

**TRINITY COUNTY
PLANNING COMMISSION HEARING
June 12, 2003 at 7:00 p.m.
Trinity County Library,
Weaverville**

MINUTES

1. CALL TO ORDER

Chairman Jaegel called the meeting to order at 7:05 pm. Members present: Commissioner Keith Groves, Commissioner Ray Bushman, Commissioner Tom McKnight, Commissioner Jim Hahn, Commissioner Roger Jaegel, Planning Director John Jelicich, Senior Planner Jeanne Bonomini, Associate Planner Tina Cameron, Environmental Compliance Specialist Jan Smith, Principle Planner Tom Stokely, County Counsel David Hammer and Administrative Coordinator II Tina Teuscher.

2. MINUTES (June 5, 2003)

Commissioner Bushman moved to approve the June 5th minutes. Commissioner McKnight seconded. Motion carried.

3. DEPARTMENTAL MATTERS AND COMMUNICATIONS

None

4. WITHDRAWN OR CONTINUED ITEMS

Item 6 – Noise Element - Continued to August 14, 2003

OLD BUSINESS

5. AMENDMENT TO SECTION 30.D.3 (SECOND DWELLING UNITS) PW-03-03

Amendment to Section 30.D.3 (Second Dwelling units) of the Trinity County Zoning Ordinance to allow second dwelling units within single & multi-family zoning districts per state law. Applicant: Trinity County Planning Department.

Senior Planner Bonomini presented the staff report. She stated that this ordinance change came after the passage of Assembly Bill 1866, which basically changed the requirements for a second dwelling unit. Staff is also proposing to delete section 30n of the Zoning Ordinance.

Commissioner Bushman asked how much leeway the County had regarding development standards. He mentioned the last paragraph on page three which stated, “Second dwelling units are prohibited from being located in other zoning districts unless expressly authorized in other Sections of this Ordinance”. He stated that he did not recall seeing guidelines for this issue. Mrs. Bonomini stated that the law was mentioned on page 9, which was Exhibit C. She stated the beginning of the law for second dwellings starts on that page with government code 65852.150. She mentioned that the law states that you have to allow second dwellings in

Single Family and Multi-Family zoning areas.

Commissioner Bushman asked about Health Care Mobile Homes. Mrs. Bonomini stated that the new law made it a lot easier. If their property meets the new requirements, a Use Permit will not longer be necessary.

Commissioner Groves asked if a permit would be required if they changed from a Health Care Mobile Home to a regular second dwelling.

Director Jelichich stated that a Health Care Mobile Home permit was only good for two years. The applicant needs to show that the need is still there in order to keep the permit every two years. If they went to a second dwelling, a building permit would be required.

Bonomini stated that staff had been looking into the old Health Care Mobile Home permits, checking to see if they are eligible for a second dwelling. If they are then their Health Care Mobile Home Permit is no longer needed; however, a building permit would might be required.

Commissioner McKnight stated that the applicant would need a new building permit, because the first permit would have been for a temporary mobile home and now it would need to become a permanent structure with different requirements.

Chairman Jaegel opened the public hearing. No comments were received. Public hearing was closed.

Commissioner McKnight moved to recommend that the Board of Supervisors adopt the ordinance to amend Section 30.D.3 (Second Dwelling Units) and to delete Section 30.N (Two or more residences per parcel). Commissioner Bushman seconded. Motion carried.

6. NEG. DEC. AND ADOPTION OF THE NOISE ELEMENT

PW-03-02

Proposed Negative Declaration, adoption of the Noise Element of the Trinity County General Plan, and adoption of a Noise Ordinance. Applicant: Trinity County Planning Department.

Continued to August 14, 2003 meeting

NEW BUSINESS

7. USE PERMIT

P-03-14

Request for a Use Permit to relocate the designated Dwelling Unit Area on a lot in the Ridgeville Subdivision. Located on Ridgeville Road, in the Ridgeville Subdivision, near Estrellita, west Trinity Lake area. Applicant: Phillip & Sandy Stokes, APN: 010-700-05.

Senior Planner Bonomini presented the staff report. For this request to relocate a designated dwelling unit area in the Ridgeville subdivision.

Mrs. Bonomini stated that staff was neither recommending denial or approval, they were leaving the decision up to the Commission.

Commissioner Bushman asked if the terrain was fairly steep. Bonomini stated yes. There was an average of a 15% slope.

Chairman Jaegel stated that since Fish and Game declined commenting on the project, he assumes that they didn't have any objections. Bonomini stated that after reading her review of the project they did not have any concerns.

Bonomini stated that this particular parcel was long and skinny and that there was a buffer between the parcels and Trinity Lake.

Commissioner Groves asked if the dwelling unit boundary would be made larger. Bonomini stated no, that they were actually making it smaller.

Commissioner Groves stated that it looked like the fire road went to other parcels. He then asked if the applicant had an easement to use the fire road as a driveway.

Mrs. Bonomini stated that she did not know. She also stated that the Planning Department does not ask if they have access or not, that issue is taken up by the Building Department process.

Commissioner Groves stated that this was an important issue and should be something that the Planning Department asks.

Commissioner Groves stated that if the Commission does away with one dwelling site and approves another one that does not have access, he may not have a building site to build on.

Commissioner McKnight stated that on page 14, it showed the road being used already. Bonomini stated that she did not know what they intended this road to be; however, it was being used by the neighbor for access onto his property.

Chairman Jaegel stated that if there were questions that couldn't be answered, the meeting should be postponed until they could be answered. He then asked if there was any urgency for this project to be approved or denied. He then opened the public hearing.

Mr. Steve Hanover, agent for Mr. Stokes, stated that the neighbor was currently using the fire road for access to his house. He stated that there was a lot of soil disturbance up there. Mr. Hanover stated that it would be in the best interest of Mr. Stokes to continue the item, until the next meeting.

County Counsel Hammer stated that the access issue did need to be clarified.

No more comments were received, the public hearing was closed.

Chairman McKnight moved to continue the item until the July meeting. Commissioner Bushman seconded. Motion carried.

8. NEG. DEC. FOR TRINITY DAM BLVD.**PW-03-06**

Proposed Negative Declaration for the widening of Trinity Dam Boulevard (west side of road) and Texas Avenue (north side of road) by 15 feet to allow development of a bicycle lane, pedestrian and equestrian path. The project will include removal of some vegetation within the Scenic Conservation overlay along Trinity Dam Boulevard. Applicant: Trinity Co. Planning Department.

Environmental Compliance Specialist Jan Smith presented the staff report. She stated that this was a proposed Mitigated Negative Declaration and Planning Director's Use Permit for removal of trees in the Scenic Overlay Zone to widen the shoulders of Trinity Dam Blvd. The construction will take place between Lewiston Road and Mountain View Road. They are also widening the north shoulder of Texas Ave from the subdivision to Trinity Dam Blvd. This will provide a continuous bicycle and pedestrian trail. She stated that there was no right-of-way take on this project. The Department of Transportation has a fairly wide right-of-way along these areas. She stated that there were some portions of the trail that would be on Community Services District's property. Since they are required to build a trail, that would remain in their ownership and they would maintain the portions of the trail that are on their property.

She stated that this project had several different purposes. The Commissioner approved a Negative Declaration for Rush Creek in 2001. Last August the Commission approved a Golf Course and one of the requirements of that use permit was for the Lewiston CSD to create a path for pedestrians and bicyclist. This project will take care of all of the above.

She stated that one of the alternatives for this project was to make the material available to adjacent property owners, or to have a huge pile of material in the Lewiston Trinity County Road Department yard for use on future projects. She stated that they may provide some material to the land owners. She stated that they would have to sign a waiver with the Department of Transportation to indemnify the Department of Transportation for what they use the material for. Without a grading ordinance there is no way of knowing what they will use the materials for. They could fill in wetlands or drainage areas. They prefer to have a site that has environmental clearance, to hold the materials.

She stated that work in Alder Gulch and its tributaries will be done in accordance with the conditions of permits from California Department of Fish & Game, North Coast Regional Water Quality Control Board and the US Army Corps of Engineers, as well as the mitigation measures included in the Initial Study.

Mrs. Smith stated that construction would take place between 7:00 am to 7:00 pm.

Commissioner Groves asked what type of material she was talking about. She replied that it was Bragdon Shale, which is highly compactable clay.

Commissioner Bushman asked if it was crushed rock. Mrs. Smith stated that it was soft. She explained that they would not have to perform any blasting to remove the material.

She stated that most of the material taken from Rush Creek would be placed in the slopes that are probably a one to one slope along Trinity Dam Blvd and compacted in place. They will not have to do a lot of processing. She stated that the surface of the trail might be crushed shale or it might be decomposed granite.

Chairman Jaegel asked if under Mitigation 4 they were proposing to bury the plants and roots that were in the fill.

Mrs. Smith stated that staff would remove the vegetation at the major fill slopes. The vegetation & stumps will need to come out. She stated that in the very toes of the fills where it might encroach into the riparian area, they would replace those trees even though they might possibly survive.

Commissioner Groves asked why there was not a map in the staff report.

Mrs. Smith explained that she forgot to attach it to the email when she sent it to the Planning Department. She had one copy that she gave the Commission to look at.

Chairman Jaegel opened the public hearing. No comments were received. Public hearing closed.

Commissioner McKnight moved to adopt the Mitigated Negative Declaration finding that “Although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project (mitigation measures) have been made by or agreed to by the project proponent.” Commissioner Bushman seconded. Motion carried.

9. PUBLIC WORKSHOP FOR DRAFT EIR TRINITY RIVER BRIDGES PW-03-04

Public Workshop regarding the Draft EIR/Environmental Assessment for the Trinity River Bridges Project on the Trinity River below Lewiston Dam. Applicant: Trinity County Planning Dept. and U.S. Bureau of Reclamation.

Chairman Jaegel explained that this meeting was advertised as a Public Hearing, but the agenda was posted as a Public Workshop, so a Special Planning Commission meeting was scheduled for June 17 at 7:00 pm to hold the Public Hearing.

Principle Planner Tom Stokely apologized to the public for the confusion and the inconvenience of holding another meeting.

County Counsel Hammer stated that a Workshop could not be held this evening either, because the agenda had been taken down and by law it needed to be posted for 72 hours prior to the meeting.

Chairman Jaegel stated that he was going to allow the public to speak since the meeting was advertised and people had driven into town to voice their opinions.

Chairman Jaegel opened the public hearing.

Mr. Duane Pape, Lewiston resident, stated that he lived four driveways down from Salt Flat bridge. He argued that he had voted in every election since he was 21, any time any issue came up that required a vote from the public he was there. Whether it involved schools or parks he was always educated in what he was voting for. He stated that this was the first time he was ever asked to approve something that would use his tax dollars, but he could not use it. He stated that as long as it benefited the community and became a public bridge, he was all for it. But in his opinion, it would be a bad move on the government’s part to use taxpayers’ money to pay for a private bridge.

a.

Mr. Jerry Hauke, resident of Trinity County, stated that he had a map of a proposed bridge for Salt Flat with public parking access. He passed the drawing out to the Commission. He stated that he was in favor of a public bridge, or at least public access to the Trinity River. He mentioned that the Lewiston Element of the Trinity County General Plan refers to a minor access to the Trinity River at Salt Flat. It also calls for minor access at the Hamilton Ponds, which was recently achieved. He believes that this is a chance to get the only two accesses that are mentioned in the Trinity County General Plan achieved.

b-1

He stated that he had been through the environmental document and believes it to be well prepared. It is a good resource and reference document. Of the 68 mitigated items of environmental impact, there is only one that has been identified as unmitigatable. He stated that he had prepared an alternative that he believes would work.

He quoted from the EIR, “Envision increases in local public use would likely be sparatic in nature and would not necessarily involve significant numbers of public visitors at any one time.” He asked what the problem was. He remarked that individuals did not want human induced noise disturbances. He argued that a lot of noise comes from rafters having water fights. He asked how a few fly-fishermen could be noisier than people floating down the river.

b-2

b-3

As far as the parking went, he referred to his drawing to show how parking could be mitigated.

b-4

As far as the trespassing issues went, he believes that the resident’s of Salt Flat could still put up a gate to their community to keep deer hunters out during deer season.

b-5

As far as having more trash, he stated that Lewiston had the DeLitterbugs who went around and cleaned up Lewiston at least once a month. So the littering could be mitigated as well.

b-6

He stated that as far as land use went, in his drawing he had outlined a 40-foot right of way that runs from Goose Ranch Road to Salt Flat. Upstream there is a small piece of private property and 70 acres of BLM land. He stated that BLM land was all about recreation. There are rafters, tubers, fisherman, kayakers, and canoeist. He asked how this would change if there were another half dozen strollers down to the river.

b-7

Private property, which is mostly located in the flood zone, is located down stream from the bridge. He mentioned that the bridge was very secluded and hard to see from the road.

b-8

He asked the Commission to direct staff to place parking on Goose Ranch Road, and to make the new Salt Flat bridge a public one.

b-9

Pat O'Connell, Lewiston resident stated that he would hold his comments until Tuesday.] c.

Chairman Jaegel closed the public hearing.

10. PUBLIC COMMENT

Members of the public may address the Planning Commission concerning matters within their jurisdiction, which are not listed on the agenda. No action may be taken on these matters.

None

11. ADJOURN

Chairman Jaegel adjourned the meeting at 8:10 pm.

RESPONSE TO COMMENT:43

Trinity County Planning Commission Meeting Minutes (June 12, 2003), Public Comments

43-a: Duane Pape (oral comment) - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b: Jerry Hauke (oral comment with handout (see comment 30 for figure referenced))

43-b-1 The Lewiston and Douglas City Community Plans and the Trinity County Land Use Element of the General Plan contain policies, goals and objectives related to public access at Salt Flat and the other bridge sites as shown on pages 3.8-4 through 3.8-9 of the EA/Draft EIR. The Lewiston Community Plan contains a map on page 27 that identifies Salt Flat as a potential future public access site.

The proposed action at Salt Flat is not inconsistent with Trinity County's General Plan. The proposed action is the construction of a new bridge to allow higher river flows, without damage to the bridge, which is a private access to Salt Flat. The Lewiston Community Plan states that public access should "predominantly" rely on public lands for access to and along the Trinity River. Development of a public access site at Salt Flat would solely rely on private lands for access to the river.

The Land Use Element of the General Plan states that individual rights should be considered along with the rights of the community. It is clear from the written and oral comments made by the Salt Flat residents, as well as many adjacent property owners (including property owners of the land which contains the easements for the Salt Flat Bridge) that eminent domain (condemnation) proceedings would be required to develop a public bridge at Salt Flat. Even though government agencies have the power to condemn private property for public purposes, acquisition of private land is not necessary to meet the purpose and need, goals and objectives of this EA/EIR. Providing additional public access to and along the Trinity River is not part of the EA/EIR project purpose and need, nor goals and objectives. The rights of the individual landowners would be maintained by keeping the bridge private. Implementation of the Proposed Action at Salt Flat would not preclude future public acquisition of the bridge and access road. The government would have to pay for the fair market value of the property interest taken, and the damages to the remaining interest. The use of public funds for the construction of the bridge does not create any right of the government acquire a public right-of-way.

Furthermore, reconstruction or relocation of the private Salt Flat Bridge was not anticipated at the time the Lewiston Community Plan was developed, nor does its replacement in situ inhibit future efforts to develop public access at Salt Flat. Therefore, the project has a neutral effect on development of an additional river access in this vicinity. Further, development of a public access site is actually an expansion of the scope of the project and not a mitigation measure resulting from the environmental impacts of the project.

The project itself is not limiting public access (it actually improves public navigation, see response No. 45), it is replacing a private bridge with a private bridge in a similar location to eliminate the potential

effects of increased flow releases for fish restoration and Safety of Dams. The Lewiston Community Plan does not require public access as a link to bridge upgrade or replacement. There is certainly nothing in the Lewiston Community Plan policies that requires Salt Flat Bridge to be a public bridge, nor would making the Salt Flat Bridge public mitigate any of the environmental impacts of the proposed action at Salt Flat.

Section 16.49.240 of the Trinity County Subdivision Ordinance provides for dedication of public access to identified stream and lakes (as identified in Section 16.08.130 of the Subdivision Ordinance) as part of a proposed subdivision, as provided in Article 3.5 of Chapter 4, Sections 66478.1 through 66478.14 of the California Government Code. While the Trinity River Bridges Project is not a subdivision, the same standards, if applied to the Bridges Project, could be used as a determination of the need for additional public access at Salt Flat. The determination of the need for public access is to consider the following:

- Fisheries resource of the subject body of water;
- Unique environmental features of the area including, but not limited to: waterfalls, pools, rare or endangered riparian wildlife or plants;
- **The amount and pattern of publicly owned properties in the vicinity which allows for reasonable access alternatives** (emphasis added);
- Current utilization of the subject site by the public;
- Existing or planned provisions for public access including, but not limited to campgrounds, resorts, day use areas, and trails;
- **Potential for conflict between property owners and the public** (emphasis added);
- Topographical and vegetative features which may affect access and public safety both within the affected properties and to adjacent properties.

Figure 3.8-1 in the EA/DEIR is a map showing public recreation and access points along the Trinity River in the project area. The Rush Creek Recreation Site is approximately 1 mile upstream and the Bucktail Recreation Site is approximately 1.5 miles downstream of the Salt Flat Bridge. Numerous other public access and recreation sites exist in the reach between Lewiston Dam and the Douglas City Campground. Given the large number of existing public access sites along the Trinity River in the vicinity of the proposed project, it could be determined that “reasonable public access” already exists.

Additionally, significant testimony was given orally and in writing about the high potential for conflicts between private property owners and the public if a public bridge were to be constructed at Salt Flat. Therefore, based on the above criteria in the Trinity County Subdivision Ordinance, it would appear unnecessary to develop Salt Flat into a public access and recreation site to the Trinity River as part of this project.

43-b-2 Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b-3 The EA/DEIR states on page 3.2-26 that several significant CEQA impacts would occur to disrupt existing land uses adjacent to the project site at Salt Flat if Alternative 2, construction of a new bridge on public land, were implemented. Human-induced noise, disturbances, unauthorized public parking adjacent to the new bridge, trespassing on private property, and increased litter/waste are the impacts that were identified. In regard to noise, public usage of the site on BLM land would be significant because there would be more members of the public present than currently exists at the site. It is difficult to mitigate for increased noise from increased public usage. The mitigation measure for the increased impacts is a public access recreation site with restrooms, public parking and trash collection facilities. However, it was determined that the mitigation measure will not reduce the impacts to less than significant levels because the right of control to the access to Salt Flat would pass from private ownership to public. There are already conflicts with land use from illegal trespass. Creating public access to Salt Flat would increase the trespass, over which the property owners would have no effective means of control.

43-b-4 Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b-5 Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b-6 As is noted in the written and oral comments of James Bonk, James Evans, Sandy Evans and others, there are already conflicts with land use from illegal trespass onto private lands, including but not limited to illegal hunting, unauthorized parking, litter and improper human refuse disposal at Salt Flat. Permitting the public to access Salt Flat under Alternative 2 will increase the number of conflicts. Additionally, there is no entity that has current plans to construct and maintain mitigation measure SF-2b to create a public access site at Salt Flat. Without a guarantee that such a site would be constructed and maintained, there cannot be an assertion that the mitigation measure will be implemented to significantly mitigate these adverse impacts. (See also response 43-b-3.)

43.b-7 Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b-8 Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required.

43-b-9 Thank you for your comment in this forum. After reviewing all the information in the Final EIR, The Planning Commission will make a recommendation to the Board of Supervisors on the adequacy of the EIR and a recommendation on a Preferred Alternative for each bridge site at their July 10, 2003 meeting. After reviewing the recommendations of the Planning Commission and all the information in the FEIR, the Board of Supervisors will consider certification of the EIR and selection of a Preferred Alternative for each bridge site at their July 15, 2003 meeting.

43-c Pat O'Connell (oral comment) - Thank you for your comment. Your comment has been noted, and will be transmitted to the Planning Commission, the Board of Supervisors, and federal officials for their consideration in connection with the merits of the proposed project. No further response is required (see response to comment 25 & 44.i).