

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

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4 **MINUTES** of the meeting of May 25, 2023 1:30 p.m., Board Chambers, Eric Rood Administration Center,  
5 950 Maidu Avenue, Nevada City, California  
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8 **MEMBERS PRESENT:** Commissioners Duncan, Milman and McAteer  
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10 **MEMBERS ABSENT:** Chair Greeno and Commissioner Mastrodonato  
11

12 **STAFF PRESENT:** Planning Director Brian Foss, Principal Planner, Tyler Barrington, Assistant County  
13 Counsel, Trevor Koski, Deputy County Counsel, Doug Johnson, Associate Planner, David Nicholas,  
14 Administrative Assistant, Shelley Romriell  
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17 **PUBLIC HEARINGS:**

- 18  
19 1. McDermott Rezone  
20 PLN23-0024; RZN23-0001  
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 Planning Commission Clerk, Shelley Romriell, advised that Commissioner Duncan would be the Chair for  
27 the meeting in Chair Greeno's absence.  
28

29 **CHANGES TO AGENDA:** Chair Duncan asked if there are any corrections to the agenda.  
30

31 Principal Planner, Tyler Barrington, advised there were no changes to the agenda.  
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 Chair Duncan opened public comment at 1:32pm.  
39

40 Mary Clancy introduced herself as a property owner for 10155 Gold Drive and 10148 Adam Avenue in  
41 Grass Valley. She asked if the Planning Commission was aware of the PG&E project on "Hells Half Acre"  
42 which is located on the corner of Rough and Ready Hwy and Adam Avenue in Grass Valley and the amount  
43 of destruction that is being created on that property. She stated this property was a very treasured piece of  
44 property that was zoned open space and was protected due to the habitat that was created there. She stated  
45 on March 15<sup>th</sup>, PG&E sent a letter stating they were doing some vegetation clearing and a little construction  
46 without any other details however, the entire 14-acre property was clear cut without a county permit. She  
47 stated the neighbors were not notified of any type of project. She advised PG&E is installing a gas line that  
48 will be releasing gas at different times of the day in which local children will be at risk. On site, there will  
49 be stacks that burn off excess gas, that will be 40 feet or so high, and this project does not fit this area. She  
50 would like to have the County get involved in stopping this project since there is no EIR, no answers are  
51 being given to neighbors and the local fire department also requested an EIR but it was not supplied.  
52

53 Commissioner Terry McAteer advised Ms. Clancy that the PG&E project is in District 3 and Supervisor  
54 Swarthout is all over this project like a wet shirt. He stated Supervisor Swarthout is concerned about impact  
55 and clear cutting that took place.

56  
57 Ms. Clancy's resident, David Portiea (sp), at 10155 Gold Drive stated he is adjacent to this project and is  
58 concerned about the destruction PG&E is creating. He stated he read and believes the resale value will go  
59 down considerably due to this project. He advised he spoke with Chris Ellis, Land Planner with PG&E,  
60 who came on site to see the destruction and was shocked at how bad it looked and what was done. He  
61 encourages the Planning Commission to visit the site and see the destruction and noise that is being created.  
62 He advised legal documents were given to the City from PG&E stating they are exempt from City and  
63 County codes. He voiced his concerns about the native protected plants being destroyed.

64  
65 Laura Lewis resides at 10140 Gold Drive and introduced herself. She stated she spoke with Don Van Etten,  
66 who is the outreach specialist for PG&E and was advised there would only be an area of 350ft x 350ft that  
67 would be disturbed but instead the entire property was clear cut. She stated the Plant Society was able to  
68 stop part of the clear cutting for the native plants, but it was too late at that point. She stated there was also  
69 a large barrier between Rough and Ready Highway and her street which provided safety and a sound barrier  
70 but now she has no privacy and no sound barrier. She said there were pools/springs that popped up after the  
71 clear cutting, that was immediately covered up, along with the significant dust and noise. She stated the  
72 letter they finally received from PG&E on was on March 15<sup>th</sup> and Don Van Etten's phone was not working  
73 for that period and there was no time to stop the project. She stated everything on the property was gone  
74 within 2 days. She voiced her concern that PG&E is allowed to do this and ruin people's lives, happiness,  
75 and privacy.

76  
77 Susan Henning introduced herself and lives at 10190 Adam Ave which is 3 properties away from the PG&E  
78 site. She stated PG&E has no oversight and they don't have to follow any local zoning regulations. She read  
79 an SEC letter stating public utilities are subject to federal, state and local laws including fines for violations  
80 of federal, state and local laws. She described all the areas that public utility companies should have oversight  
81 for and unfortunately, PG&E specifically, has no oversight. She stated this is the first site of this kind that  
82 PG&E has built. She advised large pipelines and other equipment is now being stored on the site.

83  
84 Commissioner McAteer asked Director Foss if PG&E contacted him regarding this project or any other  
85 project on County land.

86  
87 Director Foss stated PG&E does not fall under the jurisdiction of the County for work that they do regarding  
88 power lines, undergrounding and above ground equipment. He stated there were some early conversations  
89 regarding the site and informed PG&E of special status species and advised they should go through the  
90 CEQA process while understanding they are regulated by the Public Utilities Commission. He stated he  
91 was not aware the entire site was going to be clear cut and was under the impression it would be a small  
92 area for an equipment pad however, it was suggested that they complete CEQA as it is believed they are  
93 subject to the Environmental Quality Act.

94  
95 Commissioner McAteer asked if Director Foss had any communications with them after his guidance to go  
96 through the CEQA process.

97  
98 Director Foss advised that is correct however Principal Planner Barrington did have communication with  
99 them and deferred to Planner Barrington.

100  
101 Planner Barrington asked if this was the right forum for this discussion.

102  
103 Chair Duncan advised PG&E is a public utility and is not subject to County oversight and that there is a  
104 process that can be addressed by concerned citizens.

106 Commissioner McAteer requested confirmation that PG&E went on their merry way after being advised to  
107 go through CEQA.  
108  
109 Chair Duncan advised PG&E is legally allowed to do so.  
110  
111 Commissioner McAteer stated he knows that as he has been in the school business. He stated the people in  
112 the audience only have recourse through the Public Utilities Commission.  
113  
114 Chair Duncan advised that is correct.  
115  
116 Chair Duncan thanked everyone in the audience for attending and providing public comment.  
117  
118 Chair Duncan closed public comment at 1:50pm.  
119  
120 Commissioner McAteer suggested they contact Supervisor Lisa Swarouth and discuss this matter with her.  
121  
122 **COMMISSION BUSINESS:** None  
123  
124 **CONSENT ITEMS:** None  
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126 **PUBLIC HEARING:**  
127  
128 **1:30 p.m. PLN23-0024; RZN23-0001:** An amendment to Zoning District Map #151 to change the zoning  
129 of two contiguous parcels from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160).  
130 **LOCATION:** 17497 and 17501 Bowman Lake Road, Nevada City, located in the unincorporated area of  
131 Nevada County, approximately seven miles north of California State Highway 20. **APNs:** 013-410-001,  
132 013-410-002 **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Statutorily exempt from  
133 the requirement to prepare an EIR or Negative Declaration pursuant to Section 15264 of the California  
134 Environmental Quality Act (CEQA) Guidelines. **RECOMMENDED PROJECT ACTION:** Recommend  
135 that the Board of Supervisors adopt the Ordinance amending Zoning District Map (ZDM) #151 to rezone  
136 APN 013-410-001 and APN 013-410-002 from Forest-160 (FR-160) to Timberland Production Zone-160  
137 (TPZ-160). **PLANNER:** David Nicholas, Associate Planner  
138  
139 Chair Duncan provided a disclaimer that the applicant for the public hearing item is known to her, however,  
140 she feels she deliver a fair and partial decision related to the project.  
141  
142 Associate Planner, David Nicholas, introduced himself and began his presentation for the McDermott  
143 Rezone. He provided the project description, current zoning for this parcel and an explanation of the  
144 Timberland Production Zone. He described the project site and location along with the background of the  
145 property. He stated the property was clear cut in the 1900's and harvested an unknown number of times. In  
146 2012 the landowner entered into a conservation easement with the Bear Yuba Land Trust which allows for  
147 the commercial harvest of timber. He stated the applicant provided a letter from the Bear Yuba Land Trust  
148 which was an inspection that was completed in June 2022 showing the property is alignment with the  
149 conditions of the conservation easement. Planner Nicholas described the TPZ criteria and the guidelines  
150 that must be met for this rezone to be allowed. He explained the tax benefit the applicant would receive in  
151 the annual property taxes. He stated the project is consistent with the intent of the property's underlying  
152 General Plan designation – Forest, and the requested rezone is also consistent with several of the goals and  
153 policies of the County's General Plan. Planner Nicholas advised the applicant will need to work with Cal  
154 Fire to create a timber harvest plan which will be subject to environmental review. Planner Nicholas ended  
155 his presentation and offered to answer any questions.  
156  
157 Commissioner Milman stated she read through the proposed plan, and it appears they are working towards  
158 a sustainable harvesting and asked if the TPZ zoning designation requires the harvesting to be sustainable.  
159

160 Planner Nicholas stated the TPZ zoning district does not require the harvesting to be sustainable and that  
161 would be evaluated through the timber harvest plan that will be prepared by Cal Fire. He advised the  
162 applicant does have the forest management plan where there is good forest management to reduce fire risk  
163 and reduce potential for disease or insect infestation which does have a sustainability element.  
164

165 Commissioner Milman asked if the packet they received has the letter from Bear Yuba Land Trust that he  
166 mentioned in his presentation.  
167

168 Planner Nicholas advised the letter was submitted with the application but was not included as an  
169 attachment with the Staff Report.  
170

171 Commissioner Milman asked if the letter could be summarized.  
172

173 Planner Nicholas stated a representative for the Bear Yuba Land Trust went on a site inspection in June  
174 2022, they walked the property with the property owner, and determined there were no conflicts with the  
175 conservation easement.  
176

177 Commissioner Milman asked if the conservation easement would remain in affect with the rezone.  
178

179 Planner Nicholas advised he believes that is correct and stated the applicant could provide more details  
180 regarding the easement.  
181

182 Chair Duncan asked if it is customary for the entity that holds the conservation easement to check in with  
183 the landowners if they propose to do a project.  
184

185 Planner Nicholas stated he would have to check with the applicant on what the terms of the conservation  
186 easement are and how often inspections should occur.  
187

188 Chair Duncan asked if the applicant would like to address the Commission.  
189

190 Brent McDermott introduced himself as the property owner and offered to answer any questions. He stated  
191 in terms of the conservation easement, the inspections are done annually by the Land Trust which is part of  
192 the process for the Land Trust acquiring easements. He stated the inspections have to do more with  
193 development than it does with harvesting.  
194

195 Commissioner McAteer thanked the applicant for putting in a conservation easement.  
196

197 Chair Duncan opened for public comment. With none coming forward, Chair Duncan closed the public  
198 comment.  
199

200 Chair Duncan asked if there were any questions from the Commissioners or if there was a motion.  
201

202 **Motion by Commissioner Milman** to make a Recommendation that the Board of Supervisors find the  
203 adoption of timberland preserve zones statutorily exempt from the requirement to prepare an EIR or  
204 Negative Declaration pursuant to Section 15264 of the CEQA Guidelines.  
205

206 **Second by Commissioner McAteer. Motion Carried on a 3/0 vote. (2 absent)**  
207

208 **Motion by Commissioner Milman** to make a Recommendation that the Board of Supervisors adopt the  
209 attached Ordinance amending Zoning District Map (ZDM) Number 151 to rezone APNs 013-410-001 and  
210 013-410-002 from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160), based on the  
211 findings contained with the Ordinance (*Attachment 1*).  
212

213 **Second by Commissioner McAteer. Motion Carried on a 3/0 vote. (2 absent)**

214  
215 Chair Duncan asked for any informational items and project updates.  
216  
217 Director Foss states the next Planning Commission meeting is tentatively scheduled for June 22<sup>nd</sup> for  
218 housing ordinance amendments which would be a recommendation to the Board of Supervisors.  
219  
220 Planner Barrington stated the annual review for the Harmony Ridge Development Agreement may be on  
221 the agenda for June 22<sup>nd</sup> as a consent item.  
222  
223 Chair Duncan asked if there was any follow-up from the last Planning Commission meeting that was  
224 regarding the Idaho Maryland Mine.  
225  
226 Director Foss stated they are in the process of finalizing dates for that project to be taken to the Board of  
227 Supervisors.  
228  
229 Chair Duncan asked if there are any further questions from the Commissioners.  
230  
231 Commissioner McAteer stated he was detractor of the Idaho Maryland Mine hearing being held at the Rood  
232 Center and wanted to let Staff know they did a fine job managing the 3-ring circus and takes back his  
233 comments that Staff could not pull off the meeting and thanked Staff.  
234  
235 Chair Duncan asked about the news stating Governor Newsom mentioned changes to CEQA.  
236  
237 Director Foss stated there have been many CEQA reform bills and he is not aware of the details or any  
238 significant detailed plans. But would keep an eye on it and let the Commission know if any changes are  
239 brought forward.  
240  
241 **Motion to adjourn meeting by Commissioner Milman at 2:11p.m**  
242  
243 **Second** by Commissioner McAteer.  
244  
245 Chair Duncan adjourned the meeting at 2:11p.m.  
246  
247 There being no further business to come before the Commission, the meeting was adjourned at 2:11 p.m.  
248 to the next meeting, at a date to be determined, in the Board of Supervisors Chambers, 950 Maidu Avenue,  
249 Nevada City.  
250  
251  
252 \_\_\_\_\_  
253 Passed and accepted this day of , 2023.  
254  
255 \_\_\_\_\_  
256 Brian Foss, Ex-Officio Secretary  
257