



**CITY OF LAKEPORT
PLANNING COMMISSION
May 13, 2015
MINUTES**

CALL MEETING TO ORDER AND ROLL CALL: Vice Chair Russell called the meeting to order at 5:04 p.m., with Commissioners Kauper, Taylor, Russell and Wicks present. Chairman Gayner was absent. Also present were Community Development Director, Kevin Ingram; and Planning Services Manager, Andrew Britton. Vice Chair Russell advised she would not be able to chair the meeting and asked if she could pass the responsibility to someone of her choosing. After some conversation on protocol, Commissioner Taylor made a motion to have Commissioner Wicks act as Chairman for the meeting. The motion was approved 3-1.

ACCEPTANCE OF AGENDA: A motion was made by Commissioner Taylor, seconded by Commissioner Russell, and unanimously carried by voice vote (4-0) to approve the agenda as posted.

CITIZEN INPUT: A request from Lakeport citizen, Nancy Ruzicka was received and Mrs. Ruzicka spoke about the appearance of canvas carports in the front setback areas and about weed abatement on Lakeport properties. Ron Bertsch, Lakeport resident, spoke about past Lake County Vector Control land use projects that were approved by the City but have not been completed.

RESIDENTIAL FENCE STANDARDS: Commissioner Russell requested a discussion of the existing residential fence standards and requirements related to height, setbacks, location, and aesthetics. The Commission was asked to review potential revisions to Zoning Ordinance Section 17.28.010(O), Fences and Walls/Residential Areas and provide direction to staff.

Commissioner Russell advised that she believes this is a good ordinance, however it seems the Planning Commission is receiving Fence Variance requests on a monthly basis with similar reasoning: safety, visual, large dogs, etc. Russell continued advising she would like to see some sort of leniency on the ability to have leeway on the height of the fence and perhaps the set-back of the fence based on the general parameters of the site of the fence.

Commissioner Taylor stated that he believes that each case is a little different, i.e. safety, privacy and making sure the fence is aesthetically pleasing. Each

case also has something a little different that enhances the area. Commissioner Kauper advised that he agrees with Commissioner Taylor stating they could continue to review these types of variances on a case by case basis; they don't take that much time and the Commission could see what the fence would look like, hopefully before the project is completed.

Commissioner Wicks advised he believes the ordinance is fine; what he would like to see is some measure of enforcement or fine for putting up a fence out of compliance and then applying for the variance after the fact. Community Development Director Ingram advised that those are violations of the Zoning Ordinance and we do have the ability to go through the nuisance process for those type of violations and administer fines accordingly. Commissioner Wicks would like to get the public involved in the process instead of moving right to fining the violators. Planning Services Manager Britton advised getting the public involved in the process before issuing fines is the City's current Code Enforcement process.

Commissioner Russell stated she also noticed that ever since the Commission approved a Fence Variance on Hartley Street, two or three other fences "sprung" up with different parameters and they are all higher than the allowed height limit and then the homeowner comes in and ask forgiveness after the fact; some haven't come in at all. Russell stated that is why she is asking to readdress this because she thinks the setbacks might be a little restricting. Russell referenced a property she owns on a corner lot with a side street that will never have a sidewalk.

Commissioner Russell stated that she believed that the three (3) foot fence limit was too low and the variances we have been seeing were proof with the reasons for them being security, dogs, etc.

Commissioner Wicks asked Commissioner Russell if she was asking for the Planning Commission consensus to readdress the fencing ordinance. Community Development Director Ingram advised that he spoke to the City Attorney about this issue and how this would proceed. Ingram advised after the matter is discussed, the Commission could direct staff to explore other options. Ingram continued advising these options could be very specific such as: are they related to height, are they related to setbacks, are they related to aesthetics? Then staff would come back at a later date and present the Planning Commission with a more formal staff report with an analysis and maybe some sample ordinances from other jurisdictions. If the Commission feels they are satisfied with the existing regulation, they do not have to explore that option.

Commissioner Wicks advised that the ordinance as written is fine and that he thinks it addresses a very simplistic need. Some people have fences, some people don't. Citizens who want taller fences than allowed have a simple application process.

Commissioner Wicks asked the Commission for a consensus on Zoning Ordinance Section 17.28.010(O). Commissioner Kauper advised he believed the ordinance is working well, stating it is hard to get aesthetics without permit review. Kauper continued stating sight distance and traffic safety for both fence and shrubbery height is important. Commissioner Taylor advised this ordinance section is to the point and he does not want to change it. Commissioner Russell advised that she believes it needs to be revisited mainly because it's a sign of the times. Planning Services Manager Britton asked for further clarification on "the sign of the times". Commissioner Russell advised that per Chief of Police the City has at least 30% more crime.

The consensus vote to revisit the Fence regulations was (2-2) and as such there will be no action taken.

COMMENTS FROM STAFF AND COMMISSIONERS: Community Development Director Ingram advised that the Ordinance associated with the General Plan Amendment and Zone change for the relocation of the Police Department was introduced to the City Council. City Council set the public hearing date for the second reading for consideration for General Plan Resolution and Environmental Document for June 2, 2015. Ingram advised the notices have been sent out and the item is all set to move forward. The second item City Council addressed was the application for the second phase of the Senior Housing project. He advised per the City's General Plan, specifically the Housing Element, we do have a provision calling for the streamlining or fast tracking approach for projects that involve affordable senior housing. Planning staff, given the severe time constraints this applicant has in regards to securing project funding, asked staff track to fast it. Ingram stated that staff took the application to the City Council to get their consensus to make sure it would qualify so we could then send it to the Planning Commission at a Special Meeting date the Commissioners scheduled for June 24, 2015.

CONSENT AGENDA: A motion was made by Commissioner Kauper to accept the minutes; seconded by Commissioner Taylor, and unanimously carried by voice vote (4-0) to accept consent agenda item A (Minutes of the March 11, 2015, Planning Commission meeting).

REGULAR AGENDA:

AR 14-13/CE 14-25 Architectural & Design Review – Burger King

Architectural and Design review for façade improvements, including 2 new signs, resurfacing and re-striping parking spaces, and landscape improvements.

Planning Services Manager Britton read from his staff report describing the project the application for the proposed exterior remodel of the existing Burger King restaurant located at 1142 Lakeport Boulevard. Britton stated the applicant

submitted a site plan showing the location of the existing structure, floor plan showing the outdoor seating area, exterior elevations of the restaurant (existing and proposed), colored renderings, paint color details, signage details, a color photo of a recently remodeled Burger King in Willits, and a project narrative which described the proposed project.

Britton advised although it wasn't noted in the project narrative, the proposed exterior remodel is part of a corporate effort to update the exterior appearance of Burger King restaurants across the country. He said the narrative indicated the proposed exterior design "will mimic newly renovated Burger King restaurants located in Ukiah, Willits and Napa."

Britton stated based on the facts stated in the staff report, the information proved by the applicant and the comments received by City staff, the proposed exterior remodel is in general conformance with Lakeport Municipal Code Section 17.28.110 (Architectural and Design Review criteria and standards). Britton also stated that in staff's opinion the proposed improvements will enhance and improve the appearance of the restaurant and will not result in any unsightly undesirable, or obnoxious improvements.

Public hearing was opened 5:51 p.m.; input given by Lakeport resident, Nancy Ruzicka, public hearing was closed at 5:55 p.m.

Commissioner Russell moved that the Planning Commission approve the Architectural and Design Review application for the exterior remodel of the existing restaurant structure at 1142 Lakeport Boulevard with a finding that there is conformance with Chapter 17.27 of the Lakeport Zoning Ordinance, and that the project is categorically exempt pursuant to Section 15301, Class 1(a) of the CEQA Guidelines.

The Planning Commission's approval of this request is based on the following: the information and documentation submitted by the project proponent; the information and documentation contained in the City's staff report on the project, the information and facts received at the public meeting on May 13, 2015; and the fact that there is general conformance with the criteria and standards specified in the Lakeport Zoning Ordinance.

The Planning Commission's approval of the Architectural and Design Review shall be subject to the conditions of approval specified in the staff report. Commissioner Kauper seconded the motion.

The vote was called and was as follows:

AYES: Commissioner Taylor, Wicks, Kauper, Russell (4-0)

NOES: None

ABSENT: Chair Gayner

Planning Services Manager Britton advised that he may add a word to the Condition of Approval #13 to say "existing" and new lighting asking the Commission if it would accept the new wording. Commissioner Wicks made a motion to add the word and accept staff's recommendation to add new language to condition #13. He called for vote which was passed (4-0).

F 15-01/CE 15-02 Fence Variance - Flesch

Application for a Fence Variance allow for fencing in excess of the three foot height limitation within the front yard setback area fronting Sayre Street of a corner lot located at 2195 Green Street. The subject property is further described as APN 026-091-13.

Community Development Director Ingram read from his staff report describing an application requesting approval for fencing in excess of the three foot height limitation within the front yard setback area fronting Sayre Street of a corner lot located at 2195 Green Street. Ingram stated the applicant wished to replace the existing fence along Sayre with a 6' high fence at the property line running from the rear corner to the property to within 10' of the property corner with Green Street. The 6' high fence would continue parallel with Green Street till it reached the existing driveway, no less than 10' back from the front property line along Green Street. A gate providing access to the side yard is proposed to connect the fence with the house.

Ingram stated that the applicant was concerned with potential privacy and security issues related to the current configuration of the house and visibility into the bedroom windows from both pedestrian and vehicular traffic along Sayre Street.

Ingram stated project application materials were provided to other City departments responsible for reviewing this type of proposal. The previous Interim City Engineer noted the existence of a driveway curb-cut and paved driveway near the northwest corner of the subject property. Based on this assessment, the previous Interim City Engineer recommended that if the fence were to be placed at the property line in this location, the existing driveway curb-cut should be abandoned and reconstructed with standard sidewalk meeting City standards. Alternatively, if the area was intended to still serve as a driveway the fence should be set back in this area so as not to create a potential sight distance and/or traffic hazard obstruction related to its use.

Ingram advised a further site visit by CDD staff with the applicant also brought to light the presence of a driveway serving the neighboring property of 320 Fairview Way, whose primary access is via Sayre Street, directly adjacent to the applicant's northwest property corner. As proposed, the construction of a 6' fence up to the northwest property corner and south along the western property boundary would result in reduced sight visibility and a potential traffic hazard related to vehicles backing out of the adjoining driveway.

During the site visit, the applicant indicated a willingness to angle the fence back in the region of the northwest property corner so as not to obstruct visibility for the adjoining driveway serving the neighboring property.

Ingram stated to mitigate the issue with the existing driveway curb-cut along Sayre Street, CDD staff recommended the inclusion of a condition of approval that would require the applicant to enter into Deferral Agreement with the City prior to construction of the fence. The deferral of right-of-way improvements (curb-cut removal and replacement with standard sidewalk) would be subject to the requirements of Section 12.040.060 of the Lakeport Municipal Code which would defer improvements for 10 years or until a time when sidewalk is installed within 200 feet along the south side of Sayre Street. Extensions beyond 10 years may also be granted. Deferrals of required improvements are subject to the approval of the City Manager who had been consulted on this issue and indicated a willingness to support the request for deferral. Additionally, the proposed gate access in the area of the existing Sayre Street driveway curb-cut is recommended to be limited to pedestrian use only and not be of a width that would accommodate vehicular traffic.

Ingram advised, following the site visit by CDD staff, the applicant prepared a revised site plan and written description. The site plan shows the angling of the fence at the northwest property corner to maintain adequate site visibility for the neighboring driveway. The revised statement includes a request for the deferral of sidewalk improvements related to the existing driveway curb-cut serving the property along Sayre Street.

With the incorporation of project modifications shown in the revised project submittal of March 25, 2015, and the inclusion of a suggested condition requiring the approval of a Deferral Agreement prior to the construction, the granting of a fence variance to allow for a 6' high fence within the required front yard setback along Green Street and street side yard setback along Sayre Street does not create a hazard to the public through reduced visibility or other sight distance problems.

Ingram stated the proposed fence design with horizontal redwood fence boards adds visual interest which addresses the requirement that the fence be aesthetically pleasing and not create an inappropriate walled-in effect or similar visual barrier.

Public hearing was opened 6:25 p.m. Applicant/owner, Daniel Flesch spoke to the Planning Commissioners. He advised that he did trim the lower branches of the large tree on the corner of Green Street and Sayre for better sight distance.

Mr. Flesch stated that the current double gates lead to a concrete slab and landscaped back yard and with his plans for a barbeque area he would never use it as a driveway.

He advised he would like to request a change to condition #4 & 5 to put in a double door gate instead of a single door for easier access to his patio and getting trash containers in and out. He also advised the materials he is using are metal beams with wood in between so a four foot gate may compromise the structure sooner than a wider gate with the heavy weight.

Commissioner Kauper advised he would like to support the applicant's point about having a double gate as it would delineate the change in the surface of the sidewalk with people walking. If you make it look like a gate they will expect the change of elevation related to the curb cut and Kauper believed that would not be a bad thing. Commissioner Russell stated she agrees with Commissioner Kauper on the gate issue and recommends a motion sensor light on the applicant's garage for added security.

Mr. Flesch provided the Commissioners with pictures with other fences over the three foot height limit in his neighborhood in comparison to what he is proposing.

Commissioner Wicks asked in regards to the 10 year Deferral, assuming the applicant is still there after 10 years, how many times can the City Manager defer the right-of-way improvements? Community Development Director Ingram advised the code does specifically state that after the 10 years the homeowner can re-apply, however it does not state specifically how many times they can re-apply. Wicks asked when and/or if other sidewalks are put in, does this deferral then become nullified because now the sidewalks are being put in place and the deferral is being brought up? Ingram answered, there is a time frame within the deferral on when those improvements need to go in based on other construction of similar improvements in vicinity of the subject property.

Public hearing was closed at 6:44 p.m.

Commissioner Kauper asked if the deferral was necessary if the applicant was allowed to build a double gate instead of a single gate. Ingram stated that if the applicant brought the double gate right to the property line it would create a sight distance issue. He advised the reasoning was to either set the fence back so that it can continue to be used for vehicular access in the future or replace the curb cut with the sidewalk.

Commissioner Taylor moved that the request to allow fencing in excess of the three foot height limitation in the front yard setback area of Green Street and street side yard setback area of Sayre Street for the subject property, located at 2195 Green Street, be approved based on the finding that there is conformance with Section 17.28.010 O. 2. of the Lakeport Municipal Code.

The Planning Commission's approval of the fence request shall be subject to the conditions of approval specified in the staff report. Commissioner Russell seconded the motion.

The vote was called and was as follows:

AYES: Commissioner Taylor, Wicks, Kauper, Russell (4-0)

NOES: None

ABSENT: Chair Gayner

UP 14-04 / AR 14-12 / CE 14-24 - Use Permit & Architectural Design Review – Verizon Wireless

Application for Use Permit and an Architectural and Design Review to install a 72' Monopine wireless communication facility at 1875 N. High St. (APN 26-043-06) to allow for expanded cellular coverage.

Community Development Director Ingram read from his staff report stating an application for a Use Permit and Architectural & Design Review to allow the installation and operation of a new wireless communication facility (WCF) on a portion of the site of an existing commercial operation located in the C-2 (Major Retail) zoning district.

Ingram advised proposal consists of a 35' x 40' lease area to include an approximately 200 square foot prefabricated concrete equipment shelter, diesel generator, 132 gallon fuel tank, 72' tall monopine antenna with (3) antenna sectors and (3) antennas per sector, and supporting ancillary equipment. The Use Permit is required for the antenna due to its total height.

The subject property is designated Major Retail according to the City of Lakeport General Plan Land Use Map and is zoned C-2 (Major Retail).

Section 17.28.010 L. of the City's Zoning Ordinance sets forth the "special height restrictions" in the City and states that "chimneys, silos, flag poles, monuments, radio towers, water tanks, church steeples, and similar structures or mechanical appurtenances may exceed the 35 foot height limit within the City upon approval of a Use Permit."

Section 17.28.010 H. addresses public utility facilities and states that public utility distribution and transportation lines, towers and poles, and underground facilities for the distribution of gas, water, communication, and electrical facilities shall be allowed in all zoning districts except for the CB (Central Business) district.

Ingram stated it was important to note that the Federal Telecommunications Act of 1996 governs federal, state and local government oversight of siting of "personal wireless service" facilities such as towers for cellular, personal communications service (PCS), and specialized mobile radio (SMR) transmitters. One of the key facts is that local authorities cannot reject requests from wireless

facilities based on radio frequency emissions if those emissions are found to be within FCC guidelines.

Ingram advised that the application packet included a justification statement, a site plan, and construction elevations, as well as photo simulations. He stated a Radio Frequency site compliance report, noise analysis, and other supplemental information have also been submitted.

Ingram stated that the applicant provided an alternative site analysis which looked at several different locations with the primary function filling the communications gap within the downtown region of Lakeport. The alternative site analysis initially looked at co-locating the project on top of the County Courthouse however, that was ruled out due to some the roof not being able to support the additional structure. After looking at several other sites and making contact with those property owners the applicant eventually selected this location.

Ingram advised that it was determined early on in the project review phase the a monopole design was not suitable for this location. Instead, a stealth monopine tower that is intended to appear as a pine tree was chosen as the best facility to blend in with the commercial and residential buildings in the area.

Ingram stated equipment shelter, diesel generator and fuel tank are proposed to be located at the base of the antenna site. The applicant has also provided sample elevations and photo simulation pictures of what the project will look like. It will be surrounded by a concrete wall with a gate and no vegetation will be removed. In addition to the pine tree design, the tower will be further camouflaged with "needle socks" which are coverings that are designed to further blend the antennas panels into the pine tree like design.

Ingram advised the monopine design is available in many styles and colors to best blend into the existing vegetation and site conditions. The application included a photo simulation, a recommended condition of approval that the final color scheme and material selection be reviewed and approved by staff.

Ingram believed that the monopine structure will not be a significant visual obstruction and that it will blend into the natural environment better than a standard monopole design. Although a standard monopole design option would occupy a smaller visual footprint at just over 60', as opposed to the proposed 72' monopine design, he believes that an unadorned pole structure would be more incongruous than the monopine.

Ingram noted a letter and couple of phone calls from a couple who live in the area regarding the health concerns should the project be completed. Ingram stated he provided one concerned neighbor, Robert Savinar, the RF report and FCC compliance information and reiterated the 1996 Federal

Telecommunications Act limitations on local authorities to deny projects for health reasons.

Commissioner Wicks asked for clarification on a portion of the staff report that mentioned the proposed facility has been designed in a manner that will allow for future co-location. Wicks stated what it implied was that there is a potential for having multiple towers in this location. Ingram advised they would not add additional towers but that they would tie into this one tower with the addition of more antenna sectors.

Wicks asked what or if there were any mitigation measure should the decibel level be exceeded. Ingram advised doesn't anticipate the generators being a decibel level problem as it will only run for the weekly 15 minute maintenance check and in emergency situations. Wicks advised he wanted to know the worst case scenario if there was a mitigation measure in place for the noise level for the commercial neighbors. Ingram advised if it was an emergency it may not be a violation of our Code, even if it was exceeding decibel levels.

Public hearing was opened 7:24 p.m.; representative for applicant, Michelle Ellis briefed the Commissioners on the project. Commissioner Kauper requested clarification of frequencies generated from the antenna asking if it ever reached the ground. Ms. Ellis addressed the concern stating that it was kind of like a light house the way the signal goes out. The light goes out parallel but dissipates and gets weaker as it falls to the ground. By the time the emissions go below the zones indicated in the RF study done by Site Safe, they are below the FCC's limit.

Commissioner Russell asked the applicant if they should be concerned about the radio waves and cancer problems. Ms. Ellis advised that Verizon gets questions about health concerns quiet often and stated the FCC determines the RF levels where there would be a possible health risk then reduces it by 50 times then that is where they set the limit and the project facility is 5% of that limit.

Input given by Lakeport resident, Nancy Ruzicka spoke in opposition. Public hearing was closed at 8:30 p.m.

Commissioner Wicks read the applicant's request of Condition #17 to change to read "The applicant/owner shall provide ~~annual reports~~ **revised reports should equipment change** commencing on the day the tower becomes operational to the Community Development Department confirming the tower is in compliance with FCC emissions restrictions. Failure of the permit holder to maintain compliance with FCC emissions regulations may result in revocation of this Use Permit." Consensus vote in favor (3-1).

Wick read the applicant's request of Condition #24 to change to read "The Planning Commission may hold a hearing to revoke or modify the Use Permit if the approved activity is determined to be detrimental to the public health,

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safety or welfare or constitutes a nuisance or if any other findings set forth in Municipal Code Section 17.24.080 are made. **Applicant will be notified prior to any action by the Planning Commission to revoke or modify the permit.**" Consensus vote in favor (3-1).

Commissioner Taylor moved that the Planning Commission approve the applications for Architectural and Design Review and Use Permit to allow for the construction and operation of a new wireless communication facility including an antenna in excess of 35' in height at 1875 North High Street.

The Planning Commission's approval is based on the following: a) the information and documentation submitted by the project proponent; b) the information and documentation contained in the City's Staff Report and file on the project; c) the information and facts received at the public hearing on May 13, 2015; and d) the fact that there is general conformance with the applicable criteria and standards specified in the Lakeport Municipal Code and State and Federal law.

The Planning Commission's approval of the applications shall be subject to the conditions of approval set forth in the Staff Report and as amended by the Planning Commission at the public hearing. Commissioner Russell seconded. The vote was called and was as follows:

AYES: Commissioner Taylor, Wicks, Kauper, Russell (4-0)

NOES: None

ABSENT: Chair Gayner

DISCUSS AND SET THE NEXT MEETING DATE: It was agreed by consensus that the next meeting be held on June 10, 2015.

There being no further business, the meeting adjourned at 8:52 p.m.

Respectfully submitted,

KEVIN M. INGRAM
Community Development Director

These are the summary Minutes of the Planning Commission meeting. A recorded tape of the meeting is available at the Community Development Department at Lakeport City Hall, 225 Park Street, Lakeport, California for a period of 30 days after the approval of these Minutes.