

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

3
4 **MINUTES** of the meeting of August 12, 2021, 1:30 p.m., Board Chambers, Eric Rood Administration
5 Center, 950 Maidu Avenue, Nevada City, California via remote
6

7
8 **MEMBERS PRESENT:** Commissioners Duncan, Greeno, Ingram Spencer, and Mastrodonato.
9

10 **MEMBERS ABSENT:** Coleman-Hunt.
11

12 **STAFF PRESENT:** Planning Director, Brian Foss; Principal Planner, Tyler Barrington; Deputy County
13 Counsel, Rhett Vanderploeg; Associate Planner, Lucas Kannall; Senior CDA Technician, Shannon
14 Paulus; Administrative Assistant, Shelley Romriell.
15

16
17 **PUBLIC HEARINGS:**

- 18
19 1. Mena Page 1, Line 46
20 PLN21-0168; RZN21-0002
21

22 **STANDING ORDERS:** Salute to the Flag - Roll Call - Corrections to Agenda.
23

24 **CALL MEETING TO ORDER:** The meeting was called to order at 1:30 p.m. Roll call was taken.
25

26 **CHANGES TO AGENDA:** Chairman Duncan asked if there are any corrections to the agenda.
27

28 Principal Planner Tyler Barrington advised the draft minutes for the 06/24/2021 Planning Commission
29 Meeting are going to be pulled from the Consent Items as Commissioner Coleman-Hunt expressed some
30 requested changes, and once those are made, the minutes will be brought back to the Commission for
31 approval
32

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

38 **COMMISSION BUSINESS:** None
39

40 **CONSENT ITEMS:**

- 41 1. Acceptance of 2021-06-24 Planning Commission Hearing Minutes (removed from
42 consideration)
43

44 **PUBLIC HEARING:**
45

46 **PLN21-0168; RZN21-0002;** Recommendation to the Board of Supervisors to amend the zoning
47 designation of a 55.04-acre parcel (APN: 065-270-005) for timberland preservation (RZN21-0002).
48 This would result in an amendment to Zoning District Map #87 to change the parcel's zoning from
49 Forest with the Subdivision Limitation Combining District (FR-X) to Timberland Production Zone
50 with the Subdivision Limitation Combining District (TPZ-X). The project is a rezone legislative action
51 only and does not include any development or disturbance. **LOCATION:** Approximately 9-miles east
52 of the City of Nevada City, at 22765 Banner Quaker Hill Road. **APN:** 065-270-005.
53 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** CEQA Statutory Exemption

54 15264. **RECOMMENDED PROJECT ACTION:** Recommend that the Board of Supervisors adopt
55 the Ordinance amending Zoning District Map (ZDM) #87 to rezone APN: 065-270-005 from Forest
56 with the Subdivision Limitation Combining District (FR-X) to Timberland Production Zone with the
57 Subdivision Limitation Combining District (TPZ-X), based on the findings contained with the
58 Ordinance. **PLANNER:** Lucas Kannall, Associate Planner

59
60 Associate Planner Lucas Kannall introduced himself to the Commission and introduced the property
61 owner, Marcus Mena. Planner Kannall provided the location of the property which is located
62 approximately 9 miles east of the City of Nevada City on Banner Quaker Hill Road. The property is a
63 55.04 acre parcel which is currently zoned (FR-X) Forest with the Subdivision Limitation Combining
64 District, General Plan designation of Forest 160 and located on Zoning District Map 87. Planner
65 Kannall explained the surrounding parcels are all either zoned (FR-X) Forest or (TPZ) Timber Forest
66 Zoning. The existing zoning of (FR-X) Forest is meant for the protection and production of timber but
67 there are a variety of commercial and institutional uses allowable within this zoning designation. He
68 explained the property owner is requesting a change from the (FR-X) Forest with the Subdivision
69 Limitation Combining District to (TPZ-X) Timber Production Zone with the Subdivision Limitation
70 Combining District remaining in place. Planner Kannall continued to explain the County Timber
71 Production Zoning District (TPZ) was created in the 1976 Forest Taxation Reform Act, intended to
72 reduce taxes on timber production lands, to better allow the continued use of the property for timber
73 production, so that these timber lands will not be lost in development. The Timber Production Zoning
74 District (TPZ) is more restrictive than the Forest Zoning District (FR-X). Planner Kannall continued
75 to explain the differences between the two zoning districts and the criteria that must be met to qualify
76 for the Timber Production Zoning District (TPZ). Certain uses that are allowed within the (FR-X)
77 Forest Zoning District are not allowed in the Timber Production District (TPZ) such as social event
78 facilities, wineries, kennels and home businesses. Planner Kannall advised the Forest Management
79 Plan prepared by Summit Forestry Services included the required components and adequately
80 demonstrates the site is appropriate for the proposed Timber Production Zoning District (TPZ). When
81 the next harvest is proposed, the Property Owner will be required to submit a Timber Harvest Plan,
82 which is reviewed by the State Department of Forestry. Planner Kannall explained the valuation of
83 timber properties is determined by two factors; general forest type and site classification. The County
84 Assessor has determined this property is a Site 1 classification which is based on productivity potential.
85 Planner Kannall stated the rezone request is consistent with several of the goals and policies of the
86 General Plan which specifically supports the use of the Timer Production to protect our Timberlands.
87 The property is compatible with the proposed Timer Production Zoning District (TPZ), as shown by
88 the Forest Management Plan, which was prepared in accordance with the requirements and
89 demonstrates the site is capable and appropriate for commercial timber production and harvest. Planner
90 Kannall concluded his presentation and offered to answer any questions.

91
92 Chair Duncan asked if the Applicant would like to speak to the Commission. The applicant stated he
93 did not have anything to add.

94
95 Commissioner Spencer Ingram asked if the Applicant could step forward and answer a few questions.
96 Commissioner Spencer Ingram asked if there was any intent for the existing well on the property and
97 asked with the change of the zoning if it would allow for at least one residential structure to be built.

98
99 Mr. Mena advised he does not have any intensions to build on this property.

100
101 Commissioner Spencer Ingram asked if TPZ Zoning District allows for one residence to be built on
102 this property.

103

104 Planner Kannall advised the Timber production Zoning District (TPZ) does allow for one single family
105 residence and one accessory dwelling unit.
106
107 Commissioner Spencer Ingram asked if a house was built if the property taxes would be assessed based
108 on that residence.
109
110 Planner Kannall advised that was correct.
111
112 Commissioner Ingram Spencer thanked both Mr. Mena and Planner Kannall.
113
114 Chair Duncan asked if there were any further questions with none forthcoming she opened public
115 comment.
116
117 Chair Duncan opened public comment at 1:41 p.m.
118
119 Chair Duncan closed public comment at 1:41 p.m.
120
121 **Motion by Commissioner Greeno** to, approve the recommendation that the Board of Supervisors find that
122 the adoption of timberland preserve zones is statutorily exempt from the requirement to prepare an EIR or
123 Negative Declaration pursuant to Section 15264 of the California Environmental Quality Act (CEQA)
124 guidelines.
125
126 **Second by Commissioner Ingram Spencer. Motion carried on a roll call vote 4/0.** (Commissioner
127 Coleman-Hunt was absent.)
128
129 **Motion by Commissioner Greeno** to, approve the recommendation that that Board of Supervisors adopt
130 the attached Ordinance amending Zoning District Map (ZDM) #87 to rezone APN: 065-270-005 from
131 Forest with the Subdivision Limitation Combining District (FR-X) to Timberland Production Zone with
132 the Subdivision Limitation Combining District (TPZ-X), based on the findings contained with the
133 Ordinance.
134
135 **Second by Commissioner Ingram Spencer. Motion carried on a roll call vote 4/0.** (Commissioner
136 Coleman-Hunt was absent.)
137
138 Principal Planner Barrington advised this item is a recommendation to the Board of Supervisors and there
139 is no appeal period.
140
141 Chairman Duncan asked if Director Foss had anything for the Commission.
142
143 Director Foss stated he can give a general overview of our cannabis program. There have been some
144 comment letters sent to the Commission regarding the cannabis ordinance and specific projects, however,
145 since these projects are administrative, we do not have the ability to agenize specific projects or project
146 comments, since these projects due not fall under the Planning Commission jurisdiction. He offered to set
147 up individual phone calls if there are certain projects any of the Commissioners would like to discuss that
148 are in their districts or of interest. Director Foss stated we have approximately 230-240 applications in
149 process, 100 or so have been approved, and as the numbers grow, there have been complaints on certain
150 projects. The complaints range from being against cannabis cultivation in general, odor, traffic, and ground
151 water use. Direct Foss explained there is an appeals process for any cannabis project that is approved or
152 denied. There hasn't been any project officially appealed at this time. We have received communications
153 from neighboring parcels, near applications in process, which have indicated they would like to appeal if
154 and when the project is approved. If that occurs, the appeal will go to the Board of Supervisors. The
155 ordinance allows for an administrative approval process so there is no discretion involved. There is no
156 hearing body or public notice. There are a number of development standards and criteria that must be met
157 including setbacks, minimum parcel sizes, maximum grow areas, legal access to property, environmental
158 health requirements with well and septic along with Fire requirements such as safe buildings, public access,

159 parking, etc. If all those requirements are met and consistent with the code there is no discretion based on
160 the neighborhood; if they are against it or do not believe it is appropriate for their neighborhood. During
161 the development of the Ordinance and Environmental Impact Report (EIR), those areas were analyzed and
162 addressed and decided upon by the Board of Supervisors. This ordinance has been in place since 2019.
163 Planner Foss stated it is not a perfect ordinance at this time. Both staff and the cannabis growing community
164 can see areas that need to be improved as well as neighborhoods that would like tighter controls or more
165 protection of their neighborhoods. Director Foss advised there have been ongoing conversations with the
166 Board of Supervisors, Cannabis Alliance and recently with some neighborhood groups. He stated there
167 have been some policy interpretations at a staff level to try to streamline the ordinance requirements or
168 provide clarification on when certain things are required such as porta potties, etc. Director Foss stated the
169 idea is that there will be some amendments, directed by the Board of Supervisors, to go through items the
170 Board would like to address. There is no time frame for Ordinance Amendments, however he feels they
171 will happen at the end of this year or into next year. Those amendments will go through the Planning
172 Commission for recommendation to the Board of Supervisors. Director Foss advised he is happy to talk to
173 any of the Commissioners outside of the public hearing for informational purposes. He offered to answer
174 any general or Ordinance related questions.

175
176 Chair Duncan asked if there were any questions.

177
178 Commissioner Greeno stated he had a question regarding another topic. He stated there has been a limitation
179 of public access to the area east of Truckee on Old 40, which is now part of the bikeway from Lake Tahoe
180 to Pyramid. He asked if this was being address by Planning.

181
182 Director Foss stated he is aware of a Lot Line Adjustment in process which the road in question goes
183 through. He advised the Lot Line Adjustment is an administrative project so we are limited at the staff level
184 on what we can look at. He also stated the road Commissioner Greeno referred to as Old 40 is a private
185 road. Director Foss advised he needs to look into this further if there is blocking of access to state lands or
186 the navigable water ways.

187
188 Commissioner Greeno asked about roads and right-a-ways that were established prior to the map act.

189
190 Director Foss advised Hirschdale Road is county maintained and is a public right away. He also stated the
191 other road, which Commissioner Greeno referred to as Old 40, is a private road so the County jurisdiction
192 ends where it is publicly maintained.

193
194 Commissioner Greeno asked where that is located.

195
196 Director Foss advised he believes it is on Hirschdale Road.

197
198 Commissioner Greeno asked if it is located on the other side of the bridge. He stated the bridge is currently
199 slated to be improved or replaced by the County.

200
201 Deputy County Counsel VanderPloeg advised this conversation item is not agenized and should be
202 discussed outside of the public hearing.

203
204 Director Foss advised he would look into it further and contact Commissioner Greeno privately.

205
206 Chair Duncan thanked Director Foss for his Cannabis update. This update is exactly what she was hoping
207 the Commission would receive when she asked for Cannabis to be included on the agenda. Chair Duncan
208 stated we will most likely see amendments to the ordinance in front of the Commission sooner rather than
209 later as we don't always have a full grasp on a first time approach to something. She stated it's been a good
210 learning experience on what works for the community and what could be made better.

211
212 Chair Duncan asked about pending applications status. She stated Quick Quack and Saw Mill projects are
213 still lacking their information and if they are addressing their application status.

214

215 Principal Planner Tyler Barrington stated there was a meeting with the representative for the Saw Mill
216 project and they are looking at amending their application and debating on whether to keep the greenway
217 portion of their application. This meeting included Planning, Public Works, Environmental Health and Fire
218 so they are looking to move forward at some point. Planner Barrington stated Quick Quack was issued an
219 incomplete letter and they are aware of what they need to do next.

220

221 Chair Duncan asked if these projects will come to the Commission any time soon.

222

223 Planner Barrington advised it could relatively be any time.

224

225 Chair Duncan asked if the Darkhorse project that was removed from the Pending Projects list was
226 withdrawn.

227

228 Planner Barrington advised it has not been withdrawn however we haven't had any communication in a
229 number of years regarding this project. Planner Barrington confirmed with Chair Duncan she is referring
230 to the Darkhorse tree project.

231

232 Chair Duncan confirmed.

233

234 Director Foss advised when the new owners took over, several years ago, they requested the current
235 application remain open as they may pick it back up. There has been no communication since. Director
236 Foss stated we will reach out to them and check on the status.

237

238 Chair Duncan stated we should send a letter to let them know their status.

239

240 Director Foss stated a letter is generated that usually will give them 30 days to respond.

241

242 Chair Duncan asked if there is an update for the Mine project and when it might be presented to the
243 Commission; this year or in 2022.

244

245 Director Foss advised we are still working on the admin draft of the Environmental Impact Report (EIR)
246 and are working with the consultant. Once the draft Environmental Impact Report (EIR) is complete we
247 can release it for a public comments period. Director Foss advised that during the public comments period,
248 we hold a public hearing with the Planning Commission to take comments on the Environmental Impact
249 Report (EIR). No action is taken, just comments received. He explained this should happen this year.

250

251 Commissioner Ingram-Spencer asked if this would be a draft Environmental Impact Report (EIR) or the
252 final Environmental Impact Report (EIR).

253

254 Director Foss advised it would be the draft Environmental Impact Report (EIR).

255

256 Planner Barrington explained the draft Environmental Impact Report (EIR) is the actual Environmental
257 Impact Report (EIR).

258

259 Director Foss explained it's the Draft Environmental Impact Report (EIR) that is reviewed for public
260 comment. After response to comments are completed, the Environmental Impact Report (EIR) isn't
261 certified until it is taken to the Planning Commission and the Board of Supervisors for approval. Once
262 approved it becomes the final Environmental Impact Report (EIR).

263

264 Commissioner Spencer-Ingram asked if the upcoming hearing would be for input and would resolve issues
265 that come forward.

266

267 Director Foss advised the hearing would take public comments and input to the adequacy of the
268 Environmental Impact Report (EIR). It is the consultants' responsibility to respond to comments and either
269 make amendments or provide comments as to why amendments were not made.

270

271 Chair Duncan asked if Commissioner Mastrodenato has any questions.

272
273 Commissioner Mastrodenato stated he does not have any questions but thanked the Commission for
274 accommodating his need to join the meeting via zoom.
275
276 Director Foss advised he has one more update for the Commission in regards to the South County Area
277 Plan/Higgins Area Plan. There will be a kick-off meeting next Wednesday 08/18/2021 at 6PM with the
278 South County Municipal Advisory Committee along with our consultant and staff to kick off the process
279 with the MAC meeting. There will be future meetings to get public input.
280
281 Chair Duncan asked if this is an update to the current Area Plan in place.
282
283 Director Foss explained this would be an update/revision to the current area plan that was approved in 2000.
284
285 Chair Duncan asked if this plan will include the proposed affordable housing project.
286
287 Director Foss stated the area plan will include the property and depending on the process for timing, there
288 may or may not be some acknowledgment of the proposed project. It will identify the property was rezoned
289 to accommodate x-number of units. This includes a couple sites with one on Cameo Drive and one on
290 Woodridge.
291
292 Chair Duncan thanked Director Foss for his input.
293
294 Director Foss introduced David Nicholas, the new Assistant Planner in the Planning Department, to the
295 commission.
296
297 Commissioners welcomed Planner Nicholas.
298
299 Chair Duncan asked if there was anything else from staff.
300
301 Director Foss advised there was not.
302
303 Chair Duncan asked if there was a motion to adjourn.
304
305 **Motion by Commissioner Ingram-Spencer; second by Commissioner Greeno to adjourn. Motion**
306 **carried on voice vote 4/0.** (Commissioner Coleman-Hunt was absent.)
307
308 There being no further business to come before the Commission, the meeting was adjourned at 2:00 p.m.
309 to the next meeting is to be determined, in the Board of Supervisors Chambers, 950 Maidu Avenue, Nevada
310 City.
311
312 _____
312 Passed and accepted this 23 day of September, 2021.
313
314 Brian Foss (by sr)
315 Brian Foss, Ex-Officio Secretary
316
317