

BUTTE COUNTY PLANNING COMMISSION MINUTES

March 22, 2007

I. PLEDGE OF ALLEGIANCE

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

ABSENT: No one

ALSO PRESENT:

*County Counsel
Development Services*

Roger Wilson, Deputy County Counsel
Chuck Thistlethwaite, Planning Manager
Stacey Joliffe, Principal Planner, Current Planning
Steve Troester, Associate Planner
Meredith Williams, Associate Planner
Chris Thomas, Associate Planner
Tina Bonham, Commission Clerk

*Environmental Health
Public Works*

Doug Fogel
Eric Schroth

Agricultural Commission

III. **ACCEPTANCE OF AGENDA** - Commission members and staff may request additions, deletions, or changes in the Agenda order.

It was moved by Commissioner Nelson, seconded by Commissioner Wilson, 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. **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.

A. **MEXT07-0003** – staff recommends approval

Name: Barbara Torri

Project: Map Extension for TPM 04-16

Planner: Meredith Williams

APN: 036-770-031 **Zoning:** AR

Location: On Oakvale Ave. about a mile south of Olive Highway, east of Oroville.

Proposal: A request for a five-year time extension of approved Tentative Parcel Map (TPM 04-16) to divide a 5.3-acre parcel into four (4) parcels of 1.15 acres, 0.27 acres, 0.33 acres and 3.6 acres.

Commissioner Leland had to abstain on the Barbara Torri item since his firm represents the applicant. Therefore, the consent items were acted upon separately.

It was moved by Commissioner Wilson, seconded by Commissioner Marin, and carried by a vote of 4-0 to adopt Resolution PC 07-12 approving MEXT07-0003 for Barbara Torri.

Ayes: Commissioner Wilson, Marin, Nelson, and Chair Lambert
Noes: None
Abstain: Commissioner Leland

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

B. MEXT07-0002 – staff recommends approval

Name: Donald St. Clair **Project: Map Extension for TPM 04-05**

Planner: Chris Thomas **APN: 079-300-052** **Zoning: AR**

Location: Parcel is located on the east side of Oakvale Avenue, at Crane Avenue, east of Oroville.

Proposal: A request for a five –year time extension of approved Tentative Parcel Map (TSM 04-05) to divide an 8.8-acre parcel into three 0.5 acre parcels, and one 7.33 acre parcel.

It was moved by Commissioner Wilson, seconded by Commissioner Marin, and unanimously carried to adopt Resolution PC 07-13 approving MEXT07-0002 Donald St. Clair.

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

VI. ACTION ITEMS (NOT A PUBLIC HEARING)

A. MEXT06-0002 – staff recommends approval

Name: Margaret Salerno **Project: Request for Exception to Appendix VII Design Requirements associated with MEXT06-0002 (Salerno TPM 04-22)**

Planner: Chris Thomas **APN: 072-210-025** **Zoning: AR-2.5**

Location: 81 John Mardon Lane, between John Mardon and Nikki Jo Lane, east of Oroville.

Proposal: Request for an Exception to Appendix VII Design Requirements.

Chair Lambert and Commissioner Nelson asked why this item wasn't a public hearing.

Ms. Stacey Jolliffe gave a history of the project. The map extension was approved by the Planning Commission at an earlier meeting; a request for an exception to the Appendix VII requirements of the Butte County Improvement Standards was continued to this meeting. She explained that neither the County Code nor the State Subdivision Map Act required a noticed public hearing.

Mr. Chris Thomas gave brief summary of what the proposal is for this project.

Chair Lambert said she has no issue with the Map Extension, but is concerned about the Appendix VII exception. She asked if parcel one and two can each stand alone.

Ms. Jolliffe said the parcels could be sold separately.

Mr. Doug Fogel said there were soil tests on parcel two that meet Appendix VII standards whereas parcel one has not been tested because a residence is on it. He said the exception is only for parcel one.

Chair Lambert asked if the Commission was being asked to grant an exception to the two acre minimum.

Mr. Fogel said the Commission is being asked to grant that exception on parcel one. He said the Commission has made exceptions on other similar parcels.

Commissioner Nelson asked if parcels meet all the standards then, in theory the property owners could build a second unit.

Mr. Fogel explained to the Commission that the parcels would have to meet Appendix VII standards before building any additional dwellings.

Commissioner Leland talked about what he believed was being proposed.

Chair Lambert wants more clarification on how the exception on one parcel is being applied to another.

Mr. Chuck Thistlethwaite said the Second Unit Ordinance does allow the County to restrict to second dwellings where there are health and safety issues. He said in this case since the applicants have not demonstrated they can meet Appendix VII standards on both parcels the condition is restricting second units until the applicant can demonstrate they meet Appendix VII standards.

Chair Lambert said she was not aware that the County could restrict second dwellings.

Mr. Fogel said that the County can restrict due to health and safety reasons especially regarding septic systems.

Chair Lambert asked if she should open the public hearing since it isn't on the agenda as a public hearing.

Mr. Roger Wilson recommended opening the hearing to the public if anyone was present to speak on the item.

Chair Lambert opened the public hearing.

Mr. Salerno, the owner, addressed the Commission. He explained that his house is on the lower lot and the septic is on the upper lot. He said the contractor who put in the septic last year indicated there was a possibility to add an additional line.

Chair Lambert closed the public hearing and confined comments to Commission and staff.

It was moved by Commissioner Wilson, seconded by Commissioner Marin, and unanimously carried to approve the consent agenda adopting Resolution PC 07-14 approving MEXT06-0002 Margaret Salerno and approve the request for an exemption of Appendix VII.

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

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. TPM 06-07 – staff recommends approval

Name: Rich Smith **Project: Tentative Parcel Map TPM 06-07**
Planner: Steve Troester **APN: 028-440-008** **Zoning: A-5**
Location: On the northeast side of Avacado Road approximately 3/4 of a mile northwest of the Oro Bangor-Avacado intersection, approximately 1 3/4 miles northwest of Bangor.
Proposal: To divide an existing approximately 15-acre parcel into three 5+ acre parcels having access off Lime Avenue and Avacado Road; one new 60-foot access is proposed to serve parcel 2.

Mr. Steve Troester gave a brief summary. He informed the Commission of an error on page 11 Exhibit A of Resolution. The applicant needs to be changed from Terry and Ruth Smith to Rich Smith. He told the Commission that the applicant is requesting an exception to Public Works Condition 10 regarding a cul-de-sac.

Chair Lambert asked if it was a Public Works condition or a California Department of Forestry condition.

Mr. Troester said it is a Public Works condition based on safety issues.

Chair Lambert opened the public hearing.

Mike Evans, a representative of Rich Smith, addressed the Commission. He asked that the language on Condition 10 be changed to say a “cul-de-sac or an approved turn around” so that he can lessen the impact on oak trees. He has questions regarding Condition 20 since it is new.

Commissioner Nelson asked if Mr. Evans was asking for a language change on Condition 10 to read “Provide a cul-de-sac or CDF approved turn-around that is designed and constructed as specified in the County Improvement Standards or per CDF specifications. The Parcel Map shall show the cul-de-sac or CDF-approved turn-around.”

Mr. Evans said yes.

Mr. Eric Schroth said that Public Works would not have a problem changing the language for Condition 10.

Commissioner Nelson asked staff to clarify Condition 20.

Mr. Troester explained that it is a new standard California Department of Forestry condition that is being used on rural parcels. It is a measure to help with the monitoring. He said it is his understanding that there is no fee.

Ms. Jolliffe said the regulation is not new, but as a notice to the applicant it has been made a standard condition.

Commissioner Nelson said it seemed to be repetitious since an arborist is also going to look at the project.

Mr. Troester said the arborist is looking at oak trees and CDF is looking at other trees as well.

Commissioner Leland asked if this implies that CDF determines if a permit is needed and then would issue the permit.

Mr. Troester said yes.

Commissioner Marin asked if this new condition would cause a delay to the applicant.

Mr. Troester said that it typically would not cause a delay.

Chair Lambert closed the public hearing and confined comments to Commission and staff.

It was moved by Commissioner Marin, seconded by Commissioner Wilson, and unanimously carried to adopt the Mitigated Negative Declaration and Resolution PC 07-15 and approve project for Rich Smith TPM 06-07 subject to the findings and conditions with the change on Condition 10 to read “Provide a cul-de-sac or CDF approved turn-around that is designed and constructed as specified in the County Improvement Standards or per CDF specifications. The Parcel Map shall show the cul-de-sac or CDF-approved turn-around.”

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

B. UP 05-08 - staff recommends approval

Name: Del Oro Water Company Regional Intertie Project, Phase I

APN: various

Project: Use Permit (UP 05-08) **Planner:** Stacey Jolliffe

Location: The 2.5 mile pipeline (16”) originates in the Mountain Oaks Subdivision Water Treatment Plant to Pentz Road to the northern zone of the service area which adjoins the Town of Paradise.

Proposal: Allow for the construction of Phase 1 of the DOWC Regional Intertie Project. Phase 1 of the project is designed to complete the DOWC Lime Saddle District water system, including 16” water supply pipeline, from Water Treatment Plant to Pentz Road to the northern of the Lime Saddle District plus other related facilities

Ms. Stacey Jolliffe gave a summary of the project. There is a correction to the Staff Report to Public Works Condition 2 to change the Condition to read as “Submit road and water facility improvement plans for review and approval by Butte County Land Development prior to construction. Obtain a County Encroachment Permit for work within County right-of-way per approved plans prior to construction.”

Chair Lambert asked if the emergency water supply is part of Phase 1.

Ms. Jolliffe said Phase 1 would provide 1,000 gallons per minute. There is a Phase 2 project, but the details of the project are not available at this time. She said if the project is moved forward the County would require a separate environmental review and Use permit for Phase II by staff and Commission.

Chair Lambert asked if the Commission gives approval on Phase 1 would that give the impression that it was okay to go forward with Phase 2.

Ms. Jolliffe said the Commission is not taking action on any future projects.

Commissioner Nelson wanted to know if Phase 1 could stand alone without Phase 2.

Ms. Jolliffe said yes.

Chair Lambert asked if Lime Saddle is where Phase 1 ends unless there is an emergency need for water.

Ms. Jolliffe said that is correct.

Chair Lambert asked how this project fits in with the General Plan Update.

Ms. Jolliffe said that if the General Plan Update shows growth in the Lime Saddle area those changes would require environmental review.

Chair Lambert said on page 15 of the staff report there is a reference to Phase 2. She asked why the reference was in there when the Commission is only dealing with Phase 1.

Ms. Jolliffe said the reference could be taken out. It was inserted to address the Commissions concerns regarding the project possibly having a growth inducing impact.

Commissioner Leland asked if the limitation of 500 hookups could change during the General Plan Update.

Commissioner Wilson said he believes the Department of Fish and Game will have many limiting factors.

Commissioner Marin said he thinks the current infrastructure is inadequate and the County needs these types of projects to handle the current needs.

Chair Lambert opened the public hearing.

Mr. Paul Crapuchettes of Magalia addressed the Commission. He spoke of how several wells have already gone dry and that the family dynamics have changed from the majority being retirees to now mostly families with children. He has worked on this project for seven years. He urged the Commission to go forward with the project.

Commissioner Marin asked what the time frame would be for the project.

Mr. Crapuchettes said that the project should be completed in approximately two years.

Twenty minute break at 10:45 a.m.

There were no further speakers to address the Commission.

Chair Lambert closed the public hearing and confined comments to staff and Commission.

It was moved by Commissioner Wilson, seconded by Commissioner Marin, and unanimously carried to adopt the Mitigated Negative Declaration, and Resolution PC 07-16, and approve project for Del Oro Water UP 05-08 subject to the findings and conditions with the change to Condition 2 to read "Submit road and water facility improvement plans for review and approval by Butte County Land Development prior to construction. Obtain a County Encroachment Permit for work within County right-of-way per approved plans prior to construction." Also, on page three #3 of the staff report change "slots" to "slats".

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

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
- B. General Plan/Zoning Ordinance Update

Mr. Charles Thistlethwaite passed out a new booklet created for the General Plan Update called the Butte County General Plan Briefing Book. He went over the progress made and the upcoming meetings.

Ms. Jolliffe reminded the Commission that April 12, 2007 will be a regular meeting and April 13, 2007 will be the Planning Commission Study Session starting at 1:30 p.m. She also indicated the April 26, 2007 meeting may be cancelled due to a light agenda.

Mr. Thistlethwaite informed the Commission that packets will now be available on the internet to view.

Commissioner Marin asked if the meetings with the cities were public meetings or closed meetings.

Mr. Thistlethwaite said those meetings are staff meetings not open to the public.

C. Update of Board of Supervisors' Actions

Mr. Thistlethwaite said that the Richard Ball project has been appealed but no date has been set and M & T will go to the Board of Supervisors on April 24, 2007.

D. Legislative Case Law update

E. Planning Commission Concerns

Commissioner Marin expressed concern regarding how easy it was for any member of the public to appeal the Commission's decision which creates such a large work load on staff.

Mr. Wilson said the appeal process is dictated by state law and the County code.

IX. CLOSED SESSION

X. MINUTES - February 22, 2007

It was moved by Commissioner Nelson, seconded by Commissioner Marin, and unanimously carried to approve the February 22, 2007 minutes with the following corrections: page 4 line 46 change to read "Chair Lambert said that at one time she remembers talking about billboards and the Butte County Code but is uncertain about those policies.", page 5 line 19 change to read "Chair Lambert asked if notices were sent out.", page 5 line 34 change to "Mr. Thistlethwaite said the Commission needs to determine if there will be an adverse effect on adjoining properties as well as whether this is for the overall health, safety, and welfare of the community.", and change page 5 line 11 to read "Chair Lambert asked if the billboard is an advertising billboard for that parcel or is it available space to rent."

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

XII. ADJOURNMENT

The meeting was adjourned at 11:40 am.

Chair Lambert

