

MINUTES

1. CALL TO ORDER

Chairman McKnight called the meeting to order at 7:00 p.m. Members present: Keith Groves, Diana Stewart, Dan Frasier, and Chair Tom McKnight. Absent by prearrangement: Graham Mathews. Staff present: Planning Director Richard Tippet, Senior Environmental Compliance Specialist Jan Smith, and Principal Planner Frank Lynch.

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.

No one came forward

3. MINUTES – May 8, 2014.

Upon motion by Commissioner Groves, second by Commissioner Stewart and carried, the Commission approved the minutes of May 8, 2014 with the following correction:

On page 3, third paragraph, change the honorific from Mr. Smith to Ms. Smith.

OLD BUSINESS

Planner Lynch advised that there were several people in attendance who would request to be heard earlier on the agenda; however the Commission after brief discussion elected to follow the agenda.

4. PROPOSED NEG. DEC. AND UPDATE TO GENERAL PLAN SAFETY ELEMENT

PW-14-01

Public Hearing: Proposed negative declaration and update to the County's General Plan Safety Element. The Safety Element assesses conditions and provides policies for future decisions regarding the long term physical development within the County. It is intended to reduce risk resulting from hazards such as fires, floods, earthquakes, landslides and other hazards. The Commission will be considering a proposed Negative Declaration and the updated element itself. Their action will be a recommendation to the Board of Supervisors. Applicant: Trinity County Planning.

Planner Lynch gave an overview of the project and process explaining that the State Clearinghouse had completed their review but that per requirements, the Californian Department of Forestry and Fire Protection were still reviewing the project. He advised that the Commission could take action on providing a recommendation on the draft negative declaration and pass the project onto the Board for consideration or they could wait for final comment from the Board of Forestry.

Pat Frost, Project Manager, explained that he has worked on the local level with Battalion Chief Andy Reiling, from CalFire on the project and explained that the Board of Forestry has 60 days to review the project after it clears the local review. In this case, the 60 day review period would end in late August. He noted that Trinity County would be the third local agency in the State, behind Napa and the City of Santa Rosa, in completing this new process. He stated that the Board of Forestry could make recommendations for consideration and the local agency could accept or justify why they would not adopt those recommendations.

Commissioner Groves asked if the Element would come back to the Commission if significant comment was made and Planner Lynch advised that if the Commission did pass it onto the Board tonight, that further review would be at the discretion of the Board.

Commissioner Stewart asked if we anticipated any significant comment, and Mr. Frost responded he did not think so. He handed out a worksheet he had prepared when working with Mr. Reiling from CalFire, and he showed how he thought that the Safety Element was responsive in most areas of concerns.

The Public Hearing was opened.

Kay Graves inquired about the Safety Element's relation to the various local fire plans, specifically noting the separate plans prepared by Big Bar and Hyampom.

Pat Frost responded that there is a relationship but that the Safety Element would not impact the local plans.

Ms. Graves asked about the Element's relationship with the California Air Resources Board and AB 32, to which Mr. Frost and the Commission acknowledged that climate change was part of the considerations mandated by the State.

Being no one further seeking to comment, the Public Hearing was closed.

Commissioner Groves stated he wanted to wait to see what the State provides before passing on the document.

Commissioner Stewart agreed, stating she felt it was the Commission's obligation to complete the process.

UPON MOTION by Commissioner Groves, second by Steward and unanimously carried, the item was continued to September 11, 2014.

5. PROPOSED NEG. DEC. AND FLOODPLAIN DEVELOPMENT PERMIT

DP-13-08

Public Hearing: Proposed negative declaration and Floodplain Development Permit to allow construction of a single family dwelling and guest dwelling within an area entirely within a flood plain. Located on the S side of Quinby Road which extends easterly from the terminus of Fountain Ranch Road, Salyer. Property extends across the Trinity River to Hwy 299. APN: 008-860-25-00. Applicant: William Peck ham.

Chair McKnight recused himself from the hearing. Vice Chair Groves took the gavel.

Planner Lynch provided an overview of the project which was last heard by the Commission in July of 2013. He summarized that this is difficult sight and the County has been working with the applicant to resolve many issues. He noted that the applicant wished to develop a site with two separate living units, one of approximately 400 square feet and the other of 2000+- square feet. He noted that the septic system had been installed based on previous flood data, but that it was installed and approved under permit. He noted that concerns about a potential "wetland" never were demonstrated to exist and he reviewed a number of conditions reflecting concern about the development of the sight. Among the conditions was the requirement for an indemnification agreement, a limitation of storage uses below the identifies high water mark, that the other previously identified building site shown on the Tentative Map for the subdivision not be mowed in the future to bring back a natural wetland habitat area, that a small fence be build along the edges of the buffer to deter trespass and impacts, and that the underlying subdivision map be considered null and void.

Planner Lynch distributed a letter received from a members of the public, signed by Tim and Anita Gilbride-Read, in general opposition to the project.

The Chair opened the Public Hearing.

Mr. Ed Fitzgerald, a neighboring property owner made extensive comment based on a letter also provided He challenged the project based on the septic system he viewed as being approved and installed based on erroneous

information, the foundation footings built without appropriate Building Department clearances, in appropriate setbacks for the septic system, concerns about water quality, impacts to the nearby creek, and other impacts to the community.

Mr. Fitzgerald went onto challenge statements and analysis within the staff report noting impacts to water quality, and appropriate planning guidelines. He provided information regarding his conversations with staff and felt that staff was not doing their job appropriately to consider all the projects impacts.

He discussed his concerns about the easement that exists which he believes gives rights to others over the property and the building site. His view is that the lot was never intended for development.

He concluded by noting that the Commission's role is to protect all of the County's citizens.

Ms. Lori Fitzgerald spoke in opposition to the project, again based on the letter submitted to the Commission. Her concerns related to the size of the project in relation to the capacity of the septic system installed. She reviewed the plans attached to the staff report and felt that more than three bedrooms would be established and this would result in project impacts to the nearby creek and water supply systems.

She also expressed concerns about impacts to scenic vistas, increased light in the neighborhood, and impact to wildlife that may result from the project.

Mr. Bruce Taylor also submitted a letter. Mr. Taylor stated that there is a purpose for the flood plain regulations. He stated in his seven years of ownership he has twice observed the building site inundated. He felt that the project would be unsightly and hurt property values. He questioned if this was good public policy to approve such a project.

Ms. Kristen Peck ham, co-applicant stated that she has had the property for 36 years and always intended to make this site a retirement home. She expressed that the negative comments were "NIMBY" type responses and felt that they had followed the appropriate permit path to achieve their goal. She defended the intended design noting her work with youth groups and that there was no attempt to bypass regulation.

Ms. Fitzgerald rebutted some comments of the previous speaker.

Mr. Taylor commented that the County had an obligation to enforce the flood plain regulations and he believed the project would become a public nuisance.

Mr. Fitzgerald again questioned the location of the septic system.

The Chair closed the Public Hearing.

Commissioner Groves asked staff about the status of the septic system with staff responding that it was permitted and finalised based on the data available at the time of installation. Therefore, staff viewed the system as legally established.

Commissioner Frasier inquired about the difference in base flood elevation (BFE) between the two reports provided. Staff noted that it was originally established at a 508 foot level and now due to a refined hydrologic analysis, the BFE is 526.4 feet.

Commissioner Groves questioned the status of the easement and if it covered the entire parcel. Director Tippet responded that typically easements are for a specific purpose, but largely the easement concerns are a civil issue between the concerned parties.

The Chair asked if County Counsel was available to discuss the item, with staff responding he was available by phone.

There was an approximate five minute recess while staff contacted County Counsel.

County Counsel Derek Cole joined the meeting by telephone.

Commissioner Groves ask about the septic system that was installed on the property and if it was installed based on now discovered inaccurate data, could the County “unapproved” it.

Counsel Cole commented that it would be considered a non-conforming use based on the permit issued. He viewed this as a vested right, however the County could consider its status if there were any changes to the planned use, e.g. if it were to be expanded or modified.

Commissioner Stewart inquired about the limitation on the size of the system with Counsel Cole commenting that it was approved as a three bedroom system and it would be a question of enforcement if it were to be used for servicing a greater number.

Counsel Cole was questioned about the concept of a “taking” if the County were to deny the right to develop. Counsel responded that this would be based on the assumption that residential occupancy was the only viable use of the land. He noted that Planner Lynch had identified alternatives such as recreation and natural beauty as potential alternative uses. He stated that the offended party would have to demonstrate to the court that they have exhausted all other alternative uses of the land.

The Commission thanked County Counsel for their comments.

Commissioner Stewart expressed concern about the location of the septic system and the balancing of people’s rights to use their land.

Commissioner Frasier stated he did not have a problem with the intended use.

Commissioner Stewart stated she thought the project should be limited to one dwelling.

Director Tippett suggested that a deed restriction should be placed on the property to limit the project to a maximum of one unit containing no more than three bedrooms.

UPON MOTION of Commissioner Stewart, Second by Frasier, the Commission moved to approve the project with the added condition:

There shall be a deed restriction recorded that states that prior to future development that limits the development to one structure being a dwelling of a maximum of 2000 square feet of living area, with a maximum of three bedrooms.

Upon consideration of the motion Commissioner Frasier stated that he generally felt individuals should be able to develop property per the zoning and should have an ability to have a second unit.

Commissioner Stewart stated she also felt that there was an alternative to this action by denying the application.

Motion Passes 3-0, with Commissioner McKnight recused. .

NEW BUSINESS

6. PROPOSED NEG. DEC., PARCEL MAP AND REZONE

P-14-01

Public Hearing: Proposed negative declaration, parcel map to create three parcels ranging in size from 30 to 55 acres, and rezone from Unclassified to Agriculture. Located at 140 Buckwheat Lane, Ruth. APN: 020-490-04. Applicant: D & V Albee and T. D. Felt.

Planner Lynch asked that per discussion with the project’s agent, the item was to be continued until the August 14, 2014 meeting

UPON MOTION by Commissioner Groves, Second by Commissioner Frasier, the item is continued to August 14, 2014.

7. **USE PERMIT TO CONSTRUCT NEW ASSEMBLY HALL**

P-14-10

Public Hearing: Use Permit to construct a new assembly hall upon demolition of existing building. Located at 30 Trunnell Drive, Hayfork. APN 014-190-04. Applicant: Hayfork Kingdom Hall of Jehovah's Witnesses.

Planner Lynch reviewed the staff report and noted that no comment was received.

Commissioner Groves inquired about surrounding land uses, with Director Tippet noting the Department of Transportation Yard, the Hayfork Airport and a few small "cottage industry" type businesses in the area, but noted that there were not any retail stores.

The Public Hearing was open, with no one coming forward.

UPON MOTION of Commissioner Stewart, second by Commissioner Groves and unanimously carried the project was approved per staff recommendation.

8. **USE PERMIT REVOCATION, BULLY CHOOP MINE**

P-01-24

Public Hearing: Consideration if Conditional Use Permit P-01-24 for the Bully Choop Mine (CA Mine ID #91-53-0018) should be revoked and said mine be declared abandoned in accordance with California Public Resources Code Section 2773.1(b). Located on Indian Creek Road, 11 miles from Reading Creek Road. APNs 017-220-01 & 03. Applicant: Canadian Reserve, Inc.

Senior Environmental Specialist Jan Smith provided the Commission the background of the specific site and reviewed the revocation process as outlined by the Surface Mining and Reclamation Act (SMARA). As described, the permit for the site was issued in 1997 and renewed in 2001. She has made effort to contact the operator since 2003. The site, at last inspection had a large processing building and several pieces of equipment remaining with no sign of activity. Currently, the property is tax delinquent which may complicate pursuit of the surety but alternatively, the new owner may also be liable for such costs. In discussing possible reclamation issues, Ms. Smith noted that Counsel has advised that the County could pursue acquisition and subsequent sale of surplus equipment to offset reclamation costs. Moving forward, staff requests that the Commission find that the operator has abandoned the operation without commencing reclamation and direct staff to initiate the process to seek forfeiture of the reclamation assurances and conduct reclamation.

The Public Hearing was opened with no one coming forward. The Public Hearing was closed.

UPON MOTION of Commissioner Groves, second by Commissioner Stewart, and carried the Commission approved the recommended motion and action.

9. **USE PERMIT REVOCATION, MUD CREEK QUARRY**

P-01-32

Public Hearing: Consideration if Conditional Use Permit P-01-32 for the Mud Creek Quarry (CA Mine ID #91-53-0027) should be revoked and said mine be declared abandoned in accordance with California Public Resources Code Section 2773.1(b). Located 5 miles west of Zenia on Zenia Bluffs Road (aka Alder Point Bluffs Road) at Mud Creek. APN 022-180-25. Applicant: Dale Wyatt.

Ms. Smith provided the background, provided information on the status and, again, noted the process and action requested for this site. The operator for this project site has not had contact since 2007. This site differs from the previous site in that there are not a lot of improvements or disturbances. She considered this project to more likely fall within the budget for reclamation. However, overall the process would be similar to the previous item.

The Public Hearing was opened, and subsequently closed when no one came forward.

UPON MOTION of Commissioner Groves, second by Commissioner Frasier, and carried the Commission approved the recommended motion and action.

10. **MATTERS FROM THE COMMISSION** – None.

11. **MATTERS FROM STAFF** – None.

12. **ADJOURN**

The meeting was adjourned by the Chair at 9:25 p.m.