

MINUTES

1. CALL TO ORDER

Chairman Groves called the meeting to order at 7:00 p.m. Members present: Commissioners Ray Bushman, Tom McKnight, Keith Groves, Jim Jungwirth and Chuck Johnson; Director Richard Tippett; Environmental Compliance Specialist Jan Smith; and Planner Jeanne Bonomini.

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 comments were made.

3. MINUTES (January 14, 2010)

Commissioner Bushman moved to approve the minutes. Commissioner Johnson seconded. Motion carried.

4. WITHDRAWN OR CONTINUED ITEMS

Agenda Item 6 (Kirk) continued to March 11, 2010 meeting.

5. DEPARTMENTAL REPORTS AND COMMUNICATIONS

Director Tippett mentioned the Trinity River Lumber Mill was moving forward in their process to rebuild after the fire. Because of the height of the new building, they will likely need a use permit. Due to the nature, there might be a special commission meeting to expedite the matter.

Chairman Groves brought up the issue of the proposed marijuana ordinance that the Board directed Planning to draft. Director Tippett said not much has been done on it due to staff's workload. He wasn't sure what would happen in June as the budget wasn't good.

Commissioner Jungwirth said that at the last meeting they had talked about generating questions for the Board. The questions from the commission were:

- 1) With regards to the County's liability, how do we assure the marijuana product (whether for smoke or edibles) isn't poisonous (say from pesticides)?
- 2) Who is liable if someone causes an accident after obtaining marijuana from a cooperative that was more potent than they were told so that thought they were safe to drive or operate heavy machinery?
- 3) Would the Board of Supervisors entertain exclusion from some jurisdictions – say if the folks within the Hayfork Water District voted to say they didn't want it?

- 4) Are we going to deal with how many coops/collectives there can be, or how much they can dispense?
- 5) Will we allow shipment out of the County?

The commission further discussed the issues surrounding marijuana with cooperatives, collectives, dispensaries, use of pesticides and herbicides. They discussed methods being tried in other counties and jurisdictions to regulate it. Jungwirth summed up the issues by saying it was all triggered by the grower selling it instead of smoking it himself.

They discussed ways to fund staff to prepare the ordinance wants Planning to create. They discussed collecting use permit fees. They discussed the fact that it isn't allowed anywhere under the current ordinance. They discussed the Board's moratorium for selling it in commercial and industrial zones only. They discussed enforcement issues. They discussed having Environmental Health and Behavioral Health come in and discuss certain CEQA issues, then later invite the Agriculture Commissioner and the Sheriff. They discussed bringing in ordinances from other counties including Placer, Nevada, Tehama, Shasta, Butte Mendocino, Santa Rosa and Oakland.

Chairman Groves asked Director Tippet to come up with the number of staff hours to do this and the cost, in a rough outline.

Director Tippet said there was one item at the end of the agenda – the replacement bridge – that will go fast and asked to have it moved to the front of the other item. Chairman Groves said yes.

OLD BUSINESS

6. APPEAL OF DIRECTOR'S USE PERMIT DP-09-12

Continuation of hearing on Appeal of the Planning Director's decision to deny an RV Use Permit, which was to be allowed in advance of constructing farm-labor quarters. Located at 2131 Barker Valley Road, Hayfork. APN 015-420-05. Applicant/Appellant: Trinity Kirk

Continued to March 11, 2010 meeting.

NEW BUSINESS

8. PROPOSED MITIGATED NEGATIVE DECLARATION PW-09-03

Proposed Mitigated Negative Declaration for the East Fork Road at Halls Gulch Bridge Replacement. This is for replacement of the one lane bridge with a two-lane bridge. Rock slope protection will be added to the east bank of the East Fork Trinity River to protect East Fork Road from erosion. Located on East Fork Road, Coffee Creek area.

Environmental Compliance Specialist Jan Smith presented the staff report. Chairman Groves declared that this project was on the road to his business.

Smith said Water Quality was very concerned about the use of rip rap. The hydrologist insists it is needed for the high scour potential. She said there was kind of a disagreement between the experts. The hydrologist feels there won't be any significant impacts, but Water Quality feels there will be.

Commissioner Jungwirth asked Smith if she felt the hydrologist was right, and would follow his advice. Smith said yes. Chairman Groves asked if Water Quality could come in and shut it down. Smith said

any expert who says there is a significant impact can force us into an EIR or they could sue. Or they could do an EIR, but make us pay for it by the hour, taking forever to do it. They could also force us to go down there with the hydrologist to work something out. This guy won't back down until he gets something.

Commissioner Jungwirth asked if Water Quality was concerned about water quality during construction or after. Smith said after construction. He feels the channel will create scour. Jungwirth said what if we reduce the rock slope protection, and then the river takes the road out. Who is responsible then? Smith said we are.

Director Tippett said what you do is meet with Water Quality and the hydrologist and you do the best you can to satisfy both but don't go beyond a certain point. If the hydrologist says it is good -- okay. If not, then we're going to have find another way to do it. Chairman Groves asked what if he won't go for it and you have to realign the road in toward the houses. Smith said that won't happen.

Chairman Groves opened the hearing to public comment. None received. Hearing closed.

7. REVIEW AND RECOMMENDATION NEG. DEC., REZONE & MAP P-09-30

Review and Recommendation to the Board of Supervisors on a Proposed Mitigated Negative Declaration, Rezone from Unclassified to Agriculture Forest 20-acre minimum and Open Space, or more restrictive zoning, and a Tentative Map to create 17 parcels from 380.5 acres in four phases. Located on Van Duzen Road approximately 6.5 miles south of Highway 36, Mad River area. APNs 018-210-07 & 018-220-05. Applicant: M. Etter

Planner Bonomini presented the staff report, pointing out features on the Tentative Map put up on the bulletin board. Several comment letters had been received after staff reports were mailed. The Commission called for a ten minute break to read them.

Break called at 8:20 p.m. Meeting reconvened at 8:35 p.m.

Comment letters were received from:

William H. Carter in opposition to the project.

Michael Guerriero in opposition to the project as proposed due to effects on the Van Duzen River.

Susan Fleming in opposition to the project as proposed due to the effects on water from the Van Duzen and the economic effects from the loss of a timber-producing parcel.

Lorin Fleming in opposition to the project as proposed due to the effects on water from the Van Duzen.

Jim and Kristy Millsap in opposition to the project as proposed due to the effects on water from the Van Duzen and economic effects from the loss of a timber-producing parcel.

Doug Dinsmore in opposition to the project as proposed due to effects on water from the Van Duzen River.

Michael van Hattem, Dept. of Fish and Game, stating it has been mitigated to avoid potentially significant effects.

David Ammerman, Army Corps, stating they would like to do an onsite inspection to be sure there are no impacts to the waters of the U.S.

Jane Arnold, Dept. of Fish and Game, speaking about how the water diversion and storage methods have worked in the Mattole River area.

(These letters are on file at the Planning Department in File P-09-30.)

Chairman Groves said he had concerns about the "old growth tree protection" condition.

Commissioner Bushman said he had concerns about the engineering requirements.

Director Tippett said staff is aware of the commission's concern about requiring engineering but that Trinity County has special situations. There are no funds to these things in house. When we do call out for these things, it is usually because we are looking at them with concerns for life and safety.

Commissioner Jungwirth said if there are seismic zones out there, why haven't we heard of houses falling off their foundations. Director Tippett said these conditions don't necessarily come from staff but from the project engineer.

Director Tippett mentioned that there have been several requests to have a meeting on this item in the Mad River area. We would ask the commission to adjourn to do a site visit, then re-adjourn here. Jungwirth suggested just having the rest of the meeting there. Groves said we have had a policy to meet here. AT what point do we say we go to this one but not that one.

Commissioner Bushman said this one has not been easy. He has received a lot of phone calls.

Chairman Groves opened the public hearing.

Doug Dinsmore, Mad River resident, suggested just a few members go to Mad River. He stated a lot of information had been gone over tonight on the project. Thinks that there are some issues not thought about or analyzed in the CEQA document. He said he has lived in the area for a while and the Bridgeville gauge shows that this river reaches it critical low flow before August 1. There should be a requirement to stop water withdrawal from the river by July 15. Also, there are times the critical dry period continues beyond November. Sometimes the rains don't come until January. It was also mentioned that these parcels would be used by vacationers or for second homes, but feel they will be used by pot growers who require more water. There needs to be a monitoring program as mentioned in my letter. Many of us downstream use water from the river. It will also affect water quality with the grow operations using fertilizers and chemicals. I oversee the water system for the Mad River Ranger Station. There is no filtration, and it just utilizes simple chlorination. If there were chemicals in the water, I would have to install a system that would make things economically unfeasible. He asked the commission to postpone their decision until they meet with the locals.

Jeff Bryant, agent for the project, mentioned the letter from the neighbor, William Carter, saying that after talking with him they decided not to abandon the county road, but just realign it. As for the water, we asked Fish and Game what they thought. They suggested the tank system. From our perspective, it wouldn't make much difference to put in wells, and just keep one riparian parcel.

Commissioner Jungwirth asked Bryant about the timber site class. Bryant said it is mostly non-commercial oak woodlands – a Site Class IV. There is an area of Site Class 3 on the upper portions of 13, 15 and 16. These are the larger parcels anyway, which leaves them viable for future logging.

Commissioner Jungwirth said that if he had to do NEPA, would he do it the same. Bryant said yes. Problem is he should have polled people up and down the road about the water situation. The reason they decided to cluster was to keep from building roads across the lands and to retain larger parcels for resource use.

Hearing closed.

Commissioner Bushman divulged that he had made a site visit with the agent prior to the meeting. He felt the land was perfect for the subdivision. There were several items of concern:

1. The water is a concern as there are a lot of users of the Van Duzen downstream. Most have shallow wells adjacent to the river – 20 feet or less.
2. Another problem, said Bushman, is that this is an Open Range area. If allowed to subdivide to

smaller parcels, we should require a deed notice to let people know they will have to fence to keep range animals out. 3. Bushman mentioned that on the road where he lives, there are pot growers that utilized his trough to mix their chemicals. Cattle and deer drank from it and died. Also, cattle were shot to keep them out of the pot gardens.

4. At Lost Bridge, there is a swimming hole. There is a project to realign the bridge and we'll be losing parking. We need to protect this community swimming hole.

Bushman said he has had 10-15 calls on this project from concerned people.

The commission discussed the water issue. Planner Bonomini said the number of riparian parcels can be limited. They can be required to provide water by deep wells only.

Jungwirth said that any decision the commission makes will discourage the use by pot growers. Bushman said he can't see how the commission can restrict who can buy the parcels.

The commission discussed having a meeting in the area, agreed it could be done.

Other issues the commission would like addressed by staff:

McKnight said he wanted the "old growth tree" condition removed.

Groves said he wanted better staff reports. He also said it should be mentioned that the setbacks from the river/creeks should say "from centerline".

Bushman said the recommendation for planting trees to create shade had trees that use a lot of water and were invasive. They may be creating the problem for downstream people. Also need to add a condition requiring a deed notice on Open Range.

Commissioner Jungwirth moved to adjourn the meeting to the site – on a day to be determined – second or third week in April. Commissioner McKnight seconded. Motion carried.

9. ADJOURN

Meeting adjourned at 9:45 p.m.

*ALL PERSONS INTERESTED ARE INVITED TO ATTEND AND BE HEARD OR TO WRITE THEIR COMMENTS TO THE PLANNING COMMISSION. IF YOU CHALLENGE THE APPLICATION IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ITEMS YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS AGENDA OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

*ANY PERSON DISSATISFIED WITH THE DETERMINATION BY THE PLANNING COMMISSION MAY APPEAL THE MATTER TO THE BOARD OF SUPERVISORS WITHIN TEN (10) WORKING DAYS AFTER THE DECISION OF THE PLANNING COMMISSION ON A FORM AVAILABLE FROM THE COUNTY CLERK. (NOTE: THERE IS A FEE ESTABLISHED FOR FILING AN APPEAL.)