

BUTTE COUNTY PLANNING COMMISSION MINUTES
JANUARY 27, 2005

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:10 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Lambert, Wilson, Leland, Nelson, and Chairman Marin
- ALSO PRESENT:** Yvonne Christopher, Director Development Services
Stu Edell, Land Development
Mark Michelena, Associate Planner
Felix Wannemacher, Deputy County Counsel
Doug Fogel, Environmental Health
- III. ACCEPTANCE OF AGENDA:** Commission members and staff may request additions, deletions, or changes in the Agenda order.

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

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Commissioner Wilson introduced himself stating he represents 1st District, has been a resident in Oroville since 1995, and is a general contractor by trade.

- IV. CONSENT** Consent items are set for approval in one motion. These items are considered non-controversial. No presentations will be made, however, some questions may be asked.
The Chair will ask if any commissioner or member of the public wishes to pull a consent item for discussion. Brief questions may be asked on any item.

None

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

None

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

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

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

Rajinder Randhawa, Use Permit to change an existing structure from a pole barn to a bathroom and storage facility. The existing structure is located within a required building setback on property zoned C-1 (Light Commercial). The property is located at the southeast corner of Palermo Road and Lincoln Boulevard, at 7415 Palermo Road, Palermo. APN 026-144-029 (MM) (UP 05-07)

Mr. Michelena gave a brief summary of the project. Answering a question from Commissioner Nelson, Mr. Michelena described a pole barn.

The hearing was opened to the public.

Tom Hill, general contractor, said when this application was applied for two years ago, they got a permit for a septic system and then learned that the Use Permit was required for the restroom after the septic was already installed. He said all the applicant wants is to add a restroom.

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

Mr. Michelena corrected Condition 1 by deleting the word “also.”

Commissioner Lambert corrected Condition 3 changing “encroach” to “encroachment.”

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to approve the Use Permit for Rajinder Randhawa subject to the following findings and conditions, changing Condition 1 to delete “also” and changing “encroach” to “encroachment” in Condition 3:

- I. Find that this project is exempt from the provisions of the California Environmental Quality Act under Section 15303(c), which states that the California Environmental Quality Act exempts the construction or conversion of small structures for a store of less than 2,500 square feet. The payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required.
- II. Approve Use Permit UP 05-07 for Rajinder Randhawa for the conversion of a legal nonconforming structure in the C-1 zone, on APN 026-144-029, 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 not conflict with, and will not adversely affect, or be materially detrimental to adjacent permitted and conditionally permitted uses, residents, buildings, structures, or natural resources.
 - B. The proposed location, size, and design 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.

Conditions of Approval

Planning Division:

1. Applicant must comply with all other applicable State and local statutes, ordinances, and regulations.
2. All outstanding application processing fees shall be paid prior to issuance of the Use Permit.

Public Works

3. Prior to issuance of building permits, obtain an encroachment permit for all new or existing driveway approaches and construct them to County standards, as specified in the County Improvement Standards.
4. Prior to issuance of building permits, deed to Butte County, in fee simple, 40 feet of right-of-way from the centerline of Palermo Road and Lincoln Boulevard, along the entire parcel frontage. The right-of-way shall be sufficient for the installation of standard No. S-5 at all street intersections.
5. Prior to the issuance of building permits, establish 100 year floodplain elevations and the lowest floor elevations for any structures. Show on the site plan map for building permits the elevations (by contours) and the location of an accepted NVGD benchmark and a temporary benchmark on-site.

County Counsel

6. 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 10-day appeal period on all decisions with the Clerk of the Board

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Donald St. Clair, Tentative Parcel Map to divide an 8.8-acre parcel into three 0.5-acre parcels, and one 7.33-acre parcel on property zoned A-R (Agricultural Residential). The property is located on the east side of Oakvale Avenue, at Crane Avenue, East of Oroville. APN 036-050-165 (CD) (TPM 04-05)

Mr. Michelena gave a brief summary of the project.

The hearing was opened to the public.

Mike Evans, Evans Fun Works, said this map was originally approved 10 years ago and has since expired. He said the applicant wishes to re-instate the TPM. He said the underground utilities are in and the fire hydrant is installed. He asked that Condition 27 be deleted which he believes applies when there is no pressurized water system because Condition 30 constitutes their requirement when there is a water system, that they have to pay their pro rata share for fire hydrant frontage. He asked that the pro rata share be based upon the Oakvale frontage and not on the private cul-de-sac frontage because the applicant paid for and has installed a fire hydrant. He asked that the first sentence in Mitigation Measure 1. c. be deleted.

Mr. Michelena said that c. of Mitigation Measure 1 could be deleted entirely.

Mr. Evans asked staff to investigate mitigation language that will produce the result of protecting oak trees.

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

Mr. Wannemacher said that in Condition 28 the word “Warden” should be changed to “Chief.” He added two sentences to finding I. C. as follows: 1) The custodian of the record is the Planning Division of the Department of Development Services. 2) The location of the record is 7 County Center Drive, Oroville, CA. He said in Condition 21 change “required” to “requires”.

Mr. Michelena said Condition 27 should be deleted.

Ms. Christopher noted that if Condition 30 has already been met, then it could be deleted.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to approve the Tentative Parcel Map for Donald St. Clair, subject to the findings and conditions listed below, adding to finding I. C. two sentences stating 1) The custodian of the record is the Planning Division of the Department of Development Services. 2) The location of the record is 7 County Center Drive, Oroville, CA. (note: The first sentence was later corrected by Stu Edell during the Torri hearing for this item also to read 1) The custodian of the record is the Land Development Division of the Department of Public Works.), find that there is a hydrant installed and delete c. in Mitigation Measure 1, in Condition 21 change “required” to “requires”, delete Conditions 27 and 30, and in Condition 28 change “Warden” to “Chief.”

- 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 Donald St. Clair, Planning Division File No. TPM 04-05, would have a significant effect on the environment. The custodian of the record is Land Development Division of the Department of Public Works. The location of the record is 7 County Center Drive, Oroville, CA.

- D. The proposed Mitigated Negative Declaration reflects the independent judgment and analysis of the County, which is the Lead Agency.
 - E. The Mitigated Negative Declaration regarding environmental impacts, with Mitigation Measures 1 through 5, as detailed in the Agenda Report dated January 13, 2005.
- II. The design of the proposed project improvements will have the potential to significantly impact oak woodland habitat. 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 04-05 for Donald St. Clair subject to the conditions found in Exhibit "A" and the following findings:
- A. The proposed map is consistent with the Butte County General Plan Goals and Policies, particularly Land Use Element 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.
 - B. The design and improvements of the proposed land division are consistent with County standards and policies provided all conditions of project approval are complied with.
 - C. The project is physically suitable for the use and density of the proposed development because the majority of the project site does not contain steep slopes, the existing drainage ditch will not be impacted, and the parcels will be served by public sewer and public water.
 - D. The design and improvements of the project will not cause public health or safety problems due to the large parcel sizes, and because the project site does not contain

any physical characteristics that could cause health or safety concerns with the provided mitigations.

- E. The design and improvements of the project will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision provided the attached conditions are met.
- F. The project site is not located within an earthquake fault zone, a 100-year flood zone, or an Airport Compatibility Zone.
- G. 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.

EXHIBIT A

Tentative Parcel Map for Donald St. Clair on APN 036-050-165, File # TPM 04-05: An application for a Tentative Parcel Map to divide a 8.8-acre parcel into four parcels ranging in size from 0.5 to 7.33 acres on property zoned A-R (Agricultural Residential).

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 and on all building and site development plans 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. On-site vehicles shall be limited to a speed of 15 mph on unpaved roads.
- 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 unless conditions warrant a greater frequency.”

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 all building and site development plans.

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

Monitoring: The Department of Development Services shall ensure that this note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans and site development plans and shall spot check and shall ensure compliance on-site. Butte County Air Quality Management District inspectors shall respond to nuisance complaints.

2. **Mitigation Measure #2:**

Prior to recording of the Parcel Map, and prior to any grading, provide a plan prepared by a certified arborist, botanist or landscape architect that shows the existing on-site mature oak trees, located in any area proposed for buildings and vehicular access, and provides for methods to protect the trees identified to be preserved. The plan shall be submitted for review and approval by the Planning Division. The removal of mature oak trees shall be minimized, where possible. A mature tree shall be defined as a tree with a trunk measuring 4 inches in diameter, 4 feet from ground level.

Place a note on a separate document which is to be recorded concurrently with any future map or on an additional map sheet and all building plans and site development plans that states: "Mature oak trees removed shall be replaced on a 3-to-1 ratio, utilizing existing oak tree stock. Each oak tree to be preserved, within a disturbance area, shall be surrounded by a circular zone (minimum 40-foot radius) identified by an orange fence during construction activities. No vegetation removal, soil disturbance, or other development activities shall occur within the fenced area."

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 all building and site development plans.

Timing: The tree plan shall be submitted to the Planning Division for approval prior to recording of the Parcel Map, and prior to any grading.

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

3. **Mitigation Measure #3:**

Place a note on a separate document which is to be recorded concurrently with any future map or on an additional map sheet and all building and site development plans that states: "Should grading 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 the Department of Development Services is notified and 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 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 all building and site development plans.

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

Monitoring: The Department of Development Services and Public Works Department shall ensure the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans 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.

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 and all building plans and site development plans that states: “Structures constructed on these lots shall be designed to minimize grading and to utilize the existing grade to the extent feasible through the use of multi level structures.”

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 all building and site development plans.

Timing: This measure shall be implemented during plan check for building permits.

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

5. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: “A development impact fee for Sheriff’s facilities shall be paid pursuant to the provisions of Chapter 3, Article II of the Butte County Code, prior to issuance of building permits. The fee amount will be determined and calculated as of the date of application for the building permit.”

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.”

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

Land Development Division

8. 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.”
9. 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.
10. 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.
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. All access rights shall be reserved by deed per County Ordinance, offered for dedication, and depicted on the Parcel/Final Map. For each private access within the map boundary, place the following note on the Parcel/Final 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.”
13. 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.”
14. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.
15. 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 Oakvale Avenue 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.
16. Prior to recordation of the Parcel Map, provide approved access to each parcel from a County maintained road or from a state highway. Improve access road to parcel being

divided to RS-8 LD-IV. Submit road and drainage plans to the Department of Public Works for plan checking and approval prior to construction.

17. Prior to recordation of the Parcel Map, submit road and drainage improvement plans for the installation and construction of the street frontage improvements on Oakvale Avenue to RS-2A County Improvement Standards. Improve parcel frontage to a ½ street section to an RS-2A road standard including, but not limited to curb, gutter and sidewalk for parcels with gross acreage of one acre or less.
18. Prior to the recordation of the Parcel Map, obtain an encroachment permit and construct a standard S-18 road approach in accordance with County Improvement Standards. Adequate sight distance at the intersection of access road and Oakvale Avenue shall be provided.
19. Show on the additional map sheet of the Parcel Map a 65 ft. building setback from the centerline of Oakvale Avenue and 50 ft. from the interior street based on Butte County Code Section 24-95.10(a).
20. Prior to approval of the 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.
21. 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).”
22. Show all easements of record on the Parcel Map.
23. 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.

Fire Department

24. **Mitigation Measure # 5:**

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 the property lines must satisfy Public Resources Code 4290 (Fire Safe Regulations).”

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

Department and Public Works Department shall ensure that the note is placed on the document or additional map sheet.

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

Monitoring: The Department of Development Services shall ensure the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans and site development plans. The California Department of Forestry, Butte County Fire Chief, or designee, 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 final inspection.

25. All buildings must conform to Public Resources Code 4291 (Fire Safe Regulations).
26. 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.
27. Fire hydrant identification, reflector or post reflectors shall be installed acceptable to the County Fire Chief.
28. 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

29. Prior to recordation of the Parcel Map provide a letter or other documentation from the South Feather Water and Power Company stating that they are willing and able to supply domestic water to Lots 1, 2, 3 & 4.
30. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet that states: "Development of Lots 1, 2, 3 & 4 will require connection to a public water supply.
32. Prior to recordation of the Parcel Map provide a letter or other documentation from Lake Oroville Area Public Utility District stating that they are willing and able to supply sewer service to Lots 1, 2, 3 & 4.
33. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet that states "Development of Lots 1, 2, 3 & 4 will require connection to a public sanitary sewer.

Pacific Gas and Electric

- 34. Any relocation or rearrangement of any existing PG&E facilities in the area to accommodate this project will be at the expense of the developer.
- 35. Place a note on the Parcel Map or on additional sheets that states: There shall be no building of structures, or the storage of any materials allowed over or under any existing PG&E facilities, or inside any easements that exist.

County Counsel

- 36. 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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Barbara Torri, Tentative Parcel Map to divide a 5.3-acre parcel into four parcels ranging in size from 0.27 to 3.6 acres on property zoned A-R (Agricultural Residential). The property is located on the east side of Oakvale Avenue, at Oakvale Court, east of Oroville. APN 036-770-031 (MM) (TPM 04-16)

Mr. Michelena gave a brief summary of the project.

The hearing was opened to the public.

Mike Evans, Evans Fun Works, said he would like to make the same statement as to the mitigation language to protect oak trees as he made earlier. He asked that c. in Mitigation Measure #1 be deleted. He asked that Condition 21 be changed to pay the fire frontage fee because pressurized water is there.

Commissioner Leland suggested deleting Condition 21 and add a condition to put in a fire hydrant.

Mr. Michelena said the Fire Department did not ask for a condition on this project to install a hydrant.

Ms. Christopher said the Fire Department would not put the condition on a project if there was a fire hydrant within 1,000 feet of the property.

Mr. Evans said there is no fire hydrant on the Torri property, but there is treated water along Oakvale Avenue. He said there are blow offs and there are stand pipes. He suggested to pay for the fire hydrants they pay their pro rata share per front foot requirement.

Mr. Wannemacher said Condition 21 should be deleted. He added the same language to finding I. C. for custodian of the records as in the previous hearing. He said in Condition 16 change "required" to "requires."

Mr. Michelena said on Mitigation Measure 1, item c. and d. should be deleted.

Commissioner Nelson suggested added the language the same as in deleted Condition 30 from the St. Clair project above.

Mr. Edell said they needed to change the language added to I. C. of the findings to read "The custodian of the record is Land Development Division of the Department of Public Works." He added the change should be made to the St. Clair project also.

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

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to approve the Tentative Parcel Map for Barbara Torri subject to the findings and conditions listed below, adding to the finding I. C. two sentences stating 1) The custodian of the record is Land Development Division of the Department of Public Works; 2) The location of the record is 7 County Center Drive, Oroville, CA.; Condition 1, Mitigation Measure 1, delete c. and d.; Condition 16 change "required" to "requires"; replace the wording of Condition 21 to read "In lieu of hydrant installation, payment may be made to the SFWP (OWID) hydrant fund at a cost of \$1.72 per lineal foot of street frontage. The estimated fee amount is \$1,221.12."

- 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 Barbara Torri, Planning Division File No. TPM 04-16, would have a significant effect on the environment. The custodian of the record is Land Development Division of the Department of Public Works. The located of the record is 7 County Center Drive, Oroville, CA

- D. The proposed Mitigated Negative Declaration reflects the independent judgment and analysis of the County, which is the Lead Agency.
 - E. The Mitigated Negative Declaration regarding environmental impacts, with Mitigation Measures 1 through 5, as detailed in the Agenda Report dated January 27, 2005.
- III. The design of the proposed project improvements does have the potential to significantly impact oak woodland habitat. 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 04-16 for Barbara Torri subject to the conditions found in Exhibit "A" and the following findings:
- A. The proposed map is consistent with the Butte County General Plan Goals and Policies, particularly Land Use Element 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.
 - B. The design and improvements of the proposed land division are consistent with County standards and policies provided all conditions of project approval are complied with.
 - C. The project is physically suitable for the use and density of the proposed development because the majority of the project site does not contain steep slopes, the existing drainage ditch will not be impacted, and the parcels will be served by sewer and public water.
 - D. The design and improvements of the project will not cause public health or safety

problems due to the large parcel sizes, and because the project site does not contain any physical characteristics that could cause health or safety concerns with the provided mitigations.

- E. The design and improvements of the project will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision provided the attached conditions are met.
- F. The project site is not located within an earthquake fault zone, a 100-year flood zone, or an Airport Compatibility Zone.
- G. 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.

EXHIBIT A

Tentative Parcel Map for Barbara Torri on APN 036-770-031, File # TPM 04-16: An application for a Tentative Parcel Map to divide a 5.3-acre parcel into four parcels ranging in size from 0.27 to 3.6 acres on property zoned A-R (Agricultural Residential).

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 and on all building and site development plans 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. 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 streets adjacent to the project shall be cleaned at least once per day unless conditions warrant a greater frequency.”

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 all building and site development plans.

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

Monitoring: The Department of Development Services shall ensure that this note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans and site development plans and shall be spot checked and shall ensure compliance on-site. Butte County Air Quality Management District inspectors shall respond to nuisance complaints.

2. **Mitigation Measure #2:**

Prior to recording of the Parcel Map, and prior to any grading, provide a plan prepared by a certified arborist, botanist or landscape architect that shows the existing on-site mature oak trees, located in any area proposed for buildings and vehicular access, and provides for methods to protect the trees identified to be preserved. The plan shall be submitted for review and approval by the Planning Division. The removal of mature oak trees shall be minimized, where possible. A mature tree shall be defined as a tree with a trunk measuring 4 inches in diameter, 4 feet from ground level.

Place a note on a separate document which is to be recorded concurrently with any future map or on an additional map sheet and all building plans and site development plans that states: "Mature oak trees removed shall be replaced on a 3-to-1 ratio, utilizing existing oak tree stock. Each oak tree to be preserved, within a disturbance area, shall be surrounded by a circular zone (minimum 40-foot radius) identified by an orange fence during construction activities. No vegetation removal, soil disturbance, or other development activities shall occur within the fenced area."

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 all building and site development plans.

Timing: The tree plan shall be submitted to the Planning Division for approval prior to recording of the Parcel Map, and prior to any grading.

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

3. **Mitigation Measure #3:**

Place a note on a separate document which is to be recorded concurrently with any future map or on an additional map sheet and all building and site development plans that states: "Should grading 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 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 all building and site development plans.

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

Monitoring: The Department of Development Services and Public Works Department shall ensure the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans 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.

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 and all building plans and site development plans that states: “Structures constructed on Parcels 1 and 4 shall be designed to minimize grading and to utilize the existing grade to the extent feasible through the use of multi level structures.”

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 all building and site development plans.

Timing: This measure shall be implemented during plan check for building permits.

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

5. Place a note on a separate document which is to be recorded concurrently with the map or on an additional map sheet that states: “A development impact fee for Sheriff’s facilities shall be paid pursuant to the provisions of Chapter 3, Article II of the Butte County Code, prior to issuance of building permits. The fee amount will be determined and calculated as of the date of application for the building permit.”

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.”

7. Existing Use Permit 81-01 shall apply to proposed Parcel 4 (Torri TPM 04-16).
8. Prior to recordation of the Parcel Map, pay any outstanding project-related processing fees, and/or Department of Fish and Game fees.

Land Development Division

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, demonstrate to the Department of Public Works that there is approved access conforming to County Code to each parcel from a publicly maintained road.
11. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.
12. 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 Oakvale Avenue 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.
13. Prior to recordation of the Parcel Map, submit road and drainage improvement plans for the installation and construction of the street frontage improvements on Oakvale Avenue to RS-2A County Improvement Standards. Improve parcel frontage to a ½ street section to an RS-2A road standard including, but not limited to, curb, gutter and sidewalk for parcels with gross acreage of one acre or less.
14. Show on the additional map sheet of the Parcel Map a 65-foot building setback from the centerline of Oakvale Avenue based on Butte County Code Section 24-95.10(a).
15. Prior to approval of the 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.
16. 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).”

17. Show all easements of record on the Parcel Map.
18. 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.

Fire Department

19. **Mitigation Measure # 5:**

Place a note 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 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), and all other applicable State and County codes, ordinances and regulations in effect at the time of application for improvement permits”

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 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 Department of Development Services shall ensure the note is placed on a separate document which is to be recorded concurrently with the map or on an additional map sheet and all building plans and site development plans. The California Department of Forestry, Butte County Fire Chief, or designee, 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 final inspection.

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. In lieu of hydrant installation, payment may be made into the SFWP (OWID) hydrant fund at a cost of \$1.72 per lineal foot of street frontage. The estimated fee amount is \$1,221.12.
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 “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.” Additionally, this note is to be added to all building plans.

Environmental Health Division

23. Prior to recordation of the Parcel Map provide a letter or other documentation from the South Feather Water and Power Company stating that they are willing and able to supply domestic water to Lots 1, 2, 3 & 4.
24. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet that states: "Development of Lots 1, 2, 3 & 4 will require connection to a public water supply.
25. Prior to recordation of the Parcel Map provide a letter or other documentation from Lake Oroville Area Public Utility District stating that they are willing and able to supply sewer service to Lots 1, 2, 3 & 4.
26. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet that states "Development of Lots 1, 2, 3 & 4 will require connection to a public sanitary sewer.

Pacific Gas and Electric

27. Any relocation or rearrangement of any existing PG&E facilities in the area to accommodate this project will be at the expense of the developer.
28. Place a note on a separate document which is to be recorded concurrently with the parcel map or on an additional map sheet that states: "There shall be no building of structures, or the storage of any materials allowed over or under any existing PG&E facilities, or inside any easements that exist."

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

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VII. 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

B. General Plan/Zoning Ordinance Update

Ms. Christopher explained that Phases 2 and 3 of the General Plan were now going to be released together; they are the technical update and the formatted policies. She said the documents are going to Counsel and then to the Board for the release of the formatted policies. She said the Department will then hold public meetings and then it will come to the Commission.

C. Legislative Case Law update

Mr. Wannemacher discussed the Brown Act with Commissioner Wilson.

Commissioner Nelson asked what Mr. Wannemacher advised when they are called by an applicant.

Mr. Wannemacher said talking to an applicant is acceptable. He noted that when a Commissioner receives information outside of the hearing, the Commissioner needs to disclose that information at the hearing.

D. Planning Commission Concerns

Chairman Marin said he received a call from a realtor in Paradise who has sold a piece of property in Magalia to a doctor who wants to develop a clinic and a house on the place. He said the realtor told him he was told at the front county of Development Services that this could be done and because of what they were told, the doctor purchased the property. He said then when they came back in for their building permit, they were told they could have the clinic only if it was a non-profit organization. He said he was told that the doctor can not afford to develop the clinic as non-profit. Chairman Marin said if a person can not rely on what a person tells you at the front counter, then what good is it for people to come into the office and inquire.

Ms. Christopher said she is familiar with the site and has had meetings with Supervisor Yamaguchi, the owner of the property, and the realtor. She said the realtor says they weren't told, staff says they were told. She said it is in the zoning ordinance. She said between the realtor's conversations with staff and the realtor's conversations with the property purchaser, the word non-profit was left out. She said in answer to why the non-profit requirement is in the Code she did not know. She said she told Supervisor Yamaguchi that she would communicate with County Counsel's Office and see if

they could find the history of why in an A-R zone that a clinic can only be considered a use if it is non-profit and go through the Use Permit process.

Chairman Marin asked how this can be changed.

Ms. Christopher explained that after staff researches the history, they would have to initiate a zoning change. She explained the procedure for a Code amendment. She said staff will go back and look at this. She said because the use is a public-quasi-public use, which triggers the non-profit requirement.

* * *

Ms. Christopher explained a new program that the department is installing from a company called Upstate. She said they are developing on our web site an interactive program where you can punch in your APN, your address, or owner name and be able to pull up parcel specific information including deer herd restrictions on the property, Williamson Act contract information, etc. She said the point of this is so people can look up a parcel and see the restrictions from their home or office day and night. She said the first phase that comes out will be limited and will not link to all the mapping requirements. She explained what the limitations will be. She said staff will also be using this as a tool because it is using GIS as the base.

Ms. Christopher explained the changes in the front office, stating that the counter has been deleted, there is now a help desk to direct the public, and now people will be able to sit with the Permit Technician.

Commissioner Leland said the bottom line is that the web information is not binding on the County, the same as with advice given by staff. He said they give the best advice they know, but the law has the final say. He said in the case of the realtor or the doctor up on the ridge, even if the staff person had said that the clinic was allowed as a matter of right, profit or non-profit, it would not make a difference to the outcome.

Ms. Christopher said that is correct and is why she continues to direct the public back to the regulations.

Chairman Marin said it presents a problem if a realtor or a private party comes up and is told they can do something and then after they have gone through a lot of motions and maybe purchased property and were then told the information was wrong.

Ms. Christopher said they are bound by what is in the Code.

Commissioner Leland said staff should lead people to the Code Section to read.

Ms. Christopher briefly explained land use restriction and how to look at property.

VIII. MINUTES - January 27, 2005

The Commission had the following corrections: Page 1, L17 and L31, change “Chairman Lambert” to “Commissioner Lambert.”; Page 8, L43, change it to read “Commissioner Lambert asked if there was a physical reason the houses could not be located in another area and meet the 300-foot requirement or if this was a matter of the applicant’s desire.”; L20 add to the beginning “At Commissioner Leland’s request.”

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

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

X. ADJOURNMENT

There being no further business, the Planning Commission adjourned at 10:40 a.m.

Chairman Marin

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