

JH RANCH REVISITED

Summary

In response to complaints concerning impacts to residents of Scott Valley from the operations at JH Ranch, the Siskiyou County Civil Grand Jury (GJ) revisited the long-standing issues surrounding the religious based guest ranch. The Grand Jury's investigation covered complaint specifics as well as related policy and performance issues within the Siskiyou County Community Development Department (CDD).

This report reviews the history of JH Ranch and its interactions with the County, provides an update concerning the status of the current JH Ranch Planned Development Plan Amendment (PDPA), and attempts to clarify other issues raised in the public debate.

The report then identifies operational problems within County departments that have prolonged a resolution of JH Ranch development issues. These problems include the inability to find and retain qualified staff, the failure to implement an efficient and effective citation process and the failure to recover costs associated with planning services. The GJ recommends specific steps to address these findings and suggests a path forward to resolve remaining concerns with JH Ranch.

Background

Description of Properties

JH Ranch consists of 41 parcels covering 437 acres spanning both sides of French Creek Road in the vicinity of Homestead Lane in Scott Valley. The planned development area of JH Ranch consists of 79 acres with a central commercial area of about 6 acres and is located on the east side of French Creek. Additional employee housing is planned for the west side of French Creek. Other entities that are closely associated with JH Ranch have purchased an additional 14 parcels adjacent to JH Ranch that cover 1,843 acres.

JH Ranch also owns and operates the Scott River Lodge which is described as a relationship building retreat for couples.

History

Rolland Johnston of Birmingham, Alabama purchased the "Proctor's JH Ranch" campground/trailer-park on French Creek Road, near Etna, in 1979 and retained the shortened name of "JH Ranch". Johnston had been a business partner in the campground prior to his outright purchase of the property from his partner JD Proctor.

He changed the focus of the property to a faith-based recreation camp for youth under the same use permit granted in 1973 which allowed for a maximum of 136 occupants. In 1982 Johnston was granted a permit to construct 5 duplex cabins but was still restricted to 136 occupants. Over the next decade the operations and activities of JH Ranch had grown to an extent that it hosted 200 guests and 50 staff during summer programs with an additional 200 guests and 30 staff (480 total) on two nights per year. Although the County issued several letters advising JH Ranch that they were exceeding the allowed 136 occupancy, no further action was taken.

During this period the Etna community, and in particular those who lived along French Creek Road, submitted numerous complaints about the levels of traffic and noise being generated by JH Ranch as well as other concerns.

In 1993 the County requested that JH Ranch apply for a Planned Development Plan Amendment (PDPA). The County stated that the intent was to bring JH Ranch into compliance with the Siskiyou County Code and requested that it not include any expansion of facilities resulting in any increase in occupancy. The County also stated that the Amendment clarify all existing uses occurring on the property. The resulting Plan Amendment was approved by the County in October of 1993.

The new PDPA had one omission which proved to be significant. Although an intent of the document was to limit occupancy there was no explicit statement of what that occupancy was. An accompanying narrative did describe program activities and occupancy levels (JH Ranch disputes that). The County also contended that the occupancy limit was implied by the allowed facilities. This became a point of contention during subsequent discussions between JH Ranch and the County.

There was a period of many years when the staff at JH Ranch would not allow County employees onto the property to do code or permit inspections. This is freely acknowledged by the current JH Ranch management who has made it a priority in recent years to resolve all outstanding code violations. This work is ongoing.

In 2008 the Siskiyou County Civil Grand Jury was asked to look into complaints that JH Ranch was exceeding their allowed occupancy levels (as specified in the 1993 plan amendment) which led to traffic, noise, safety and other concerns. The GJ report found that the occupancy levels were being exceeded based on the 1993 PDPA specification and actual occupancy levels stated by JH Ranch. The report's recommendation was that the Planning Director issue a cease and desist order to JH Ranch until a full review could be conducted. The response from the Director was to issue a strongly worded letter to JH Ranch but no further enforcement action was taken.

Recent PDPA Activity

In an effort to get JH Ranch's operation into full compliance a "Notice Of Intent To Adopt A Mitigated Negative Declaration" was issued by the Planning Department in 2014. The document detailed a new PDPA that would increase the maximum occupancy to 975 and included a provision for increasing that to 1,600 during special events. This nearly tripled the previous occupancy limits (387/637) as stated by the Community Development Director in a letter to JH Ranch issued at roughly the same time.

The notice also called for an expansion of the development from 79 acres to 202 acres. This was done to include a number of residential buildings that are outside the current boundaries of the development which house 42 employees. No one currently in the Planning Department is able to say where the

remaining occupancy discrepancies originated. JH Ranch claims that the boost in occupancy was offered by the County as an incentive to get JH Ranch under a new PDPA.

Following a significant public outcry during the public comment period this proposal was withdrawn and no updated notice has been issued by the County. In 2016 JH Ranch issued their own proposal for a new PDPA which increases occupancy limits from 387 to 482. This includes 42 occupants for the newly incorporated buildings plus an additional 53 that raises the total to match the occupancy JH Ranch claims currently exists. The proposal specifies that it “represents the minimum sustainable business model for JH Ranch”.

The proposal drops any mention of seasonal limits or transition nights. The JH Ranch plan would also allow the continued renovation and replacement of existing buildings without going beyond the building’s current footprints. It remains unclear as to whether employees currently housed under the guidelines of the PDPA could be shifted to offsite housing (on adjacent parcels) as it is built and thereby increase the number of guests on site.

A condition of any new Plan Amendment is that JH Ranch meet fire safety requirements set by the California Board of Forestry and *Fire Protection (CALFIRE)*. These standards, known as “Section 4290”, dictate basic emergency access and escape, and perimeter wildfire protection measures. Meeting the requirements would require modifications to French Creek and Miner’s Creek Roads. JH Ranch had argued that these requirements do not apply to them and in January of 2017 filed a lawsuit against CALFIRE to prevent enforcement. Later that year methods of accomplishing the modifications were worked out by the Community Development Department with the assistance of the County Road Department. The methodology was given informal approval by CALFIRE. By early 2018 the JH Ranch lawsuit had been dismissed without prejudice (meaning JH Ranch could file again in the future). JH Ranch has stated that they have hired an engineering firm “to begin the process” of 4290 compliance.

Findings

F1. Exemption Status:

Questions have been raised about the tax exemptions JH Ranch receives.

JH Ranch’s properties have a religion based “welfare” exemption from Siskiyou County property taxes. An organization may claim a welfare exemption in California by obtaining a federal 501(c)3 status and providing additional documentation to the county including a description of their qualifying activity. JH Ranch states that it is a faith-based organization.

The County Assessor, Treasurer and Counsel’s offices have verified JH Ranch’s qualifications for the welfare exemption. Although it took a number of attempts, JH Ranch eventually provided the required Irrevocable Dedication Clause and the necessary language in their statements to qualify both their developed and their adjoining empty parcels. (An Irrevocable Dedication Clause states that the property is irrevocably dedicated to purposes qualifying for the exemption.) For an empty parcel a statement is required, in essence, to state that they use the land for activities associated with their primary qualifying

purpose – in this case spiritual walks and/or solitude. The Grand Jury found that the County has done a thorough job of verifying JH Ranch’s welfare exemption status.

F2. Fiscal Impact

Property and sales taxes are important sources of discretionary revenue for the County and are crucial in addressing local priorities. (The “Economic Contribution” section below uses financial information submitted by JH Ranch which combines the Scott River Lodge and Ranch operations so the tax totals stated here must also be combined.)

Property Taxes

For tax year 2017-18 JH Ranch’s French Creek exempted holdings have an assessed value of \$7,726,274. The Scott River Lodge has an assessed value of \$3,855,972. The combined exempted value is \$11,582,000. This is the third largest welfare exemption in Siskiyou County after Fairchild Medical Center in Yreka and Mercy Medical Center in Mt. Shasta. The property tax loss to the County due to the JH Ranch tax exemptions is about \$115,820. JH Ranch pays approximately \$3,700 in other property taxes such as parcel taxes. Net loss to the County due to JH Ranch tax exemptions is about \$112,000 annually.

The proposed Plan Amendment currently being considered by the Planning Department does not appear to have any property tax consequences as the additional seven parcels are already tax exempt.

JH Ranch is also exempt from paying the transient occupancy tax (paid by entities that provide lodging such as motels). It pays no federal or state income taxes and is not required to obtain a business license.

Sales Taxes

Sales taxes collected within a county by the state can be sent directly to the county (1.00%) and cities (0% – 0.5%) or indirectly through sales tax funds returned to local governments for specific purposes and programs. These state redirected taxes can amount to an additional 2.25%. The sales tax calculated here assumes the maximum combined rate of 3.25% (given Siskiyou’s 7.25% county rate for JH Ranch’s location). Some goods are taxed at different rates or are excise based (gas for example) which requires a different estimation approach and is accounted for here. Not all tax rate changes coincide with the calendar year, but the assumption here is that they do. Therefore, a maximum tax payment is estimated.

The portion of sales and excise taxes contributed by JH Ranch to local government is estimated to be \$6,900 on taxable purchases of \$209,000.

F3. Economic Contribution:

Questions have been raised about JH Ranch's economic contribution to the community.

JH Ranch provided summary financial data for 2017 to allow the GJ to make a brief description of the economic impact on the Siskiyou County economy. (The GJ was limited in its ability to verify JH Ranch provided data.) The financial data provided combined both the Ranch and the Scott Valley Lodge activities; this description will also combine those two operations. These contributions include local payroll and locally purchased goods and services. Some additional fiscal and financial contribution can be attributed to expenditures that remain local for additional spending cycles (sometimes called "multiplier effects") but these effects often diminish rapidly. The estimation of net economic impact is complex and beyond the scope of this report.

JH Ranch reported a payroll of \$865,450 which included 17 full time and 18 seasonal employees. They reported \$349,450 spent on local services and an additional \$416,350 on the purchase of goods (both taxable and non-taxable). Most of JH Ranch's employees are housed on site and in the summer are fed on site which may affect the local economic impact of employee compensation. The portion of expenditures that remains local is likely to be larger than in other counties due to the number of independent local vendors. It may be reduced by the county's proximity to Oregon - a tax-free state - if use taxes are not collected.

JH Ranch makes local charitable donations (food and college scholarships) of about \$9,000 per year.

F4. Local Impacts:

There is no doubt that the growing JH Ranch operation has had negative impacts to residents in the area in terms of traffic volume, noise and road safety. JH Ranch has made some efforts to minimize the impacts but the size and nature of the operation limits what it can realistically do.

At the start of each 2-week session JH Ranch brings guests in from out of state by flying them to Sacramento and then driving them to the guest ranch in three chartered busses arriving at night. They depart the same way, also leaving at night. During their stay they take excursions for off-site activities. There are commercial deliveries, the daily traffic of JH Ranch employees, and ongoing construction related traffic. The impact is felt by everyone along the route. On a county road that is used by pedestrians, bicyclists, and equestrians French Creek Road can become crowded and at times hazardous. Noise levels from on-site music and activities have also been a local concern.

In 1980 the greater Scott Valley community developed a set of guidelines for future development in their area. The Scott Valley Plan was adopted into County Code in 1980 – before JH Ranch began guest ranch operations but after the original campground was well established. The Plan states as one of its goals that "all uses of the land shall occur in a manner that is compatible with other existing and planned land uses". The language may not be specific enough to preclude a guest ranch but it could easily be argued that JH Ranch's size exceeds the spirit of the document.

The County does not currently have a noise ordinance.

R4 Recommendations:

Increased congestion and loss of what all of us consider an earned right to the quiet enjoyment of our local environment is a statewide phenomenon. It is not likely to decrease in the foreseeable future. That does not mean that nothing can be done about it. There are likely few legal remedies which mean that personal responsibility will play an important part. Everyone that uses these roads must attempt to mitigate their impact by obeying speed limits and slowing down further when sharing the road with a horse or pedestrian.

The County should adopt an enforceable noise ordinance as has been done in many other California counties.

The County Road Department should install additional speed limit and “Share the Road” signs on French Creek Road. The occasional visit by law enforcement might also help.

JH Ranch should find ways to further reduce noise and traffic levels.

F5. Staffing:

Employee turnover has been an issue in the Community Development Department as a whole and has had a particularly large impact in the Planning Department. The problem is most noticeable among department heads and skilled positions where it is common for employees to leave after just a year or two of service. These positions often remain vacant for months. This turnover has caused a loss in morale and productivity for many years. It can take a number of months for a planner to come up to speed on existing projects which causes both existing and new applications to get delayed. There are members of the community who have waited years for their applications to be processed and have grown frustrated by having to work with so many different Planning and CDD directors in Siskiyou County.

At the time of this report’s submission the County has been without a Community Development Director and senior planner for many months. It also has no building inspectors – both having left for pay related reasons. The prospects for finding replacements for these positions appear bleak. This is due in large part to labor market conditions for community development professionals. Following the economic downturn from 2008 to 2013 many professionals left the field, or retired, leaving a general supply shortage. At this point the compensation offered in Siskiyou County cannot compete with most other counties.

The County’s recruitment efforts appear to be reasonable. They include postings on many government job websites, publication in the Sacramento area, and the use of private recruiters.

Siskiyou County has always attempted to fill positions through promotion from within. This has many benefits including drawing new employees from the larger labor pool that exists for entry level positions but also has some drawbacks.

R5 Recommendations:

The GJ recommends that the pay and benefits packages for these positions be reviewed and made more competitive. While understanding that promotion from within is an effective solution in many situations, there must be a balanced approach when filling skilled positions such as those in the planning field. It is important that knowledge gained from experience in other settings and from formal professional training and education be a part of the mix.

F6. Fees for Service

Fees for services provided by the Planning Department to applicants are very low in comparison to most other counties in the state and fall far short of the true cost of providing major services to applicants. The Department estimates the costs for some major services run ten times what the fixed fee recovers. For example, the cost of doing a California Environmental Quality Act (CEQA) review can exceed \$10,000 and the flat fee that the County charges is about \$1,000.

This has been a policy that the Board of Supervisors (BOS) strongly supports despite periodic requests from the Community Development Department for increased fees. Their rationale is that recovering the cost of these services would discourage business development and in turn reduce future tax revenue generation. It is reported that this also stems from their general belief that “less government is better”.

In a Grand Jury survey of the ten California counties closest to Siskiyou (Del Norte, Modoc, Humboldt, Trinity, Shasta, Lassen, Mendocino, Tehama, Plumas, Butte), all but Trinity incorporate some form of full cost recovery into their fee schedule. Many of these counties have similar economic characteristics to Siskiyou.

Siskiyou County's largest cities - Yreka and Mt. Shasta - also implement full cost recovery for similar major services.

An additional benefit of a material commitment to the application and review process would possibly be that applicants would take the process more seriously – a notable lacking in some of the efforts put forth.

R6 Recommendations:

It makes market sense that service fees could deter development by adding to its cost. It would have the most impact on those organizations that have the least available resources. However, there is a valid concern that general taxpayer subsidies for private development are not appropriate when applied in this indiscriminant form and when more equitable and efficient methods of encouraging development are available. These alternatives include economic development corporations, Small Business Administration loans, and the various organizations that support non-profits through grant funding.

The additional revenue that full cost recovery could generate would be rather small – estimated by the Planning Department to be around \$100,000 per year. However, given the difficulty with budget limitations that this county is currently experiencing it would seem reasonable that the County take another look at their current policies. From an accounting and public transparency perspective it is always helpful for expenses to match up with revenue.

The County should do its own survey of cost recovery methods used by other California county planning departments – including their analysis of development impacts - and adopt policies that are in line with California standard practices. If there is evidence of adverse impacts to development by these fees then the County should consider offering other types of inducement targeting the smaller businesses and organizations most affected. Once again, targeted inducements have greater transparency and efficiency. The survey should be made public and any decisions concerning County policy should be discussed in a public venue.

The GJ requests that the survey and public discussion take place by December 1, 2018.

It should also be noted that while the principle of “less government” is useful to keep in mind, it is only applicable after the full responsibilities of government are executed.

F7. Code Enforcement

Over the years there have been numerous letters written by the County to JH Ranch or its attorneys demanding that they comply with code and occupancy requirements. (One of these letters was written by the Director of Community Development at the request of the 2008 GJ report.) The letters have often threatened legal action. To date there has never been any citation or legal action taken by the County in response to a non-compliance issue at JH Ranch.

There are various reasons for this. Like most counties, the preferred method to resolve code violations is to issue a “Notice of Violation” and ask that the owner fix the problem. Most violations are corrected within a stated time limit. If the violation is not resolved, then the County has the option to issue an administrative or criminal citation. In Siskiyou County it can take 3-6 months to issue a citation. The County does not often resort to either type due to the time and effort involved and their limited effectiveness in getting compliance. With a maximum fine of \$100 recovered from the owner (when it is prosecuted as an infraction) there simply isn’t much of an incentive for the property owner to comply. The issuance of a citation, and its prosecution as an infraction, does not compel an owner to correct a violation – it only compels the owner to pay the fine. Although escalating fees are an option included in the County Code, that option is rarely pursued. The County would argue that using the Department’s limited resources to achieve compliance from those willing to comply is far better than trying to get compliance from those willing to ignore the law and suffer the consequences.

Another issue raised by the Community Development Department is described as a “don’t ask permission, ask forgiveness” attitude that illustrates the numbers game that is played by many property owners. There are so few code enforcement officers in such a large county that the “numbers” are on the property owner’s side. This same expression was used by JH Ranch to describe their approach during prior years.

R7 Recommendations:

The County should make full use of escalating fees if for no other reason than to assess their effectiveness.

F8. Moving Forward

The recent changes in JH Ranch's management and their efforts to resolve outstanding permits and code violations are positive signs as is the County's intentions to get a new Plan Amendment in place. A tentative agreement on how CALFIRE's 4290 road requirements might be met and JH Ranch's stated intentions to begin the engineering work on that project are also steps forward. Overall, this may present the best opportunity in many years for the County and JH Ranch to get a plan amendment completed and bring some degree of closure to the Scott Valley community.

R8 Recommendations:

Provided that all sides in this issue are willing to compromise in the spirit of community, the GJ recommends that a PDPA based on JH Ranch's March 2018 proposal be completed subject to the following conditions and recommendations:

JH Ranch

JH Ranch must respect the rural nature of the community they live in. Your neighbors chose this location for the same reason you did.

JH Ranch has stated that, even if the PDPA currently under consideration is approved, it may seek further expansion in the future through rezoning. In exchange for the County's acceptance of the 53 person occupancy expansion in the PDPA, JH Ranch should pledge publicly that it will not seek any future expansion of its operations in the vicinity of French Creek.

JH Ranch must complete the 4290 modifications as required by CALFIRE or as preempted by the County. This is a life and death issue.

Neighbors

The anti-JH Ranch signage should be removed. It degrades the rural experience and community tone in ways similar to traffic noise. At this point they do not serve any valuable purpose.

County

The occupancy limits stated in the March 2016 PDPA proposal should be adopted with the following provisions:

1. That it specify clearly the maximum number of guests and the maximum number of employees that can be housed within the planned development to prevent shifting of employees into adjacent housing in order to increase the guest count over time. This must be legally enforceable.
2. That it specify the number of "transition nights" (2) in which the occupancy is allowed to grow beyond the base level.

3. That it specify any seasonality or program descriptors for which occupancy limits apply.
4. It should not allow outdoor concerts or similar special events. It is the premise of the Ranch that it operates as a spiritual and contemplative environment. That is part of the self-declared basis of its religious welfare exemption. To deprive others in the area of a similar quiet enjoyment of their neighborhood would be inappropriate.
5. Given the sizable annual tax break JH Ranch receives from the County, the County should not accept financial responsibility for any of the 4290 road improvements.

F9. Stalemate

There is still a potential for indefinite delay on this. The incentives for each side are not entirely clear. Although CALFIRE may insist that 4290 requirements are met, in the end they have no authority to compel JH Ranch to do so. CALFIRE's main leverage comes from their possible refusal to sign off on any plan amendment the County approves. This would place the liability risks resulting from a fire squarely on the County. It is unlikely the County would assume those risks.

There is the possibility that the County could legally modify the CALFIRE requirements and bypass the necessity for CALFIRE approval but that has never been done in this county and it is unknown (by the GJ) to what extent that has been attempted in other counties. It is also unknown what affect that would have on liability issues.

The public record has shown that the County is either unable or unwilling to test its ability to enforce occupancy limits at JH Ranch. This could be due to possible ambiguities in the 1993 plan amendment or it could be because of the difficulty of enforcing occupancy in general. (It is not feasible to walk in and perform a head count.)

JH Ranch is a business. This is made clear in their March 2016 PDPA proposal when they state that their current operations are the "minimum sustainable business model for JH Ranch". If they are running a sustainable business then what incentive would they have to change the status quo unless there are business consequences to non-compliance? This is particularly evident if they can avoid the cost of completing the 4290 road modifications and the effort of completing a new Plan Amendment by simply doing nothing.

It is possible that JH Ranch would have some liability exposure to wildfires given their awareness that such risks exist and CALFIRE's demand that access problems be fixed. It is also possible that their desire to maintain good community relations - which is a good business decision, as well - will play a role. JH Ranch's recent efforts to work with the County and its cooperation with this investigation should be encouraging.

REQUESTS FOR RESPONSES

Pursuant to Penal Code section 933.05(f), the Siskiyou County Civil Grand Jury requests response from the Siskiyou County Board of Supervisors as follows: R4 – R8.

The County Administrative Office is requested to respond to R5.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Civil Grand Jury not contain the name of any person or facts leading to the identity of any person who provides such information

Note: The Siskiyou County Civil Grand Jury would like to thank JH Ranch and all the entities and individuals who cooperated with this investigation.