

# **BUTTE COUNTY PLANNING COMMISSION MINUTES**

**July 14, 2005**

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:00 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Leland, Nelson, Wilson, Lambert, and Chairman Marin
- ALSO PRESENT:** Yvonne Christopher, Director Development Services  
Felix Wannemacher, Deputy County Counsel  
Doug Fogel, Environmental Health  
Stu Edell, Public Works  
Mark Michelena, Associate Planner  
Carl Durling, Associate Planner  
Joe Hunter, Assistant to the CAO
- III. ACCEPTANCE OF AGENDA:** Commission members and staff may request additions, deletions, or changes in the Agenda order.

It was moved by Commissioner Wilson, seconded by Commissioner Lambert, and unanimously carried to accept the agenda.

**IV. 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)

Dave Bruce said he was an Oroville resident for the last 30 years. He said he applied for a building permit in April and received a verbal over the phone that it was approved. He said a short while later he received an email stating that the setback was not proper. He said in 1975 when the house was built the property had a 5-foot setback. He said he was told he needed a 10-foot setback. He had the plans redrawn, the room addition shortened, and re-applied a week ago, but Planning did not have any answers and told him to come to the Commission. He said he is asking that the Commission direct the staff to put us on the agenda of the next meeting.

Commissioner Nelson asked if Mr. Bruce was told he needed a Use Permit.

Mr. Bruce said he was told he needed a Use Permit. He said one reason they shortened the building was to avoid the setback.

Ms. Christopher said that when someone wants to expand a nonconforming use the Code requires Use Permit be applied for. She suggested that Mr. Bruce come into the office to discuss the matter. She did not think it was appropriate to put him on the next agenda at the Planning Commission, because it looks like staff is telling him that he needs to apply for a Use Permit.

Mr. Bruce discussed the fees for a Use Permit.

- V. **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.

**Ramon LeFevre, Tentative Parcel Map** to subdivide two 20-acre parcels into four parcels, two at 5 acres and two at 15 acres in the Critical Winter Deer Herd Area, and 200-acre parcel that is offered as permanent open space on property zoned A-5 (Agricultural – 5-acre parcels). The property is located on the south side of LeFevre Lane at Century Court, approximately 4,000 feet west of Upham Road, Bangor. APN 028-180-052, 056, 057 (CD) (TPM 04N-30)

Carl Durling gave a brief summary of the project. He noted that this meeting was continued from May 12, 2005.

Commissioner Nelson said when there is a conflict between the General Plan and Zoning Ordinance, the General Plan trumps the Zoning Ordinance.

Mr. Wannemacher said he did not necessarily think this was a conflict as there are several requirements to look at. He said zoning is only one of the factors they have to look at in terms of making the decision.

Commissioner Leland said if there was an inconsistency the General Plan would override the Zoning, but just because the zoning is A-5 doesn't mean you have a right to subdivide. He thought the question was to what extent does the Commission have to defer to the Fish and Wildlife determination that this is a critical winter deer herd range. He said at the last meeting the argument was that the range was arbitrarily placed there. He asked to what extent does the Commission have the ability to revisit the designation of this parcel as Critical Deer Habitat.

Mr. Durling said the mapping of the deer herd is based on the 1986 study. He said there are 200 acres under the Williamson Act contract and the applicant is willing to set this acreage aside for permanent agricultural land to get this application approved. He said staff's position is to try and stay away from arbitrary decisions on the deer herd. The issue is in which case do we interpret the intent of protecting deer herd corridors.

Commissioner Lambert asked what authority does the Conservation Department and Fish and Wildlife have in relation to the Deer Herd Study. She asked if a map was adopted along with the policies on the critical deer herd.

Mr. Durling said the authority rests with the Board of Supervisors with the adoption of the Deer Herd Study.

Mr. Wannemacher asked if the GIS map shows the deer herd corridors.

Mr. Durling said "yes."

Commissioner Leland said the Commission does not have the expertise to say this area is not critical deer herd area.

Commissioner Nelson asked if the 200 acres was developable.

Mr. Durling said there was some flat land terrain with the 200 acres that could be developed.

Commissioner Wilson said technically the owners could divide this property into 40 acre parcel and two houses per parcel legally.

Mr. Durling said the Williamson Act would prevail. He said the property is zoned A-5 and can not have more than one single family residence.

The hearing was opened to the public.

Mrs. Lefevre said she wanted to split two 20 acre parcels into four parcels. She said she contacted her neighbors and they did not object. She said she was willing to have the 200 acres stay in the Williamson Act. She said she wishes to preserve the cattle ranch by clustering the homes.

Commissioner Nelson asked how she would guarantee the 200 acres would stay in open space.

Mrs. Lefevre said she would like to reserve the open space in 10 year increments. She said the 240 acres is a working cattle ranch. She discussed the cost and time this application has taken, including delays, to get to this point. She believed that the deer herd map is critical to this discussion. She said she could not obtain a copy of the map at Planning. She said she would like to compare the map to the Mooretown Deer Herd map with the Butte County street map. She said that is the only place that talks about 40 acres. She said if the 40 acres is mentioned in the General Plan she would like them to show it to him.

Commissioner Nelson said part of the proposal was to put 200 acres in permanent open space.

Mr. Lefevre said he did not agree to put 200 acres in permanent open space. He said he would like to keep the 200 acres in the Williamson Act.

Mr. Durling clarified that the applicant made the offer to put the 200 acres into permanent open space.

Mark Heath, grandson of the application, said he did the research to find the Deer Herd Study map and found the Butte County Street knowledge map. He said he attended a meeting with Henry Lomeli, Fish and Game, and he said that the policy of setting the boundaries for the deer herd habitat is arbitrary and out dated. He said they want to cluster the homes where the deer do not go. He said they know best where the deer herd corridor is. He said Mr. Lomeli will be sending letters asking to sit down with the County to redo this policy. He said when the land was purchased 30 years ago, the deer herd restrictions were not in place.

Mr. Wannemacher said he read Mr. Lomeli's email and felt Mr. Lomeli wanted the deer herd areas protected.

Mr. Heath said he did not want to get rid of the policy, but did want to bring it up to date.

Commissioner Lambert said she understood Counsel to say that A-5 has to be consistent with the General Plan. She said A-5 is consistent with the General Plan, and that the General Plan contains several elements and policy statements that zoning is only one. She said the General Plan supersedes any individual zone.

Mr. Durling said the A-5 zone is a conditionally consistent zone.

Commissioner Nelson said he is only willing to approve this proposal if the 200 acres becomes permanent open space. He said this could possibly be done with a deed restriction.

Mr. Wannemacher said if that is the Commission's proposal, he would need time to look at this.

Mr. Lefevre said he disagreed with Mr. Durling's contention that he asked for a hold on the project. He did not understand the problem with just leaving this in the Williamson Act and not give up future rights.

Commissioner Nelson said if this application is approved the way it is, Mr. Lefevre is in the Williamson Act for the next 10 years, at that point he can legally come in and split the property into 5 parcels.

Mr. Lefevre said it would then be consistent with what they are saying the deer herd map is. He said he has a 200 acre parcel and two twenty acre parcels. He said there are two different owners on the two 20 acre parcels. He said the maps for the Butte County internet has a disclaimer on the bottom saying "Butte County does not guarantee that the information provided on this site is accurate or complete. The County provides this information on an "as is" basis and disclaims all warranties expressed or implied. Including, but not limited to, warranties of merge ability, fitness for a particular purpose, and non infringement, . . . " He said under the Analysis of the Agenda Report it states that the A-5 is a conditionally consistent zone within the A-R designation of the General Plan. He said it states that the minimum consistent acreage is 20 acres, the minimum lot size in the critical deer herd area is 40 acres per the General Plan. He said 40 acres is not written in the General Plan. He said the reference to 20 acre minimums is only referenced in the proposed new update that has not been approved. He said the County is saying he can not split his property because he is in violation of something. He asked what that something was.

Commissioner Nelson said Mrs. LeFevre said she wants to keep the ranch in tact. He said he has given Mr. LeFevre a proposal to do that. He said he has documents in front of him conflicting with what Mr. LeFevre is saying

Mr. Lefevre asked when the Deer Herd map was adopted, because Mr. Lomeli said that none of the deer herd recommendations were adopted. He said he talked to Mr. Lomeli and he said he knew he was going to have a hard sell on the deer herd map.

Commissioner Nelson said until the map is changed it is the law that the Commission has to work with now. He said the map is the direction the Commission is given to work with.

Commissioner Leland said the disclaimer was a boiler plate disclaimer on the web site.

Mr. LeFevre asked where is the map.

Commissioner Leland asked Mr. LeFevre if he was disputing whether this property is critical deer habitat.

Mr. LeFevre said he disputes that the 5 acres is in the critical deer herd area. He point out the 20 acres and pointed out where the deer go.

There was a ten minute break.

Ms. Christopher explained that staff believed the applicant wanted to offer the 200 acres for permanent open space in order to split the other property. She said without this the project is still in conflict with the policies of the General Plan. She said the deer herd map has been used for many years. She said the map is available on the website.

Chairman Marin said he did not see a problem in what the applicant wanted to do.

Ms. Christopher noted that there are other policies listed in the Agenda Report that this project is inconsistent with in the General Plan. She said the deer herd issue is not the only conflict.

Mr. LeFevre said that the General Plan states that no land use element is more important than another. He asked Mr. Durling to consider Agricultural Element 7.1 and 7.2 concerning family farms. He said staff told him these sections would not be considered.

Mr. Wannemacher explained that agricultural worker housing is not a discretionary process. He said agricultural family housing is not a second dwelling.

Ms. Christopher explained that those sections intended to provide family housing for farming, but not to provide separate parcels with separate homes on each.

Commissioner Nelson said he did not feel the Commission could make the findings against the deer herd policy.

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

Commissioner Leland said he was going to vote against this request. He said he could not vote to approve land that was listed in the critical deer herd habitat.

Commissioner Wilson said he would also like to see the 200 acres put in permanent open space in order to approve this project.

It was moved by Commissioner Leland, seconded by Commission Lambert, and carried to deny the Tentative Parcel Map for Ramon LeFevre subject to the findings listed below:

- I. Find that the denial of this project is not subject to CEQA pursuant to Public Resources Code 21080 b. (5) and under Sections 15270(a) and (b) of Title 14, California Code of Regulations, Chapter 3 (Guidelines for Implementation of the California Environmental Quality Act), and that no Fish and Game fee is required.
- II. Deny the Tentative Parcel Map for Ramon and Leona LeFevre (File TPM 04N-30), based on the following findings:
  - A. The proposed Tentative Parcel Map is inconsistent with the Agricultural Residential

Land Use Element of the General Plan because of the effect on Wildlife Habitat (page 51 of the Land Use Element (LUE-51)).

- B. The proposed Tentative Parcel Map is inconsistent with the provision of the Butte County General Plan Conservation Element that is designed to protect migratory routes for Critical Winter Deer Herds.
- C. The proposed Tentative Parcel Map is inconsistent with the Open Space Element of the General Plan for regulation of residential development in the foothills to facilitate the survival and migration of deer herds (page 4 and 8 of the Open Space Element (OS-4 & 8)).
- D. The proposed Tentative Parcel Map is inconsistent with the Subdivision Map Act and the County Subdivision Ordinance which provide for denial of a tentative map where there will be adverse effects to wildlife habitat (Sec. 66474(e) of the Subdivision Map Act and Sec. 20-65(5) of the Butte County Code).

AYES: Commissioners Leland, Nelson, Lambert, and Wilson  
 NOES: Chairman Marin  
 ABSENT: No one  
 ABSTAINED: No one

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

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Commissioner Wilson was absent at this time.

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There was a discussion on moving the Brown hearing to the end of the agenda after the lunch break or just as the last item.

It was the consensus to make this the last hearing of the day.

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**Sefcik Family Trust**, proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Parcel Map** to divide a 16.25-acre parcel into three parcels for residential use on property zoned TM-5 (Timber Mountain – 5 acre parcels). The property is located on the north side of Starlight Drive, approximately 1,300 feet northeast of Schott Road, Forest Ranch area. APN 056-280-065 (MM) (TPM 05-04)

Mr. Michelena gave a brief summary of the project. Mr. Michelena said the environmental documents were done by evaluating the most dwellings that would be available. He said his recommendation of approval is to split this property into three lots.

Commissioner Nelson asked if the Commission can condition this project to be limited to one dwelling per parcel only.

Mr. Wannemacher said the Commission would need to specify reasons and make appropriate findings to support those reasons.

Mr. Michelena said the applicant could potentially apply for second dwellings. He noted the public comments received and sent in the packets.

The hearing was opened to the public.

Mr. Fogel, Environmental Health, made the following corrections: Condition 24. change “not” to “note”, Condition 25. after “100” add “leachfield free”, and on Condition 26 after “leachfield” add “free.” There was a brief discussion on sharing a well. He said if the output is enough they can have up to 4 houses on one well.

Eva Incaudo said she was surprised by the opposition to the project. She questioned the number of trips listed in the report as being too high because one of the parcels already exists.

Mr. Michelena said staff looks at the ultimate build out for the parcel.

Ms. Incaudo said there are 7 parcels that have access to Starlight.

Mr. Wannemacher asked if she had looked at all the conditions that apply and did she understand them.

Ms. Incaudo said if they are as expressed here, she believes she understands them.

Mr. Wannemacher pointed that there are certain conditions asking her to improve certain road conditions.

Ms. Incaudo said she understood that. She said the only question in regards to that is she hasn't been given any information as to what condition the road is considered to be in now and at what level it is. She believed the road was 20 feet wide now and met the RS-8 guidelines. She said the LD I and LD II standards were subjective and she did not understand it.

Carlos Valencia, 5174 Starlight, said he has lived here for 25 years. He said he is not complaining about the project. He noted that the road is narrow and there are three blind spots on the road. He said he measured parts of the road and some portions are 14 feet wide and the County requires 20 feet with 2 feet shoulders on each side. He said Starlight Drive is not wide enough to meet the County requirements. He said he was glad the County is asking that the road be brought up to LD-I standards and the frontage be up graded to LD-II standards. He was concerned with access for emergency vehicles. He urged the Planning Commission not to back down on the requirements for improving the road.

Mr. Edell, Land Development, Public Works, went over the standards for LD-I and LD-II.

Les Jorgensen said he lives on Starlight and owns to the center of the road. He discussed the need to take half of the road from the Reed property and not his. He said they can not taking the road widening off of his property because it drops off too steeply.

Mr. Edell explained that the road will be built in the easement.

Mr. Jorgensen discussed the buried phone lines.

Mr. Edell said he has no say over the public utilities. He said it is the contractor's responsibility to contact the utility companies.

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

Commissioner Lambert commented that there are several road maintenance agreements out there.

Mr. Edell said the road maintenance agreements are not specifically connected, there is Section 845 of the Civil Code that says if you are on a private road, you have a responsibility for maintenance.

Chairman Marin asked if this item is approved today and there has to be road improvements in order for this to take place, what are the checks and balances on this.

Mr. Edell said his inspectors will take care to make sure the road is done properly. He noted that the policy is to require the improvement along the full property frontage to the higher standard and it has to improve out to a publicly maintained road.

The hearing was re-opened.

Ms. Incaudo said that Starlight is a private road, and the road was designed with the curves that are there now. She said she hoped she was not being asked to straighten out the road. She said if Wagon Road is a County maintained road is that the standard they are asking her to improve to.

Mr. Edell said by the County's adopted improvement standards, they have to require construction of Ms. Incaudo's access roads to certain criteria which requires a 20-foot wide road. He said he does not look at what was there in the past, for this development, this road needs to be improved.

Ms. Incaudo asked if the road is only 16-19 feet wide and the County is requiring it be enlarged to 24 feet wide, the cost could be prohibitive. She asked if she would have to improve all of Starlight if there was access off another road.

Mr. Edell said the Code requires improvement to the whole frontage of the property.

Ms. Incaudo said there are parcels beyond her that will benefit from this and won't have to pay and she did not think that was fair.

Mr. Edell said the County Code has a provision for a reimbursement agreement that she can request of the Board of Supervisors before the split is finalized or bonded.

Ms. Incaudo said she has talked to a construction company and the estimated cost was \$23,000+.

Mr. Edell said it does not matter what standard the road was, it needs to be brought up to the standards stated today.

Ms. Incaudo asked if Public Works will go out and tell here what is needed to upgrade the road.

Mr. Edell said an engineer was hired and could probably tell her the estimated cost and what would be needed. He said the County doesn't usually go out and inspect roads before they have conditional approval.

Ms. Incaudo said her engineer does not know the condition of the road. She asked if she has conditional approval from the Commission today, at that point will someone from Public Works go out.

Mr. Edell said if she pays the inspection fees, they will go out.

Mr. Valencia said he was frustrated with the road agreements and wondered if there was a process to bring the road agreements together. He said he was happy to see that any possible road improvements would take place within a year of approval of the subdivision or he hoped before. He felt this would help in terms of traffic.

Mr. Edell explained that the conditional approval does not guarantee road improvement, he said the improvements will occur only if the applicant decides to comply with the conditions and record her map.

Mr. Wannemacher discussed the difference between a Tentative Parcel Map and a Final Map and the time lines.

It was moved by Commissioner Nelson, seconded by Commissioner Leland, and unanimously carried to approve the Tentative Parcel Map for the Sefcik Family Trust, subject to the findings and conditions listed below, on Condition 24, change "not" to "note", Condition 25 after "100" add "leachfield free", and Condition 26 after "leachfield" add "free":

- 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 Parcel Map for Sefcik Family Trust B ((Eva Incaudo, Trustee), Planning Division File No. TPM 05-04, would have a significant effect on the environment. The custodian of the record is the Land Development Division of the Public Works 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 7, as detailed in the Agenda Report dated June 23, 2005.
- II. The design of the proposed project improvements has the potential to significantly impact blue oak habitat and deer herd movements. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is required.
- III. Approve Tentative Parcel Map 05-04 for Sefcik Family Trust B (Eva Incaudo, Trustee), subject to the conditions found in Exhibit "A" and the following findings:
- A. The proposed parcels conform to the TM-5 zone and are conditionally consistent with the Agricultural Residential General Plan designation conditional development criteria as supported by the following:
1. Compatible with neighboring agricultural activities.  
*The project site is not located in an agricultural area. Other than timber harvesting, no agricultural uses are established on any of the parcels that surround the project site. The project site is not adjacent to lands that have a General Plan land use designation of Orchard and Field Crops or Grazing and Open Land. The Butte County Agricultural Commissioner stated that the project would not impact any agricultural operations. The project will not create any impacts to agricultural activities.*
  2. Evidence of adequate water and sewage disposal capacity.  
*The soils on the project site are generally suitable for on-site sewage disposal systems. Usable sewage disposal areas as required by Appendix VII of the Butte County Subdivision Ordinance have been proven to exist on all of the proposed parcels. Domestic water is proposed to be obtained from individual on-site wells. According to the Butte County Environmental Health Division, wells may have to be drilled to greater than 700 feet in depth to obtain the required quantities of domestic water.*
  3. Availability of adequate fire protection facilities.  
*The nearest staffed fire station is Station # 23, located on SR-32 at Platte Mountain, approximately 3.25 miles to the north of the site. Volunteer station # 25 is located approximately 1.9 miles away in Forest Ranch. All new dwellings placed on the project site would be required to have interior fire sprinkler systems to help reduce impacts to fire protection services.*
  4. Adequately maintained approved road access with sufficient capacity to service area.  
*Starlight Drive, which is a private road, lies within a 60-foot wide easement that extends to Wagon Road (a public road). The roads in the project area can safely handle the minor increase in vehicle traffic generated by the project.*

*Starlight Drive is a cul-de-sac road, which currently provides access for seven parcels. With this project, Starlight Drive would provide sole legal access for nine parcels, which is consistent with Butte County Code 20-133, which states that no cul-de-sac road shall provide sole legal access to more than 20 parcels.*

5. Reasonable accessibility to commercial services and schools.

*A small general store, video rental business, and a small restaurant are located in Forest Ranch, approximately 1.8 miles to the south of the project site. The Forest Ranch School (K-8) is located at the intersection of SR-32 and Schott Road, approximately 0.35 miles from the project site. Extensive commercial services and schools are located in the Chico area, approximately a 15 minute drive from the project site.*

- B. The proposed map is consistent with the following Butte County General Plan Goals and Policies:
  - 3.2.a. Residential densities shall be correlated to soil, slope and other natural site characteristics.
  - 3.2.b. Correlate residential densities to availability of water and sewage disposal and proximity to other public facilities.
  - 3.2.c. Relate residential densities to intensity and compatibility of adjacent uses.
  - 3.2.d. Balance residential densities with traffic-carrying capacities of existing and proposed circulation plans.
  - 7.1.a. Consider fire hazards in all land use and zoning decisions, environmental review, subdivision review and the provision of public services.
- C. The design and improvements of the proposed subdivision are consistent with County standards and policies provided all conditions of project approval are complied with.
- D. The project is physically suitable for the use and density of the proposed development.
- E. The design and improvements of the project will not cause public health or safety problems because the project site does not contain any physical characteristics that could cause health or safety concerns with the provided mitigations.
- F. 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 provided the attached conditions are met.
- G. The project site is not located within an earthquake fault zone or a 100-year flood zone.
- H. The project would not have an impact to any aircraft operations because the project site is not located within an Airport Compatibility Zone.
- I. Approval of this project will not be detrimental to the public health, safety, and welfare provided the required conditions and mitigation measures are complied with.

- J. The project is conditionally consistent with the Agricultural Residential General Plan land use designation.
- K. The roads in the project area have the capacity to handle the minor increase in vehicular traffic generated by the project.
- L. With this project, Starlight Drive would provide sole legal access for nine parcels, which is consistent with Butte County Code 20-133, which states that no cul-de-sac road shall provide sole legal access to more than 20 parcels.

## **EXHIBIT A**

**Tentative Parcel Map for Sefcik Family Trust B (Eva Incaudo, Trustee) on APN 056-280-065, File # TPM 05-04:** An application for a Tentative Parcel Map to divide a 16.25-acre parcel into three parcels for residential use on property zoned TM-5 (Timber Mountain, 5-acre minimum parcel size).

### **I. CONDITIONS OF APPROVAL:**

Planning Division

#### **1. Mitigation Measure # 1:**

The following measures shall apply to all development activities on the project site. Additionally, a note shall be placed 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. 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. 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).
- e. All visibly dry disturbed soil surface areas of operation shall be watered to minimize dust emissions.
- f. Existing roads and streets adjacent to the project shall be cleaned at least once per day if dirt or mud from the project site has been tracked onto these roadways, unless conditions warrant a greater frequency."

**Plan Requirements:** The note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. This note shall also 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 Planning Division and the Public Works Department shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. Department of Development Services shall ensure that this note is placed on all building and site development plans. Building inspectors 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:**

Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: “Prior to any development activity and prior to issuance of any development permit (including, but not limited to grading permit, well permit, septic system permit, and building permit), a black oak tree plan prepared by a certified arborist, botanist or landscape architect shall be provided to the Planning Division. The Plan shall be prepared in accordance with the following:

- The plan shall show the location of oaks deemed suitable for retention, and oaks to be removed, in those areas proposed for development, using the factors set out below.
- Factors used to assess suitability of black oaks shall include health, location (in relation to proposed improvements and adjacent residences), and size of the tree. Trees deemed to be unsafe or unhealthy shall be removed.
- The applicant shall minimize the removal of black oaks deemed suitable for retention.
- A minimum of 3 native oak trees of 5 gallons or larger size shall be planted for each black oak tree removed that is greater than or equal to 4-inches diameter at breast height (DBH). The trees shall be planted in areas deemed appropriate by the Plan, considering future lot development, interference with foundations, fencing, roadways, driveways, and utilities. Trees planted shall be protected from livestock and other animals.
- Each oak tree to be preserved shall be surrounded by a tree zone identified by the drip line of the tree. An orange plastic fence or other suitable type of fence shall be used to identify the tree zone during construction activities.
- No vegetation removal, soil disturbance, or other development activities shall occur within the tree zone in order to protect root systems and minimize compaction of the soil.
- If any private or public subdivision road easement interferes with the tree zone of any tree deemed suitable for retention, the tree zone can be reduced to accommodate the easement.”

**Plan Requirements:** No vegetation removal, grading, road or building construction, or other earthwork shall be permitted until the tree plan is submitted and approved.

**Timing:** The tree plan shall be submitted prior to any site development and prior to the issuance of any development permit.

**Monitoring:** The Department of Development Services and Public Works Department shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet on the Parcel Map. The Planning Division shall ensure compliance through routine inspection and review.

3. **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: “Fencing for areas on each parcel, other than fencing around the immediate area of the residence, shall be limited to a maximum of five (5) wire strands. The

lowest strand shall be at least sixteen (16) inches above the ground and the upper strand shall be no higher than forty-eight (48) inches above the ground.”

**Plan Requirements:** The above note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and on all building and site development plans.

**Timing:** The requirements of the condition shall be adhered to at all times.

**Monitoring:** The Department of Development Services and Public Works Department shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet on the Parcel Map. The Department of Development Services shall ensure that the note is placed on all building and site development plans. Building inspectors shall spot check and shall ensure compliance on-site.

4. **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: “At the time of building permit application, pay the applicable Deer Herd Impact fee(s) currently in effect.”

**Plan Requirements:** The required note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet.

**Timing:** The required fee shall be paid at time of building permit issuance, if adopted or in force at the time of application.

**Monitoring:** The Department of Public Works and the Department of Development Services shall ensure that the required note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. The Building Division shall collect the fees at the time of building permit issuance if the County adopts the fees.

5. **Mitigation Measure # 5:**

The following measure shall apply to all development activities on the project site. Additionally, a note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: “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. 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:** The note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and on all building and site development plans.

**Timing:** This measure shall be implemented during all site preparation and construction activities.

**Monitoring:** The Department of Public Works and the Department of Development Services shall ensure that the required note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. The Department of Development Services shall ensure that the note is placed on all building and site development plans. Should cultural resources be discovered, the developer/landowner shall immediately halt all work within 50 feet of the find and shall immediately notify the Department of Development Services. The Department of Development Services shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action.

6. 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 school facilities shall be paid prior to issuance of building permits. The fee amount would be determined and calculated as of the date of application for the building permits.”

### Public Works

7. Prior to or concurrently with the recordation of the Parcel Map, provide a fully executed road maintenance agreement for all non-publicly maintained access roads on the County approved form. A note shall be placed on the a separate document which is to be recorded concurrently with the map or on an additional map sheet of the Parcel Map stating: “In accordance with Civil Code Section 845, maintenance of the road as shown hereon shall be shared by those properties with a legal interest in it.”
8. All access rights shall be reserved by deed per County Ordinance, offered for dedication, and depicted on the Parcel Map. For each private access within the map boundary, place the following note on the Parcel Map: “Approved road name is a non-exclusive easement for ingress, egress, road and public services purposes, to be reserved in deeds and is hereby offered for dedication to the County of Butte.”
9. Prior to recordation of the Parcel Map, provided street name signs per requirements of the Department of Public Works. Street names shall be reviewed by the County Address Coordinator and one name for each new street shall be recommended to the Board of Supervisors for approval prior to recordation of the Parcel Map. A minimum of five alternate names for each street shall be submitted.
10. Prior to final road inspection, install all necessary traffic safety signs including stop signs. A note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet of the Parcel Map stating: “No public entity shall be responsible for the maintenance of the traffic safety signs including the stop signs. In accordance with Civil Code 845, maintenance of the traffic safety signs shall be shared by those properties with a legal interest in them.”
11. Prior to recordation of the Parcel Map, obtain an encroachment permit and construct a standard S-18B road approach in accordance with County Improvement Standards. Adequate sight distance at the intersection of Starlight Drive and Wagon Road shall be provided.

12. Provide a cul-de-sac designed and constructed as specified in the County Improvement Standards. The Parcel Map shall show the cul-de-sac.
13. Prior to recordation of the Parcel Map. Provide approved access to each parcel for a County maintained road or from a state highway. Improve parcel frontage to RS-8 LD-II and access road to parcel being divided to RS-8 LD-I.
14. Show on the additional map sheet of the Parcel Map a 20 ft. building setback from the right-of-way line of Starlight Drive based on Butte County Code Section 24-75(d).
15. 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 Parcel Map requires 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)."
16. Show all easements of record on the Parcel Map.
17. Prior to or concurrently with the recordation of the Parcel 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.
18. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.

Butte County Fire/California Department of Forestry

19. **Mitigation Measure # 6:**

Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: "The building setback from all property lines shall comply with the requirements of Public Resources Code 4290 and 4291 (Fire Safe Regulations)."

**Plan Requirements:** The above note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and on all building and site development plans.

**Timing:** At the time of building plan checking, building and site plans shall be checked for compliance with the condition.

**Monitoring:** The Butte County Fire Department/CDF and Public Works Department shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. The Department of Development Services and the Butte County Fire Department/CDF shall ensure that the note is placed on all building and site development plans. The Butte County Fire Department/CDF will review all of building and site plans for compliance with PRC 4290 and 4291. The Butte County Fire Department/CDF, Building Division, and the Planning Division shall check building and site plans for compliance prior to issuance of a building permit. Building inspectors shall ensure compliance by

conducting an on-site inspection prior to the Parcel inspection.

20. **Mitigation Measure # 7:**

Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: “Fire suppression sprinkler systems shall be installed in all new residential structures in accordance with the National Fire Protection Association Standard for the installation of sprinkler systems in one and two family dwellings and mobile homes, NFPA Standard 13D, unless a pressurized community water system, with hydrants that meet Fire Department specifications, serves the parcels.”

**Plan Requirements:** The note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and on all building and site development plans.

**Timing:** Interior fire sprinkler systems shall be installed in all new residential structures at the time of building construction.

**Monitoring:** The Butte County Fire Department/CDF and the Public Works Department shall ensure that the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet. Building Division plan checkers shall ensure that the building plans for residential structures include interior fire sprinkler systems. Building inspectors shall ensure all residential structures have a functioning interior fire sprinkler system prior to the final inspection, by conducting an on-site inspection.

21. Construction, installation or development of structures or facilities on the parcels/lots shall comply with the latest California Fire Safe Regulations, (Public Resources Code 4290), and all other applicable State and County codes, ordinances and regulations in effect at the time of application for permits.
22. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet stating that “Building identification and/or addresses shall be installed in conformance with Public Resources Code 4290 and shall be posted at the time of permit issuance and maintained continuously thereafter.”
23. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet stating: “Fire suppression sprinkler systems shall be installed in all new residential structures in accordance with the National Fire Protection Association Standard for the installation of sprinkler systems in one and two family dwellings and mobile homes, NFPA Standard 13D, unless a pressurized community water system, with hydrants that meet Fire Department specifications, serves the parcels.”

**Environmental Health Division**

24. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet stating that “Wells may have to be drilled in excess of 700 feet deep in order to provide adequate quantities of potable water.”
25. Identify on the additional map sheet a 100’ leachfield free setback from each existing well.

26. Identify on the additional map sheet a 100-foot leachfield free setback from the high water line of the creek/seasonal stream on parcels 1, 2 and 3.

Processing Fees

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

County Counsel

28. 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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**John Johansson, Tentative Parcel Map** to divide a 126-acre parcel into three 40+/- acre parcels on property zoned FR-40 (Foothill Recreational – 40 acre parcels). The property straddles both sides of Little Butte Creek, extending up both sides of the canyon walls, approximately 1.3 miles downstream of the Magalia Dam, Paradise. APN 050-020-001, 050-030-008, 009 (one legal parcel) (MM) (TPM 03-24)

Mr. Michelena gave a brief summary of the project. He said the applicant needs to sign the Initial Study agreeing to the 300-foot setback or the project will be recommended for denial.

Commissioner Nelson asked if staff believes there are special circumstances to change the setback.

Mr. Michelena said he could not answer that at this time. He said if the project is continued to circulate the Initial Study, he would need at least 2 months.

Ms. Christopher noted that a denial will not save any steps. If the project is denied and appealed to the Board of Supervisors and then approved, the Initial Study would still need to be circulated. She said making the findings for unusual circumstances is the problem.

Mr. Michelena said he talked to the applicant regarding combining Parcel 2 and 3 to give him buildable area.

The hearing was opened to the public.

Tom Wrinkle, Sierra West Surveying, said the not a part parcel is being built on now. He said the land is straight up and down and has never been grazed.

Commissioner Nelson said they need to circulate the Initial Study with the 300-foot setback or deny the project.

Mr. Wrinkle said that his client is not willing to give up 300 feet and would take this to the Board of Supervisors if it is denied.

Commissioner Nelson asked if the Commission can make unusual circumstances or does it have to go to the Board.

Mr. Wannemacher said the only instance so far has been when the Board of Supervisors found unusual circumstances. He said the guidelines are being worked on.

Mr. Wrinkle compared this project with the Niderost project that went to the Board of Supervisors. He said he wanted this project to go to the Board of Supervisors.

Mr. Johansson read a statement on the background of the property, the condition of the property and the surrounding property. He suggested an addendum to Mitigation Measure 1 as follows: "The 300-foot setback of farming/grazing activity could be considered in certain instances where already existing homes stand on land designated grazing and open land or neighboring such land. Such new reverse 300-foot setback within which no farming/grazing activity may occur, can provide a free zone for new home construction and at the same time protect the existing home or homes from the possible environmental risk or nuisance from farming and grazing."

Mr. Wannemacher said he would like to continue this hearing because there has been no discussion in the staff report related to unusual circumstances. He said the Niderost project was brought up today and he did not know if that would apply or not. He said the parcel has some unusual General Plan designations on it because proposed Parcel 1 is partially LDR, with home sites all around it. He said they are just hearing that there is a home being built in the not a part parcel. He said they need to evaluate the information received today and see if it has an impact on this application.

Mr. Michelena said if the parcel is consider legal to build on, if there is agricultural use around the property the Agricultural Commission will look at it and ask them to identify the best location to put a house to reduce the potential impact. He discussed the Niderost project.

Ms. Christopher said this item needs to be continued. She agreed with County Counsel in looking at this and from what is being said today, this is the first time that she knew there was a building permit in the not a part parcel. She said the Niderost exception might apply in this case and staff needs to look at that.

Mr. Wrinkle said they were agreeable to a continuance.

Commissioner Leland said he would like some thought from staff on whether the Planning Commission could establish a special circumstance in a case where it is clear there is no agricultural use.

Mr. Wannemacher believed the Commission would get an opportunity to look at the proposed Guidelines. He said the Commission can make recommendations to the Board. He said they can put an item on their agenda as directions to the Board, things that they have noticed in applications that have come before them. He said on this application, they need a discussion in the staff report on special circumstances before the Commission can make a decision.

Ms. Christopher said the special circumstances would need to be reviewed by IDR and she suggested continuing this to August 25, 2005. She said if the Commission agrees with the unusual circumstances then the Initial Study can be finished. She said they still need 35 days to circulate the Initial Study.

It was moved by Commissioner Nelson, seconded by Commission Lambert, and unanimously carried to continue this hearing open to August 25, 2005.

\* \* \* \* \*

**McGowan, et al**, (Item determined to be categorically exempt from CEQA), **Legal Lot Determination/Conditional Certificate of Compliance** on property zoned M-1 (Light Industrial). The property is located north of Speedway Avenue, approximately 2,300 feet east of Midway, on a portion of the old Union Pacific Railroad Co. right-of-way, south of Chico. APN 040-310-010 (MM) (DET 05-01)

Mr. Michelena gave a brief summary of the project.

Commissioner Leland questioned why they need to do a Legal Lot Determination if the parcel is going to be merged to a legal parcel.

Mr. Wannemacher said it was the applicant's choice to be a legal parcel before it was sold.

The hearing was opened to the public.

There was a man in the audience to answer questions.

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

It was moved by Commissioner Leland, seconded by Commissioner Nelson, and unanimously carried to approve the Legal Lot Determination/Conditional Certificate of Compliance for McGowan, et al subject to the findings and conditions listed below:

- I. Approve the Legal Lot Determination and Conditional Certificate of Compliance for McGowan, et al., on APN 040-310-010, File No. DET 05-01, subject to the following findings and Conditions of Approval in Exhibit A:
  - A. The project is exempt from environmental review under the General Rule exemption Section 15061(b)(3). This section states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Because the project is exempt from the provisions of CEQA, the payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required.

- B. The parcel size of 2.8<sup>(±)</sup> acres was in conformance with the Butte County General Plan land use designation and zoning at the time of creation.

## EXHIBIT A

### Legal Lot Determination/ Conditional Certificate of Compliance on APN 040-310-010, DET 05-01

#### I. CONDITIONS OF APPROVAL:

1. Pay the recording fee in effect at the time the Conditional Certificate of Compliance is recorded. The current fee is \$7.00 for the first sheet plus \$3.00 for each additional sheet. The estimated current cost for recording this Certificate is \$10.00 without conditions, \$13.00 with conditions. This cost estimate is based on 1 page notification (first sheet), 1 page of legal description attached as Exhibit "A", and 1 page of conditions attached as Exhibit "B".

#### Public Works

2. Merge the project parcel with a legal adjacent parcel.

#### County Counsel

3. 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 defend, indemnify and hold the County of Butte harmless 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 15-day appeal period on all decisions with the Clerk of the Board

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**Barbara Jean Knutson**, (Item determined to be a General Rule exemption from CEQA), **Minor Use Permit** to allow a large family day care facility for up to 12 children on property zoned A-R (Agricultural Residential). The property is located on the northeast corner of Feather Avenue and 18<sup>th</sup> Street, at 1788 Dakota Avenue, Oroville. APN 030-110-040 (CD) (MUP 05-03)

Mr. Durling gave a brief summary of the project.

Mr. Wannemacher commented that the site plan marked Attachment C has a date on it. He said there is a computer generated site plan with no date. He said they need to be sure which site plan they are approving.

Mr. Durling said the full map, Attachment C, is the correct one.

The hearing was opened to the public.

Barbara Knutson said she agreed with the conditions. She said she did not know why there are road improvement conditions.

Ms. Christopher said this is a discretionary permit where the County can ask for certain improvements.

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

It was moved by Commissioner Leland, seconded by Commission Nelson, and unanimously carried to the Minor Use Permit for Barbara Jean Knutson, listing Attachment C in Condition 8, and subject to the following findings and conditions:

- I. Find that this project is exempt from the provisions of the California Environmental Quality Act under Section 15274(a), which states that the California Environmental Quality Act does not apply to establishment or operation of a large family day care home, which provides in-home care for up to fourteen children, as defined in Section 1596.78 of the Health and Safety Code. The payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 are not required.
- II. Approve Minor Use Permit MUP 05-03 for Barbara Jean Knutson for a large family day care facility for up to 12 (14) children, on APN 030-110-040, based on the following findings and the conditions found in Exhibit "A":
  - A. The location, size, design, and operating characteristics of the proposed use will be compatible with, and will not adversely affect, or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:
    1. Harmony in scale, bulk, coverage, and density:

*The project is in harmony with scale, bulk, coverage, and density because the large family day care facility will not create a need for any new structures or an alteration to any existing structures.*
    2. The availability of public facilities, services, and utilities:

*The large day care facility will not create a need for new public facilities, services, and utilities because telephone and electrical services already extend to the project parcel. The Butte County Fire Department requires compliance with State Fire Marshall requirements for large day care facilities.*
    3. The harmful effect, if any, upon desirable neighborhood character:

*The proposed large day care facility will not change the traditional architectural style that is of a character consistent with a rural residential neighborhood. The A-R zone permits large family day care facilities. The large family day care facility has the potential for a small increase in noise levels due to children playing outside and a small increase in vehicle traffic and vehicle noise.*
    4. The generation of traffic and the capacity and physical character of surrounding streets:

*The proposed large family day care facility will not significantly increase vehicle traffic in the area, nor will it create any significant vehicle circulation impacts.*

5. The suitability of the site for the type and intensity of use or development which is proposed:

*The site has adequate area for off-site parking spaces for the residents of the dwelling and for employees of the large family day care facility. There is also adequate area for an on-street loading area.*

6. Any other relevant impact of the proposed use:

*The Planning Division has circulated the proposed large family day care facility application to County agencies and has received no evidence that the use will cause any other relevant impact.*

- B. The proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity in that the size of the parcel provides sufficient space for the children, and the play area is located adjacent to the rear yards of adjoining parcels.
- C. The proposed use will comply with each of the applicable provisions of the Chapter 24, Section 265, of the Butte County Code that addresses Day Care Facilities.
- D. There are no other Family Day Care centers located within 500 feet driving distance from another large family day care facility as required by Butte County Code Section 24-265(e)(2).

### **Conditions of Approval:**

#### Planning Division

1. The facility is a single family residence that shall be the principal residence of the provider and the large family day care facility shall be clearly incidental and secondary to the use of the property for residential purposes.
2. The large family day care facility shall use existing kitchen facilities and all food preparation/cooking shall occur in the primary dwelling unit.
3. Minimum off-street parking shall be provided pursuant to the following standards:
  - (a) Two (2) off-street parking spaces for the residents of the dwelling.
  - (b) One (1) off-street parking space for each employee/volunteer. The two (2) required

residential spaces may not be used for employees/volunteers.

- (c) Two (2) off-street parking space/loading area.
- 4. One sign, not to exceed 3 square feet, is allowed. This sign shall not be placed in the front yard building setback.
- 5. The large family day care home shall be licensed by the California Department of Social Services, Community Care Licensing.
- 6. Prior to issuance of the Minor Use Permit, applicant shall obtain any necessary building permits required by code.
- 7. The capacity of the large family day care facility may be increased administratively to 14 children when the Butte County Code is amended to conform to the State statute.
- 8. The project site shall be developed in accordance with the approved project site plan and the conditions contained herein. Said site plan is on file in the Planning Division, is identified as "Attachment B" and date-stamped December 29, 2004, and is incorporated herein by this reference.
- 9. Applicant must also comply with all other applicable State and local statutes, ordinances, and regulations.
- 10. All outstanding application processing fees shall be paid prior to issuance of the Minor Use Permit.
- 11. The dwelling's garage shall not be used for day care activities of any kind.
- 12. Provide disabled accessibility, upon request, per the California Building Code.

#### Public Works

- 13. Prior to the issuance of the Minor Use Permit, obtain an encroachment permit for all new or existing driveway approaches and construct them to County standards, as specified in County Improvement Standards.
- 14. Prior to the issuance of Minor Use Permit, deed to Butte County, in fee simple, 30 feet of right-of-way from the centerline of Feather Ave. and 40 feet right-of-way from the centerline of 18<sup>th</sup> St. The right of way shall be sufficient for the installation of standard No. S-5 at all street intersections.
- 15. Prior to the issuance of Minor Use Permit, relinquish abutter's rights to Butte County, along the 18<sup>th</sup> Street frontage of subject parcel.
- 16. Provide safe area to drop off and pick up on Feather Avenue.

Fire Department/CDF

17. Prior to the start of the large family day care facility use provide plans and specifications to the Butte County Fire Chief to determine compliance with fire and life safety standards of Titles 19 and 24, California Code of Regulations.

County Counsel

18. 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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**Wayne Roberts**, proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Parcel Map** to divide a 3.85-acre parcel into two parcel containing 1.0 and 2.84 acres on property zoned SR-1 (Suburban Residential – 1 acre parcels). The property is located on the southeast corner of Keefer Road and Felicidad Lane, north of Chico. APN 047-320-062 (CD) (TPM 05-02)

Mr. Durling gave a brief summary of the project.

Commissioner Lambert said the staff report indicates two parcels; 1.0 and 2.84.

Commissioner Nelson said the second parcel includes the four bedroom residence.

Commissioner Lambert wondered if that was why the numbers were off.

Mr. Durling said he took the acreage from the application. He said one of the provisions is that there be no access off of Keefer. He said it was technically not a flag lot. He said that it was his understanding that this was a total of 3.85 acres. He said no second dwellings are allowed in the North Chico Specific Plan area.

Ms. Christopher asked if Mr. Durling said there will be no access allowed along Keefer and that is why they created the access easement across Parcel 2. She asked if staff had a relinquishment of abutter's rights along Keefer or are they going to put in a one-foot no access strip.

Mr. Durling said he believed that Public Works is requiring a no-access strip.

Commissioner Leland asked how does Parcel 1 get over to the access easement of Felicidad Lane. He asked if Parcel 1 should have an easement all the way over to Felicidad Lane.

Ms. Christopher said she believed that it did.

It was moved by Commissioner Nelson, seconded by Commissioner Lambert, and unanimously carried to approve the Tentative Parcel Map for Wayne Roberts, subject to the finding listed below:

- 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 Parcel Map for Wayne Roberts, Planning Division File No. TPM 05-02, would have a significant effect on the environment. The custodian of the record is the Land Development Division of Public Works 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.
- II. The design of the proposed project will not cause environmental damage to fish and wildlife or their habitat, and a "de minimis" exemption regarding impact to fish and wildlife or their habitat is recommended. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5, is not required at this time. 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; conflict with any local policies or ordinances protecting biological resources; or, conflict with the provisions of an adopted Habitat Conservation Plan.
- III. Approve Tentative Parcel Map 05-02 for Wayne Roberts, subject to the conditions found in Exhibit "A" and the following findings:
  - A. The project is consistent with the five development criteria for parcels located in the Agricultural Residential General Plan land use designation as supported by the following:
    1. Compatible with neighboring agricultural activities.

*The project site is not located in an area currently devoted to or planned for commercial agricultural uses. The project site is not within 300 feet of a General Plan land use designation of Orchard and Field Crops or Grazing and Open Lands. The Butte County Agricultural Commissioner stated that the project would not impact any agricultural operations. The project will not create any impacts to agricultural activities.*

2 Evidence of adequate water and sewage disposal capacity.

*The soils on the project site are generally suitable for on-site sewage disposal systems. The Butte County Environmental Health Division granted a waiver to prove that usable sewage disposal areas as required by Appendix VII of the Butte County Subdivision Ordinance exist on the proposed parcels based upon their knowledge of the project site and the soils found on the site. Domestic water is proposed to be obtained from individual wells. There may be a minor reduction in ground water supplies in the project area due to new wells on the site, but the reduction is not expected to be significant.*

3. Availability of adequate fire protection facilities.

*The nearest staffed fire station is Station # 41 located on SR-99 approximately 0.81 miles south of Keefer Road.*

i. Adequately maintained approved road access with sufficient capacity to service area.

*Keefer Road provides the main access into and out of the North Chico Plan area. No access will be permitted onto the properties via Keefer Road in order to maintain this road as a major collector. Access to the parcels will be provided via Felicidad Lane, a private road.*

ii. Reasonable accessibility to commercial services and schools.

*The nearest commercial services are located in the City of Chico approximately 3.5 miles to the south. Elementary, Intermediate, and high school services are also located in Chico.*

B. The proposed tentative parcel 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 one (1) dwelling units per gross acre.

C. The proposed tentative parcel 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.

- D. With the addition of Department of Public Work's Conditions #3 – 22 regarding access, drainage and improvement standards, and Environmental Health Division Conditions #23 – 26 regarding septic systems, water supplies, and wells, the project is physically suitable for the use and density of the proposed development.
- E. With the additions of California Department of Forestry/Butte County Fire Department Conditions #25 through #28 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.
- F. 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.
- G. 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.

## **EXHIBIT A**

### Tentative Parcel Map for Wayne Roberts, TPM 05-02

#### **I. CONDITIONS OF APPROVAL:**

##### Planning Division

##### 1. Mitigation Measure #1:

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. 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. At a minimum, this would include wetting down areas in the later morning and after work is completed for the day, and whenever wind exceeds 15 miles per hour.
- b. Haul vehicles transporting soil into or out of the property shall be covered.
- c. 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).
- d. All visibly dry disturbed soil surface areas of operation shall be watered to minimize dust emissions.

- e. Existing roads and street adjacent to the project shall be cleaned at least once per day unless conditions warrant a greater frequency.
- f. 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 an additional map sheet, and 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 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 an additional map sheet and on all building and site development plans. Building inspectors shall spot check and shall ensure compliance on-site. Butte County Air Pollution Control District inspectors shall respond to nuisance complaints.

2. Mitigation Measure #2

Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet 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."

**Plan Requirements:** The note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building and site development plans.

**Timing:** Shall be implemented during site preparation and construction.

**Monitoring:** Department of Development Services, and Public Works Department, shall insure that the note is placed on a separate document to be recorded concurrently with the map or on an additional map sheet and on all building and site development plans. 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.

Public Works

- 3 Prior to or concurrently with the recordation of the Parcel Map, provide a fully executed road maintenance agreement for all non-publicly maintained access roads on the County approved form. A note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet of the Parcel Map stating: "In accordance with

Civil Code Section 845, maintenance of the road as shown hereon shall be shared by those properties with a legal interest in it."

4. All access rights shall be reserved by deed per County Ordinance, offered for dedication, and depicted on the Parcel Map. For each private access within the map boundary, place the following note on the Parcel Map: "approved road name is a non-exclusive easement for ingress, egress, road and public services purposes, to be reserved in deeds and is hereby offered for dedication to the County of Butte."
5. Prior to or concurrently with the recordation of the Parcel Map, Deed to Butte County in fee simple 40 feet of right-of-way from the centerline of Keefer Road along the entire property frontage. The right-of-way shall be sufficient for the installation of Improvement Standard No. S-5 at all street intersections.
6. Prior to or concurrently with the recordation of the Parcel Map, relinquish abutter's rights of access to Butte County, along the Keefer Road frontage of Parcels 1 and 2, except at approved access points.
7. Prior to recordation of the Parcel Map, provide street name signs per requirements of the Department of Public Works. Street names shall be reviewed by the County Address Coordinator and one name for each new street shall be recommended to the Board of Supervisors for approval prior to recordation of the Parcel Map. A minimum of five alternate names for each new street shall be submitted.
8. Prior to final road inspection, install all necessary traffic safety signs including stop signs. A note shall be placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet of the Parcel Map stating: "No public entity shall be responsible for the maintenance of the traffic safety signs including stop signs. In accordance with Civil Code Section 845, maintenance of the traffic safety signs shall be shared by those properties with a legal interest in them."
9. Prior to recordation of the Parcel Map, 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 the recordation of the Parcel Map, obtain an encroachment permit and construct a standard S-18A road approach in accordance with County Improvement Standards. Adequate sight distance at the intersection of access road and Keefer Road shall be provided.
11. Provide a cul-de-sac designed and constructed as specified in the County Improvement Standards. The Parcel Map shall show the cul-de-sac.
12. Prior to recordation of the Parcel Map, provide approved access to each parcel from a County maintained road or from a state highway. Improve Keefer Road frontage to NCSP-3 and access road to parcel being divided to NCSP-8. Submit road and drainage plans to the Department of Public Works for plan checking and approval prior to construction.

13. Show on the additional map sheet of the Parcel Map a 25 ft. building setback from the ultimate right-of-way of Keefer Road based on Butte County Code Section 24-75 (d).

14. Mitigation Measure # 4:

Prior to approval of improvement plans, 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.

**Plan Requirements:** Submit drainage plans and calculations to the Department of Public Works for review and approval.

**Timing:** The drainage plan shall be submitted and approved prior to approval of the improvement plans, and the required drainage improvements constructed or bonded for construction prior to recordation of the Parcel Map.

**Monitoring:** The Department of Public Works shall ensure that the required plan is submitted and ensure that the drainage improvements are constructed or bonded for construction prior to recordation of the Parcel Map.

15 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 if such a permit is required. If permit required then place a note on an additional map sheet that states: "The development of this Parcel/Final Map requires 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)."

16. Show all easements of record on the Parcel Map.

17. Prior to or concurrently with the recordation of the Parcel 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.

18. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.

Butte County Fire/California Department of Forestry

19. **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: "Construction, installation or development of structures or facilities on the parcels/lots shall comply with the latest California Fire Safe Regulations,

(Public Resources Code 4290/4291), and all other applicable State and County codes, ordinances and regulations in effect at the time of application for permits.”

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

**Timing:** Requirements of the mitigation shall be adhered to when applying for building permits.

**Monitoring:** The Butte County Fire Department and the Department of Development Services shall ensure that submitted building plans are consistent with appropriate codes.

20. 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.
21. Pay Fire Department fees in the amount current at the time of Building Permit issuance.
22. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet stating that: “Fire suppression sprinkler systems shall be installed in all new residential structures in accordance with the National Fire Protection Association Standard for the installation of sprinkler systems in one and two family dwellings and mobile homes, NFPA Standard 13D, unless a pressurized community water system, with hydrants that meet Fire Department specifications, serves the parcels.”

#### Environmental Health Division

23. Identify on the additional map sheet a 100’ leach field free setback from each existing well.
24. Identify on the additional map sheet an area for wells and a 100’ leach field free setback around that area on Parcels 1 and 2.
25. Identify on the additional map sheet usable sewage disposal areas proven to meet the requirements of County Improvement Standards, Appendix VII. Combine with adjacent parcel(s) lot(s) any parcel not proven to contain usable sewage disposal area.
26. Identify on the additional map sheet that no water well may be located within 100’ of the usable sewage disposal area on parcels 1 and 2.

#### Regional Water Quality Control Board

27. A Construction Activities Storm Water Permit is required for storm water discharges associated with a construction activity where clearing, grading, and excavation result in a land disturbance of one acre or more. Storm water discharges from construction activity that results in a land disturbance of less than one acre, but which is part of a larger common plan of development of one acre or more, also requires a construction storm water permit. A filing fee for a construction storm water permit is \$700.00, and applications may be obtained

from the Regional Water Quality Control Board.

Processing Fees

- 28. Prior to recordation of the Parcel Map, pay any outstanding project-related processing fees, and/or Department of Fish and Game fees.

County Counsel

- 29. 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

\* \* \* \* \*

This item was taken out of order.

**Joseph LaMar**, (Item determined to be a General Rule exemption from CEQA), **Legal Lot Determination/Conditional Certificate of Compliance** on property zoned AR-2.5 (Agricultural Residential – 2.5 acre parcels). The property is located at 5834 Ponderosa Way, off of Nimshew Road, northwest of Magalia. APN 66-360-046 (CD) (DET 05-03)

Mr. Durling gave a brief summary of the project.

The hearing was opened to the public.

No one was present to speak on this item.

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

Commissioner Lambert said she had a problem following the ownership of the property and asked who the applicant was.

Mr. Durling said the applicant/owner should be Kenneth and Nina Clow. He said Mr. Clow is Mr. LaMar's son-in-law.

Ms. Christopher said the file needs to be brought forward under the owner's name. She instructed staff to change the name on the file.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to approve the Legal Lot Determination/Conditional Certificate of Compliance for Joseph LaMar, changing the Name to Clow, subject to the findings and conditions listed below:

I. Approve the Legal Lot Determination and Conditional Certificate of Compliance for Joseph LaMar on APN 066-360-046, File No. DET 05-03, subject to the following findings:

- A. This project is exempt from environmental review under the General Rule exemption Section 15061(b)(3). This section states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Because the project is exempt from the provisions of CEQA, the payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required.
- C. PROPOSED Parcel was consistent with the A-2 zone (Agricultural 2-acre minimum) designation at the time the parcel was created because the parcel size of 3.0 acres exceeded the required acreage size.
- D. PROPOSED Parcel is consistent with the AR-2.5 (Agricultural Residential 2.5 acre minimum) designation of the current zoning ordinance because it exceeds the minimum parcel size of 2.5 acres.
- E. PROPOSED Parcel was consistent with the 1971 General Plan designation of Low Density Residential because the size of the parcel was within the 1-acre to 4-acre range of the General Plan.
- F. PROPOSED Parcel complies with the current General Plan designation of AR (Agricultural Residential) minimum lot size range of 1-acre to 40-acres. However, the AR-2.5 acre zone is a conditionally consistent zone. The Planning Commission finds that the 3-acre parcel is conditionally consistent with the AR designation of the General Plan based on meeting the following standards:

- 1. Compatible with neighboring agricultural activities.

*The Agricultural Commissioner determined that there are no adjacent agricultural operations and there are no adverse agricultural issues.*

- 2. Evidence of adequate water and sewage disposal capacity.

*The Butte County Environmental Health Division determined that the soils on the project site are generally suitable for on-site sewage disposal systems.*

- 3. Availability of adequate fire protection facilities.

*The Butte County Fire Department (CDF) determined that the project conforms to Department requirements, and has included conditions for fire safety.*

4. Adequately maintained approved road access with sufficient capacity to service area.

*Two existing roads – Nimsheew Road, a public road, and Ponderosa Way, a private road to the subject property, will provide access for the proposed parcels in conformance with the standards of Butte County.*

5. Reasonable accessibility to commercial services and schools.

*The project parcels are within 3 miles of commercial shopping and schools in Magalia and Paradise.*

### **EXHIBIT A**

#### Legal Lot Determination/Conditional Certificate of Compliance on APN 066-360-046, DET 05-03

#### I. APPROVAL:

2. Pay the recording fee in effect at the time the Certificate of Compliance is recorded. The current fee is \$7.00 for the first sheet plus \$3.00 for each additional sheet. The estimated current cost for recording this Certificate is \$13.00 with conditions. This cost estimate is based on 1 page notification (first sheet), 1 page of legal description attached as Exhibit “A”, and 1 page of conditions attached as Exhibit “B”.
2. All new structures must meet Fire Safe Regulations of the Butte County Code and Public Resources Code 4290 and 4291.
3. Provide two-way traversable access to the parcel from a publicly maintained road or state highway as defined in the County Code.

#### County Counsel

4. 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 defend, indemnify and hold the County of Butte harmless 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 15-day appeal period on all decisions with the Clerk of the Board

\* \* \* \* \*

BREAK – 12:40 p.m. to 1:00 p.m.

\* \* \* \* \*

**Kelly Brown, Tentative Parcel Map** to subdivide a 12.69-acre parcel into two 6.35-acre parcels on property zoned A-5 (Agricultural – 5 acre parcels). The property is located on the west side of Jones Avenue, extending northerly 2,040 feet from the intersection of Bell Road, Chico. APN 042-770-032 (CD) (TPM 05-03)

Mr. Durling gave a brief summary of the project.

Commissioner Nelson asked if the area to the west was being farmed.

Mr. Durling said they were a large lot subdivision. He said the policies of the Greenline are the problem.

Commissioner Leland said if this parcel was not on the agricultural side of the Greenline, it would still be denied because of the 300-foot agricultural setback. He said the Greenline was just a boundary between zones.

Ms. Christopher said that the Greenline has its own set of policy statements that go with it in the General Plan.

Commissioner Lambert asked if there was a policy to not make a parcel smaller on the agricultural side of the Greenline.

Mr. Durling referred to Page 2 of the Agenda Report under analysis. He said it spells out the provisions of the Greenline. He said the Greenline ordinance states that the existing A-5 zoned properties through A-10 zoned properties on the effective date of this policy are deemed consistent with this policy. He said it does not allow for divisions of the existing parcels.

Ms. Christopher said this was critical for the owners because of nonconforming parcels.

The hearing was opened to the public.

Doug Sutherland passed out an excerpt from the Land Use Element and Agricultural Element of the General Plan. He highlighted Programs 2.2, 2.3, 2.7, and 2.9 in the Agricultural Element. He also highlighted Zoning Regulations 2.2 in the Land Use Element noting that the guidelines have not been done. He said the current zoning for the property is A-5 and there is an Orchard and Field Crops General Plan designation, but the Greenline states that all areas which are zoned A-5 and A-10 on the effective date of this policy are deemed consistent with this policy. He said it does not speak to individual parcel sizes. He said that the zoning by decree of the Board of Supervisors is consistent and by so doing the Board of Supervisors assumes that the owner will split these properties to the level that the zoning allows. He said regarding the Agricultural Element, Program 2.2 states that the Zoning Ordinance require a buffer on the property proposed for residential development to protect existing agricultural uses. He said the desired standard will be 300 feet, but may be adjusted to address unusual circumstances. He said it states in Program 2.3 that a buffer could be a topographic feature, a substantial stand of trees, a water course, or similarly defined

feature. He felt this spoke to what could be done here. He said under 2.7 of the Agricultural Element, it gives them a way to convert agricultural land to urban uses. He said he has already established that this zone is consistent by decree of the Board of Supervisors and a General Plan Amendment and Rezoning are not necessary. Discussion on the use of the surrounding properties.

Commissioner Lambert asked under the establishment of the Chico area Greenline, the last item that stated “The agricultural residential land uses may occur on the agricultural side of the Chico area Greenline only within those areas designated for Agricultural Residential use on the Official Chico Area Greenline Map.” She asked Mr. Sutherland to address the above statement.

Mr. Sutherland said he couldn’t because the Greenline map is in several places and it is somewhat sketchy as to where that exactly is.

Commissioner Lambert said that this property is designated Orchard and Field Crops in the General Plan and the way she reads the above statement, it can only happen in the Agricultural Residential designated areas.

Mr. Sutherland said they could put a residence on this parcel now as it stands.

Commissioner Nelson said the property is completely surrounded by residential. He said if this was in the City of Chico’s sphere, it would fit infill criteria.

Mr. Sutherland asked that the Initial Study be done. He stated again that the zoning as been deemed consistent with the General Plan.

Ms. Christopher pointed out that the Orchard and Field Crop provisions still apply.

Commissioner Nelson said he is a defender of the Greenline, but this is one place the policy needs to be changed. He said this parcel was good infill property.

Commissioner Leland said if the strip that was being protected was part of the application, this would probably be approved.

Mr. Sutherland said the applicant does not own the strip.

Bob Kromer, owner of the property, discussed development in the area. He said he wants to split his parcel to have two parcels approximately 5 acres each. He said he can not farm this parcel. He said he talked to Mr. Hill in the Agricultural Commissioner’s Office and he said this was a seriously impacted agricultural parcel.

Commissioner Lambert asked on the second parcel to the south if Mr. Kromer would have to meet the 300-foot buffer.

Mr. Kromer said the parcel next to residential would not be a viable agricultural parcel. He discussed the map away from the mike. He said the goal is to spit this parcel. He said the 300-foot buffer is appropriate on the north side.

Kelly Brown said he has sold parcels in the area for years. He said other parcels in the area have been split after the Greenline was adopted. He said the Greenline should not be an issue. He said the strip in question is too narrow to farm.

Peter Peterson, 2233 Bell Road, said he owns the original Bell Headquarters. He gave a brief history of the property. He said he has been a strong proponent of the Greenline. He said people in the area are successfully farming orchards. He asked the Commission to uphold the Greenline and preserve the agricultural land. He supported staff's recommendation for denial. He said he is farming his land today, that he has had livestock in the past, but is planning on planting trees.

Commissioner Lambert asked if he was engaged in any other agricultural ventures.

Mr. Peterson said he farms over 10,000 acres of almonds and has a nut processing plant.

Chairman Marin commented that the character of the land has changed.

Susan Morlock, 795 Churchill Drive, Chico, said she was opposed to the lot split. She said she bought her property because it straddles the Greenline. She said everyone on Churchill Drive wants to preserve the Greenline. She said she has 12 walnut trees and has raised goats in the past. She wanted the agricultural uses to continue.

Bob Kromer said if the parcel split request is approved, the back parcel will have access off of Jones Avenue. He said he just wants two 6-acre parcels.

Chairman Marin asked Mr. Peterson if he bought the 12 acre parcel and divided it into a 5 acre and another parcel, but you don't want the neighbor to split his property.

Mr. Peterson said his property was split when he bought it.

Mr. Southerland said Jones Avenue was created on the Bay Tract Subdivision and goes all the way through to the north another mile or so. He said the two parcels in question to the west were created in Book 123 of Maps, in the early 90s.

Mr. Brown said he lives on the far west end of what was the Bell Ranch. He said he handled most of the sales for the Bell sisters.

Ms. Christopher said earlier today during the Sefcik map project that there was a question about the improvement of the road and the length of the road and Public Works stated that they would have to improve the entire length of the road, even though not needed. She said they have not done an Initial Study on this project because they do not do CEQA review on projects brought forward for denial. She felt that the Jones road would have to be improved for the length of the property.

Commissioner Leland believed that was true if it was an existing road it would have to be improved.

Mr. Kromer said in his discussion with Public Works because the property has access on Jones Avenue their comment was that he would have to make sure that the road was adequate in its existing size and he did not bring up that it would have to be extended beyond as far as the road goes today.

Commissioner Lambert noted the letter received from Minasian's office.

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

Commissioner Nelson asked if the Commission was leaning towards an approval, how far can they go today.

Ms. Christopher said they could do a Motion of Intent in order for staff to finish the environmental documents.

Commissioner Leland said he sees this as a 300-foot setback issue rather than a Greenline issue. He said the Peterson property is agricultural property and should be protected.

Commissioner Nelson felt this property was an island and should not be stopped from splitting. He did not think a 5 acre parcel would hurt the buffer. He felt these should be dealt with on a case by case basis. He said they should do what is logically right.

Commissioner Leland asked what they do with the 300-foot buffer to protect the Peterson's property. He said to be consistent they would have to say the property is not agricultural. He said he would have a problem with that because it is agricultural and is being farmed.

Commissioner Nelson said the Agricultural Commissioner is trying to figure out how to deal with the setback problems.

Mr. Wannemacher said the form that was brought up is the form that is normally used for a ministerial permit.

Commissioner Nelson asked Mr. Peterson if he had some new information.

Mr. Peterson discussed his property on the map away from the mike.

Mr. Wannemacher said the least impact on agriculture is to move it to the east and not to leave it only 75 feet from the west. He was not sure why the Agricultural Commissioner would have said for a ministerial building permit only 75-foot buffer from the west is required.

Commissioner Nelson asked Mr. Kromer a question.

Mr. Kromer showed the ministerial approval form that the Agricultural Commissioner wrote "parcel size will not support a standard buffer, place residence structure 75 feet from west boundary, no buffer to east or south boundary."

Mr. Wannemacher asked if the Commission had all the information on the policies that are being addressed or do they need more information on Greenline policies or have the Agricultural Commissioner address the 300-foot buffer policy in the case of a parcel split.

Commissioner Lambert said she thought they needed all of that.

Commissioner Nelson said he would like to have the Agricultural Commissioner present.

Mr. Wannemacher said a tie vote was a no action. He said they need to have a majority of the quorum to take an action.

Commissioner Leland said they can only do what the Board of Supervisors authorizes the Commission to do, including applying this 300-foot setback. He felt the Commission had to apply the 300-foot setback requirement and deny this application.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to deny the Tentative Parcel Map for Bob Kromer subject to the findings set out in the Agenda Report as follows:

- I. Find that the denial of this project is not subject to CEQA pursuant to Public Resources Code 21080 b. (5) and under Sections 15270(a) and (b) of Title 14, California Code of Regulations, Chapter 3 (Guidelines for Implementation of the California Environmental Quality Act), and that no Fish and Game fee is required.
- II. Deny the Tentative Parcel Map for Kelly Brown (File TPM 05-03), subject to the following findings:
  - A. The proposed Tentative Parcel Map is inconsistent with the provisions of the Butte County General Plan Land Use and Agricultural Elements designed to protect Butte County Agricultural uses in that.
    - The zoning for this property is A-5. When the Board of Supervisors adopted the Greenline requirements as part of the Land Use Element of the General Plan (see pages LUE-82 and 83), they determined that “*All areas which are zoned A-5, A-10 on the effective date of this policy are deemed consistent with this policy.*” The subject parcel was zoned A-5 on October 7, 1975, several years prior to the adoption of the Greenline policy. Although it did not have to be rezoned when the Greenline policy was adopted, there is nothing in the Greenline policy to indicate that a property can be subdivided to the parcel minimums in order to advance residential development. Instead, the Greenline policy seeks to preserve the agricultural nature of properties on the agricultural side of the Greenline.
    - The proposed Tentative Parcel Map is inconsistent with the Orchard and Field Crops section of the Land Use Element of the General Plan (page LUE-48) because:

- It would increase the potential for pest insect breeding by introducing the potential for non-regulated private residential agricultural uses.
- It would reduce the economic viability of the property for agricultural purposes by imposing restrictions on pesticide use, and increase complaints of noise and dust created by normal agricultural activities.
- The proposed Tentative Parcel Map is inconsistent with the Agricultural Element of the General Plan because it would:
  - Require an “adjustment” (Program 2.2, page AE-11) to the 300-foot setback requirements. Guidelines illustrating buffer requirements for various situations have not yet been adopted.
  - Conflict with the criteria for conversion of agricultural lands as provided in Program 2.7, page AE 12, of the Agricultural Element. For example:
    - Further extension of urbanization into an agricultural area requires a General Plan and Zoning change. *No application has been submitted.*
    - The conversion would be detrimental to existing agricultural operations. *The proposed parcel map would impact agricultural operations on adjacent properties to the north and west.*

Commissioner Nelson said if this project is appealed he wanted the Agricultural Commissioner’s information before the Board of Supervisors and the problems on the west side.

Mr. Wannemacher said if the matter goes to the Board of Supervisors they need to spend more time addressing the Greenline policy.

Commissioner Nelson he was not sure this was a reasonable policy with a landlocked piece of property.

Mr. Wannemacher said if it is the Board’s intent to approve this an Initial Study will need to be done.

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 introduced Joe Hunter who has been appointed as the Special Assistant to the CAO, Paul McIntosh will be the Interim Director of Development Services. She announced that Peter Calarco will be the Assistant Director of Development Services starting August 15, 2005. She said they hope to have a new Director hired by September.

B. General Plan/Zoning Ordinance Update

Ms. Christopher said that the General Plan update is on tract. She said the General Plan will be published for the August 11, 2005 Planning Commission meeting. She said there was not a lot of participation at the community meetings, but felt that a lot of people are reserving their comments for the Planning Commission meeting. There was a discussion on whether to have this as the only item for that meeting.

Commissioner Leland said they could schedule the General Plan update for 10:30 a.m. or not schedule anything else for that day.

Ms. Christopher noted that the General Plan update will be going to ALUC on August 17, 2005 and then back to the Planning Commission on September 8, 2005.

Commissioner Leland said he will not be here on September 8, 2005.

C. Legislative Case Law update

D. Planning Commission Concerns

1. Resolution of appreciation for Yvonne Christopher

The resolution was read and added to the minutes as follows:

*RESOLUTION 06-01*

*A RESOLUTION OF THE PLANNING COMMISSION  
COUNTY OF BUTTE, STATE OF CALIFORNIA*

*COMMENDING YVONNE CHRISTOPHER*

*WHEREAS, Yvonne Christopher, as Director of Development Services, has assisted the Butte County Planning Commission with distinction since her hire date of July 22, 2002; and*

*WHEREAS, Yvonne Christopher has provided clear and concise direction and support in terms of property rights, preservation of resources, and development for the benefit of the County of Butte in the execution of her duties; and*

*WHEREAS, Yvonne Christopher has performed her duties with calm reasoning, with compassion, and often with humor; and*

*WHEREAS, Yvonne Christopher has assisted the Butte County Planning Commission in performing its duties; and*

*WHEREAS, Yvonne Christopher is a person of experience, intelligence, and integrity, and that her contributions as Director of the Department of Development Services, included: a new Housing Element, the first major step towards a new General Plan, major improvements in customer service, and a high degree of professionalism in managing the complexities of a growing county, all of which was of great value to the Planning Commission and to the County of Butte.*

*NOW, THEREFORE, BE IT RESOLVED THAT, the Butte County Planning Commission recognizes and expresses its appreciation for the services of Yvonne Christopher to the County of Butte, extends sincere appreciation and commendation to Yvonne Christopher for her distinguished service to the Butte County Planning Commission.*

*FURTHER, that this Resolution be included in the minutes of the Butte County Planning Commission, and that a copy of said Resolution be delivered to Yvonne Christopher as a testimonial of the sentiments of the Butte County Planning Commission.*

*This resolution unanimously adopted on this 14th day of July, 2005.*

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NINA LAMBERT

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RICHARD LELAND

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HARREL WILSON

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CHUCK NELSON

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FERNANDO MARIN

Ms. Christopher thank the Commission for their kind words and said it has been a pleasure working with them.

**VII. MINUTES – May 26, 2005, and June 9, 2005**

May 26, 2005:

It was moved by Commissioner Nelson, seconded by Commissioner Leland, and carried to approve the minutes as presented by the following vote:

AYES: Commissioners Leland and Nelson, and Chairman Marin

NOES: No one

ABSENT: Commissioner Wilson

ABSTAINED: Commissioner Lambert

June 9, 2005:

It was moved by commissioner Leland, seconded by Commissioner Lambert, and carried to approve the minutes as presented by the following vote:

AYES: Commissioners Leland and Lambert, and Chairman Marin

NOES: No one

ABSENT: Commissioner Wilson

ABSTAINED: Commissioner Nelson

**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 2:58 p.m.*

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**Chairman Marin**

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