

1 **NEVADA COUNTY PLANNING COMMISSION**
2 **NEVADA COUNTY, CALIFORNIA**

3
4 **MINUTES** of the meeting of April 23, 2020, 1:30 p.m., Board Chambers, Eric Rood
5 Administration Center, 950 Maidu Avenue, Nevada City, California
6

7
8 **MEMBERS PRESENT** Chair Aguilar, Commissioners Coleman-Hunt, Duncan, Johansen
9

10 **MEMBERS ABSENT:**

11
12 **STAFF PRESENT:** Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy
13 County Counsel, Rhetta VanderPloeg; Agricultural Commissioner, Chris de Nijs; Assistant
14 Planner, Amanda Nolan; Associate Planner, Janeane Martin; Senior Planner, Matt Kelley;
15 Administrative Assistant, Shannon Paulus.
16

17
18 **PUBLIC HEARINGS:**

- 19
- 20 1. Pfadt Map Amendment Page 2, Line 54
21 AAM19-0003; MGT19-0034
 - 22 2. Mcdermott TPZ Rezone Page 9, Line 436
23 PLN20-0016; RZN20-0002
 - 24 3. Backyard Chickens Ordinance Amendment Page 11, Line 539
25 PLN20-0032; ORD20-1
 - 26 4. Nevada County 2019 Housing Element Annual Progress Report Page 14, Line 678
27

28 **STANDING ORDERS:** Salute to the Flag - Roll Call - Corrections to Agenda.
29

30 **CALL MEETING TO ORDER:** The meeting was called to order at 1:31 p.m. Roll call was
31 taken.
32

33 **CHANGES TO AGENDA:** None
34

35 **PUBLIC COMMENT:** Members of the public shall be allowed to address the Commission on
36 items not appearing on the agenda which are of interest to the public and are within the subject
37 matter jurisdiction of the Planning Commission, provided that no action shall be taken unless
38 otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code. None.
39

40 **COMMISSION BUSINESS:** None.
41

42 **CONSENT ITEMS:**

- 43
- 44 1. PLN20-0056; EXT20-0001: Extension of Time for John Barleycorn Investors , LLC
45 and Neal Street Investors Industrial Building Amendment to an Approved Permit
46 (AAP17-0002; DP07-002; U07-004).
 - 47 2. Acceptance of 2020-02-13 Planning Commission Hearing Minutes.
48

49 **Motion** to approve Consent items by Commissioner Duncan; **second** by Commissioner Johansen
50 **Motion carried on a voice vote 4/0.**

51
52 **PUBLIC HEARING:**

53
54 **AAM19-0003; MGT19-0034: PROJECT DESCRIPTION:** A request for an Amended Map to amend
55 the Hidden Glen map recorded in Book 7 of Subdivisions at Page 108 on October 4, 1990 to amend the
56 location of the riparian area and the open space easement shown on Lot 7 only. In addition the project
57 includes the consideration of a Biological Management Plan to allow for the encroachment within the
58 seasonal stream and riparian area setback to allow grading to within 15-feet of the resource. **LOCATION:**
59 11637 Jodette Lane at the corner of Jodette Lane and Rattlesnake Road, near the intersection of State
60 Highway 174. **APN:** 022-010-026. **RECOMMENDED ENVIRONMENTAL DETERMINATION:**
61 Categorical Exempt pursuant to CEQA Guidelines Sections (153061(b)(3) and 15305).
62 **RECOMMENDED PROJECT ACTION:** Approval of the Management Plan and Map Amendment.
63 **PLANNER:** Amanda Nolan, Assistant Planner

64
65 Assistant Planner Amanda Nolan introduced herself and project representative Rob Wood of Millennium
66 Planning and Engineering to the Commission.

67
68 County Counsel Rhetta VanderPloeg stated that there was a delay in receiving comments through
69 the teleconference interface and suggested that the Commission allow extra time for the public's
70 comment to be received.

71
72 Chair Aguilar stated absolutely. He added that because of the teleconference situation that they
73 would be flexible with the public comment period.

74
75 Commissioner Duncan stated that her screen was displaying an error and she was unable to see the
76 presentation. She asked if the other Commissioners were able to see the presentation.

77
78 Commissioner Coleman-Hunt answered that she was able to see the presentation.

79
80 Commissioner Johansen stated he was able to see it.

81
82 Chair Aguilar affirmed that he could also see the presentation. He asked if it was possible her
83 device was not powerful enough. He added that if she had a smartphone, she could view it that
84 way.

85
86 Commissioner Duncan said she would do that. She verified that it was a PowerPoint presentation.

87
88 Chair Aguilar said that the Commission could wait while she loaded the program onto her smart
89 phone.

90
91 Commissioner Duncan answered that she was good.

92
93 Chair Aguilar asked Planner Nolan to continue.

94
95 Planner Nolan began her presentation. She reviewed the location of the property and the
96 background of the map that was being amended, including the original Mitigated Negative
97 Declaration. She reviewed characteristics of the map such as the location of the riparian area. She
98 went over details of the new project which would encroach into the open space easement and

99 setback to riparian area and noted that the map that was submitted for the Management Plan did
100 not depict the open space easement and location of Little Wolf Creek as it was shown on the
101 subdivision map. She stated that during a field survey by Biologist Greg Matuzak that it was
102 evident that the location of Little Wolf Creek and the associated riparian zone was different than
103 how it was depicted on the subdivision map. She added that a topographic and boundary survey
104 was completed by Nelson Engineering to accurately locate the flow line of the seasonal stream and
105 limits to the riparian zone. She said that the original Mitigated Negative Declaration did identify
106 potentially significant impacts associated with biological resources, and that mitigation measures
107 had been included to have development occur outside of environmentally sensitive areas. She
108 stated that the purpose of the amendment was to map the resource correctly as determined by a
109 qualified biologist. She reviewed the Conditions of Approval and Land Use Compatibility, and
110 ended her presentation with Staff Recommendations to find the project categorically exempt
111 pursuant to CEQA Sections 15061(b)(3) and 15305, find that the original Mitigated Negative
112 Declaration is adequate pursuant to 15162, approve the Management Plan to allow encroachment
113 within 15-feet of a resource, and to approve the Map Amendment to allow correction of the riparian
114 zone to the actual location on the site subject to the Conditions of Approval. She offered to answer
115 any questions the Commission had.

116

117 Chair Aguilar asked for any questions of staff.

118

119 Commissioner Coleman-Hunt asked if any public comments had been received on the report.

120

121 Planner Nolan answered that no public comments had been received on the report.

122

123 Commissioner Coleman-Hunt asked if it had been circulated sufficiently.

124

125 Planner Nolan answered yes, the project had been circulated as normal.

126

127 Chair Aguilar asked if Commissioner Coleman-Hunt was concerned about the neighbors within
128 300 feet being notified of the project.

129

130 Commissioner Coleman-Hunt answered that she was concerned that no watershed groups had been
131 consulted and that they were not included in the references made by the biologist. She stated that
132 Grass Valley had a group specifically for Wolf Creek that knew it very well. She wanted to ask
133 the applicant if comment had been solicited from them.

134

135 Planner Nolan stated that the Initial Distribution of the project was sent to the organization for
136 Wolf Creek, she verified that they had not provided comment.

137

138 Chair Aguilar asked for any further questions.

139

140 Commissioner Johansen supported Commissioner Coleman-Hunt, stating he believed it was
141 important to consider how this would affect Little Wolf Creek.

142

143 Commissioner Duncan asked if he was suggesting that the survey and other information provided
144 was not adequate.

145

146 Commissioner Johansen answered that he wasn't saying that, he said that these were unusual times
147 and that normally we would have received comment on something that effected Little Wolf Creek.

148
149 Commissioner Duncan stated that traditionally staff had a list of concerned parties which they were
150 required to advertise to. She said that staff followed normal procedure and asked if they were
151 suggesting that the groups did not receive the information necessary to consider the project.

152
153 Commissioner Johansen said he did not have the answer to that, however he would have liked to
154 have seen something.

155
156 Commissioner Duncan clarified that he would have liked to have seen some response from the
157 public.

158
159 Commissioner Johansen answered yes, some input.

160
161 Commissioner Duncan said maybe Planner Nolan could review who the outreach went to.

162
163 Planner Nolan stated that both project submittal for the Management Plan was in October while
164 the Map Amendment was in December and routed as normal. The project had intended to go before
165 the Planning Commission last month, however that hearing was cancelled due to the COVID-19
166 Pandemic and the associated shutdowns. The project was routed as normal as it was before the
167 shutdowns we are currently experiencing.

168
169 Commissioner Duncan clarified that the project was routed before the distraction we are
170 experiencing and was only extended because of the distraction.

171
172 Planner Nolan answered that was correct.

173
174 Commissioner Duncan asked Commissioner Coleman-Hunt if she was uncomfortable considering
175 the item.

176
177 Commissioner Coleman-Hunt answered she was not comfortable considering the item because of
178 the lack of input from the watershed communities. She understood that they did not respond to the
179 standard process. She said she would be more comfortable if she had seen in the applicant's
180 package that they had been included as a reference, which they were not. She stated that there were
181 things in the report which she did not agree with, and she would have liked to hear from the
182 watershed groups to satisfy her interest. She added that she had significant concern that she did
183 not have adequate information to adequately review the project.

184
185 Commissioner Duncan asked Planner Nolan if the watershed groups had been included in the
186 distribution.

187
188 Planner Nolan answered yes

189
190 Chair Aguilar asked for further questions, as none were forthcoming, he asked Planner Nolan to
191 introduce the project representative.

192
193 Rob Wood with Millennium Planning and Engineering introduced himself to the Commission,
194 stating he was representing Dave and Rachael Pfadt. He clarified that an uplands area existed on a
195 big portion of the applicant's property which was where they wanted to do a grading plan to park
196 a trailer and boat. They submitted a grading plan as well as a management plan because they knew

197 they were within 50 feet of Little Wolf Creek. He stated that the biologist mapped the riparian area
198 and determined that they could be within the 50-foot area with proper mitigation as outlined in the
199 management plan. It became clear that the creek had been mapped differently on the original map
200 that was approved in 1990. Nelson Engineering came out and did a survey of the site and found
201 that the creek ran basically parallel with Jodette Lane. They had a biologist come out and verify
202 the location of the riparian area was correct with the new survey, which was how they came up
203 with the new riparian line which differed significantly from the 1990 map. He stated that they were
204 confident that the information was accurate and that the project was routed to the proper agencies
205 which were given time to comment. He said he was happy to answer any questions.

206

207 Chair Aguilar asked for any questions.

208

209 Commissioner Coleman-Hunt asked if he had directly consulted with any of the watershed groups.
210 She stated that they had done significant mapping of Little Wolf Creek and all its tributaries over
211 the last 30 years. She stated that creeks change their banks and that we were in a period of climate
212 change in which creeks would continue to change. She said that we do have the benefit of local
213 groups that had been monitoring the activity and performance of the creek over many years and
214 she did not see anything in the application which reflected that, nor did she see anything in the
215 application discussing climate change or how these creeks perform in the last few years,
216 particularly in times of significant climate events. She said that the creek could meander back to
217 its original bank and that she did not believe that what was on the map would be permanent either.
218 She said she was uncomfortable with the assessment of the location of the creek today and that
219 more information was not provided regarding the potential for it to meander further. She further
220 stated that she did not believe that Little Wolf Creek was a seasonal creek and wondered if that
221 designation had been picked up by some old literature. She said that the watershed groups had the
222 science and she would have liked them to have been consulted in the process.

223

224 Mr. Wood answered that he felt they did everything per the County Zoning Ordinance, they had a
225 professional surveyor accurately locate the location of the centerline of the creek, and they had
226 used a biologist from Nevada County's approved list. He understood that there could be different
227 definitions of a seasonal creek versus perennial. When they had viewed the site in October no
228 water was flowing in the creek and it was completely dry. He felt that if it was seasonal or perennial
229 was irrelevant because the setback for a perennial stream was 100-feet while for a seasonal creek
230 it was 50-feet. He said regardless of the distance they would have gone through the same process
231 and done a management plan with a professional biologist to properly mitigate for being in that
232 setback. He said that the riparian vegetation was defined to the banks of the creek, and the area
233 which they intended to work in was upland vegetation with no riparian vegetation present as
234 identified in the Management Plans. He believed that he had worked with all the necessary
235 professionals, and that the project was properly routed by the County.

236

237 Chair Aguilar said that he knew Little Wolf Creek, he grew up next to it. He said that once you
238 passed Empire Mine by South Auburn Street the creek ran all year. He said that at that point it was
239 picking up a lot of water from the mine, however before that point he wasn't sure how much water
240 it would have, he could believe it to be seasonal. He asked for any additional questions of the
241 applicant.

242

243 Chair Aguilar opened public comment at 2:02 p.m. and asked staff if any comment had been
244 received.

245

246 Clerk Paulus answered that at that time we had not received any public comment.
247
248 Commissioner Duncan asked that public comment be left open for a moment.
249
250 Chair Aguilar answered they could leave public comment open for a minute or so. He added that
251 the project was in his District and he wanted someone other than himself to make the motion.
252
253 Commissioner Duncan said that she thought Commissioner Johansen was ready.
254
255 Planner Nolan said that the Initial Distribution for the Management Plan went out October 17,
256 2019 and it had been routed to US Fish and Wildlife, California Fish and Wildlife, California
257 Native Plant Society - Redbud, as well as the Wolf Creek Community Alliance. She added that the
258 Map Amendment was routed January 2, 2020 and went to US Fish and Wildlife, California Fish
259 and Wildlife, California Native Plant Society – Redbud and Wolf Creek Community Alliance.
260
261 Chair Aguilar said okay. He asked if any public comment had been made.
262
263 Clerk Paulus answered that no comment had been received at that time.
264
265 Chair Aguilar closed the public hearing at 2:05 p.m.
266
267 Chair Aguilar asked for any additional questions or if the applicant wanted to add anything.
268
269 Commissioner Duncan asked Commissioner Coleman-Hunt if she had any further questions after
270 hearing the Initial Distribution list.
271
272 Commissioner Coleman-Hunt answered that she was concerned about changing the requirements
273 for development within the setback which was one of the proposed motions. She said she didn't
274 understand why they would allow a variance or approve that.
275
276 Commissioner Duncan said that sometimes they revisited applications to be approved. She asked
277 if Rob Wood would weigh in.
278
279 Mr. Wood said that this was a classic example of something that was mapped incorrectly, and that
280 this was an opportunity to correct the map. He said the creek had been that way for the last 25
281 years, and that the streambed hadn't changed. He said that this was the County's process to correct
282 an error, by doing an amended map or certificate of correction. He said this was not uncommon,
283 and when one builds within the 100-foot setback of a riparian area or creek it required mitigation,
284 which involved doing a management plan. He said that they had done everything per the County's
285 ordinance, this was not uncommon, and that this was the proper process.
286
287 Chair Aguilar thanked Mr. Wood and asked for any other questions or comments.
288
289 Commissioner Johansen stated that he was not ready to vote on the project today, and that he was
290 not ready to say it was a bad project either.
291
292 Chair Aguilar asked for his main concern.
293
294 Commissioner Johansen said he would like to see more information.

295
296 Chair Aguilar asked what specific information he would like to see.
297
298 Commissioner Johansen answered that he had not visited the site because of the COVID lockdown.
299 He felt that he needed to go there and see more of the information that Commissioner Coleman-
300 Hunt was requesting.
301
302 Chair Aguilar stated that they had a few options. One being to call for a vote which had the
303 potential to be a 2/2, which would be an automatic denial. The other option was to postpone the
304 project. He asked if the consultant would be okay with postponing the project and coming back
305 with more information.
306
307 Commissioner Duncan stated that postponement was an expensive proposition for the applicants
308 and that this project had been going on for quite a while. She said there was a certain expectation
309 that applications be processed in a reasonable amount of time. She said that if they were going to
310 postpone the project then they needed to provide proper guidance about what additional
311 information the Commission felt was necessary to be able to arrive at a decision. She said she was
312 assuming the additional information they were requesting would not result in a yes or no answer,
313 they just wanted more information.
314
315 Commissioner Johansen answered that was correct. He clarified that they were discussing parking
316 pads for an RV and boat.
317
318 Chair Aguilar said that was correct.
319
320 Commissioner Johansen said it was also an intrusion into the creek.
321
322 Chair Aguilar said that the decision he needed to make was if he needed to go out there or if he
323 would believe the report that that creek was mapped in the wrong place. He said that the other
324 option was to take a vote, and if it didn't pass then the applicant could appeal the decision to the
325 Board of Supervisors.
326
327 Commissioner Duncan asked for staff to weigh in.
328
329 Planning Director Brian Foss said that this was the process to encroach into a setback of a sensitive
330 resource. He said that the department generally saw a few dozen management plans a year, and
331 that they were generally approved at a staff level. He said that the only reason this one had come
332 before the Planning Commission was because it was associated with an Amended Map. He said
333 that management plans were very frequently handled at staff level, and that it was common practice
334 to rely on the biologist for their expertise if they were on the approved list. He added that they
335 apply mitigation measures to assure that the same practical effect of the setback was being
336 achieved. He said that best practices had been identified in the management plan to insure runoff
337 did not occur and that Little Wolf Creek would be protected from the proposed project. He added
338 that these were not unique or rare, and that staff saw management plans quite frequently. He said
339 that Nevada County had a lot of natural resources, and sometimes they were not mapped correctly
340 or changed. He finished by saying that this was the process to see if some encroachment could
341 occur in a one size fits all setback.
342

343 Chair Aguilar said that he understood the process better now. It sounded as though the County
344 depended on professionals to give us the map which the County doesn't necessarily check. If
345 something is done in error, then we depend on professionals to correct it. He thanked Director Foss
346 and asked for any additional questions.

347
348 Commissioner Duncan asked Director Foss what his recommendation would be, considering the
349 choices that Chair Aguilar lined out regarding potential postponement, voting, and the possibility
350 of an appeal.

351
352 Commissioner Coleman-Hunt clarified what information she would like to see. She said that a
353 delay had the potential to help her understand the project better, she wanted to hear from the
354 watershed groups and take a look at the project site. She said she was concerned about changing a
355 map of where a creek was located. She said that creeks did change their course over time, and the
356 creek had the potential to change again. She said this had the potential to damage the property
357 owners investment in development. She said that the information of what was going on in the creek
358 was not outlined in the report. She said that we were in an era of climate change and it was
359 important to recognize that what has happened in the creek historically did not necessarily reflect
360 what would happen in the future. She wanted more information from the experts about the
361 watershed performance before she would approve changing a creek on a map.

362
363 Chair Aguilar asked Director Foss to answer Commissioner Duncans question.

364
365 Director Foss answered that the options would be to table the item to allow for more time and
366 mentioned that a fifth Commissioner would be joining the Commission shortly who would be able
367 to break a tie. He confirmed that a 2/2 vote would result in a denial which the applicant could
368 appeal. He said that the information provided in the Management Plan was the typical level of
369 information the department would receive for a biological report, and that they typically did not
370 discuss climate change or information about where a creek may end up in the next 30 years. He
371 added it was more of a protection of the resource as it was currently. He said if the applicant was
372 willing to wait 30 days then the Commission would have another member which would decrease
373 the likelihood of a split vote.

374
375 Commissioner Duncan said that the onus on the Commissioner-to-be would be that they would
376 have to listen to this meeting.

377
378 Director Foss answered that was correct, the Commissioner would need to watch the proceedings
379 to participate.

380
381 Commissioner Duncan asked if it was staff's recommendation to move forward with the vote.

382
383 Director Foss answered that was staff's recommendation. He asked Mr. Wood to weigh in on
384 whether the applicant would prefer to go ahead with the potential of an appeal or if they would
385 like to spend some extra time on the project.

386
387 Chair Aguilar said that it looked like the applicant would either be denied and then he could appeal
388 to the Board of Supervisors, or they could wait a month.

389
390 Mr. Wood answered that if more information was needed in order to affect a positive outcome he
391 would normally agree, however in this instance there was no additional information that could be

392 gathered. They already did everything per the code. He said the applicant had waited 7 months to
393 get to hearing and it has cost them a lot of money for two surveys, a biological management plan,
394 grading plans and mapping. He said if the Commission denied the project then they would appeal
395 it to the Board of Supervisors. He did not feel that any additional information would sway certain
396 commissioners to a more positive vote and reiterated that the applicant used professionals during
397 the process, including a surveyor who accurately located the existing center line of the creek. He
398 said the creek was not going to move, it was very well defined. He wished that the Commissioners
399 would have been able to drive by the site because it was clearly obvious. He said he did not know
400 if the creek was always as it is now, or if it was rerouted when the subdivision was created, but the
401 creek had remained in the same location for the last 25 years. The applicant was only asking to
402 correct the map so he could utilize a portion of his property. He added it was very easy to identify
403 where the riparian area was, and that historically the area was heavily treed which made it more
404 difficult to see. With PG&E doing extensive clearing around their power lines it made it very clear
405 where the creek and riparian vegetation was. He said unless there was specific information that the
406 Commission was requesting, he was inclined to go to a vote and appeal if necessary.

407
408 Chair Aguilar said that he viewed this as a minor correction. He said that Nelson Engineering, who
409 worked on the project was very dependable and honest, and that he believed their report. He
410 believed that the hope was to take the project before the watershed group, which he did not feel
411 would provide any additional information to change his mind. He called for a vote and asked for
412 any motions, for or against the project.

413
414 **Motion by Commissioner Duncan** to find the project Categorical Exempt from California
415 Environmental Quality Act (CEQA) Guidelines pursuant to §15061(b)(3) and §15305 and that the
416 original Mitigated Negative Declaration (EIS89-120) remains an adequate environmental review
417 for the approval of this project (AAM19-0003), pursuant to §15162. **Second by Chair Aguilar.**
418 **Motion carried on a roll call vote 3/1 (Commissioner Coleman-Hunt voted no).**

419
420 **Motion by Commissioner Duncan** to approve Management Plan (MGT19-0034), provided as
421 Attachment 3 to allow for encroachment within the seasonal stream and riparian area setback to
422 allow grading within 15-feet of the resource, making the following Findings A-B pursuant to
423 LUDC Section L-II 4.3.3.C and Section L-II 4.3.17. **Second by Chair Aguilar. Motion carried**
424 **on a roll call vote 2/1 (Commissioner Coleman-Hunt voted no. Commissioner Johansen**
425 **abstained).**

426
427 **Motion by Commissioner Duncan** After reviewing and considering the proposed Amended Map
428 application (AAM19-0003), approve the amended map, shown in Attachment 5, subject to the
429 Recording of an Amended Map or Certificate of Correction for Lot 7 as recorded in Book 7 of
430 Subdivisions at Page 108, pursuant to the amended conditions shown in Attachment 1 and making
431 findings A-G. **Second by Chair Aguilar. Motion carried on a roll call vote 3/1. (Commissioner**
432 **Coleman-Hunt voted no)**

433
434 Chair Aguilar noted there was a 10-day appeal period.

435
436 **PLN20-0016; RZN20-0002: PROJECT DESCRIPTION:** A request to the Planning Commission to
437 rezone property from FR-X, Forest with the Subdivision Limitation Combining District, to TPZ-X
438 Timberland Production Zone, with the Subdivision Limitation Combining District. **LOCATION:** 22100
439 Banner Quaker Hill, approximately 10 miles east of Nevada City. **APN:** 065-270-003. **RECOMMENDED**
440 **ENVIRONMENTAL DETERMINATION:** Recommend that the Board of Supervisors find that the
441 adoption of timberland preserve zones is statutorily exempt from the requirement to prepare an EIR or

442 Negative Declaration pursuant to Section 15264 of the California Environmental Quality Act (CEQA)
443 Guidelines. **RECOMMENDED PROJECT ACTION:** Recommend that the Board of Supervisors adopt
444 the Ordinance amending Zoning District Map (ZDM) #87 to rezone APN: 065-270-003 from Forest with
445 the Subdivision Limitation Combining District (FR-X) to Timberland Production Zone with the
446 Subdivision Limitation Combining District (TPZ-X), based on the findings contained with the Ordinance.
447 **PLANNER:** Janeane Martin, Associate Planner
448

449 Associate Planner Janeane Martin introduced herself and Applicant Dr. Brent McDermott to the
450 Planning Commission. She discussed the location of the parcel, its current zoning and its potential
451 allowable uses. She said that the applicant was requesting to change the parcels' zoning
452 designation to Timberland Production Zoning (TPZ). She reviewed the history of the TPZ
453 designation and its purpose. She said that it was a more restrictive zoning than Forest, because it
454 was meant for the growing and harvesting of timber. She discussed the criteria that had to be met
455 in order to consider a property for TPZ zoning, and the applicants' forest management plan. She
456 explained the incentive for placing a property into the more restrictive zoning was that property
457 would be assessed and taxed at a lower annual rate, which would be balanced by the collection of
458 taxes later from timber harvest sales. She reviewed the classification of the site, and the estimated
459 property taxes should the rezone be approved. She discussed the benefits the County would
460 receive, including maintaining the character of the forest, and maintaining forest health with
461 positive environmental impacts such as air quality, watershed health, and the health of any
462 dependent plant and animal species. She discussed the compatibility of the TPZ zoning district
463 with the General Plan, adding that the rezone was consistent with several goals and policies of the
464 General Plan. She concluded her presentation with Staff's recommendation that the Planning
465 Commission recommend to the Board of Supervisors that the Board find the project statutorily
466 exempt from CEQA, and that the Board adopt the Ordinance to Amend the Zoning District Map
467 to rezone APN 065-270-003 from FR-X to TPZ-X. She offered to answer any questions.
468

469 Chair Aguilar asked for any questions of staff.
470

471 Commissioner Johansen asked for clarification that TPZ was more restrictive zoning and asked
472 how difficult the process would be to change the zoning back in the future.
473

474 Planner Martin answered that Forest zoning included more potentially allowable uses than TPZ
475 zoning. Both allowed for a single-family home and a second unit, however things like social event
476 facilities, wineries, kennels, and a variety of agritourism activities would not be permitted in TPZ
477 though they could be possible in Forest zoned property. She said this was intended to ensure that
478 the TPZ zone remained for timber production and management.
479

480 Commissioner Johansen asked if it was difficult to change it to another zoning from TPZ.
481

482 Planner Martin answered that it was a 10-year process. In order to get out of TPZ zoning, a property
483 owner would have to request that they be removed from it and the request would go to a public
484 hearing. If approved by the Board of Supervisors, the taxes would ramp up over the next 10 years
485 until back to the standard amount. If an owner wanted instant removal from TPZ, the Board of
486 Supervisors would have to make a finding of a 4/5 vote, the rezoning would have to be in the
487 public's interest, and it could not have a substantial unmitigated adverse effect on timber growing
488 and uses of adjacent land.
489

490 Commissioner Johansen thanked her for her answer.
491

492 Chair Aguilar asked for other questions of staff.

493

494 Chair Aguilar asked if it would be permissible for an owner to camp on TPZ lands or if it was strictly
495 for harvest.

496

497 Planner Martin answered that an owner could still do that, however they did have certain timelines
498 in which a property owner could camp on the property. She asked if that was what he was asking.

499

500 Chair Aguilar answered yes, that was what he was asking. He said beyond that the zoning sounded
501 pretty restrictive.

502

503 Planner Martin answered yes, it was fairly restrictive. She said the goal would be to eliminate any
504 activities that would necessitate the clearing of trees.

505

506 Chair Aguilar asked for other questions of staff and asked if the applicant wanted to add anything.

507

508 Planner Martin answered that Dr. McDermott had been listening to the Public Hearing and she
509 was in contact with him via a phone connection. She stated that he responded that he had nothing
510 to add.

511

512 Chair Aguilar opened public comment at 2:44 p.m. and asked if any comment had been made so
513 far. He stated that they would leave comment open for a moment.

514

515 Chair Aguilar closed the public hearing at 2:45 p.m.

516

517 Chair Aguilar asked for further questions or for a motion, adding that the project was in District
518 V.

519

520 Commissioner Coleman-Hunt stated that she was very familiar with the property and that she had
521 walked a significant portion of this forest. She said the applicant had done an exceptionally good
522 job of managing the forest and was a good example of how private landowners could manage their
523 forest. She was encouraged to see the applicant come to the Commission with this request.

524

525 Chair Aguilar thanked Commissioner Coleman-Hunt for that comment. He asked for any motions.

526

527 **Motion by Commissioner Coleman-Hunt** to recommend that the Board of Supervisors find the
528 adoption of timberland preserve zones statutorily exempt from the requirement to prepare an EIR
529 or Negative Declaration pursuant to Section 15264 of the CEQA Guidelines. **Second by**
530 **Commissioner Johansen. Motion carried on a roll call vote 4/0.**

531

532 **Motion by Commissioner Coleman-Hunt** to recommend that the Board of Supervisors adopt the
533 attached Ordinance amending Zoning District Map (ZDM) Number 87 to rezone APN: 065-270-
534 003 from Forest with the Subdivision Limitation Combining District (FR-X) to Timberland
535 Production Zone with the Subdivision Limitation Combining District (TPZ-X), based on the
536 findings contained with the Ordinance (*Attachment 1*). **Second by Commissioner Johansen.**
537 **Motion carried on a roll call vote 4/0.**

538

539 **PLN20-0032; ORD20-1.** A Public Hearing to consider a recommendation to the Board of
540 Supervisors to adopt an Ordinance (ORD20-1) for text amendments to Section L-II 3.4 of Chapter

541 II Zoning Regulations and to add Section L-II 3.4.1 to Chapter II Zoning Regulations of the Land
542 Use and Development Code to allow a limited number of backyard chickens in R1 and RA zoning
543 districts. The amendments would allow between 4 and 12 backyard chickens in R1 and RA zone
544 districts depending on parcel size and develop standards for keeping backyard chickens in R1 and
545 RA zoning. **RECOMMENDED ENVIRONMENTAL DETERMINATION:** CEQA Statutory
546 Exemption 15061(b)(3). **PLANNER:** Brian Foss, Planning Director
547

548 Planning Director Brian Foss introduced himself and Agricultural Commissioner Chris de Nijjs to
549 the Commission and began his presentation. He stated that during the Board of Supervisors
550 Workshop in January 2020 direction had been given to Planning and the Agricultural
551 Commissioner to amend the Ordinance to allow a limited number of chickens to be kept in R1 and
552 RA zoned properties that were less than half an acre. He reviewed the current County Code and
553 the proposed changes. The proposed changes to the Ordinance would apply to RA and R1 only
554 and had a tiered scale for the number of chickens that could be kept. He reviewed the proposed
555 requirements which contained standards to protect neighborhood compatibility and address any
556 potential nuisance issues, including prohibiting roosters, guinea hens, and other exotic varieties
557 that are noisy. This would not allow commercial sale or slaughtering and would require a single-
558 family dwelling to be on site with a fenced rear yard. A coop that could be secured would also be
559 required, certain setback requirements would need to be met, feed would need to be stored in an
560 enclosed container, and manure management would be required. He reviewed the current city
561 codes allowing chickens and stated that the County was allowing more chickens because
562 traditionally the County had been more rural with larger parcels. He said that they had worked
563 with the Agricultural Commissioner and an ad hoc committee, and that the proposed ordinance
564 change had been circulated for public comment for 30 days between March 1st and March 31st; no
565 comment was received. He also stated that the project was exempt from CEQA because of the
566 limited nature of the impacts. He ended his presentation with staff's recommendation that the
567 Commission recommend that the Board of Supervisors find the project Categorically Exempt
568 pursuant to sections 15060 (c)(2), 15061(b)(3), 15308 and 15321 of CEQA and to adopt the
569 attached Ordinance (ORD20-1), amending Chapter II of the Nevada County Land Use and
570 Development Code Sections L-II 3.4 and adding L-II 3.4.1. He stated that he and Ag
571 Commissioner de Nijjs were available for any questions.
572

573 Chair Aguilar thanked Director Foss and asked of for any questions of staff.
574

575 Commissioner Johansen stated it was great to see this after so many years, and that this had
576 originally come from the Agricultural Advisory Commission as a recommendation. He asked if
577 they could increase the number of chickens allowed to.
578

579 Director Foss asked if he was specifically asking about the 12 for the 20,000 square foot parcels
580 or more.
581

582 Commissioner Johansen answered yes.
583

584 Director Foss said that there wasn't any particular number that would affect the analysis, however
585 the further away they got from the number that was noticed and the number that was determined
586 to be exempt from CEQA opened them up to challenge. He said if it was the pleasure of the
587 Commission that could be part of the recommendations to the Board.
588

589 Ag Commissioner de Nijjs said that the numbers for back yard chickens seen here did come from
590 the Agricultural Advisory Commission. He explained that the numbers proposed were to mitigate
591 any impacts to residential areas and that these chickens were to be for personal use. He said that a
592 good healthy chicken would lay about 250 eggs per year, and that 4 chickens would equate to
593 1,000 eggs a year. He stated that was an adequate number for a family that ate a lot of eggs. They
594 desired to keep the numbers as such in order to keep them as a personal use and not a commercial
595 use.

596
597 Commissioner Johansen stated that under normal times he would agree, however the world
598 forecast for food security was becoming more tenuous. He said that there was a shortage on eggs
599 at this time, and rationing was in place in supermarkets. He felt that the times required more
600 flexibility so people could feel more secure in their food supply.

601
602 Chair Aguilar asked what Commissioner Johansen was proposing instead of 4-6-12.

603
604 Commissioner Johansen said he didn't necessarily have a problem with 4 chickens in 6,000 square
605 feet but recommended 8-10 chickens in 12,000 square feet and 14-16 chickens in 20,000 square
606 feet.

607
608 Commissioner Duncan stated that the intent was to allow the two zones to legally have chickens
609 in for personal use, not commercial purposes. She said that the limitations did back that up,
610 however as Ag Commissioner de Nijjs pointed out that amount would probably supply the
611 occupants of those parcels. She asked if by adding additional chickens past the number
612 recommended by the Ag Advisory Commission, they ran into any danger of becoming a
613 commercial operation.

614
615 Director Foss answered that the based on the calculations outlined by Ag Commissioner de Nijjs,
616 the further away they moved from the amount that was outlined by the Ag Advisory Commission
617 the more questions are raised about commercial versus family use. He also clarified that they were
618 only discussing RA and R1, other rural zonings allowed for significantly more chickens to be kept
619 on site.

620
621 Chair Aguilar asked for further questions. He said that he understood what Commissioner
622 Johansen was saying, however he was inclined to go with what had been prepared by the Ag
623 Advisory Commission.

624
625 Commissioner Johansen stated that the reason the numbers were low from the Ag Advisory Commission
626 was because they were shy, and they wanted to get something in place. He said that the larger numbers had
627 been discussed at the time and the overall goal was to get something passed six years ago. He added that
628 times have changed since then, and that the demand for food was much higher and much more insecure.
629 He said if he were a neighbor to someone who had chickens that was sharing eggs with the neighborhood,
630 he would love them. He said he was in that situation, with people coming by with more eggs.

631
632 Chair Aguilar agreed and said that sharing with neighbors did not fall under commercial applications. He
633 felt that 4-8-14 was adequate and would meet the intent. He asked if the environmental document had been
634 a Negative Declaration.

635
636 Director Foss answered that it was an exemption.

637
638 Chair Aguilar asked Commissioner Duncan what her thoughts were on the 4-8-14.

639
640 Commissioner Duncan said that she had raised the question for additional information.
641
642 Commissioner Johansen said that they needed to remember that not all of those chickens would be adult
643 chickens with everyone laying. He said that out of the 14 you may have 6 that were not laying and 8 that
644 were.
645
646 Commissioner Duncan said that one could plan to buy chickens that were already laying or to bring in
647 chicks.
648
649 Commissioner Johansen answered that most people brought in chicks. He also mentioned racoons finding
650 their way in.
651
652 Chair Aguilar opened public comment at 3:08 p.m. He asked Director Foss if any comments had
653 been received.
654
655 Director Foss answered that no comments had been received.
656
657 Chair Aguilar asked if the comments came in to the meeting chat or if they were being received
658 by staff.
659
660 Clerk Paulus answered that was correct.
661
662 Chair Aguilar closed the public hearing at 3:10 p.m.
663
664 Chair Aguilar called for a motion. He added that he agreed with Commissioner Johansen regarding
665 the lack of eggs in stores and stated that the 4-8-14 would be okay with him.
666
667 Commissioner Johansen asked for the motion to be put on the screen.
668
669 **Motion by Commissioner Johansen** to recommend that the Board of Supervisors find the project
670 categorically exempt pursuant to Sections 15060 (c)(2), 15061(b)(3), 15308 and 15321. **Second**
671 **by Commissioner Coleman-Hunt. Motion carried on a roll call vote 4/0.**
672
673 **Motion by Commissioner Johansen** to recommend that the Board of Supervisors adopt the
674 attached Ordinance (ORD20-1) amending Chapter II of the Nevada County Land Use and
675 Development Code Sections L-II 3.4 and adding L-II 3.4.1. *as amended at the Public Hearing*
676 **Second by Commissioner Coleman-Hunt. Motion carried on a roll call vote 4/0.**
677
678 **NEVADA COUNTY 2019 HOUSING ELEMENT ANNUAL PROGRESS REPORT.** The Nevada
679 County Planning Commission will hold a public hearing to accept the 2019 Housing Element Annual
680 Progress Report pursuant to State of California Government Code Section 65400. State of California
681 housing law requires cities and counties to submit a prescribed Housing Element Annual Progress Report
682 by April 1 of each year. The 2019 Annual Progress Report contains a numeric and narrative review of the
683 County's achievements in implantation of Housing Element programs during calendar year 2019.
684 **PROJECT LOCATION:** Unincorporated area of Nevada County. **RECOMMENDED**
685 **ENVIRONMENTAL DETERMINATION:** Exempt pursuant to Section 15378(b)(5) of the State CEQA
686 Guidelines. **RECOMMENDED PROJECT ACTION:** Accept the 2019 Housing Element Annual
687 Progress Report. **PLANNER:** Matt Kelley, Senior Planner
688

689 Senior Planner Matt Kelley introduced himself to the Commission and began his presentation. He
690 explained that California State law required that the Housing Element Annual Reports were
691 completed as a public hearing. He explained that because of the COVID-19 Pandemic he had
692 already submitted the document to HCD for review, and he would provide them with minutes of
693 the hearing once it was complete. He reviewed the tables in the report, including building activity,
694 Regional Housing Needs Allocation Progress, the Housing Element Program Implementation
695 progress, and provided examples. He discussed public comment that had been received from the
696 Fire Chiefs Association which was concerned about verbiage on page 112 of the Housing Element
697 itself. He stated that today's project was not an opportunity to amend the Housing Element itself,
698 as that had already been passed. He did state that staff would keep the comment letter in the file
699 for consideration when the Housing Element was updated again in 2027. He ended his presentation
700 with staff recommendations that the Commission accept the annual report and direct staff to submit
701 that report to the State of California Department of Housing and Community Development and the
702 Office of Planning and Research.

703

704 Chair Aguilar asked for any questions of staff.

705

706 Commissioner Johansen stated that a study he had seen stated that every \$1 of development
707 required \$1.33 in services. He asked Planner Kelley if he had any current information on that.

708

709 Planner Kelley answered he did not.

710

711 Commissioner Johansen answered that had been a UC Davis study, and that they also said that for
712 rural areas every \$1 in only needed \$0.67 in services from the County. He asked where he could
713 find that information.

714

715 Chair Aguilar asked if he was talking about the Fire Chiefs letter.

716

717 Commissioner Johansen answered yes. He understood that they were not considering that
718 comment today, however he wanted to know for future reference.

719

720 Chair Aguilar stated that he did not believe that the meeting had been noticed in a way for that
721 type of discussion, and that they had to be careful. He asked Deputy County Counsel Rhetta
722 VanderPloeg if that was correct.

723

724 Deputy County Counsel Rhetta VanderPloeg answered that because the letter had come in late it
725 had been a courtesy to add it to the Commissioners packet to be able to address it. She also noted
726 that the County was statutorily limited on how many times they could change elements of the
727 General Plan. She said that if Commissioner Johansen had a report that he wanted to provide to
728 Planning for the file as future reference for the next update that was advisable.

729

730 Commissioner Johansen said he had read that report about 5 years ago and he would look for it.

731

732 Chair Aguilar asked for further questions or comments.

733

734 Commissioner Coleman-Hunt said that part of the data in the packet had printed very small and
735 she was unable to read it. She asked if there was anything in there she should be aware of.

736

737 Planner Kelley answered that she was looking at Table B, and in her packet should have been an
738 enlarged version. He apologized for the way the data printed and explained that it was an HCD
739 excel sheet that he was unable to manipulate, he could only input data. He explained the data that
740 was on that table.

741
742 Chair Aguilar asked for further questions.

743
744 Chair Aguilar opened public comment at 3:29 p.m. and asked if any public comment had been
745 received.

746
747 Clerk Paulus answered that no public comment had been received at that time.

748
749 Chair Aguilar didn't believe that public comment would be received on this item, as it was largely
750 a report to meet the letter of the law. He asked Planner Kelley if that was correct.

751
752 Planner Kelley affirmed that was correct.

753
754 Chair Aguilar closed the public hearing at 3:30 p.m.

755
756 Chair Aguilar asked for a motion on the recommendation.

757
758 Principal Planner Tyler Barrington stated that the action was not a recommendation to the Board
759 of Supervisors and directed him to the action on the screen.

760
761 **Motion by Commissioner Coleman-Hunt** to, after reviewing and considering the 2019 Housing
762 Element Annual Progress Report, accept the report substantially in the form attached, pursuant to
763 State of California Government Code Section 65400, and direct staff to submit the report to the
764 State of California Department of Housing and Community Development and the Office of
765 Planning and Research as shown in Attachment 1, making finding A. **Second by Chair Aguilar.**
766 **Motion carried on a roll call vote 4/0.**

767
768 Chair Aguilar asked if the item had a 10-day appeal period.

769
770 Planner Barrington answered he did not believe it had an appeal period as the report was required
771 to be submitted to the State by April 1. He said that technically the County did submit that report
772 in time. He added that the original meeting had been scheduled before that time, and they had been
773 in contact with the State regarding the change in hearing dates.

774
775 Counsel VanderPloeg agreed that there was no appeal period as it was a progress and status report.

776
777 Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

778
779 **Motion by Commissioner Duncan; second by Commissioner Johansen to adjourn. Motion**
780 **carried on voice vote 4/0.**

781
782 There being no further business to come before the Commission, the meeting was adjourned at
783 3:48 p.m. to the next meeting *tentatively* scheduled for May 14, 2020, in the Board of Supervisors
784 Chambers, 950 Maidu Avenue, Nevada City.

785

786
787
788
789
790
791
792

Passed and accepted this day of , 2020.

Brian Foss, Ex-Officio Secretary

DRAFT