

MINUTES

1. CALL TO ORDER

Chair Stewart called the meeting to order at 7:00 p.m. Members present: Mike McHugh, Dan Frasier, Diana Stewart, John Brower and Graham Matthews. Staff present: Director Richard Tippett, Interim Planner John Jelich and Clerk Ruth Hanover.

2. ROTATION OF CHAIR & VICE CHAIR

Annual rotation of officers pursuant to County Code Section 236 - Commissioner Matthews is Chairman of Planning Commission for 2017, with Commissioner Brower as Vice Chairman; and for the Subdivision Review Committee, Commissioner Frasier to serve as member from January through June 2017, with Commissioner Stewart serving as member from July through December 2017.

Chair Matthews presiding.

3. 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 Liz McIntosh and Terry Mines.

4. MINUTES

Upon motion of Commissioner Stewart, second by Commissioner Frasier and carried, approved the Minutes of December 8, 2016 as submitted.

OLD BUSINESS – None.

NEW BUSINESS

5. ACCESSORY DWELLING UNITS

PW-16-08

Public Hearing: Proposed General Plan Amendment to change text and program 2.5 in the “2014-2019 Housing Element” of the General Plan, and Zoning Ordinance Amendment to delete Section 30.D.3 (Second Dwelling Units) in its entirety, and replace with a new Section 30.D.3 (Accessory Dwelling Units). Located county-wide. Applicant: Trinity County Planning Department.

Interim Planner Jelich presented the staff report. Jelich advised that due to recent legislation the Planning Department is proposing a General Plan Amendment to change the text and program 2.5 in the “2014-2019 Housing Element” of the General Plan, and Zoning Ordinance amendment to delete Section 30.D.2 (Second Dwelling Units) in its entirety and replace with a new Section 30.D.3 (Accessory Dwelling Units).

He explained that AB 2299 and SB 1069 made two changes that require amendment to the Housing

Element text and one of the programs established to implement the goals of the Housing Element. First, it changes the term “second dwelling” to “accessory dwelling unit” (ADU) in Government Code Section 65852.2 which affects the wording in the County’s Housing Element. Second, it no longer allows any type of discretionary permit (such as use permits) for developing an accessory dwelling unit. Our existing language was modified after adoption of the 2009-2014 Housing Element to provide even greater opportunities to provide for accessory dwelling units in the County; however, these would be located in areas primarily devoted to resource uses which would have required a use permit to ensure that the resource was not adversely affected by the additional housing development. Jelich said the proposed General Plan Amendment would delete the reference to use permits and no longer allow accessory dwelling units in these non-residential zones. Other forms of housing, such as farm labor housing or temporary housing for tree planting, could be allowed, but could require a use permit to assess potential impacts.

Commissioner Stewart stated in 2014 one of the reasons the Planning Commission recommended having Agriculture allowing a secondary dwelling was because of a family who had elderly relatives, say a mother and father, who own the property and are actively involved in the agriculture on the property needed to build another home for a child to live in who would be continuing to work the land with the parents, and it looked like that would not be allowed, and they would have to apply for a use permit as though it were a farm worker. She asked if that was correct. Planner Jelich responded Section 13 which is Agriculture, states “accessory buildings and accessory uses, including barns, stables, and other farm out buildings, farm labor quarters and quarters for servants employed on the premises, one family dwellings, one accessory to an agricultural operation on the same building site”. Jelich said we have allowed these in the past. If it is an accessory building they would not have to go through the use permit process because its considered for farm labor.

Commissioner McHugh asked for clarification stating accessory dwelling units are allowed without any discretionary approval in primarily residential zones, not all zones? Jelich responded if it’s classified residential, meaning Rural Residential, Single Family Residential, Duplex Residential, Multiple Family Residential or Residential Office, definitely all of those allow for second dwellings. McHugh asked but not in other zones, not TPZ, not Ag? Jelich responded no. He said anything that is identified as being for residential use and already developed with a single-family home can have an accessory dwelling unit, and so we have expanded that, a lot of land is Unclassified and we want to make sure we take care of the folks also because those will eventually be residentially zoned property. Chair Matthews asked if this included R2 and R3. Jelich responded in the affirmative. Jelich stated state law specifically mentions R1, R2 and R3 types, it doesn’t include Rural Residential but he’s pretty sure that is what our intent is here. Commissioner Frasier said when he read it he was thinking it would be hard to even require a use permit for the AgForest and TPZ land the way the state code is written. Chair Matthews asked Jelich if he knew why they (the state) did it; Jelich responded the reason cited by the legislature and the housing advocates is that there is a housing shortage in California, particularly in urban areas, but we see it here also.

Chair Matthews opens the matter to public comment. No comments being received, Chair closes hearing to public comment.

Commissioner Brower moved to recommend the Board of Supervisors (1) adopt the resolution amending the Housing Element of the General Plan to comply with revisions in State law pertaining to Accessory Dwelling Units; and (2) introduce, waive the reading of, and enact an ordinance amending Trinity County Zoning Ordinance (Ordinance 315) by amending the Zoning Ordinance to change references to “second dwelling” and replace it with “accessory dwelling unit” and to update development standards to meet current State law. Seconded by Commissioner Stewart.

Chair asked Commissioner Frasier if he had any comments. Commissioner Frasier responded he didn't think the Commission had a choice. Commissioner Stewart said if she understands correctly, it excludes some zones, it excludes Agriculture, AgForest and TPZ, and a use permit would be required across the board for an accessory dwelling unit. Planner Jelich disagreed, stating the legislature is saying "we shall not require any discretionary permits. Commissioner Stewart said the way it reads, it implies that we are only doing that for anything that is currently considered residential, and anything that is not considered residential we would across the board require a use permit. Chair Matthews stated that was his impression, that we would still be able to do it. Commissioner Stewart said she thinks it needs to be clarified. Jelich directed the Commission's attention to the draft Resolution Amending the Housing Element of the General Plan, second paragraph, which states "These amendments require local government to allow accessory dwelling units ministerially without discretionary review or hearing. To be considered ministerial review, the process used to approve accessory dwelling units must "apply predictable, objective, fixed, quantifiable, and clear standards". An application for an accessory dwelling unit cannot be subject to public comment, a public hearing process or conditions of approval. However, generally applicable development standards established such as: protection of resources (e.g. water quality); safety (e.g. not constructing in the 100-year flood plain or a floodway); and protection of historic resources (e.g. location within an established Historic District), will have additional requirements that must be met prior to issuing a building permit and will be applied in the same manner as any other development."

Commissioner Stewart stated what she is reading is the second paragraph of page 2 of the staff report where it clearly states "The proposed General Plan Amendment would delete the reference to use permits and no longer allow accessory dwelling units in these non-residential zones." Jelich stated that was correct. Commissioner Stewart said non-residential zones are Ag, TPZ, AgForest, so none would be allowed there at all? Jelich responded not as defined as an accessory building; there's a dwelling unit on there and can have farm labor housing. Commissioner Stewart said so it would have to be considered farm labor housing or something like that and be subject to a use permit. Jelich responded in Agriculture it would be an accessory use like building a garage, so is not subject to a use permit. He said in TPZ, we wouldn't even accept an application, they would have to amend the ordinance to allow that. Right now, TPZ allows one single family dwelling period. Director Tippet stated no residences are allowed in AgForest. Jelich said we have allowed single family homes, even though it doesn't say in the ordinance, to facilitate management of the land. Commissioner Brower asked Director Tippet if he said there are. Director Tippet responded that was correct. Planner Jelich said the way the ordinance is now you will see all it allows is forestry, period; but as a matter of practice, since the Land Use Element was adopted at least, he started here in January 1980, we have always allowed one single family home, and the reason it was decided by the Commission and Board at that time was for management of the land.

Chair called for a vote on the motion. Motion carried unanimously.

6. **HICKS MITIGATED NEG. DEC., GPA & REZONE**

P-16-23

Public Hearing: Proposed Mitigated Negative Declaration, General Plan Amendment changing land use designation on approximately 122 acres from Rural Residential to Agriculture, and Rezone approx. 122 acres from Unclassified (U) to Agriculture (A). Located at 2761 Van Duzen Road, Mad River. APN 018-470-28. Applicant: Hicks.

Interim Planner Jelich presented the staff report. He stated the property is at the end of a very large area that goes along Van Duzen Road that is Rural Residential and has several houses; further north towards the Mad River area there is a large Village designated area, that is where the school, medical center, and fire department are, and if you drive further down there are some smaller Rural Residential sites; Mr. Hicks' property is the last one, and if you look at the General Plan map you will see on almost

three sides it is Resource designated, there are a couple of parcels further south that are Rural Residential and then going north it is Rural Residential property. He said most of the area is Unclassified right now. Mr. Hicks is requesting a General Plan amendment changing from Rural Residential to Agriculture. Jelcich stated he has been out there several times over several years and Mildred Pollard used the property for Agriculture purposes for a long time raising herbs and so forth, enough so that she organized a group of citizens down there to develop an herb cooperative and was instrumental in obtaining CDBG Grants for that purpose. He stated he wasn't saying that because it has to be changed, he is saying that as in fact how the property was being used; however, it was designated Rural Residential in the Land Use Element of the General Plan in 1979. He said in terms of your action, either way could work, the property could be further developed in the future for residential property and the same if it was designated Agriculture, its 122-acre parcel, some of it in the flood plain, but not mapped, the applicant has a desire to continue using the property for Agriculture purposes into the future, rather than subdividing it for residential purposes. Jelcich stated we did get two letters from people who were opposed and he included them in the staff report. He said there is a draft Resolution for changing it to Agriculture and a draft Zoning Ordinance Amendment to change the zoning from Unclassified to Agriculture.

Commissioner Frasier said the one question he would have is the difference between Agriculture uses allowed on Rural Residential and Agricultural zone. Jelcich responded in the Agriculture zone the primary use is agriculture and under Rural Residential zone it is an allowable use. He said under Rural Residential if you wanted to raise more than twenty-five animals you would have to get a use permit. He said it would have to do with the extent of the operation.

Chair Matthews opens the matter to public comment.

Comments received from Applicant Curtis Hicks. He stated there are two points to his request, first he wants to fulfill Mildred Pollard's dream of growing herbs and developing a co-op, she has done a lot of work over the years and had a lot of dedication to try make a better community in that area and he would like to continue on with that; second, for his family, he wants to be able to produce something that he can actually sell from the farm. Hicks said they are also interested in growing quinoa which is a very low maintenance, very low water plant, it only takes 10 inches of water through the whole growing period, it is a very beneficial crop, very healthy and he thinks that would be a benefit, and maybe at some point in his life expand a little bit and take on some Trinity County residents as employees.

Commissioner McHugh asked are there any land uses or aspects of his agricultural business that he currently cannot do because of the current zoning. Hicks responded no, not really, we just wanted to fulfill Millie's dream and he would like to try build something for his family. Mr. Hicks said we have a history of over probably fifty years of agriculture use, we've been doing it forever, and we have organic certifications for the barn, for an herbal drying shed, and so on. Planner Jelcich told Mr. Hicks he thinks the Commission is trying to understand why he made this application to rezone, he asked if there is any concern about neighbors wanting to shut him down or something. Mr. Hicks responded not really, we haven't been doing anything that Millie Pollard hasn't been doing for the last fifty years, we are not creating any more traffic, we have no waste, no debris, our impact is very light, and you can actually read that in the staff report. He can't say it any better than that, that really clarifies everything in here.

Commissioner Frasier asked how many houses are on this parcel. Hicks responded five and two duplex. He stated he has a large family, a lot of sons, and every house that he has is going to be occupied by his sons, the housing wouldn't be opened up to the public anyway. Commissioner Frasier said he was just trying to place where the houses are on the parcel. Hicks responded there are four of them on one side of the road, then we have a duplex and triple wide on the other.

Commissioner Brower asked if Mr. Hicks envisioned growing the cattle part of the operation. Hicks responded he doesn't plan on increasing the herd due to the high maintenance it takes. He said he is interested in growing quinoa because it is a low start-up crop, low maintenance, low water, and a pound of seeds will do an acre or more. He said as far as financial, the crop is the second largest cash crop in the State of California and is considered a "super food". It comes from South Africa.

Commissioner Stewart asked for clarification, stated it is her understanding the Commission is not supposed to be so concerned with what he wants to grow or raise, it is whether or not the rezone and designation change is appropriate for the surrounding land, and asked if that is correct. Jelich responded that is correct. Chair Matthews stated he could expand his agriculture use for growing quinoa under the existing zoning. Planner Jelich agreed, stating quinoa is not inconsistent with the zoning. Commissioner Frasier stated the Rural Residential is already there. The land use designation is Rural Residential. Commissioner Stewart stated the zoning is Unclassified and what he really needs is a zoning changed.

Commissioner McHugh stated it strikes him it is in a Rural Residential General Plan designation adjacent to Rural Residential parcels in the Van Duzen village area; it's adjacent to Resource on the greater area and then you have this island of Rural Residential on Van Duzen Road with several Rural Residential parcels. He said if it were to be subdivided in the future and it remained Rural Residential and those new parcels all would retain Rural Residential, and rezoning to Rural Residential away from Unclassified fixes the issue. He said it strikes him as the logical thing to get it out of Unclassified and move it into Rural Residential zoning which allows all agricultural activities, including quinoa, cows and everything else, and it is consistent with surrounding parcels. He said that is one idea to solving the issue of getting it out of Unclassified and any potential future changes in the permanent cannabis ordinance or anything else it takes Unclassified off the table; Rural Residential would be a good landing spot for this and consistent with the housing parcels along Van Duzen Road.

Commissioner McHugh said we're not taking anything off the table, we are cleaning up one Unclassified parcel in the county and moving it into Rural Residential which would be the appropriate zone given the surrounding parcels.

Commissioner Stewart asked Mr. Hicks what Mildred's dream is. Hicks responded Mildred Pollard started in a long time ago trying to build a community out there for everyone. She started a co-op, an organization with all the people there in Southern Trinity, you can see that in the staff report. Commissioner Stewart said your main concern is getting it out of Unclassified and into some other land use designation. Mr. Hicks responded in the affirmative. Commissioner Stewart asked is there any compelling reason why it should be taken out of Rural Residential, do you foresee ever wanting to run a hundred head of cattle. Mr. Hicks responded no he doesn't want to run a hundred head of cattle but he would like to rezone it so he would have more opportunities for him and his family. He said he would like to start with a vegetable and fruit stand. Commissioner Stewart asked if that is compatible with Rural Residential. Planner Jelich advised stands for the sale of agricultural products grown on the property requires a use permit in Rural Residential. Commissioner Stewart asked about Agriculture. Jelich stated he doesn't see it listed as something requiring a use permit. Commissioner Stewart responded so it would be allowed in Agriculture. Commissioner McHugh asked if a commercial retail operation would be allowed even though it's not listed. Director Tippet responded a nursery in Agriculture requires a use permit. McHugh said Section 13.B.2 states "storage, rental and sales of irrigation equipment. Stands for the sale of products grown upon the premises" requires a use permit in Agriculture.

Commissioner Brower asked if there are prime soils on the parcel. Mr. Hicks responded in the

affirmative, stating they have had multiple soil tests.

No further comments, Chair closes public comment period.

Commissioner Stewart moved to recommend that the Board of Supervisors (1) adopt a Negative Declaration, finding that on the basis of the whole record including the initial study and comments received, 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; (2) adopt a resolution approving an amendment to the land use element of the County's General Plan by changing the land use designation of APN 018-470-28 from Rural Residential to Resource; and (3) approve a Zoning Ordinance amendment changing the zoning of APN 018-470-28 from Unclassified to Agriculture. Seconded by Commissioner Brower.

Commissioner Frasier stated he's having a hard time seeing the benefit to the applicant is in doing this, but he can see where it could become a problem farther down the road for that little area of Southern Trinity. He said there's not that many places in that portion of the county where there is available land for housing. That's one little strip. The reason everything around it is zoned Resource is that it is all Forest Service. He said in the future if there is any growth, that is where it's going to happen, because it the last little bit of private land that can be developed. He said it would be a lot easier in the future, that would be a logical in fill area if we ever do have a population growth in our area.

Commissioner McHugh moved to recommend the Board of Supervisors (1) adopt a Negative Declaration, finding that on the basis of the whole record including the initial study and comments received, 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; (2) deny amendment to the land use element of the County's General Plan by changing the land use designation of APN 018-470-28 from Rural Residential to Resource; and (3) approve a Zoning Ordinance amendment changing the zoning of APN 018-470-28 from Unclassified to Rural Residential. Seconded by Commissioner Frasier.

Commissioner Frasier asked what the difference is between the land use designation from Rural Residential to Resource. Jelichich responded that was all him, the applicant had nothing to do with it. He said that has to do with him looking at the map and seeing it is Rural Residential here and Resource here, here and here, so to be consistent with the surrounding area, he is suggesting Resource. He said it doesn't have to be Resource, the applicant requested Agriculture General Plan designation and he told him you don't want it to be Agriculture by itself, why not do Resource.

Chair Matthews stated we have two motions on the floor and we are supposed to go in reverse order. He asked if there was any further discussion on Commissioner McHugh's motion.

Commissioner McHugh stated he would amend his motion to clarify his motion, instead of simply stating the zoning would be RR, he would like to say it's RR5, because that question will come up in the future. Commissioner Frasier stated he will amend his second to RR5.

Commissioner Frasier stated he's still having a hard time wrapping his head around the benefit. Commissioner McHugh stated his thought is to get it out of Unclassified, we have way too much Unclassified in the County and was a holding pattern for any parcel and now we have this parcel that is in Rural Residential General Plan designation from way back, the parcels adjacent to it that aren't the RR General Plan designation., they all remain Unclassified, but they've been subdivided, it's a village, a small group of houses, and he suggesting that we'll keep this in that same spirit. As far as he can tell it does nothing to cause any issues for the farming, including any cannabis farming, and keeps the plan of

a Rural Residential community in the middle of that valley intact.

Commissioner Frasier stated that is kind of where he is coming from too. He said Millie had a store there at one point. Commissioner McHugh interjected saying which would have taken a use permit. Commissioner Frasier stated he is trying to stick with more of the historical uses of that property, which is more village, except it has been Agriculture, so he thinks the best place to put it would be in Rural Residential.

Commissioner Brower stated it's got prime soils and the applicant has a dream of more of an ag use. Commissioner Frasier stated that we wouldn't be taking that from him because it's allowed under Rural Residential, but in the future if they decide they want to sell out, and they sell to someone and there is a major population influx, that is one of the only places along, especially near our High School, Grammar School and everything is right there, that is one of the last places where you could infill.

Mr. Hicks said he would like to state again that he has a very large family and we are going to occupy every one of our houses, it won't be opened up to the public. Commissioner Frasier stated he understood. Mrs. Hicks responded but you are still looking at it like a future thing and we are telling you our children going to have their children there, there will be no rentals.

Commissioner Brower stated if this commercial cannabis thing goes there could be a benefit of having it in Ag. Mr. Hicks stated they have been approved by the North Coast Water Board for a 10,000-sq. ft., but that's not the reason they want it changed to Ag. He said their reason is to fulfill Millie's dream and to create jobs for my family. They have four boys that all help with the farm and they envision their lives there doing the same thing we are doing.

Planner Jelich stated his concern now is, Director Tippet had mentioned earlier it wasn't such a big deal if it was RR10, but if you've gone to RR5 the environmental document kind of assumes 10 acre minimum parcels because of the agriculture. He said RR10 wouldn't be too far, but the density you are talking about is a little different than that. He suggested, if the Commission wanted, to continue it to the next meeting and he can amend the initial study.

Commissioner Frasier stated RR10 would be more consistent with Agriculture because Agriculture has a 10-acre minimum.

Commissioner McHugh stated he would amend his motion to state 10-acre minimum, so we don't have to continue it. Commissioner Frasier stated he would amend his second. Chair called for the vote. Commissioners McHugh and Frasier-Yes; Commissioners Stewart, Brower and Mathews-No. Motion failed 3-2.

Chair Matthews stated we are back to Commissioner Stewart's motion and asked if there was any further discussion on it.

Commissioner Frasier stated he still doesn't see the benefit of designating it Resource. He said it's not so much about that, it gives him what he was asking for and if you look at the map with the General Plan designation, it shows Resource and Rural Residential, there is no Agriculture land use designation. Jelich said it would just make it cleaner, rather than introducing Agriculture, he would suggest that you make it Resource and then apply the Agriculture zoning because Agriculture zoning is allowed in both.

Chair Matthews calls for the vote on Commissioner Stewart's motion which was to accept staff's recommendation.

Commissioner Frasier said real quick, he has one other thing. He said one of the reasons he asked the applicant how many houses were on that property, and that's another reason why he wanted to deal with the Rural Residential designation, the way that is set up, on one side of the road where the barn and everything is, that has always been used for agriculture. On the other side, there is a strip along the paved road and where those four houses are on that other side it fits right in with Rural Residential, it just looks like a Rural Residential area and the roads go down to the river bar which is bare. It just fits in with Rural Residential.

Chair Matthews again called for the vote on Commissioner Stewart's motion which was to accept staff's recommendation. Commissioners Stewart, Brower and Matthews-Yes; Commissioners McHugh and Frasier-No. Motion carried 3-2.

7. MATTERS FROM THE COMMISSION

Commissioner Brower requested an update on the commercial cannabis applications.

Director Tippett responded he's not ready, he will have the information next meeting.

Commissioner McHugh asked what about hiring. Tippett responded we are in the process right now of working with a recruiter for the Planning Director position.

Director Tippett stated there is a Planning Director's conference the last week of February that he and Planner Jelichich will be attending at that's a really good place to let people know we are looking, and so we are planning on closing shortly thereafter, approximately March 9th and then we go into recruitment with the recruiter or whoever else she is able to bring on, so we are looking to have action some time April. He said it may be appropriate to have two commissioners on the panel instead of just one. Tippett said it can be private interviews or as group interviews and right now he is leaning towards group.

Commissioner Stewart stated she read in the paper where the Planning Department will be a stand-alone department again, and asked if Director Tippett if he will strictly be the Director of Transportation or will he be under the Planning Director as well. Tippett responded right now they are looking at it and he thinks they envision it as its own, with Planning, Building and Environmental Health.

Discussion what the Planning Director position will entail in the future. Tippett said you are going to embark on General Plan update because with cannabis program if we have full participation, that is going to bring in a half million dollars for the General Plan update, along with some grants and some things they are working out, and probably some opportunities for funding through the cannabis program. Because quite frankly, Sacramento has mentioned several times your General Plan is out of whack before you bring on this marijuana program, that there will be opportunities. He said he sees this person not only working with establishing a cannabis program, also the Code Enforcement program, and then finally embarking on the General Plan update, and so all three of those are very big jobs. Tippett said he needs to get back to Transportation and the Airports, he has no time whatsoever. He said the way the recruitment went with the Sr. Planner position, he decided to wait and let the new Planning Director handle that because he or she may have more flexibility with the way things are, with the way the cannabis turns out. He wants to see the new director augment the staff the way he sees fit. Planner Jelichich stated one person cannot do this. Tippett said he foresees that not only will we have a Sr. Planner but we will also have a resource person. He said there are other things too, like Mark's water policies, grading ordinance, there is a whole slew of planning things that need attention, and he sees the department getting back to what it used to be. It's his understanding at one time there were seven planners.

8. MATTERS FROM STAFF

Director Tippett stated there is a Planning Commissioners Academy in Los Angeles March 1st, 2nd and 3rd. He said he received an email from Commissioner McHugh that it seemed to be for cities. He said although it says cities there was a lot of overlap, it is still the same issues. Commissioner Stewart agreed saying it was very helpful. Tippett said he would like to see the two new commissioners attend and he would like to extend the invitation to Chair Matthews as well since he hasn't attended. Chair Matthews declined.

9. ADJOURN

The Chair adjourned the meeting at 8:14 p.m.