

# BUTTE COUNTY PLANNING COMMISSION MINUTES

JANUARY 25, 2007

## I. PLEDGE OF ALLEGIANCE

II. **PRESENT:** Commissioners Nelson, Marin, Wilson, Leland, and Chair Lambert

**ABSENT:** None

**ALSO PRESENT:**

*County Counsel* Robert MacKenzie, Deputy County Counsel  
*Development Services* Tim Snellings, Director

Pete Calarco, Assistant Director  
Dan Breedon, Principal Planner, Advance Planning  
Chuck Thistlethwaite, Planning Manager  
Stacey Joliffe, Principal Planner, Current Planning  
Tina Bonham, Commission Clerk

*Environmental Health* Doug Fogel  
*Public Health* Craig Erickson  
*Agricultural Commission* Richard Price

III. **ACCEPTANCE OF AGENDA** - Commission members and staff may request additions, deletions, or changes in the Agenda order.

It was moved by Commissioner Marin, seconded by Commissioner Leland, and unanimously carried to accept the agenda with one change of doing the minutes first.

IV. **BUSINESS FROM THE FLOOR ON ITEMS NOT ALREADY ON THE AGENDA**  
(Presentations will be limited to five minutes. The Planning Commission is prohibited by State Law from taking action on any item presented if it is not listed on the Agenda)

None

V. **CONSENT AGENDA** Consent items are set for approval in one motion. These items are considered non-controversial. No presentations will be made unless the item is pulled from the Consent Agenda for discussion. Any person may pull an item from the consent agenda.

The Chair will ask if any Commissioner or member of the public wishes to pull a consent item for discussion.

None

VI. **ITEMS PULLED FROM THE CONSENT AGENDA.** Any items pulled from the Consent Agenda will be considered.

None

**VII. PUBLIC HEARINGS** The Chair will call for staff comments. The hearing will be opened to the public for proponents, opponents, comments, and rebuttals. The hearing will be closed to the public and discussion confined to the Commission. The Commission will then make a motion and vote on the item.

It is requested that public initiated presentations be limited to a maximum of 5 minutes so that all interested parties will have an opportunity to address the Commission. Following your presentation, please print your name and address on the speakers sheet so that the record will be accurate.

The recommendation of County staff is indicated below. It is only a recommendation and has not yet been considered by the Planning Commission. Copies of the Staff Report are available at the Planning Division Office

**A. UP 05-08 - Continued open from October 26, 2006.** Staff recommends an additional continuance to March 22, 2007

**Name:** Del Oro Water Company Regional Intertie Project, Phase I

**Project:** Use Permit (UP 05-08) **Planner:** Stacey Jolliffe

**Location:** The 2.5 mile pipeline (16") originates in the Mountain Oaks Subdivision Water Treatment Plant to Pentz Road to the northern zone of the service area which adjoins the Town of Paradise, Lime Saddle Water District.

**Proposal:** Allow for the construction of Phase 1 of the DOWC Regional Intertie Project. Phase 1 of the project is designed to complete the DOWC Lime Saddle District water system, including 16" water supply pipeline, from Water Treatment Plant to Pentz Road to the northern of the Lime Saddle District.

Ms. Stacey Jolliffe said that staff is requesting a continuance until March 22, 2007.

Chair Lambert asked if anyone was there to speak on this item. There was no one.

It was moved by Commissioner Marin, seconded by Commissioner Wilson and unanimously carried to continue item until the March 22, 2007 Planning Commission meeting.

There is a 10-day appeal period on decisions with the Clerk of the Board.

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**B. MIN 96-03 – Continued open from December 14, 2006.** Staff recommends certification of the Final Environmental Impact Report and approval of the project.

**Name:** M&T Chico Ranch Mine **Project:** Final Environmental Impact Report (FEIR) and Mitigation Monitoring Plan, Mining Permit and Reclamation Plan , MIN 96-03).

**Planner:** Pete Calarco **APN:** 039-530-019, 039-530-020.

**Location:** On a portion of the M&T Chico Ranch approximately 1.5 miles east of the Sacramento River and approximately 5-miles southwest of the City of Chico in an area north of and adjacent to Ord Ferry Road, east of and partially adjacent to River Road. Access to the site would be provided by River Road.

**Proposal:** The project consists of a long-term, off-channel gravel mining operation. The mining would take place on 193-acres of a 235-acre site over a 20 to 30-year

period. Reclamation would occur incrementally and would consist of the creation of open-water wetland wildlife habitat and agricultural uses. The aggregate would be processed (washed and screened) on a 40-acre area at the site.

An Environmental Impact Report is proposed for this project.

In accordance with the California Environmental Quality Act (CEQA), A forty-five (45) day public review period for the DEIR was previously provided. This review period began on October 10, 2002, and ended November 25, 2002. The Planning Commission had considered certification in 2003; however, an additional issue regarding the California Land Conservation Act (Williamson Act) needed to be addressed. As a result, the applicant filed a request for immediate cancellation from the Williamson Act contract for a portion of the property. The immediate cancellation request will be considered by the Board of Supervisors at a later date.

[See attached transcripts with errata. Re: Court Reporters transcript of the M&T Mine.](#)

- Page 6 Line 18 delete “the”  
Line 24 change “accidental” to “conditional
- Page 7 Top of Page Re: Conditional upon Williamson Act Cancellation- Or –  
determination of that compatibility Condition #15 added for clarity.  
Re: “Immediate” cancellation – could either way - or – finding compatibility  
(1) BOS Immediate cancellation – or –  
(2) Find compatibility
- Page 9 Line 6 CEQA analysis of the project as a whole  
Line 13 “CEQUA” to “CEQA”  
Line 18-25 “prime” or “non prime” issue
- Page 10 Line 1 Whether the mine is compatible with the Williamson Act.
- Page 11 Line 16 Compatibility with surrounding area (UP Findings) not Williamson Act  
related.
- Page 12 Line 14 “assigned” to “signed” and “who” to “we”
- Page 14 Line 3 “Prime” to “Vina”
- Page 22 Lines 22, 23, 24 “Moorehead” to “Morehead” (See also page 42 and throughout  
document.
- Page 31 Line 7 “Avenue” to “Street”
- Page 34 Line 2 “impact” traffic - or – insert “traffic impact”
- Page 37 & 38 Is something left out here?
- Page 40 Line 21 “causes” to “cause”
- Page 46 Line 13 delete “a”  
Line 24 “318 years” (Is this correct?)
- Page 50 Lines 8 and 9 “Simms” to “Symnes”
- Page 51 Lines 1 and 2 “Mertz” – “Menz” – to “Merz” ?
- Page 61 Line 5 “would I” to “I would”
- Page 68 Lines 15, 16, 17 “that” to “there” ?
- Page 70 Line 7 need word change or word omitted
- Page 73 Line 22 “obtain” to “contain”
- Page 74 Line 14 “on” – or “s” be deleted

Page 79-82 Change reference to “Mark Adams” to”Shawn “O’Brien”  
Page 83 Line 22 “Albertson’s” to “Alberton”  
Page 88 Line 20 “of intent” be deleted at this point  
Page 95 Line 25 “more”?  
Page 103 Line 12 insert the word “be”  
Line 15 “approve” to “improve”  
Page 109 Line 6 “aggregate” to “agriculture”

It was moved by Commissioner Leland, seconded by Commissioner Marin, and approved by a vote of 3-2:

Ayes: Commissioner Leland, Commissioner Marin, and Commissioner Wilson  
Noes: Commissioner Nelson and Chair Lambert  
Absent: None  
Abstained: None

to make a Motion of Intent to take the action and make the findings in the staff report, dated January 25, 2007, which includes adopting the Resolution certifying the final Environmental Impact Report: adopting the Resolution of approving Mining Permit 96-03, including the financial plan, Reclamation plan, financial assurance cost estimate, and statement of overriding consideration; item to be continued closed until the February 22, 2007 Planning Commission meeting.

There is a 10-day appeal period on decisions with the Clerk of the Board.

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**C. MIN 05-01 (UP 93-36) – Continued closed with a Motion of Intent to approve**

**Name:** Mineral Resources, LLC

**Project:** Morris Ravine Quarry Amended Use Permit

**Planner:** Dan Breedon

**Assessor Parcel Numbers:** 41-400-003, 41-220-050, 41-220-051, 41-300-001, 41-300-047

**Location:** The Morris Ravine Quarry is located approximately four miles north of the City of Oroville. The site is located on the eastside of Cherokee Road, near the intersection of Shirmer Ravine Road, in the Table Mountain area. Cherokee Road is located about two miles north of the Forebay Canal Bridge.

**Proposal:** The proposed project under review proposes to amend the current Use Permit, UP 93-36 to:

- Allow bulk-fuel storage at the site (diesel)
- Change the hours of operation to allow nighttime operations
- Change materials to be mined from “*silica sand*” to include quarry byproducts of aggregate, clay, and overburden rock
- Make operational the above-ground waterline along Schirmer Ravine Road to augment water supply at the quarry (this above-ground water line and

associated storage tank have been already installed but are not currently operational)

Mr. Breedon gave brief summary of project with the following changes and corrections, a correction to Condition 6 Mitigation 2 the first sentence should read as “Mineral Resources shall prepare a report of “how” the mitigation measures described previously have been implemented on the project site, deleting Condition 10, Mitigation 9, replacing the word “preclude” with “the use of Ophir Road” from Condition 26, adding the word “prohibited” at the end of the last sentence on Condition 26, and changing Exhibit A second paragraph reference to Martin Marietta to Mineral Resources. He told the Commission that the waterline does not need to be permitted, the structures on the property will have to be permitted or removed and some structures have already been removed, the rotting wood has been removed, and staff has not seen any proof of large brush piles. He said that photos were received from Lee Edwards and read into the record the letter that accompanied the photos.

Commissioner Leland said the letter and photos should not be part of the record.

Mr. Charles Thistlethwaite agreed that since the hearing was continued closed the letter and photos can't be part of the official record.

Chair Lambert asked what the timeline was until the project became operational.

Mr. Breedon said two years unless applicant asks for a time extension.

It was moved by Commissioner Wilson, seconded by Commissioner Marin and unanimously carried to adopt Resolution PC 07-02 approving the Use Permit for Mineral Resources subject to the findings and conditions, and including the corrections to Condition 6 Mitigation 2 the first sentence should read “Mineral Resources shall prepare a report of “how” the mitigation measures described previously have been implemented on the project site, deleting Condition 10, Mitigation 9, replacing the word “preclude” with “the use of Ophir Road” from Condition 26, adding the word “prohibited” at the end of the last sentence on Condition 26, changing Exhibit A second paragraph reference to Martin Marietta to Mineral Resources, and changing the reference on the Resolution from Condition 12 and Condition 13 to show as Condition 11 and Condition 12.

There is a 10-day appeal period on decisions with the Clerk of the Board.

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- D. ZCA 06-0004 and ZCA 07-0001** – Staff recommends forwarding this item to the Board of Supervisors for approval.

**Name:** Butte County

**Project:** Zoning Code Amendments ZCA 06-0004 and ZCA07-0001

**Planner:** Pete Calarco

**Location:** County-wide

**Proposal:** ZCA 06-0004 is an ordinance implementing Program 2.2 of the Agricultural Element requiring a 300-foot setback for permits and projects in the

Grazing and Open Lands (GOL) and Orchard and Field Crop (OFC) land use designations of the General Plan and at community boundaries and spheres of influence for incorporated cities/town. .

ZCA 07-0001 proposes to delete Section 24-285 of the Butte County Code pertaining to segregations of home sites. Policy 3.3 of the Agricultural Element states: Discontinue Agricultural Segregations for home sites (life estates serve the same purpose). Section 24-285 "24-285 Segregation of home sites in agricultural zones" needs to be deleted to comply with Policy 3.3.

The Planning Commission will make a recommendation to the Board of Supervisors, which will take action on the ZCAs.

Mr. Pete Calarco gave a brief summary of the project.

Chair Lambert asked if the Unclassified zone was covered.

Mr. Calarco said yes, but it is challenging because they are describing the land use applicability.

Chair Lambert asked why the Agricultural Commissioner is only being consulted instead of making the determinations.

Mr. Calarco said the Planning Commission could make that recommendation to the Board of Supervisors.

Chair Lambert said that since the Agricultural Commissioner was going to make site visits she thought it was reasonable that he make the decisions. She asked the Agricultural Commissioner what he thought.

Mr. Richard Price said he is not comfortable making those decisions because he isn't a planner.

Commissioner Leland asked how an applicant could prove that they had spoken with the Agricultural Commissioner.

Mr. Price said it will show all of his comments through the Trakit program.

Commissioner Nelson asked if Mr. Price was more comfortable being a consultant.

Mr. Price said yes.

Chair Lambert said that she wants to make sure that Development Services uses the Agricultural Commission's recommendations.

Commissioner Wilson said there is a correction on page four of four using a small 'a' and eliminating the word 'applications' in the sentence and correcting the numbering in the footer.

Commissioner Leland said he is comfortable trusting the Development Services Director to make the determinations based on recommendations.

Chair Lambert said she feels the Agricultural Commissioner's recommendations should be as important on agricultural issues as Environment Health, California Department of Forestry, etc. are in their areas of expertise and the recommendations they make.

Commissioner Nelson said the Director receives recommendations from various departments.

Commissioner Leland said that since the Director does receive recommendations from various departments he has a better understanding of what recommendations to make.

Mr. Rob McKenzie asked to make a modification on page two line two.

Mr. Calarco and Mr. McKenzie made the correction into the document.

Commissioner Wilson added the word "shape" to the sentence.

Chair Lambert if this addresses Williamson Act property.

Mr. Calarco said no they stayed close to the Agriculture Element and its applicability which does not address Williamson Act land. He said it is limited to Orchard and Field Crops and Grazing and Open Lands.

Chair Lambert asked if the 300 foot setback would apply to these properties.

Mr. Calarco said no, but the building department would use the standard setback for the zoning on that property.

Commissioner Leland asked about recital clauses. He said to add another recital to help protect the 300 foot agricultural setback.

Mr. Calarco suggest that recital could go into Section A.

Commissioner Leland said to take out "at city and community boundaries".

Mr. Calarco made the corrections in the document.

The hearing was opened to public.

Seeing no one the public hearing was closed and comments confined to Commission and staff.

Mr. Calarco spoke of edits to the map. He showed them on his power point presentation. He had sent out disks so that the Commission could look at different areas.

The Commission looked at examples of Durham and Chico on the map.

Chair Lambert asked if there are existing houses would that exempt the 300 foot buffer.

Mr. Calarco said it could, but it would be looked at on a case by base basis.

It was moved by Commissioner Leland, seconded by Commissioner Nelson and unanimously carried to make a recommendation to the Board of Supervisors to adopt the Negative Declaration and adopt the Ordinance with corrections made at the Planning Commission meeting for Butte County ZCA 06-0004 and ZCA07-0001.

**VIII. GENERAL BUSINESS** - *This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.*

A. Directors' Report

Mr. Dan Breedon went over progress report given to the Board of Supervisors by Tim Snellings and reminded the Commission of the meeting on Saturday January 27, 2007.

B. General Plan/Zoning Ordinance Update

C. Update of Board of Supervisors Actions

D. Legislative Case Law update

E. Planning Commission Concerns

**IX. MINUTES** – November 30, 2006 and December 14, 2006

November 30, 2006 minutes:

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the November 30, 2006 minutes with the following corrections: page 12 line 16 change “answer” to “answered” and changing the M & T transcripts to show “Tank Farm” not “Tang Farm”.

December 14, 2006 minutes:

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the December 14, 2006 minutes.

**X. COMMUNICATIONS** - *Communications received and referred. (Copies of all communications are available in the Planning Division Office.)*

**XI. ADJOURNMENT**

The meeting was adjourned at 2:52 pm.