

Siskiyou County Planning Commission
Regular Meeting
January 18, 2023

The Siskiyou County Planning Commission meeting of January 18, 2023, was called to order by Chair Lindler at 9:00 a.m. at the Board of Supervisors Chambers, 311 Fourth Street, 2nd Floor, Yreka, California.

Present: Commissioners Melo, Fowle, Veale, and Lindler

Absent: Commissioner Hart

Also Present: Rick Dean, Director, Community Development Department; Hailey Lang, Deputy Director of Planning; Rachel Jereb, Senior Planner; Shelley Gray, Assistant Planner; William Carroll, Deputy County Counsel; Janine Rowe, Commission Clerk

Election of Officers:

Chair:

Motion: It was moved by Commissioner Melo, seconded by Commissioner Fowle, to elect Commissioner Lindler as Chair for 2023.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Vice Chair:

Motion: It was moved by Commissioner Melo, seconded by Commissioner Veale, to elect Commissioner Fowle as Vice Chair for 2023.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Minutes: December 21, 2022: It was moved by Commissioner Veale, seconded by Commissioner Melo, to approve the Minutes from the December 21, 2022, Planning Commission meeting as presented.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Unscheduled Appearances: None

Conflict of Interest Declaration: Chair Lindler announced that she would be recusing herself from hearing the Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP-11-15) project due to a conflict of interest.

Presentation of Documents, Availability of Public Records, and Public Hearing Protocol:

The Chair asked those members of the public present in the meeting room as well as those present via teleconference to review these items on the Agenda.

Rights of Appeal Statement: The Chair directed those present to review the Right of Appeal Statement contained in the Agenda.

Changes to the Agenda: None

New Business:

Agenda Item 1: Mathany Use Permit (UP-21-24 / Categorically Exempt

The project is a proposed conditional use permit to allow a short-term vacation rental use within an existing single-family dwelling. The project is located at 1101 Shasta Alpine Drive, north of the city of Mt. Shasta; APN: 037-320-040; Township 40N, Range 4W, Section 9; Latitude 41.3261°, Longitude -122.3107°.

**Categorically Exempt
Use Permit Revocation**

**Adopted
Denied**

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Ms. Jereb.

Ms. Jereb told the Commission that the applicants requesting a use permit in order to convert an existing single family dwelling into a vacation rental. The 1,710 square foot single story home sits on a .27-acre parcel that is within the sphere of influence of the city of Mount Shasta. The property is zoned for single family residential uses. Staff received the application on September 1, 2021, which was just prior to the start of the countywide 2.5-acre minimum parcel size moratorium. However, staff discovered that the project is inconsistent with Siskiyou County Code at Section 10-6.1502(h)(10) which states that “vacation rentals within the sphere of influence of the city of Mount Shasta shall only be allowed on parcels of 2.5 acres or greater.” For that reason, Ms. Jereb said staff was recommending denial of the use permit. She said staff also recommended that the project be found statutorily exempt from CEQA pursuant to Section 15270(a) which is specifically for projects that are disapproved.

Ms. Jereb said no public comments were received by the time the staff report was written. However, one of the project proponents prepared a statement and requested that it be read during the public hearing portion of the meeting.

Agency Input: None

Commission Questions:

The Commission wanted to know how the project got as far as it did, and Ms. Jereb explained that the permit technician who takes in the application does not review for compliance with County Code and General Plan requirements. She said she caught it when she started working on the staff report.

Chair Lindler asked for clarification regarding when the moratorium took effect that required vacation rentals within the sphere of influence of the city of Mount Shasta to be located on parcels 2.5 acres or greater and when the countywide moratorium became effective requiring all vacation rentals to be located on parcels 2.5 acres or greater. Ms. Jereb said the city of Mount Shasta sphere of influence

moratorium took effect in August of 2019, and the countywide moratorium took effect in September 2021.

The Chair opened the Public Hearing.

Discussion was held regarding how long to allow for public comment. Chair Lindler will allow five minutes, and Vice Chair Fowle will allow three minutes for the Kidder Creek Orchard Camp project. Deputy County Counsel William Carroll said it's in the discretion of the Chair.

Public Comments:

Ms. Jereb read a letter from Debbie White, one of the project proponents. Ms. White said the application packet for use permits does not address the Mount Shasta City sphere of influence so they were unaware of that requirement. Ms. White talked about the money spent to complete work on the property in order to meet building code compliance. She believes that because her father has owned the property for 40 years, he has a grandfathered-in right that should be considered. Ms. White recommended that the county revert back to using county/city limit boundaries and that all properties outside the border should be eligible for use permits. She believes that persons owning property since 2010 should not have to comply with amendments made to the vacation rental code. Ms. White requested that the Commission approve their use permit application, and if the Commission was not able to at this meeting that the decision be postponed until the February meeting.

There being no further comments, the Chair closed the Public Hearing.

Commission Discussion:

Discussion was held whether or not the 2.5-acre minimum moratorium for properties located within the sphere of influence of Mount Shasta was formally adopted, and Ms. Jereb said it was codified by the Board of Supervisors in August 2019. Commissioner Fowle wanted to know if formal notice was given to people who own property within the sphere of influence of the city of Mount Shasta, and Ms. Jereb said she was not aware of any formal notification.

Commissioner Veale wanted to know if staff would have recommended approval if the property had met the 2.5 acre minimum, and Ms. Jereb said she would have wanted clarification on the location of the septic system in relation to their parking.

Chair Lindler said she reviewed the minutes from the May 2019 Planning Commission meeting where the 2.5-moratorium on properties located within the sphere of influence of the city of Mount Shasta was discussed, and the Commission expressed the inconsistency in Mount Shasta's ordinance compared to what was being requested of the county in creating the 2.5 acre minimum moratorium. Chair Lindler wanted to know how to move forward with the current project.

Commissioner Fowle said a precedence was established in 2019 through 2020 that projects were denied that did not meet the requirements. He said landowners must perform due diligence, and it is on record that the moratorium was codified. Commissioner Fowle said he saw no reason to continue the project.

Motion: Following discussion, it was moved by Commissioner Fowle, seconded by Commissioner Veale, to Adopt Resolution PC 2023-003, a Resolution of the Planning Commission of the County of

Siskiyou, State of California, Denying the Mathany Use Permit (UP-21-24) and determining the Project Exempt from CEQA.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

After the motion was made, discussion was held regarding whether or not the applicant would receive a refund, and Ms. Jereb said they could apply and staff would determine whether or not there were any fees that had not yet been used. She said typically the funds get used up quickly because they are so low.

Commissioner Fowle encouraged staff to add to their checklist for vacation rental applications to disclose to applicants the 2.5-acre minimum parcel size requirement. Through the Chair, Ms. Jereb said that after the countywide moratorium became effective, they started screening applications to ensure they meet the minimum acreage requirement. She said once the code is finalized regarding short term rentals, the application packet for short term rentals would be revised and more detailed as to what properties are eligible.

Agenda Item 2: HMR Scenic Properties use Permit (UP-22-02) / Categorically Exempt

The project is a proposed Conditional Use Permit to allow a short-term vacation rental use within an existing single-family dwelling. The project site is located at 321 Scenic Estates Trail in Mount Shasta, CA on APN 037-270-260; Township 40N, Range 4W, Section 27, M.D.M.; Latitude 41.282°, Longitude -122.292°.

**Categorically Exempt
Use Permit**

**Adopted
Approved**

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Ms. Gray.

Ms. Gray told the Commission that the applicant proposed to convert an existing 2,561 square foot single family dwelling into a vacation rental. The home sits on a 2.55-acre parcel that is zoned Rural Residential Agricultural (R-R-B-2.5). The project is consistent with the General Plan and zoning for its area. It was inspected by Environmental Health on February 2, 2022, and the Building Division on April 25, 2022. The four required parking spaces are located in the garage and driveway. Three bedrooms are available for sleeping quarters, and the septic system allows for a maximum of eight guests at any one time.

Ms. Gray said the project is exempt from CEQA pursuant to Section 15301 as it is an existing facility and there are no unusual circumstances for future activities which might reasonably result in the project having a significant effect on the environment.

Ms. Gray said staff recommended that the use permit be approved and that the project be determined categorically exempt.

Commission Questions: None

Agency Input: None

The Chair opened the Public Hearing.

Public Comments:

Sandra Haugen of Mount Shasta said she is the property manager and that the property will be managed professionally based on what is required by the county.

Alyson Russell, one of the property owners, thanked the commission for their consideration.

There being no further comment, the Chair closed the Public Hearing.

Commission Discussion:

Chair Lindler said she appreciated the landowner's efforts with firesafe clearance.

Chair Fowle wanted to know if the numerous nonconforming issues noted by the building inspector would be rectified before the permit is issued and whether or not the unpermitted outside buildings would be included in the use permit. Ms. Gray said the nonconforming issues would be rectified and that the applicant plans to demolish two of the unpermitted outside buildings. She said the applicant has satisfied their preliminaries for the conditions noted in Condition of Approval 3, and the use permit will be issued once all conditions have been met.

Motion: Following discussion, it was moved by Commissioner Melo, seconded by Commissioner Veale, to Adopt Resolution PC 2023-002, a Resolution of the Planning Commission of the County of Siskiyou, State of California, Approving the HMR Scenic Properties LLC Use Permit (UP-22-02) and Determining the Project Exempt from CEQA.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Agenda Item 3: Farris Use Permit (UP-22-13) / Categorically Exempt

The project is a proposed Conditional Use Permit to allow a short-term vacation rental use within an existing single-family dwelling. The project site is located at 615 Big Canyon Drive in Mount Shasta, CA on APN 037-270-140; Township 40N, Range 4W, Section 27, M.D.M.; Latitude 41.282°, Longitude -122.294°.

**Categorically Exempt
Use Permit**

**Adopted
Approved**

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Ms. Gray.

Ms. Gray told the Commission that the applicant proposed to convert an existing 1,600 square foot single family dwelling into a vacation rental. The home sits on a 3.11-acre parcel that is zoned Rural Residential Agricultural (R-R-B-2.5). The project is consistent with the General Plan and zoning for its area. It was inspected by Environmental Health on July 21, 2022, and the Building Division on August 25, 2022. The four required parking spaces are located in the driveway and the southwest side of the garage. Three bedrooms are available for sleeping quarters, and the septic system allows for a maximum of six guests at any one time.

Ms. Gray said the project is exempt from CEQA pursuant to Section 15301 as it is an existing facility and there are no unusual circumstances for future activities which might reasonably result in the project having a significant effect on the environment.

Ms. Gray said one public comment was received from Caltrans after the staff report was written and copies were provided to the Commission prior to the meeting. Caltrans said they had no requirements for the project as submitted.

Ms. Gray said staff recommended that the use permit be approved and that the project be determined categorically exempt.

Agency Input: None

Commission Questions: None

The Chair opened the Public Hearing.

Public Comments:

Sandra Haugen of Mount Shasta said she is the property manager and that the property will be managed professionally based on what is required by the county.

Whitney Farris, one of the project proponents, thanked the Commission for their consideration.

There being no further comments, the Chair closed the Public Hearing.

Commission Discussion:

Commissioner Fowle wanted to know why the word “substantially” is included in Condition of Approval 6. Discussion was held that the word gives staff the ability to administratively make a minor adjustment to the project so staff doesn’t have to go back to the Planning Commission.

Motion: Following discussion, it was moved by Commissioner Melo, seconded by Commissioner Fowle, to Adopt Resolution PC 2023-001, a Resolution of the Planning Commission of the County of Siskiyou, State of California, Approving the Farris Use Permit (UP-22-13) and determining the project exempt from CEQA.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Old Business:

Agenda Item Number 1: Short-Term Vacation Rental Policy Recommendations / Categorically Exempt

The Vacation Rental Analysis report: 1) Analyzes the current Vacation Rental market in relation to the overall long-term rental market in Unincorporated Siskiyou County; 2) Reviews Siskiyou County’s current Vacation Rental ordinance; 3) Reviews best practices for the regulation of Vacation Rentals; and 4) Recommend revisions to Siskiyou County’s current Vacation Rental ordinance.

**Categorically Exempt
Policy Recommendations**

**Recommending Adoption
Recommending Approval**

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Ms. Lang.

Ms. Lang summarized the discussion from the December meeting. She said the Commission requested that staff provide data on the percentage of vacation rental listings based on geographic zones. Listings hovered around 1 percent for all geographic areas other than McCloud which was around 4 percent.

Ms. Lang said staff was instructed to research other similar counties in California and potential caps that they have within their jurisdictions, and staff found that caps varied widely. She said staff recommended a cap policy at 10 percent.

Ms. Lang said a number of public comments were received, mostly from property owners operating vacation rentals, who are in opposition to the \$20 lodger's tax recommendation as well as the \$500 fee for implementing an annual monitoring program.

Agency Input: None**Commission Questions:**

Chair Lindler asked Ms. Lang to provide background regarding why this process was started and why it has come before the Planning Commission. Ms. Lang said that after the Board of Supervisors approved the 2.5-acre countywide moratorium, the Planning Division was instructed to evaluate additional policy recommendations. The county is required to update its housing element every eight years, and the contractor hired to work with county staff was requested to provide a vacation rental analysis report. The report highlighted existing conditions of vacation rentals and long term rentals in the county. Other jurisdictions were studied to see how they handle vacation rentals. After the study was completed, policy recommendations were provided to the Commission which have since been narrowed down to the three contained in the staff report for today's meeting.

Commissioner Veale said he was not comfortable weighing in on the proposed \$500 annual fee for Planning staff to monitor permitted vacation rentals, and he was personally opposed to the \$20 per night lodger's tax.

The Chair opened the Public Hearing.

Public Comments:

Missi Bullington of McCloud spoke in opposition to fees. She said the contractor has contracted with many agencies in California to secure grants for affordable housing and targeting short-term rentals is a means to match grant funding. She said the \$20 per night lodger's tax would impact doing business in Siskiyou County and that the county has not justified inspecting short term rentals other than to impose a \$500 fee to fund enforcement of the vacation rental ordinance. She said the vacation rental analysis report puts the sole responsibility of the lack of affordable housing on short term rentals and that income is already being produced for the county through the Transient Occupancy Tax (TOT) being paid by permitted operators of short term vacation rentals. She doesn't understand why the county would discourage current and future businesses from operating.

Mr. Daniel Fay of McCloud spoke in opposition to additional fees. He said he and his wife are owners of a short term rental in McCloud that has been in operation since 2007. He asked the Commission to review letters submitted by a group of owners and operators of 18 short rentals in McCloud in which they suggested alternative recommendations to what staff recommended. He said he and his group don't think it's fair for short term rentals to bear the burden of solving the lack of affordable housing. Mr. Fay said redirecting a small portion of TOT revenues would be a more equitable way of generating the funds needed.

Trent, last name unknown, preferred not to state his location, said that after reading the staff report, he believed that the Commission planned to follow the recommendations regarding imposing a \$20 per night lodger's fee and the \$500 annual inspection fee. He also said that he thought the Commission would not accept removing the 2.5 acre minimum requirement. Trent said he thought the recommendations were limiting for small businesses in the county. He said imposing additional fees is another way to further tax people and it was greedy. Trent said he thought the 2.5 acre minimum requirement should be removed.

Sandra Haugen of Mount Shasta said she manages 350 rentals in the county, some of which would never be available for long term rentals. She said she would be happy to provide real numbers and facts from the property owners since she is very much involved in the business.

Commissioner Veale asked Ms. Haugen how many complaints she receives on her vacation rentals, and she said she has never had a complaint. She said if a neighbor calls her about noise, she contacts the owner.

There being no further comment, the Chair closed the Public Hearing.

Commission Discussion:

Chair Lindler said she wanted to clarify one of the comments regarding the 2.5 acre minimum requirement and that the Commission did not support that, but the Board of Supervisors overturned their decision. She also said most of the Commissioners are small business owners and are sensitive to the cost of doing business in the county and the state.

Chair Lindler said she wanted to address Ms. Bullington's comments regarding the \$20 per night lodger's tax. Discussion was held that it was a recommendation to go toward funding affordable housing.

Discussion was held that affordable housing is a state mandate. Chair Lindler said she didn't think it was fair that short term rentals are being asked to fund affordable housing.

Discussion was held regarding application fees for vacation rental use permits and the proposed \$500 inspection fee. If the inspection fee were recommended, the County Auditor would make the ultimate determination regarding the actual cost. Discussion was held regarding how often inspections would take place and how the position would be staffed.

Discussion was held regarding how complaints regarding vacation rentals are handled, and Mr. Dean said if there were recurring complaints, the property owner would receive a citation and be fined.

Discussion was held regarding the Commission making a recommendation to earmark some of the TOT to fund inspections, but it would have to be approved by the voters.

Commissioner Veale reiterated that he would vote no on the \$20 per night lodger's tax.

Discussion was held regarding penalties if the county doesn't comply with the state mandate. Mr. Carroll said he was aware that there are private interest groups that may sue the county for failing to enact the required housing element which includes affordable housing.

Discussion was held that the mandate is on both counties and municipalities. Discussion was held regarding the percentage of affordable housing units that are required within the county. Ms. Lang said that the county's Regional Housing Needs Allocation (RHNA) is two units, i.e., two separate locations/two separate parcels.

Chair Lindler asked what the county's requirement is, and Ms. Lang explained that the state wants a local jurisdiction to show the availability of parcels where an increase in housing density and affordable housing units would fit and would meet certain services and infrastructure. Ms. Lang said that the Planning department has to account for up-zoning two parcels to allow for development and it has to be a by right use. Chair Lindler said she understands the governor made a statement that it is now a by right use to build multi-unit housing on commercially zoned properties.

Chair Lindler asked why vacation rentals are tied to affordable housing, and Ms. Lang said it was a recommendation from the consultant after they looked at how other jurisdictions are handling vacation rentals.

Commissioner Veale remarked that it is to the advantage of cities to find low cost housing to encourage business to expand. If there is no housing for workers, businesses have a difficult time trying to find employees to hire.

Discussion was held regarding the requirements for location of parcels in relation to services. They don't have to be two separate parcels, they can be commercially zoned, and it can be one parcel that can accommodate two units.

Commissioner Fowle asked whether or not the county must have vacant commercially zoned parcels available or whether there is a timeline in which the county must build on said parcels. Mr. Carroll said that in order to meet the goals the county needs to have the affordable housing but all that can be asked is that the county accommodates it.

Through the Chair, Ms. Jereb wanted to clarify that the parcels don't have to be two separate parcels. If there is one parcel, then it needs to accommodate at least two units. She said that one parcel has been identified as being zoned Neighborhood Commercial (CU) which is already owned by the county and multifamily housing and apartment dwellings are already allowed by right in that district and could be utilized to meet the RHNA.

Discussion was held that the finding could be made that because it is not state mandated that the county provide the funding, the Commission does not see the need or necessity of assessing a \$20 per night lodger's tax on short term rentals.

CHAIR LINDLER CALLED FOR A BREAK AT 11:00 A.M.

THE MEETING RESUMED AT 11:05 A.M.

The Commission was in support of inspections of short term rentals and determined that conducting the inspections every three years instead of annually is sufficient. As long as Cal Fire conducts annual inspections of vacation rental properties to verify compliance with PRC 4290 and 4291, the Commission agreed that the finding could be made that inspections conducted by the Planning Division every two or three years would be reasonable. Also discussed was the fact that the properties are managed by property managers who presumably do their due diligence to ensure that the property's safety equipment is functioning and that the Building and Environmental Health Divisions ensure the conditions of approval are being met. Also discussed was the fact that the auditor would ultimately determine the amount of the inspection fee.

The Commission said they were unanimously opposed to the 2.5-acre moratorium at both the county level as well as within the sphere of influence of the city of Mount Shasta.

Discussion was held that there is a problem for permanent employees to find housing in certain areas of the county, but that the business of vacation rentals has become a source of revenue especially in areas that had been dying due to the loss of industry.

The Commission was not in favor of the recommendation to place caps on short term rentals and believes it would be best to look at vacation rental applications on a case by case basis and let the free market decide.

The Commission's ultimate recommendations to the Board of Supervisors were as follows:

1. Recommend to the Board of Supervisors to remove the 2.5-acre moratorium countywide as well as the 2.5-acre moratorium in the sphere of influence of the city of Mount Shasta;
2. Do not assess the \$20 per night lodger's tax;
3. Recommend that the Planning Department conduct inspections every three years, and the fee would be determined by the auditor;
4. Do not place a cap on the number of short term rentals in any region and let the market decide.

Chair Lindler wanted to make it clear that the Planning Commissioners are appointed by their respective District Supervisor and are compensated \$30 per meeting plus mileage. The Commissioners are sitting on the Planning Commission because they are long time community members and their role is to make sure that planning and land use in Siskiyou County is fair and equitable. The Commission only looks at the County Code and does not impart personal opinion into their decisions.

Motion: Following discussion, it was moved by Commissioner Fowle, seconded by Commissioner Veale, to Adopt Resolution PC2022-025 of the Planning Commission of the County of Siskiyou, State of California, as it shall reflect the recommendations as stated by the Planning Commission and recommending that the Siskiyou County Board of Supervisors consider the chosen Vacation Rental Policies and directing staff to return with revisions to Section 10-6.1502(h) of the Siskiyou County Municipal Code.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present on the following roll call vote:

Ayes: Commissioners Melo, Fowle, Veale, and Lindler

Noes:

Absent: Commissioner Hart

Abstain:

AT APPROXIMATELY 11:46 A.M. CHAIR LINDLER TURNED THE MEETING OVER TO VICE CHAIR FOWLE TO HEAR THE KIDDER CREEK ORCHARD CAMP PROJECT

Agenda Item Number 2: Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP-11-15) / Environmental Impact Report

The Project site is located on 580-acres at the west end of South Kidder Creek Road, approximately 2 miles west of State Hwy 3, south of the community of Greenview in the Scott Valley, Assessor Parcel Numbers (APNs) 025-370-040 and 380; 024-440-140, 150, 310, 320 and 330; 024-450-390, 400 and 590). The Proposed Project includes a request to expand the use of the site and requires a new use permit (UP-11-15). The Project also includes a request for a zone change (Z-14- 01) to rezone approximately 170 acres from Timberland Production District (TPZ) to Rural Residential Agricultural, 40-acre minimum parcel size (R-R-B-40). The expanded use permit would allow an increase of allowable occupancy at the camp from 310 to a total occupancy of 844 (guests, staff, and volunteers), an increase the physical size of the camp from 333 acres to 580 acres, and the addition of a number of structures and recreation features, including a second pond and ancillary facilities. The project would be developed over a 20-year period. An Environmental Impact Report (EIR) has been prepared for this project.

**Environmental Impact Report
Zone Change
Use Permit**

**Continued
Continued
Continued**

Staff Report:

The previously circulated Staff Report was reviewed by the Commission, and a presentation of the project was provided by Ms. Lang.

Ms. Lang said that the Board of Supervisors directed staff to bring the project back to the Planning Commission for further deliberation regarding fire hazards, the pond/water issues, zoning, biological resources, and the Mitigation Monitoring and Reporting Program (MMRP) document.

Ms. Lang said the Board expressed a number of concerns regarding fire hazards. She said none of the information is new information and the data is in the EIR technical studies.

Regarding fire hazards, the Board's first concern was that Patterson Creek and the proposed escape routes circle back to the direction of Cheeseville and they wanted to know why there wasn't an alternative route to the north. Ms. Lang said Planning's response is that Kidder Creek will utilize any

and all evacuation routes dependent upon the emergency and the direction of travel of staff and guests are able to go, including an alternative route to the north.

The Board was concerned that an analysis of fire behavior was warranted but hadn't been conducted. Ms. Lang reminded the Commissioners that Kidder Creek already completed fire behavior analyses. She said that Bryan Schenone and his team at Siskiyou County Office of Emergency Services (OES) completed further fire behavior analyses and would be providing additional information and analysis following her presentation

The Board's next concern was that any road to be constructed in the excessive slope areas be constructed to protect against erosion. Ms. Lang said that Planning confirms that any road that will be constructed will protect against erosion.

The next concern was the ability of the Camp to utilize Project Activity Levels (PALs). Ms. Lang said the camp will utilize PALs. PALs are a decision-making tool designed to help fire and timber resource managers establish a level of industrial precaution for the following day, such as precautionary evacuations.

The Board's last concern regarding fire hazards was 4290 standards that speak to signage for evacuations, storage water requirements and greenbelt requirements. They wanted to know if the camp meets those requirements and whether there was anything further they needed to do. Ms. Lang said Kidder Creek currently meets all requirements of 4290 and will make any additional improvements if required by Cal Fire or the county. Ms. Lang noted that she believed there is a provision in 4290 that allows for the local fire warden to impose any additional requirements or standards should he feel that's warranted.

Ms. Lang told the Commission that the Board had several concerns regarding the pond. The first concern was whether it required downhill channeling from Barker Ditch and is not only a passthrough but a diversion. Ms. Lang said Planning's response is that the decision as to whether the channeling from Barker Ditch to the proposed pond should be classified as a diversion is a legal determination for the California State Water Board. She said it appears the secondary channel should be classified as a diversion under Water Code Section 5100(c).

Vice Chair Fowle said a diversion under California water law is within a tributary, stream, or river. His understanding based on the maps he's seen from Kidder Creek Orchard Camp (KCOC) show the point of diversion is at Kidder Creek, the creek, which is off of a ditch so therefore, it is not a diversion but a noted point of use.

Ms. Lang said the Board wanted to review the methodology used in the evaporation study by Chris Cummings. She said Mr. Cummings was present and would provide additional clarification.

The Board's third concern was whether or not the leaky ditch regulation would result in curtailment of Barker Ditch in the future. Ms. Lang said the Deputy Director of Water Rights may now issue a curtailment order when flows of certain rivers, including the Scott River, drop below minimums unless diversions from the river are curtailed.

Vice Chair Fowle wanted to clarify that if the pond is permitted short-storage, the curtailment doesn't apply because it cannot be curtailed for storage purposes, and Ms. Lang confirmed that.

Ms. Lang said the Board's last concern regarding the pond was whether there is a need to condition that wells are for domestic use only. She said Planning's response is that any well permit applications must make the selection of use for the well that they're applying for. If Kidder Creek applies and receives a permit for the domestic designation, the use of the groundwater is by virtue of the permit issuance for designated for domestic uses.

Chair Fowle wanted to know if there would be sinking of new wells and whether or not staff has communicated with Matt Parker regarding potential connectivity and how the plan does and does not interact with the uplands. Mr. Dean said it had been discussed in generalities through the permit process and that staff had worked with Mr. Parker and County Counsel at the Board level to develop specific guidelines to address the Public Trust Doctrine and compatibility with the Groundwater Sustainability Plan (GSP) prior to issuance of any well permit in the county.

Ms. Lang said the Board's concern with zoning is the density of recreation taking place at the camp and whether it should be considered commercial. She said the county zoning code allows for recreational uses in all zoning districts under the general provisions permit. She said it is defined in the code but it is just added as a definition which doesn't necessarily meet the intent of KCOC. She said there is an additional provision of a private recreational facility operated as a nonprofit organization that is only open to members and guests of such nonprofit organizations, and staff believes there is enough within that definition to meet the intent of KCOC. Thus, there is no conflict within the County Code or zoning designations.

Vice Chair Fowle asked for the basis of staff's findings to make that determination, and after discussion Mr. Carroll reiterated that private recreational facility, nonprofit with guests, seems to fit KCOC the best.

Ms. Lang said the Board's concern with biological resources assessment was because it did not include the Northern Spotted Owl nor the Bald Eagle. She said both species were identified in the amended Wildlife Resources Report and Wildlife Resources Biological Assessment for the emergency road access port prepared by Jamie Allen. Ms. Lang said Mr. Allen was present via Zoom in case the Commission had any questions.

Ms. Lang said the Board's final concern was that the MMRP wasn't available for the Planning Commission's review during the November meeting, and she said although it was not legally required, the MMRP has been incorporated into the staff report package for today's meeting.

Ms. Lang turned the presentation over to Mr. Schenone. Mr. Schenone said he was asked by the Board to review the threats and hazards as a whole and then adopt them to the county as seen fit by the Board. He said he and his staff looked closely at 4290 and 4291 regulations and KCOC's fire plans and that the road widths were adequate for all responding Cal Fire type 3 engines. There was one section of the road that was a concern so they will have the road ingress and egress marked with reflective road markers.

Mr. Schenone told the Commission that the Board asked him to look at the availability of water tenders in Scott Valley. He said there is an abundance of water tenders already present—Scott Valley Fire Protection and Etna Fire Department, as well as five additional water tenders within 30 minutes. He said in addition to that was the Scott Valley Fuel Project which was done in accordance with 4290 fuel mitigation requirements.

Mr. Schenone said some adjustments were made to the warning system piece of fire safety and preparedness. He said Siskiyou County has a robust warning system which incorporates a public warning system that is pushed out to radio, television, cellphones, smart watches, etc. He also discussed Zonehaven which is an online platform, and of significant concern was that KCOC used to be cut into two zones but they incorporated it into one zone (SIS-2206) which has limited the area in and around KCOC and includes private residences around the camp.

Mr. Schenone explained that if a fire were to start in a particular zone and evacuations were ordered, the procedure is that everything surrounding the ordered evacuation zone automatically becomes warning zones. He said each zone includes night and day demographics of the county. For example, when the population at KCOC increases, KCOC will communicate with OES so they can update their data. Mr. Schenone said communication is a key and vital point especially during fire season. The county's Emergency Operations Center operations chief is ensured that any increased population throughout the county is notified so they can act quickly.

Mr. Schenone said that Siskiyou OES made three recommendations. The first recommendation is to be ready by establishing a designated temporary evacuation point within the camp, post reflective signage within the camp for both egress and ingress and to coordinate evacuation drills with OES, Cal Fire, and local fire agencies in order to set the idea of what needs to happen and make a plan. Also recommended was to evacuate early since KCOC evacuation times vary from two to four hours. By doing that, it is coordinated and less of a threat and takes into consideration the population in and around KCOC as well as the possibility of evacuating livestock.

Mr. Schenone said the second and third plans are not ideal because they're both rushed. He said they've reviewed the plans with KCOC and made corrections. The third plan is sheltering in place and Mr. Schenone said that means they haven't done a good job with evacuation protocols and getting people out quickly.

Mr. Schenone said one of the concerns expressed by the Board were the 97 percentile days where there are high winds, low relative humidity and overall fire behavior. One of the suggestions made was that the camp should limit use of any fire in the camp and limit any back country excursions where people would be out of reach. He suggested that the camp use a crank siren which reaches about 1-1/2 miles depending on topography, and this would be especially useful if the power were to go out. Also recommended was having activities closer to camp and having pre-staged vehicles at the temporary evacuation point.

Mr. Schenone reiterated that the camp should have an evacuation program with continuity, proper setup, and proper practice that anyone can follow to get people out safely.

Vice Chair Fowle wanted to know if evacuation was automatically triggered on 97 percentile days as opposed to only warnings on days when there is high moisture and no wind. Mr. Schenone said if there is an ignition start, he and the sheriff get a call from Cal Fire and they start triggering evacuations, both orders and warnings. He said it would be his recommendation that KCOC begin evacuation if their zone were put under warning.

Agency Input: None

The Chair opened the Public Hearing.

Public Comments:

Mr. Tim Lloyd of Kidder Creek Orchard Camp asked that Mitigation Measures 4.5 and 4.7 as worded be reviewed for clarity. He said the measures are unclear and have led to confusion and some disagreement about the scope of measures.

Ms. Charnna Gilmore of Etna spoke in opposition to the project. She said was concerned about water and wanted to clarify that the pond is not actually a passthrough which she thought changed the fundamental concept of the pond. She thinks it needed more legal reference. She said she collected additional data pertaining to the evaporation study that differs from Mr. Cummings' report. She said she looked at data from the Fort Jones Ranger Station and came up with 17.4 inches of annual rainfall which differed from Mr. Cummings' figure of 43.5 inches annually. As far as water rights were concerned, Ms. Gilmore said Mr. Cummings used a full cfs, but the Scott River Decree established in 1980 indicates that the camp's water rights has a decreasing flow amount. At 16 and over, they can take one cfs, but the ration decreases in the summer months and exacerbates the potential for loss.

Brenda Phillips of Etna spoke in opposition to the project. She told the Commission they should watch two films on YouTube—Fire in Paradise and The Dixie Fire. She suggested they drive through Fort Jones and think about how much water is used and how much sewage and gray water is produced by its citizens. She said to continue on Highway 3 and think about how far the firetrucks have to travel to South Kidder Creek Road and that only one ambulance serves Scott Valley. Ms. Phillips wanted the Commissioners to notice the width of South Kidder Creek Road and the hairpin curves and imagine the entire population of Fort Jones, plus horse trailers, RVs, and campers traveling on the road while evading oncoming emergency vehicles. She wanted them to think about the population of Etna and how much water is used and how much sewage is produced. Ms. Phillips compared the high school football field to the proposed pond and that the pond is 5-1/2 times larger than the football field. She suggested the Commission choose project alternative number one—no changes to the project.

Ms. Freda Walker of Etna spoke in opposition to the project. She wanted to know if there were any regulations in the county that identify commercial recreation. She wanted to know how the camp can only be open if it's a private recreational facility and whether there is a list of bona fide members. She said she thinks that lowering the number of people at the camp would lower the noise impact. She is concerned that having a city the size of Fort Jones or Etna on Kidder Creek Road is a violation of the Scott Valley Area Plan. Ms. Walker said she recommended more research be done regarding lowering the number to reduce the impacts to those people who live on the road.

Ms. Michelle Rush of Etna spoke in opposition to the project. She said she was concerned about water usage by the number of people going to camp that will affect the availability to Kidder Creek Estates. She also expressed concern about the road and the traffic leaving and emergency vehicles trying to get in. She said she was in favor of no changes to the project. She said there is already more traffic on the road.

Ms. Dee Jones of Etna spoke in opposition to the project. She said she lives about a mile east of the camp. She said the creek flow is way down and traffic is way up. She said the threat of catastrophic

fire is not if, it's when. She thinks no matter how much planning is done there will be a major threat to life and property. She thinks the Cal Fire plan glossed over the residents. She said she can't get out of her residential driveway on camp drop off days and has to use her industrial driveway that accommodates cement trucks, big rigs, etc. She said she admires what the camp is doing but it interferes with quiet enjoyment of her sanctuary. She urged the Board of Supervisors to consider the project more carefully before approving it.

Ms. Melinda Perlman of Etna spoke in opposition to the project. She said the project has been referred to as a children's camp, but the lawyer for Keep Scott Valley Rural defines it as a massive commercial, year round conference center. She said there will be over 1,000 cars per day allowed, no noise mitigation, no air quality mitigation, extreme drought, extreme fire danger. She thinks the occupancy number of 622 only reduces the impact to 25 percent. She recommended project alternative number one. Ms. Perlman said if the project is approved there should be an occupancy of no more than 400 people. She asked that the project go back to the drawing board to create a safe and legal EIR. She said their lawyer said the project will not pass CEQA.

Ms. Anne Marsh of Etna spoke in opposition to the project. She thinks the existing residents are being ignored in the reports and modeling for fire evacuation. She wanted to know why the camp's water system licensed with the State Water Board wasn't disclosed and analyzed during the EIR and before. She said the Scott Valley Area Plan is being ignored which clearly states the camp location is not a place where that kind of expansion, density or population can be.

Mr. Robert Diaz of Etna spoke in opposition to the project. He expressed concerns about water and reducing the quality of life residents deserve. He asked if the camp could be relocated somewhere out in the open away from trees.

Ms. Jereb proceed to read a comment submitted by Ms. Veanne Hogun of Etna which was in opposition to the project. Ms. Hogun said she was concerned about the proposed expansion of the camp. She said the Scott Valley Area Plan was created to stop large development. Ms. Hogun said traffic is an issue for residents who live below the camp, and the amount of traffic in the summer is constant. She thinks the safety of camp staff, campers and animals must be considered more carefully. She doesn't think it would be possible to evacuate everyone out safely. She requested that project alternative number one be adopted.

The Vice Chair asked for comment from technical advisors.

Mr. Chris Cummins of Anderson said he was the civil engineer and author of the Wastewater Feasibility report and the Estimated Evaporation Water Loss report. Mr. Cummings referenced the comments made by Ms. Gilmore about the differences between his data and the data she compiled. He said when a professional prepares a report regarding estimated water loss, the expert has to use the best data available and their professional judgment in providing information requested by the client. He said he used US climate data and data from Etna.

Mr. Cummings said in consideration of accepting the information in the report or commenting on it, the information is there to take into account if the rainfall a little high potentially based on where the data was taken but from the comments and whether that data is low. Can the pond be designed to reduce the amount of surface area that's exposed for evaporation, can the camp have mitigating measures such as reducing areas of flood irrigation, or going from flood irrigation to sprinklers. He

said conservation efforts can be managed along with the permitting process of the pond which is what he would recommend from a technical standpoint due to many factors that depend on how the camp is operated, how many years out is the pond going to be built, etc.

Vice Chair Fowle said one set of data shows a lower elevation of the pond for point of use and wanted to know if it is fed by a point of use box. Mr. Cummings said the pond would be designed to flow the Barker Ditch water through the pond and out of the pond. After discussion, Mr. Cummings confirmed that the pond is a flow through pond.

Vice Chair Fowle asked about the defined available amount of water which is going to the pond according to the plan, but water in the Barker Ditch is used in irrigation around KCOC which decreases the available water for the pond. Mr. Cummings responded that from a technical aspect, the level of the pond in July would be based on the infeed level of water coming in in July which is much reduced. Discussion was held that that was more of an operations question that Mr. Lloyd could answer regarding when the water gets low and whether it affects the level and use of the pond. Mr. Cummings pointed out that the design level engineering of the pond hasn't been done yet. He said as far coming up with an elevation in the pond or volume of water that would be remaining after the water is cut off would theoretically depend on the depth of the channel on the outflow, and then the pond would lower to that depth as it goes out. He said it would potentially be a significant volume of water but nothing small compared to the total flow for the irrigation season.

Mr. Lloyd offered to elaborate. He said when you start getting low flows on the Barker Ditch, they're not getting water downstream. So how much water is actually going to run out of the pond can be calculated, but he doesn't think it's going to be a very big volume of water because the input is about the same as the output. Mr. Lloyd said the pond is not doing away with the Barker ditch. It's right next to it, so a portion of the water from the Barker Ditch will run into the pond and all the excess will run back into the Barker Ditch. Mr. Lloyd said there would be an elevation difference, but how much difference depends on the volume of water that is allowed to run through the pond.

Chair Fowle asked about the Barker Ditch agreement between the water right holders, and Mr. Lloyd said KCOC has the highest priority on the ditch.

Mr. Lloyd said there is a point when they stop taking water out because the flows get so low that they quit irrigating which is usually toward the end of August, maybe into September.

Mr. Glen Pearson of Red Bluff prepared the Supplemental Ground and Surface Water Analysis. He said the California drinking water number quoted by Ms. Marsh is a camp well that was a key piece of information when he put his report together. He said it was one of the few wells that he was able to determine exactly where the well is located.

There being no further comment, the Chair closed the Public Hearing.

Vice Chair Fowle requested that the matter be continued to the February meeting.

Motion: Following discussion, it was moved by Commissioner Fowle, seconded by Commissioner Veale, to continue the Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP-11-15) project to the February 15, 2023, Planning Commission meeting.

Voted upon and the Chair declared the motion carried unanimously by those Commissioners present.

Items for Discussion/Direction: None

Miscellaneous:

1. **Future Meetings:** The next regular meeting of the Planning Commission is scheduled for Wednesday, February 15, 2023, at 9:00 a.m.
2. **Correspondence: None**
3. **Staff Comments:** Mr. Carroll said he looked into the question asked at last month's meeting about the dam removal and whether there was a reclamation plan. He said FERC has a decommissioning plan, and it is post-dam removal remediation which includes revegetating, taking away sediment as appropriate, and re-establishing some of the recreation areas. Mr. Carroll said he had a copy of the report, and Vice Chair Fowle said he would like to see it. Vice Chair Fowle wanted to know if the Planning Commission has any authority to modify the reclamation plan, and Mr. Carroll said it was already part of the FERC approved decommissioning plan.
4. **Commission Comments: None**

Adjournment: The meeting was concluded at approximately 1:38 p.m.

Respectfully submitted,

Signature on File

Hailey Lang, Secretary

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