

# BUTTE COUNTY PLANNING COMMISSION MINUTES

February 14, 2008

## I. PLEDGE OF ALLEGIANCE

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

**ABSENT:** Commissioners Leland and Nelson

**ALSO PRESENT:**

*County Counsel*  
*Development Services*

Felix Wannemacher, Deputy County Counsel  
Charles Thistlethwaite, Division Manager

Mark Michelena, Senior Planner

Steve Troester, Senior Planner

Carl Durling, Associate Planner

Chris Tolley, Associate Planner

Tina Bonham, Commission Clerk

*Environmental Health*

Doug Fogel, Program Manager

*Public Works*

Eric Schroth, Civil Engineer, Associate

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

Commissioner Lambert asked if the minutes could be approved since Commissioner Marin was absent at the January 10, 2008 meeting. She also requested that the minutes be moved up before the consent agenda due to the first item being continued from January 10, 2008 meeting.

Mr. Felix Wannemacher said that the January 10, 2008 minutes could be approved since there is a majority present from that meeting.

IV. **MINUTES** – November 29, 2007, December 13, 2007 and January 10, 2008

It was moved by Commissioner Lambert, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to approve the November 29, 2007 and December 13, 2007 minutes as presented.

It was moved by Commissioner Lambert, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: Commissioner Marin

to approve the January 10, 2008 minutes changing page 3 line 45 to read as “it would fall within the lease area.

**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. [MEXT07-0011](#)** – continued from 1/10/08; staff recommended approval

**Name: Timothy Giordano (Burton) Project:** Map Extension

**Planner:** Mark Michelena **APN:** 069-440-001 **Zoning:** AR-1

**Location:** The project is located off of La Mirada, approximately 700 feet south of Skyline Blvd. at 90 La Mirada Avenue, Oroville.

**Proposal:** A request for a map extension for TPM 05-20 to December 8, 2012.

Commissioner Lambert requested the item be pulled from the consent agenda.

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

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

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

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

**A. [MEXT07-0011](#)** – continued from 1/10/08; staff recommended approval

**Name: Timothy Giordano (Burton) Project:** Map Extension

**Planner:** Mark Michelena **APN:** 069-440-001 **Zoning:** AR-1

**Location:** The project is located off of La Mirada, approximately 700 feet south of Skyline Blvd. at 90 La Mirada Avenue, Oroville.

**Proposal:** A request for a map extension for TPM 05-20 to December 8, 2012.

Commissioner Lambert asked if Conditions 4a and 4b applied.

Mr. Mark Michelena said yes.

Commissioner Lambert asked if paragraphs 1 through 3 are part of that condition.

Mr. Michelena said no.

It was moved by Commissioner Lambert, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to approve MEXT07-0011 for Giordano/Burton Family Trust and adopting Resolution PC08-02.

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

**B. [UP06-0024](#) - staff recommended approval**

**Name:** John Marlow **Project:** Use Permit

**Planner:** Carl Durling **APN:** 030-200-092 **Zoning:** C-1 & C-2

**Location:** The parcel is located on the west side of 14<sup>th</sup> Street, approximately 300 feet north of Oroville Dam Blvd West, at 1023 & 1047 14<sup>th</sup> Street, Thermalito (with frontage on but no access to Oroville Dam Blvd West).

**Proposal:** This is an application for a Use Permit to expand an existing 102 space mobile home park by adding 8 new spaces.

Mr. Carl Durling gave a summary of the project with a power point presentation. He said there is a correction to Condition 8 under Public Works. It should read as “14<sup>th</sup> Street”.

Commissioner Lambert asked since the mobile home park is a non-conforming use should the Use Permit be for the entire site or just the expansion.

Mr. Durling said the use meets current requirements. Due to the need of frontage road improvements, the Use Permit is for the entire park not just the 8 new spaces.

Mr. Wannemacher said that non-conforming uses are allowed in the C-1 and C-2 zones with a Use Permit. An expansion is only allowing larger space to be used. The Commission needs to look at whether there is an impact to the area.

Commissioner Lambert asked how this fit in with Oroville’s plans.

Mr. Charles Thistlethwaite said that staff wants to look at the entire project and to incorporate improvements on 14<sup>th</sup> Street. He said Thermalito is a study area for both The City of Oroville and Butte County.

Chair Wilson opened the public hearing.

Mr. John Marlow said he is concerned with the cost of having to make those road improvements on 14<sup>th</sup> Street. The additional cost may make the expansion too expensive to do. He said that the 8 additional spaces he is requesting do not face 14<sup>th</sup> Street and asked that the Planning Commission take that into consideration.

Mr. Eric Schroth said he recognizes there is a cost, but due to public health and safety Public Works believes that the Condition is important.

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

It was moved by Commissioner Lambert, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to approve UP06-0024 for John Marlow and adopting Resolution PC08-03

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

C. [UP07-0005](#) - staff recommended approval

**Name:** Marion Omut

**Project:** Use Permit

**Planner:** Chris Tolley      **APN:** 079-180-001      **Zoning:** C-2

**Location:** The parcel is located at 5589 Lower Wyandotte Road (on the east side of Lower Wyandotte Road, approximately 0.12 mile south of the Lower Wyandotte Road and Oro-Bangor Highway intersection), south of the City of Oroville.

**Proposal:** A request for a Use Permit to establish a second residential unit on a parcel zoned C-2 (General Commercial).

Mr. Chris Tolley gave a summary of the project with a power point presentation.

Commissioner Lambert asked if it was originally one unit.

Mr. Tolley said yes. There was a request to do a daycare facility and the structure was finished, but not finalized, and the permit lapsed.

Chair Wilson asked if it had ever been used as a daycare facility.

Mr. Tolley said no.

Commissioner Lambert said the map shows a duplex and a second dwelling.

Mr. Thistlethwaite said the project would be conditioned to not allow more than two structures.

Chair Wilson opened the public hearing.

Mr. Costel Angheluta, the agent for Marion Omut, said there is not a duplex on the parcel.

Chair Wilson asked if the owner would be required to live in one of the residences.

Mr. Tolley said the Commercial zones don't require the owner to live on site.

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

It was moved by Commissioner Marin, and seconded by Commissioner Lambert and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to approve UP07-0005 for Marion Omut and adopting Resolution PC08-04.

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

**D. TPM06-0029 - staff recommended approval**

**Name:** Michael & Elizabeth McCrady      **Project:** Tentative Parcel Map

**Planner:** Chris Tolley      **APN:** 056-160-048      **Zoning:** TM-2

**Location:** The parcel is located at 9106 Cohasset Road (on the east side of Cohasset Road, 0.05 mile south of the Cohasset Road and Villas Road intersection), north of the City of Chico and in the community of Cohasset.

**Proposal:** A request for a Tentative Parcel Map to divide an 11.6 acre parcel into four parcels of 3.2, 2.5, 2.8 and 3.1 acres, served by individual sewage disposal systems and wells.

Mr. Tolley distributed the correct map. The maps that went out with the packets were superseded by a newer map. He went over the changes to the map and gave a power point presentation.

Commissioner Lambert said that part of the report said it was inconsistent while other areas showed it was consistent. She asked if it was in the Deer Herd Area.

Mr. Tolley asked where in the report did it say inconsistent.

Commissioner Lambert said page 3.

Mr. Tolley said that the land use designation is twenty acres or larger, and there are other criteria that must be met to be consistent. This is in the Deer Herd Area "development allowed". It allows for development because, although it is in the winter range, it is not in the critical Deer Herd Area.

Mr. Doug Fogel wanted to change Conditions 25 through 28 to preface with "Prior to final map" and Conditions 29 and 30 to "Prior to issuance of building permit".

Mr. Tolley said there was a Lot Line Adjustment done that shows in the cross hatched area on the map.

Mr. Thistlethwaite said that the reference in the agenda report to the mobile home is no longer applicable. It is now on the other parcel.

Chair Wilson asked if the mobile home will be torn down or rehabilitated.

Mr. Tolley said he does not know what the owners intentions are.

Mr. Germain Boivih said he owns 43 acres of property. He was told that he could not divide his property and is surprised that this person may be allowed to. He is concerned that he will have to

deal with up to 8 new neighbors with the houses, fences, additional traffic and water use. He is concerned that there is a fire safety issue in regards to exiting those parcels.

Chair Wilson asked why this man was unable to divide his property.

Mr. Tolley said it is because his property is in the critical Deer Herd Area.

Ms. Lorrie Lundy, of L & L Surveying, talked about the map changes. There is an oak tree mitigation and all homes are required to have sprinklers in them. At this time there are only plans for one residence with a grandmother's unit in the back. The applicant does want the ability to do that on all parcels. She said there will be road improvements and believes this project will help property values increase on surrounding parcels. She has no problems with the conditions and the changes to the conditions today.

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

Commissioner Lambert said she would not approve the project at this time. She is worried that it would not stay rural enough for the Timber Mountain zone and the Deer Herd Area. She also would like Commissioner Nelson available since the project is in his area.

Commissioner Marin said he believes it would still be low density and does not have a problem with the project.

Commissioner Lambert asked how often second dwelling permits are requested.

Mr. Thistlethwaite said that there are more requests in areas where there is adequate sewer and water. This helps to create infill to these areas.

Mr Fogel said the initial request was made in 2006. At that time, the site met the requirements for a second dwelling. He does not have a current evaluation, but believes that the parcels are still adequate to maintain a second dwelling.

Chair Wilson asked if the Commission could restrict the second dwellings.

Mr. Thistlethwaite said that under Section 24-280 of the Butte County Code, if there is a health and safety issue the Commission can restrict second dwellings. This issue would have to be proven. He said that the Commission could continue the item and instruct staff to do more research regarding this issue.

Chair Wilson said he would like to see more information into the possibility of restricting the parcels to one dwelling.

It was moved by Chair Wilson, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None  
to continue open until February 28, 2008 TPM06-0029 for Michael and Elizabeth McCrady.

**E. [TPM 06-16](#) - staff recommended approval**

**Name:** Dawn Meyer

**Project:** Tentative Parcel Map

**Planner:** Steve Troester      **APN:** 072-120-028      **Zoning:** AR-2 ½

**Location:** The parcel is located at the south end of John Mardon Lane (on the east side), off of Old Olive Highway, southeast side of Oroville.

**Proposal:** A request for a Tentative Parcel Map to divide 10.12 acre parcel into two five- acre parcels.

Mr. Steve Troester gave a summary of the project with a powerpoint presentation.

Commissioner Lambert asked if the cul-de-sac was public or private.

Mr. Troester said it is private. The applicant will be required to obtain an easement showing access as well as a road maintenance agreement.

Chair Wilson opened the public hearing.

Mr. Tom Wrinkle, of Sierra West Engineering, asked if the Commission had any questions for him.

There were none.

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

It was moved by Commissioner Marin, and seconded by Commissioner Lambert and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to approve TPM 06-16 for Dawn Meyer and adopting Resolution PC08-05.

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

**F. [TSM 06-04](#) - staff recommended approval**

**Name:** Robert Van Zile

**Project:** Tentative Subdivision Map

**Planner:** Steve Troester      **APN:** 030-020-104      **Zoning:** AR

**Location:** The parcel is located on the north side of Nelson Avenue just east of the intersection with 16<sup>th</sup> Street. The project is approximately 2.6 miles northwest of the center of downtown Oroville and 0.33 mile west of the City limits.

**Proposal:** A request for a Tentative Subdivision Map to divide ± 1.78 acre parcel into eight parcels.

Mr. Troester gave a summary of the project with a power point presentation. He recommended the inclusion of Condition 25a to require a fire hydrant.

Mr. Wannemacher asked for clarification on the numbering of the Conditions and Mitigations.

Mr. Troester said that Condition 5 on the staff report shows Mitigation #8. It should be Mitigation #7.

Mr. Thistlethwaite said that Mr. Troester could use the language from the Mitigated Negative Declaration for Mitigations 15 and 16.

Mr. Fogel said that a condition needs to be added that states "Prior to recordation of the Final Map, abandon all existing wells and septic systems on site by permit from the Butte County Environmental Health Division."

Mr. Schroth said that Conditions 6 and 7 need to be changed from "parcel map" to "final map".

Chair Wilson asked if there was an existing storm water drainpipe to Ruddy Creek.

Mr. Schroth said the project would have a detention pond that would drain into an existing drainage ditch.

Chair Wilson asked if Lot A would be open space or maintained by Public Works.

Mr. Schroth said it would be maintained by Public Works.

Chair Wilson asked if it will always be a private road or would the road be dedicated to the County.

Mr. Schroth said it is a private road, but it could be dedicated to the County.

Mr. Troester said that Conditions 15 and 16 deal with landscaping on Lot A and need to be reworded.

Chair Wilson opened the public hearing.

Mr. Michael Evans, of Evans Fun Works, said the road would be a public street with lighting.

Commissioner Lambert asked Mr. Evans if he would prefer the Commission do a Motion of Intent and bring the item back with all the corrections.

Mr. Evans said that would be fine.

It was moved by Commissioner Lambert, and seconded by Commissioner Marin and carried by the following vote

Ayes: Commissioners Marin, Lambert, and Chair Wilson

Noes: None

Absent: Commissioners Leland and Nelson

Abstain: None

to continue closed until February 28<sup>th</sup>, 2008 with a Motion of Intent to adopt Mitigated Negative Declaration and approve TSM 06-04 for Robert Van Zile with all corrections discussed at this meeting.

**VII. GENERAL BUSINESS** - This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.

- A. Directors' Report
- B. General Plan/Zoning Ordinance Update

Mr. Thistlethwaite gave an update on the progress of the General Plan Update. He said that one on one meetings are continuing. There was a meeting on February 5, 2008 regarding the area of concern around Biggs and Gridley. He said there has been a suggestion to do a joint public hearing with the City Councils and the Board of Supervisors.

Chair Wilson asked where the meeting would occur.

Mr. Thistlethwaite said he did not know yet. The next CAC meeting will be February 28, 2008. A newsletter will go out to all members of the County about the General Plan Update.

- C. Update of Board of Supervisors' Actions
- C. Legislative Case Law Update

Mr. Wannemacher said that Agricultural Worker Housing will be discussed at the next meeting. He said that the Commission also needs to discuss the By-laws.

- E. Planning Commission Concerns

Mr. Thistlethwaite informed the Commission of an item that would be heard at the March 13, 2008 meeting. He said there is a project called New Era Mine. The County needs the Commission to hear the item to determine if an Enforcement Order under Chapter 13 is needed. He said that Public Works and Development Services have been trying to bring the mining operation into compliance with the Butte County Code.

Commissioner Lambert asked if this hearing was for both the mining and the reclamation plan.

Mr. Thistlethwaite said yes.

Mr. Dylan Paul addressed the Commission suggesting that the County find a small area to use as a research park. He has seen them work in other areas successfully. He would like to see higher density instead of sprawl.

Commissioner Lambert said that the Planning Commission needs more information during the General Plan Update process.

Mr. Thistlethwaite said he would look into various ways to give the Commission more information. He will send out CD's of the last 3 Citizens Advisory Committee meetings.

Chair Wilson requested the link to Yolo County.

Mr. Thistlethwaite said he would provide it.

#### **VIII. CLOSED SESSION**

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

Commissioner Lambert said that she receives mail that she does not know why she is receiving it.

Mr. Thistlethwaite said that anything addressed to Planning Commission is forwarded to the Commissioners.

#### **X. ADJOURNMENT**

Meeting adjourned at 11:40 a.m.

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Chair Wilson