

BUTTE COUNTY PLANNING COMMISSION MINUTES
JANUARY 12, 2006

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:00 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Leland, Marin, Wilson, and Vice-Chairman Lambert
- ABSENT:** Chairman Nelson

ALSO PRESENT:
County Counsel Rob MacKenzie, Deputy County Counsel
Development Services Pete Calarco, Assistant Director
Mark Michelena, Senior Planner
Carl Durling, Associate Planner
Lynn Richardson, Secretary
Environmental Health Doug Fogel

III. SELECTION – Selection of Chairman, Vice Chairman, and Second Vice Chairman for 2006

It was moved by Commissioner Leland, seconded by Commissioner Lambert, and unanimously carried to nominate and elect Commissioner Nelson as Chairman for 2006.

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to nominate and elect Commissioner Lambert as Vice Chairman for 2006.

Vice-Chairman Lambert took over the meeting at this time.

It was moved by Vice Chairman Lambert, seconded by Commissioner Leland, and unanimously carried to nominate and elect Commissioner Wilson as Second-Vice Chairman for 2006.

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

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

V. BUSINESS FROM THE FLOOR ON ITEMS NOT ALREADY ON THE AGENDA:

None

VI. PUBLIC HEARINGS:

Name: Bruce Claflin Project: Tentative Parcel Map TPM 04N-25

Planner: Mark Michelena **APN:** 047-320-057 **Zoning:** SR-1
Location: on the south side of Keefer Road, approximately 155 feet east of Gideon Lane, north Chico area
Proposal: Tentative Parcel Map to divide a 3.18-acre parcel into two lots of 1.96 and 1.22 acres with a request of two exceptions. Exception to Butte County Code Section 20-122 (Lot shapes and configurations). Exception to Butte County Code Section 20-136 (Minimum widths)

Mr. Michelena gave a brief summary of the project. He handed out a memo dated January 12, 2006, with a new Condition 6.

Vice Chairman Lambert said the new map shows the location of the septic tank. She understood that they might have to move the septic tank. She asked about the leachfield going from Parcel 1 into Parcel 2.

The hearing was opened to the public.

Mr. Michelena said that one of the conditions is that the applicant re-locates the leach lines all for Parcel 1 on its own parcel. He said the applicant will be required to identify all the usable septic area on Parcel 1.

Mr. Claflin said he has a permit pulled and the only reason the leach lines are not done at this time is because of the rain.

Mr. Fogel asked that the note on the map be put in the conditions under Environmental Health to read: "Prior to recordation locate and if necessary re-locate the entire septic system on Parcel 1."

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

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the Tentative Parcel Map for Bruce Claflin, adopting Resolution PC 06-01, subject to the conditions in Exhibit A, adding a new Condition 25 to read: "Prior to recordation, locate and if necessary, relocate the existing septic system entirely on Parcel 1.", re-number the remaining conditions.

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

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Name: James Berglund **Project:** Tentative Parcel Map TPM 04N-27
Planner: Carl Durling **APN:** 042-340-104 **Zoning:** SR-1
Location: on the northeast side of Bay Avenue, approximately 300 feet north of Carmack Drive, at 3682 Bay Avenue, northwest Chico area.
Proposal: Tentative Parcel Map to divide a 2.33-acre parcel into one parcel of 1.12 acres and one parcel of 1.21 acres

Mr. Durling gave a brief summary on this project.

Commissioner Leland questioned staff's recommendation to leave the barn in place. He said there was an earlier hearing where the Commission added a condition to remove a barn because the barn was considered an accessory use without having the principal use in place.

Mr. Durling said that staff considered this an accessory building to an accessory use, i.e., a garden, etc. He believed these should be looked at on a case by case basis.

Vice Chairman Lambert asked if this zone allows second dwellings, can the barn be converted to a dwelling.

Mr. Durling said a second dwelling would only be possible if it meets septic and water conditions.

Commissioner Leland said there should be a condition that the barn is torn down if the dwelling is not put in for five years.

Mr. Durling handed out an email from the adjoining property. He said that even though the map only shows the easement to Parcel 1, the easement does go to Mr. Condon's property.

Commissioner Leland questioned the City of Chico pre-zoning this property to industrial. He said it did not make any sense with all the residential around this property. He said he had a problem with the exception to the cul-de-sac standards. He said that it might be impractical to have another access, but this was not a good reason to grant the exception. He felt this defeated the purpose of having cul-de-sac standards and would make it so everyone could get an exception to build on a cul-de-sac.

Mr. Durling said the access has to be a clear issue. He said in this case, staff feels with the SUDAD canal there is no way to put in another access.

Commissioner Wilson asked how the County ended up with 74 parcels on this cul-de-sac when the County standard only allows 20 parcels on a cul-de-sac.

Mr. MacKenzie stated that the Code regarding cul-de-sacs was adopted in 1995.

In answer to a question by Vice Chairman Lambert regarding the orchards on Bay Avenue, Mr. Durling said he addressed that in the Agenda Report.

The hearing was opened to the public.

Tom Wrinkle, Sierra West Surveying, said the cul-de-sac ordinance has been in place for at least 20 years. He said 8 or more lots splits have been done previously. He said the applicant approves of the conditions. He said that the easement does go through to the other property and explained that there is a condition on the map to show all easements.

Commissioner Leland asked if the other 8 parcel maps were done before or after the cul-de-sac code was adopted.

Mr. Wrinkle said the parcel maps were done after the code was put in.

Jim Berglund said that Eaton Road is separated from Bay Avenue and can not be connected. He said he has always thought of Bay Avenue as a dead end road instead of a cul-de-sac.

Vice Chairman Lambert asked what Mr. Berglund's feelings were on removing the barn.

Mr. Berglund said if he was given 5 years to remove it that would be alright.

Mr. MacKenzie said the Subdivision Ordinance has been in existence since 1976. He said Code Section 20-133 did not exist before 1995. He said it could have been under another section prior to that.

Mr. Durling said they could change Condition 3 to read within five years of the recording.

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

Mr. Calarco suggested adding to the end of Condition 3 "or a principal use has been established."

Commissioner Wilson said if it was him, he would like to keep the barn there for storage while building a home.

Mr. Durling said staff's position is to follow the Code as it is written.

Vice Chairman Lambert agreed that the SUDAD canal stops any alternative access for this property.

Mr. MacKenzie discussed an alternative access being possible, but it's the degree of difficulty in putting one in.

Commissioner Leland added to III. 3. A. in the findings "on two sides."

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to approve the Tentative parcel Map for James Berglund, adopting Resolution PC 06-02, subject to the conditions in Exhibit A, adding to finding III.3.A. "on two sides.", changing Page 6 of the Agenda to say "no LAFCo comments", change Condition 3 to read: Place a note on an additional map sheet of the Parcel Map that states: "Within five years of the recording of the Parcel Map, remove the existing barn situated on Parcel 1 unless prior to this period of time a building permit has been issued for a dwelling or a principal use has been established."

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Name: Serena Diane Webb

Project: Minor Use Permit MUP 06-01

Planner: Carl Durling

APN: 031-281-120 Zoning: A-R

Location: south side of Thermalito Avenue approximately 250 feet east of 10th Street at 955 Thermalito Avenue, Thermalito area, Oroville.

Proposal: provide a large family day care facility for up to 12 children.

Mr. Durling gave a brief summary of the project.

Vice Chairman Lambert questioned the age of the children and asked how many employees there would be per child.

Mr. Durling said that the applicant has indicated that there will be no employees.

The hearing was opened to the public.

No one was present to speak on this item.

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

Vice Chairman Lambert said she had no problem with the location. She was concerned if these were small children with the amount of help to look after them.

Mr. Durling said Mrs. Webb's husband would be helping her.

Vice Chairman Lambert asked since the Minor Use Permit goes with the land, do they need a condition on the amount of caregivers needed per number of children.

Commissioner Leland said he did not see the ratio of employees to children as in the Commission's purview and not a land issue.

Mr. Mackenzie said the day care is licensed by the State and regulated by the State. He the State law is very detailed. He said that large day care facilities are 7-14. He said there is some limited preemption of local laws involved here, such that the legislator has made a finding that "Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses." He said there are State law conditions about when the homes can care for 14 children as set for in 1597.465. He did not believe that the applicant needs to wait until the Code is change, and that the County has been preempted by State law from licensing this facility for less than 14. He said the conditions in the permit should parallel State law and indicate that the home can care for 14 children if the home meets the requirements of Health and Safety Code Section 1597.465.

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to approve the Minor Use Permit for Serena Diane Webb, adopting Resolution PC 06-03, subject to the Conditions in Exhibit A, changing any reference to 12 children to 14 children and deleting any language that states "administratively approved to 14 children when the Butte County Code is amended to conform to the State statute."

Vice Chairman Lambert questioned the Fire Dept. condition that says "prior to the start..." She asked if this was appropriate language because the day care already exists.

Mr. Durling said the six children are allowed by right; the “start” in “prior to the start” refers to any increase in children over the six that are allowed.

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

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Name: Monty A. Vander Beek Project: RZ 04-02
Planner: Carl Durling APN: 073-300-027 Zoning: A-R
Location: on both sides of Forbestown Road, approximately 915 feet north of Bamford Way, approximately 1.8 miles east of Forbestown, east Butte County area.
Proposal: Rezone from “U” (Unclassified, 20-acre minimum parcel size) to TM-5 (Timber Mountain, 5-acre minimum parcel size).

Mr. Durling gave a brief summary of the project. He explained that the “U” zone was adopted as a holding zone and it is expected that the properties will rezone. He said staff is also asking that the Commission initiate an area wide rezone. He submitted a map with the parcels in yellow that are recommended for the area wide rezone. He asked that the area be expanded.

Commissioner Leland asked if there is a statute that prohibits spot zoning.

Mr. Durling said as long as the County can show that there is no detrimental impact to the public health, safety, or welfare, that there is some policy to base the zoning on, and it is in the public interest to do the rezone, it is not spot zoning.

Commissioner Leland said that changing this zone will set a precedent in the area.

Vice Chairman Lambert agreed to initiate the area wide rezoning, but felt the action should be separate from the Vander Beek action. She said the initiating of the rezone should be deleted from the Resolution for this project.

Mr. Durling said he would like to expand the rezone area from what was marked on the map he submitted.

The hearing was opened to the public.

George Wasley said he was in favor of the staff report. He agreed that the area rezone should be done separate from this hearing. He was there to answer questions.

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

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to recommend approval to the Board of Supervisors for the Rezone for Monty A. Vander Beek, adopting Resolution 06-04, deleting IV from the Resolution that reads “IV. Recommend initiation of a rezone of the area to an appropriate TM zone.”

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to initiate an area rezone as shown on Exhibit D include any other area that may be appropriate.

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

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Name: Lou Ann Mueller (Rupp) Project: DET 06-04
Planner: Carl Durling APN: 062-720-003 Zoning: U
Location: on Simpson Ranch Road, one-half mile south of Bald Rock Road via Bay Ranch Road, Berry Creek.
Proposal: Legal Lot Determination/Conditional Certificate of Compliance

Mr. Durling gave a brief summary of the project. He noted the conditions attached.

Vice Chairman Lambert asked if the applicant could have a second dwelling on this property.

Mr. Durling answered “yes.”

The hearing was opened to the public.

Luann Mueller said she agreed with the conditions.

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

It was moved by Commissioner Marin, seconded by Commissioner Wilson, and unanimously carried to approve the Legal Lot Determination/Conditional Certificate of Compliance for Lou Ann Mueller, adopting Resolution 06-05.

There is a 15-day appeal period on all decisions with the Clerk of the Board

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Name: Roberta Fisher Project: DET 05-12
Planner: Carl Durling APN: 061-440-029 Zoning: U
Location: on the west side of Bonnie Meadow Lane, approximately 300 feet south of Stephen’s Ridge Road, two miles west of Oro Quincy Highway, Berry Creek.
Proposal: Legal Lot Determination/Conditional Certificate of Compliance

Mr. Durling gave a brief summary of the project.

The hearing was opened to the public.

No one spoke on this item.

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

It was moved by Commissioner Wilson, seconded by Commissioner Marin, and unanimously carried to approve the Legal Lot Determination/Conditional Certificate of Compliance, adopting Resolution PC 06-06.

There is a 15-day appeal period on all decisions with the Clerk of the Board

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VIII. 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

Mr. Calarco noted that Mr. Snellings and Mr. Breedon were attending an Eco Forecast Conference in the City of Chico this morning.

B. General Plan/Zoning Ordinance Update

C. Legislative Case Law update

D. Planning Commission Concerns

IX. MINUTES – November 10, 2005, (continued), December 8, 2005, and December 22, 2005.

November 10, 2005:

It was noted that the correction to the November 10th minutes were listed in the December 8th minutes and were taken from the tape as requested.

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the minutes for November 10, 2005, as revised.

December 8, 2005:

A corrected Page 7 was passed out, correcting Lines 27-33 on the description of the hearing; a correction was made to Page 6, Line 11 adding “The exposed cut or fill will not exceed 12 feet in height” after “checkerbloom”.

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the minutes for December 8, 2005, as corrected.

December 22, 2005:

The Commission had the following corrections: Page 2, L38 change “record” to “recorded”; Page 3, L10, change “\$25,00” to “\$25,000”; Page 4, L23, delete “or” and “it.”

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to approve the minutes for December 22, 2005, as corrected.

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

None

XI. ADJOURNMENT

There being no further business, the Planning Commission adjourned at 11:00 a.m.

Vice-Chairman Lambert

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