

BUTTE COUNTY PLANNING COMMISSION MINUTES
FEBRUARY 10, 2005

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:00 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Lambert, Wilson, Leland, Nelson, and Chairman Marin
- ALSO PRESENT:** Yvonne Christopher, Director Development Services
Stephen Betts, Senior Planning
Stephen Streeter, Interim Planning Manager
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 Leland, seconded by Commissioner Lambert, and unanimously carried to accept the agenda as presented.

- 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)

None

- 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.

Ron and Alice Reed, proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Parcel Map** to divide a 5.07-acre parcel into four parcels. The property is zoned C-2 (General Commercial) and is located on the north side of Highway 32, at the intersection of Jordan's Place and Highway 32, Chico. APN 042-090-005 (MM) (TPM 04N-26)

Mr. Michelena gave a brief summary of the hearing.

The hearing was opened to the public.

Ron Reed, owner, said he was here to answer questions.

Commissioner Wilson asked if the residential dwelling on the property was going to remain residential.

Mr. Reed said the residential will eventually be converted to commercial.

Mr. Michelena said the residence is a legal nonconforming use.

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

It was moved by Commissioner Lambert, seconded by Commissioner Leland, and unanimously carried to approve the Tentative Parcel Map for Ron and Alice Read subject to the findings and conditions 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 potentially 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 Ron and Alice Reed, Planning Division File No. TPM 04N-26, 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.
- 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 04N-26 for Ron and Alice Reed 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 Polices:
 - 4.3.a. Encourage a full range of commercial services at the regional, community

and neighborhood levels.

- 4.3.b. Coordinate future commercial facilities with existing and proposed transportation systems, utilities and proximity to other public facilities.
- B. With the addition of Department of Public Work's Conditions #5 through #16 regarding access, drainage and improvement standard, and Environmental Health Division Condition #18 regarding septic systems, water supplies, and wells, the project is physically suitable for the use and density of the proposed development.
- C. With the additions of California Department of Forestry/Butte County Fire Department Condition #17 regarding compliance with the Fire Safe Regulations and other fire safety measures, the project conforms to the fire requirements of the Butte County Fire Department.
- D. 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 parcel map will not be allowed to be recorded.

EXHIBIT A

Tentative Parcel Map for Ron and Alice Reed on APN 042-090-005, File # TPM 04N-26: An application for a Tentative Parcel Map to divide a 5.08-acre parcel into four parcels ranging in size from 1.02 to 1.77 acres on property zoned C-2 (General Commercial).

I. CONDITIONS OF APPROVAL:

Planning Division

1. Place a note on a separate document which is to be recorded concurrently with the Parcel Map or on an additional map and on all building and site development plans that states: "All lighting, exterior and interior, shall be designed and located so as to confine direct lighting to the premises. A light source shall not shine upon or illuminate directly on any surface other than the area required to be lighted. No lighting shall be of the type or in a location such that it constitutes a hazard to vehicular traffic, either on private property or on abutting streets." (Mitigation # 1)

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

Timing: Requirements of the condition shall be adhered to throughout the use of the parcels.

Monitoring: The Department of Development Services shall ensure that the note is placed on a separate document which is to be recorded concurrently with the Parcel Map or on an additional map sheet and all building plans and site development plans. Violations of the mitigation will be reviewed on a complaint basis.

2. Place a note on a separate document which is to be recorded concurrently with the Parcel 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. 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).
 - b. All visibly dry disturbed soil surface areas of operation shall be watered to minimize dust emissions. (Mitigation # 2)

Plan Requirements: The above note shall be placed on a separate document which is to be recorded concurrently with the Parcel 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 Parcel 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.

3. Place a note on a separate document which is to be recorded concurrently with the Parcel 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.” (Mitigation # 3)

Plan Requirements: The above note shall be placed on a separate document which is to be recorded concurrently with the Parcel 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 Parcel 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. Prior to recordation of the Parcel Map, pay any outstanding project-related processing fees.

Public Works - Land Development Division

5. 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."
6. 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."
7. Provide a cul-de-sac designed and constructed as specified in the County Improvement Standards. The Parcel Map shall show the cul-de-sac.
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: "Jordan's Place 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. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.
10. Prior to recordation of the Parcel Map, submit road and drainage improvement plans for the installation and construction of the street frontage improvements on Jordan's Place to RS-1 County Improvement Standards including, but not limited to, curb, gutter and sidewalk.
11. Prior to or concurrently with the recordation of the Parcel Map, relinquish abutter's rights of access to Butte County, along the SR 32 frontage of Parcels 1 and 4, except at approved access points.
12. Show on the additional map sheet of the Parcel Map a 50 ft. building setback from the centerline of Jordan's Place and a 25 ft. building setback from the right-of-way line of State Highway 32 based on Butte County Codes 10-7(c) and 24-75(d) respectively .
13. 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.

14. 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)."
15. Show all easements of record on the Parcel Map.
16. 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

17. Prior to construction, a pressurized community water system for fire protection is required. Bonding could be allowed with the approval of the Fire Chief. Average required hydrant spacing is 300 feet, hydrant size 6 inches, and residual fire flow of 1,500 gallons per minute (if structures have sprinklers), or 2,000 gallons per minute (if structures do not have sprinklers). Fire Department will locate the hydrants on the map. Prior to Parcel Map recordation, submit plans to the Fire Department for review and approval.

Environmental Health Division

18. Meet the requirements of the Butte County Nitrate Action Plan regarding sewage disposal:
 - a. Construct sewer mains within the project and to the property line to provide for future public sewer connection.
 - b. Place a note on the parcel map that states: "Butte County permits for the installation of individual septic systems may require the construction of sewer laterals to the property line for future public sewer connection."
 - c. Place a note on the parcel map that states: "Maximum allowable wastewater discharge to septic tank is 334 gallons per acre per day."
 - d. Place a note on the parcel map that states: "Butte County permits for all new well installations may require the construction of deep annular seals to protect deep groundwater aquifers from nitrate contaminations."
 - e. Place a note on the parcel map that states: "Storm drainage trenches will be required to maintain a 100 foot setback from any well."

Pacific Gas and Electric

19. 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.
20. 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.

CALTRANS

21. An Encroachment Permit will be required for any work conducted in the State's right of way, including but not limited to culvert maintenance, drainage pattern changes, or any new or rehabilitated access construction. (An application can be obtained by contacting the Caltrans District 3, Office of Permits, at 530 741-4403.)
22. Runoff must meet Regional Water Quality Control Board (RWQCB) water quality standards prior to entering the State's ROW or drainage system.
23. No net increase to the surface water (storm water) peak runoff discharge (100 year storm event) within the State's ROW and drainage facilities may be realized as a result of the completion of the project.
24. Best Management Practices (BMP) systems should be included to remove objectionable pollutants and to manage storm water prior to discharging into the State's ROW. Once installed, the property owner must properly maintain these systems. The proponent/developer may be held liable for future damages due to impacts for which adequate mitigation was not undertaken or sustained. Acceptable constituency levels and appropriate BMP information can be obtained from the Regional Water Quality Control Board.

County Counsel

25. 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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Neale and Margaret Dietz, proposed **Negative Declaration** with mitigation measures regarding environmental impacts and **Tentative Parcel Map** to divide a 42.67-acre parcel into two parcels: one of 20+/- acres and one of 22.67+/- acres. Both of the proposed parcels would front on Lott Road. The property is zoned A-10 (Agricultural – 10 acre parcels) and is located on the south and west sides of Lott Road, approximately 0.28 miles west of the intersection of Lott Road and Esquon Road, at 9185 Lott Road, east of Durham. APN 040-290-024, 025 (SB) (TPM 02-16)

Mr. Betts gave a brief summary of the project with a power point presentation. He explained the new wording for Mitigation Measure 4. He corrected Mitigation Measure 1 “Plan Requirements” and “monitoring” to delete “the Final Map” and add “a separate document which is to be recorded concurrently with the map or on an additional map sheet”; and on Mitigation Measure 4 change under “Plan Requirements” to delete “the Final Map” and add “a separate document which is to be recorded concurrently with the map or on an additional map sheet”.

Ms. Christopher said she is working with the Agricultural Commissioner and County Counsel’s Office on the unusual circumstances and the wording for the agricultural buffer. She was concerned that on this parcel that we are locking in the 300-foot buffer and not reflecting that if the Board adopts the unusual circumstances to do a better protection of agriculture, it might be better to cluster houses or move them closer to the road rather than putting the house 300 feet back into agricultural land and orchards. She said the way Mitigation Measure #1 is written that all new residential structures shall be located at least 300 feet from properties lines is respectful of what staff has been doing, but they are trying to look at some options. She suggested adding language to the measure that would respect future implemented unusual circumstances as adopted.

Commissioner Leland said that this is a case where the 300-foot rule, which is intended to protect agriculture, has the opposite effect. He said if the problem you are trying to avoid is the conflict between residential structures and agricultural activity, the rule as applied in this map brings the most possible agricultural activity within the hazard zone of 300 feet around a residence. He said it would be best to place the residential unit next to the existing residence or within 600 feet of the residence so the 300-foot hazard zone extends into an area that is already residentially developed or within someone else’s 300-foot hazard zone. He felt they should change Mitigation Measure #1 to allow alternative locations that have less of an impact on agriculture as determined by the Agricultural Commissioner, the Board of Supervisors, or new rules that are implemented. He questioned if the Commission could accommodate a future Lot Line Adjustment if the same criteria shows that it would be appropriate.

Ms. Christopher said that at this time we are bound by the 300-foot buffer law, but recognizing that staff is anticipating some flexibility with the unusual circumstances coming forward, she would like wording added in the Mitigation so that staff can change the buffer later. She said for the map the Commission has to respect the 300 feet today, but later the applicant could come in for a Lot Line Adjustment assuming that the unusual circumstances are passed. She questioned on the map on Parcel 1 that there are two designations right above each other with one saying 10.5 acres and one saying 20 +/- acres.

Commissioner Leland said on Note 13 it says the land is not viable for orchard and most field crops due to soil conditions. He asked if this was true and why the note is on the map.

Mr. Betts said the 10.5 would be eliminated. He said these are information notes and do not go on the final map.

The hearing was opened to the public.

Bob Feeney, Engineer, said the soil in the area is in transition where rice is grown. He said this is a high water area. He said he was in favor of moving the house closer to Lott Road.

Commissioner Lambert asked about the number of wells and structures shown on the map.

Mrs. Dietz said one well is an 80 foot well with a windmill and a pond, there is a well for irrigation, and one well for the house. She said she tries to be as kind to the land as possible. She said some of the land is used for grazing.

Commissioner Wilson asked what are monitoring wells.

Mrs. Dietz said that she had hoped to split the property into four parcels and Mr. Feeney said the monitoring are to monitor ground water for Environmental Health.

Mr. Wannemacher asked if she had read and agreed with the conditions and Mrs. Dietz said yes.

Commissioner Leland said he would like to change the 300-foot buffer condition and asked Mrs. Dietz what wording she would like.

Mr. Feeney said he would like the condition to reflect any future changes to the 300-foot condition that would affect this project.

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

Ms. Christopher said the condition needs to be tied to unusual circumstances implementing guidelines.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to approve the Tentative Parcel Map for Neale and Margaret Dietz subject to the findings and conditions listed below, changing Mitigation Measure 1 "Plan Requirements" and "monitoring" to delete "the Final Map" and add "a separate document which is to be recorded concurrently with the map or on an additional map sheet"; add to the end of the Measure "or at another location consistent with the unusual circumstances implementing guidelines as they may be adopted from time to time by the Butte County Board of Supervisors"; and on Mitigation Measure 4 change under "Plan Requirements" to delete "the Final Map" and add "a separate document which is to be recorded concurrently with the map or on an additional map sheet"; add a new finding I. G. to read "Mitigation Measure 1 is modified to include language which has less of an impact and greater preservation of agriculture."

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 Neale and Margaret Dietz, Planning Division File No. TPM 02-16, 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 4, as detailed in the Agenda Report dated February 10, 2005.
 - F. Mitigation Measure No. 4, as found in the initial study signed by the applicant and circulated for public review, is revised to reflect the payment of a development impact fee for Fire Facilities, Vehicles, and Equipment, as recently approved by the Butte County Board of Supervisors. The new mitigation measure is more effective than the original mitigation measure because the impact fee to be collected is much greater than the previously-required water tender fee. The modified mitigation measure itself will not cause any potentially significant effect on the environment.
 - G. Mitigation Measure 1 is modified to include language which has less of an impact and greater preservation of agriculture.
- II. Adopt a “de minimis” exemption regarding impact to fish and wildlife or their habitat. The design of the proposed project improvements will not cause environmental damage to fish and wildlife or their habitat. The collection of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 is not required. The project site is not known to contain any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service. The project will not have a substantial adverse effect on any riparian habitat; have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act; interfere substantially with the movement of any native resident or migratory fish or wildlife species; conflict with any local policies or ordinances protecting biological resources; or conflict with the provisions of an adopted Habitat Conservation Plan.
- III. Approve Tentative Parcel Map 02-16 for Neale and Margaret Dietz, subject to the conditions found in Exhibit “A” and the following findings:
- A. 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.
- B. The design and improvements of the proposed subdivision 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 project site is level and does not contain any drainage.
 - D. The future dwelling on proposed Parcel 1 is required to have its lowest floor level elevated at least one foot above the flood level.
 - 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. 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.
 - H. The sizes of the project parcels are consistent with the Orchard and Field Crops General Plan land use designation and with the A-10 zoning district.
 - I. The increase in vehicle traffic generated by the project would be minor and would not cause any significant impacts to vehicular circulation in the project area.
 - J. The project is consistent with Policies 1.5, 1.6, and 2.1, and Program 2.2 of the Butte County Agricultural Element because: the project would conserve Orchard and Field Crops lands; the proposed 20+ acre parcels are an economically viable unit for an irrigated pasture; the project would not result in the pastures on the site becoming unviable; the sizes of the proposed parcels are consistent with the Orchard and Field Crops General Plan designation; a 300-foot residential structure setback is required; and the project would not change the primary purpose of the Orchard and Field Crops category, which is agricultural production, related processing, and services in

support of agriculture.

- K. The project is consistent with the Goals, Objectives, and Policies of the Durham-Dayton-Nelson Plan because the project supports the continued viability of agricultural production as the major source of income, employment and economic viability of the Planning Area, would protect agricultural lands which currently produce, or have the potential to produce, from encroaching urban uses, and would maintain agriculture as the predominant land use of the Planning Area.

EXHIBIT A

Tentative Parcel Map for Neale and Margaret Dietz, on APN 040-290-024 & 025, File # TPM 02-16: An application for a Tentative Parcel Map to divide a 42.67-acre parcel into two parcels: one of 20± acres and one of 22.67± acres, on property zoned A-10.

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: “All new residential structures shall be located at least three hundred (300) feet from property lines or at another location consistent with the unusual circumstances implementing guidelines as they may be adopted from time to time by the Butte County Board of Supervisors.”

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 building and site development plans.

Timing: Requirements of the condition shall be adhered to at all times.

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. Building Division plan checkers shall check building plans/site plans to ensure that residential structures are not within 300 feet of property lines. Building inspectors shall spot check and shall ensure compliance on-site.

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

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: “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. Recommencement of development activities shall not occur until clearance is provided by the Butte County Department of Development Services. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American participation in determining the disposition of such remains.”

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

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

Monitoring: Should cultural resources be discovered, the landowner shall notify the Planning Division and a professional archaeologist. The Planning Division shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action.

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: "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."
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 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."
6. Prior to recordation of the Final Map, pay any outstanding project-related processing fees, and/or Department of Fish and Game fees.

Land Development Division

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 a separate document which is to be recorded concurrently with the map or on an additional map sheet of the Parcel/Final 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. 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.
9. Pay the recording fees in effect at the time the Parcel Map and related documents are recorded.
10. Prior to or concurrently with the recordation of the Parcel Map, deed to Butte County in fee simple 30 feet of right-of-way from the centerline of Lott 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.
11. 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-II.
12. Show on the additional map sheet of the Parcel Map a 50 ft. building setback from the centerline of Lott Road based on Butte County Code Section 24-75.
13. Prior to tentative approval of the Parcel Map, establish 100 year flood plain elevations and

the lowest floor elevations for any structures, in accordance with Butte County Code §26-25. Show on the additional map sheet the elevations (by contours) and the location of an accepted NGVD29 (National Geodetic Vertical Datum of 1929) benchmark and a temporary benchmark on-site.

14. 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).”
15. Show all easements of record on the Parcel Map.
16. 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

17. **Mitigation Measure # 4:**

The payment of a development impact fee for Fire Facilities, Vehicles, and Equipment is required at the time of building permit issuance. Place a note on a separate document which is to be recorded concurrently with the map or an additional map sheet that states: “Development of these parcels will require payment of an impact fee for Fire Facilities, Vehicles, and Equipment.”

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.

Timing: The required impact fee shall be paid prior to the issuance of a building permit.

Monitoring: The Building Division shall ensure that the impact fee is paid prior to issuance of a building permit.

18. 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.”
19. 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, including as a minimum, driveway standards, building setbacks, and addressing, shall comply with the latest Fire Safe Regulations of Butte County, Public

Resources Codes 4290 and 4291, and all other applicable State and County codes, ordinances and regulations in effect at the time of application for improvement permits.”

20. Place a note on a separate document which is to be recorded concurrently with the map or an additional map sheet that states: “Provide an all weather access to all structures. The access shall have a minimum 10 foot width and 15 foot vertical clearance, and be able to accommodate a 40,000 pound fire apparatus.”

Environmental Health Division

21. The proposed leach fields on Parcel 1 shall be located in a 33,000 square foot area, adjacent to monitoring well # 4, per Appendix VII requirements of the Improvement Standards for subdivisions.
22. Wells drilled within the 100-year flood zone must meet the installation requirements of Butte County Code Section 23B-9c.
23. Identify on an additional map sheet a 100-foot leachfield-free setback from each existing well in the project and within 100 feet of the property line.

County Counsel

24. 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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Butte County Department of Development Services, Amendment to Section 24-280 regarding second dwelling units and amending Sections 24-82, 24-95, 24-105, 24-110, 24-115, 24-120, 24-125, 24-130, 24-135, 24-155, 24-160, 24-165, 24-190, 24-210, 24-225, 24-235.10 & 24-295.10 in Chapter 24, entitled “Zoning”, of the Butte County Code: This ordinance amendment will incorporate state laws that permit second units without a minor use permit requirement in zones where residential uses are permitted by right. (YC) (ZCA 05-01)

Ms. Christopher gave a brief summary of the project and the suggested changes. She said staff is trying to make the ordinance consistent across the County. She said State law no longer allows the County to go through the Use Permit process for second dwellings. She said second dwellings will only be allowed in residential zones.

Commissioner Leland said he was part of the sub-committee with Commissioner Lambert that wrote the existing second dwelling unit ordinance. He said he would like to retain the double density part of the ordinance in the non-urban areas.

Ms. Christopher said she would ask Mr. Wannemacher later in the meeting to address if retaining that part of the ordinance meets the intent of what the State wants.

Commissioner Leland asked about excluding second dwellings on a cul-de-sac.

Mr. Wannemacher said the Commission would have to make that finding.

Commissioner Nelson asked if the law only says the County has to address the second dwellings, but not that they have to be addressed in every zone. He said if the County addresses this ordinance within the urban areas is that sufficient.

Mr. Wannemacher said the way the law would work now is if the Commission did not address a particular area, the public could come in to the County and get the second dwelling ministerially. He said unless the Commission determined that there was an impact and then addresses these areas particularly, then they would not be setting restrictions on those areas.

Commissioner Leland said the County could say in the ordinance that all area in this County where there are 20 parcels on a cul-de-sac, we find that there is a health and safety concern and fire concern and, therefore, we are not going to allow second dwelling units.

Commissioner Lambert asked if they could do the same with the Chico Urban Area where there is a nitrate plan.

Ms. Christopher said this is covered under the proposed language under #2 for exclusions.

Commissioner Lambert explained that in the future, with an existing house and a second unit the owner might want to split the property and sell one of the units, the question came up can they meet the setbacks, separate wells and septic, etc. and still meet the requirements of the existing zone.

Ms. Christopher said if the owner couldn't, then it falls back under the same provisions here. She said if they can not meet the provisions of the Code, staff would not be recommending approval of a parcel map later. She continued with the summary stating that one of the suggested changes is to go to a 1,200 square foot maximum on second dwelling in the rural and urban areas of the County.

The hearing was opened to the public.

David Masarik said he has a unique situation. He said he lives in Concow on 7.9 acres with the main house being 2,400 square feet and a second building on the property of 1,700 square feet. He said he would like to convert the game house building of 1,700 square feet into a second dwelling

unit. He said the final inspection on the 1,700 square foot building has not been done and the Building Division told him that the building was not allowed as a second dwelling at this time. He asked if this ordinance change would help him. He said he wants to be able to live in the smaller house and let his children live in the larger home.

Ms. Christopher did not think this ordinance would help Mr. Masarik. She said the problem is the building was built as a game room/storage building. She said if the ordinance is changed as proposed it would limit the second dwelling to 1,200 square feet and Mr. Masarik's building is 1,728 square feet.

Mr. Masarik said the smaller house is there and is not being used. He asked about getting a variance to the size of the building. He said he felt that the Commission could change things to help him have the second dwelling in the building that has been there for 20 years.

Chairman Marin said he could see the restriction for smaller units in urban areas, but did not see the same problems with rural areas of the County.

Commissioner Lambert suggested upping the figure to 1,800 square feet as the maximum to help Mr. Masarik. She asked if there was a minimum size limit.

Ms. Christopher said the minimum unit in the building Code she believed is 200 square feet.

Mr. Masarik said the house is already there and is just going to waste. He said the house should be used plus the fact the house has everything that it needs. He said on 7.9 acres they are not near anyone, there is no problem with the water shed, the only thing is that there is a perfectly good building just sitting there doing nothing.

Commissioner Leland said the building is doing everything that it was intended to do according to what the builder told the County. He said the building was intended to be a hobby and storage building and it is doing that. He said that the County has zoning for a reason and if you have zoning it should be enforced.

Mr. Masarik asked that the Commission recommend a higher maximum square foot for a second dwelling in a rural area. He said he wants to live in the smaller building and if he can't, he will have to sell the property.

Bonnie Masarik said she was sorry to hear the resistance from the Commission to increasing the footage maximum.

Ms. Christopher noted that Ms. Masarik's only restriction on having a second dwelling is the proposed size.

Ms. Masarik felt it would be crazy to cut down the size of the existing building. She said the new ordinance would bring jobs and revenue to Butte County. She said the ordinance will let families live closer together. She said she bought the property to have two families on it. She discussed a possible variance to the size of the building because of the shape of her property.

Ms. Christopher said there are two paragraphs in the State Planning and Land Use Law that might be helpful to Ms. Masarik. It states "The legislature finds and declares that second units area a valuable

form of housing in California. Second units provide housing for family members, students, the elderly, in home health care providers, the disabled, and other at below market prices within existing neighborhoods. Homeowners who create second units benefit from added income and an increased sense of security. It is the intent of the legislature that any second unit ordinances adopted by local agencies have the affect of providing for the creation of second units and that provisions in these ordinances relating to matters including, unit size, parking, fees, and other requirements are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create second units in zones in which they are authorized by local ordinance.” She said in discussions with the State on this being a rural County, the State wanted second units allowed if there is already a house impacting the land.

Chairman Marin explained if this ordinance is passed, the Masariks could build a 1,200 square foot home and keep the game house.

Ms. Masarik said they could not afford to do that.

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

Commissioner Leland said there should be a distinction between the different areas of the County. He said he believes in the concept that once you have impacted the land go ahead and put another house on the property, but here the precept of that is once you have built a structure on the land the second structure is going to have less impact on the land as a whole than putting a completely separate house on a separate parcel. He said if the parcel is big enough with one house on it, building a second house maybe 600 feet away, is going to have as much impact as building a new house on a new parcel.

Chairman Marin said in the rural areas a 2,000 square foot home might be appropriate.

Commissioner Lambert said she had a problem with this project being a Negative Declaration with no impacts when you are doubling the density.

Mr. Wannemacher said that in virtually every zone in which a second dwelling unit would now be allowed as an accessory use, they were already allowed by Use Permit. He said that going from a Use Permit procedure to a ministerial process was not considered a significant impact.

Commissioner Leland said with a Use Permit there would be a discretionary review with an analysis whether the second unit would impact the soil or the sewer carrying capacity of the area and this law would eliminate that discretionary review.

Ms. Christopher said this does not eliminate the Health Department restrictions. She said the project would need to meet the requirements of all the other agencies involved.

Mr. Wannemacher said if a second dwelling request came in for a Use Permit, the project would be categorically exempt. He said in the case of this ordinance they are going from each individual discretionary approval to simply changing from discretionary approval to ministerial approval of an individual project and in that sense he did not see a significant impact being created.

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BREAK – 10:35 to 10:55 a.m.

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Chairman Marin said this is a zoning change triggered by the change in State law.

Ms. Christopher said for clarification, her understanding of the law is that if there was no ordinance on the books, the State law would apply. She said if there is a local ordinance, then you can flex the provisions of the State law because we do have an ordinance on the books.

Commissioner Lambert asked if the Commission did not approve changes to 24-280 and left it as is, would it meet the State law requirements.

Mr. Wannemacher said “yes”. He said the change in State law changes the Use Permit requirement to ministerial instead of discretionary. He said they need to clean up the code to reflect this in particular zones.

Ms. Christopher said if the Commission does nothing it would leave the limitation on the second dwelling in the urban areas at 640 sq. ft. and there would be no limitations on size in the rural areas, but rural areas would also require double the density in acreage, would require the road standards to be equal to doing a parcel map, and would leave this as a covenant instead of a deed restriction. She said it would leave the parking requirement to two off-street parking spaces instead of one.

Commissioner Nelson said starting with the urban zones he asked if there was a lot of controversy among the Commission to make the proposed changes.

Commissioner Lambert said her first thought is to leave the ordinance as is.

Commissioner Nelson asked if there were any zones that Commissioner Lambert would feel comfortable with a second unit. He said they need to discuss urban zones verses the rural zones.

Commissioner Leland asked if there was a sound definition of urban area.

Mr. Wannemacher said the urban area is well defined and mapped.

Commissioner Nelson said they could go through the changes as they pertain to urban areas and then go through as they pertain to rural areas.

Commissioner Leland asked if they want to change their approach in the non-urban areas. He said the way the Committee treated the non-urban area basically said that it was considered a lot split with a lower cost and the Commission applied all of the requirements for a lot split.

Commissioner Lambert asked if the Commission cares if a parcel splits in the rural areas on larger parcels.

Ms. Christopher said that the County would apply all the standards if someone comes in for a lot split after adding a second dwelling to their property.

Commissioner Leland said in that situation, having a second dwelling has the same impact on the community as a lot split, so the affect of the second unit ordinance if they apply it the same way they applied it in the urban areas, is to eliminate the requirements that would be imposed on a lot split.

Commissioner Lambert said if you have a primary unit and a second unit and the people do a lot split and are required to do all the improvements , now you have a second lot that can build another house and another second unit which really doubles the impacts. She discussed the increase to traffic, etc.

Mr. Wannemacher said at that point the County would have done a map and the County will have evaluated the impact of dividing the property. He said the impacts would have been analyzed with the split.

Commissioner Nelson felt that the intent of this ordinance is to up the density in the urban areas and not in the rural areas.

Chairman Marin said it does not make sense to double the density in the city where they have smaller lots that barely have a one dwelling septic system with replacement leachfield.

Commissioner Lambert said on Page 9 of the Initial Study it says under Land Use and the statement regarding the North Chico Specific Plan that “This specific plan has a certain number of primary dwelling units allocated to the plan area and did not anticipate unrestricted numbers of second units.” She said this should apply to their thinking in what they want to do outside of the urban area..

Mr. Wannemacher said in the FR zones for example it lists a single family dwellings as a permitted use, then as an accessory use the second dwellings by Use Permit. He said now the State law makes the second dwelling a ministerial act. Brief discussion on other uses that could cause impacts.

Commissioner Leland said when the property is in category D, you are allowed a second unit if you show the Use Permit criteria, that you will not decrease neighboring property values, that you are consistent with the neighborhood, and when you make the permit ministerial you are eliminating this requirement. He also questioned this being a Negative Declaration.

Mr. Wannemacher read the 15303 Categorically exempt language which states “Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exception include, but are not limited to: (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed to convert under this exemption.” He said if you have an individual parcel coming in, this states that the request would be categorically exempt.

Commissioner Leland said the State is saying that if you take one parcel and add a second unit its exempt, but how does that carry over to this action where you are saying on broad swaths of land we are going to allow second dwellings.

Mr. Wannemacher said the second units were already allowed to a certain extent, that the only difference is in the rural areas with double the acreage verses not having doubled the acreage. Brief discussion on Categorical Exemption verses a Negative Declaration.

Commissioner Leland asked if he was saying that this was not a CEQA issue.

Mr. Wannemacher said it is clear that doubling the density on a cul-de-sac would be an issue with traffic and should be addressed.

Ms. Christopher said there never has been a limitation on second dwellings on a cul-de-sac. She said none of this new law has anything to do with temporary second dwellings.

Chairman Marin said the only thing he is not comfortable with is the square footage limitation at 1,200 square feet.

Commissioner Wilson agreed with Chairman Marin.

Commissioner Lambert said she was comfortable with the existing ordinance the way it is.

Ms. Christopher said the Board is expecting this ordinance to be heard at their next Board meeting. She said the Board is expecting a recommendation from the Commission today. In answer to a question by Commissioner Lambert, Ms. Christopher said under 24-280 b. 1. b. it states that “a second dwelling unit can not be placed on a parcel or lot that already has more than one dwelling unit on it, including a temporary mobile home.”

Commissioner Leland said he is thinking of making a motion to that would keep the second unit ordinance the way we have it with only making the changes required by law and clean up of the ordinance.

Ms. Christopher said it sounds like some of the Commissioners want to separate the urban and rural recommendations apart. She said she would read out the proposed changes in the urban and then go through the matrix on rural property.

Urban:

Box 1 – accessory use in residential zones – The Commission did not have a problem with this one.

Box 2 – Land Subject to Land Conservation Act Contracts and per the County Resolution implementing the Williamson Act. Where specific findings are made that due to adverse health, safety and welfare impacts a particular area or a particular project can not (for the reasons enumerated) support second dwelling units. Land within Zones B1, B2, C1 of the 2000 Airport Land Use Compatibility Plan. North Chico Specific Plan area. Agricultural zones, i.e. A-5 through A-160. Land within the “WP” (Watershed Protection) Overlay Zone. - The Commission did not have a problem with this one.

Commissioner Leland said the Commission needs time to consider this Ordinance. He did not want to race through this.

Box 3 – twice the acreage – The Commission did not have a problem with this one.

Box 4 – Same standards for urban areas and outside urban areas – This item was skipped at this time.

Box 5 – Attached or detached in urban and outside urban areas - The Commission did not have a problem with this one.

Box 6 – 1,200 sq. ft. of living area (excludes garage) –

Commissioner Wilson said he would vote for 1,200 square feet for dwellings in the urban area and Chairman Marin concurred.

Commissioner Leland said he would like to keep the concept of the second unit being an add-on in the urban areas.

Mr. Wannemacher said the Commission should keep in mind that the urban area goes outside of what is normally considered an urban area. He said the Commission should look at the maps. He said for example in Gridley, the urban area covers a lot of parcels that are large. There was a brief discussion on the urban boundaries of Chico, Oroville, and Gridley.

Commissioner Leland said he was inclined to retain the 640 square feet in the urban area.

Mr. Wannemacher noted that the Oroville urban area includes Thermalito with a number of larger parcels. He said if a person did not want to split his parcel, had 3-4 acres and was limited to 640 square feet for a second dwelling, that may not seem appropriate, where it would be on a smaller parcel closer to the city.

Chairman Marin suggested they skip this item and come back to it.

Box 7 – Deed restriction stipulating occupancy by owner of the parcel of the main dwelling or the second dwelling unit. - The Commission did not have a problem with this one.

Box 8 – One off-street parking space with one or two bedrooms; two off-street parking spaces for three or more bedrooms.

Commissioner Leland said even if the unit is a one bedroom, it will probably have two cars.

Mr. Wannemacher thought that the ordinance was defective there. He said the State law says “Parking requirements for second units shall not exceed one parking space per unit or per bedroom. Additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the second unit and are consistent with existing neighborhood standards applicable to existing second dwellings.” He said if the unit is a one bedroom, there is no way the County can go above one parking space unless they make specific findings. Brief discussion.

Commissioner Wilson said he has rentals and it is amazing how many vehicles that people living in a one bedroom house can have.

Mr. Wannemacher said the Commission would have to state their concerns and make findings.

Commissioner Wilson said he would like to leave it as it is under the existing ordinance.

Ms. Christopher said unfortunately they do not have option to do that. She asked if they wanted one off-street parking space for one bedroom and two for two bedrooms or more. - The Commission did not have a problem with this one.

Box 9 – Driveway or road improved, if necessary, to same standard required with building permit for year-round traversable access acceptable to County Public Works and Fire Departments.

There was a discussion on what is considered two-way traversable. The Commission did not have a problem with this one.

Box 10 – Drainage improvements may be required that are customary with a building permit. - The Commission did not have a problem with this one.

Box 11 – Where a residential use is permitted by right - The Commission did not have a problem with this one.

Box 12 – Deleted from use matrix; not added as accessory use since residential is not a primary permitted use of the zone. - The Commission did not have a problem with this one.

Mr. Michelena brought up maps of Chico, Oroville, and Gridley showing the urban boundaries.

Box 13 – Deleted from use matrix - The Commission did not have a problem with this one.

The discussion went back to skipped Box 6 – 1200 sq. ft. of living area (excludes garage).

Mr. Wannemacher asked if the Commission wanted to pick a number such as 1,200 or 2,000 square feet for the dwelling or do they want the second dwelling size to go with whatever size the property would allow.

Commissioner Leland said one of the considerations is aesthetics and compatibility with the neighborhood. He asked if the Commission wanted to give people the same rights as if they had gone through a lot split.

Chairman Marin did not think the size of the second dwelling should be set in concrete.

Commissioner Wilson said he would prefer not to pick a number and let Building and Health set the limits.

Ms. Christopher said the square footage requirement is for total living area. She said she can take a split recommendation forward from the Commission.

Chairman Marin was in favor of leaving the square footage of the unit to the size of what the parcel would allow.

Commissioner Leland said he likes the 640 square foot requirement in the urban area and Commissioner Lambert agreed.

There was no consensus on this item. The Commissioners suggested from 640 square feet to no limit.

Rural Area:

Box 1 – Accessory use in residential zones - The Commission did not have a problem with this one.

Box 2 - Land Subject to Land Conservation Act Contracts and per the County Resolution implementing the Williamson Act. Where specific findings are made that due to adverse health, safety and welfare impacts a particular area or a particular project can not (for the reasons enumerated) support second dwelling units. Land within Zones B1, B2, C1 of the 2000 Airport Land Use Compatibility Plan. North Chico Specific Plan area. Agricultural zones, i.e. A-5 through A-160. Land within the “WP” (Watershed Protection) Overlay Zone. - The Commission did not have a problem with this one.

Boxes 3 and 4 were skipped at this time.

Box 5 – Attached or detached in urban areas.

Commissioner Leland said he would like to see the second dwelling attached if they are not going to require double the acreage.

Commissioner Nelson said he was not sure the second dwelling would need to be attached.

Chairman Marin said the County should let people decide whether the house is attached or detached.

Commissioner Leland said they should hold this one and talk about it with Boxes 3 and 4.

Box 7 – Deed restriction stipulating occupancy by owner of the parcel of the main dwelling or the second dwelling unit. - The Commission did not have a problem with this one.

Box 8 – changes the wording to one off-street parking space with one bedroom and two off-street parking spaces for two or more bedrooms. - The Commission did not have a problem with this one.

Box 9 - The Commission will come back to this item.

Box 10 – Drainage improvements may be required that are customary with a building permit. - The Commission did not have a problem with this one.

Box 11 – Where a residential use is permitted by right - The Commission did not have a problem with this one.

Box 12 – Delete from use matrix; not added as accessory use since residential is not a primary permitted use of the zone. - The Commission did not have a problem with this one.

Box 13 – Deleted from use matrix - The Commission did not have a problem with this one.

The following is a discussion on requiring double the acreage in the rural areas.

Commissioner Leland said there should be double the acreage in a non urban area for a second dwelling unit and if they do that the person can have an unlimited size unit.

Commissioner Nelson said that allowing a second unit should not create sprawl. He said he wanted to require double the acreage in rural areas.

Ms. Christopher pointed out that by State law, the Commission would need a reason why they are making the rules more restrictive. She said the Commission would need to make a finding for requiring double acreage.

Commissioner Nelson said to look at the definition of sprawl.

Commissioner Lambert said they could make the finding that this would encourage development closer to urban areas.

Mr. Wannemacher said they need to explain the different between rural and urban.

Commissioner Leland said urban suggests there will be sewer in the future. He said the non urban areas do not have sewer, are most likely to not have sewer in the future, and, therefore, it is appropriate to have a lesser density.

Chairman Marin said they should look at population growth over the next ten years. He said he would like to see the increase in a more spread out pattern.

Commissioner Leland said he would want to see concentrated development near where there is already development.

Chairman Marin did not see why the rural area should be any different than the urban areas. He thought that they are taking people's rights away saying some can have a second unit and some others can't.

Commissioner Nelson said it was a matter of the urban area having services that the rural area does not.

Commissioner Leland said when you build a house you are sharing with everyone, so lets put the people where there are other people already and services.

Chairman Marin said he disagreed.

Commissioner Nelson talked about how much CDF and Sheriff cost to serve the rural areas of the County.

Ms. Christopher said going back to the State law, the County defaults to the law if there is no local ordinance. She said if this was the case (even though it is not) the State is saying that one of the provisions under their law is that a second unit which conforms to the requirements of this subdivision, this section of law, shall not be considered to exceed the allowable density for the lot upon which it is located and shall be deemed to be a residential use which is consistent with the existing General Plan and zoning designation. She said if they default into the State law, the State determined that the second units do meet the density.

Commissioner Leland said the law does allow the County to restrict the second units in areas where they can make findings and one of the findings is that sewer is not available.

Ms. Christopher said there is no consensus on this item to carry forward.

Chairman Marin said when he first became a Planning Commissioner he noticed that there was a deficiency in the number of units being produced state wide, that there were 500,000 units throughout California less than what the demand was and this is what is driving up the inflation. He said we all need to work together.

Commissioner Nelson said he did not want to contribute to rural sprawl.

Ms. Christopher noted a split decision on size of the second unit.

Commissioner Nelson said he was ok with 1,200 square feet or no size restriction. with double the acreage.

Chairman Marin said there should not be a number set on the size of the unit in a rural area.

Commissioner Lambert said she had no problem with 1,200 or 2,000 square feet in a rural area with double the density.

Ms. Christopher said she would forward a split vote. She noted that there was no consensus on the standards listed in Box 4.

Commissioner Leland said they were not doing the Board any good to move this forward without a consensus on all items. He said that he was concerned with the short time the Commission has had to consider this ordinance.

Ms. Christopher said the Planning Commission serves as an appointment to the Board and it is good that there are diverse opinions. She said there are five people here with five opinions from five different areas of the County.

Commissioner Lambert noted that she was happy with the old ordinance realizing they need to make the changes to meet the State law.

Ms. Christopher said that Mark Michelena would like to address the Commission and give them staff's view on working with the ordinance.

Commissioner Leland said there is the question of whether second units should be allowed on nonconforming lots. He did not think second dwellings should be allowed on a nonconforming lot.

Ms. Christopher explained that a lot of the nonconforming lots are a result of zoning changes of whole areas. She said they will talk about this later under the nonconforming ordinance.

Mr. Wannemacher said that in a rural area that was AR-1 and is now AR-5, the owner could not necessarily have what they could in the AR-1. He said if it is a legal parcel in an urban area, they would be allowed to have a second dwelling.

Commissioner Nelson said a nonconforming parcel will have other issues.

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LUNCH – 1:00 p.m. to 2:08 p.m.

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Mr. Michelena gave his perspective as a staff person working the counter. He said he has to explain to someone with 20 acres next to a 10 acre parcel in a different zone why the 10 acre parcel is allowed to have a second dwelling and the 20 acre parcel is not because they don't have twice the acreage. He said it is very difficult to deal with the ordinance the way it is.

Chairman Marin said he was against the double acreage requirement. He said these second units are used as a rental for a lot of people to help the owner financially and a lot of families can not live in a 640 square foot house.

Commissioner Nelson agreed that a 640 square foot house was really small.

Commissioner Leland asked staff to raise the question of second dwellings on a nonconforming parcel because it was not addressed in the report.

Commissioner Wilson said that nonconforming covers a lot of things.

Ms. Christopher agreed that there could be a lot of reasons a parcel is nonconforming and she would bring these concerns forward to the Board.

Commissioner Nelson said the interpretation of the law is that the State wants more homes in the urban areas, more so than the rural areas. He said residential housing cost money in the long run because of the need for services and the farther out the dwelling, the more expensive the service.

Ms. Christopher asked if the Commission could support in the rural area no double the acreage if they limited the size of the second unit.

Commissioner Wilson discussed having a deed restriction on property to stop further second dwelling on split property.

There was a discussion on there being no size restriction when the parcel is double the acreage.

Commissioner Wilson said he would agree with double the acreage to have a second dwelling with unlimited size.

Ms. Christopher noted that is the way the ordinance reads now.

Chairman Marin was in favor of no limit on size.

Mr. Wannemacher pointed out that in the PUD zones, it would need to be spelled out up front that they intended to have second dwellings.

It was moved by Commissioner Leland, seconded by Commissioner Nelson, and unanimously carried to recommend approval of the Negative Declaration and Zoning Code Amendment 05-01

move to recommend to the Board the zoning ordinance as they see fit with the suggestions that were made at today's proceedings.

* * * * *

Butte County Department of Development Services, Amendment to the text of Chapter 24, and Section 24-35.40 regarding nonconforming parcels: This ordinance amendment would allow rear yard setbacks to be reduced by five-foot increments with a minimum rear yard setback of ten feet and revise the building envelope to fifty feet in width. (YC) (ZCA 05-02)

Ms. Christopher gave a brief summary of the recommended changes.

It was moved by Commissioner Nelson, seconded by Commissioner Lambert, and unanimously carried to recommend approval of ZCA 05-02 regarding nonconforming parcels subject to the findings below:

- I. Review the Initial Study completed in compliance with the California Environmental Quality Act, find it to be adequate and recommend that the Board of Supervisors adopt a Negative Declaration.
- II. Recommend that the Board of Supervisors approve Zoning Code Amendment 05-02 to amend the provisions for nonconforming parcels in residential zones and subject to the following findings:
 - A. The proposed zoning code amendment is consistent with the Butte County General Plan Goals and Policies*, particularly Land Use Element Policies:
 - 3.2.c. Relate residential densities to intensity and compatibility of adjacent uses. *Allowing a reduction of rear yard setbacks on nonconforming legal parcels will increase the intensity of use for a single-family residence, but not in such a way as to be incompatible with adjacent land uses.*
 - 4.2.a. Maintain economic use and value of private property. *A reasonable use of rear yard setback areas on nonconforming legal parcels will enhance property use and the value of private property.*

*The Planning Commission may choose to add or delete General Plan policies from this list along with any supplemental comments pertaining to the nonconforming lot setback issue.

- B. Planning Commission Comments and Recommendations

* * * * *

Butte County Department of Development Services, Amendment to the text of Chapter 24, Sections 24-140, 24-145, 24-150, 24-155, and 24-225 regarding commercial signage, entitled "Zoning", of the Butte County Code: This ordinance amendment would amend the commercial zones of the County so that where commercially-zoned property is adjacent

to residentially-zoned property, the standards for allowable signs would be the sign standards in the N-C (Neighborhood Commercial) zoning district. (YC) (ZCA 05-04)

Ms. Christopher gave a brief summary of the ordinance. She said the Board asked that a sentence be added to all of the zones that read “(f) (1) In instances in which any commercially zoned property abuts residentially zoned property the standards as it pertains to allowable signs shall be that of the N-C (Neighborhood Commercial) zoning.” She suggested they use the height limitation from the N-C zone and the overall signage on buildings 1 square foot of signage based on the length of the square foot of the building. She said these changes were generated by the sign at the Dan Gamel property. She said they need to make it clear that the height and light refers to the sign.

Commissioner Nelson asked if they based this on already established sign ordinance for the urban areas.

Ms. Christopher said “no.”

Mr. Streeter said in the C-1 and C-2 zone outdoor advertising is listed as a permitted use.

Commissioner Leland said if they bring in the Neighborhood Commercial restrictions it looks like it’s allowed as a matter of right.

Mr. Wannemacher said he did not believe Neighborhood Commercial addressed outdoor advertising signs.

Ms. Christopher said under #10 it has “signs” and then it states building signs shall not exceed a combined size of one square foot in area for each lineal foot of building frontage.

Commissioner Leland said those are the signs that are attached to the building.

Mr. Wannemacher said the language that is proposed is that building signs would have to follow the Neighborhood Commercial rules.

Ms. Christopher said the outdoor advertising signs need to be more restrictive than just building signs, that a 40 foot high maximum size should apply if you have residential adjacent to it, and you would still be able to light the sign and the sign would not be limited in the amount of square footage.

Mr. Wannemacher said the issue is that there is no review of a sign going in next to a residential zone that will be impacted by it. He said they should set a threshold on outdoor advertising signs. The Commission might want to add language such as “A Use Permit is required where an outdoor advertising or other non-building sign exceeds 10 feet in height or exceeds 100 square feet in size or will be illuminated.” He said that if they set a threshold, below a certain threshold signs do not need a Use Permit and any sign above the threshold would need a Use Permit to determine the impacts.

Commissioner Leland said that seems appropriate if you are next to a residential use.

Ms. Christopher asked if 1) they were happy with the 40 foot limit, 2) how big and what size triggers a Use Permit, and 3) the lighting. She said if a Use Permit is required, the County can put a time limit that the sign can be on. She said the ordinance is not retroactive.

Mr. Wannemacher said it really comes down to what the Commission thinks the threshold should be. He said the Commission might want to say that any sign next to residential requires a Use Permit.

Commissioner Leland talked about lighted signs on building faces.

Ms. Christopher said building signs are not only found on the front of the building. She suggested that the sign can not be shining off the premises.

Mr. Wannemacher said setbacks for commercial uses next to residential are only 10 feet.

Ms. Christopher said for clarification there are basically three types of signs, i.e., free standing, monument, and building signs. She asked if the Commission wants to control the amount of signs as well.

Commissioner Leland said he would like to require a Use Permit for illuminated signs next to a residence.

Ms. Christopher said they need to think about the overall size of signs.

Commissioner Leland asked if there was a standard size for pole signs.

Ms. Christopher said she thought it was related to the location.

Mr. Streeter said that one size that is not uncommon is 300 square feet for a pole sign. He said staff included the Community Commercial zone in the ordinance although the same sign standards as in Neighborhood Commercial are already there.

Commissioner Nelson said that things need to be looked at when there are conflicts. He said you have two conflicting things, people trying to live in a residential neighborhood and a commercial business trying to advertise next door.

Mr. Wannemacher suggested the need for criteria above which a Use Permit is triggered relating to height, size, and lighting. He said that a business in a C-2 zone which happens to be next to a residential area is limited by the ordinance to the amount of square footage for all of the building signs that corresponds to the building frontage. He felt that the lighted and free standing signs also need to be addressed.

There was a brief discussion on the Gamel sign that triggered this ordinance.

Commissioner Nelson suggested over 300 square foot and over 40 ft. high to trigger a Use Permit.

Commissioner Wilson commented that there are a lot of signs in existence now that are too big and he felt if they are going to have an ordinance, the signs need to come down.

Chairman Marin suggested that signs be 50 feet in height, 300 square feet in size, and the lighting should be turned off at midnight when next to a residential neighborhood.

Commissioner Wilson said they should make it so once the height is set if the sign goes above that height it would trigger a Use Permit. He felt the height should be set at 20 feet and 300 square feet in size and that anything over that would require a Use Permit. He said he would add that no lighting shall shine on residential use.

Commissioner Leland said he would go along with 40 feet in height, 300 square feet in size, and lighting to be turned off at midnight when next to a residential property. He said that this is the type of ordinance where the Commission would like to hear from the people affected. He said they need to expand the notice for the hearing. He felt they should send notices to commercial properties that are next to residential properties.

Mr. Wannemacher said there are two issues; 1) the building signs and the other signs and 2) other signs are only allowed in certain zones, and H-C already requires a Use Permit, C-1 and C-2 do not require a Use Permit, and S-H has additional restrictions on them. He asked if the Commission was going to put these restrictions in the zones that already allow for outdoor advertising signs and not expand outdoor advertising signs to the commercial zones that do not already allow them.

The Commissioners agreed with Mr. Wannemacher's statement.

Commissioner Lambert asked if there is a 100 foot frontage on a building and there are a lot of little businesses with a sign on each one does it cause a problem because of the limitation.

Ms. Christopher said that the amounts for the signs were cumulative.

Mr. Wannemacher said the Commission might want to bring up the issue. He said it could be very restrictive if you have a building that had a sign that the owner wanted to put on three or four sides.

Ms. Christopher said the County counts frontage for setbacks on both sides for corner lot. She felt the frontage would count for both sides for signs.

Commissioner Leland said that the number of square footage is restrictive, but it is commonly found in shopping centers leases.

Ms. Christopher asked when the Commission proposed the 300 square foot requirement it was for freestanding and monument signs, leaving the 1 square foot per lineal foot length of the building as it is.

Commissioner Leland said he was thinking of freestanding only. He said a monument sign would not be that big.

Commissioner Wilson said he was also thinking this applied to pole signs only.

Commissioner Lambert said limiting a monument sign to 6-8 feet appealed to her.

Commissioner Leland suggested 32 square feet or over 8 feet in height would trigger a Use Permit for monument signs, and would be required to shine only on the property where the sign is.

Ms. Christopher listed the changes suggested; 1) freestanding pole signs allow up to 40 feet in height and up to 300 square feet of face, anything higher or larger or lighted would trigger a Use Permit,

and write into the code that the lights would have to be turned off at midnight; 2) for monument signs allowable up to 8 feet tall and 32 square feet of face, and lighting ok, anything beyond that would trigger a Use Permit. She said they would default back to the N-C references for the building signage.

Commissioner Nelson discussed requiring a distance next to residential property. Brief discussion.

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to recommend the approval of ZCA 05-04 for commercial signage, subject to the findings and with the changes discussed today.

I. Review the Initial Study completed in compliance with the California Environmental Quality Act, find it to be adequate and recommend that the Board of Supervisors adopt a Negative Declaration.

II. Recommend that the Board of Supervisors approve Zoning Code Amendment 05-04 to amend the commercial sign provisions for the C-1 (Light Commercial), C-2 (General Commercial), H-C (Highway Commercial) and S-H (Scenic Highway) zones subject to the following findings:

A. The proposed zoning code amendment is consistent with the Butte County General Plan Goals and Policies*, particularly Land Use Element Policies:

4.3.a. Encourage a full range of commercial services at the regional, community and neighborhood levels.

Commercial services and signs as an accessory use need to be compatible with neighborhood uses as well as provide a full range of services at neighborhood levels.

4.3.d. Designate retail and service commercial areas in close proximity to residential development.

Retail and service commercial areas that are close to residential development have the challenge of conducting their business in such a way as not to be overly intrusive to the nearby residences. Tall, freestanding signs would be intrusive to most residential neighborhoods.

4.4.a. Relate the intensity and variety of commercial uses to the market accessibility of each site.

The signage appropriate to a commercial site is also affected by the site's visibility and accessibility. Tall, freestanding signs, where appropriate, may warrant a special review process, e.g. a use permit for a multi-tenant sign along a freeway.

*The Planning Commission may choose to add or delete General Plan policies from this list along with any supplemental comments pertaining to the commercial sign compatibility issue.

B. Planning Commission Comments and Recommendations

VI. GENERAL BUSINESS - *This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do*

research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.

A. Directors' Report

Ms. Christopher said she interviewed for the Planning Manager and will still have to go back out and recruit again. She briefly explained the problems with processing permits. She said she is going to ask the Board for an Associate Planner position to work with the agricultural issues. She invited the Commission to come into the office and see the updated front counter. She explained the new web site and working with Upstate.

Ms. Christopher said she is initiating a zoning code amendment to add to the A-R zone a rural medical and dental clinic as an accessory use with a Use Permit.

Ms. Christopher said she will be out of the office next week working on the General Plan update.

B. General Plan/Zoning Ordinance Update

C. Legislative Case Law update

D. Planning Commission Concerns

1. Resolution of appreciation for Michael Evans

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to adopt Resolution 05-01 in appreciation of Michael Evans.

VII. MINUTES - January 27, 2005

The Commission had the following correction: Page 23, L11 change "bond" to "bound."

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

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

IX. ADJOURNMENT

There being no further business, the Planning Commission adjourned at 3:55 p.m.

Chairman Marin

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