

BUTTE COUNTY PLANNING COMMISSION MINUTES

March 27, 2008

I. PLEDGE OF ALLEGIANCE

II. PRESENT: Commissioners Lambert, Nelson and Chair Wilson

ABSENT: Commissioner Marin and Leland

ALSO PRESENT:

*County Counsel
Development Services*

Felix Wannemacher, Deputy County Counsel
Tim Snellings, Director

Charles Thistlethwaite, Division Manager
Dan Breedon, Principal Planner, Advance Planning
Stacey Jolliffe, Principal Planner, Current Planning
Mark Michelena, Senior Planner

Steve Troester, Senior Planner
Chris Thomas, Associate Planner

Carl Durling, Associate Planner
Brett Walker, Associate Planner

Tina Bonham, Commission Clerk

Agricultural Commission

Rob Hill, Deputy Agricultural Commissioner

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.

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

Ayes: Commissioner Lambert, Nelson and Chair Wilson

Noes: None

Absent: Commissioners Marin and Leland

Abstain: None

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. [MEXT08-0001](#) –continued open from 3/13/2008; staff recommends approval

Name: Robert Walsh (formerly SLMC) **Project: Map Extension**
Planner: Carl Durling **APN: 055-300-098 Zoning: AR-1**
Location: The project is located on the east side of Pentz Road, approximately 0.35 miles north of Lago Vista Way, south of the Town
Proposal: Applicant has requested a 5-year extension for Diamond Oaks Tentative Subdivision Map, TSM 05-07, approved 03/09/06.

Commissioner Lambert asked about the changes in the conditions. She asked why Condition 14 was recommended to be removed.

Mr. Eric Schroth said that it was not compatible with curbs, gutters and sidewalks.

Mr. Mark Michelena also explained that setbacks are now a Planning condition not a Public Works condition. Also, Environmental Health requires a will serve letter from SC-OR, where as they did not at the time the map was originally approved.

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

B. [MEXT08-0002](#) –staff recommended approval

Name: William Baker **Project: Map Extension**
Planner: Mark Michelena **APN: 030-160-006 Zoning: AR**
Location: The site is located on the east side of 10th Street, south of Feather Avenue, North of Oro Dam Blvd, Thermalito.
Proposal: Applicant has requested a 5-year extension of Tentative Subdivision Map TSM 05-12, originally approved 02/9/06.

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

C. [DET07-0017](#) – staff recommended approval

Name: Dale & Winnie Ritter **Project: Legal Lot Determination**
Planner: Brett Walker **APN: 047-230-105 Zoning: FR-40**
Location: The site is located on Richardson Springs Road, two miles northeast of the Cohasset Road/Richardson Springs intersection.
Proposal: Legal Lot Determination/Conditional Certificate of Compliance

Commissioner Lambert asked what the connection is for this DET and the Lot Line Adjustment the applicant applied for.

Mr. Brett Walker said the owner owns both parcels. The Lot Line Adjustment can't proceed until the Certificate of Compliance is completed.

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

D. [DET08-0001](#) – staff recommended approval

Name: Wayne & Jean Schultz **Project: Legal Lot Determination**
Planner: Chris Tolley **APN: 062-390-023 Zoning: U**
Location: The site is located approximately 0.15 mile north of Galen Ridge

Road. The nearest public road, Bald Rock Road, is located approximately 0.5 mile east.

Proposal: Legal Lot Determination/Conditional Certificate of Compliance

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

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

Ayes: Commissioner Lambert, Nelson and Chair Wilson

Noes: None

Absent: Commissioners Marin and Leland

Abstain: None

to approve the consent agenda, adopting Resolution 08-14 for Robert Walsh MEXT08-0001, Resolution 08-15 for William Baker MEXT08-0002, Resolution 08-16 for Dale and Winnie Ritter DET07-0017 and Resolution 08-17 for Wayne and Jean Schultz DET08-0001.

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. [TPM07-0017](#) – staff recommended approval

Name: William Johnson

Project: Tentative Parcel Map

Planner: Brett Walker

APN: 038-110-001 **Zoning:** A-40

Location: The parcel is located on the west side of Aguas Frias Road, one mile south of Grainland Road, 4± miles south of Durham.

Proposal: A Tentative Parcel Map to divide a 645.5-acre parcel into a 40-acre parcel and a 605.5-acre remainder parcel.

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

Commissioner Nelson asked if the Agricultural Commissioner has a problem with this project.

Mr. Walker said no he does not.

Commissioner Lambert said she has questions regarding the remaining parcel and that it does not appear to go through a review process.

Ms. Stacey Jolliffe said that some remaining parcels are able to be conditioned fully for future development, while others may not. She does not believe that a Certificate of Compliance is required for this project, but that is why this project does have a condition that states a Certificate of Compliance may be required prior to recordation of final map.

Commissioner Lambert said that she is okay with the split, but she is uncomfortable that the remaining parcel does not have a review process.

Ms. Stacey Jolliffe said that the remainder parcel was evaluated in the initial study. It is left open for further development.

Commissioner Lambert asked, if the remaining parcel were to split, would it have an Environmental Health review.

Ms. Jolliffe said yes.

Commissioner Lambert asked if a minimum of 10 neighbors were noticed.

Ms. Jolliffe said yes.

Mr. Eric Schroth said that if the remaining parcel were to split, the application would have to go through a CEQA review just like any other parcel split.

Commissioner Lambert asked if agricultural worker housing could be placed without further CEQA review.

Mr. Walker said that any additional applications would be subject to review.

Mr Doug Fogel said there is no evidence that there is sewage capacity for additional buildings.

Commissioner Nelson asked if this was a parcel split where the applicant wants the agricultural processing on one parcel and the ability to build an additional home.

Ms. Jolliffe said yes.

Chair Wilson opened the public hearing.

Mr. Mike Mays said the rice drying facility would be on its own parcel and the remainder would stay the same. They are looking at putting the larger parcel into the Williamson Act.

Commissioner Nelson asked if the owner plans on selling the plant.

Mr. Mays said no. It is a financial tool.

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 by the following vote

Ayes: Commissioner Lambert, Nelson and Chair Wilson

Noes: None

Absent: Commissioners Marin and Leland

Abstain: None

to approve TPM07-0017 for William Johnson, adopting the Mitigated Negative Declaration and

adopting Resolution 08-18.

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

B. [TPM06-0031](#) – staff recommended approval

Name: Michael Salmiery **Project:** Tentative Parcel Map

Planner: Chris Thomas **APN:** 072-460-047 **Zoning:** AR 2 ^{1/2}

Location: The parcel is located at 53 John Mardon Lane, approximately 500 feet south of Old Olive Highway, in the foothills, 3.6 miles east of the City of Oroville.

Proposal: A Tentative Parcel Map to divide a ±8.5-acre parcel into two residential lots of about 5.0 and 3.5 acres.

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

Chair Wilson opened the public hearing.

Mr. Michael Evans said that the applicant has no problems or questions regarding the conditions.

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

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

Ayes: Commissioner Lambert, Nelson and Chair Wilson

Noes: None

Absent: Commissioners Marin and Leland

Abstain: None

to approve TPM06-0031 for Michael Salmiery, adopting the Mitigated Negative Declaration and adopting Resolution 08-19.

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

C. [TPM 03-17](#) – staff recommended approval

Name: C. Earl and Helen Gilbertson **Project:** Tentative Parcel Map

Planner: Carl Durling **APN:** 039-080-009 **Zoning:** A-20

Location: The parcel is located on the north side of Hegan Lane, approximately 1000 feet east of Hengst Drive, and 1,000 feet west of Nichols C. Schouten Lane, southwest of Chico.

Proposal: A Tentative Parcel Map to divide a 41.58 acre parcel into two parcels of 21.58 acres (Parcel 1) and 20 acres (Parcel 2).

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

Ms. Jolliffe said that the Planning Commission must find unusual circumstances to allow the applicant to build inside the setback. The adjoining parcel and agriculture may be impacted if the applicant is required to build in the middle of the parcel.

Chair Wilson asked if the issue is that the applicant cannot build without building inside the 300

foot setback.

Mr. Durling said yes.

Commissioner Lambert said that access to the back of the property would be blocked and would landlock that portion.

Mr. Durling said that the General Plan does not allow for further division of the parcel.

Chair Wilson opened the public hearing.

Mr. Don Wrinkle said that there is no problem with the conditions.

Commissioner Lambert asked if there are 2 homes on parcel 1.

Mr. Wrinkle said yes.

Commissioner Nelson asked if that was because of agricultural worker housing.

Mr. Wrinkle said yes.

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

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

Ayes: Commissioner Lambert, Nelson and Chair Wilson

Noes: None

Absent: Commissioners Marin and Leland

Abstain: None

to approve TPM 03-17 for C. Earl and Helen Gilbertson, adopting the Mitigated Negative Declaration and adopting Resolution 08-20.

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

D. [TPM 03-14](#) – staff recommended approval

Name: Kathleen & Lewis Parker **Project:** Tentative Parcel Map

Planner: Steve Troester **APN:** 040-280-054 **Zoning:** SR-1

Location: The parcel is located on the east side of Goodspeed St. approximately 450 feet north of Hutton Way, south edge of the unincorporated town of Durham, Butte County. **Proposal:** A Tentative Parcel Map to divide a 6.35-acre parcel into four 1 acre minimum parcels and a 2.35 acre remainder containing an existing residence and out-buildings.

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

Commissioner Nelson asked if 2 additional lots could be created.

Mr. Troester said it is possible, but that staff would have to look at the map presented for verification.

Commissioner Lambert asked if the cul-de-sac extends into the northern parcel to serve it as well.

Mr. Schroth said yes, the cul-de-sac would serve the parcel, but does not extend into it. He said that Public Works does not oppose the exception request to extend the length of the cul-de-sac because Public Works is currently working with Cal Fire to extend cul-de-sac standards.

Chair Wilson opened the public hearing.

Mr. Wrinkle talked about the smaller lots to the east that have impacted setbacks. He said that gives good reason to approve the exception request. He said that the applicant agrees with all the conditions.

Chair Wilson asked about a 30 foot section on the map and if it was a right of way.

Mr. Wrinkle said that it is a driveway to the back of the property.

Chair Wilson asked if the berm would remain.

Mr. Troester said that it would block access where it is now and would need to be moved.

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

Commissioner Lambert said she has reservations about the project and said there are different ways to design it. She does not support the cul-de-sac or the setback exception.

Commissioner Nelson said that the Commission needs to look at what is going on with the area and be reasonable with its decision. He does not see what is gained by not granting the exception requests and does not think that it will be setting a precedent by approving the project.

Commissioner Lambert asked if the Board of Supervisors adopted this area with a 300 foot setback.

Mr. Troester said yes.

Commissioner Lambert does not see an unusual circumstance to approve the exception request because of the Board of Supervisors decision and that the Agricultural Commissioner does not approve it either.

Mr. Rob Hill said that the project is creating its own unusual circumstance.

Commissioner Nelson asked how the project was going to affect agriculture.

Mr. Hill said he does not know the effect.

Chair Wilson asked if all the houses on Goodspeed are within the buffer.

Mr. Troester said yes.

Commissioner Nelson said he does not see a problem with the project. The area has become

more rural than urban.

Chair Wilson agrees.

Commissioner Lambert said that the project should go to the Board of Supervisors to decide because of the issues with the setbacks and the Agricultural Commissioner.

Mr. Doug Fogel said there is a correction to Condition 26. It needs to be changed to "prior to recordation of map, show on map usable sewage" and strike out the first line.

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

Ayes: Commissioner Nelson and Chair Wilson

Noes: Commissioner Lambert

Absent: Commissioners Marin and Leland

Abstain: None

to approve TPM 03-14 for Kathleen & Lewis Parker, adopting the Mitigated Negative Declaration and adopting Resolution 08-21.

Mr. Thistlethwaite said there is a 10 day appeal period.

Commissioner Nelson asked if a Commissioner can appeal.

Mr. Wannemacher said yes.

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

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

Mr. Tim Snellings spoke about the Board of Supervisors and the Code changes that they have directed staff to work on. He referenced the material in a handout given to the Commission.

Mr. Thistlethwaite said that the Commission will see the first Code changes in May.

Mr. Snellings said that staff is working on the Code changes that affect people the most.

B. General Plan/Zoning Ordinance Update – Alternatives Evaluation Report

Mr. Dan Breedon talked about the Citizens Advisory Committee (CAC) meeting that was being held later that day. He talked about the new report and hopes to have it on CDs so that it is available to the public. He talked about upcoming meetings including the Planning Commission Special Study Session that will be held on May 9 starting at 9 a.m. in the Board of Supervisors room.

Mr. Snellings said that due to the large amount of material there may need to be additional

meetings held to cover all of it.

Mr. Breedon said that a CAC meeting will be held on April 14th, and there will be presentations addressing water issues and the organization of the General Plan Update process.

Mr. Snellings asked if any of the Commissioners would be able to attend.

Commissioner Lambert and Nelson said that they could attend the meeting.

Commissioner Lambert asked if there are any conservation plans in place or if it is still a private issue.

Mr. Snellings said that conservation is still being handled privately, although it will be addressed during the General Plan Update process.

C. Update of Board of Supervisors' Actions

None

D. Legislative Case Law Update

None

E. Planning Commission Concerns

None

VIII. CLOSED SESSION

IX. MINUTES – Minute order from February 28, 2008 regarding REZ 05-01 North Valley Building Systems.

Commissioner Lambert asked what a minute order is.

Ms. Jolliffe said that the February 28th Planning Commission meeting had many items and the minutes are not available for adoption yet. The minute order item is going to the Board of Supervisors and the Clerk of the Board said that the Board of Supervisors could accept a minute order in place of a full set of minutes.

Commissioner Lambert is concerned that the Board of Supervisors will not see what the Planning Commission discussed on the item. There are issues that she was concerned about and would like the Board of Supervisors to know about those issues. She said she believes the Board of Supervisors should have the whole set of minutes.

Mr. Wannemacher said that Commissioner Lambert is correct, but this was used to speed up the process. He spoke of a recent case where another county was trying to notice an item for the Board of Supervisors prior to having the Planning Commissions recommendation. It was determined that an item can not be noticed in that manner. He does not believe that using a minute order is allowed by law or by the Butte County Code.

Mr. Thistlethwaite said that the case was based on noticing prior to recommendation. The Planning Commission has given a recommendation.

Ms. Jolliffe said that the Planning Commissions recommendation and signed Resolution will go to the Board of Supervisors. It was staff's belief that a minute order and signed resolution would be appropriate.

Commissioner Nelson said he does not see this as a controversial item and should not be an issue.

Mr. Wannemacher said that without the minutes the Board of Supervisors would not have all the information.

Commissioner Nelson said he disagreed.

Commissioner Lambert is concerned because she initially was going to vote to deny the project, but after hearing all the information she changed her mind. She said that is why she is reluctant to send only a minute order and resolution.

The Commission instructed staff to do the minutes and bring them to the next Planning Commission meeting. They asked if staff would be able to provide a full set of minutes or if they could provide the minutes showing the discussion regarding REZ 05-01.

Ms. Tina Bonham said that she would do the REZ 05-01 minutes first so that they will be available at the next meeting, but would make every effort to finish the rest of the minutes prior to meeting as well.

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

None

XI. ADJOURNMENT

The meeting was adjourned at 11:15 a.m.

Chair Wilson