

# SHASTA COUNTY PLANNING COMMISSION MEETING

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## MINUTES

### Special Meeting

Date: August 24, 2023  
Time: 2:00 p.m.  
Place: Shasta County Administration Center  
Board of Supervisors Chambers

## ROLL CALL

### Commissioners

#### Present:

Steven Kerns	District 3
Tim MacLean	District 2
Gabe Ross	District 5
Donn Walgamuth	District 4

### Commissioners

#### Absent:

Jim Chapin	District 1
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#### Staff Present:

Paul Hellman, Director of Resource Management  
Troy Bartolomei, Interim Public Works Director  
Adam Fieseler, Assistant Director of Resource Management  
Lio Salazar, Planning Division Manager  
Gretchen Stuhr, Senior Deputy County Counsel  
John Heath, Principal Engineer  
Tara Petti, Senior Planner  
Venton Trotter, Supervising Engineer  
Ken Henderson, Senior Environmental Health Specialist  
Jeff Powell, Shasta County Fire Marshal  
Tracie Huff, Recording Secretary

**Note:** All unanimous actions reflect a 4-0 vote.

**PUBLIC COMMENT PERIOD - OPEN TIME:** None.

**PLANNING DIRECTOR'S REPORT:** None.

## R1: APPROVAL OF MINUTES:

By motion made and seconded (MacLean/Walgamuth) and carried unanimously, the Planning Commission approved the minutes of the May 11, 2023 meeting, as submitted.

**CONFLICT OF INTEREST DECLARATIONS:** Commissioner Kerns stated that he had conflicts of interest with items R2 and R5.

At the suggestion of Commissioner MacLean, Commissioner Kerns moved item R6 to follow item R1 due to the continuance recommendation.

**R6: Zone Amendment 22-0008 and Use Permit 22-0002 (Bar Over Heart Enterprises, LLC):** Bar Over Heart Enterprises, LLC has proposed a zone amendment to change the zoning from the Light-Industrial combined with Design Review (M-L-DR) zone district to the General Industrial combined with Design Review (M-DR) zone district for an approximately 55-acre portion of an approximately 65-acre project site and a use permit for the development of a 5-megawatt bioenergy facility, small specialty sawmill, dry kilns, chipping and grinding operation, firewood sales, outdoor storage and office, and exceedance of the maximum structural height standard of 45 feet for Unclassified (U) zoned parcels that are designated Full-Time Agricultural-Crops (A-C) in the Shasta County General Plan. The project site is located on the east side of Black Ranch Road, at the intersection of Black Ranch Road and State Highway 299 East, in Burney, CA 96013 (Assessor's Parcel Numbers (APN's) 028-370-028, 030-390-070, and a portion of 030-390-066 as these APN's are assigned for purposes of the 2023 Assessment Roll). Staff Planner: Lio Salazar.

**Ex-parte Communications Disclosures:** None.

Paul Hellman referred to the memo distributed to the commissioners prior to the meeting recommending a continuation of this item to the September 14, 2023 meeting due to the receipt of a substantive comment letter from an attorney representing an opponent of the project. Mr. Hellman stated that the applicant is in concurrence with the continuance. Mr. Hellman recommended that the hearing not be opened unless the Commission would like to provide any persons present with the opportunity to speak regarding this item in which case he recommended that the hearing not be closed. Commissioner Kerns asked a member of the audience who had previously indicated they were in attendance for this item if they could return for the September 14<sup>th</sup> meeting; after this individual confirmed that they could return, Commissioner Kerns announced that the public hearing would not be opened.

By motion made and seconded (MacLean/Walgamuth), and carried unanimously, the Planning Commission continued the item to the September 14, 2023 meeting.

Commissioner Kerns left the room and Commissioner MacLean assumed the role of Chair.

**R2: Zone Amendment 05-009 (Tatom 2001 Trust):** The Tatom 2001 Trust has requested to change the Rural Residential (R-R) zone district to the Community Commercial combined with Design Review (C-2-DR) zone district for a 2.38-acre parcel located at the southeast corner of the intersection of Old Forty-Four Drive and Cedro Lane, Palo Cedro, CA 96073 (Assessor's Parcel Number (APN) 059-090-043 as this APN is assigned for purposes of the 2023 Regular Assessment Roll). The proposed rezoning was previously approved by the Shasta County Board of Supervisors on October 18, 2005, but was not enacted due to lack of a procedural second reading of the approved ordinance. Staff Planner: Lio Salazar.

**Ex-parte Communications Disclosures:** None.

Lio Salazar presented the staff report and discussed a memo distributed to the commissioners prior to the meeting which contained responses to comment letters submitted by neighboring property owners. The public hearing was opened. There being no speakers, the public hearing was closed.

By motion made and seconded (Walgamuth/Ross), and carried by a 3-0 vote, the Planning Commission adopted a resolution recommending that the Shasta County Board of Supervisors: a) find that the Negative Declaration previously adopted for Zone Amendment 05-009 is adequate and that no further documentation is

required pursuant to the California Environmental Quality Act; b) adopt the recommended findings listed in Planning Commission Resolution 2023-014; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 05-009.

Commissioner Kerns returned to the room and reassumed the role of Chair.

- R3: Use Permit 23-0005 (Schmitt Family 1992 Revocable Living Trust – Trust B, Et al.):** The Schmitt Family 1992 Revocable Living Trust – Trust B, Et al. has requested approval of Use Permit 23-0005 to allow existing mining operations established under Use Permit 06-038 to continue for an additional 30-year term and to allow up to 20,000 tons per year of recycled materials, including concrete, asphalt, soil and aggregates, to be imported, recycled and processed on the site. The 78.98-acre project site is located in the Anderson area on the east side of Eastside Road, approximately 0.29 miles southeast of the intersection of Eastside Road and Latona Road (Assessor’s Parcel Number (APN) 050-090-027 as this APN is assigned for purposes of the 2023 Regular Assessment Roll). Staff Planner: Tara Petti.

**Ex-parte Communications Disclosures:** None.

Tara Petti presented the staff report. Commissioner MacLean stated that he was surprised that traffic mitigation was proposed despite the reduction in average daily truck trips compared with the maximum permissible truck traffic under the previous use permit. Ms. Petti explained that there are operational safety issues associated with the Highway 273/Latona Road intersection but that since there is no nexus for the applicant to signalize this intersection as called for in the previously adopted Mitigated Negative Declaration for the project’s original use permit alternative traffic mitigation is recommended. The public hearing was opened. Keith Hamblin, the applicant’s representative, stated that the applicant is in agreement with the recommended conditions of approval. There being no other speakers, the public hearing was closed.

By motion made and seconded (MacLean/Walgamuth), and carried unanimously, the Planning Commission adopted a resolution to: a) find that the Mitigated Negative Declaration previously adopted for Use Permit 06-038 is adequate for Use Permit 23-0005 and that no further documentation is required pursuant to the California Environmental Quality Act Guidelines section 15162; b) adopt the recommended findings listed in Resolution 2023-015, including modifications; and c) approve Use Permit 23-0005, based on the recommended findings and subject to the conditions of approval set forth in Exhibit A to Resolution 2023-015.

- R4: Zone Amendment 23-0002 (Brian & Jennifer Johnson Family Trust):** The Brian & Jennifer Johnson Family Trust has requested to change the Exclusive Agricultural combined with Agricultural Preserve (EA-AP) zone district to the Limited Agriculture (A-1) zone district for a 4-acre portion of a 88.90-acre parcel to be consistent with the parcel sizes and property lines proposed under Property Line Adjustment 23-0003. The project site is located at 10925 Old Oregon Trail, Redding, CA 96003, approximately 0.85 miles south of the intersection of Old Oregon Trail and College View Drive, being a portion of Sections 22 of T.32N., R.4W., and further described as Parcel B1 of Property Line Adjustment 99-24 (Document Number 1999-0035319) (Assessor’s Parcel Numbers (APN’s) 076-140-010 and 077-030-043 as those APN’s are assigned for purposes of the 2023 Regular Assessment Roll). Staff Planner: Tara Petti.

**Ex-parte Communications Disclosures:** None.

Tara Petti presented the staff report. The public hearing was opened. There being no speakers, the public hearing was closed.

By motion made and seconded (MacLean/Walgamuth), and carried unanimously, the Planning Commission adopted a resolution recommending that the Shasta County Board of Supervisors: a) find that Zone Amendment 23-0002 is not subject to, and is exempt from, the California Environmental Quality Act for the reasons stated in Resolution 2023-016; b) adopt the recommended findings listed in Resolution 2023-016; and c) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 23-0002.

Commissioner Kerns left the meeting and Commissioner MacLean reassumed the role of Chair.

**R5: Zone Amendment 21-0002 (Greg and Nikola Hawes):** Greg and Nikola Hawes have requested to amend a Planned Development (PD) zone district text and associated conceptual development plan (CDP) for an approximately 8.25-acre parcel and to change the zoning of four parcels totaling approximately 137.09 acres from the PD and Limited Agriculture (A-1) zone districts to the Commercial Recreation (C-R) zone district. The approximately 145.34-acre project site is located at 6171 Deschutes Road, 6465 Deschutes Road, and 21945 Dersch Road, Anderson, CA 96007 (Assessor's Parcel Numbers (APNs) 057-190-031, 057-190-036, 057-190-037, 057-190-041, and 057-190-040 as those APNs are assigned for purposes of the 2023 Regular Assessment Roll). No changes are proposed to the Designated Flood (F-1) and Restrictive Flood (F-2) combining zone districts within the southern portion of the project site, the Building Site (B) combining districts applicable to APNs 057-190-037 and 057-190-041, and the Interim Mineral Resource (IMR) combining district applicable to APN 057-190-041. Staff Planner: Lio Salazar.

**Ex-parte Communications Disclosures:** Commissioners Ross and Walgamuth stated that they visited the site and spoke with Greg Hawes.

Lio Salazar presented the staff report and discussed a memo distributed to the commissioners prior to the meeting which contained responses to comment letters including one from the California Department of Fish and Wildlife (CDFW) as well as two additional recommended conditions of approval. Commissioner MacLean asked Mr. Salazar to clarify the intent of the use of the southeastern portion of the project site which appears to be in a natural state. Mr. Salazar stated that there are forested as well as disturbed areas within that portion of the site and stated that the applicant could better describe the proposed uses but that he believes this area has been used for wedding photos. Commissioner Walgamuth verified that no permanent improvements would be permissible within the blue shaded areas depicted on the site plan; Mr. Salazar confirmed that would be the case unless a use permit is approved that allows permanent improvements within any portion of the blue shaded areas.

Commissioner Walgamuth asked if staff had prepared a written response to the CDFW comment letter. Mr. Salazar stated that staff had not prepared a written response to CDFW but believes that their comments are adequately addressed in the memo. Mr. Salazar further stated that the County is not required to provide a written response to CDFW pursuant to the California Environmental Quality Act (CEQA) since an environmental impact report was not prepared. Commissioner Walgamuth expressed concerns regarding the potential impacts to wildlife identified by CDFW. Mr. Salazar clarified that no permanent improvements would be permissible within the southern portion of the property where the only sensitive biological habitat on the site exists. Paul Hellman added that CDFW routinely comments on County projects but that staff does not always agree with their comments. Mr. Hellman stated that CDFW rarely requests a response or engages in communication or coordination with the County after submitting comment letters except when projects will result in impacts that require permits from CDFW. Mr. Hellman concluded by stating that staff takes into account CDFW comments but do not always agree with the validity of their comments and that it is up to them to engage further by attending public hearings and expressing their concerns, which they have rarely done in the past.

Commissioner Walgamuth asked when the applicant was notified of the permit violations with respect to some of the improvements. Mr. Salazar stated that the first thorough and full notification of such violations occurred through the 2017 letter from the Director of Resource Management. Adam Fieseler stated that the original violation date was in 2013 at which time a notice of noncompliance was recorded in regards to buildings, structures and uses that were outside of the approved Planned Development. Commissioner MacLean asked if the intensity of uses could be greater two years after project approval in comparison to the baseline conditions. Mr. Salazar stated that neither the existing Planned Development (PD) ordinance nor the proposed PD and Commercial Recreation (C-R) ordinances limit the number of events per year or the number of attendees per event and that, therefore, it is possible that future activities could be more intensive than the baseline conditions. Commissioner MacLean asked if there any additional proposed improvements that do not physically exist today, particularly carnival rides. Mr. Salazar stated that there is a proposed canopy over the carousel and proposed driveway encroachment improvements.

The public hearing was opened at which time Commissioner MacLean asked the applicant to speak first. A recess was called at 3:35 to allow the applicant to set up their presentation. The meeting reconvened at 3:51. Greg Hawes discussed the history of the project site and surrounding properties and described the intent of the proposed project.

The following persons spoke either in opposition or in support of the project: Mary Stevenson, Nina Felsenthal, Mark Arsenault, Mike James, Jennifer Waltman, Greg Page, Kim Pickering, Joanne Moore, Judy Maxwell, Julie Ford, Kate Lindberg, David Ledger, Kathy Grissom, Christine Michaelson, Kimberly Benson, Laura, Brandon Beck, Laurie Arsenault, Kevin Butler, and Jennifer.

Mr. Hawes provided a rebuttal to comments in opposition to the project. Mr. Walgamuth asked Kevin Butler, the applicant's engineer, about sound and traffic mitigation. Mr. Butler stated that he is not aware of any noise mitigation and stated the applicant would have to relocate the driveway and make certain road improvements. Mr. Hellman clarified that there are proposed noise conditions in both the PD and C-R ordinances which refer to the General Plan noise standards and would require the applicant to conduct analysis to verify that the standards are being met in the event complaints are received. Commissioner MacLean asked if the noise comments received today would formulate a concern. Mr. Hellman stated that if the project is approved then the proposed standards, which are not currently in effect, would be utilized to address any complaints received regarding future activities on the project site. Commissioner Walgamuth asked staff if the Commission is only considering the proposed rezoning and none of the activities occurring currently or in the future. Mr. Hellman explained that because the proposed rezonings involve the PD and C-R zone districts that the Commission is considering the proposed conceptual development plans and conditions of approval that are incorporated into the proposed ordinances, which is not the case with typical rezoning proposals that require subsequent planning approvals prior to development.

Commissioner Ross asked Mr. Butler if he is working with the applicant to achieve compliance all the way around. Mr. Butler stated that the concern is that the applicant has been able to push the boundaries of the PD but that the proposed ordinances would put a lot of restrictions on the applicant and there are triggers built in that will allow the County to shut down operations if the requirements are not being met. Commissioner Ross asked if there is a noise ordinance for Shasta County. Mr. Hellman explained that the County does not have a noise ordinance, but that the County's general plan noise standards, which are not automatically applicable to all developments, would be enforceable through the proposed PD and C-R ordinances.

Mr. Butler addressed Commissioner Walgamuth's comments regarding CDFW's concerns, stating that the portion of the site near the river is in a floodplain in which no improvements are permissible and that any uses

in this area would require the approval of a use permit which CDFW would have the opportunity to comment on further at that time. Mr. Salazar clarified that there would be uses permissible within the blue shaded areas depicted on the site plan but that they could not involve permanent improvements and that only temporary improvements associated with permissible agritourism-agritainment activities would be allowed within these areas, which would be required to be removed within five days following the event pursuant to the recommended conditions of approval.

A recess was called at 5:25 and the meeting was reconvened at 5:46.

Commissioner Walgamuth asked about the difference between this project and past projects with respect to the lack of mitigation requirements in this case. Mr. Salazar explained that pursuant to CEQA mitigation is required to reduce significant impacts to a less than significant level. Since the environmental impacts associated with the project have already occurred or continue to occur since the project has been in operation despite the lack of the required approvals. Mr. Salazar stated that although there are no proposed CEQA mitigation measures, the draft ordinances contain conditions and standards that would be required to be met, such as compliance with the County's general plan noise standards. Mr. Salazar further stated that in the case of some recent projects considered by the Commission certain conditions of approval, such as the maximum number of special events permissible per year for a lavender processing facility, were based upon the applicant's proposal rather than CEQA mitigation measures required to mitigate significant environmental impacts.

Commissioner MacLean asked Mr. Butler about the deferral agreement for a center turn pocket for the project's entrance. Mr. Butler explained that when the County determines that this improvement is needed the applicant would be responsible for preparing any required studies and constructing this improvement.

Commissioner MacLean asked if there were any additional speakers. Andrea Strieff spoke about noise impacts to neighbors and wildlife associated with past wedding events at the project site and her desire for the project to be denied.

Commissioner MacLean asked what the trigger might be for required road improvements and how we would determine that. Troy Bartolomei explained that there is a tiered approach for the proposed traffic conditions. Events would be conducted under encroachment permits requiring the implementation of approved traffic control plans. The entrance along Deschutes Road would be required to be relocated further south to provide more room for vehicles turning left into the site and for right-turn storage. Some improvements would be required at the entrance along Dersch Road. The need for the deferred left-turn pocket would be somewhat subjective based upon traffic conditions, at which time the applicant would be required to prepare a study to determine if the left-turn pocket is warranted.

Commissioner MacLean asked about the trigger for the requirement to install a public water system and asked if this is required based upon the current use of the property. Ken Henderson stated that the current use does not meet the public water system threshold of 25 or more people for 60 or more days per year but that if future use were to ever exceed this threshold then the installation of a public water system would be required. Commissioner Walgamuth asked about the septic system requirements. Mr. Henderson stated that the proposed septic system has a maximum design capacity of 500 persons per day and that portable toilets will be required for any activity or event that would attract more than this number of people.

Commissioner MacLean asked if the property were to be sold would the new owner be required to follow the requirements of the proposed approvals and what would be required if the new owner wants to go beyond what is permitted by these approvals. Mr. Salazar and Mr. Hellman explained that the requirements would

apply to the current and all future property owners and that the approval of a use permit would be required to construct any permanent improvements within the blue shaded areas depicted on the site plan for the C-R ordinance and that amendments to the PD and C-R ordinances would be required in order to modify any of the conditions of approval contained in these ordinances.

There being no other speakers, the public hearing was closed.

Commissioner Walgamuth stated it definitely warrants a lot of discussion, that he appreciates everyone showing up and giving their input, and that he definitely understands their concern about what is going to happen in the future. He further stated that changing the zoning will increase a lot of regulations on the applicant, that additional permits will be required, and that a lot of costs will be incurred by the applicant.

Commissioner MacLean stated that he understands the concerns of the neighbors and concerns for the unknown in the future, but does not feel that the applicant can be penalized for what might occur in the future. He further stated that in the absence of the type of information normally provided for projects of this magnitude, such as traffic and noise studies, he is grappling with the lack of mitigation requirements to address the potential impacts of the project. He stated that he was encouraged that there was a neighborhood meeting yesterday but wishes that it had occurred a couple of weeks ago since a lot of the concerns of the neighbors might be able to be alleviated with more time and discussion.

Commissioner Ross stated that a few more meetings with the neighbors would be a good thing and that the concerns of the neighbors could potentially be alleviated.

Commissioner Walgamuth stated that he would like to have more discussion about the possibilities of extending the consideration of the project into next month, putting more constraints on the operations such as the hours, and applying conditions to the zoning change. Mr. Hellman stated that the Commission may recommend any conditions that they feel are reasonable which the Board of Supervisors may or may not agree with. Mr. Hellman suggested that if a continuance is being considered the Commission should seek the applicant's input since a delay would not be constructive unless the applicant is agreeable to spend the time to consider modifications to their proposal. Mr. Hellman stated that the Commission could direct staff to consider specific modifications and present recommendations to the Commission at a later meeting regardless of the applicant's willingness to consider modifications of their own. The commissioners discussed and agreed that a continuance to provide time for the applicant and the neighbors to discuss minor modifications to the conditions of approval to alleviate the concerns would be a good idea.

Mr. Hawes stated he is not in agreement with a continuance. Commissioner MacLean asked staff if the applicant would be impeded from operating while their application is in process. Mr. Hellman stated if the Commission took action today that it would be at least a month before the project could be considered by the Board of Supervisors and that if enacted the ordinances would become effective 30 days later. Mr. Hellman stated that, therefore, the ordinances would not be effective in time for the annual event during the month of October. Mr. Hellman further stated that operations have been occurring for the past several years without the proposed approvals in place and that staff has directed Mr. Hawes to not utilize installed attractions which are not permitted under the current zoning and do not have the required building permits. Mr. Hellman stated that staff is not certain which attractions have been in use in recent years and that staff has not inspected the site during the various, intermittent events which have occurred during that time. Mr. Hawes stated that in the past he has obtained electrical permits and understands that they will not be issued until the project is approved. Adam Fieseler stated that electrical permits will be issued for attractions which are permissible under the current PD ordinance but that electrical permits will not be issued for attractions which are proposed until after the proposed ordinances have been enacted by the Board of Supervisors and are in effect. The commissioners

discussed the need to move the project forward to the Board so that a decision can be made so that the applicant can obtain permits and legalize those facilities which are not permitted under the current PD ordinance in the event the project is approved.

Commissioner Walgamuth made a motion to approve the staff recommendation. Mr. Hellman and Mr. Salazar stated that the memo contains two conditions recommended to be added to the C-R ordinance as well as revisions to conceptual development plan sheet C2.0 which is an attachment to both the C-R and PD ordinances. Commissioner Walgamuth restated his motion to include the recommended changes contained in the memo.

By motion made and seconded (Walgamuth/Ross), and carried by a 3-0 vote, the Planning Commission adopted a resolution recommending that the Shasta County Board of Supervisors: a) adopt the California Environmental Quality Act determination of a Negative Declaration; b) adopt the recommended findings listed in Planning Commission Resolution 2023-017; and c) introduce, waive the reading of, and enact two ordinances to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 21-0002, as amended.

In response to a comment from a member of the audience, Mr. Fieseler stated that if complaints are received staff will respond. Mr. Fieseler stated that a stop work order will be issued for all unpermitted rides.

**ADJOURNMENT:** The Planning Commission adjourned at 6:35 p.m.

**Submitted by:**



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**Paul Hellman, Director of Resource Management  
Secretary to the Planning Commission**