

**MINUTES**

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**1. CALL TO ORDER**

Chair Richard Hoard called the meeting to order at 7:00 p.m. Members present: Dan Frasier, Mike McHugh, Diana Stewart, ***Graham Matthews*** and Richard Hoard. Staff present: Director Richard Tippet, Associate Planner Colleen O'Sullivan, Deputy County Counsel Joe Lamour and Clerk Ruth Hanover.

Chair Hoard advised there is a change in the Agenda tonight and that the proposed Negative Declaration and Rezone for Mines, Agenda Item 6, will be heard first under New Business.

**2. PUBLIC COMMENT**

*Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda and to request that a matter be agendaized for a future meeting. No action may be taken on these matters at this meeting.*

Comments received from Jack Norlund, Tom Ballanco and Everette Harvey.

**3. MINUTES – March 8, 2018.**

Upon motion of Commissioner Matthews, seconded by Commissioner Frasier, approves the Minutes of March 8, 2018, as submitted. Motion carried unanimously.

**OLD BUSINESS – None.**

**NEW BUSINESS**

**6. PROPOSED MITIGATED NEG. DEC. AND REZONE**

**P-17-45**

Proposed Mitigated Negative Declaration and rezone of four parcels from Highway Commercial to Industrial (I). Located at 123, 141 & 221 Marshall Ranch Road and 30661 State Highway 3, Douglas City. APNs 015-49-08, 09, 10 & 11. Applicant: Mines.

Associate Planner Colleen O'Sullivan presented the staff report. She explained we don't typically attach conditions to rezones, but if the rezone goes through the applicant will be coming back for further entitlements so those will be picked up then. She said because of past uses of the properties, there may be hazardous waste concerns with those four parcels and its effect on wastewater that might be generated. She said Staff is recommending approval.

Commissioner McHugh said in reviewing the negative declaration, he takes the gist of it to be that there are essentially no impacts because this is a paper exercise. He pointed out this is a rezone to Industrial and there are a number of entitlements that come with that. He understands that the applicant has suggested he has an idea what he wants to do with it down the road, and that would be an activity requiring a conditional use permit which would require further study, but people change their minds. He read the uses allowed under Industrial zoning. He said if the conditions of the Zoning Ordinance of this section are met, such as noise at the parcel boundary, for example, no conditional use permit is required. So, if the applicant changes his mind and decides to put in a metal fabrication shop, there will be no further environmental study; so, it strikes him that a negative declaration saying there can be no possible impact because this is

just a paper exercise, is a little understating the actual scope of what's going on. Ms. O'Sullivan agreed. McHugh said he would like to see more analysis of CEQA study in a rezone. He thinks there is more here than just a paper exercise.

Director Tippett suggested continuing the item. The Commission agreed.

Chair Hoard opened the hearing to public comment.

Comments received from Terry Mines, Veronica Albiez, Dave Albiez, Daphne Weitzel, Jake Grossman-Crist, Veronica Dudin, Jim Curry, Gail Goodyear, Tom Waltz, John Letton, Gene Goodyear, Tom Ballanco, Dana Ryan, Chris Cross, Everette Harvey, Bev Dickerson and Chloe Albiez.

No further comments being received, Chair closed public comment period.

Director Tippett reminded the Commission we are focusing on the Rezone, not cannabis part.

Commissioner McHugh said he recalls the Commission previously had a discussion about combining multiple public hearings for a parcel with multiple cannabis use permits, for efficiency.

Director Tippett stated the CUP process is different than a Rezone.

Commissioner McHugh moved to continue the public hearing to a future date to be noticed. Seconded by Commissioner Frasier. Motion carried 5-0.

4. **PROPOSED REZONE, MITIGATED NEG. DEC. AND TENTATIVE PARCEL MAP** **P-17-36**

**Public Hearing:** Proposed rezone from Unclassified to Rural Residential 10 acre minimum, or more restrictive zoning; mitigated negative declaration and tentative parcel map to create four parcels (approx. 40 acres each) and a remainder (approx. 120 acres). Located off Kerlin Creek Road, Hyampom. APN: 011-210-35. Applicant: Yordana/Owner: Yordana.

Associate Planer O'Sullivan presented the staff report. Staff is recommending approval.

Commissioner Matthews asked if the County has ever required 100-foot setbacks from intermittent springs and streams before. Ms. O'Sullivan responded she is not sure, but that is what was requested by Fish and Wildlife.

Commissioner Frasier said his question for staff would be the possibility of subdividing the parcels that have been split off in the future. They are 40-acre parcels and we are going to a 20-acre minimum, so we not only have the possibility of the remainder parcel being split into 5 and a remainder, but then also the possibility of the three parcels being split in half and you end up with 12 parcels. O'Sullivan responded there are only two that can be divided again, two of them are 30 and two are 40 and the remainder. He said how do we address that, because you can end up with another extensive road system to deal with further down the road. Commissioner Stewart said that is her concern as well. O'Sullivan said she didn't see why you couldn't apply a 40-acre minimum; if the concerns are great enough, that is a way of limiting what can be further divided in an area.

Chair Hoard said he has a question contingent with what Commissioner Matthews said about the 100-foot setback from ponds, it is his understanding that a Notice of Environmental Constraint will carry through ownerships. He said he's not a geologist, but assumes if there were changes, in say a landslide or seismic activity that would reconfigure the way the water flows through the property or the topography of it, he would like to see a remedy to that, in case if there are physical changes 20, 30, 40 years down the road and

someone else owns the property that they could potentially argue this and say there have been changes made so we are allowed to utilize that 100-foot setback. He said he knows in other situations there have been changes to ordinances, or legal changes in which an environmental constraint maybe no longer applies but it is still held on the property

Director Tippett responded there is a vehicle to do that, it takes Planning Commission and Board action. It's evaluated on its merits, but also you go back and look at the conditions which created that condition originally. He said people come back all the time and say I want to split this lot because this lot doesn't have that problem; well, that lot might not have that problem, but the overall area still has that problem, and that is why it was created was because of that overall area. Tippett said you form environmental constraints, there always can be requests to be changed, but it has a process it has to go through to get that changed and go through the Planning Commission and the Board.

Chair Hoard stated part of staff's recommendation was that no further division of the remainder parcel shall take place unless a water study was done. He said he noticed that was not included in the conditions in the Resolution. Planner O'Sullivan stated she needs to add that. Chair Hoard said another thing that wasn't included was another staff recommendation that "no diversion from unnamed creek". O'Sullivan responded that she doesn't know how you make that a map requirement and how they can meet that and still get their map signed off, so that should go under a Notice of Environmental Constraint so it is at least brought forward and the property owners can see it on there. Commissioner McHugh stated one thing that does carry forward with the approval of the map are those setbacks, the Resolution says as shown on the map, and it is not show on the map so needs to be updated because some of the constraints are shown on the map.

Commissioner McHugh said there was one question that was suggested maybe the surveyor could answer, is the Flag Lot question about Parcel No. 1. Applicant Khris Yordana responded the flag lot is necessary because this is an already existing road and access from Kerlin Creek Road with the existing driveway, the ground is very soft and if they have to build a new road from the other side it may fall down, he would like to use that road like a border between the properties. He said to take the easement through the other parcels would be very difficult, they tried to find the owners of the other land, but it's almost impossible; it's almost the same thing with the other driveway because we cannot take an easement from the Forest Service.

Commissioner McHugh suggested to the applicant he might consider making Parcel 1 square and Parcel 2 square, and Parcel 2 gives Parcel 1 and easement, it becomes a legal binding term on Parcel 2 and Parcel 1 can use the existing driveway. Mr. Yordana responded Department of Transportation rules are that you have to have 20 or 18 feet road to the border of each property and that makes his work very difficult. He said if he is able to use that already existing driveway he wouldn't have to take out so many trees.

Director Tippett said it is standard that we ask for properties that front roadways, part of that is because if you have one going across another, it helps stop some of the arguments is essentially what it is, but there are times when that doesn't work, and this might be one of them. He said what you also want to try to avoid is triangle pieces because nobody maintains the triangle especially when there's fences. He said DOT would not have a problem going by going with an easement.

Commissioner McHugh asked about the DOT requirement for 10-foot wide road bed. Tippett responded there are two residences, there is one that it goes to and then you have #12, we consider that a shared driveway. Some of the fire safe ordinances that are coming out are saying that if you have two that it has to be wider, but we're not dealing that way yet; but as long as it is only serving two homes, it is essentially what he calls a common driveway.

Mr. Yordana stated, with regard to the 100-foot setback from streams, that they are far away from any streams, they have a large pond that he has named a lake also, but it is far away from any building site or anything. He said 70% of the property is pretty wild and they want to keep it wild in the future too. They are going to dig wells on each parcel, they're not going to use water from the stream even though they have water rights.

Commissioner McHugh said there was a comment in the Fish and Game letter about giving up riparian rights to the new parcel and asked if that needs to be stated that those are going away. Tippet responded this has come up quite a few times and we have done that in the past, but it's interesting because the water board says you don't have the right to say that because we are the ones that grant that; so, we have chosen to remain quiet on that, but we do inform the applicants that just because you touch the creek doesn't mean you have water rights. You have to actually go and open permits and secure the water rights for it to be a real "water right". Mr. Yordana stated they do have water rights grandfathered in, they have diversion rights, but they're not going to use them, they're going to dig wells anyway.

Chair Hoard opened the hearing to public comment.

Comments received from Tim Whilhurst of CalFire and Tom Ballanco.

No further comments being received, Chair closed public comment period.

Director Tippet read Section 5 regarding shared driveway.

Commissioner McHugh asked if we closed out the idea of 40 instead of a 20-acre minimum. Commissioner Stewart stated she would prefer Rural Residential 40-acre minimum (RR40) instead of 20-acre minimum. Commissioner Frasier asked with the 40 are we still okay with the 32-acre remainder. Ms. O'Sullivan responded yes. Tippet said the Zoning Ordinance provides for 40-acre minimums. Commissioner Frasier said he thought it would solve problems in the future.

Commissioner Frasier moved to (1) recommend to the Board of Supervisors adoption of the Mitigated Negative Declaration, finding that on the basis of the whole record, including the initial study, that there is no substantial evidence that the project will have a significant effect on the environment and that a Negative Declaration reflects the County's independent judgment and analysis, and (2) recommend to the Board of Supervisors approval of the zoning change of APN 011-210-35 from Unclassified to Rural Residential 40-acre minimum, finding the action to be consistent with the overall goals and policies of the General Plan; and (3) recommend to the Board of Supervisors adoption of the Map Resolution (Exhibit A), approving the Parcel Map, with conditions, as amended, to create four parcels and a remainder parcel on APN 011-210-35, and direction given to staff to reconfigure parcels to eliminate flag lot. Seconded by Commissioner Stewart. Motion carried unanimously.

**5. PROPOSED MITIGATED NEG. DEC. AND REZONE**

**P-17-53**

Proposed Mitigated Negative Declaration and rezone from Special Unit Development to Rural Residential 20-acre minimum(RR20) on a 40-acre parcel. Located at 701 Lorenz Rest, Douglas City. APN: 024-650-25. Applicant: Rakocevic.

Associate Planer O'Sullivan presented the staff report. She advised the project is off Tucker Hill Road near the Rest Stop in Douglas City, and is a portion of the Mary Kay Brooks SUD established years ago. Staff is recommending approval.

Commissioner McHugh said he wasn't clear whether the intent was to subdivide it in two or not.

O'Sullivan said did ask but didn't get an answer. McHugh said Rural Residential 40 comes to mind. Director Tippett said the request is for RR20. O'Sullivan said the applicant requested 20, she is recommending 20.

Commissioner McHugh said he had a question, the comment about the SUD would allow cultivation, he doesn't understand how that derived from the S.U.D. Guidelines. Tippett responded the guidelines say when you are looking at a SUD you have to look at the underlying zoning for that particular parcel, what the zoning was at the time the SUD was created and the intent, in this case the intent is Rural Residential and under the cultivation ordinance Rural Residential lots provide for cultivation. He said essentially the zoning code says agricultural uses are allowed in Rural Residential, so therefore it makes them eligible for cultivation. McHugh said that's not his understanding of how the SUD works, the SUD applies restrictions. Tippett said the SUD conditions would apply unless rezoned to Rural Residential. McHugh responded right, a rezone.

Chair Hoard opened the hearing to public comment.

Comments received from Dave Kondart, Lanice Jennings, Chris Cross, Tom Waltz and Tom Ballanco.

No further comments being received, Chair closed public comment period.

Commissioner Matthews said the question on his mind is if we should do something the applicant hasn't asked for and asked if we shouldn't we continue this to get the applicant's feedback, staff said he wasn't here. O'Sullivan asked for the 40? Matthews said or we can be more restrictive, but it makes it a little uncomfortable without any feedback from the applicant. Commissioner McHugh said he would agree with your inclination and go with 40 and avoid subdividing. He said he's really hesitant to give up SUD home development project, but it sounds like this one should go away, it's not practical; so, he is okay with a rezone to Rural Residential, but based on everything we've heard and with no input from the applicant, he would kind of like to see it *not* subdivided in the future. Commissioner Matthews pointed out it was RR20 before it was rezoned to SUD and that was consistent with everything else in the area, and if we do RR40 it will be the only one out there. McHugh said the alternative is to go ahead with the applicant's request without making it up, and when a subdivision comes back to us then we deal with the issue. Commissioner Stewart stated staff has indicated the applicant didn't care what size it was when she told him she was recommending 20-acre minimum, but he wanted to go through the time and expense of the rezone.

Commissioner Stewart moved to (1) recommend to the Board of Supervisors approval of the Negative Declaration, finding that on the basis of the whole record, including the initial study, that there is no substantial evidence that the project will have a significant effect on the environment and that a negative declaration reflects the County's independent judgment and analysis; and (2) recommend to the Board of Supervisors approval of the rezone from Special Unit Development (SUD) to Rural Residential 40-acre minimum (R40), finding the action to be consistent with the overall goals and policies of the Trinity County General Plan and the Douglas City Community Plan. Seconded by Commissioner McHugh. Motion carried unanimously.

## 7. MATTERS FROM THE COMMISSION

With reference to the last item Commissioner McHugh asked Director Tippett to get an official reading on whether or not cultivation is allowed in a SUD, because it may come up again, we've had cases where permits were issued that shouldn't have been, so we should get clarity on it. Tippett said the intent of agriculture use is there. McHugh said it doesn't say that. Tippett said he would have to punt to County Counsel. McHugh said get an opinion on it.

Commissioner McHugh expressed appreciation for the Board's token gesture of increasing the stipend for Commissioners. He said the Board acknowledged all the work the Commission and staff has done.

Commissioner Frasier brought up the issue of K Type Housing again. He said he doesn't understand the need to push it off because it's not that *contentious* of an issue and he doesn't think it would take up that much of the Commission's time. He said he realizes it's going to be a push on staff to come up with permitting on that end, but there is a lot of public interest and a lot of public pressure, and he thinks it is something we can deal with, and it would be nice to do something the public appreciated for once, rather than have people mad at us all the time, it seems like it was something everyone was interested in having move forward. He said he would like to see it move forward instead of pushing it down the road.

Tippett responded that he has shared Commissioner Frasier's concern with his supervisor. He said the last two years staff has had more than we can deal with, there are things that the Board has been adamant about on things they would like to see done, cannabis of course, but there's a huge push on the General Plan and they tried to slide in the Grading Ordinance between that. So, it's adding another thing on the plate. He said he's sharing the Board's priorities on different things, but if the Board so directed, he would change our priorities and we could move forward with an ordinance.

Chair Hoard said in light of that, he doesn't know what our restrictions are as a commission body, but he believes the Commission can also take a little more initiative in crafting this ordinance, rather than rely on staff with the limited time and resources. Commissioner Frasier said when he first brought it up he said we can do it as a workshop, staff doesn't have to draft it that way, the public can come to us, give us their thoughts, and we can present to the Board what we came up with. He said rather than asking staff to prepare an ordinance for us, send it to us and we change it, send it back to staff and then they bring it back to the Commission – have the Commission and the public write the ordinance, it's kind of hands off for staff until the time comes to make it into an actual permit.

Director Tippett said there is policy and then there are guidelines, it takes a lot of work to set up guidelines. You can have policy, but then again where our priorities rest, our priorities are to set up the guidelines for the program, it's the thing so time consuming and that is part of why we aren't ready to undertake this just yet. He said we had talked about reinforcing staffing in the building, look at the Planning Department, it's gone from just Carson and Ruth to now we have a permit tech., two admin coordinators, two planners and Interim Planning Director. He said we are spooling up and maybe we can continue to spool up to allow for more things like that, but he can't commit to have that done.

Commissioner Frasier said he is getting feedback from people, it's like the County just spent two years dealing with cannabis and there's people who have been trying to deal with the K Housing stuff starting 30 years ago and have still never gotten their day. There's a lot of people in his area that are really not happy that it's not going to come up. It's a major issue with some people in his area. Most of the people in his district feel like we are not even really considered by Weaverville, or attached, and it's been that way since the inception of Trinity County. South Fork Mountain is a big divide. There's a lot of people in the south part of the county who don't bother to even talk to Weaverville because nothing happens. Let's bring those people in and get their input and try to do something for the people of the county, rather than just pushing stuff off. It really means a lot to him and some of the people in his area.

Director Tippett said we are sharing that with the Board.

Commissioner Stewart said she understand the need for the General Plan, but, to the public, the General Plan is this nebulous thing that does not affect them, the K Housing affects many people throughout the county. It's important to the people that have to deal with the affects of not having a General Plan, it's not

important to the general population. Tippet said he appreciates that.

Chair Hoard said he agrees with Commissioner Stewart and as he said at the last meeting, he does want to keep the momentum going with Class K, perhaps in May or June we have a workshop and have the community involved and get more ideas flowing and address guidelines as they come along. He wants to see us chipping away at this and not say we don't have the time for this and it goes on the back burner.

**8. MATTERS FROM STAFF**

Director Tippet said he just wanted to remind the cultivating world that now there are a lot of use permits coming through, and in use permits they have a lot of environmental documents. One of the things is you are making an evaluation of conditions that were presented at the time of application; you go in and turn in your application and if you are not disclosing everything, or you jump on your backhoe after you submitted your application and grade your property flat, you have changed the conditions from what you submitted for processing, and that becomes problematic. He said we are going to put up flyers on our stuff that remind people, but he wanted to remind everybody publicly. He said we know of one permit that has to be redone because the applicant changed things

**9. ADJOUR**

The Chair adjourned the meeting at 9:50 p.m.