reopened if they had already decided against it.

Commissioner Cox had a few questions regarding the Use Permit project, which he addressed to Director Curtis.

Director Curtis replied that the application could be modified and moved forward; starting entirely over would cost Mr. Burich all of the fees a second time and that we have to follow the rules and regulations that are in place.

Commissioner Cox reported that he read up on the zoning code, and there are some issues. He feels the original application is flawed and stated that maybe the applicant should go back and start over with his application packet.

Director Curtis responded to Commissioner Cox by stating that the motion to deny isn't a valid motion because that is not what a Planning Commission does, they adopt a resolution that says the project has been denied.

Commissioner O'Sullivan feels this discussion is appropriate, but the problem is procedural since an action was taken at the last meeting. He was interested in the County Counsel's position on just adopting the resolution rather than opening a public hearing for a second time since the applicant always has the option to appeal the decision and go directly to the Board of Supervisors.

Director Curtis stated that the recommendation of the staff is to continue the hearing so that within the system that already exists, the applicant can modify his application, but it is at the pleasure of the Commission.

Commissioner O'Sullivan reviewed that the project was noticed, a public hearing took place, it was recognized that the application was flawed, a motion was made to deny the Use Permit, and we did not have the resolution in hand. He disagrees with starting the process all over again. He feels the applicant would be better served by coming back to the Commission with a whole new application so that the Commission can look at it without prejudice and make a decision based on the new application.

Commissioner Cox reviewed the resolution and stated that if the Commission approves the presented resolution, it would be a denial of the Use Permit, and the applicant would have to start over.

Director Curtis verified that yes, if the resolution is approved, the applicant would have to start over with

the application process. He mentioned that County Counsel's advice was to open the public hearing to approve the proposed resolution.

Commissioner Carey opened the public hearing at 10:10 AM and stated that at this time we will be limiting the public speakers to three minutes each.

Commissioner Carey feels that the public hearing should be continued.

Applicant Stephen Burich spoke in favor of his proposed project.

Public Member Larry voiced he is in favor of the permit; he and his wife just got their CCWs renewed with Mr. Burich and believes he is very professional and most of the training is done in the classroom and not on the gun range.

Commissioner Cox asked if public member Larry took his CCW class at the Stephen Burich's range. Commissioner O'Sullivan asked if public member Larry paid a fee for those services.

Commissioner Carey reminded everyone that this permit addresses not the gun range but the buildings on the parcel. If this permit is moved forward, they can voice concerns about the gun range.

Public Member Chase Taylor stated he is in favor of the permit. Mr. Taylor has a family of his own with young children and was concerned when he heard about what was going on, but Mr. Burich invited him over to see his house and property. Mr. Taylor then felt comfortable and doesn't see how it would be super disruptive and that they were very professional and safe.

Public Member Minty O'Callaghan (Co-owner of the property) spoke on behalf of the proposed sheds about how she would like a place where family and others can come and stay. The sheds would not be used for permanent living, only temporary stays.

Public Member Sandy Stevenson explained that Mr. Burich has a good idea, but they should have investigated the zoning of the property he was buying and is not in favor of the permit.

Public Member Jeff Tatro feels that if this Use Permit is approved, it would set a precedence that is not compatible with the zoning and is against the approval of the proposed use permit.

Public Member Mike Poindexter stated that what the applicant is proposing is not compatible with the

zoning and feels that the type of commercial uses being proposed is not fit for the project location.

Public Member Kelley Poindexter states she is not happy about what is happening where she lives. She and her family moved to Thoms Creek, knowing the zoning. She does not want strangers driving around where she lives and does not think it is right, and is entirely against the permit. She doesn't understand why the current gun range couldn't be supported.

Public Member Dave Thompson states that approving Mr. Burich's Use Permit will deeply impact people and show them that they can do whatever they want.

Public Member George Wistos explains that he shares a fence line with Mr. Burich and that when he moved to Thoms Creek many years ago, only 20-acre single-family parcels were sold in the area. The business has been running for the last six months, and many buildings are being placed without permits. He wanted a 10x8 accessory building, followed the guidelines, and got a permit.

Public Member Pam Tierney spoke against the proposed Use Permit and feels the applicant should have known what he was buying.

Public Member Willie Roberts explains that Thoms Creek is the wrong location and zoning to try to approve the permit.

All those present were then done voicing their concerns, and a couple of minutes were given to everyone so that they could read the letters submitted in the Staff Report.

Commissioner O'Sullivan then states that about 90% of the concern from everyone is regarding the gun range. His motion to deny the permit was not about the gun range but the lack of information about what the sheds would be used for.

At this point, Minty O'Callaghan spoke up and stated that she and Mr. Burich were withdrawing their application. When they moved to the area, it was not their original plan to have the business. It was never their intent to upset anyone.

Commissioner Fanning addressed the public, stating that the Commission is not changing the rules. Although the project is a good thought, the proposed project area is not a good place for their proposed business. If the applicant wants to add to their house, they can apply for a building permit; if they want to have a shooting range, they can just don't bring anyone there to shoot. He thanked the applicants for stepping up and pulling their application.

Motion made by Commissioner Cox to approve Resolution # 2022-02 denying Applicant Stephen Burich

Use Permit (UP2021-05) the and seconded by Commissioner Fanning. All in favor. Motion passed unanimous.

Commissioner Carey motioned to approve the Resolution to deny the permit. All in favor.

UP2021-04 (T-Mobile/Scott Dunaway) - Associate Planner Froeming provided the background and staff report for the proposed Use Permit. Mr. Dunaway was present via phone. The initial study and public review period have been completed. The Planning staff recommends approval of UP2021-04 to D4 Communications, LLC to approve the Wireless Telecommunications Facility and adoption of a Mitigated Negative Declaration in accordance with the California Environmental Quality Act (CEQA). There is no evidence before the approving authority that the proposed project will have the potential to adversely affect wildlife resources or the habitat on which wildlife depends.

Public hearing opened at 11:10 AM

Applicant Scott Dunaway spoke on behalf of the proposed project. He thanked the Planning Department for getting the environmental document posted and that the company has not made any changes to the project. He also stated that he is available for any questions the Commissioners may have on the project.

The Commissioners had no questions for applicant.

No public was present, the hearing closed at 11:11 AM

Motion made by Commissioner O'Sullivan to adopt Resolution # 2021-01 granting Use Permit (UP2021-04) to D-4 Communications, LLC, seconded by Commissioner Fanning. All in favor. Motion passed unanimous.

PM2021-02 (Lindsay) - Associate Planner Froeming provided the background and staff report for the proposed Parcel Map. Carmen from Anderson Engineering was present via phone. The staff is recommending a rezone to accompany the parcel map. The initial study and 30-day public notice has not yet been completed. Environmental Health has concerns about the groundwater and would like each parcel to have a soil test to ensure that the parcels can be developed. Associate Planner Froeming reported that letters have been mailed out to local Indian Tribes providing them the opportunity to request a consultation on this project. The tribes have until March 31, 2022 to respond back to those letters regarding Tribal Consultation. Planning staff's recommendation is to continue the public hearing to the next meeting which will give the required time for the public review of the Initial Study and allow for any comments from State and local agencies along with any public comment.

Public hearing opened at 11:25 AM

No public was present, the hearing closed at 11:26 AM

Motion made by Commissioner O'Sullivan to continue this public hearing to the next meeting, seconded by Commissioner Cox motioned to continue. All in favor. Motion passed Unanimous.

PM2021-03 (Kresge) - Associate Planner Froeming provided the background and staff report for the proposed Parcel Map. Mr. Kresge was not present but was accessible via phone. No CEQA study was needed as there is no potential for a significant environmental impact. Planning staff recommends approval of the proposed parcel map (**PM2021-03**) and adoption of a Notice of Exemption.

Public hearing opened at 11:32 AM

Commissioner Cox had a question regarding the setbacks for construction.

Associate Planner Froeming responded back informing the Commission that this project is within a State Response Area and requires setbacks of 30' from all property sides.

No public was present, the hearing closed at 11:35AM

Motion made by Commissioner Cox, seconded by Commissioner O'Sullivan approving Resolution 2022-03 and recommending approval to the Board of Supervisors for Jerry and Carmen Kresge's parcel map project (**PM2021-03**). All in favor. Motion passed unanimously.

6. HCD Annual Progress Report

Annually a Housing Element Report is due to the state regarding the progress made in each county to assess the overall housing needs. On page 97 of the Staff Report is "Table D" which charts the progress report and where we are at on each task/goal, such as the name of program, objective, timeframe and status of the program implementation.

The county has been awarded a REAP and LEAP grant.

The REAP grant has a list of projects for which it could be used. A couple would be water and sewer improvements in Newell, Adin, and Canby. These projects also need to be approved by the community in each town.

The LEAP grant has gone to many different projects. The most significant expense was Gary Price, who helps with the Annual Housing Reports and updated the whole Housing Element for the county.

Also, the department is working on a public GIS Viewer system to allow the public to look up zoning and general plans. This will be a great help not only to the Planning staff but to real estate agents, contractors, and the general public. And with Associate Planner Jackie going to remote work, the conference room will be made into a Zoom room.

7. Planning Director's Report

Director Curtis reminded the board that the 700 forms are due by April 1st and to get them turned in.

Director Curtis brought up the Camping Ordinance he is working on. Members of Cal Pines brought in the RV Ordinance from Nevada, and he gave everyone a copy of it. There is currently already an RV Ordinance in Modoc County that is well written.

There is currently no County Enforcement Officer, but the Sheriff's Office wants to enforce the ordinances in the county and wants to start with the vehicles around the county. That will take time to figure everything out, and Director Curtis will continue to work on the Camping Ordinance.

Associate Planner Froeming explained that the county is contracting with a company called iWorQ to make a public portal online. The new iWorQ program will allow the public to apply for permits, report code violations, pay fees online for applications and permits. The Board of Supervisors has approved the project, and the portal is in the process of being setup.

8. Commissioner's Reports - None

9. Adjourn- The meeting was adjourned at 12:31pm.

The next meeting is scheduled for May 18, 2022 at 10:00 AM
