

## STAFF REPORT

**BOARD MEETING DATE:** December 5, 2023

**CATEGORY:** Scheduled Hearings {{item.number}}

**SUBJECT:** Take the following actions: (1) Open the public hearing; (2) close the public hearing; (3) adopt the California Environmental Quality Act determination of a Mitigated Negative Declaration; (4) adopt the recommended findings listed in Planning Commission Resolution 2023-019; (5) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 22-0008 (Bar Over Heart Enterprises, LLC) to change the zoning of an approximately 55-acre portion of an approximately 65-acre project site located 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) 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; and (6) adopt a resolution approving Use Permit 22-0004 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 on the approximately 65-acre project site, subject to the conditions of approval set forth in Exhibit A to the Resolution.

**DEPARTMENT:** Resource Management

**SUPERVISORIAL DISTRICT #:** District 3

**DEPARTMENT CONTACT:** Lio Salazar, Planning Division Manager, (530) 225-5532

**STAFF REPORT APPROVED BY:** Paul A. Hellman, Director of Resource Management

<u>Vote Required?</u>	<u>General Fund Impact?</u>
Simple Majority Vote	No Additional General Fund Impact

### RECOMMENDATION

Take the following actions: (1) Open the public hearing; (2) close the public hearing; (3) adopt the California Environmental Quality Act determination of a Mitigated Negative Declaration; (4) adopt the recommended findings listed in Planning Commission Resolution 2023-019; (5) introduce, waive the reading of, and enact an ordinance to amend the Zoning Plan of the County of Shasta identified as Zone Amendment 22-0008 (Bar Over Heart Enterprises, LLC) to change the zoning of an approximately 55-acre portion of an approximately 65-acre project site located 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) 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; and (6) adopt a resolution approving Use Permit 22-0004 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 on the approximately 65-acre project site, subject to the conditions of approval set forth in Exhibit A to the Resolution.

### DISCUSSION

The Planning Commission considered this item on September 28, 2023, and by a 4-0 vote recommended that the Board of Supervisors approve Zone Amendment 22-0008 and Use Permit 22-0004; the adopted Planning Commission resolutions are attached.

**General Plan & Zoning** – The project site is in the Industrial (I) and Full-Time Agricultural-Crops (A-C) general plan land use designations. The I land use designation provides for the intermixing of industrial uses with varying degrees of impacts, scales of operation, and service requirements, including rail access. The A-C land use designation provides for preservation of agricultural lands at a size capable of supporting full-time agricultural operations (designated on the land use maps as A-C or A-G) in order to allow the continuation of such uses and to provide opportunities for the future expansion and/or establishment of such uses. An approximately 10-acre portion of the project site is in the Unclassified (U) zone district while the remaining acreage is in the Light-Industrial (M-L) zone district.

The U zone district is intended to be applied as a holding district until a precise principal zone district has been adopted for the property. The M-L zone district is proposed to be rezoned. The purpose of the proposed M zone district is to provide areas for all types of industrial uses and uses that are accessory to industrial uses. This zone district is consistent with I land use designation. The D-R zone district is intended to be combined with any principal district for one or more of the following purposes: 1. to protect areas having unique environmental, physical, historical or scenic features; 2. to promote design and architectural features that are consistent with adopted community design guidelines for the area or general design review standards, as applicable; 3. to encourage integrated approaches to the use of land and related physical development; 4. to ensure compatibility with surrounding land uses; and 5. to protect the public's health and safety.

Bioenergy facilities are among various public and private energy producing facilities that fall within the definition of public utilities in the Shasta County Zoning Plan. Public utilities are allowed in all zone districts with approval of a use permit. Sawmills and other wood processing plants are allowed in the M zone district with approval of a use permit.

**Access & Services** – The project site is accessed from Black Ranch Road. Water and wastewater service will be provided by the Burney Waster District. Electricity will be produced on site and, if necessary, augmented by the Pacific Gas & Electric Company. Liquid propane gas is available from local vendors. Waste Management provides solid waste disposal service to the area. Police protection is provided by the Shasta County Sheriff's Office and fire protection services are provided by the Burney Fire Protection District.

**Project Analysis** – Project related improvements include a 49,140-square-foot bioenergy facility building, 20,000-square-foot sawmill building, 5,000-square-foot planer building, four 2,940 dry-kiln buildings and other ancillary improvements including a parking area, landscaping and bioswale, fencing, outdoor storage and recommended access improvements along the site's Black Ranch Road frontage and at the intersection of Black Ranch Road and State Highway 299 East.

The biomass facility would operate 24 hours per day, 7 days per week. Approximately 12 employees will be onsite 7 days per week, working 12-hour shifts. Feedstock truck deliveries will occur Monday through Friday between the hours of 6:00 a.m. and 6:00 p.m. Movement of feedstock from the fuel storage pile to the bioenergy facility using a loader will occur as needed during operational hours. Wood-product finishing and production operations will occur at the project site from 6:00 a.m. to 4:00 p.m. Monday through Saturday. The dry kilns for the sawmill will operate overnight when drying is occurring; however, loading and unloading will occur during the operational hours listed above. It is anticipated that the biomass facility would utilize 50,000 bone dry tons of woody biomass per year and that the sawmill operations will process up to approximately 12,400 tons of logs annually generating an average of approximately 50 truck trips per day five days per week with employees and firewood delivery generating 40 passenger and vehicles small trucks six days per week. The facility would accept public drop off of woody biomass from fuels reduction on Mondays, Wednesdays, and Saturdays which would generate up to 80 additional small truck trips to/from the facility on those days.

The bioenergy facility is anticipated to use approximately 211 to 264 gallons of water per hour during operation, amounting to 6,336 gallons per day at peak operation. Water will also be used for dust suppression onsite, in the dry kiln building, as lubrication for the sawmill, and possibly for sprinkling of log decks. Up to 10,000 gallons of water per day will be required for wood-product operations for a total of 16,336 gallons of water per day. The bioenergy facility is anticipated to generate approximately 119 gallons per hour from boiler blowdown water and 29 gallons per hour of reverse osmosis plant wastewater, which will result in approximately 3,552 gallons of wastewater per day at 24-hour capacity operations. Wastewater is proposed to be disposed of at the Burney Wastewater Treatment Plant.

The project site is located at the northeastern extent of the unincorporated community of Burney. The northern portion of the project site is currently undeveloped but has been disturbed by past and current land uses and activity, including for loading wood chips and agricultural products. The project site has also been used to store pipe for a natural gas pipeline. The southern portion of the project site was formerly a rail yard for the McCloud River Railroad. A portion of the former McCloud River Railroad line that runs along the eastern boundary of the project site was converted to a recreational trail (Great Shasta Rail Trail) open to the public in

2015. Several buildings from the former McCloud River Railroad remain at the property in various states of repair. The project site is predominantly flat with a slight northwest facing aspect. Trees have been cleared from most of the property. Within the area that has been cleared is bare mineral soil and populations of annual grasses. Approximately 14 acres of conifer forest present within the northern portion of the property will be converted for development of the planer building, one of the dry kilns, and cull log storage. Land west of the project site across Black Ranch Road includes undeveloped agricultural grazing land and a Pacific Gas & Electric Company (PG&E) facility. The Burney Wastewater Treatment Plant, Burney Disposal Transfer Station and Recycling Center, and a commercial Christmas tree business are located north of the project site. The property east of the project site on the opposite side of SR-299 is undeveloped timberland. The properties south of the project site include commercial buildings and residences.

The applicant's stated goals for the project are to expand capacity for non-merchantable forest residuals from forest health improvement projects in the region to be processed into renewable electricity and wood products. The applicant has stated that with wildfire becoming a more frequent and more destructive threat to our rural communities, providing more outlets for removing fuel loads (woody biomass) will allow economical incentivization for forest health projects to remove low-value biomass while providing an alternative to pile burning. This industrial project will bring additional jobs and revenue to the area as well as an opportunity to develop an outlet for sustainable forest biomass and timber operations.

The applicant has proposed the project with support for the bioenergy facility from British American Energy (BAE). The facility will process biomass using gasification technology and operate using the BioMAT (SB 1122) program which will secure a twenty-year Power Purchase Agreement (PPA) with PG&E who will purchase 3 MW of electricity. The Burney Bioenergy Project is currently in negotiations to service other nearby operations, like the Burney Water District, with the remaining 2 MW (less electricity used onsite for the sawmill). The project will utilize sustainably harvested, forest-sourced biomass feedstock from nearby regions to supply its operations. The facility will be using a gasification-fed boiler system to convert the woody biomass to electricity and a ceramic catalytic filter system to regulate its air emissions. The proposed sawmill will produce specialty softwood products. Firewood processing and grinding of material to produce landscape products will also occur. The operation will accept residential fuel reduction materials including trees, brush, branches, clippings, needles, and leaves from the public. Public drop-off hours for fuel reduction material will correspond with the hours of the adjacent Burney Disposal Transfer Station (currently 8:00 a.m. to 4:30 p.m. on Mondays, Wednesdays, and Saturdays). This material will be used as feedstock for the bioenergy facility when feasible. Material not suitable for feedstock will be used to create landscape materials or diverted to the transfer station.

The current M-L-DR zone district was adopted in 1989 as part of a countywide rezoning that occurred after the county General Plan was updated in 1984. Industrially zoned lands in the "Black Ranch Road industrial area" were rezoned from industrial zoning to light industrial zoning. No specific rationale for the down zoning was presented in the 1989 staff report but is presumed that it was proposed to create a transition from the mix of light-industrial, commercial, and residential zones applied to the eastern end of the Burney. The sawmill project is not permissible in the M-L zone district but is allowable in the proposed M zone district with approval of a use permit. The proposed sawmill is of greater intensity than some uses permissible in the M-L zone district but in some respects is similar to M-L uses such as machine shop, cabinet or woodworking shops, and contractor's yards which are permissible in the M-L zone district with approval of a use permit. Impacts that would typically be associated with uses that require a use permit in the M-L zone district and would also be associated with uses permissible in the M zone district, including noise, dust, odors, smoke, bright light, and hazardous materials, are considered in the environmental document and recommended environmental determination and will be less-than-significant or less-than-significant with mitigation incorporation. The bioenergy facility includes equipment and a stack that cannot feasibly be reduced in height to meet applicable maximum structural height limits and therefore the applicant has requested approval of an exceedance of the height limit for the bioenergy facility building which would be 79.2 feet tall with a stack extending to 115 feet above grade.

Objective E-2 of the Shasta County General Plan encourages increased utilization of renewable energy resources by encouraging development of biomass, waste-to-energy, and cogeneration sources. Additionally, General Plan policies E-d and E-f prioritize energy projects and programs that provide jobs and other economic benefits within the County for County residents and direct that integrated waste management goals that are designed to promote energy efficiency shall be encouraged and promoted while General Plan policies T-f and T-g state that the County should encourage and promote the utilization of wood waste produced in the County and biomass thinning programs in timbered areas with extensive rural residential development for purposes of improving both tree vigor and wildland fire safety.

Compliance with general development standards and the recommended use permit conditions of approval, including compliance with the recommended landscaping and building design standards of the proposed M-DR zone district, and the recommended mitigation measures for the project ensure compatibility with nearby uses, including residential uses located approximately 1,800 feet southwest of the proposed log and lumber storage areas.

Environmental Determination - An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project and circulated for public review in accordance with the requirements of the California Environmental Quality Act (CEQA). The IS/MND is supported by several reports and studies, including an archaeological survey report, biological survey report, preliminary drainage plan, and air quality analysis/health risk analysis that concluded air emissions from the project do not present a significant public health risk. The IS/MND identified potentially significant aesthetic, air quality, biological resources, hydrology, and noise impacts. These impacts were proposed to be reduced to a less than significant level through the implementation of mitigation measures described in the IS/MND which are incorporated in the recommended conditions of approval.

The attached comment letter from Adams Broadwell Joseph & Cardozo, Attorneys at Law, on behalf of Citizens for Responsible Industry, addresses the adequacy of the IS/MND with respect to baseline conditions and the adequacy of the evidence in support of the significance conclusions for certain environmental impacts. As briefly described below, revisions have been made to the biological resources, noise, hazards and hazardous materials, air quality, and wildfire sections of the IS/MND, including revised mitigation measure MM-BIO2, and a Revised IS/MND was prepared on September 21, 2023.

The biological resources section of the IS/MND has been revised to reflect the findings of focused surveys for special status plants conducted on August 22, 2023, and a technical memorandum regarding the methodology and results of the surveys. Mitigation measure MM BIO-2 has been revised for consistency with the new information derived through the focused surveys.

The noise section of the IS/MND has been revised to include additional qualitative information and reasonable quantitative assumptions regarding baseline noise conditions in the vicinity of the project site.

The air quality section of the IS/MND has been revised to correct typographical errors regarding the distance to sensitive receptors and a memorandum from the Air Quality Report preparer has also corrected distances described in the Air Quality Report. The correction of the typographical errors in the Air Quality Report reconciles the inconsistency addressed by the commenter.

The hazards and hazardous materials section of the IS/MND has been revised to include additional information regarding baseline conditions, including a Phase 1 Environmental Assessment previously prepared for the project site.

The wildfire section of the IS/MND has been revised to reflect that the project's management system includes fire protection and fuel management specifications that prevent inadvertent combustion and protect vegetation and facilities nearby in the event inadvertent combustion occurs. The project fire protection and fuel management specifications are incorporated the recommended use permit conditions of approval.

Pursuant to State CEQA Guidelines section 15073.5 and 15074.1, recirculation of the IS/MND is not required since the revisions are not substantial, and the revised mitigation measure is equivalent or more effective in mitigating or avoiding potential significant effects and will not cause any potentially significant effects on the environment.

### **ALTERNATIVES**

The following alternatives are available: (1) Deny the proposed zone amendment and use permit; (2) approve the proposed zone amendment and use permit with modifications; (3) continue review of the item for additional information.

### **OTHER AGENCY INVOLVEMENT**

County Counsel has approved the draft ordinance and resolution as to form. The County Administrative Office has reviewed this recommendation.

### **FISCAL IMPACT**

No fiscal impact would result from the approval of this project. Costs associated with the adoption of ordinances have been included in the Clerk of the Board's Fiscal Year 2023-24 Adopted Budget.

### **ATTACHMENTS:**

- 1: Draft Ordinance
- 2: Exhibit A to Draft Ordinance
- 3: Draft Resolution
- 4: Exhibit A to Draft Resolution
- 5: Planning Commission Resolution No. 2023-019 (Zone Amendment 22-0008)
- 6: Planning Commission Resolution No. 2023-020 (Use Permit 22-0002)

- 7: Location Map
- 8: Project Aerial
- 9: General Plan Map
- 10: Zone District Map
- 11: Revised Initial Study/Mitigated Negative Declaration
- 12: Adams Broadwell Joseph & Cardozo Comment Letter