

BUTTE COUNTY PLANNING COMMISSION MINUTES
FEBRUARY 24, 2005

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:00 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Lambert, Wilson, Leland, Nelson, and Chairman Marin
- ALSO PRESENT:** Yvonne Christopher, Director Development Services
Dan Breedon, Principal Planner
Stephen Betts, Senior Planning
Mark Michelena, Associate Planner
Felix Wannemacher, Deputy County Counsel
Stu Edell, Land Development
Wendy Jones, Animal Control
Doug Fogel, Environmental Health

Commissioner Nelson was absent at this time.

- III. ACCEPTANCE OF AGENDA:** Commission members and staff may request additions, deletions, or changes in the Agenda order.

Ms. Christopher wanted to add a new category to the agenda called "ITEMS REMOVED FROM THE CONSENT AGENDA." This category will be for items pulled from the consent agenda to be discussed.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to accept the agenda with a new category V.

- IV. CONSENT** - Consent items are set for approval in one motion. These items are considered non-controversial. No presentations will be made, however, some questions may be asked.

The Chair will ask if any commissioner or member of the public wishes to pull a consent item for discussion. Brief questions may be asked on any item.

1. Request for Determination of Public Convenience or Necessity for Ajit Atwal for Gas Mart Mini-Mart; Liquor License Upgrade from Beer and Wine to also include Distilled Spirits.
2. John Starr, Abandonment of a portion of a Drainage Easement (ED), ABN 262.056, within the Kelly ridge Subdivision on property zoned RT-1 (Residential – Mobile Home, 6,500 sq. ft. minimum parcel size). The property is located on the east side of Jack Hill Drive, approximately 1,550 feet north of royal Oaks Drive, Kelly Ridge, Oroville. (ABAN 05-01) (MM) APN 069-280-053.

Commissioner Lambert pulled these items from the CONSENT to discuss both items under the new category below.

V. ITEMS REMOVED FROM THE CONSENT AGENDA:

1. Request for Determination of Public Convenience or Necessity for Ajit Atwal for Gas Mart Mini-Mart; Liquor License Upgrade from Beer and Wine to also include Distilled Sprints.

The memo regarding this item was handed out. Mr. Wannemacher suggested continuing this item until after the morning break to give the Commissioners time to read the memo.

Mr. Breedon gave a summary of the project.

Commissioner Nelson was present at this time.

This item was opened to the public.

No one was present to speak on this item.

This item was closed to the public and comments confined to the Commission and staff.

Commissioner Leland said he had no objections.

It was moved by Commissioner Lambert, seconded by Commissioner Leland, and unanimously carried to approve the Request for Determination of Public Convenience or Necessity for Ajit Atwal for the Gas Mart mini-mart and liquor license upgrade from beer and wine to also include distilled sprints.

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2. John Starr, Abandonment of a portion of a Drainage Easement (ED), ABN 262.056, within the Kelly ridge Subdivision on property zoned RT-1 (Residential – Mobile Home, 6,500 sq. ft. minimum parcel size). The property is located on the east side of Jack Hill Drive, approximately 1,550 feet north of royal Oaks Drive, Kelly Ridge, Oroville. (ABAN 05-01) (MM) APN 069-280-053.

Mr. Michelena gave a brief summary of the project.

Commissioner Lambert asked if seven feet of easement would remain, but there is five feet on the adjoining parcel and that will still be there, but it will be filled in.

Mr. Michelena said that is correct, the applicant will not be able to build structures inside the easement, but will be able to use it for other purposes.

Chairman Marin asked if the drainage has been taken care of.

Mr. Edell said his staff reviewed the engineering and the site prior to issuance of the encroachment permit.

The hearing was opened to the public.

Mr. Starr said the drainage will be attached to the existing culvert.

The hearing was closed to the public and comments confined to the Commission and staff.

Mr. Wannemacher pointed out that this was a recommendation to the Board and that the Board would make the determination that this item was categorically exempt from environmental review.

It was moved by Commissioner Lambert, seconded by Commissioner Nelson, and unanimously carried to find this abandonment consistent with the General Plan.

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V. BUSINESS FROM THE FLOOR ON ITEMS NOT ALREADY ON THE AGENDA
(Presentations will be limited to five minutes. The Planning Commission is prohibited by State Law from taking action on any item presented if it is not listed on the Agenda)

NONE

VI. PUBLIC HEARINGS The Chair will call for staff comments. The hearing will be opened to the public for proponents, opponents, comments, and rebuttals. The hearing will be closed to the public and discussion confined to the Commission. The Commission will then make a motion and vote on the item.

It is requested that public initiated presentations be limited to a maximum of 5 minutes so that all interested parties will have an opportunity to address the Commission. Following your presentation, please print your name and address on the speakers sheet so that the record will be accurate.

The recommendation of County staff is indicated below. It is only a recommendation and has not yet been considered by the Planning Commission. Copies of the Staff Report are available at the Planning Division Office

Dave Snow/Palomino Ridge Subdivision proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Subdivision Map** dividing three parcels containing 82.64 acres into 304 residential lots on property zoned A-R (Agricultural Residential). The property is located on the south side of Nelson Avenue and on the north side of Plumas Avenue, between 16th Street and 20th Street, in the Thermalito area of Oroville. APN 030-032-002; 030-033-001, 002 (CD) (TSM 03-04)

Mr. Michelena gave a brief summary of this project. He said the reason this hearing was continued was, to consider forming a CSA, the pro rata fees, and the park design and maintenance issue.

Commissioner Leland asked about the pathway to the school.

Mr. Michelena said the applicant would pay a pro rata share instead of putting in the pathway. He referred to Condition 15.

Commissioner Leland asked why the Landscaping and Lighting District (L&LD) does not require LAFCo approval.

Mr. Wannemacher said there is a list of districts that do not require LAFCo review and a L&LD is one of them.

Commissioner Leland asked what would give Feather River Recreation and Park District (FRRPD) the right to go onto this property to clean the wall.

Mr. Edell said the wall will be on the boundary of the County right-of-way and the subject property. He said there is a 10-foot public services easement for maintenance of utilities.

Mr. Wannemacher corrected Condition 13 to change “LLD” to “L&LD”. He changed Condition 23 to delete “of” in the fourth line. He asked on Condition 41 does the wall go around the entire detention pond or not.

Mr. Michelena believed the wall did not go around the detention pond. He said the condition came forward from the January 13, 2005, meeting.

Ms. Christopher said she was concerned with the wording of Condition 41 not being clear regarding the location of the wall.

Mr. Wannemacher said on Condition 43, it would be helpful to get a statement that Feather River Recreation and Park District is interested in the park. He said if it is not entirely clear, he asked if they wanted to put in the condition “or other appropriate entities.” He said on the second line after “FRRPD” they need to add the word “which”. He said in Condition 38 he believed the payment of the fee has been replaced and it should read “Prior to issuance of building permit pay the appropriate traffic impact fees for future road improvements.”

Commissioner Lambert asked if on Condition 15, we need to add language based on the letter from the school district. She asked if they needed to include a dollar amount.

Mr. Edell said the pro rata share was sufficient and he would like to leave the condition as written.

Mr. Wannemacher added a new finding H. to read “Mitigation Measure #13 as found in the initial study signed by the applicant, circulated for public review, is revised to reflect the substitution of the current impact fee.”

The hearing was opened to the public.

Dave Snow said the wall will not go around the entire park. He said the fence around the detention pond will be wrought iron to keep people out. He asked what happens if the FRRPD does not want the park. He said if the park does not go in, the area will become a large detention pond area.

Mr. Wannemacher pointed out that Condition 9 is for a park design and maintenance plan for the detention area. He said they need to decide if there will or will not be a park.

Mr. Michelena said there is a subdivision park proposed for this project.

Commissioner Nelson said the applicant could design the park and not put it in.

Mr. Michelena said the applicant wasn't going to put in a park.

Mr. Snow asked that this project go forward without a commitment from Feather River.

Commissioner Leland said they could put in wording for the condition to be subject to approval of FRRPD or some other agency for maintenance of the park and add the wording to Condition 43.

Scott Lawrence, Feather River Recreation and Park District, said he was in favor of Mr. Snow's project and he is working with Mr. Snow on the park. He said his position is that he does not know if this site will be the best site for a neighborhood park. He said there will be other subdivision in the area and he wants to be sure this is the right site for a park. He explained his discussion with the applicant. He said he is still dealing with the park conceptually. He said today is the first time he has seen a drawing of the proposed park. He said he still needs to take this proposal to the FRRPD Board for approval. He said his concern is whether or not FRRPD will agree to maintain this park. He said it would be advisable to have fencing along the borders of the park.

Mr. Wannemacher said from the County's perspective, they have to look at the area for a place for children to play. He said the problem with a park is maintenance. He said it was determined that this subdivision needs a place for the children to play and that FRRPD would maintain the park if they were paid a fee.

Mr. Lawrence said it was more complicated than that. He said the park will serve other people than just the subdivision. He said a neighborhood park is usually 22 acres per thousand people. He explained the different sizes of parks. He said he did not want every 300 homes to put in pocket parks.

Mr. Wannemacher said if another 300 dwelling subdivision goes in, the County would also require a place for the children to play. He said they need a maintenance service to take care of the area.

Commissioner Leland questioned if the concern is the cost of maintaining this park cutting into the money for a large neighborhood park in the future. He said he sees this as a win win situation. He said they could call the area open space.

Chairman Marin asked how long it would take to get this to the FRRPD Board for a hearing and then back to Mr. Snow. He asked if the Park District refuses to maintain the park, who would do it.

Mr. Lawrence suggested the County do it if the FRRPD did not want to do this where they are having two Landscaping and Lighting Districts formed anyway. He said this park has been presented to him a little different today. He said he is hearing today that the County wants to condition this park. He said if it becomes a condition of the developer to put these improvements in, and a Landscaping and Lighting District is going to be the way it is set up to pay for it, then it is a matter of does the FRRPD want to be the sponsor of the L&LD or not. He said what FRRPD was attempting to do was to form a Landscaping and Lighting District for this subdivision, then as other subdivisions come into the area, they would ask for a district or annex into this L&LD. He said with sound planning, you do not want a park going into every subdivision being built. He said he needs

to take the plan back to the FRRPD Board to look at. He said the next board meeting is March 9, 2005.

Commissioner Nelson asked what Mr. Lawrence was taking to his Board.

Mr. Lawrence said the basic concept as proposed today on the park and maintenance of the L&LD.

Chairman Marin asked if Oroville has a park and recreation district.

Mr. Lawrence said the City of Oroville does have its own park district.

Mr. Edell said the County would not maintain the park, but would have to contract out the maintenance. He said maintenance of the detention ponds is down to once a year by Public Works.

Commissioner Leland asked if the owners could pay the County to contract out the landscaping.

Commissioner Nelson said he sees putting in a park as a plus.

Commissioner Lambert asked what was wrong with having a Homeowners' Association pay for maintaining the park.

Ms. Christopher said the homeowners might not agree to pay for maintaining the park, if the park is opened to the public. She said if the park is more private, the homeowners tend to like to maintain the park because it affects their property values. She said homeowners are usually more amenable to maintaining a private park because it is visual.

Mr. Snow did not agree. He said homeowners are problematic in the long run. He said though the park would be an asset to the community, he felt having a Landscaping and Lighting District would guarantee maintenance of the park. There was a brief discussion on the benefits of a L&LD.

Ms. Christopher said that a Homeowners' Association would be, to her, the last option. She said the FRRPD would be the first option.

Commissioner Lambert asked the applicant how he would feel about a continuance to get this straightened out.

Mr. Snow said he thinks the FRRPD will approve this park. He explained what the park would consist of.

Chairman Marin said this is a good project. He asked what type of revenue the L&LD would create and what will it take to make this work.

Dave Houser, Auditor, explained that the fees assessed to the property owners would be based on a budget that would be developed to support those elements that are required under the L&LD and this would be reviewed annually. He said a L&LD is subject to increases in fees when necessary.

Chairman Marin asked about where the fees come from if some of the parcels are undeveloped.

Mr. Houser said a parcel owner, whether it is developed or not, would be assessed a portion of the fee.

Mr. Edell said if the first 30 lots in Phase I are developed, then the maximum service charge that is established for the 30 lots is going to be really high. He said this establishes a high maximum service charge so as they add lots the cost of each lot will go down.

The hearing was closed to the public and comments confined to the Commission and staff.

Commissioner Leland said in respect to the maintenance issue they can precede understanding that the FRRPD may not assume the responsibilities. He suggested adding a new condition that, before the final map is recorded, requires the applicant to obtain a commitment from FRRPD or some other agency to undertake the maintenance responsibilities.

Mr. Michelena said there are a couple of conditions that they need to clarify the wording. He said one is Condition 41 to say "Provide a split-block faced wall, no more than 6 feet in height along the frontage of Nelson Avenue, 20th Street, and 16th Street, except at street openings and the parcel for the detention pond." He suggested adding to Condition 43 after "FRRPD" "or other entity". He said the second to the last sentence "The applicant shall obtain approval from the FRRPD as to park design and facility." will remain with Condition 43. He said the last sentence should stay with the original Condition 43.

Commissioner Leland said he would also add a new Condition 45 to read: "Prior to the recordation of the final map applicant shall obtain from FRRPD or other agencies acceptable to the County a commitment to maintain the park facilities."

Ms. Christopher asked in the sentence that starts "The applicant shall obtain approval...", are we requiring the applicant to get FRRPD approval or just their input.

Mr. Lawrence said if FRRPD is going to maintain through a L&LD, it would need to approve the park.

Ms. Christopher said she would like to leave it at review and input from FRRPD because if they become the L&LD, they will have the approval authority.

Commissioner Leland said if all they are requiring is FRRPD's input it would mean the developer can ignore it. He said if they are going to require the participation of the district, they should condition it on their approval.

Ms. Christopher said if Feather River decides to not be involved in this park at all, then the applicant would still need to get Feather River's approval even though they will not be involved with the park.

Commissioner Leland said the reason is that this park will become part of the parks in the area whether Feather River maintains it or not. He said FRRPD has the knowledge of what should be in a park and should have the approval rights.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and carried to approve the Tentative Subdivision Map for Dave Snow/Palomino Ridge Subdivision, subject to the findings and conditions listed below, adding a new Finding H to read “Mitigation Measure #13 as found in the Initial Study signed by the applicant, circulated for public review, is revised to reflect the substitution of the current impact fee. The modified mitigation measure itself will not cause any potential significant effect on the environment.”; change the Staff Report on page 2, paragraph one, on the line that starts “The Butte County Board of Supervisors will approve and oversee the ...” insert “Landscaping and Lighting District” before L&LD; Condition 13 change “LLD” to “L&LD”; Condition 23 delete “of” from the fourth sentence; Condition 38 to read “Prior to issuance of building permits applicant shall pay the appropriate traffic mitigation fee for future road improvements.” and leave the last sentence as is. Condition 41, change to read “Provide a split-block faced wall, no more than 6 feet in height along the frontage of Nelson Avenue, 20th Street, and 16th Street, except at street openings and the parcel designated for the detention pond. Provide a wrought iron fence around the parcel designated for the detention pond.” Condition 43 after “FRRPD, add “which”, delete the second sentence. Make a new Condition 44 to read “The applicant shall obtain input from the Feather River Recreation and Parks District as to park design, facilities, and landscaping.” New Condition 45 to read “Prior to the recordation of the final map, the developer shall obtain from FRRPD or other agency acceptable to the County, a commitment to maintain the park facilities.”

Commissioner Lambert said she would like to see restrooms installed in the park.

Mr. Lawrence said restrooms are very expensive and subject to vandals. He said they are not looking at restrooms for this small a park at this time. He noted that a lot of problems can come with a park. He said there has been no discussion on street lighting or lighting the park.

AYES: Commissioners Leland, Nelson, Lambert, and Chairman Marin

NOES: No one

ABSENT: No one

ABSTAINED: Commissioner Wilson

I. Adopt a Mitigated Negative Declaration with the following findings:

- A. An Initial Study was completed in compliance with the California Environmental Quality Act. Said study identified significant environmental effects and included mitigation measures that would mitigate such effects below significant levels; a Mitigated Negative Declaration is proposed.
- B. The Planning Commission has considered the proposed Mitigated Negative Declaration, together with comments received during the review process.

- C. On the basis of the whole record before the Planning Commission, including the Initial Study and any comments received, there is no substantial evidence that the Tentative Subdivision Map for Dave Snow, Planning Division File No. TSM 03-04, would have a significant effect on the environment.
 - D. The proposed Mitigated Negative Declaration reflects the independent judgment and analysis of the County, which is the Lead Agency.
 - E. Adopt the Mitigated Negative Declaration regarding environmental impacts, with Mitigation Measures 1 through 13, as detailed in the Agenda Report dated October 28, 2004.
 - F. Mitigation Measure No. 1, as found in the initial study signed by the applicant and circulated for public review, is revised to reflect the change from a proposed County Service Area to a Landscaping and Lighting District. The revised mitigation measure is more effective solution for storm drainage and lighting maintenance. The modified mitigation measure itself will not cause any potentially significant effect on the environment.
 - G. Mitigation Measure No. 11, as found in the initial study signed by the applicant and circulated for public review, is revised to reflect the addition that storm drainage maintenance will be through a Landscaping and Lighting District. The modified mitigation measure itself will not cause any potentially significant effect on the environment.
 - H. Mitigation Measure #13 as found in the Initial Study signed by the applicant, circulated for public review, is revised to reflect the substitution of the current impact fee. The modified mitigation measure itself will not cause any potential significant effect on the environment.
- II. The design of the proposed project may cause environmental damage to fish and wildlife or their habitat. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5, is required.
 - III. Approve Tentative Subdivision Map 03-04 for Dave Snow, subject to the conditions found in Exhibit "A" and the following findings:
 - A. The proposed Tentative Subdivision Map is consistent with the Goals and Policies of the Butte County General Plan and Policy 3.2.a of the Land Use Element which requires that residential densities be correlated to soil, slope and other natural site characteristics. The project does not contain any characteristics that preclude it from being developed at the proposed density of 3.6 dwelling units per gross acre.
 - B. The proposed Tentative Subdivision Map is consistent with the Goals and Policies of the Butte County General Plan and Policy 3.2.b of the Land Use Element which requires

- residential densities to be correlated to the availability of water and sewage disposal and proximity to other facilities.
- C. With the addition of Department of Public Work's conditions regarding access, drainage and improvement standards, the project is physically suitable for the use and density of the proposed development.
 - D. With the additions of California Department of Forestry/Butte County Fire Department conditions regarding compliance with the Fire Safe Regulations, fire hydrant identification, pressurized community water system for fire protection purposes, and other fire safety measures, the project conforms to the fire requirements of the Butte County Fire Department.
 - E. The design and improvements of the project will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision because the County does not own any public easements within the land division.
 - F. Approval of this project will not be detrimental to the general health, safety and welfare of the public because the mitigation measures identified by the project initial study have been incorporated into the project as conditions of approval. The conditions must be satisfied or the final map will not be allowed to be recorded.
 - G. Determine that the installation of street lighting is necessary for the safety of pedestrians and automobile traffic because of the number of streets and street intersections, and the anticipated public use of street rights-of-way.

EXHIBIT A

Tentative Subdivision Map for Dave Snow, on APN 030-032-002, 030-033-001 & 030-033-002, File # TSM 03-04:

An application for a Tentative Subdivision Map to divide three parcels, totaling approximately 82.64 acre parcel into 304 residential lots

I. CONDITIONS OF APPROVAL:

Planning Division

1. **Mitigation Measure #2:** Place a note on a separate document which is to be recorded concurrently with the map or on the additional map sheet that states: "Wood stove and fireplace inserts installed in any home within this subdivision shall be EPA Phase II certified wood burning devices or District approved fireplaces."

Plan Requirements: Place the required note upon a separate document which is to be recorded concurrently with the map or on the additional map sheet and building plans.

Timing: Prior to issuance of building permits, compliance with above mitigation is required to authorize fireplace or wood stove inserts.

Monitoring: The Department of Development Services and Public Works Department shall ensure that the note is placed on a separate document that is to be recorded concurrently with the map or on an additional map sheet. The Department of Development Services shall ensure compliance on-site.

2. **Mitigation Measure #3:** Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below:

- a. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, water trucks or sprinkler systems are to be used to prevent dust from leaving the site and to create a crust after each day's activities cease.
- b. During construction, water trucks or sprinkler systems shall be used to keep all areas of vehicle movement damp enough to prevent dust from leaving the site. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
- c. Soil stockpiled for more than two days shall be covered, kept moist, or treated with soil binders to prevent dust generation."

Plan Requirements: The note shall be placed on a separate document which is to be recorded concurrently with the map or on the additional map sheet. All requirements shall be shown on building and other construction plans.

Timing: Requirements of the condition shall be adhered to throughout all grading and subdivision construction periods.

Monitoring: The Department of Development Services and the Department of Public Works shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on the additional map sheet. Public Works shall spot check and shall ensure compliance on-site. Butte County Air Pollution Control District inspectors shall respond to nuisance complaints.

3. **Mitigation Measure #4:** Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "Paved streets adjacent to the development site shall be swept or washed at the end of each day as necessary to

remove excessive silt and/or mud which may accumulate as a result of activities on the development site."

Plan Requirements: The note shall be placed on a separate document which is to be recorded concurrently with the map or on the additional map sheet. All requirements shall be shown on building and grading plans.

Timing: Requirements of the condition shall be adhered to throughout all grading and construction periods.

Monitoring: The Department of Development Services and the Department of Public Works shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on the additional map sheet. Public Works shall spot check and shall ensure compliance on-site. Butte County Air Pollution Control District inspectors shall respond to nuisance complaints.

4. **Mitigation Measure #5:** Prior to any disturbance, a biologist shall delineate the boundaries of the 'waters of the United States' and send to the Sacramento District Office of the U.S. Army Corps of Engineers (Corps) for their certification (Section 404 Permit). All construction shall be in compliance with the Corps permit.

Plan Requirements: Boundaries of "waters of the United States", if any, shall be shown or noted on Subdivision construction and grading plans.

Timing: Prior to any disturbance of designated waters of the United States on the project site.

Monitoring: The applicant shall provide The Department of Public Works a copy of the U.S. Army Corps of Engineers Section 404 Permit, prior to construction plan approval.

5. **Mitigation Measure #6:** Prior to any disturbance to 'waters,' obtain appropriate State of California Streambed Alteration Agreement (1603).

Plan Requirements: Boundaries of "waters of the United States", if any, shall be shown or noted on Subdivision construction and grading plans.

Timing: Prior to any disturbance of designated waters of the United States on the project site.

Monitoring: The applicant shall provide The Department of Public Works a copy of the Streambed Alteration Agreement (1603) prior to construction plan approval.

6. **Mitigation Measure #7:** Prior to any project site disturbance of one acre or more, submit a Notice of Intent (N.O.I.) and Storm Water Pollution Prevention Plan (SWPPP) to the State Regional Water Quality Control Board (SRWQCB) office in Redding to obtain a "General Construction Activities Storm Water Permit". Development on individual lots within the

subdivision also requires coverage under the storm water permit if it is part of a larger common area of development and the same owner.

Plan Requirements: Obtain permits prior to approval of subdivision construction and grading plans, and prior to issuance of building permits.

Timing: Prior to any disturbance of 1 acre or more on the project site.

Monitoring: The applicant shall provide The Department of Public Works a copy of the Storm Water Pollution Prevention Plan that was submitted to the SRWQCB with a copy of the permit approval letter with the assigned WDID# for the project. The State Regional Water Quality Control Board will monitor the project for compliance and enforcement of penalties for noncompliance.

7. **Mitigation Measure #8:** Should any archaeological artifacts be discovered during construction or excavation, the Planning Division shall be notified immediately, and all work shall cease until a qualified archaeologist has examined the artifacts and the site and submitted his or her findings to the Planning Division, and recommended clearance to continue. Recommencement of construction shall be upon the approval of the Planning Division.

Plan Requirements: Place a note on the Final Map or on an additional map sheet, and on grading plans that states “Should any archaeological artifacts be discovered during construction or excavation, the Planning Division shall be notified immediately, and all work shall cease until a qualified archaeologist has examined the artifacts and the site and submitted his or her findings to the Planning Division, and recommended clearance to continue. Recommencement of construction shall be upon the approval of the Planning Division.”

Timing: Ongoing throughout the earthwork phase of the development of the site.

Monitoring: The developer shall be responsible for notifying the Department of Development Services and a qualified archaeologist in the event cultural resources are discovered. The Department of Development Services shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action.

8. **Mitigation Measure #10:** Prior to Final Map recording, obtain a water quality certification (401) from the Central Valley Regional Water Quality Control Board.

Plan Requirements: All requirements shall be shown or noted on Subdivision construction and grading plans.

Timing: Prior to approval of Subdivision construction and grading plans.

Monitoring: The applicant shall provide The Department of Public Works a copy of either a Certification or Waiver (401) from the State Regional Water Quality Control Board.

9. Prior to any project site improvements, including grading, provide a park design and maintenance plan for the project detention pond area for approval by the Planning Division and Department of Public Works. The detention pond shall be dedicated in fee to Butte County.
10. Prior to recordation of the Final Map, submit a street lighting plan showing the location and type of each lamp, for approval by the Planning Division. Installation street lights will be part of infrastructure improvements for each phase.
11. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5, is required.

Public Works

12. **Mitigation Measure #9:** Comply with the Conditional Letter of Map Revision (CLOMR) from FEMA allowing relocation of flood way and flood plain to detention pond area.

Plan Requirements: All requirements shall be shown or noted on Subdivision construction and grading plans.

Timing: Prior to recording of Final Map.

Monitoring: The Department of Public Works has received CLOMR from Federal Emergency Management Agency. Subdivision improvement plans shall be in compliance with the CLOMR.

13. **Mitigation Measure #11:** Prior to the recordation of the Subdivision Map, a plan for a permanent solution for drainage shall be submitted to, and approved by, the Department of Public Works. The drainage plans shall specify how drainage waters shall be detained on - site and/or conveyed to the nearest natural or publicly maintained drainage channel or facility and shall provide that there shall be no increase in the peak flow runoff to said channel or facility. Storm drainage system shall be maintained by a L&LD

Plan Requirements: All requirements shall be shown on grading plans.

Timing: The drainage plan shall be submitted to and approved by the Department of Public Works prior to recordation of the Final Map, and the required drainage improvements constructed or bonded for construction prior to recordation of the Final Map.

Monitoring: The Department of Public Works shall be responsible for ensuring compliance with this mitigation.

14. Provide street name signs per requirements of the Department of Public Works prior to recordation of the Final Map. Street names shall be reviewed by the County Address Coordinator and one name shall be recommended to the Board of Supervisors for approval prior to the recordation of the Final Map. A minimum of 5 alternate names for each new street shall be submitted.
15. The developer shall provide all necessary traffic safety signs including stop signs. The

determination of stop sign establishment and location shall be made by the Public Works Department. Prior to recording of the Final Map, the developer shall pay to the Department of Public Works a pro rata share for construction of an asphalt concrete walkway between the project and the Poplar Avenue School.

16. Pay the recording fees in effect for recording the Final Maps and related documents.
17. Deed to Butte County, in fee simple, 40 feet of right-of-way from the centerline of Nelson Avenue, and 30 feet of right-of-way from the centerlines of 16th Street, Plumas Avenue and 20th Street along the entire property frontage. The right-of-way shall be sufficient for the installation of standard No. S-5 at all street intersections.
18. Construct half street section plus 12 feet on Plumas Avenue, 16th Street and 20th Street to RS-2A road standard with vertical curb, gutter, and sidewalk. Construct half four lane street section (32' to face of curb) plus 14 feet on Nelson Avenue to RS-2A 4-lane road standard with vertical curb, gutter, and sidewalk. Minimum structural section to be 3" AC and 12" AB, prime coat, fog seal and 95 % relative compaction. Construct full street section on interior streets to RS-2B road standard with curb, gutter and sidewalk, and 2" AC, and 8 AB, prime coat, fog seal and 95% relative compaction. Submit design to Land Development Division for approval. "R" value determination and other data may be required to support the section design.
19. Prior to recordation of each phase of the Subdivision Map, pay a pro-rata share for the reconstruction of 16th Street and 20th Street to a 32-foot wide paved width, from the project boundary to Grand Avenue, and Nelson Avenue to a 34-foot wide paved width from the project boundary to Highway 70. Construction to be similar to the RS-3A road standard. Minimum structural section to be 3" AC and 12" AB, prime coat, fog seal and 95% relative compaction.
20. Construct standard left turn pocket at each intersection of interior access roads and 16th Street, 20th Street and Nelson Avenue.
21. Dedicate a one foot "no access strip," or relinquish abutters' rights to Butte County along Nelson Avenue, Plumas Avenue, 16th Street, 20th Street and Palomino Ridge Road, except at approved access points.
22. Show on the additional map sheet or on a document to be recorded concurrently with the Final Map a 50-foot building setback from the centerline of interior streets, 16th Street, 20th Street and Plumas Avenue, and a 55 ft building setback from the centerline of Nelson Avenue.
23. **Mitigation Measure #1:** Street lighting shall be provided in accordance with Butte County requirements, accepted design criteria, and recommendations of Pacific, Gas & Electric Company. The developer shall install the streetlights, as required, and pay energy costs and maintenance including the storm drainage system through a Landscaping and Lighting District (L&LD), he/she must complete the formation of the L&LD prior to recordation of

the Final Map. The L&LD formation process will require the Developer to fund the service until the beginning of the first fiscal year in which service charges can be collected for the District, and agree to an annual maximum service charge to ensure continued operation of the facilities. As a minimum, lighting is necessary at each intersection.”

Plan Requirements: All requirements shall be shown or noted on Subdivision improvement plans.

Timing: Prior to recording of Final Map, compliance with above mitigation is required.

Monitoring: The Department of Development Services and Department of Public Works shall review the lighting plan to be in conformance with Butte County requirements.

24. Show FEMA adopted floodplain/floodway on Final Map. Establish 100 year floodplain elevations. Show on the additional map sheet the elevations (by contours) and the location of an accepted NVGD benchmark and a temporary benchmark on-site.
25. Pay the applicable drainage fees in effect at the time of recordation of the Final Map for the Thermalito drainage area. Current fees are \$4,420 per acre (\$3,800 plus \$620 per acre). Credit may be given for construction of on-site facilities in accordance with the adopted Thermalito Area Master Drainage Plan.
26. Prior to grading, a Construction Storm Water Permit will be required by the State Water Resources Control Board if the project results in a disturbance (including clearing, excavation, filling, and grading) of one or more acres. The Permit must be obtained from the State Water Resources Control Board prior to construction. Place a note on an additional map sheet that states: “The development of this Map required a construction storm water permit. Construction activities that result in a land disturbance of less than one acre, but which are part of a larger common plan of development, also require a permit. Development of individual lots may require an additional permit(s).” Prior to grading, a Construction Storm Water Permit will be required by the State Water Resources Control Board if the project results in a disturbance (including clearing, excavation, filling, and grading) of one or more acres. The Permit must be obtained from the State Water Resources Control Board prior to construction. Place a note on an additional map sheet that states: “The development of this Map required a construction storm water permit. Construction activities that result in a land disturbance of less than one acre, but which are part of a larger common plan of development, also require a permit. Development of individual lots may require an additional permit(s).”
27. Show all easements of record on the Final Map.
28. Prior to, or concurrently with the recordation of the Final Map, pay in full any and all delinquent, current and estimated taxes and assessments as specified in Article 8, of Chapter 4 of Division 2 of Title 7, of the California Government Code commencing with Section 66492.

Butte County Fire/California Department of Forestry

29. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "Building identification and/or addresses shall be installed in conformance with Public Resources Code 4290 and shall be posted at the beginning of building construction and maintained continuously thereafter."
30. Fire hydrant identification, reflector or post reflectors shall be installed acceptable to the County Fire Chief.
31. A pressurized community water system for fire protection is required. The specific locations and fire flow requirements shall be in accordance with the Fire Department specifications and to the satisfaction the County Fire Chief. Average required hydrant spacing 500 feet, hydrant size 6 inches, and residual fire flow 1000 gpm. Submit plans to the Fire Department for review and approval prior to construction of facilities.

Environmental Health Division

32. Prior to recordation of the Final Map, provide a letter or other documentation, from Thermalito Irrigation District stating that they are willing and able to supply domestic water to all lots (1 through 304).
33. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "Development of all Parcels 1 through 304 will require connection to a public water supply."
34. Prior to recordation of the Final Map provide a letter or other documentation from Thermalito Irrigation District stating that they are willing and able to supply sewer service to Parcels 1 through 304.
35. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "Development of all Parcels 1 through 304 will require connection to a public sanitary sewer".

Building Division

36. Development fees for the proposed residential or non-residential improvements shall be paid prior to the issuance of building permits. The fees shall be those in effect at the time of building permit application, and shall include, but not be limited to, School Fees, Park and Recreation District Fees, Drainage Fees, Water and Sewer Service Fees, Permit and Plan Check Fees, and Fire Protection Fees.
37. **Mitigation Measure #12:** Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "A development impact fee for Sheriff's facilities shall be paid pursuant to the provisions of Chapter 3, Article II of the Butte County Code, prior to issuance of building permits. The fee amount will be

determined and calculated as of the date of application for the building permit.”

Plan Requirements: None

Timing: The required Sheriff’s impact fees shall be paid prior to issuance of a building permit.

Monitoring: The Development Services Department shall insure the note is placed on the additional map sheet or separate document and that the required Sheriff’s impact fees are paid prior to issuance of a building permit.

38. **Mitigation Measure #13:** Prior to issuance of building permits applicant shall pay the appropriate traffic mitigation fee for future road improvements. The fee amount will be determined and calculated at time of payment.

Plan Requirements: None required. Fees are collected at time of building permit.

Timing: The required transportation impact fees shall be paid prior to issuance of building permits.

Monitoring: The Department of Development Services shall require proof of payment prior to issuance of building permits.

Processing Fees

39. Prior to recordation of the Final Map, pay any outstanding project-related processing fees.

Airport Land Use Commission

40. Prior to, or concurrently with, the recordation of the final map, record an Avigation Easement in conformance with the Butte County Airport Land Use Compatibility Plan. Recording information shall be referenced on the Final Map.

Planning Commission Conditions

41. Provide a split-block faced wall, no more than 6 feet in height along the frontage of Nelson Avenue, 20th Street, and 16th Street except at street openings and the parcel designated for the detention pond. Provide a wrought iron fence around the parcel designated for the detention pond.
42. Prior to recording of the Final Map, the applicant shall form a Landscaping and Lighting District (L&LD) approved by the Butte County Board of Supervisors, which shall cover the costs of maintaining the project storm drainage and lighting.
43. Prior to recording of the Final Map, the applicant shall form a Landscaping and Lighting District (L&LD), approved through the FRRPD, which shall cover the costs of maintaining the project community landscape areas, exterior portion of the community masonry wall, and maintenance of park facilities within Parcel X. The developer shall pay for the costs of

installing all approved facilities including park facilities.

44. The applicant shall obtain input from the FRRPD as to park design, facilities, and landscaping.
45. Prior to the recordation of the final map, the developer shall obtain from FRRPD or other agency acceptable to the County, a commitment to maintain the park facility.

County Counsel

46. If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, the applicant or any other developer/operator other than the applicant agrees to indemnify the County of Butte from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, this condition is deemed satisfied.

II. NOTATION

- A. Minor changes may be approved administratively by the Directors of Development Services, Environmental Health, or Public Works upon receipt of a substantiated written request by the applicant, or their respective designee. Prior to such approval, verification shall be made by each Department or Division that the modification is consistent with the application, fees paid and environmental determination as conditionally approved. Changes deemed to be major or significant in nature shall require a formal application for amendment.

There is a 10-day appeal period on all decisions with the Clerk of the Board

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BREAK – 10:30 to 10:45 a.m.

* * * * *

Robert L. and Sandra L. Minton, proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Parcel Map** to divide a 4.9-acre parcel into one parcel of 1.03 acres and one parcel of 3.88 acres, in the North Chico Specific Plan (CSA87) area. Parcel 1 (3.88 acres) has an existing house, an agricultural building, corrals, and a potential second dwelling. The property is zoned SR-1 (Suburban Residential – 1 acre parcels) and is located at the east end of Parsley Drive off of Highway 99, approximately 750 feet north of Keefer Road, north of Chico. APN 047-460-025 (MM) (TPM 04N-28)

Mr. Michelena gave a brief summary of the project.

Commissioner Lambert asked if Conditions 10 and 16 are duplicates.

Mr. Michelena said they were and that Condition 16 could be deleted. He said in Conditions 10 and 20 the word "Final" should be deleted.

The hearing was opened to the public.

Doug Sutherland, NorthStar Engineering, went over the time lines for this project and the project's background of how this project has evolved from the original application in 1996. He questioned the level of the road improvement being asked for.

Mr. Edell explained the difference between LD S4 and LDS 8. He said the road was construction in 2003. He said the North Chico Specific Plan requires LDS8.

Mr. Sutherland said he has a road already constructed for the same project that was previously approved. He asked for a little leeway on the road requirements. He said the road is now 24 feet wide with 2 inches of asphalt. He said the NCSP standard calls for 2 inches of asphalt on 8 inches of aggregate base and 28 feet wide. He said the road that is there now was built on an approved map. He asked for relief from the encroachment into the setbacks by the buildings either by abandonment or variance. He said they want to retain the bunkhouse as a guest house. He said the Darrel Parsley map that created the cul-de-sac, created the encroachment problem on this property.

Ms. Christopher said the people were told long ago to come in and convert to a residential building with permits, then the previous map also recognized that they need to get permits from ag. buildings to residential buildings. She said this still has not been done.

Mr. Michelena said he believed the original action was in the early 80s. He said the Parsley map that put in the cul-de-sac was in 1983. He said the applicant still needs building permits to convert from an agricultural building to residential. He noted that the building was there when the Parsley map was approved. He said the Commission will have to decide if the building was grandfathered in.

Ms. Christopher said there are three issues; 1) the building needs residential building permits; 2) does the Commission want to say the setback from the cul-de-sac is ok; and 3) the corrals are in a PG&E easement.

Commissioner Leland asked if the Commission had the authority to waive the setbacks.

Mr. Michelena said there is a letter from the Planning Director in 1981 that one of the issues was a apartment conversion without building department permits.

Commissioner Leland asked if there was an issue about the applicant knowing he has to get permits to convert the structure.

Mr. Sutherland said there have been several contacts with the building department. He asked that the building permits not be a condition of this map. He said they were trying to have one additional parcel.

Commissioner Lambert asked if the applicant can meet the requirements to get a building permit to convert this building.

Ms. Christopher said it is usually possible to convert a building to residential. She said she would prefer to leave this as a condition on the map.

Commissioner Leland said they need a nexus between the conditions they impose on approval and the project itself. He said if all the buildings exist and are not going to change, what is the nexus between allowing this parcel on the west to be carved off and requiring changes to the buildings on the east.

Ms. Christopher said the nexus is that they are making changes to the parcel. She reminded them that the last map had these same conditions on it that the owner needed to get these buildings brought into code and deal with the setbacks. She said the owner does not want to meet the conditions of the previous map, and they let the map expire because they could not meet the conditions.

Mr. Michelena said there were two previous conditions, one reflecting the existing storage dwelling structure that extends into the Parsley land cul-de-sac turnaround setback. He said the condition calls for the building to be setback or demolished.

Jim Stevens, NorthStar, said the previous Blanshei application was not met. He said that those encroachments existed at the time of the creation of the 1983 parcel map. He said they are asking for a grandfather provision on the encroachments. He said the applicant knows he has to bring the building up to code. He said he can move the corral outside of the easement. He asked for an exception for the location of the building.

Ms. Christopher said the Parsley map when it was approved did not show any structures and so, therefore, no structure setbacks were dealt with.

Commissioner Nelson asked if all the applicant wants is to bring the building up to code and move the corral.

Mr. Stevens said that was correct and he wants to leave the road as it is.

Mr. Edell said the County is looking for a structural section that meets a certain standard. He explained how to bring up the road to the new standard.

Bob Minton, applicant, gave more history of the property. He passed out pamphlets. He discussed a building inspector telling him that his building was ok. He said it was his understanding that the problems with the building, setbacks, and roads were being handled by staff. He did not think it fair

to change the rules half way through the process at a great cost. He said he was given the impression that if they filed for a new map, the old problems would be handled ministerially. He said he was told by the Building Department that there were no violations on the property. He said he gave up on the idea of having this bunkhouse converted into a residential dwelling. He discussed what he thought would need to be done to convert the building, i.e., tear up the foundation to check the plumbing, tear open the walls to check the electrical, etc.

Chairman Marin said he would like to make the determination that everything will be fine, but he is only one person on the Commission.

Mr. Minton said he believed that the two employees that worked on the two parcel lot split were no longer employed by the County. He said that nothing has changed on this parcel since 1983.

Mr. Sutherland said the only reason an inspector was there was because a parcel map was applied for.

Mr. Minton said he wanted to make the building legal to live in.

Ms. Christopher said the County has buildings that people want to convert. She said staff is looking at the building to see if it meets the codes for a residential dwelling, and are not trying to make it difficult. She is not talking about tearing up foundations or opening up walls. She said the issue with this application is the setback issue. She noted that she never told NorthStar that this problem would be handled ministerially. She said these are not minor map amendments.

Chairman Marin said that in his five years the Planning Commission and NorthStar Engineering have always had a good working relationship. He said the Commission and staff try to be user friendly. He believed that the Commission was trying to help Mr. Minton and still follow the rules.

Mr. Minton said he can move the corral out of the PG&E right-of-way.

Mr. Michelena said Condition 3 addresses the 20-foot setback. He said the applicant must meet the 20-foot setback unless they can prove that the existing structures were there at the time the Parsley map was recorded. There was a brief discussion on how to prove when the buildings were put in.

Mr. Wannemacher said there could be more evidence on when the buildings were built. He said Mr. Edell indicated that there might have been an inspection done after or prior to the map being recorded in 1983.

Ms. Christopher said there was a letter in 1981 noticing the property owner at that time that they had converted a building without the benefit of permits way before the Parsley map.

Commissioner Leland said looking at Condition 3 the applicant has to comply with the 20-foot setback.

Mr. Sutherland said the Condition states prior to recordation of the parcel map the existing accessory structures must meet the required 20-foot building setback from the access road right-of-way (NCSP) unless they can prove to have existed prior to the recording of the Darrel Parsley parcel map and were not modified. He asked what is considered not modified. He asked that Condition 3 be deleted and consider the existing structures as approved in their locations with regards to the easements. He said Mr. Minton has agreed to move the corral. He said he wanted to delete Condition 4, but it looks like they are going in the direction of permitting the second dwelling.

Commissioner Leland asked if the Commission had the authority to waive the 20-foot setback requirement.

Mr. Wannemacher said the authority for setbacks comes out of the zoning ordinance. He said the code does not deal with buildings that already existed when the setback was imposed. He was not prepared to answer this question.

Commissioner Leland asked if there was any chance PG&E is going to abandon the easement.

Mr. Sutherland said he could not speak to that at this time.

Commissioner Nelson suggested they let staff research a way to make the bunkhouse a legal residential use.

Commissioner Lambert asked if just the corral was in the easement or was the barn there also.

Ms. Christopher said the easement is in front and it includes a small portion of the corral.

Mr. Michelena said the question is whether these building are a pre-existing use prior to the approved map.

Ms. Christopher said that they need to look at the Parsley map which we don't have today. She suggested this meeting be continued.

Commissioner Nelson asked if the Commission could make a decision today.

Mr. Wannemacher said if they are going to approve this today they would have to make findings that the building was pre-existing.

Commissioner Leland asked if the Commission had the authority to grant an exception to the setback

Mr. Stevens said the Commission needs to acknowledge the building as being pre-existing. He felt that it was pretty clear that this building was pre-existing.

Commissioner Leland said there were two ways to waive the setback requirement; one is that this is a pre-existing condition, but that requires not only that it physically existed but that the map that

created the conflict did not have another condition like the second map did requiring the building be demolished.

Mr. Wannemacher said it would be inappropriate if there was information and they did not look for it. He said the first thing is to look for the information and see if it sheds a light on what is being done today. He said if they go back and determine that there is no information, they still have to make a decision on what to do. He said some of the information may be misunderstood and that one of the letters included in the pamphlet that Mr. Minton handed out that he believed was an indication that the setback was not a problem is, in fact, a discussion of a different setback from the one being considered today.

Mr. Stevens urged the Commission to make the finding that the building was pre-existing.

The hearing was closed to the public and comments confined to the Commission and staff.

Commissioner Lambert said she was not ready to make a decision today. She said they need the dateline on the history and where this falls in with the NCSP. She questioned if this map was not applied for, would the problems go away.

Ms. Christopher explained that the building permits for conversion of the bunkhouse would still be required.

Commissioner Leland asked if the Commission had the authority to waive the road requirement.

Mr. Wannemacher said the Commission can grant an exception to the road standards under Code Section 20-4. He did not know if the setback was going to be considered an improvement standard. He read the section on what it takes to grant an exception. He said that it looks like people are using the easement as an access. He said if they were going to abandon this part of the road, there is no information on what that would do to another property.

Chairman Marin said he felt the Commission was really close to resolving this. He thought they may require one continuance just to look at the other information. He thought they were making progress towards approving this for the applicant.

Commissioner Leland said he could not let Chairman Marin speak for the whole Commission. He said if he wants a sense of how the Commission feels he can poll the members or have a vote. He was against the Chair making a blanket statement for the Commission and he did not think that was appropriate.

Chairman Marin said he sensed a feeling among the Commissioners that they wanted to help the citizen. He said in the beginning that he only speaks for himself.

Commissioner Nelson said he did not think it was fair to tell the applicant that this will be approved. He said they are trying to work with the applicant, but they also have the law to work with.

Mr. Michelena said he would need to review the Parsley map and get an exception request from the applicant to the standard.

Ms. Christopher noted that the exception would be to the road standards.

It was moved by Commissioner Nelson, seconded by Commissioner Leland, and unanimously carried to continue this to March 10, 2005.

* * * * *

John and Debra Folsom, proposed **Negative Declaration** with mitigation measures regarding environmental impacts **Use Permit** to allow the expansion of an existing dog training kennel from 30 dogs to 120 dogs. Additional development includes an addition to the existing dog kennel structure and construction of a new dog kennel structure. The property is zoned A-5 (Agricultural – 5 acre parcels) and is located on the north side of Lower Honcut Road, approximately 2.5 miles east of SR-70, at 1021 Lower Honcut Road, south of Oroville. APN 028-030-028 and 028-030-027 (SB) (UP 04-25)

Commissioner Wilson excused himself from this hearing.

Mr. Betts gave a brief summary of the project and a power point presentation.

Commissioner Lambert asked why the application is for two 40-acre parcels when the kennel is located on one 40-acre parcel.

Mr. Betts explained that the applicant does field work with the dogs and uses both parcels while training the dogs. He noted that if the applicant wanted another structure, they would need another Use Permit.

Ms. Christopher agreed that the kennel needed the open space to train the dogs.

Doug Fogel, Environmental Health, said in Condition 11, the size of the septic is based on the volume of flow by the size of the animals.

Wendy Jones, Animal Control, said she inspected the facility and it is very clean and very professional, with no complaints.

The hearing was opened to the public.

Debra Folsom said the kennel has been at this location for 19 years and she would like to expand. She said she owns 40 acres to the east and 40 acres to the west. She said there is a hunting duck club to the west also. She said her 120 acres is entirely fenced. She said all development of the kennel will be on the center parcel.

Commissioner Leland asked if they should include the third parcel in this request.

Ms. Folsom said that 90 percent of the training takes place in the kennel yard.

Ms. Christopher said that staff will have to look at this again for impacts if the outside training area was increased.

Ms. Folsom said she had no problems keeping this request to the 80 acres. She said she read and understood the conditions as listed.

Mr. Betts pointed out that Condition 6 is there in case there is a problem with noise.

Ms. Christopher asked if conditions from the old permit were listed on this permit.

Mr. Betts said these new conditions would override the old conditions.

Ms. Christopher asked if Condition 8 on Use Permit 87-8 regarding noise levels at the property line should be added to this Use Permit if approved.

Mr. Wannemacher questioned carrying over Condition 7 from the old permit also.

Mr. Betts noted that the site plan shows the development.

Ms. Folsom had no objections to carrying over conditions from the old Use Permit to the new. She said this is a training kennel and not a boarding kennel. She said there are times when a dog will come back for further training. She explained the process.

Ms. Jones said the NWSPCA was contacted when the original permit was received, but the kennel is now handled by Animal Control.

Ms. Folsom said there is another kennel closer to the neighbors than her.

Ms. Christopher said that old Condition 8 was pro active, whereas the new condition is re-active if there are complaints.

Ms. Folsom said the old Use Permit quoted a specific noise level and was in agreement to carry the condition forward.

David Anderson said they plan for the building to be made of concrete blocks and have concrete floors which helps with the noise. He said the kennels are cleaned every day.

The hearing was closed to the public and comments confined to the Commission and staff.

It was moved by Commissioner Nelson, seconded by Commissioner Lambert, and carried to approve the Use Permit for John and Debra Folsom subject to the findings and conditions listed below, changing Condition 11 to add "Prior to issuance of Building Permit" and add new Condition 8 to read "Shielding or construction to be developed to keep noise levels to a minimum and not to

exceed 60 dB at property line, pursuant to the Noise Element of the General Plan.”, and renumber the remaining conditions:

- I. Adopt a Mitigated Negative Declaration with the following findings:
 - A. An Initial Study was completed in compliance with the California Environmental Quality Act. Said study identified significant environmental effects and included mitigation measures that would mitigate such effects below significant levels; a Mitigated Negative Declaration is proposed.
 - B. The Planning Commission has considered the proposed Mitigated Negative Declaration, together with comments received during the review process.
 - C. On the basis of the whole record before the Planning Commission, including the Initial Study and any comments received, there is no substantial evidence that the Use Permit for John and Debra Folsom, Planning Division File No. UP 04-25, would have a significant effect on the environment. The custodian of the record is the Planning Division of the Development Services Department. The location of the record is 7 County Center Drive, Oroville, CA 95965.
 - D. The proposed Mitigated Negative Declaration reflects the independent judgment and analysis of the County, which is the Lead Agency.
 - E. Adopt the Mitigated Negative Declaration regarding environmental impacts, with Mitigation Measures 1 through 3, as detailed in the Agenda Report dated February 24, 2005.
- II. Adopt a “de minimis” exemption regarding impact to fish and wildlife or their habitat. The design of the proposed project improvements will not cause environmental damage to fish and wildlife or their habitat. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required. The project site is not known to contain any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. The project will not have a substantial adverse effect on any riparian habitat; have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act; interfere substantially with the movement of any native resident or migratory fish or wildlife species; conflict with any local policies or ordinances protecting biological resources; or conflict with the provisions of an adopted Habitat Conservation Plan.
- III. Approve Use Permit UP 04-25 for John and Debra Folsom, subject to the following findings and the conditions in Exhibit “A”:
 - A. The project would not conflict with, impair or be detrimental to the uses both permitted and conditional of the zone in which it is located and/or adjoins, based upon the findings in Section B below.

- B. The proposed use of the property will not impair the integrity and character of the zone in which the land lies, and that the use would not be unreasonably incompatible with, or injurious to, surrounding property, or detrimental to the health, safety and general welfare of the persons residing or working in the neighborhood, or to the general health, welfare and safety of the County because:
1. The existing dog kennel is professionally operated and has been in business since 1987. The existing kennel operation has not received any noise complaints or other violation notices.
 2. No impacts to ground or surface waters would occur because solid and liquid wastes from the dogs will be disposed of in dedicated, on-site septic systems.
 3. No objectionable odors would be detected off-site because solid wastes from the dogs are required to be picked up on a daily basis.
 4. Noise from the dogs are not expected to create any significant impacts because the nearest off-site dwellings are located approximately 1,490 feet to the southeast and 2,240 feet to the east.
- C. The proposed location, size, design, and operating characteristics of the proposed use is in accordance with the purpose of the zone in which the site is located, the Butte County general plan, and the development policies and standards of the County because:
1. The project is consistent with the A-5 zone, which allows a dog kennel with a Use Permit.
 2. The project is consistent with the Orchard and Field Crops General Plan land use designation, which lists intense animal uses as a Secondary Use.
- D. The project would not have any impacts to existing or future agricultural uses.

Conditions of Approval:

Planning Division:

1. **Mitigation Measure # 1:**

Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site. Follow the dust control measures listed below:

- a. Water shall be applied by means of truck(s), hoses, and/or sprinklers as needed prior to any land clearing or earth movement to minimize dust emissions.
- b. Haul vehicles transporting soil into or out of the property shall be covered.

- c. Water shall be applied to disturbed areas a minimum of two (2) times per day or more as necessary.
- d. On-site vehicles shall be limited to a speed of 15 mph on unpaved roads.
- e. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 24 hours. The telephone number of the Butte County Air Quality Management District shall be visible to ensure compliance with BCAQMD Rule 200 & 205 (Nuisance and Fugitive Dust Emissions).
- f. All visibly dry disturbed soil surface areas of operation shall be watered to minimize dust emissions.
- g. Existing roads and street adjacent to the project shall be cleaned at least once per day unless conditions warrant a greater frequency.

Plan Requirements: This note shall be placed on all building and site development plans.

Timing: Requirements of the condition shall be adhered to throughout all grading and construction periods.

Monitoring: The Department of Development Services shall ensure that this note is placed on all building plans and shall spot check and shall ensure compliance on-site. Butte County Air Quality Management District inspectors shall respond to nuisance complaints.

2. **Mitigation Measure # 2:**

Should development activities reveal the presence of cultural resources (i.e., artifact concentrations, including arrowheads and other stone tools or chipping debris, cans, glass, etc.; structural remains; human skeletal remains), work within 50 feet of the find shall cease immediately until a qualified professional archaeologist can be consulted to evaluate the remains and implement appropriate mitigation procedures. Recommencement of development activities shall not occur until clearance is provided by the Butte County Department of Development Services. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American participation in determining the disposition of such remains.”

Plan Requirements: This note shall be placed on all building and site development plans.

Timing: This measure shall be implemented during all site development activities.

Monitoring: Should cultural resources be discovered, the landowner shall notify the Department of Development Services and a professional archaeologist. The Department of

Development Services shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action.

3. **Mitigation Measure # 3:**

The kennel operator shall pick up solid wastes from the dogs at least once per day and dispose of the wastes in a septic system approved by the Butte County Environmental Health Division. All water runoff from cleaning of the kennel floors shall drain into an approved septic system.

Plan Requirements: This mitigation measure shall be a condition of the Use Permit.

Timing: The mitigation measure shall be adhered to during the entire operational life of the kennel.

Monitoring: The kennel operator shall be responsible for picking up dog wastes at least once per day and disposing of them in an approved on-site septic system. The kennel operator shall be responsible for ensuring that drainage from cleaning of the kennel floors drains into the septic system. The Department of Development Services, the Environmental Health Division, and the Animal Control Division shall respond to complaints concerning odors and contaminated water runoff.

4. Use of firearms for dog training shall be limited to daylight hours.
5. Dogs shall be under the direct control of trainers when outside of the kennel structure.
6. If the Department of Development Services or other County departments receive noise-related complaints regarding the dog kennel and the level of noise is in excess of established standards, the applicant shall implement recommendations of the Department of Development Services to reduce the noise impacts. In response to any pattern of noise complaints, the Development Services Department, at the expense of the applicant, shall conduct a noise analysis to establish the compliance of the project with standards in the Noise Element of the General Plan. Currently, the Noise Element establishes that acceptable levels of noise for the project area of up to 60 decibels Ldn or CNEL. If noise levels are in excess of established standards, the project applicant is required to reduce noise levels through recommendations of the Development Services Department, which may include, but are not limited to, building noise attenuation devices that provide some relief to nearby homes, erecting a sight obscuring fence so that the dogs can't see off the site, placing bark collars on the dogs that bark, or other recommendations. Any implemented recommendations to reduce noise would be subject to building permits, if required, and other applicable conditions.
7. Prior to issuance of building permits, obtain the necessary permit(s) from the Butte County Animal Control Office. Provide documentation from the Animal Control Office that the necessary permits have been obtained or are not required.

8. Shielding or construction to be developed to keep noise levels to a minimum and not to exceed 60 dB at property line, pursuant to the Noise Element of the General Plan.

Public Works Division

9. Prior to issuance of a building permit, obtain an encroachment permit and improve all new and existing driveway approaches to publicly maintained roads as specified in the County Improvement Standards and the terms of the encroachment permit.
10. Prior to issuance of a building permit, a plan for a permanent solution for drainage shall be submitted to and approved by the Department of Public Works. The drainage plans shall detail existing drainage conditions and shall specify how drainage waters shall be detained or retained on-site and/ or conveyed to the nearest natural or publicly maintained drainage channel or facility and shall provide that there shall be no increase in the peak flow runoff to said channel or facility.
11. Prior to issuance of a building permit, establish 100 year flood plain elevations and the lowest floor elevations for any structures, in accordance with Butte County Code §26-25. Show on the site plan the elevations (by contours) and the location of an accepted NGVD29 (National Geodetic Vertical Datum of 1929) benchmark and a temporary benchmark on-site.

Environmental Health Division

12. Prior to issuance of Building Permit, septic system for the new kennel and up to ten (10) employees shall be installed under permit from the Butte County Environmental Health Division.
13. The bottom of any leach line shall have adequate separation from groundwater and all parts of the septic system shall be at least fifty (50) feet from seasonal ponds.

Butte County Fire Department/CDF

14. Provide an all weather access to all structures that is at least 10 feet wide and has a vertical clearance of 15 feet that will accommodate a 40,000 pound fire apparatus.

County Counsel

15. If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, the applicant or any other developer/operator other than the applicant agrees to indemnify the County of Butte from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, this condition is deemed satisfied.

There is a 10-day appeal period on all decisions with the Clerk of the Board

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VI. GENERAL BUSINESS - *This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.*

A. Directors' Report

Ms. Christopher said she would defer this report to the next meeting or beyond.

B. General Plan/Zoning Ordinance Update

C. Legislative Case Law update

D. Planning Commission Concerns

There was a discussion on whether to have a Consent Agenda and another section for items pulled from the Consent Agenda.

Commissioner Lambert suggested eliminating the Consent Agenda altogether. Commissioner Leland agreed.

It was the consensus of the Commission to not have a Consent Agenda at this time.

VII. MINUTES - February 10, 2005

The Commission had the following correction: Page 28, L46, add to the end "with double the acreage"; Page 29, L13, change "in" to "to meet".

Commissioner Lambert said she was concerned with second dwelling being allowed on a cul-de-sac and felt the issue should be addressed at another meeting.

Chairman Marin felt that second units were not allowed on a cul-de-sac.

Mr. Wannemacher said it was covered on Page 18, Lines 21-13 of the minutes.

It was moved by Commissioner Lambert, seconded by Commissioner Nelson, and unanimously carried to approve the minutes as corrected.

VIII. COMMUNICATIONS - *Communications received and referred. (Copies of all communications are available in the Planning Division Office.)*

IX. ADJOURNMENT

There being no further business, the Planning Commission adjourned at 1:45 p.m.

Chairman Marin

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