

**SISKIYOU COUNTY PLANNING COMMISSION
REGULAR MEETING
December 21, 2016**

The Siskiyou County Planning Commission meeting was called to order by Chair Melo at 9:00 a.m. in the Board of Supervisors' Chambers, Siskiyou County Courthouse, 311 Fourth Street, Yreka, California.

PRESENT: Commissioners Jeff Fowle, Blair Hart, Mike McMahon, Dusty Veale, and Tony Melo

ABSENT: None

ALSO PRESENT: William Navarre, Interim Director of Community Development; Randy Chafin, Interim Deputy Director of Planning; Brett Walker, Senior Planner; Vurl Trytten, Executive Secretary; and Natalie Reed, Deputy County Counsel;

MINUTES:

MOTION: It was moved by Commissioner Fowle, seconded by Commissioner McMahon, to approve the minutes of November 16, 2016, as presented.

VOTED upon and the Chair declared the motion carried unanimously.

PRESENTATIONS FROM THE PUBLIC: None

CONFLICT OF INTEREST DECLARATIONS: None

PUBLIC HEARING PROTOCOL: Chair Melo reviewed the protocol for conducting the Planning Commission meetings.

RIGHTS OF APPEAL STATEMENT: Chair Melo advised that projects heard at this Planning Commission meeting may be subject to appeal within ten calendar days. He directed interested individuals to contact the County Clerk's Office for information. He advised that if you challenge the environmental review or the project proposal in court, you may be limited to raising only those issues raised at the public hearing or in written correspondence delivered to the Planning Department at, or prior to the public hearing. Chair Melo apprized the Commissioners and audience that appeals must be submitted to the County Clerk's Office together with the appeal fee of \$1250.

PUBLIC HEARINGS:

DAWS TENTATIVE PARCEL MAP (TPM-16-01)

****CONTINUED FROM THE NOVEMBER 16, 2016 PLANNING COMMISSION MEETING****

The project is a proposed tentative parcel map to subdivide a 72.22-acre parcel into four parcels, ranging in size from 10.01 to 11.11 acres, plus a 30.80-acre designated remainder parcel. The 72.22-acre project site is located on the southerly side of State Hwy 3 approximately 2.5 miles east of the Town of Fort Jones, Siskiyou County, California on APNs 014-290-070, -

320, -330, and -340; Portion of Section 33, T44N, R8W, Mount Diablo Base & Meridian (Latitude 41°37'18.50"N, Longitude 122°46'32.75"W).

**MITIGATED NEGATIVE DECLARATION
TENTATIVE PARCEL MAP**

**APPROVED
APPROVED**

STAFF REPORT:

The previously circulated Staff Report was reviewed by the Commission and a presentation of the project was provided by Senior Planner Walker at the September 14, 2016 Planning Commission Special Meeting, and the matter was continued to the October Planning Commission meeting for further discussion regarding the Scott Valley Area Plan (SVAP) requirements. At the October 19, 2016 Planning Commission this item was continued by Order of Adjournment (No Quorum) to the November 16, 2016 Planning Commission Meeting. At the November 16, 2016 meeting, the matter was again continued to allow Mr. Daws to get a soil classification analysis done for his property. The Soil Classification Analysis report was included in the supplemental staff report packet for the December 21, 2016 Planning Commission meeting.

Mr. Walker reviewed for the Commission that the initial staff presentation for this project had been given to the Commission at the September 14, 2016 Planning Commission Meeting. He said that the hearing was opened, closed, and after discussion; the Commission had continued the matter to the October 19, 2016 Planning Commission Meeting, and then the matter had been continued again to the November 16, 2016 Planning Commission Meeting. He added that at the November 16, 2016 meeting, the matter was continued to allow Mr. Daws to obtain a soil classification analysis on his property.

Mr. Walker informed the Commission that Mr. Orloff had completed the soil classification analysis for the Daws property and his report was included as Exhibit C of the staff report packet for the December 21, 2016 meeting. He said that the soil analysis showed that the east side of the proposed Parcel A had a lot of gravel and rock in the soil, and Mr. Orloff's opinion was that none of proposed Parcel A would be classified as prime agricultural land. He said that Mr. Orloff's soils analysis included the western portion of the designated remainder, and showed on the map where the test holes were dug. He added that gravel and rocks were found in the test holes, and the soil analysis determined that the field would not be considered prime due to subsurface gravelly layers.

Mr. Walker projected on the screen the SVAP map with the Critical Deer Wintering Area and included the project area in purple, which showed that the project area is not within the SVAP Critical Deer Wintering Area. He said that the map was included on the first page of the December staff report.

Mr. Walker explained that due to the determination of the soils analysis the Commission may want to decide that Policy 1 of the SVAP does not apply and the Commission might then want to delete Condition of Approval number 7.

Mr. Walker said that similarly the Commission may want to reconsider Policy 2 and decide that Policy 3 of the SVAP would apply, because the soils have been proven to be non-prime and a 40 acre minimum parcel size could be applied. He explained the requirements of testing the soil

to prove that the soil is not prime in SVAP Policy 4 had been met by Mr. Daws. He added that in considering minimum parcel size, the Commission might want to also consider SVAP Policy 33 and the applicable Comprehensive Composite Plan policies detailed on pages 3, 4, and 5 of the staff report and the SVAP Comprehensive Composite Plan Map XII on page 3 of the staff report that was also projected on the screen. He explained that, according to the map, the project site is within a mapped non-resource density area where a 10 acre minimum parcel size could be allowed.

In response to a question from Commissioner Fowle, Mr. Walker showed on the projected map where the project site's mapped prime Ag lands were located and also showed that the entire project site is within the Fort Jones non-resource density area indicated by the dashed line on Comprehensive Composite Plan Map XII that would allow a 10 acre minimum parcel size.

Mr. Walker added that the Commission had discussed if second dwelling units were specifically prohibited by the SVAP. He said that staff found no reference in the SVAP prohibiting second dwelling units. Commissioner Fowle responded that it was in the overall population density for agricultural land discussed on page 35 of the SVAP. Mr. Walker stated that page 35 is located in the environmental analysis section of the overall plan within the SVAP boundaries, and that the listed densities are not specific to individual parcels. He added that it was for the SVAP area as a whole, and was regarding population growth and the overall build-out the SVAP.

In response to a question from Commissioner Veale, Mr. Walker explained that the Second Dwelling Unit Ordinance adopted by the County did not exclude any areas from the second dwelling unit ordinance and was implemented county-wide with no intention to exclude the SVAP area and no prohibition for the SVAP area at that time.

Commissioner McMahon asked for clarification regarding the general prohibition on population and density on page 35 of the SVAP, because he saw a big conflict with the Second Dwelling Unit Ordinance. Mr. Walker explained that SVAP page 35 is in the environmental impact analysis section of the plan and there are a couple of tables in the plan that talk about the population growth and population densities that would be allowed if the SVAP were approved. He said that the SVAP discussion at page 35 is regarding overall population densities in the plan and population growth at build-out specifically in plan resource areas. He explained that it depends on the areas in the plan. He said that Commissioner Fowle was correct regarding what page 35 states and Mr. Walker read from page 35 of the SVAP for the record. Mr. Walker added that at page 36 the SVAP talks about overall densities. He explained that these are overall densities for the entire SVAP area, and that the plan talks of overall densities and average densities.

Commissioner Hart said that the Commission was only dealing with the SVAP, soil determined to be non-prime, and the minimum parcel sizes to be approved for the project. He said that staff was recommending that the Commission consider the non-prime determination and SVAP policies 3, 33 and 34. He said that staff is recommending that because the project site is located in the 10 acre minimum parcel size of the non-resource density area that the Commission consider the 10 acre minimum parcel size and 40 acre minimum parcel size depending on the proximity to resources. Commissioner Fowle commented that staff was coming to the conclusion that the project site is in a non-resource area, but the project site soil is still non-prime agricultural land. Mr. Walker responded that all of the project site is immediately adjacent to land that is agricultural land and is under production, but it is considered non-

resource land. Commissioner Fowle responded that he understood that it is non-prime agricultural land; but it is still agricultural land, and there is prime agricultural land even though it is located in a non-resource area. Mr. Walker said that agriculture is a permitted use within the RR zoning district. Commissioner Fowle said that at some point a study would have to be done on whether the land subject to the SVAP had reached the maximum allowable population density. He said that the project would be adding 5 parcels and adding on potentially 5 to 10 dwellings which surpasses the density of 1 to 21. Mr. Walker explained that specific to this project location there is the potential that the density could go over 21; but nowhere in SVAP policies does it say a second dwelling unit is not allowed. He further explained that nowhere in the SVAP policies or in the environmental overall density discussion does it mention the density to be used for second dwelling unit consideration. Commissioner Fowle commented that what was done in the past is different from what is done now. Commissioner Hart asked Counsel if the Planning Commission has the legal authority to interpret the intent of the SVAP, and could they base their decision only on what is in the SVAP.

Deputy County Counsel Reed responded and explained that the issue is that the enacted state legislation limited the county's authority to restrict second dwelling units, and the State Legislature has again recently amended the second dwelling unit law and made it even less restrictive. She said that they would have to look at the SVAP to see if it conflicts with State Law. Commissioner Fowle stated that he would be open to four (4) parcels with a remainder instead of five (5) parcels with a remainder which could be done and preserve the agricultural land.

Mr. Walker referred to page 5 of the staff report and SVAP Policy 37 and that the project parcel existed before the SVAP was passed. In addition he referred to an example on page 25 of the SVAP that gave an example of the application of SVAP Policy 39, the policy that was intended to add flexibility to the SVAP. He explained that if the example on page 25 was applied to the current project, the project could end up with 6 parcels. Commissioner Fowle clarified that they were now determining that density transfer could be allowed.

Commissioner McMahon asked how Mr. Walker could get to this conclusion when SVAP Policy 34 requires that the more restrictive development policy must apply, but in this case the less restrictive policy is being applied. Mr. Walker responded that they were conflicting policies, but the narrative in Policy 34 alludes to prime agricultural land development resource areas with overlapping critical deer wintering resource areas where two resource policies overlap. He said that then the most restrictive policy would apply. Commissioner Fowle added that in this case no two resource areas overlap.

Commissioner Veale announced for the record that he had listened to the audio of the November 16, 2016 Planning Commission meeting.

AGENCY INPUT: None

Chair Melo re-opened the Public Hearing.

PUBLIC INPUT: None

There being no further input, the Chair closed the Public Hearing.

Discussion by Commission:

Commissioner Hart commented that due to the results of soil testing and following the staff presentation that explained that density averaging could be applied, he did not believe there was anything within the SVAP to prevent accepting and approving the project before the Planning Commission. He said they had confirmed that the project has met the policies of the SVAP, and asked Commissioner Fowle if he saw any restriction.

In response to a question from Commissioner Veale, Commissioner Fowle clarified that he had put out an option at the last meeting to go with a four parcel project with a remainder, if the soil testing determined the land was non-prime agricultural land.

Commissioner Hart commented that he wondered if the past restriction to one dwelling was done properly. Commissioner Fowle said that when he had thought back to the conditions, there were findings that were written in order to have the project site be compatible with adjacent parcels and to prevent build-out on prime agricultural land. He said that of the BLAs he remembers, one was prime agricultural land and the other was non-prime. Commissioner Hart commented that this situation is all non-prime agricultural land, but they needed to make sure that what the Commission was doing has a legal basis.

Ms. Reed explained that there is no division of land with a second dwelling unit, because the second dwelling unit is located on the same legal lot as the single family dwelling. Commissioner Veale commented that he thought it would have to be allowed; because, even in Yreka, a second dwelling unit cannot be denied as long as it meets the required setbacks.

Commissioner McMahon asked to have a separate list of county codes that are now in conflict with newer legislation. Ms. Reed responded that the latest second dwelling unit legislation was enacted in September 2016, and that County Counsel will be looking at a code amendment to update the county code's second dwelling unit ordinance.

Mr. Walker asked for the Commission's consideration of whether the Commission wanted to retain Condition Number 7, and suggested that its deletion be added to the motion if that was the Commission's decision. He explained that Condition Number 7 was specific to non-agricultural uses and non-permeable surfaces in the area now mapped non-prime agricultural land, and explained that the condition could now be deleted or changed.

MOTION: Following discussion, it was moved by Commissioner Fowle, seconded by Commissioner McMahon to adopt Resolution PC-2016-012, A Resolution of the Planning Commission of the County of Siskiyou, State of California, Adopting the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring Reporting Program for the Daws Tentative Parcel Map (TPM-16-01); and, with the deletion of Condition Number 7, approving TPM-16-01.

VOTED upon and the Chair declared the motion carried unanimously.

MISCELLANEOUS:

1. **FUTURE MEETINGS** - The next regular meeting of the Planning Commission is scheduled for Wednesday, January 18, 2017.

2. **CORRESPONDENCE:** None

3. **STAFF AND COMMISSION COMMENTS**

Ms. Reed informed the Commission that the changes to the second dwelling legislation are effective Jan 1, 2017.

Chair Melo requested a workshop on the SVAP.

Commissioner Fowle asked Ms. Reed about the hierarchy of California legislation, because he had always understood that in terms of land use regulation, the highest was local, followed by County and then state.

Ms. Reed explained that local laws cannot be in conflict with state general law, so if the state is giving local government limited authority to deny a project, then local law would need to be in compliance with the state law. Commissioner Fowle asked what the difference was with medical marijuana where state law specifically allows local authority to further restrict growing medical marijuana. Ms. Reed explained that the second dwelling unit legislation is state policy and more restrictive local law would not be likely to succeed.

Discussion was held as to whether medical marijuana was considered an agricultural crop and the changes brought about by the state law passed by the voters.

Commissioner Fowle asked if staff had any determination or way to track and plan for the density standards in the SVAP and what would happen if the population densities are exceeded.

Mr. Walker responded that with good data and mapping layers in the GIS, the analysis Commissioner Fowle mentioned could be done. However, given the current state of the county's records and GIS layers, it would be a difficult task. Commissioner Fowle commented that he did not think it was an issue in prime agricultural lands, but could be in non-prime agricultural lands.

Chair Melo confirmed that there was no tax benefit to agricultural zoning, unless the land was also subject to a Williamson Act contract.

Commissioner Veale commented that a property appraisal will show prime agricultural land having a higher value.

Discussion was held regarding state groundwater legislation and possible future restrictions and effects of the groundwater legislation.

Commissioner Fowle confirmed with Ms. Reed that updating the SVAP would need to be initiated through the Board of Supervisors with Supervisor Haupt recommending modifications and then back to Scott Valley voters to approve a revised plan.

The meeting was adjourned at 10:18 a.m.

Respectfully submitted,


William Navarre,
Secretary