

# BUTTE COUNTY PLANNING COMMISSION MINUTES

February 22, 2007

## I. PLEDGE OF ALLEGIANCE

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

**ABSENT:** None

**ALSO PRESENT:**  
*County Counsel*  
*Development Services*

Roger Wilson, Deputy County Counsel  
Pete Calarco, Assistant Director  
Chuck Thistlethwaite Planning Manager,  
Stacey Joliffe, Principal Planner, Current Planning  
Meredith Williams, Associate Planner  
Tina Bonham, Commission Clerk

*Environmental Health*  
*Public Works*

Doug Fogel  
Stuart Edell  
Eric Schroth  
Richard Price

*Agricultural Commission*

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

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to move the approval of the minutes to the beginning of the meeting.

## IV. MINUTES - December 14, 2006

It was moved by Commissioner Leland, seconded by Commissioner Marin, and unanimously carried to approve the December 14, 2006 minutes and transcripts from the company MOA Deposition Reporters.

**V. 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

**VI. 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.

**A. Name: Amator Orchards Project: DET 06-0035**  
**Planner: Meredith Williams APN: 040-060-073 Zoning: A-20**

Item was pulled from the Consent Agenda for discussion per request from Chair Lambert. See VIII.

**VII. ACTION ITEMS (NOT A PUBLIC HEARING).**

**MIN 96-03** Continued closed from January 25, 2007

**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.

Mr. Pete Calarco gave a brief summary of project and the action the Commission is being asked to do. He indicated there are two Resolutions. The first is certifying the Environmental Impact Report and the second is approving the Use Permit and adopting a statement of overriding consideration.

Commissioner Leland had a question on Attachment A, page 17, item 13. He asked what will happen if the Williamson Act Contract is not cancelled by the Board of Supervisors.

Mr. Calarco said the Use Permit conditions of approval state that the Williamson Act Contract must be cancelled or the Use Permit would not be approved.

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 adopt Resolution PC 07-06, Attachment A, certifying the Final Environmental Impact Report and Mitigation Monitoring Program and to adopt Resolution PC 07-07, Attachment B, the Use Permit for

MIN 96-03 with the reclamation plan and financial assurances cost estimate, and adopt the statement of overriding consideration, subject to the findings and conditions.

There is a 10-day appeal period on decisions with the Clerk of the Board which expires on March 5, 2007.

#### **VIII. ITEMS PULLED FROM THE CONSENT AGENDA.**

**Name:** Amator Orchards

**Project:** DET 06-0035

**Planner:** Meredith Williams

**APN:** 040-060-073 **Zoning:** A-20

**Location:** The parcel is located south of the Oro-Chico Highway, 0.80 miles south east of the Midway and Oro-Chico Highway intersection, between the City of Chico and community of Durham.

**Proposal:** A request by Amator Orchards for a Certificate of Compliance on this parcel, on the south side of the Oro-Chico Highway, near Via Verde Road, zoned A-20. The parcel is included in a proposed lot line adjustment through a separate application (LLA 06-26).

Chair Lambert asked about the deed and when it was made. She wants to know if they go back to when the deed was created in 1977 or if they use what is current.

Ms. Meredith Williams gave a summary of the project. She was informed by Public Works to use the 1977 deed.

Chair Lambert doesn't believe the property is 24.73 acres.

Ms. Williams said there is a concurrent project for a Lot Line Adjustment and in processing that project staff realized that one of the parcels was not created in compliance with the Map Act which triggered this project.

Commissioner Nelson asked if that was why they see two APN's.

Sierra West Surveying provided a map to the Commission.

Chair Lambert said that normally they would go back to when the deed was created, but isn't sure which date to use for this project.

Commissioner Leland asked if it was 24.73 acres.

Ms. Williams said it is 13 acres.

Mr. Stu Edell said it was created in 1977 and that is why Public Works is asking to use that date. The Lot Line Adjustment project is to provide an easement.

Commissioner Marin asked if Mr. Edell could clear up the confusion regarding acreage.

Mr. Edell said in 1977 a 13-acre parcel was created. He said the action today is for the Commission to determine that the parcel created in 1977 will be legal, providing the applicant meets the conditions.

Ms. Stacey Jolliffe and Ms. Williams stated the application showed 24.73 acres in error.

Chair Lambert opened the public hearing.

No one was present to speak.

Chair Lambert closed the public hearing and confined comments to Commission and staff.

It was moved by Commissioner Leland, seconded by Commissioner Nelson, and unanimously carried to adopt Resolution PC 07-08 approving DET06-0035 for Amator Orchards subject to the findings and the conditions and changing the acreage from 24.73 acres to 13.53 acres.

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

**IX. 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

**UP 06-13** – Paul and Anita Kwong. Staff recommends approval

**Name:** Lynda Upthegrove **Project:** Use Permit UP06-13

**Planner:** Meredith Williams **APN:** 025-020-025 **Zoning:** C-1

**Location:** 842 Palermo Rd. Palermo, CA

**Proposal:** build a billboard sign in a commercial zone that is adjacent to AR-1 residentially zoned land to east and west. Sign is double-faced 10.5' X 40', total height is 22.5 feet.

Ms. Williams gave a brief summary of the project.

Chair Lambert asked what the normal setbacks are.

Ms. Williams said twenty feet, but the applicant wants to place billboard within five feet.

Chair Lambert asked if comments from the City of Oroville were part of packet.

Ms. Williams answered yes.

Commissioner Nelson asked if Butte County had a policy on billboards.

Chair Lambert said that at one time she remembers talking about billboards and the Butte County Code but is uncertain about those policies.

Ms. Williams answered that the Code says that the billboard can go in commercial zones, but if it is adjacent to residential then a Use Permit is required.

Chair Lambert opened the public hearing. She asked if there was a representative available to speak on the item.

A representative was not available.

Chair Lambert closed the public hearing and confined comments to Commission and staff.

Commissioner Leland asked what the general use findings are that the Commission needs to make. He looked at 24-45.10. He read the Code section. He asked if Cal Trans needed to approve the billboard.

Ms. Williams answered that Cal Trans would have to approve a permit during the building phase of the project.

Chair Lambert asked if the billboard is an advertising billboard for that parcel or is it available space to rent.

Commissioner Nelson said that it is an advertising billboard for whoever rents the space. He said he believes that most counties are trying to move away from allowing billboards.

Commissioner Leland talked about how the City of Oroville felt having this billboard two miles from the city limits.

Chair Lambert asked if notices were sent out.

Mr. Charles Thistlethwaite said that notices were sent out to residences within a 300 foot radius.

Ms. Jolliffe went through the Butte County Code book for the Commission.

Chair Lambert said that since this billboard adjoins an Agricultural-Residential zone the Commission would need to determine if the billboard is appropriate.

Commissioner Nelson said the Commission also has to decide if allowing it in the setback is appropriate.

Mr. Thistlethwaite talked about the Scenic Highway Overlay Zone, but the section of highway for this project is not part of the Scenic Highway Overlay Zone.

Mr. Thistlethwaite said the Commission needs to determine if there will be an adverse effect on adjoining properties as well as whether this is for the overall health, safety, and welfare of the community.

Commissioner Leland asked how many other billboards were along that stretch of highway.

Ms. Williams went over the other billboards in the area.

It was moved by Commissioner Leland, seconded by Commissioner Wilson, and unanimously carried to deny Use Permit UP 06-13 for Lynda Upthegrove due to the project being unreasonably incompatible and injurious to the surrounding properties.

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

**X. 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

None

B. General Plan/Zoning Ordinance Update

Mr. Thistlethwaite handed out a General Plan progress report and updated the Commission on the upcoming meetings.

C. Update of Board of Supervisors Actions

Mr. Thistlethwaite said the Board of Supervisors adopted the Guiding Principles.

D. Legislative Case Law update

None

E. Planning Commission Concerns

Chair Lambert said she is concerned with the lack of minutes to be approved on the agenda.

Mr. Thistlethwaite told her that staffing issues and waiting for transcripts had slowed the process, but he expects several sets of minutes on the next agenda for the Commissions approval.

**XI. MINUTES –.**

None

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

**XIII. ADJOURNMENT**

The meeting was adjourned was 10:05 am.