



## MENDOCINO COUNTY PLANNING COMMISSION

**MINUTES FOR THE MEETING HELD ON:** January 20, 2011

**LOCATION:** Mendocino County Board of Supervisors Chambers  
501 Low Gap Road, Room 1070  
Ukiah, California

**COMMISSIONERS PRESENT:** Little, Calvert, Nelson, Warner, Holtkamp, Hall, Ogle

**COMMISSIONERS ABSENT:** None

**PLANNING & BLDG SVC STAFF PRESENT:** Ignacio Gonzalez, Director  
Roger Mobley, Chief Planner  
Dusty Duley, Planner II  
Adrienne Thompson, Commission Services Supervisor

**OTHER COUNTY DEPARTMENTS PRESENT:** Tom Peters, Department of Transportation  
Chris Brown, Air Quality  
Dave Jensen, Environmental Health

1. **Roll Call.**

The meeting was called to order at 9:00 a.m.

2. **Determination of Legal Notice.**

The clerk advised the Commission that all items had been properly noticed.

3. **Director's Report and Miscellaneous.**

Mr. Gonzalez introduced Roger Mobley, newly hired Chief Planner for the Department.

Mr. Mobley briefly discussed his background working in both the public and private sector.

Mr. Gonzalez continued with his report noting the Draft EIR for the UVAP would be before the Commission on February 17, 2011 and he hoped to have between two to three meetings, including a joint meeting with the Board of Supervisors. He noted the hearings would proceed similar to the process of the General Plan with the EIR being discussed first, followed by the individual land use changes and finally the Plan itself. Mr. Gonzalez commented that once the UVAP had been completed, the Mendocino Town Plan would be the next project. Last, Mr. Gonzalez noted the conclusion of the Building Amnesty Program with a total just under 205 permit applications submitted.

4. **Regular Calendar.**

4a. **CASE#: UR 49-85-2009 (Continued from 10-21-10)**

DATE FILED: 7/27/2009

OWNER: DAVID & KATHRYN LOWE

APPLICANT: KATHRYN LOWE for NORTH AMERICAN ORGANICS

REQUEST: Use Permit to establish a commercial dog kennel and breeding business for up to 20 dogs. Also, a Use Permit Renewal to allow for the continued operation of North American Organics and the packaging, processing and sale of pre-composted materials along with the alteration of previous conditions to allow the business to operate on Sundays and to reduce the required 100 foot buffer between stored materials and the northern property line to 50 feet.

LOCATION: 1 mile north of Redwood Valley town center, lying at the terminus of Held Road (CR# 230C), 0.2 miles west of its intersection with East Road (CR# 230), located at 1790 Held Road; AP# 1691-120-25.  
PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and discussed the request for a use permit renewal of North American Organics for pre-composted materials, expanded business hours and a reduced buffer on the northern property line. He also noted the owners had applied for a new use permit to establish a commercial dog kennel and breeding business on the project site. Mr. Duley further discussed the project and referenced a power point presentation that had been prepared for the project. He noted several letters of opposition; one from Pam Ricetti, who felt the odors over the years were not acceptable compounded by the constant noise from machinery and opposed the project, Dee and Stephen Cope were opposed to the commercial dog kennel, extended hours on Sunday and were concerned with the smell and noise from increased truck traffic, Jennifer and Leo Bartolomei opposed the project due to noise from the dog kennel and the impact it would have on wildlife, Janet Wolfe Savides opposed the project after hearing "a decade" of noise from grinding and barking dogs and strongly opposed increased hours on Sunday. Mr. Duley noted that an email had also been received from Kathleen Hutchins concerned with the odor and Brandon Wolfe who felt the expansion was unnecessary and caused too much traffic. Mr. Duley also noted several letters of support for the project from Spare Time Supply Wholesale, Donna Wilsey from Calpella Elementary School, Miles Gordon from North Coast Opportunities, Jere Todd from Manzanita Acres, and the Suchan Nursery in Upper Lake, all who felt the project was positive for the community. Mr. Duley continued with the project history of the original use permit in 1985 and the renewal in 1999 at which time the owners decided to accept only "pre-composted material" to avoid the need for an industrial stormwater permit. He stated that the lack of a definition for pre-composted material had been problematic and staff was trying to determine if the use was operating outside the regulations of the permit. Mr. Duley noted the odor complaints in the area and offered Condition #3 and #4, which could be added to the use permit if the Commission chose. In closing, Mr. Duley asked for the Commission's input on the definition of pre-composted material, the 5 acre limit for the business and reducing the required 100 foot buffer to the northern property line.

Commissioner Holtkamp asked where the grape pomace came from.

Mr. Duley believed it came from off site and noted that it was possible that removing grape pomace from the facility would eliminate or reduce the odor impacts. He noted that a letter from Regional Water Quality Control Board (RWQCB), which stated they were not aware of grape pomace at the site and if it was being stored, all materials would need to be covered. Mr. Duley discussed the phases of composting and offered alternative language that replaced pre-composted with stabilized to be more specific and allow for greater control of odor mitigation. He noted that to reduce noise from barking, all dogs should be kept inside during the evening and offered hours from 6:00 pm to 7:00 am.

Commissioner Hall noted a change in the definition of pre-composted in Condition #9 might clarify the permit so that an Odor Management Plan was not necessary.

Mr. Duley agreed that if the facility operated under the parameters of the permit, odor should not be an issue.

Commissioner Warner asked if staff could clarify which buildings had a cement non-permeable base in Condition #15.

Mr. Duley was not sure since the condition originated from a previous permit renewal and deferred to the applicant to distinguish the structures in the photo.

Commissioner Ogle commented that she had met with the applicant at the site and asked how or where the pre-compositing of grape pomace could be done.

Mr. Duley noted the grape pomace should be delivered to a compost facility, or could be piled in a property owner's vineyard where it does not impact water quality prior to being delivered to the project

site. He felt that allowing the pomace and stems to compost on the site was outside the realm of the use permit as granted in 1999, but asked the Commission to offer an opinion on the matter.

Chairman Nelson asked if any complaints had been received about barking dogs.

Mr. Duley had not received any comments regarding noise from barking dogs.

**Dave Lowe**, applicant, commented that the dogs slept inside at night and normally did not bark. He stated the hours on Sunday would only be for small trucks, deliveries, etc. and noted the facility had originally been used as a dry yard for apricots and pears. He also noted that since North American Organics had opened, he has been receiving grape pomace from three wineries and this was the first he had heard of it being called "composting".

Chairman Nelson asked the applicant to clarify how the grape stems and pomace were used.

Mr. Lowe stated the stems were mixed with mushroom compost, coco beans or rice hulls and some fermenting did occur.

Commissioner Holtkamp asked if the dog kennel would be for a commercial operation or personal use.

Mr. Lowe noted the kennel was for personal use and no boarding would occur. He also noted that the setback could be lessened to 20 feet due to the terrain in the area and asked about the decibel level on Condition #22 since he also had a firewood permit on the property.

Chairman Nelson asked when the firewood permit had been obtained.

Mr. Lowe stated he had the permit since 1980. He also discussed measures to reduce the odor impacts on the property, which were used in Sonoma County, but was unsure of the regulations in Mendocino County.

Commissioner Hall asked how overflow from the pond was handled.

Mr. Lowe noted he had dealt with RWQCB about the sediment and stated the grapes were covered unless used. He also commented that the products remained tarped when not in use to prevent further odor issues.

Commissioner Warner asked the applicant which structures had non-permeable cement bases in Condition #15.

Mr. Lowe identified the structures on the orthophoto.

Commissioner Ogle discussed an attachment to the staff report, which was a letter submitted by Kathryn Lowe discussing reduction of odor in the summer when it was a non-burn day, which she found a confusing statement.

**Chris Brown**, Air Quality, discussed a conversation he had with Ms. Lowe about the inversion layers and when it was not appropriate to mix piles, such as on cold mornings. He noted that information typically came from the burn line at Air Quality and he was trying to work out a way that she could receive information when the message stated simply that it was not a burn day.

The public hearing was declared open.

**Pat Johnson**, Wipf Construction, noted he was in favor of the project and stated he had delivered mushroom compost to the facility from Morgan Hill, California, along with sand and lava for the various mixes.

**Bob Perkowski**, Perkowski Screen Printing, commented that he was also in favor of the project and stated the Lowe's were considerate people to have as neighbors.

**Shannon Johnson** noted she works in the office for North American Organics and stated she had attended a convention on how to deal with odors. She discussed various methods of creating berms, landscaping with trees and other buffers that could be used to catch the odors. She noted that only 2 calls had been received stating the business should not be open on Sunday. She also discussed a call log that she maintained about wind direction, temperature and complaints to verify the smell.

**James Pruitt**, neighbor, stated he did not have a problem with odors recently, and he felt trucks were driving slow enough on the road. He also stated his dog barks more than the Lowe's.

**Dave Rosenthal**, local vineyard owner, stated that he used North American Organics to drop off his grape pomace and stated it was a beneficial to the grape growing industry. He felt vineyard owners could not afford the conditions it would take to keep the pomace on site.

**Pam Ricetti**, neighbor, discussed her complaints against the property and thought the project was located in an incorrect zoning designation. She felt the Lowe's were composting at the facility and operating outside the limitations of their permit. She was also concerned with the truck traffic and evening operations with trucks and trailers visiting the site. She commented that she did not object to the dog kennel for personal use.

Commissioner Warner asked if the source of offensive smells had been determined.

Ms. Ricetti stated she had not been able to determine the smell, but noted it was not grape pomace.

**Mr. Brown** commented that mushroom compost appeared to be the strongest odor, however the number of complaints received against the operation did not reach the level of "public nuisance" and was not within his jurisdiction to oversee.

The Commission discussed the advantage to building a berm to minimize odors, however it was not decided on the best placement of the berm since air travels and is difficult to contain.

Ms. Johnson submitted a survey to the Commission which showed the location of complaints received. She also felt that truck traffic would not increase near Ms. Ricetti's home since it was in the opposite direction of the freeway.

The public hearing was declared closed.

[Break 10:33 AM – 10:45 AM]

Mr. Duley recapped the issues for the Commission to consider, 1. is grape pomace acceptable for the permit since there is evidence of composting on the site, 2. is the property within its limitation of the 5 acre restriction for the business, or is there room to expand 3. any restrictions for the dog kennel.

Mr. Mobley added that staff would like the Commission to discuss the hours of operation on Sunday and the reduction to a 50 foot setback from the property line.

Commissioner Ogle noted from her site visit, it appeared that the piles encroach closer to 25 feet from the property line.

Mr. Duley agreed that the buffer was closer to 25 feet and noted that the property was adjacent to a vineyard.

Commissioner Hall noted the reduced setback was unlikely to make a difference.

Chairman Nelson noted the terrain sloped away from creek.

Commissioner Hall asked if a berm could be constructed within the setback.

Mr. Duley noted the berm might require a building permit and then would have to meet the 50 foot setback for the Ag zoning.

Commissioner Calvert asked what size of berm would trigger a building permit.

Mr. Gonzalez was not sure of the exact height, but noted a fence could not be built higher than 3.5 feet without a permit.

Commissioner Ogle noted that she did not have a problem reducing the setback to 25 feet.

Commissioner Calvert agreed.

The Commission agreed to amend Condition #7 to state that no material may be stored within 25 feet of the northern property line.

Commissioner Ogle asked the purpose of the Sunday hours.

Mr. Lowe noted no equipment would be used, only the loader for small trucks, or deliveries.

Chairman Nelson asked if the condition could be changed to include for private pick up only.

Commissioner Calvert included that no grinding or crunching could be done.

Mr. Lowe suggested being open from 10:00 AM to 2:00 PM only.

Chairman Nelson clarified that the maximum number of dogs allowed would be 20, that they would be inside at night and no boarding private dogs would occur.

Commissioner Ogle noted when she had visited the site; it had been meticulously clean and she did not hear any barking.

The Commission and staff discussed how the acreage would be calculated for the property, such that the acreage must be contiguous and isolated circles could not be extracted to increase the possibility for expansion.

Mr. Duley believed the applicant did not have room to expand.

Chairman Nelson commented that if the barn, house and garage were removed from the acreage because they were not part of the operation, there would be available area to expand toward the vineyard.

Commissioner Little noted he would be willing to change the acreage requirement to state "of the existing areas used for the business" to make sure that the applicant did not loose property. He noted the intent of the condition was not to reduce what the applicant already had.

Commissioner Calvert suggested modifying the condition so that the applicant could not expand beyond the existing vineyard.

Commissioner Hall asked if Condition #9 should be changed to state "stabilized compost".

Mr. Duley noted the intent was to describe what was allowed at the facility since there was no definition of what pre-composted material comprised of. He noted stabilized compost should not produce foul odors.

Chairman Nelson noted that sand and grape stems would not be considered stabilized compost, but would not smell either and suggested the condition be changed to not allow anything that caused odors.

Commissioner Little suggested a compromise by adding a time limit for the owner to keep materials on his site that would be short enough that nothing would begin to compost or smell.

Mr. Duley added that RWQCB asked that either a low permeability pond be added to protect water quality from the grape pomace or the products be stored under a roof.

**Trey Strickland**, Environmental Health, commented that Cold Creek Compost had discovered a method for preserving the grape pomace mixture that prevented it from composting quickly and reduced the smell and thought the process could be useful for the current operation.

Chairman Nelson asked if the product came in and remained tarped, if that would prevent odors.

Mr. Strickland commented that Cold Creek covered their compost by the end of the day it was delivered. He also stated that reducing mud and scraping the pads daily seemed to make a difference.

The Commission and staff discussed adding further conditions to prevent odors at the site.

Mr. Gonzalez commented that the project had not been noticed as a compost facility and the Commission could only act on the pre-composted materials.

The Commission further discussed how grape pomace could be brought to the site, but removed before composting.

Commissioner Holtkamp asked about the noise level in Condition #22.

Mr. Duley noted it was part of the previous permit, which allows 60 decibels in the zoning designation, however they were not allowed to process or mill lumber at the site.

The Commission discussed the presence of chainsaw noise at the site.

Mr. Duley noted that processing lumber was not part of the permit and only the sale of firewood was permitted.

Commissioner Calvert asked to revisit the hours of operation to ensure that no equipment would be used.

Mr. Lowe stated the only equipment he would need is a loader.

Chairman Nelson suggested no equipment be allowed on Sunday except loaders and asked staff to prepare the changes to conditions for the Commissions review.

[Lunch 11:50 AM – 1:00 PM]

Mr. Gonzalez noted that County Counsel felt the discussion had gone beyond the notice and deferred to Mr. Ross Walker.

**Ross Walker**, County Counsel, stated he was proceeding off of information gathered by staff, but it was his understanding that had staff felt the discussion would turn to compost and allowing the project as a compost facility, the project would have been noticed differently. He felt that determination was enough to either continue the discussion and renotice the project, or disallow all comments regarding compost such that the applicant could not use grape pomace at their site.

Chairman Nelson asked the applicant if he would prefer to have the project re-noticed or proceed and remove grape pomace from the permit.

Mr. Lowe stated he would prefer to have the project re-noticed.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Calvert and carried by the following voice vote (7-0), IT IS ORDERED to direct staff to renotice the project to include composting and bring the project back at a later date.

AYES: Little, Calvert, Nelson Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**4b. CASE#: MS 4-2010**

DATE FILED: 3/24/2010

OWNER/APPLICANT: TERRY & TAMMY BRAY

AGENT: RON FRANZ

REQUEST: Minor Subdivision of an 8.77+/- acre parcel to create two parcels containing 3.23+/- acres and 5.54+/- acres.

LOCATION: 3.9+/- miles southeast of the City of Fort Bragg, lying on either side of Canyon Road (private), 0.1+/- miles north of its intersection with Turner Road (CR# 414F), located at 16620 Canyon Road; AP# 019-430-03.

PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and noted location of the project was outside the Coastal Zone, however half the area was covered with pygmy cypress forest. He noted the only issue with the project was the presence of special status plants and riparian vegetation, of which the botanist felt a 50 foot buffer would be adequate to protect the resources. He noted that Parcel 1 had not been included in the botanical study since it was already developed and would require an independent botanical report prior to any new development. Mr. Duley discussed a power point presentation he had prepared for the property, which illustrated that there was adequate room for development after recognizing setbacks from sensitive species and property line setbacks. He also noted that Canyon Road would be offered for dedication to the County to improve circulation.

Commissioner Ogle asked the composition of Pearl Drive.

**Tom Peters**, Department of Transportation, commented that Pearl Drive was a mix of pavement and gravel and had not all been dedicated to the County. He noted several areas on the map which had not been dedicated and would need a 30 or 60 foot easement.

Mr. Duley suggested modifying Condition #5 to state "final map" rather than the "exhibit map" and adding on to #5a. that no development in the buffer area as found on the Exhibit Map on file in the Department of Planning and Building Services.

Commissioner Warner discussed the congestion in the area with only a single road in or out and thought it might be appropriate to prohibit second units until a second access was developed to Highway 1.

**Tammy Bray**, owner, understood the prohibition on additional dwelling until such a time as a second access was developed and was available for questions.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Upon motion by Commissioner Warner, seconded by Commissioner Ogle and carried by the following roll call vote (7-0), IT IS ORDERED to approve MS 4-2010 per the findings and conditions of approval contained in the staff report on pages PC 4 through PC 6, modifying Condition #5 to state "final map" instead of "exhibit map" and adding to the end of the sentence "as found on file in the Department of Planning and Building Services" and adding new Condition #21 to state "No second residential units shall be allowed until a secondary access road to Highway 1 is established."

**Environmental Findings:** The Planning Commission finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval, or features of the project design so that no significant adverse environmental impacts will result from this project, therefore, a Negative Declaration is adopted.

**General Plan Findings:** Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

**Project Findings:** The Planning Commission, making the environmental and General Plan findings above, approves #MS 4-2010, subject to the following conditions of approval as recommended within the staff report, further finding:

Pursuant to California Government Code Section 66445(e) the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.

**STANDARD CONDITIONS OF APPROVAL:** For a Minor Subdivision, which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

- \*\*1. The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
- a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.
  - d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
  - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. All earth-moving activities shall be conducted between May 15<sup>th</sup> and October 15<sup>th</sup> of any given calendar year unless the Department of Planning and Building Services or other agencies having jurisdiction approve wet weather grading protocols.
  - g. Future development shall be subject to implementing appropriate source controls found in the Mendocino County Standard Urban Stormwater Mitigation Plan (SUSMP).
  - h. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
    - I. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical to 1.5 units horizontal (66.7% slope)
    - II. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical to 5 units horizontal (20% slope), or less than 3 feet (914 millimeters) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 cubic millimeters) on any one lot and does not obstruct a drainage.

- \*\*2. A notation shall be placed on the Parcel Map stating that, "Future development of buildings, building sites, access roads or driveways may be subject to the grading requirements and drainage control measures identified in condition number 1 of the subdivision."
- \*\*3. A note shall appear on the Parcel Map that the access road, driveway and interior circulation routes be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430.
- \*\*4. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- \*\*5. The subdivider shall submit to the Department of Planning and Building Services ~~an Exhibit~~ a Final Map defining the buffers from all rare plant communities in accordance with the Botanical Survey prepared by Alison Gardner, dated November 15, 2009 and email to staff dated December 12, 2010. The ~~Exhibit~~ Final Map shall include the following notations:
- a. no development shall be allowed within the buffer areas as delineated on the Exhibit map as found on file in the Department of Planning and Building Services.
  - b. High visibility fencing shall be placed outside the buffer areas prior to any new construction and shall remain in place until construction is complete. No construction personnel or equipment shall enter beyond the fenced area
- \*\*6. A note shall be placed on the Parcel Map that no further development shall be allowed on proposed Parcel 1 before a botanical survey by a qualified profession is completed showing that area exists to support development without impacting any sensitive resources. Any study shall be reviewed and approved by the Department of Planning and Building Services.
- \*\*7. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,094.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to February 4, 2011 (Within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. If the project is appealed, the Department of Planning and Building Services will hold the payment until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**
- \*\*8. A note shall appear on the Parcel Map that: "All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed."
- \*\*9. There shall be provided an access easement of sixty (60) feet in width (as per tentative map) from a publicly maintained road to each parcel being created. Documentation of access easement shall be provided to the Mendocino County Department of Transportation for their review prior to final approval.
- \*\*10. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.
- \*\*11. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed.

- \*\*12. Construct a twenty-two (22) foot wide road from Turner Road (CR# 414F) to the northern driveway of the proposed subdivision within the access easement, including eight (8) inch minimum rock base. New or replaced culverts shall be a minimum of 18 inches in diameter.
- \*\*13. Private roads and public utility easements shall be offered for dedication.
- \*\*14. Any proposed work within County rights of way requires obtaining an encroachment permit from the Mendocino County Department of Transportation.
- \*\*15. The subdivider shall comply with those recommendations in the California Department of Forestry (Cal-Fire) letter of March 2, 2010 (CDF# 55-10) or other alternatives as acceptable to Cal-Fire. Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of Cal-Fire.
- \*\*16. The applicant shall provide the Division of Environmental Health adequate advance written notice (minimum of 15 days) of the date and time any field soil testing procedures for any proposed on-site sewage systems to allow the Division of Environmental Health staff to be present for soil testing.
- \*\*17. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for parcel 2 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's "Land Division Requirements" (DEH FORM # 26.09).
- \*\*18. The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from a source of water on the subdivision.
- \*\*19. A note shall appear on the Parcel Map that in the event that archeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
- \*\*20. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map the subdivider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

21. No second residential units shall be allowed until a secondary access road to Highway 1 is established.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

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THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE COUNTY RECORDER RECORDS THE APPROVED PARCEL MAP.

AYES: Little, Calvert, Nelson Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**4c. CASE#: MS 7-2010**

DATE FILED: 5/7/2010

OWNER: CLIFFORD LANG & DIANA ALLISON

APPLICANT: CLIFFORD LANG

AGENT: CLIFF ZIMMERMAN

REQUEST: Minor Subdivision of a 7.91+/- acre parcel to create 2 parcels containing 2.91+/- acres and 5+/- acres each.

LOCATION: 2.1+/- miles north of the City of Fort Bragg town center, on a private driveway extending 0.2+/- miles east of State Highway 1, 0.3+/- miles south of its intersection with Happy Lane (CR# 424E), located at 22741 North Highway 1; AP# 069-251-18.

PROJECT COORDINATOR: DUSTY DULEY

Mr. Dusty Duley, Project Coordinator, reviewed the staff report and noted the project location was off a private road. He stated the property was split zoned with 2.91+/- acres of limited industrial and 5+/- acres of rural residential and the division would separate the two zoning designations. He noted that parcel 2 was developed, however the creek through the property did have a riparian area deserving of a 50 foot buffer. Mr. Duley also noted that Condition #5 should be changed to read "final map" instead of "exhibit map" and #5a should include "as found on file in the Department of Planning and Building Services".

Commissioner Calvert asked if the building was a house or a hanger.

Mr. Duley stated there was a hanger on parcel 1 and a house on parcel 2.

The public hearing was declared open, seeing no one come forward, the public hearing was declared closed.

Upon motion by Commissioner Warner, seconded by Commissioner Hall and carried by the following roll call vote (7-0), IT IS ORDERED to approve MS 7-2010 per the findings and conditions on pages PC 5 through PC 8, modifying Condition #5 to state "Final Map" instead of "Exhibit Map" and adding "as found on file in the Department of Planning and Building Services".

**Environmental Findings:** The Planning Commission finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval, or features of the project design so that no significant adverse environmental impacts will result from this project, therefore, a Negative Declaration is adopted.

**General Plan Findings:** Pursuant to Section 66473.5 of the California Government Code, the Planning Commission finds the proposed subdivision, together with the provisions for its design and improvement is consistent with the applicable goals and policies of the General Plan.

**Project Findings:** The Planning Commission, making the environmental and General Plan findings above, approves #MS 7-2010, subject to the following conditions of approval as recommended within the staff report, further finding:

Pursuant to California Government Code Section 66445(e) the Planning Commission finds that division and development of the property in the manner set forth on the approved or conditionally approved tentative map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement.

**STANDARD CONDITIONS OF APPROVAL:** For a Minor Subdivision, which has been approved according to the Mendocino County Code, the following "Conditions of Approval" shall be completed prior to filing a Parcel Map.

- \*\*1. The subdivider shall acknowledge in writing to the Department of Planning and Buildings Services that all grading activities and site preparation, at a minimum, shall adhere to the following "Best Management Practices". The applicant shall submit to the Department of Planning and Building Services an acknowledgement of these grading and site preparation standards.
  - a. That adequate drainage controls be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.
  - b. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.
  - c. All concentrated water flows, shall be discharged into a functioning storm drain system or into a natural drainage area well away from the top of banks.

- d. Temporary erosion and sediment control measures shall be established and maintained until permanent protection is established.
  - e. Erosion control measures shall include, but are not limited to, seeding and mulching exposed soil on hill slopes, strategic placement of hay bales below areas subject to sheet and rill erosion, and installation of bioengineering materials where necessary. Erosion control measures shall be in place prior to October 1<sup>st</sup>.
  - f. All earth-moving activities shall be conducted between May 15<sup>th</sup> and October 15<sup>th</sup> of any given calendar year unless the Department of Planning and Building Services or other agencies having jurisdiction approve wet weather grading protocols.
  - g. Future development shall be subject to implementing appropriate source controls found in the Mendocino County Standard Urban Stormwater Mitigation Plan (SUSMP).
  - h. Pursuant to the California Building Code and Mendocino County Building Regulations a grading permit will be required unless exempted by the Building Official or exempt by one of the following:
    - 1. An excavation that (1) is less than 2 feet (610 mm) in depth or (2) does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical to 1.5 units horizontal (66.7% slope)
    - 2. A fill less than 1 foot (305 mm) in depth and placed on natural terrain with a slope flatter than 1 unit vertical to 5 units horizontal (20% slope), or less than 3 feet (914 millimeters) in depth, not intended to support structures, that does not exceed 50 cubic yards (38.3 cubic millimeters) on any one lot and does not obstruct a drainage.
- \*\*2. A notation shall be placed on the Parcel Map stating that, "Future development of buildings, building sites, access roads or driveways may be subject to the grading requirements and drainage control measures identified in condition number 1 of the subdivision."
- \*\*3. A note shall appear on the Parcel Map that the access road, driveway and interior circulation routes be maintained in such a manner as to insure minimum dust generation subject to Air Quality Management District Regulation 1 Rule 430.
- \*\*4. All roads shall be covered with an impermeable sealant or rocked at a bare minimum. Any rock material used for surfacing, including rock from onsite sources, must comply with Regulations regarding asbestos content.
- \*\*5. The subdivider shall submit to the Department of Planning and Building Services an Exhibit Map Final Map defining the 50 foot buffer from all rare plant communities in accordance with the Botanical Survey prepared by Asa Spade, dated October 2010. The Exhibit Map Final Map shall include the following notations:
  - a. No development shall be allowed within the 50 foot buffer areas as delineated on the Exhibit Map as found on file in the Department of Planning and Building Services.
  - b. High visibility fencing shall be placed outside the buffer areas prior to any new construction and shall remain in place until construction is complete. No construction personnel or equipment shall enter beyond the fenced area.
- \*\*6. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$2,094.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to February 4, 2011 (Within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has "no effect" on the environment. If the project is

appealed, the Department of Planning and Building Services will hold the payment until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

- \*\*7. A note shall appear on the Parcel Map that: "All future external lighting, whether installed for security, safety or landscape design purposes, shall be shielded, downcast or shall be positioned in a manner that will not shine or allow light glare to exceed the boundaries of the parcel on which it is placed."
- \*\*8. If a Parcel Map is filed, all easements of record shall be shown on the parcel map. All utility lines shall be shown as easements with widths as shown of record or a minimum of ten (10) feet, whichever is greater.
- \*\*9. If approval of the tentative map is conditioned upon certain improvements being made by the subdivider, the subdivider shall notify the Mendocino County Department of Transportation when such improvements have been completed.
- \*\*10. The subdivider shall comply with those recommendations in the California Department of Forestry (Cal-Fire) letter of June 23, 2010 (CDF# 206-10) or other alternatives as deemed to be acceptable to CalFire. Written verification shall be submitted from Cal-Fire to the Department of Planning and Building Services that this condition has been met to the satisfaction of Cal-Fire.
- \*\*11. The applicant shall submit to the Division of Environmental Health an acceptable site evaluation report (DEH FORM # 42.04) for parcels 1 and 2 completed by a qualified individual demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan Policy for On-site Waste Treatment and Disposal and Mendocino County Division of Environmental Health's "Land Division Requirements" (DEH FORM # 26.09).
- \*\*12. The applicant shall submit to the Division of Environmental Health an acceptable site development plan at a scale of not more than 1 inch = 50 feet showing all adjacent parcels on one sheet completed by a qualified individual showing the location and dimensions of the initial sewage disposal system(s), 100% replacement area(s), acceptable setback distances to water wells and other pertinent setback distances which may impact project site development.
- \*\*13. The applicant shall submit to the Division of Environmental Health an acceptable water quantity evaluation (DEH FORM # 26.05) completed by a qualified individual of a water source located on parcel 1 of the subdivision demonstrating an adequate water supply in compliance with the Division of Environmental Health's Land Division Requirements (DEH FORM # 26.05).
- \*\*14. The applicant shall submit to the Division of Environmental Health an acceptable standard mineral analysis performed by a certified public health laboratory from a source of water on the subdivision.
- \*\*15. A note shall appear on the Parcel Map that in the event that archeological resources are encountered during development of the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
- \*\*16. All areas subject to flooding shall be clearly identified on the parcel map. The information on the parcel map shall be based on a Federal Emergency Management Agency flood map. The flood map, using data developed by the Federal Emergency Management Agency, shall clearly identify the magnitude of the flood potential as such relates to the subdivision. A reference to the report shall be made on the parcel map. A note shall appear on the parcel map that "Development within the flood plain as identified on this map, is subject to those restrictions in the Flood Plain Regulations of the Mendocino County Code.
- \*\*17. A note shall appear on the parcel map that "No toxic, hazardous or contaminated materials or waste shall be stored in a designated buffer area or clearly identified flood plain or floodway."
- 18. Pursuant to Government Code Section 66492 & 66493, prior to recordation of the Parcel Map the subdivider must: (1) Obtain a Certificate from the Mendocino County Tax Collector stating that all current

taxes and any delinquent taxes have been paid and; (2) Pay a security deposit (or bond) for taxes that are a lien, but not yet due and payable.

ALL CONDITIONS OF APPROVAL MUST BE MET PRIOR TO EXPIRATION OF TWENTY-FOUR (24) MONTHS FROM DATE OF APPROVAL, UNLESS RENEWED PURSUANT TO THE MENDOCINO COUNTY CODE.

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THIS DIVISION OF LAND IS DEEMED COMPLETE WHEN ALL CONDITIONS HAVE BEEN MET, AND THE COUNTY RECORDER RECORDS THE APPROVED PARCEL MAP.

AYES: Little, Calvert, Nelson Warner, Holtkamp, Hall, Ogle  
NOES: None  
ABSENT: None

**5. Matters from Staff.**

There were no matters from staff.

**6. Matters from Commission.**

Commissioner Ogle asked if a tentative UVAP schedule had been developed.

Mr. Gonzalez commented that a flow chart had been provided to the Commission in December, but the special meeting on February 10, 2011 would not be possible, thus the first UVAP meeting would be on February 17, 2011. He noted the goal was to have the UVAP adopted before the end of the fiscal year.

Commissioner Hall asked when the Draft EIR would be available.

Mr. Gonzalez stated he hoped to have the EIR to the Commission the first week of February.

Commissioner Holtkamp asked if public comment would be taken during the February 17, 2011 Planning Commission meeting.

Mr. Gonzalez noted the Commission would be taking testimony on the Draft EIR, then examining the land use changes, and finally the UVAP document itself.

Commissioner Ogle discussed a recent article in the Press Democrat where Cities and Counties were stopping the requirements for low income housing to be provided with market rate homes.

Commissioner Holtkamp noted that the County did not have funds to send Planning Commissioners to various conferences, but if the information was available online or by CD, she would be interested in receiving it, especially in regards to climate change.

Mr. Gonzalez said he would look into the availability of CD's and also ask if any speakers would travel to Mendocino County for a presentation.

Commissioner Ogle asked the status of the committee to update the Wireless Guidelines.

Mr. Gonzalez noted that project had been put on hold until the Chief Planner was hired and he would pass the project off to Roger to finish.

**7. Approval of Minutes.**

Commissioner Warner and Commissioner Calvert submitted correction to the December 16, 2010 Planning Commission minutes by email.

Upon motion by Commissioner Holtkamp, seconded by Commissioner Hall and carried by a voice vote of (6-0) with Commissioner Ogle abstaining, the December 16, 2010 Planning Commission Minutes are approved as corrected.

**8. Matters from Public.**

No one was present from the public who indicated a desire to address the Commission.

**9. Adjournment.**

Upon motion by Commissioner Calvert, seconded by Commissioner Hall, and unanimously carried (7-0), IT IS ORDERED that the Planning Commission hearing adjourn at 1:56 p.m.