

# BUTTE COUNTY PLANNING COMMISSION MINUTES

JANUARY 11, 2007

## I. PLEDGE OF ALLEGIANCE

II. **PRESENT:** Commissioners Lambert, Marin, Wilson, and Leland

**ABSENT:** Chairman Nelson

**ALSO PRESENT:**

*County Counsel* Robert MacKenzie, Deputy County Counsel  
*Development Services* Tim Snellings, Director  
Dan Breedon, Principal Planner, Advance Planning  
Chuck Thistlethwaite, Planning Manager  
Stacey Joliffe, Principal Planner, Current Planning  
Mark Michelena, Senior Planner  
Carl Durling, Associate Planner  
Kim McMillan, Administrative Assistant Senior  
Gwyn Benedict, Permit Technician

*Environmental Health* Doug Fogel  
*Public Health* Craig Erickson

## III. SELECTION - Selection of Chairman, Vice Chairman, and Second Vice Chairman for 2007.

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to nominate and accept Nina Lambert as the Chairman for the 2007 Butte County Planning Commission.

It was moved by Commissioner Leland, seconded by Chair Lambert, and unanimously carried to nominate and accept Harrel Wilson as the Vice Chairman for the 2007 Butte County Planning Commission.

It was moved by Chair Lambert, seconded by Commissioner Wilson, and unanimously carried to nominate and accept Richard Leland as the Second Vice Chairman for the 2007 Butte County Planning Commission.

## IV. 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 Wilson, and unanimously carried to accept the agenda as presented.

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

None

**VI. CONSENT AGENDA** Consent items are set for approval in one motion. These items are considered non-controversial. No presentations will be made unless the item is pulled from the Consent Agenda for discussion. Any person may pull an item from the consent agenda.

The Chair will ask if any Commissioner or member of the public wishes to pull a consent item for discussion.

None

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

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

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

**A. UP 04-06 - Continued from November 30, 2006**

**Name:** David Murray

**Project:** Use Permit, UP 04-06

**Planner:** Carl Durling

**APN:** 063-250-039 **Zoning:** TM-20

**Location:** At the easterly end of Village Drive, approximately 0.75 miles from the intersection of Crown Point Road; approximately 1.4 miles from the intersection of Crown Point Road and Deer Creek Highway (Highway 32), south of Forest Ranch.

**Proposal:** Use Permit to allow continuation of an existing dog kennel for 18 dogs including outdoor cable runs.

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

Carl Durling gave a brief description and summary of the project, with the proposed changes:

Regarding the well: include Condition #19 “Applicant shall establish an easement on the adjoining property owner’s property between the well and common property line or establish a new well on the property to the satisfaction of the Environmental Health division.”

Revised Map regarding the cable run location: The applicant has submitted a revised plan which reduces the number of cable runs from 18 to 5. In addition, cable runs have been moved to be no closer than 600 feet from the west property line. Previously, the closest cable run was within 100 feet of the property to the west.

Revised Animal Control Condition #17 to read as follows: “Obtain a license to operate a kennel from Butte County Animal Control. The applicant shall apply for a building permit within 30 days

after approval of the Use Permit. A Kennel License may be issued after the Building Department final approval of the kennel facilities.”

Mr. Durling handed photographs to the Commission of the applicants property that had been submitted to Development Services by Ms. Lynch, an adjacent property owner to Mr. Murray. He also stated that Mr. Murray had just indicated that he had brought a preliminary title report that makes reference to an easement on the Lynch property for the well.

Stacey Jolliffe reiterated the summary of the changes to the Commission for clarification of the above changes.

Commissioner Leland asked if there was room for the cable runs in the new area on the revised map.

Mr. Durling stated that there was adequate room, since the number of cable runs were being reduced from 18 to 5.

Commissioner Wilson asked about the new State Law concerning dogs being tethered.

Mr. Durling replied that Animal Control was present and they would address that question.

Craig Erickson from Public Health Animal Control was present and addressed the Commission. He stated that the new law prohibits dogs from being tethered for periods longer than 3 hours per day, but that the cable runners were acceptable.

Chair Lambert asked whose property the pictures were taken from.

Doug Lynch, the adjacent property owner to the west addressed the Commission and stated that he had taken the pictures from his property in early November. He also stated that at least half of the dogs were concentrated near his property line with some of them being only 20 feet away from the property line.

Doug Fogel from Environmental Health addressed the Commission. Mr. Fogel asked Mr. Lynch if he was aware of the easement and if he accepted it.

Mr. Lynch replied that he has owned his property for 14 years and is not aware of any easements on his property and that he does not accept the easement submitted by Mr. Murray.

Chair Lambert asked Mr. Durling about the title report that Mr. Murray was going to bring to the meeting.

Mr. Durling replied that he would be circulating to the Commission the title report which Mr. Murray had brought with him today.

The hearing was opened to the public.

Dave Murray, the applicant for the project addressed the Commission. He handed the title report to Mr. Durling, who then passed it on to the Commission for perusal. Mr. Murray stated that he has applied for a permit to drill a new well, but that it might be some time before he can get the well in due to the weather and road conditions.

Mr. Murray commented with regard to the pictures, that all the vehicles in the pictures were operable, and that he has already done extensive clean up of the property, and his main goal was to be in compliance with the County regulations and provide a decent life for the dogs.

Chair Lambert asked Mr. Murray if he had any problems with changing the dog tethers to the cable pulley system.

Mr. Murray replied that he would be using 30 to 50 foot cable runs with a 10 to 20 foot chain attached to the cable, and that he would be switching out the dogs during the day.

Commissioner Leland gave the pictures to Mr. Murray and asked him if he had any response to them.

Mr. Murray looked through the pictures. He stated that in regards to the granny house it is actually abandoned and when Loomis Engineering surveyed the property, the granny house is about 40 feet from the property line.

Mr. Durling stated that Condition #19 was added. It constitutes protection that the well issue would be resolved.

Mr. Lynch addressed the Commission. He stated that he is concerned about the dogs as 16 of them are on zip lines pretty close to his property, and in the past the dogs have gotten loose and come onto his property and killed his chickens.

Mr. Lynch stated that he is concerned about the well issue; and if he had not been clearing his property line for fire season then he still would have no knowledge that Mr. Murray's well was on his property. He also reiterated that having a suitable water source was a condition of the Use Permit, as well as being needed for Mr. Murray's personal residence. Mr. Lynch also expressed his concern about the septic system for the kennel as his property is downhill from Mr. Murray's and he would not want his own water source contaminated by the fecal runoff from the kennels. Mr. Lynch also spoke with regards to the abandoned vehicles on the property, and that it was his understanding that the vehicles needed to be removed prior to approval of the Use Permit.

Commissioner Leland asked when the pictures were taken.

Mr. Lynch replied that he had taken them in early November.

Commissioner Marin asked who had drilled the well that is on the Lynch's property.

Mr. Lynch said that he did not know and he thought the well was probably put in before permits were required.

Commissioner Marin inquired if the well was Mr. Murray's only source of water at this time.

Mr. Lynch responded that it was and that he certainly had no intentions of disturbing the well or prohibiting Mr. Murray from using it, he just wanted to resolve the matter.

Chair Lambert stated that the title report may indicate who drilled the well. She also asked what the definition of an abandoned vehicle was.

Rob MacKenzie addressed the Commission. He responded that a Code Enforcement officer should verify that the vehicles were running and licensed. Mr. MacKenzie also stated that an abandoned vehicle is one that is non-operable and/or partially dismantled.

Commissioner Leland asked if any vehicle not running but 'stored' on property was considered an abandoned vehicle.

Mr. MacKenzie replied that yes it was, but according to County code each parcel was allowed 100 square feet of trash or junk, and that one 'parts car' was the equivalent to a 10' X10' area of junk. If a property owner wished to store more than one vehicle they could as long as it was not in public view, it could be in a barn or behind a fence.

Doug Fogel addressed the Commission, and informed them that Environmental Health had found a file that indicated there was a well permit granted in 1986 for the well that was drilled on Mr. Lynch's property, but that a Final Inspection of the well was not performed.

Mr. Durling addressed the Commission, and told them that Code Enforcement did have a case on the property for abandoned vehicles and that all the vehicles cited at that time have been removed and the case closed.

Mr. Murray addressed the Commission with regards to the vehicles in the pictures. He stated that the school bus was running and would be eventually turned into a motor home, the water truck was running but not registered and DMV had told him that it did not need to be registered as he was using it for fire suppression on his own property. Mr. Murray also stated that there have been no additional vehicles brought onto the property, and the existing vehicles are on a non-operational status through DMV.

Chair Lambert asked the status of the kennel license.

Mr. Durling responded that Mr. Murray could not get a kennel license until the Use Permit was approved. He indicated that Mr. Murray had applied for the Use Permit 2 years ago and the project has been delayed due to the resolving the Code Enforcement issues, and having to obtain permits and final inspections on the existing dwellings.

Mr. Murray stated that the well had been approved by Tom Loushine as an adequate water source for the house at the time the building permits were issued.

Commissioner Wilson asked if Mitigation Measure #2 reducing the cable runners from 18 to 5, would also reduce the number of dogs.

Mr. Durling replied that the application was for 18 dogs and has not changed.

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

Stacey Joliffe addressed the Commission; she wanted to remind them that the Conditions of Approval on the Use Permit stated that the well condition must be met, and that the kennel license would require that Use Permit be issued for the kennel.

Chair Lambert commented that this was an application to correct an existing situation and that the well had been established before permits were required, and it seemed like the applicant was doing what he could to correct the problem.

Commissioner Marin asked to see the title report regarding the easement rights.

The report was passed around and reviewed by the Commission.

Commissioner Leland stated that it was a preliminary title report and was unreliable as proof of an easement.

It was moved by Commissioner Leland, seconded by Commissioner Wilson and unanimously carried to adopt Resolution PC 07-01 approving the Use Permit for Dave Murray subject to the findings and conditions, and including the new Condition #19, and changing Condition #17 to limit the cable runs to five, and move the runs 600 feet from the property line.

\*\*\*\*\*

**B. TPM 05-22 - Continued open from December 14, 2006**

**Name:** Terry and Ruth Smith      **Project:** Tentative Parcel Map TPM 05-22  
**Planner:** Mark Michelena      **APN:** 041-260-059      **Zoning:** U  
**Location:** On the north and south sides of Oregon City Trail, approximately 1600 feet east of Oregon Gulch Road, at 142 Oregon City Trail, Oroville.  
**Proposal:** Application to divide a 74 acre parcel into 3 parcels (21.46 acres, 20.06 acres and 32.73 acres)

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

Mark Michelena asked for a continuance to February 8, 2007 to allow the applicant time to satisfy the access issue.

The hearing was opened to the public.

There was no one present to address this item.

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

It was moved by Commissioner Marin, seconded by Commissioner Wilson, and unanimously approved to continue project TPM 05-22 to the February 8, 2007 Planning Commission meeting.

**C. Butte County General Plan 2030 –Draft Framework of Guiding Principles Review** –Review of Comments Provided by the Citizens Advisory Committee Meeting held December 7, 2006. The Planning Commission will hold a public

meeting to discuss the comments provided by the Citizens Advisory Committee on the Guiding Principles. This item was last discussed by the Planning Commission on April 27, 2006. The Board of Supervisors subsequently reviewed and approved the Draft Framework of Guiding Principles on May 23, and July 25, 2006. The Board instructed that the Guiding Principles be reviewed by the Citizens Advisory Committee and that the Planning Commission review the Committee's input and comment prior to further review and finalization by the Board of Supervisors.

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

Dan Breedon gave a background summary of the process that had been used to establish the Draft Guiding Principles. He also gave a history of the process that established the Citizens Advisory Committee.

Mr. Breedon stated that staff and the CAC was requesting that the Planning Commission review the information provided including the edited changes to the Guiding Principles, the notes from the December 7, 2006 meeting, and additional comments made by Committee members and provide the Guiding Principles, and any further changes deemed necessary, to the Board of Supervisors for final review and approval at the February 13, 2007 Board of Supervisors meeting.

Tim Snellings gave a summary of the Board of Supervisors meeting with the Guiding Principles which led to the creation of the CAC. Mr. Snellings also informed the Commission that any changes to the Guiding Principles should be done before sending it to the Board of Supervisors and that today is the opportunity for the Commission to discuss it and hopefully recommend it to the Board.

Commissioner Leland asked if the (CAC) was submitting the proposal to the Commission and then the Commission would pass it on to the Board.

Tim Snellings stated that the CAC was making suggestions to the Planning Commission and then it was up to the Commission to agree on what they would like to refer to the Board of Supervisors.

Chair Lambert stated that she agreed with adding principle #13 and possibly adding a #14 to cover the Neal Road Landfill.

Commissioner Wilson responded that he thought principle #5 would cover the Neal Road Landfill and that it might not be necessary to add a specific principle with regard to the landfill.

Commissioner Leland commented that all the principles are good, and the significance would be in the tone or interpretation of the principles.

Mr. Snellings replied that if the Commission was specific with one item then you would be excluding everything else, and he did not think that was the intention of the principles.

Commissioner Leland responded that the principles appear to address all areas and that the Guiding Principles would need to meet the needs of the public.

Chair Lambert noted that there was not a lot of comments on each individual principle.

Mr. Snellings brought up design standards, and questioned whether or not it was covered sufficiently or was some design standards needed to eliminate incompatible design development.

Mr. Breedon addressed the Commission, and stated that design standards were discussed with the CAC, but it was not specifically addressed in the Guiding Principles.

Chair Lambert asked if tentative subdivision maps would be required to submit plans for design approval at time of application.

Mr. Snellings replied that there may be areas of specific design standards, and inquired if the Commission would like to create a design standard.

Commissioner Leland commented if urban development was going to be approved would we need a design review committee for good design or smart growth.

Mr. Snellings asked what kind of growth or design does the County want, and it might be beneficial to have a design review or a design standard that would encourage developers to bring in 'good projects'.

Commissioner Leland responded that design is subjective, and perhaps the standard would be to have new development consistent with current or existing development.

Chair Lambert asked if the County would then create an architect review board.

Mr. Snellings replied that an architect review board would be created if that was the direction of the Board of Supervisors.

Chair Lambert inquired if the User's Group had been informed of a possible design standard and if so what was their response.

Mr. Snellings commented that developers are asking for guidance on design at time of project application, however currently there are so specific guidelines, and this would be a good opportunity to come up with some language that would provide guidelines for development.

Commissioner Leland suggested that the ability to offer incentives to developers for creative or good designs would be nice, and a possible design standard could be a good design comparable or better than the existing development in the current area.

Mr. Breedon gave a brief discussion on "Smart Growth" and referred the Commission to the Citizens Advisory Committee's General Plan Academy that contained a definition of smart growth compiled from various sources. He also stated that the County will be coordinating with the cities and should be looking at 'good design' and providing choices that include a variety of approaches.

Mr. Snellings gave a brief summary on the website [www.buttegeneralplan.net](http://www.buttegeneralplan.net); and indicated that there were about 60 photos taken on 12-7-06 with comments that were on the website.

Chair Lambert commented that there weren't any photos of cell towers.

Mr. Snellings commented that the definition of smart growth is on the General Plan website, and it would certainly be applicable for the Commission to check it out.

Commissioner Leland stated that he did not like the term “smart growth”.

Commissioner Marin asked if principle #3 should have some specifics with regards to the density of housing, and that there should be a medium density included in the General Plan.

Mr. Snellings replied that the CAC had discussed the density issue and the conclusion was that there was an implied thought of a variety of densities.

Mr. Breedon commented that the trend in some developments is to develop sites that have a variety of densities.

David Parmalee a resident of Bangor addressed the Commission. He indicated that an environmentally friendly development would enhance the area immensely. David also indicated that it would also cut down on mass transit issues and that mass transit should be included in the General Plan update. He also mentioned that it was important to consider energy alternatives such as solar systems, windmills, etc. He commented that another possibility would be to copy the downtown Sacramento high-rise buildings that have a commercial shop on the ground floor, parking underneath and residential units on the upper floors. That particular type of design would keep people closer to mass transit and encourage walking rather than driving.

Mr. Snellings stated that new development should encourage communities and he read some of the principles from the Ahwanee Principles as provided under the website for the local government commission.

Commissioner Leland stated that the Ahwanee Principles are geared more toward large growth, and if they were included in our principles that it may signal growth that our County is not really open to.

David stated that he had read the Ahwanee Principles and he spoke in regard to the sustainability. He also indicated that most people in his area are developing 5 acre lots to live on, but they are working outside of the County. He also recommended that the watersheds be preserved and protected.

Mr. Snellings asked the Commission if the current Guiding Principles have captured what is intended to help shape future policies, and if something is glaringly wrong then now would be the time to make those changes.

Chair Lambert asked if principle #2 deals with traffic as well as transportation issues.

Mr. Snellings replied that BCAG and Public Works are working on the transportation issues and that future guidance will be looked to from the Commission.

Commissioner Leland commented that it appeared that the principles were ready to go to the next level of detail.

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously approved to approve the Draft Guiding Principles as presented and forward them to the Board of Supervisors for consideration.

**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. Snellings indicated that Development Services will be reporting to the Planning Commission actions that are taken by the Board of Supervisors.

Mr. Snellings stated that the Board of Supervisors took action approving clarification of several issues relative to the applicability of Program 2.2 of the Agricultural Element of the General Plan. Here is what becomes effective immediately, starting 12-13-2006:

The goal of the program, simply put, is that as people build their new residential dwelling units in Agricultural areas, that they don't compromise the Agricultural Lands they are near.

- 1.) Program 2.2 **does not apply to** building permits or planning projects inside a Sphere of Influence or Community Boundary.
- 2.) Program 2.2 **does apply** at Sphere of Influence and Community Boundary lines where the line abuts Grazing Open Land (GOL) or Orchard Field Crop (OFC) land use designations of the General Plan to where a 300 foot setback is required (between Residential/ Agricultural) on the urban side of the line for new residential building permits or planning projects.
- 3.) Program 2.2 **does apply** to residential building permits for new residential dwelling units in GOL and OFC designations outside of a Sphere of Influence or Community Boundary. When we have a new residential dwelling unit proposed in these designations, we must collect the Agricultural Commissioner's fee and route it to the Agricultural Commissioner for review and approval PRIOR to the issuance of a Building Permit.
- 4.) Development Services staff will be working on a new Ordinance ASAP to clarify these program changes and expect to return to the Board within 90 days for presentation of this Ordinance.
- 5.) Development Services staff will be meeting with the Board's General Plan Subcommittee soon to develop a list of 'unusual circumstances' that will be applied to projects and permits in applicable areas. Development Services staff will also be arranging to meet with cattle owners/ranchers to discuss their perspective on the 300 foot buffer being applied to GOL property.

Mr. Thistlethwaite addressed the Commission; he stated that the Board of Supervisors adopted an Amendment to the NCSF that would be in a new Ordinance sometime soon.

Mr. Snellings also mentioned two other items; 1). a memo would be forthcoming from County Counsel clarifying the roles of Development Services, County Counsel, and the duties of the Planning Commission to help make meetings run smoothly and efficiently; and 2). he wanted to confirm the attendance of the Commissioners for the upcoming Summit meeting on 1/27/07 at the Southside Community Center. Mr. Snellings gave a brief discussion on the meeting, stating that it would consist of all cities, town, and Councils along with Butte County to discuss development issues and needs that were of concern to all participants.

**B. General Plan/Zoning Ordinance Update**

General Plan update to the Board of Supervisors was passed out to the Commission. Mr. Snellings informed the Commission that he would give them updates at each Planning Commission on what occurs with the Board of Supervisors at their meetings.

**C. Legislative Case Law update**

None

**D. Planning Commission Concerns**

None

**IX. MINUTES – November 9, 2006 and November 30, 2006**

November 9, 2006 minutes:

It was moved by Commissioner Leland, seconded by Commissioner Marin, and approved by a vote of 3-0: by the following vote:

Ayes: Commissioner Leland, Commissioner Marin, and Chairman Nelson  
Noes: No one.  
Absent: Commissioner Nelson  
Abstained: Commissioner Wilson

to approve the November 9, 2006 minutes with the following corrections: page 1 line 9 delete 'Wilson' from those present; page 4 delete line 26 entirely; page 14 line 34 change 'No one' to 'Commissioner Lambert';

November 30, 2006 minutes:

With regards to the minutes from the November 30, 2006 meeting, they would be considered incomplete without the transcript for the M & T portion of the hearing.

It was moved by Commissioner Leland, seconded by Commissioner Marin and unanimously approved to continue these minutes to the next Planning Commission meeting on January 25, 2007

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

**XI. ADJOURNMENT**

The meeting was adjourned at 11:00 am.