



TRINITY COUNTY PLANNING DEPARTMENT

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May 12, 2016

TO: Planning Commission

FROM: Carson Anderson, Senior Planner

SUBJECT: Study Session - Cal Fire Three-Acre Timber Conversion Permit Process and County Review Role

Requested Commission Action

This item is intended to preview an upcoming study session with the Board of Supervisors. Receive this report and a presentation from staff and Cal Fire representatives John Ramaley and Dan Dresselhaus, and public comment, if any, and forward any Commission suggestions for future Board consideration.

Timberland Conversion Permitting Overview

Under the provisions contained in the Forest Practice Act (FPA) the California Department of Forestry and Fire Protection (Cal Fire hereafter) enforces the laws that regulate logging activities on privately-owned land. This is intended to ensure logging actions are carried out in a manner that will preserve wildlife, wildlife habitat and streams. One of the key provisions of the FPA is the requirement that landowners submit Timber Harvesting Plans outlining what timber they plan to harvest, how it will be harvested, and the steps that will be taken to prevent damage to the environment. Timber Harvesting Plans are a form of environmental review document that must be prepared by a licensed forester for submittal on behalf of the landowner before logging actions can be permitted. These documents can range from dozens of pages to upwards of 500 pages or more in length, and are submitted to the regional Cal Fire review office for review; approval is granted if in compliance with state and federal laws. If the harvesting plan is not in compliance, the documents are returned to the forester to make those changes necessary to achieve compliance. If in conformance with state and federal laws, Cal Fire must, by law, approve the plan.

Concern has arisen recently about the number of what are termed “Less Than 3 Acre Conversion Exemptions” being issued by Cal Fire. This concern seems based on the growing—chiefly anecdotal evidence—of large-scale land clearance activities on relatively small properties in close proximity to one another (often in connection with cannabis cultivation), and related problems arising out of improper grading and the lack of stormwater runoff prevention planning. Particular reference has been made to the Trinity Pines Subdivision.

Three-Acre Conversion Permits

Authorized under the provisions of Title 14 CCR 1104.1a, Cal Fire reviews exemptions requests for “Less Than 3-Acre Conversions” strictly based on timber resource concerns, utilizing the

certifications prepared by licensed foresters to base a decision to grant ministerial approval. Because it is a ministerial (as opposed to discretionary) process, if the exemption request complies with state and federal laws for which Cal Fire has oversight, Cal Fire, by law, must issue the permit. There is some limited opportunity during the site inspection process to recommend best management practices, such as soil erosion and stormwater runoff prevention mitigation; however, because the permit itself is ministerial, the authority of Cal Fire staff does not carry the full force of law. Although the criteria for denying an exemption include violations of local planning and zoning laws and regulations, in practice, a framework for meaningful consultation with the County, and for enforcement of local laws has not been established as yet.

The Cal Fire three-acre conversion exemption application cites the following limitations and/or requirements:

1. Compliance with all other applicable provisions of the Forest Practice Act regulations, county general plans, zoning ordinances and any implementing ordinances;
2. Completion of conversion activities within two years from the date of Cal Fire acceptance;
3. Operator must remove or dispose of all slash or woody debris (per 14 CCR § 104.1(a)(2)(d));
4. Timber operations may be conducted during winter months;
5. No timer operations are allowed within a watercourse and lake protection zone unless specifically approved by local permit;
6. No timber operations shall be conducted until Cal Fire notice of acceptance is received and a valid copy of the notice and Cal Fire's acceptance;
7. Notice of Cal Fire notice of acceptance shall be kept onsite during timber operations;
8. Sites of rare, threatened or endangered plants and animals or species of special concern shall not be disturbed or damaged;
9. No timber operations are allowed on significant historical or archaeological sites;
10. A work completion report shall be submitted by the owner to Cal Fire within one month of completion of timber operations, and;
11. A violation of the terms of the conversion exemption as violations of the Forest Practice Act are subject to fines that can potentially accrue to \$10,000 for each violation.

As outlined above, there appear to be opportunities for the County to assert planning concerns with Cal Fire as part of the conversion exemption granting process (e.g., items 1, 6, 9 and 10). However, this has not been occurring because meaningful engagement of the County as part of the review process has not been formalized by agreement. At this juncture, the exemptions are received at the Planning Department as a *fait accompli*. The BOS will be taking up this topic in an effort to better utilize the opportunities provided by statute for the County to comment, and to establish a workable consultation framework with Cal Fire to accomplish that.

Additional Information

Staff has been in conversation with Cal Fire Forester Dan Dresselhaus, who performs site inspection in portions of Trinity County. He has pointed out that the absence of a county grading ordinance further limits Cal Fire jurisdiction in cases where he thinks a forester might not be adequately licensed for performing grading of stormwater pollution prevention (SWPPP) analysis and mitigation. Staff has also spoken with John Ramaley (Forester III) who performs the permit reviews out of the Cal Fire Redding office. He shared some rough tallies of three-acre conversion permits granted within Trinity County during the first four months of 2016. There have been about 93 so far (assuming an average of 1.5 acres of land this translates into roughly 140 acres, or more, of timberland removed; Ramaley's rough estimate is approximately 230 acres affected). By comparison, there were approximately 155 such permits granted during the entire 2015 calendar year within the County. Ramaley also confirmed anecdotal observations about the high concentration of such permits in the Trinity Pines Subdivision.