

# BUTTE COUNTY PLANNING COMMISSION MINUTES

February 28, 2008

## I. PLEDGE OF ALLEGIANCE

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

**ABSENT:** None

**ALSO PRESENT:**  
*County Counsel*  
*Development Services*

*Environmental Health*  
*Public Works*

Felix Wannemacher, Deputy County Counsel  
Charles Thistlethwaite, Division Manager  
Stacey Jolliffe, Principal Planner, Current Planning  
Mark Michelena, Senior Planner  
Steve Troester, Senior Planner  
Carl Durling, Associate Planner  
Chris Tolley, Associate Planner  
Tina Bonham, Commission Clerk  
Doug Fogel, Program Manager  
Eric Schroth, Civil Engineer, Associate

There was difficulty in recording the meeting. Some areas of the tape are inaudible. The minutes rely on hand written notes.

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

Commissioner Lambert requested that the minutes be moved up before the consent agenda due to there being a continued item from February 14, 2008 meeting.

## IV. MINUTES – February 14, 2008

Commissioner Lambert said that on page 3 the minutes need to reflect that the use permit is for the entire project due to the requirement of road improvements to the frontage road and on page 5, there needs to be clarification of the project being in the winter deer herd range.

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: None

Abstain: Commissioners Leland and Nelson

to approve the February 14, 2008 minutes with the following modifications to page 3 line 23 and 24 “Due to the need of frontage road improvements, the Use Permit is for the entire park not just the 8 new spaces,” and on page 5 lines 31-33 “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.”

**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. [DET07-0012](#)** –staff recommended approval

**Name:** Ante Zanetich

**Project:** Legal Lot Determination

**Planner:** Carl Durling

**APN:** 026-080-079 **Zoning:** AR-1

**Location:** The project is located on the west side of Fulton Avenue, 300’ north of North Villa Avenue, Palermo.

**Proposal:** A Legal Lot Determination/Conditional Certificate of Compliance.

It was moved by Commissioner Nelson, and seconded by Commissioner Marin and unanimously carried to approve DET07-0012 for Ante Zanetich.

There is a 15-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. [TSM 06-04](#)** – continued from 2/14/08 closed with Motion of Intent to approve

**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. Steve Troester gave a summary of the changes that were done per the Planning Commission’s request from the February 14, 2008 meeting.

Ms. Stacey Jolliffe said there are two changes that need to be made on page 4 and 6. The date needs to be changed to February 14, 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: None

Abstain: Commissioners Leland and Nelson

to approve TSM 06-04 for Robert Van Zile, adopt the mitigated negative declaration, and adopt Resolution 08-07.

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

**Item E.1 Agricultural Worker Housing.**

Ms. Jolliffe said that this additional information was provided in response to the Planning Commissioners' questions regarding agricultural worker housing. It is intended to provide background and information in regards to state regulations and that they require the Agricultural Worker Housing in Agricultural zones. Staff will also talk about how the County implements these regulations.

Mr. Steve Troester gave a summary of the report provided to the Commission.

Ms. Jolliffe said the Butte County Code is more permissive than State Law.

Commissioner Nelson asked if the housing is built with permits and inspections.

Ms. Jolliffe said yes.

Mr. Troester said that there have to be two affidavits. One from the owner and one from the worker that states the unit is being used as Agricultural Working Housing for a state issued permit.

Commissioner Leland asked if the County asks to see the state permit.

Mr. Troester said no. The County also has not required a minimum of 5 workers. He said these are 2 possible deficiencies.

Commissioner Leland said he thought the code allowed for 12 workers or under. He said that he thought the state exempts 1-12 workers.

Mr. Troester said that County Counsel had not been able to look further into the matter. Staff called the state and was told there was a minimum of 5 workers.

Commissioner Leland expressed his support for a local program allowing ag worker housing for 1 to 4 ag workers, even though the state requires 5 workers.

Mr. Felix Wannemacher said that the number is not the important part of the discussion. The County needs to focus on working with the State by requiring a copy of the permit from the state. If the owner does not maintain the permit then Butte County could require that the structure be removed. He said this would stop people from converting agricultural worker housing into a primary residence.

Commissioner Lambert said that it seemed to be the same problem as the Aunt Minnie's. There is no follow up.

Mr. Wannemacher said that the County could require the owner to provide the state permit annually. He thought the Commission was concerned with property being split in such a way as to split the worker housing from the primary residence and selling the property with the housing on it. The requirement of the annual state permit would prevent this problem. The Planning Commission should consider what the County should require and make a recommendation to the Board of Supervisors.

Mr. Troester said the initial ordinance was to provide adequate agricultural worker housing to comply with the State law. The County Code as it exists now allows for secondary residences on farms that are no longer used as agricultural worker housing.

Commissioner Lambert said that is her concern with the project that is next on the agenda and how the Commission can keep that from happening.

Commissioner Leland said the Commission should not base their decision, on a parcel split, because there is agricultural worker housing on one of parcels. They should consider the lot split as if the second unit was not there.

Commissioner Leland said that he wants to know what the State requires the minimum number of workers to be.

Commissioner Lambert asked staff to find out how other jurisdictions are dealing with this problem.

Mr. Troester suggested using a deed restriction requiring that the dwelling remain as agricultural worker housing.

Ms. Jolliffe said that the State law does not provide clear direction on what happens to agricultural worker housing after the 10-year limit is over.

Mr. Troester verified what information the Commission wanted brought back.

Commissioner Nelson said he would like, if possible, this to be its own item and not related to a project on that meetings agenda.

**B.**     [TPM06-0034](#) –previously heard December 13, 2007 and renoticed; staff recommended denial

**Name:** Furry, previously Gregory     **Project:** Tentative Parcel Map  
**Planner:** Steve Troester             **APN:** 042-130-016     **Zoning:** A-5  
**Location:** The parcel is located on the northeast corner of the Muir Avenue and Oak Way intersection (2816 Oak Way and 1579 Muir Avenue), approximately one mile west of the City of Chico.  
**Proposal:** A Tentative Parcel Map to divide a 10-acre parcel into two 5-acre parcels.

Mr. Troester gave a summary with a power point presentation.

Commissioner Nelson asked if the history was that the applicant built a small house and lived in it while a larger house was built. They then moved into the larger house turning the first house into agricultural worker housing and now they want to split the parcels so that there is a residence on each one.

Mr. Troester said he could not determine what the applicants' original intent was.

Commissioner Nelson asked if each parcel could have a residence and agricultural worker housing.

Mr. Troester said yes if the property is in compliance with all requirements such as septic and water.

Commissioner Lambert asked if there was a requirement that would prohibit the parcels from splitting into smaller parcels in the future on the Green Line.

Mr. Wannemacher did not bring information on the Green Line requirements, but the Commission could direct him to research it further.

The Commission determined they did not need additional information.

Chair Wilson opened the public hearing.

Mr. Michael Evans, the representative of the applicant, said that the original owners did not disclose that the dwelling was for agricultural workers only. The dwelling is in use as a rental. He would like to see the project approved with restrictions of not subdividing further. It would help the applicant with financing to have two parcels. He believes the findings could be made to approve the project without setting precedence. He asked that the record reflect that several conditions to the project do not apply such as dust mitigation. Other conditions have already been satisfied.

Commissioner Marin asked what the reason was for the zigzag parcel line.

Mr. Evans said that the applicant wanted to retain some structures on his side, but they also had to maintain 5-acre minimum.

Commissioner Nelson asked if there was still farming on the parcels.

Mr. Evans said that there is 8 acres of almonds maintained by an outside source. The crop covers the cost of maintenance and the property taxes.

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

Commissioner Lambert asked if the Commission could approve the project knowing that the dwelling is not in use as agricultural worker housing.

Mr. Charles Thistlethwaite said that the Commission would have to make the findings to approve this project.

Mr. Wannemacher said the question for the Commission is whether the County will have its own policy or if it will use the State policy. Once the determination has been made, the Commission can make their decision on the project.

Commissioner Nelson said that the agricultural worker housing problem needs to be dealt with, but by approving this project the Commission isn't changing what is already taking place with the agricultural worker housing.

Commissioner Lambert said the project is not in compliance because the dwelling is not in use as agricultural worker housing.

Commissioner Nelson said he would deny if it was a new project, but the dwelling has not been used as agricultural worker housing either in the past or in the present.

Mr. Thistlethwaite said the Commission would have to make the finding that the parcel size is comparable to other parcels in the area.

Commissioner Leland said he agrees with Commissioner Nelson and the decision on approving the project should not be based on the agricultural worker housing dwelling. He said that the parcel size is not comparable with other parcels in the area.

Commissioner Marin asked how long the second dwelling has been on the property.

Mr. Troester said it was built in 1984 then converted to agricultural worker housing in 1989.

Commissioner Marin said that is almost 25 years ago. He believes that by denying the project the Commission is taking away the rights of the property owners. He agrees with Commissioner Nelson also.

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

Ayes: Commissioners Leland, Lambert, Nelson and Chair Wilson

Noes: Commissioner Marin

Absent: None

Abstain: None

to deny TPM06-0034 for Furry.

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

C. [TPM06-0029](#) – continued from 2/14/08; 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. Chris Tolley gave a summary of the project with a power point presentation.

Commissioner Lambert asked if the orange on the map signified it was in the deer herd area.

Mr. Tolley said yes. The other color is the winter deer herd area.

Commissioner Lambert said that there is a 20 acre minimum for parcel size in the deer herd area. She asked what is the minimum parcel size for the critical deer herd area.

Mr. Tolley said 40 acres.

Commissioner Nelson said he didn't understand why there are different designations.

Ms. Jolliffe said the designations are from Fish and Game maps from 1984.

Mr. Thistlethwaite said that the mapping capabilities were more limited in 1984 than they are today.

Commissioner Nelson asked if a second dwelling was allowed.

Mr. Doug Fogel said that at the previous meeting the Commission asked about the feasibility of a second dwelling. The information that he has indicates the parcels could sustain second dwellings. He said that parcels 2 and 3 would need to prove that, but doesn't think that it would be a problem. He said there is an error on the 2/14/08 report, page 2, 5<sup>th</sup> bullet. The word sewage needs to be deleted.

Mr. Thistlethwaite said the Commission can limit second dwellings.

Mr. Wannemacher said that findings would have to be made to make that restriction on second dwellings.

Mr. Thistlethwaite said that it could potentially double the density.

Mr. Wannemacher said that a restriction could possibly be made based on health and safety reasons, provided the Commission specifies the reasons.

Chair Wilson opened the public hearing.

Ms. Lorrie Lundy, from L & L Surveying, told the Commission that there are several parcels in the area that are smaller so she does not believe that the parcel sizes the applicant is requesting are inconsistent. She doesn't think that second dwellings are an issue since less than 5% of the people in Butte County have a second dwelling. Traffic, water and sewage do not pose a threat to health and safety.

Commissioner Lambert asked if surrounding parcels had residences on them.

Ms. Lundy said yes, but they are old.

Mr. Michael McCrady said his goal is to improve the property and work with the rules of the General Plan and the Cohasset Plan. He has removed all the abandoned cars and junk that was on the property when he got it. He asked the Commission not to restrict second dwellings.

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

Commissioner Lambert said that correspondence had been received objecting to the project. She said she does not think it is appropriate to go below an 11 acre parcel size. She said she believes the Commission could make the findings based off the Deer Herd Area and that the parcel is on the line of minimum 20 acre zoning.

Commissioner Leland said that he does not think second dwellings will be an issue.

Commissioner Lambert asked if there were any fencing restrictions.

Mr. Tolley said yes the fencing is restricted to the home site only.

Commissioner Marin said that to deny it would take away property owners' rights. He said that the Commission should approve it because it is consistent with zoning.

It was moved by Commissioner Lambert, and seconded by Commissioner Leland to approve TPM06-0029 for Michael McCrady.

Commissioner Nelson said he wants to limit second dwellings. He thinks the Commission could make the findings to support that decision. He asked the applicant what his intentions are regarding second dwellings.

Mr. McCrady said he does not plan to have second dwellings, but does not want that restriction.

Commissioner Marin said the Commission should look at the project, not at the possibility of second dwellings.

Commissioner Nelson said he wanted to use density as a finding to restrict second dwellings.

Commissioner Leland said that is not a health and safety issue. He could make the findings based off of the deer herd area.

The motion was carried by the following vote:

Ayes: Commissioners Leland, Lambert, Nelson and Chair Wilson

Noes: Commissioner Marin

Absent: None

Abstain: None

to approve TPM06-0029 for Michael McCrady, adopt the Mitigated Negative Declaration, adopt Resolution 08-08 with the restriction of not allowing second dwelling units based off the deer herd area being a health and safety concern.

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

- D.**     [MUP07-0002](#) - staff recommended a continuance to March 13, 2008  
**Name:** Verizon Wireless     **Project:** Minor Use Permit  
**Planner:** Chris Tolley **APN:** 038-250-025     **Zoning:** A-40  
**Location:** The parcel is located at 2003 Nelson Road, Oroville (west of the Community of Nelson, at the intersection of Nelson Road and the Western Canal).  
**Proposal:** A request to collocate on an existing 194.2 foot tower (197.8 foot overall height).

Mr. Tolley asked that the Commission continue the project until March 13, 2008 due to a noticing error.

Chair Wilson opened the public hearing.

There was no one there to speak on the item.

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

It was moved by Commissioner Nelson, and seconded by Commissioner Lambert and carried unanimously to continue MUP07-0002 for Verizon Wireless until March 13, 2008.

- E.**     [TPM06-0020](#) - staff recommended approval  
**Name:** Steve & Sheila St. Cin **Project:** Tentative Parcel Map  
**Planner:** Chris Tolley     **APN:** 043-690-007     **Zoning:** SR-1  
**Location:** The parcel is located at 1936 Webb Avenue (on the north side of Webb Avenue, approximately 0.15 mile east of the Webb Avenue and Rose Avenue intersection), near to the City of Chico.  
**Proposal:** A request for a Tentative Parcel Map to divide an approximately two acre parcel into 2 one acre lots.

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

Commissioner Lambert asked if a garage could be considered a second dwelling.

Mr. Tolley said not unless there is a kitchen or full bath.

Chair Wilson opened the public hearing.

Mr. Steve St. Cin said that he and his wife want to build a modest home from the 1940's era. He will be using solar energy, gray water for gardening and other energy saving methods. They said that the requirement to do road improvements would cause the removal of several trees and the neighbors do not want the trees removed. Also, it would be cost prohibitive to the project. He asked that the Commission approve a Condition to do a chip seal on the road.

Commissioner Nelson asked Mr. St. Cin if he would encroach onto neighboring properties.

Mr. St. Cin said no. He owns the properties on either side.

Commissioner Marin asked if the trees would have to be removed.

Mr. St. Cin said he is unsure, but thinks it is a distinct possibility.

Chair Wilson asked if there are curbs, gutters, or sidewalks anywhere near the project site.

Mr. St. Cin said no.

Ms. Maggie Hill is concerned that the leachfield setback will encroach onto her property and affect farming and potential further development.

Mr. Larry Coleman is concerned about the road improvements. His septic and leachfield are on another property with an easement. If road improvements are required he will have to move them.

Commissioner Marin asked Mr. Coleman if he is in favor of a chip seal on the road.

Mr. Coleman said yes.

Mr. Herb Votaw from Rolls, Anderson and Rolls said that the wells are centered. Environmental Health said to move either the well or the septic and that may affect Ms. Hill's property. He is concerned with Condition 8 and Condition 9.

Commissioner Lambert asked if there was a road maintenance agreement.

Mr. Votaw is not aware of one. The County road off of Webb Ave. is a 19 foot chip sealed road.

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

Commissioner Lambert asked if the Commission could make a decision on a condition that would cause the need for encroachments.

Commissioner Leland said that Ms. Hill has a large parcel.

Commissioner Marin said he understood the project to be a parcel split of 2 acres divided equally into 1 acre lots. He said he didn't see anything about encroachments.

Commissioner Leland said that if you look at the parcel size and the density in the area, it shows that if the area was to build out, there would have to be encroachments on to other properties.

Commissioner Lambert said that the encroachment would prohibit Ms. Hill from doing anything on her property in the area of the encroachment.

Chair Wilson allowed Ms. Hill to respond.

Ms. Hill said when she called the County in August she spoke with a planner and was told that the County believed that with her large parcel she could handle the small encroachment. She asked if the County was aware that it was zoned SR-1. She said the County had not researched that and was not

aware that it is zoned SR-1. She does not want the applicant to have an encroachment on her property that will limit her use of the property.

Commissioner Marin said that the applicant's representative should be allowed to respond.

Mr. Votaw said that they tried to limit the impact on the adjoining parcels.

Commissioner Lambert asked Chair Wilson to allow staff to address her question regarding the County's ability to require an encroachment onto another parcel.

Mr. Fogel said yes they do allow it and requested a letter from Mr. St. Cin. They did not request a letter from the larger parcel owned by Ms. Hill. He believes that when Ms. Hill said she spoke to a planner she actually spoke to a member of his staff. He said that Environmental Health would have approached the project differently had they known about the SR-1 zone.

Commissioner Lambert asked if the property owner objects to it, can the County make the owner accept an encroachment.

Mr. Fogel said Condition 26 said the applicant must obtain a free space easement for the southerly proposed well.

There was a 45 minute lunch break.

Commissioner Lambert asked if, based off of a 3 bedroom dwelling, would the water or sewage be maxed out.

Mr. Fogel said the southern parcel would be maxed out for sewage capacity.

Commissioner Lambert asked if the barn could be converted into a second dwelling or if second dwellings are limited by the Nitrate Plan.

Mr. Fogel said second dwellings would be limited by the Nitrate Plan.

Commissioner Nelson said that Public Works has not commented on the road improvements to Webb Ave.

Mr. Schroth said that there are two issues. The first is the easement regarding the width of the road. The road improvements will be approximately 45 feet wide. The second is that the chip seal the applicant is proposing will not last long with the condition of the road as it is.

Chair Wilson said that curbs, gutters and sidewalks can be ugly depending on the area. A rural setting does not need to be brought up to these standards.

Commissioner Leland said that the applicant would be putting in a road that would benefit everyone, but with no chance to recoup cost.

Commissioner Marin said that the exception request should be approved because of the trees and landscaping.

Commissioner Lambert asked if the road improvements are based on Chico's urban requirements.

Mr. Schroth said yes.

Commissioner Nelson does not agree with the improvements under these circumstances.

Commissioner Leland said that if an applicant wants to put in a subdivision then those improvements are appropriate. Public Works says it is a health and safety issue.

Commissioner Marin asked how it was a health and safety issue.

Mr. Schroth said that the improvements are for the safety of the people using the road.

Commissioner Marin asked if it was currently a safety problem.

Mr. Schroth said yes.

Commissioner Marin asked how this project would exacerbate the current safety problem.

Ms. Jolliffe said the health and safety is for fire safety.

Commissioner Marin said he likes the project and does not believe that applicant should have to pay for the road improvements.

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

Ayes: Commissioners Marin, Leland, Lambert, Nelson and Chair Wilson

Noes: None

Absent: None

Abstain: None

to approve TPM06-0020 for Steve and Sheila St. Cin, granting the exception request for a forty-five foot (45') easement along a portion of Webb Avenue, denying the exception request to modify improvement standards along Webb Avenue, adopting Resolution 08-09 and adopting the Mitigated Negative Declaration subject to the findings and conditions.

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

**F. [TPM 06-13](#) - staff recommended approval of project**

**Name:** William Sittman

**Project:** Tentative Parcel Map

**Planner:** Mark Michelena

**APN:** 071-300-002 **Zoning:** FR-10

**Location:** The parcel is located approximately 18 miles east of Oroville, at #231 Quail Point Lane, west of Lumpkin Road (over Enterprise & Rocky Point Road), about a mile and a half beyond the Lumpkin Road-Enterprise intersection, 450 feet north of Lake Oroville.

**Proposal:** 1.) A tentative parcel map to divide the approximately 114.28 acres property into two parcels, one 74.27-acre and one 40.01-acre parcel. The FR-10 zone allows for development of one primary residence and one second residence (with proof of usable septic disposal area). 2.) An exception to Butte County Road Improvement Standard RS-8-LDI (Condition #15).

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

Commissioner Nelson asked for clarification of road improvements.

Mr. Schroth said that Public Works wanted to make sure there was a storm water drainage prevention plan. There will be a twenty foot wide graded graveled road for fire access.

Mr. Michelena said that Condition 26 does have the requirement for storm water if more than 1 acre is disturbed.

Commissioner Leland said that the letter from California Department of Water Resources wanted to see more regarding a storm water drainage prevention plan and the water quality.

Mr. Schroth said that Butte County does not have requirements for water quality of storm water drainage.

Commissioner Leland asked when the State would become involved.

Mr. Schroth said the County will give a permit for an acre and under that is disturbed. Anything over an acre is referred to the State for a permit.

Chair Wilson opened the public hearing.

Mr. William Sittman talked about the damage caused by Department of Water Resources when they release water from the lake. Any damage his project caused would be minimal in comparison. He tried to talk with the neighbors about blacktopping the road. Out of 20 homes only 7 live there year round. The neighbors he has talked to are adamant that the road be left alone. The homes were built years ago prior to setback rules. If the project is required to widen the roads, these people will not have a front yard.

Commissioner Marin has seen the huge cuts made by run off at the lake when they let water out. He would grant the exception.

Mr. Sittman said he took a 53 foot truck to his house and doesn't think that a fire truck will have trouble.

Commissioner Lambert said the parcel is in the critical deer herd zone. She asked if it was a 2 or 3 lot split.

Mr. Michelena said it is a 2 lot split.

Commissioner Lambert asked if Fish and Game considered second dwellings on each parcel.

Mr. Michelena said that they do look at both scenarios. He said the zoning allows for second dwellings. Second dwellings would only be restricted because there is not adequate septic capacity. In regards to the Deer Herd Zone the fence has to be 5 wire strand around property and regular fence for around the house.

Commissioner Lambert said she is concerned about second dwellings and the higher density they create.

Mr. Sittman said he loves his large parcel and has no plans to do a second dwelling.

Mr. Thistlethwaite said that these are issues that will be addressed during the General Plan Update.

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

Commissioner Leland said he could approve the project, but not the exception request.

Mr. Michelena said that the Commission could condition the project to not allow second dwellings until road improvements can be done.

Commissioner Lambert would also like the restriction to be based on the 40-acre critical deer herd area.

The Sittman property now has a 2 bedroom / 1 bath home. They are living there while they build their retirement home. They will then use the smaller home as a guest home.

Mr. Michelena said that if the applicant keeps the second unit as a guesthouse on the parcel, it would exceed the square footage allowed. A guest house can only be 500 square feet.

Commissioner Leland moved to approve the project and deny the exception request.

Commissioner Marin moved to amend the motion to approve the exception request.

Commissioner Nelson asked Public Works if there was a solution that would be acceptable to the applicant and the County.

Mr. Schroth said that there is not. The County is requiring the lowest standard.

Commissioner Lambert said that she would approve the project and possibly the exception request, but she wants second dwellings restricted.

No one seconded Commissioner Marin's motion.

It was moved by Commissioner Leland, and seconded by Commissioner Nelson and carried by the following vote

Ayes: Commissioners Leland, Nelson and Chair Wilson

Noes: Commissioners Marin and Lambert

Absent: None

Abstain: None

to approve TPM 06-13 for William Sittman, denying the exception request to Butte County Road Improvement Standard RS-8-LDI (Condition #15), adopting the Mitigated Negative Declaration and adopting Resolution 08-10.

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

**G.** [REZ 05-01](#) - staff recommended forwarding a recommendation of approval to the Board of Supervisors

**Name:** North Valley Business Systems

**Project:** Rezone

**Planner:** Mark Michelena

**APN:** 040-310-087 **Zoning:** U & M-1

**Location:** The project site is located on the east side of the Midway/Hagen Lane intersection, at 11128 Midway, Chico.

**Proposal:** This is an application for a Rezone which would change the zoning of a portion (1.02 acres) of the 4.47-acre project site from Unclassified (U) to Light Industrial (M-1). Such a change in zoning would place the entire project site within the Light Industrial zone.

Commissioner Leland recused himself due to a conflict of interest.

Mr. Mark Michelena gave a summary of the project with a power point presentation. He said the publishing in the paper had the incorrect zoning, but it was determined that the error did not affect the hearing. He said that the Conditional Zoning Agreement handed out to the Commission today supercedes the Agreement in their original packet.

Commissioner Lambert asked if the 1.2 acres was in the railroad right-of-way. If so, can that right-of-way be used to help with traffic in the area?

Mr. Michelena said that is in the right-of-way.

Mr. Wannemacher said that the right-of-way cannot be used because it has been broken into separate parcels and merged into adjoining parcels.

Commissioner Lambert said she is concerned with the traffic on Midway and the location of the access points involving industrial traffic.

Mr. Michelena said that the project has taken this long because the City of Chico was looking at the railroad right-of-way as a possible bike path.

Chair Wilson opened the public hearing.

Mr. Scott Miller said he is trying to get the project zoned like the surrounding parcel. He said all the mitigations were acceptable.

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, Nelson and Chair Wilson

Noes: None

Absent: None

Abstain: Commissioner Leland

to adopt Resolution PC 08-11 and forward the recommendation of project approval to the Board of Supervisors.

**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 a summary of the joint meeting with Biggs, Gridley and the County. He said it was a productive meeting. The mailer went to all the residents of the County. He gave the Commission the date and time of the next Citizen's Advisory Committee (CAC) meeting.

C. Update of Board of Supervisors' Actions

D. Legislative Case Law Update

Mr. Wannemacher talked about a ruling that states if a Commissioner is abstaining because of conflict they must leave the room completely.

Commissioner Lambert asked if a Commissioner should abstain if the project involves a neighbor.

Mr. Wannemacher said only if there is a conflict or if the Commissioner wants to act as a member of the public.

E. Planning Commission Concerns

Commissioner Leland will not be attending the March 27, 2008 meeting.

Commissioner Lambert asked if Commissioners could be reimbursed for attending CAC or General Plan update meetings.

Mr. Thistlethwaite said that Commissioners should get mileage, but is not sure about per diem.

Mr. Wannemacher wanted to talk about the decision making process. He pointed out that for the Board of Supervisors one Supervisor will make a motion and another Supervisor will say I will second that if you change this part of the motion. This makes it simpler then voting to amend motions. It would also help if the Commissioners gave their opinions prior to a motion being made.

There was a general discussion among Commissioners regarding making motions and amending motions.

Mr. Wannemacher said in his opinion amending motions is more confusing. He wanted to clarify that if there are 4 Commissioners and they have a tie, another motion could be made. But if the ultimate outcome is a tie, then it is considered a denial.

Commissioner Nelson asked if there is a tie can the Commission make a motion to continue the item until the next meeting.

Mr. Wannemacher said yes.

- 1.) Staff will provide additional information regarding agricultural worker housing, including the County's current policies and procedures for allowing agricultural worker housing and potential changes.

See item E.1 prior to B under Public Hearings.

- 2.) Review of past and present Planning Commission By-laws.

In reviewing the By-laws for the Planning Commission, Mr. Wannemacher said everyone should be going by the 1999 version. There was a change in 2003, but no record of that. He also said that he has to research to see whether the Planning Commission or the Board of Supervisors change the By-laws.

Commissioner Lambert asked if closed session is needed in the By-laws.

Mr. Wannemacher said there has been discussion at County Counsel. So far, there are no scenarios that the Planning Commission would need a closed session.

Commissioner Nelson does not think the agenda needs a "Closed Session" item.

Commissioner Lambert does not agree with the 5 minute rule for the public to address the Commission.

Mr. Wannemacher said that limits can be set, but when revoking entitlements a time limit would not be appropriate.

There was more general discussion regarding which By-laws were most appropriate to use.

Commissioner Nelson agrees with County Counsel to go by the most current version, which is 1999.

Mr. Wannemacher asked the Commissioners to look at the By-laws and bring back any changes they may want to make.

Commissioner Leland said to go by 1999 version.

## **VIII. CLOSED SESSION**

**IX. MINUTES** – February 14, 2008 moved to the beginning of the agenda.

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

## **XI. ADJOURNMENT**

Meeting adjourned at 4:10 p.m.

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Chair Wilson