

**Summary Notes: August 18, 2011  
Butte County Planning Commission  
Special Study Session on Draft #2 Zoning Ordinance**

**Morning Session: Second Draft Zoning Map Requests and Corrections for Bangor, Berry Creek, Butte Creek Canyon, and Butte Valley Areas**

Introduction

Dan Breedon, Principal Planner, provided an introduction of the meeting and an overview of the items covered.

Staff Overview of Requests and Corrections Set-forth in the Staff Report.

Identification of changes from the first draft zoning map. Commissioner Nelson asked about the prior Planning Commission recommendations and the prior Board of Supervisors action that set direction on the map. Mr. Breedon described how those previous actions compare to the list of requests and corrections on today's agenda.

Commissioner Kennedy mentioned that the history of the Butte College location. It was intended to be in a location where the City of Chico and City of Oroville would grow toward.

Commissioner Nelson stated that there is a problem of not much water in that general area. This was the area of a possible General Plan 2030 study area but the Planning Commission concurred that it was not the right time and area for growth.

Commissioner Becker asked if any of the large property owners filed for non-renewal of their Williamson Act contracts.

Mr. Breedon answered yes.

Commissioner Becker, if the Lana Gunn property was out of Williamson act, what would be the zoning designation?

Mr. Breedon answered that an owner can request a rezone with Planning Commission action and a recommendation to the Board of Supervisors.

Commissioner Becker stated that any of the agricultural zones would be consistent with the General Plan.

Commissioner Nelson most of these Williamson Act lands are in the 160-acre minimum, right?

Mr. Breedon answered yes.

Mr. Breedon identified other requests that had been received but were too late for inclusion in the staff report: Brian Manning, comments from Butte Creek Canyon residents, Cimino, Burkett, Collar, Wylie, Posie, Simenc, Smith, and Fricker and others. These comments generally supported the AG40 designation; Gore request for Nelson Area for Ag Services. Staff review will be provided at the next Planning Commission meeting.

### Public Comment

Chair Wilson announced the Public Comment section of the agenda.

**Robert Boyle** – Paradise area. Mr. Boyle referred to a request that is not supported on last page. FR-20 and concern along Pentz road with the Scenic Highway designation. General Plan got rid of U zone and dual zoning. SH zone allows an 8,125 square-foot parcel size. Now the area is FR-20 to FR-40 and some five-acre designations. He had submitted previous letters that would like consideration for these smaller parcel development rights. He suggested a FR-10 designation. There is inconsistency with the deer herd migration zone and he objects to zoning being connected to the deer herd zone. The setting does not contribute to the habitat of the deer herd. The existing parcel sizes and road contribute to the detriment of the deer herd. He stated that the property owners are losing our rights, losing 50 percent of value of the land.

**Tania Dunlap.** Referred to a letter of October 2010. There are real water issues in Butte Valley. She has lived in this area for 35 years and the water level has dropped. The Gunns would like to develop and believe in property rights but there is not enough water to support development. We should not decrease parcel sizes until there is a water and sewer district. The area should stay 160-acre minimums. There are wetlands, no soil and no water.

Commissioner Nelson had a question for staff about previous and proposed zoning.

Mr. Breedon gave a general overview of zoning designations.

Ms. Dunlap referred to the corner of Butte College and the commercial business.

Commissioner Kenney asked how large her parcel is?

Ms. Dunlap – it is 40 acres and she runs an agricultural business, a horse operation. Notes that there are no proposed 80-acre designations. The area goes from 40 to 160-acre minimum parcel sizes.

**Michael Evans** – is a property owner and represents several other property owners. Mr. Evans stated that the purpose of code update is streamlining process. He does not agree with down zoning legal existing parcel – this is not streamlining. Lenders are more favorable to a conforming property. The whole point of private property is to finance it. The proposed zoning sizes damages the ability to finance the property. Mr. Evans referred to the Habib family request where they have owned the property for 45 years. They are the last parcel that would allow a privately financed escape route from Paradise. This property went from a 40-acre minimum with cluster process provision available in the old General Plan to an Agricultural designation of 40-acre minimums. He is requesting to go back to a 20-acre minimum designation. This would give the opportunity of cluster development and provide an escape route from Paradise.

The Gunn property would like a 20-acre for estate planning. There property owned by Van Gooden near Pentz road with a previous division on the property. They would like RR-5 and will follow with a letter. Her deceased husband had asked not to be included in the deer herd designation. They sold property that is now designated with a 160-acre designation. Under the current code, a lot line adjustment cannot make something more non-conforming. Why are we doing that? If sideyard setbacks change, you may not be able to add on to house. Lenders now consider all of these non-conforming issues.

Potter Ravine and Simmons Road areas are all 40-acre minimums. Mr. Evans' properties are now 20-acre minimums.

Chair Wilson asked Mr. Evans for a summary.

Mr. Evans: the Cole Canyon area supports the Unique Agriculture Overlay. Why is Bangor designated 20 and 40-acre minimums? Mr. Evans referred to the Habib letter submittal. He noted that Butte Creek canyon is no in a 40-acre minimum area. The upsizing of zones is inconsistent with streamlining.

**Jeff Fricker** – employed at Butte College for 35 years. There are water issues in this area. If farming continues, they will pull ground water out. Mr. Fricker referred to radioactive isotope tracing in the aquifer. He stated that he would focus on the Butte Creek Canyon area. Most of the land along the creek is tied up. What is logical for mapping may not be logic for the biotic community. A bear lives between road and the creek and deer cross the creek. There are not many corridors for habitat. We need to keep the corridors for animals.

**Clayton Gunn** – indicated that Michael Evans represents him. Does not see why his 1,500 ac went from 160's to 320's.

Mr. Breedon indicated that Williamson Act contracts existed in the area with 160-acre contract minimums and the proposed zoning is 320. The concept is to retain large parcels of agricultural land. This approach is supported by GP2030 to support agricultural land.

Gunn stated that he is a cattle rancher. What if we have to sell something to survive?

**John Scott** – Butte Valley resident. Mr. Scott commended Tim Snellings on his efforts with the solar energy ordinance. The large parcel areas of Butte Valley were never a 20-acre minimum area. The County should reconsider the arbitrary zoning in Butte Valley. AgriTourism brings value to the area. Water resources must drive development. Water resources were not considered in Butte Valley zoning plan. The 40-acre minimum designations are arbitrary and not based on science to evaluate the aquifer. Butte Valley Coalition position is that no new 40-acre parcels should be created. The area should be a 160-acre minimum. Butte Co Farm Bureau requested 80-acre minimums on prime farm that have ground water. Increasing wells in the area will deplete the shallow aquifer in Butte Valley. Until we know how sustainable the aquifer is, it should be 160-acre minimums.

Commissioner Kennedy asked what size parcel he lives on. Mr. Scott answered that he owns the last 5 acre parcel in Butte Valley.

Commissioner Becker asked if Gunn's property should be 160-acre minimums?

John Scott – yes.

**Jim Stephens** – representing the Habib property. He supports a 20-acre designation. He understands arguments about the water supply. Streamlining should remain as they were, leaving the designations at 20-acres. At the time of subdividing, they can evaluate the water status. He also stressed that CC&R's allow grazing.

**Sean Horning** – bought land in 1988. The existing zoning is Unclassified, with a 20-acre minimum parcel size, to A-5.  $\frac{3}{4}$  of property is in Williamson Act but a few months away from rolling out. Since they are months away from being out of the act – can the proposed zoning change? There is a development agreement on the Pentz and he was told this agreement is unperformable. The Williams Road area is changing to a 160 and 320-acre minimum area.

Mr. Breedon stated that staff will look at the request and provide a review at the next meeting.

**Mary Bailey** – 31 year resident of Butte Valley. The needs of the few cannot outweigh the needs of the many. There is a water scarcity issue. Her well has gone down and nitrate level has gone up. She had to deepen her well. The needs of the many are those that are currently living there and those that may live there in the future. The corner of Durham Pentz and Clark Road is the heart of Butte County and Butte Valley. Any development at that location is a growth inducing impact.

**Marcia Abram** – Kimsheew Cemetery District. The district operates four active historic cemeteries and several inactive cemeteries and burial sites. In late 1990's purchased land and donated land from Sierra Pacific. Kimsheew would like to expand some of their facilities. Support staff recommendation for changes to zoning to support their cemeteries.

(10 minute Break)

With not further comment, Chair Harrel closes the Public Comment section of the agenda.

### **Planning Commission and Staff Discussion of Recommendations Regarding the Second Draft Zoning Map**

Bangor Area 2 David Daily request – AG-20 to AG-80  
Commissioner Nelson motion to approve, Commissioner Becker second  
Vote: 4-0

Berry Creek Area 5– Keiser request for change from General Commercial to Community Commercial zone  
Commissioner Nelson motion to support Keiser request, Commissioner Becker second  
Vote: 4-0

Catherine Clay Area 6 – TM to FR-40. Staff does not support.  
Commissioner Nelson motion to support staff, Chair Harrel second.

Discussion:

Commissioner Becker – is it logical for development, slope, access?

Mr. Breedon indicated that the proposal for FR is not a logical pattern for development as this is a very large parcel of land and FR is not prevalent in this area.

Chair Harrel Wilson – what is the topography, does it support timber?

Mr. Breedon – yes.

Commissioner Nelson – this is a timber area and large parcels.

Mr. Breedon stated that this proposal does not meet criteria for a correction. It would require a General Plan change.

Commissioner Kennedy – is there any commercial?  
Commissioner Becker – they are not asking for commercial  
Vote: 4-0

Butte Creek Canyon Area 23 and Area 7 – Centerville road area combined with McGie parcel  
Area 23 Ag 20 to Ag 40  
Commissioner Nelson – move to affirm past recommendation amend motion to include McGie, Commissioner Becker second  
Commissioner Kennedy asked for clarification of the request.  
Vote: 3-1 (Kennedy dissent)

#### Staff Recommended Corrections

Clark Road VLDR 1 to VLDR 2.5 Area 18; AG-20 to AG-40 (Directed by Planning Commission on September 30, 2010) .  
Chair Harrel – are there many 1 acre parcels?  
Mr. Breedon – approximately 30% are in 1 acre size; input from Butte Valley community at the meeting for a higher parcel size in the area from 1 to 2.5. Staff supports change.

Commissioner Nelson motion to support staff recommendation, Commissioner Becker second  
Vote: 4-0

Area 19, east of Clark road to Ag 40 including Clayton Gunn  
Commissioner Nelson motion to support staff recommendation and reaffirm the previous Planning Commission recommendation.

Commissioner Kennedy does not agree in changing someone's property and noted that a water evaluation could be required at the time of application.  
Commissioner Becker – clarified that Area 19 is at 40 acres.  
Commissioner Becker second.  
Vote 3-1 (Kennedy – no)

Dunlap Area 8. Staff supports change.

Commissioner Nelson motion to support staff recommendation, Commissioner Becker, second.  
Vote: 4-0

Retzer Area 9 – 3 parcels (near Williams Area 9) AG-160 to AG-40.

Commissioner Nelson motion, Commissioner Becker second  
Vote: 4-0

Habib Area 17. Staff supports AG-40 (As previously directed by the Planning Commission on September 30, 2010)

Commissioner Nelson – motion to support staff recommendation, second Kennedy

Vote: 4-0

#### Staff Does Not Recommend Support

Hillary Hight Area 20– AG-160 to AG-20; staff supports 40.

Commissioner Nelson motion to support AG-40; Kennedy second.

Vote: 4-0

Clayton Gunn Area 22 northeast corner of Durham Pentz Road

AG-40 to AG-20; staff supports AG-40

Commissioner Nelson motion to support AG-40.

Discussion

Chair Wilson asks if the property owner can request a zone change at any time.

Mr. Breedon – yes.

Commissioner Nelson, this was once considered a study area, the 40-acre designation keeps the land for the future consideration when it is appropriate, not now. There is no infrastructure to support this request.

Chair Wilson – second

Vote: 4-0

Lana Gunn Area 22 – 1377 ac area, 7 parcels. Request AG-20, staff does not support.

Commissioner Becker – does not support 20's but does support a 160 not a 320.

Commissioner Nelson – confirm statement to turn 320 to 160

Commissioner Becker – does not support 320 in general.

Commissioner Nelson – considers 320 to be appropriate at this time

Commissioner Kennedy – three properties being lumped together? Asks for clarification of the proposal.

Commissioner Nelson motion to support staff recommendation

Commissioner Kennedy – does not support AG-20

Chair Wilson – second

Commissioner Becker, can I make another motion regarding to change the 320 to 160?

Mr. Breedon clarified that this is the Butte Valley area only.

Commissioner Becker – yes on this motion. Commissioner Becker noted that he would like to make another motion after the vote.

Vote: 4-0

Commissioner Becker: motion that the AG-320 south of Pentz, both sides of Clark, north of Highway 70, north of Highway 149, designated as AG-160, Kennedy second.

Vote: 2-2 (Nelson and Wilson dissent); motion fails

Mr. Breedon, this concludes morning session.

Chair Wilson – Break for Lunch until 1:00 pm.

Noon Lunch Break (1 Hour)

***Afternoon Session: Second Draft Zoning Map Requests and Corrections for Chico, Cohasset, Concow/Yankee Hill, and Dayton Areas***

Staff Overview of Requests and Corrections set forth in the Staff Report.

Questions from the Planning Commission

Commissioner Kennedy – Chico map question, Lando, Kromer. Why does the Greenline go there?

Mr. Breedon gave some background on the Board of Supervisors direction to change the Greenline in the General Plan 2030 process. Mr. Breedon provided clarification of the map and designations on the map.

Commissioner Kennedy regarding the Lando property that is zoned Ag. Is that where Eaton Road will come out when it is extended?

Mr. Breedon – it could be. Butte County does not have any plans for that in the County General Plan.

Commissioner Nelson, this extension has been discussed by the City of Chico for many years.

Commissioner Kennedy, why does the Greenline go there?

Mr. Breedon - the Board was deliberate about the change in the Greenline in this area.

Commissioner Nelson, questions asked to confirm the designations on the map.

Mr. Breedon gave a description of the designation and examples of parcel sizes.

## Public Comment

**Jim Mann** – Rural Consulting Associates. Representing William E. Ralph with 13 parcels. Will T Road. Five and ten acre in size. This is not an agricultural area. It is small ranchettes. He expressed concerned and cannot understand proposed designation. Project was filed in 2002 and waiting for things to move forward. This is not AG-160. Does not make sense to place large zoning on small parcels.

Commissioner Nelson – how big are the smaller lots? They are already existing.

Mr. Breedon the smaller lots are roughly 10 acres and 5 acres in that area. Mr. Breedon apologized that request was not in the packet, but we will take it forward for the Planning Commission at the next meeting

Commissioner Becker – what is request?

Jim Mann – would like at least AG-20.

Nelson, they would still be non-conforming lots.

Jim Mann – you can't do lot line adjustments; there will be other things.

Commissioner Becker – don't understand the difference if it is 20 or 160 if they are still non-conforming.

Mr. Mann – 20 sounds better than 160.

Commissioner Kennedy - how does rezoning affect legal lots?

Mr. Breedon – the minimum parcel size does not affect any of the permitted uses on a lot that is non-conforming in size. It only affects the ability to split land.

Commissioner Becker – are there any parcels larger than 160 in that area?

Mr. Breedon – yes.

**Don Swartz** – property south of Chico, 28. USDA says that smaller agricultural parcels are increasing. Larger size zoning hurts agriculture in Butte County. This property has never been in the Williamson Act. Suggestions have been made today that changing zoning might be easy – that's not the case. Mr. Swartz gave the example of a parcel map in process for ten years and it is still not before the Commission. Minimum parcel sizes in residential areas make sense. There is no benefit to the County or property owner for any parcel.

Commissioner Kennedy – what is the property currently zoned?

Mr. Swartz – the property is zoned Unclassified.

Commissioner Kennedy – what kind of agriculture is on this property?  
Mr. Swartz - there is winter grazing cattle and two bee operations.

Commissioner Becker – does the City of Chico have any plans for this property, is it in their sphere?  
Mr. Swartz – it is not in their sphere.

Commissioner Becker – is the area around landfill a 20-acre zone?  
Mr. Breedon – yes, there is a 2000' area around landfill.  
Commissioner Becker – does it restrict residential?  
Mr. Breedon, yes. The designation encourages compatible uses with the landfill.

Chair Wilson - is there a parcel map in process on this property?  
Chuck Thistlethwaite, Planning Manager - yes a nine-lot parcel map.  
The Planning Commission then discussed the issue of the parcel map that had been filed and had several questions for staff on the review of that map.

**Bob Kromer**, request to split parcel his parcel into four lots. One way is to create a 2.5 Rural Residential zoning in the triangle where his property exists. He stated that his was the only residential property on the agricultural side of the greenline.

Commissioner Nelson - we would go from 2.5 acre designation to a 40-acre designation on the adjacent property.

Kromer – the previous zoning was 5-acre.

Commissioner Nelson asked if we would have to make a recommendation for a general plan change?  
Mr. Breedon - the General Plan 2030 RR designation is minimum of 5 acres. A new zone of RR-2.5 would require an amendment to the General Plan. This could be added to a list of fixes – whether this is a fix is up to the Planning Commission and Board.

Commissioner Kennedy – is there a RR 2.5 anywhere else in the County?

Kromer – There is a VLDR 2.5.

Mr. Breedon, this was a simpler fix because the General Plan 2030P VLDR allows a range down to 1 acre. So, a 2.5 VLDR did not require a General Plan amendment.

**Bill Kutz** - South of Oroville area 51. Found a mistake and staff has recommended MHD zone to expand mobilehome park. He supports the staff recommendation.

Mr. Breedon - this is in the south Las Plumas area of Oroville with an existing mobilehome park.

**Bruce McClintock** – Area 25 involves 91 parcels, 1,068 acres. 90% of the parcels are under 20 acres in size. He farmed this area in the 1960's. He would like to provide a rebuttal to the staff analysis. There needs to be common sense – consistency with the area. This is not the same as Chico area 1. The total number of parcels would not be increased by much. The area is almost gone for the ability to actively farm with the existing restrictions and requirements for setbacks on agricultural sprays. He stated that the Agricultural Commissioner did not have a problem with the A-20 on this property. There is some influence from the City on this. This area makes an excellent buffer until you get to Meridian Road and the town of Nord. The area is not in the Williamson act.

**Bill Brouhard** - Special Plan area 9. This is the Doe Mill area of 1440 acres. The site is unique from other areas today. The County has adopted General Plan as prime growth area. It is past the environmental questionnaire. There is proximity to existing roadways, topography and adjacent development. He disagrees with staff analysis. The proposed zoning would make it possible to parcel into 8 parcels. A full project on this site could get approved but referended by the voters. Grazing does not pay for one-third of the taxes. He provided an example of a horse-ranch on 20-acres that provides more economic benefit than this entire property. Somehow this proposal is to down-zone the property to 8 parcels. Underlying zoning does not prevent the ability to pursue a specific plan. If a project does not get approved or gets turned over, we ought to have some reasonable use of the property.

Commissioner Nelson - the County recognizes that this is an area for a project but come up with a plan. Without a plan, it is nothing but grazing land. That is what it should be without a plan. The area should grow as an urban area. 20-acres zone is not appropriate for this location.

Commissioner Becker - does it make sense to change 320 to 160 or 80? What is the purpose of smaller parcels?

Mr. Brouhard, there are areas that should not have development. We can sit down with staff for a modified recommendation.

**John Starr** - owns 3 acres on Kelly ridge that was originally commercial. In 1989 zoning changed without notification. There were plans for 11 condos with commercial up front. This is a prime location for condos. He would like commercial for a small shopping center.

Mr. Breedon - suggests a request in the record with a parcel number for the Planning Commission to consider on August 25.

(10 minute Break)

**Bruce McClintock**, large parcels ties your hands. This is regarding the area west of 99, north of Chico to the river. A lot of 320 and 80's in this area will drive the family farmers out of business. This creates problems for financing and estate planning. Forty acres is still a viable size for agriculture. This does not make sense. The General Plan contains guidelines to support agriculture.

**Colleen Cecil** - Butte County Farm Bureau. Stated that there is difficulty of farmers getting into agriculture. A 20-acre parcel is no longer just an agriculture parcel. This size creates competition for non-farmers that want to build a house as a ranchette instead of actively farming the property. The 2010 crop report state that there was \$622 Million to Butte County economy. Agricultural land is important and support County's efforts to protect this.

Commissioner Becker – what is Farm Bureau's position on the 320-acre designation?

Ms. Cecil – the focus of discussion was on the minimum parcel size in the General Plan. There are differing opinions among the members. The Farm Bureau recommends an 80-acre minimum on agricultural ground. The top number was not addressed.

Closed Public Comment

### **Planning Commission and Staff Discussion of Recommendations** Regarding the Second Draft Zoning Map

McClintock - Area 25 Request for AG-20 zoning. Staff does not support request.

Commissioner Becker supports McClintock request for 20's

No second

Commissioner Nelson motion to support staff recommendation, Commissioner Kennedy, second.

Vote: 3-1 (Becker dissent)

Don Brown - Area 26 request from AG-160 to Ag 40. Staff does not support

Commissioner Nelson motion to support staff recommendation, Commissioner Kennedy, second.

Vote: 4-0

Northstar - Area 26 request north of Brown's request east of Cohasset Bruce Roe A-160 to A-20. staff does not recommend

Commissioner Nelson motion to support staff recommendation, Kennedy, second.

Vote: 4-0

Brouhard - Area 27 request for AG-20. Staff does not support.

Commissioner Becker requests more discussion with applicant and staff table for next meeting? Suggests some discussion for alternatives to 20's but thinks the 320-acre minimum is excessive.

Commissioner Kennedy motioned to change the minimum parcel size of 320 and 160 size to 80-acre minimums, Commissioner Becker second.

Vote: 4-0

Don Swartz - Area 28 request for AG-20. Staff does not support.

Commissioner Becker motion to change to AG-80, Commissioner Kennedy, second.

Vote: 4-0

Nina Lambert - Area 29 request from AG-40 to for 2.5 or 5-acre designation. Staff does not support.

Commissioner Becker motion to support staff recommendation, Commissioner Kennedy second

Vote: 4-0

Tom Lando - Area 30 request to change the Agricultural designation to an Urban Reserve. Staff does not support.

Commissioner Nelson motion to support staff recommendation, Commissioner Kennedy second

Vote: 4-0

Forman and Kromer - Area 31. Staff does not support.

Commissioner Nelson motion to change Greenline, if necessary, and change zoning to VLDR-2.5 on that area currently zoned RR-5 north of Bell and Muir Road, Commissioner Kennedy second.

Vote: 4-0

Cana Partners - Area 32. Staff does not support.

Commissioner Nelson motion to support staff recommendation, Commissioner Becker second

Vote: 3-1 (Kennedy dissent)

East of Cohasset - Area 33 TM to FR-40. Staff recommended

Commissioner Nelson motion, Commissioner Becker second

Vote:4-0

Concow/Yankee Hill Area

Pyles - Area 34. Staff recommended.

Commissioner Nelson motion, Commissioner Becker second

Vote: 4-0

Pit – Area 35. Staff does not support.

Commissioner Nelson motion to support staff recommendation, Commissioner Becker second

Vote: 4-0

Dayton Area - Area 36. Staff recommends a correction.

Commissioner Nelson motion, Commissioner Becker second

Vote: 4-0

This concludes the afternoon session. Mr. Breedon gave a reminder about the next meeting dates and times. There was additional discussion about the timing of the Planning Commission recommendation presentation to the Board of Supervisors.

Meeting adjourned.