

**Siskiyou County Planning Commission
Regular Meeting
February 15, 2023**

The Siskiyou County Planning Commission meeting of February 15, 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 Hart, Veale, and Lindler

Absent: Commissioners Melo and Fowle (Commissioner Fowle arrived at approximately 9:30 a.m.)

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

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: Approval of the January 18, 2023, Minutes were moved for review after all projects listed under New Business were heard in order to allow time for Commissioner Fowle to arrive to the meeting.

New Business:

Agenda Item 1: Amornpongchai Use Permit (UP-21-19) / 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 641 South First Street, south of the city of Dunsmuir; APN: 030-570-030; Township 39N, Range 4W, Section 36; Latitude 41.1933°, Longitude - 122.2788°.

**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. Jereb.

Ms. Jereb told the Commission that the project proponents proposed to convert an existing single-family dwelling into a vacation rental. The 1,260 single story house is located south of the city of Dunsmuir and sits on a 0.18-acre parcel that is zoned for Rural Residential uses. Ms. Jereb said staff received the application before the implementation of the countywide restriction on short term rentals on properties less than 2.5 acres. The project is consistent with the General Plan and zoning for its area. It was inspected by the Building Division on September 23, 2022, and Environmental Health on September 10, 2022. The four required parking spaces are located in the driveway adjacent to the house. Three bedrooms are proposed as sleeping quarters and up to 10 guests could be accommodated which is the maximum allowed by County Code. The parcel is connected to the city of Dunsmuir water and sewer system so there are no occupancy limitations in that regard.

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

Ms. Jereb said one public comment was received after the staff report was written that was in opposition to the project, and the project proponent and potential property manager submitted comments in response to that comment. All comments were included in the staff report packet distributed to the Commissioners.

Ms. Jereb said staff recommended that the Commission adopt the categorical exemption and approve the use permit for the project.

Agency Input: None

Commission Questions:

Commissioner Veale asked how 10 occupants could be in three bedrooms, and Ms. Jereb said it was based on the square footage of the bedrooms.

Chair Lindler asked if the project proponents were already operating as a vacation rental based on the public comment received. Ms. Jereb stated that the property is not being operated as a vacation rental and pointed out that there was a map of permitted vacation rentals in the vicinity of the project that is included in the staff report. One is located a few hundred feet south of the project and Ms. Jereb wondered if that is what the commenter was referring to. Ms. Jereb said the Planning Division hadn't received any complaints on that street, but if he has complaints he needs to report them by contacting the Planning Division directly by either calling the office and talking to Code Enforcement or filling out a complaint online.

The Chair opened the Public Hearing.

Public Comments:

Mr. David Kwong of Elk Grove said he is a family member of the project proponents and was speaking on their behalf in support of the project. He explained that the project proponents bought the house with their parents, and they spent a lot of money buying the house and renovating it into a livable condition. Mr. Kwong said he recommended to Ms. Amornpongchai and Mr. Cheung that they go through the process, which included not renting the property until the use permit was approved.

Mr. Kwong said he and the project proponents are currently staying in the house in order to attend the Planning Commission meeting. Mr. Kwong said the project proponents would comply with all the conditions of approval and be good neighbors.

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

Commission Discussion:

Chair Lindler said it did not appear that the concerns raised by the adjacent landowner are about the subject property and asked that staff reach out and explain the process to him, and Ms. Jereb said she would.

Motion: Following discussion, it was moved by Commissioner Veale, seconded by Commissioner Hart, to Adopt Resolution PC 2023-005, a Resolution of the Planning Commission of the County of Siskiyou, State of California, Approving the Amornpongchai Use Permit (UP-21-19) and determining the Project Exempt from CEQA.

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

Agenda Item 2: Cortopassi Use Permit (UP-22-06) / 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 600 Spring Creek Road, approximately one mile northwest of the city of Mt. Shasta on APN 036-190-280 Township 40N, Range 4W, Section 17, MDB&M; Latitude 41.317°, Longitude -122.330°.

**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 project proponents proposed to convert an existing single-family dwelling north of the city of Mount Shasta into a vacation rental. The approximately 2,670 square foot house is located on 2.9 acres and is zoned Rural Residential Agricultural. The project is consistent with the General Plan and zoning for its area. It was inspected by the Building Division on June 1, 2022, and Environmental Health on July 7, 2022. The five required parking spaces are adjacent to the house. Four bedrooms are proposed as sleeping quarters, and a maximum of eight persons are allowed by the existing septic system.

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 or future activities which might reasonably result in the project having a significant effect on the environment.

Ms. Gray said that Environmental Health, the Building Division and Cal Fire commented regarding their requirements. Ms. Gray said staff recommended that the Planning Commission determine the project categorically exempt and approve the use permit.

Commission Questions: None

Agency Input: None

The Chair opened the Public Hearing.

Public Comments:

Mr. Harold Clinehans of Mount Shasta spoke and said he wasn't necessarily opposed to the project but wanted to hear the conditions of approval. Ms. Jereb began reading them up to number 12, at which point Mr. Clinehans said he had heard enough. He said he wanted clarification on condition of approval number 8 regarding the property manager, and Ms. Jereb said the conditions of approval include the requirement for a property manager that resides in Siskiyou County.

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

Commission Discussion:

Chair Lindler asked staff to explain why this project was back before the Commission. Ms. Gray said the project was originally presented at the October 19, 2022, meeting. The day before the meeting, staff received two complaints and a Cal Fire incident report. Staff asked the Commission to open the public hearing on the project since members of the public traveled to the meeting from Mount Shasta. After the public hearing, staff requested a continuance so they could do an inspection and address some of the concerns on the property.

Chair Lindler asked about the unattended fire on the property and whether the attendees were renters, and Ms. Gray said the property owners were among the attendees but staff didn't have any record or knowledge if the property has been rented. Ms. Gray said the project proponent was requesting to speak, and Chair Lindler asked that he address the issue with the fire.

Mr. Paul Cortopassi, the project proponent, said they would comply with all the conditions of approval. He said they were in attendance at the gathering in question and left for about 25 minutes to go to the store and the fire was left unattended. Mr. Cortopassi said there was an inspection by Cal Fire which was signed off. He said they have not rented out the property.

Motion: Following discussion, it was moved by Commissioner Hart, seconded by Commissioner Veale, to Adopt Resolution PC 2022-023, a Resolution of the Planning Commission of the County of Siskiyou, State of California, Approving the Cortopassi 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: Usry Use Permit (UP-22-10) / 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 1707 Laura Marie Lane, northwest of the city of Mt. Shasta; APN: 036-090-470; Township 40N, Range 4W, Section 8; Latitude 41.3298°, Longitude -122.3443°.

**Categorically Exempt
Use Permit**

**Continued
Continued**

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 Commissioners that the project proponents were proposing to convert an existing single-family dwelling into a vacation rental. The two-story house is approximately 2,639 square feet and is located northwest of the city of Mount Shasta on a 2.5 acre parcel zoned for Rural Residential uses. The project is consistent with the General Plan and zoning for its area. Inspections were done by the Building Division and Environmental Health on August 24, 2022, and January 10, 2023, respectively. The three required parking spaces are located on the gravel parking area adjacent to the house. Two bedrooms are proposed as sleeping quarters and based on the septic capacity, a maximum of six persons would be allowed.

Ms. Jereb said the project is exempt from CEQA pursuant to Section 15301 as it is an existing facility and there are no unusual circumstances or future activities which might reasonably result in this project having a significant effect on the environment. She said no public comments were received, and staff recommended adopting the categorical exemption and approving the use permit.

**Commissioner Fowle joined the meeting at approximately 9:30 a.m.
during Ms. Jereb's presentation of the Usry Use Permit (UP-22-10) project.**

Agency Input: None

Commission Questions: None

The Chair opened the Public Hearing.

Public Comments:

Mr. Bob Hawkins of Mount Shasta spoke in opposition to the project. He said he owns the property south of the proposed vacation rental. Mr. Hawkins said the gravel parking area is sufficient for three cars but he said snow doesn't get plowed on the property so people park on the street. Mr. Hawkins said the previous owners offered the property as a vacation rental for 10 years and he submitted multiple complaints to County Code Enforcement. Mr. Hawkins said he owns 90 percent of Laura Marie Lane so everywhere people park is on his property. He said if it snows the road doesn't get plowed for eight to 10 hours. Mr. Hawkins said there is also an issue with the garbage because renters place the garbage out several days before it's picked up. He said because bear-proof receptacles aren't being used, the bears get into the cans and drag the garbage into his yard which he has to clean up. He said he told the new owners to purchase bear-proof dumpsters but they haven't done so. Mr. Hawkins said there is another property on Laura Marie Lane that is a permitted vacation rental, and the occupants started a fire in their front yard. He said he and the neighbors provided initial attack on the fire until Cal Fire arrived. He said occupants of the other vacation rental have been in his yard looking for firewood at night. Mr. Hawkins said he is not against vacation rentals, but the conditions are not clear and adequate.

Ms. Sandra Haugen of Mount Shasta spoke in support of the project and said she will be the property manager. She said she can concur with Mr. Hawkins that the previous property owners were operating an illegal vacation rental. She said she arranged for the property to be plowed on a regular

basis and there is a bear-proof receptacle on the property which she requires on all properties she manages. Ms. Haugen said most of the neighbors have her number so if there are issues, she can take care of them.

Chair Lindler asked Ms. Haugen if she would be making sure the plowing is adequate so the allowed number of vehicles on the subject property would not be parking on Mr. Hawkins' property, and Ms. Haugen said the plow will plow the snow up into the property instead of down the side.

Mr. Hawkins requested to speak again and said the plowing has been inadequate. He said one day after it snowed, the plow didn't show up until after midnight and he wondered where people were supposed to park. He said that since it's a commercial business the plowing needs to be immediate. Mr. Hawkins said that speeding is an issue by people who stay at the property even though there are multiple signs saying slow down. The road is a single-lane gravel road that was designed for rural residential living, not commercial activities.

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

Commission Discussion:

Discussion was held regarding where Mr. Hawkins' house is located in relation to the project site. Commissioner Hart asked Mr. Hawkins if there is a shared easement since the access road is a single lane, and Mr. Hawkins said there are CC&Rs that are part of the subdivision which are supposed to contain a road maintenance plan. Discussion was held that the enforcement of CC&Rs is a civil matter among the property owners and thus could not be a condition since the Planning Commission has no jurisdiction over CC&Rs.

Discussion was held regarding whether compliance with Cal Fire's 4290 regulations could be conditions and whether the County could dictate 4290 regulations on private property. Through the Chair, Ms. Jereb said the subdivision was created as a recorded map and even though the roadway is private property, it's a publicly accessible road for ingress and egress. A lengthy discussion was held regarding whether or not the county has the authority to let the other property owners know if the road would be widened to meet 4290 regulations in order to meet the conditions of a project which is neighboring their property.

Mr. Dean said he didn't know if 4290 regulations would apply since a new structure wasn't being built. He said Cal Fire was present in case they wanted to provide clarification. Mr. Jereb added that even if the road were single wide as Mr. Hawkins was stating, she believed the easement is 60 feet wide so it has the potential to be widened to meet whatever standards are necessary.

Discussion continued about the road width and who would bear the cost of widening it if it became a requirement. Greg Roath, Operations Chief of Cal Fire Siskiyou Unit and Deputy County Fire Warden, was present at the meeting, and Chair Lindler asked him to address the 4290 regulations and how they would apply to the subject project. Chief Roath said Mr. Dean was correct in that the road widening requirements are for new construction. For use permits, there is only the requirement that the portion of the road owned by the person getting the use permit meet 4290 regulations which includes signage, clearance, etc. The widening of the road and implementation on other property owners is not required based on determinations made by Cal Fire's Legal Department.

Discussion was held regarding requiring bear receptacles and plowing and making them conditions of approval.

Discussion was held regarding correcting the Figure 4 site and parking map in the staff report to reflect that the 60-by-80 area is designated as parking but it is actually a turnaround that is not for parking. Ms. Jereb said if it's on the easement it might be able to be used by more than just the property owners and their tenants or guests in the future, but she would doublecheck what the recorded map says. She said it's more than likely the cul-de-sac for the road, but she would clarify in the conditions of approval that all parking is to be within the 30-by-30 area that is adjacent to home.

Chair Lindler summarized the two conditions that would be added which were to correct the parking map by removing the 60-by-80 turnaround and that adequate bear-proof receptacles would be provided. Ms. Jereb said she would modify Condition of Approval number 14 to read, "shall provide adequate bear-resistant garbage receptacles." She would modify Condition of Approval number 8 to read, "...shall be included that requires all guest parking to be located off street within the 30-by-30 parking area adjacent to the home and prohibits parking along Laura Marie Lane." Language would also be added that parking in the turnaround is not allowed.

Discussion turned to the earlier reference by Mr. Hawkins that occupants of another permitted vacation rental property on Laura Marie Lane were doing outdoor burning. Commissioner Fowle wanted to know if it was a condition that outdoor burning was prohibited by renters and if Code Enforcement was informed, would it be grounds to bring that use permit back to the Commission for revocation. Ms. Lang said it would potentially be grounds and explained that they try to work with the property owner to rectify the issue within a specified timeframe. If the issue were to continue, then staff would likely bring it back to the Planning Commission for revocation.

Discussion returned to the 4290 regulations and how they would apply to this project. Chair Lindler said she wanted to postpone the project so she could measure the road. It was ultimately decided to continue the project to the March Planning Commission meeting.

Motion: After discussion, it was moved by Commissioner Hart, seconded by Commissioner Fowle, to continue the Usry Use Permit (UP-22-10) to the March 15, 2023, Planning Commission meeting.

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

Minutes: It was moved by Commissioner Veale, seconded by Commissioner Fowle, to approve the Minutes from the January 18, 2023, Planning Commission meeting as presented.

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

At approximately 10:35 a.m. Chair Lindler turned the meeting over to Vice Chair Fowle to hear the Kidder Creek Orchard Camp project.

At that point, Vice Chair Fowle called for a break.

The meeting was readjourned at 10:42 a.m.

Old Business:

Agenda Item Number 1: Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP-11-15) / Mitigation Monitoring and Reporting Program

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.

**Approval of further Mitigation Measures and
Mitigation and Monitoring Reporting Program**

Approved

Vice Chair Fowle reminded those in attendance that this project was heard at the January 18, 2023, meeting and continued to the February meeting and that the Planning Commission closed the public hearing at the January meeting. Even though there were no changes to the project, he acknowledged that additional public comments were received and were provided to the Commission, and those comments would be provided to the Board of Supervisors.

Vice Chair Fowle said the purpose of the continuance was so key individuals from County Public Works, County Natural Resources and Cal Fire could be present to answer specific questions from the Commission based on what the Board of Supervisors asked the Planning Commission to address which were fire hazards, the pond, zoning, biological resources, and incorporation of the Mitigation Monitoring and Reporting Program.

Commission Discussion:

FIRE HAZARDS:

The first subject addressed was fire hazards. Discussion was held that even though the Planning Commission believed the project met all Cal Fire regulations, the Board of Supervisors wanted to involve Siskiyou County Office of Emergency Services (OES) to review KCOC's evacuation plan. There was also concern about fire coming from Cheeseville affecting KCOC, but that was already addressed in the modeling done by Cal Fire and then again by Bryan Schenone of OES. Vice Chair Fowle urged staff to succinctly relay the modeling and testimony provided by Cal Fire to the Board.

Discussion was held regarding whether or not the Planning Commission could impose stricter requirements. Chief Roath said that because Siskiyou County has not adopted the 4290 regulations, Cal Fire and the county fire warden make recommendations to the Board of Supervisors. Chief Roath said he didn't believe there were any additional recommendations to make at this point.

Discussion was held regarding 4290 inspections and that Cal Fire would be the lead.

Discussion was held that Cal Fire has the modeling available to better analyze fire behavior based on weather conditions, wind, etc. Discussion was held that KCOC is in the process of developing a fuel load reduction plan. Discussion was held regarding whether or not the emergency ingress/egress road meets 4290 regulations and that KCOC would have to complete the road before they can increase their occupancy.

Discussion was held regarding whether or not the Planning Commission has the authority to place conditions that the emergency access road be safe and passable for vehicles transporting livestock, i.e., a pickup towing a 30-foot gooseneck trailer. Mr. Carroll said it would be reasonable to require that as a condition.

Discussion was held that KCOC met the 4290 regulations at the time they applied for the permit. However, KCOC is not required to update their permit to match the current regulations so the Planning Commission can only apply the regulations that were in effect in 2014.

POND:

Discussion was held regarding the evaporation study and why the Planning Commission is getting involved in water rights that are under the jurisdiction of Siskiyou County Superior Court and the State Water Board. Chris Cummings, who prepared the Evaporation Water Loss study, said they were originally asked to review the issue as a result of public comments received. The CEQA checklist does not include water rights. Ms. Lang said during the scoping meeting of the EIR there were many comments related to groundwater, so staff at the time decided to tack on this additional technical study to further clarify and let the public know of the potential impact even though they were not requirements from the CEQA checklist.

Mr. Carroll confirmed that water rights are not under the purview of the Planning Commission. He said his understanding is that KCOC has pre-1914 appropriated rights so there is not authority by the State Water Board to regulate the point of diversion and point of use. Mr. Carroll said he believed the Scott River Decree does control how much they can use to irrigate. He said it was his understanding that that the concern was from the Board of Supervisors whether activities should be reduced at KCOC if and when the pond happens to get too low to be usable for whatever water activities they had. Vice Chair Fowle wanted to know what business is it of the county to make management decisions for a business.

Ms. Jennifer Buckman, the environmental attorney for KCOC, said she agreed with Mr. Carroll's assessment of water rights because they are pre-1914 appropriated rights so it doesn't belong to the State Water Board. She said she agreed with Vice Chair Fowle's comment that the possibility of evaporation from the pond is a management decision related to its recreational use and not a water rights issue for the Planning Commission to be taking up.

Discussion was held regarding whether or not the Planning Commission should look at whether the project could reasonably negatively impact a downstream water right holder on Barker Ditch. In this particular case, the report states that the downstream water right holders are in favor of this project. Vice Chair Fowle wanted to know if there were any other reason why the Planning Commission should look at the pond. Mr. Carroll agreed that the Planning Commission doesn't have anything to say about the legal right for KCOC to use the water, other than they would want to make sure there may be some basis for it. But it would be in the Planning Commission's purview to look at the environmental effects of KCOC's right of use of water as it pertains to this project and how it affects other property owners.

Vice Chair Fowle asked Mr. Matt Parker, Siskiyou County Natural Resources Specialist, to answer how or what relationship the Scott River GSA (Groundwater Sustainability Agency) / GSP (Groundwater Sustainability Plan) has with the KCOC project as it relates to SGMA and whether there is any relationship that the GSA would look at as it relates to the GSP and what they may be

limited or not limited to do. Mr. Parker said from his understanding of SGMA, the Planning Commission has to take into account the alleged GSP which requires coordination between the GSA and the Planning Commission. Discussion was held that the county submitted the GSP to the county Flood Control District and the Board of Supervisors sits as the Board of Directors. Mr. Parker said since KCOC is included in the GSP, the Planning Commission and the Planning Division would need to look at the GSP and coordinate with the GSM regarding whether or not the project would conflict with the GSP.

Ms. Buckman pointed out that the GSP states there is no groundwater overdraft in the sub portion of the Scott River basin where KCOC is located, and streams in the upper tributaries contribute to the groundwater so there wouldn't be an issue with the additional grounding well coming online as part of this project. The GSP also states that during the 40-year study period, there were no significant long-term trends in water levels noted. She also pointed out that in the groundwater study done for KCOC, the depth to groundwater was only about 20 feet so it's obviously very shallow and recharges quickly.

Discussion was held about the legal use of a domestic well, and Mr. Dean explained that essentially a domestic well is for providing water to a residential home for bathing, showering and water consumption as well as gardening, lawn irrigation, etc. The 2-acre maximum is something new but was not defined in the past. The definition for a domestic well until the recent executive order from the governor basically put a 2-acre minimum cap per annum on domestic use water. It also appeared with the curtailments by the State Water Board. Mr. Dean added that groundwater cannot legally be used to supplement the pond.

Discussion was held regarding the fact that KCOC is proposing one well and there are seven individual parcels on the property. Commissioner Hart wanted to know if there was anything that would prevent KCOC from drilling a well on each of the seven parcels. Mr. Glen Pearson, who prepared the analysis of groundwater and surface water, said one well won't have any impact on adjacent owners, the creek or downstream. He said there would be an insignificant impact if one well were placed on each parcel.

Discussion was held regarding whether or not there would be anything to prevent KCOC from dividing the seven lots and making them smaller. Ms. Lang said under the Scott Valley Area Plan, the parcels are predominantly within the non-resource area policies and are 5-acre minimums. She said multiple lots could be created and a rough estimate would be 20 parcels.

Through the Chair, Ms. Jereb added that the state is requiring that any residentially zoned property have a buildout of up to three units even if it's only designed for a single family. That would be the main dwelling itself, an accessory dwelling unit, and then a third which is the junior accessory dwelling unit. That would all depend on the availability of water and septic systems so smaller parcels may not have the septic capacity for that many units. A 5-acre parcel generally has the capacity for a minimum of two depending on the soil so there potentially could be three per parcel that ultimately could be divided in two. Mr. Dean said with the current executive order, the parcel would be restricted to 2 acre feet per year of use.

Commissioner Hart wanted to know what the potential impact would be if KCOC were to divide the seven parcels. Mr. Pearson said he hadn't analyzed it but given what he knows of the geology, you're going to get in the hard rock area in some of those parcels. He said you're doing well if the well is producing 3 to 5 gallons a minute and it's difficult to show impact. He added that a lot of water goes back into the groundwater system from a domestic well.

Commissioner Hart said he was trying to demonstrate that the impact of one well on this project wouldn't have any significant impact downslope based on the information he was provided and based on the zoning and what can and cannot be done. He said the Commission is tasked with working with the CEQA document for this project, and their job is to try to minimize the impacts and mitigate each item on the checklist. It is not the Commission's job to make political decisions.

Mr. Dean added that the 20 additional lots is a conservative number and 2 acre feet per annum is 40 acre feet per year. He said the project is slated for 25 acre feet maximum so it is close to potentially doubling the groundwater impact. Mr. Pearson said for correction it's only 21 acre feet over the existing use and it's a maximum of 25 acre feet with full development. He said there is already 5 acre feet currently being used.

Discussion was held regarding how the Scott Valley Area Plan will be affected by the upcoming update to the housing element and that state laws take precedence over local government.

Vice Chair Fowle confirmed with staff that any questions or concerns expressed by the Board of Supervisors regarding general fire risk, the pond and groundwater have been addressed. Vice Chair Fowle said the Commission's answer to the Board about the pond is that it is not within the Planning Commission's purview.

ZONING:

Discussion was held that the Board's concern about zoning was with the density of recreation taking place at KCOC and whether it is considered commercial. Based on analysis of staff and County Counsel, the project is defined under County Code as being a private recreational facility operated by a nonprofit organization open to bona fide members and guests of such nonprofit organization. Vice Chair Fowle pointed out that the project meets the current requirements of the code, and it is up to the Board of Supervisors to change the code.

BIOLOGICAL RESOURCES:

Discussion was held regarding why the Board of Supervisors was concerned that the northern spotted owl and bald eagle were not mentioned in the wildlife report. Ms. Lang said they were mentioned and she deferred to Jamie Allen, the wildlife biologist who prepared the Wildlife Resources Biological Assessment report, as to specifics of the methodology.

Mr. Allen said that at the time of the evaluation, KCOC did not have a timber harvest plan (THP) in place so the impact of the northern spotted owl was discountable because habitat modification was not occurring and it did not break the threshold for noise disturbance that would result in incidental take in the proximity of a quarter mile of suitable habitat. Mr. Allen said the proposed actions recommended by Cal Fire at today's meeting regarding fuels reduction may warrant another evaluation to address any sort of incidental take or disturbance of the northern spotted owl or other species.

Discussion was held that a new condition to the use permit would be that potential biological impacts be evaluated prior to a fuel reduction plan being implemented. Mr. Allen said he would recommend that further analysis be done for multiple species that may be affected within six months of the proposed fuel reduction plan being started.

Discussion was held regarding whether or not the Planning Commissioners are bound by their vote in

November if they have concerns that have come to light since then. Mr. Carroll advised that it would not be appropriate at this time to reverse their decision on the project. Vice Chair Fowle said any concerns could be discussed after there is a motion and a second which staff could communicate to the Board.

Discussion was held to add a condition that prior to the implementation of the fuel load reduction plan, appropriate and timely biological surveys shall be conducted. Vice Chair Fowle said he believed that was standard operating procedure before any fuel load reduction, but he wanted it to be clear to the public that additional biological surveys would be done before implementing the fuel load reduction plan on which KCOC is consulting with Cal Fire.

Chief Roath said he recommended that language be included that the fuel reduction plan could be done with a registered professional forester since not all fuel reduction projects that a landowner may choose to do would involve Cal Fire.

Discussion was held regarding whether or not the emergency exit road is a recorded deeded easement stating that KCOC has the ability to use the road, and Mr. Tim Lloyd of KCOC confirmed that was the case.

Discussion was held regarding whether or not KCOC would improve the emergency exit road to accommodate gooseneck horse trailers. Vice Chair Fowle said he would not take such a trailer on a Regulation 4290 approved road. Mr. Lloyd said they are working with an engineer to design the road to meet 4290 standards so that part of the road can't be evaluated yet. He said the rest of the road is pretty straight and it will all be improved to meet 4290 standards.

Vice Chair Fowle said he had three concerns—road material being rock solid so traction is not an issue based upon grade, turning radius, and cutting the ridge to reduce the incline to decline ratio. Mr. Lloyd said the 4290 regulations address the road material and grade. Chief Roath said there is a roadway standard that requires that under a certain grade has to be graveled, and under a certain steepness would require pavement. He said the road base has a weight requirement. Chief Roath said 4290 regulations also have a turning radius requirement so the road should meet those standards. Finally, Chief Roath said there are also requirements that it can't be over a certain steepness or it needs to be paved, or it can't be over a certain steepness, period.

Discussion turned to the subject of who owns South Kidder Creek Road. Mr. Thomas Deany, Director of Public Works, said the county does not own the road but the county has an easement and the right to travel on the road. Commissioner Hart wanted to know who is liable if someone gets hurt on the road and the county doesn't have a recorded easement. Mr. Carroll said depending on the cause of the accident and if the county has been maintaining the road and the maintenance somehow contributed to the accident, the county could be one of the parties held liable.

Discussion turned to the speed limit on the road and how the speed limit could be changed. Mr. Deany said the speed limit is determined by a traffic and speed study, and he explained how that worked. He said the accident history can be considered, and if there were a lot of accidents an area could be declared a safety corridor. Another factor that can lower the speed limit would be if there is an area that has had a lot of fatalities.

Mr. Deany said traffic studies have to be done at certain increments of time to keep the CHP happy. If there is not a current traffic study on a road, CHP doesn't like to enforce on that road because theoretically those tickets could be beat in court. Mr. Deany said almost everything is expired so the

county is working on it. The other way is submitting a formal complaint to Public Works by either calling or filling out their complaint form online letting them know vehicles are traveling at a speed that is unsafe on a particular road and request that they do a speed study.

Discussion was held regarding whether or not a condition could be added that KCOC perform a traffic study to determine the appropriate speed limit before a permit is issued. It was ultimately decided that traffic was not one of the items the Board wanted the Planning Commission to review and is separate from the process.

MITIGATION MONITORING AND REPORTING PROGRAM (MMRP):

Vice Chair Fowle said that in addition to Mitigation Measures (MM) 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7, there would be 4.8 and possibly 4.9 dealing with prior to implementation of the fuel loads reduction plan, a biological survey will be done by the proper individuals, i.e., a registered professional forester, Cal Fire, US Forest Service. MM 4.8 would be the northern spotted owl and MM 4.9 would be the bald eagle.

Discussion was held regarding MM 9.1 and why there is a 9.1 under Hazards and another 9.1 under Hydrology and Water Quality. Ms. Buckman said MM 9.1 under water rights was suggested by California Department of Fish & Wildlife (CDFW), and she believed it was inadvertently included because it's legally infeasible. She said CDFW asked to have this mitigation measure included in order to mitigate impacts associated with potential flooding of the ponds because CDFW thought the California State Water Resources Control Board should make a finding as to their jurisdiction related to the water rights. Ms. Buckman reiterated what was stated by County Counsel which was the water rights owned by KCOC are pre-1914 appropriated water rights as confirmed by the Scott River decree so the State Water Resources Control Board has no jurisdiction. She said KCOC requests that the Planning Commission make a finding that a portion of the mitigation measure that was suggested for 9.1 is legally infeasible and also would not provide additional mitigation of the hazard over and above what is already being recommended as part of the correct portions of the MMRP which is another and separate basis for rejecting that mitigation measure that was proposed.

Discussion was held that the Division of Dam Safety within the California Department of Water Resources is the agency responsible for construction of new dams, and Ms. Buckman said that agency would determine whether or not the pond is a dam and whether it is subject to their jurisdiction.

Discussion was held regarding MM 9.1 under Hazards and removing MM 9.1(3). Ms. Buckman said it was a suggested mitigation measure by CDFW and it was included in the partially recirculated draft EIR. She said the Planning Commission is able to make a finding as to whether or not that mitigation measure is capable of being accomplished under CEQA. Ms. Buckman said the Commission can take into account the fact that CDFW is asking that the State Water Resources Control Board exercise jurisdiction that it does not have. She said KCOC believes that portion should be found to be infeasible, and it should not have been included in the partially recirculated draft EIR.

Discussion was held that MM 8.1 would clearly state that before any groundbreaking occurs for new buildings, improvements, etc., that the emergency access road would be developed, traversable, meet 4290 regulations and be passable, and the Commission and staff concurred.

Discussion was held that staff would remove MM 9.1(3) under Hazards, and the Commission and staff concurred.

Discussion was held that there would be no changes to MM 9.1 under Hydrology and Water Quality, and the Commission and staff concurred.

Discussion was held that MM 8.2 be added under Hazards to reflect that upon OES recommendation KCOC will evacuate when their zone reaches the warning status and that it will be a condition as well as a mitigation measure. The Commission and staff concurred.

Discussion was held that MM 8.3 would be added which would require that KCOC will provide for additional and adequate transportation onsite when fire conditions exceed the 97th percentile of fire danger, and that KCOC will enter into an MOU with Siskiyou County OES memorializing this requirement. The Commission and staff concurred.

Discussion was held that KCOC wanted clarification regarding MM 4.7. It was ultimately decided that it would be revised to read, "A no-disturbance buffer of 150 feet from the active channel of Kidder Creek," and the Commission and staff concurred.

Commissioner Hart wanted it noted on the record that CDFW was not participating in today's meeting so the Commission and staff were unable to get clarification from them regarding MM 4.7.

After Commission Discussion, a member of the public questioned why there was no public hearing. Vice Chair Fowle said the public hearing was held and then closed at the January meeting and that he had also mentioned at the beginning of today's meeting and one additional time that the public hearing was closed. County Counsel said it was at the discretion of the Vice Chair to allow additional public comment. After discussion, Vice Chair Fowle agreed to allow additional public comment.

The Chair opened the Public Hearing.

Public Comments:

Ms. Charnna Gilmore of Etna spoke against the project. She said she provided additional information that she thought was under the purview of the Commission regarding the groundwater well. She proceeded to read a state code regarding domestic wells. She said KCOC's well is registered as a public well and not a domestic well. A domestic well is defined as having no more than four connections. Ms. Gilmore said it's important to understand how a domestic well is different from other water uses. She said the per capita water use by KCOC is 45 gallons a day and that was important because all outdoor water use is accomplished by the surface water from Barker's Ditch.

Ms. Gilmore said she thinks the county has jurisdiction and a fiduciary responsibility to verify that the EIR is substantiated in minimizing the 45 gallons because all other water use for the 580 acres is going to come from their 37-acre water right that is minimal and diminishes over time with flow.

Ms. Betsy Stapleton of Etna spoke against the project. She acknowledged that the project has been going on since 2011 and has heard comments from KCOC, the consultants and staff lamenting that. She said it's also a burden on the citizens because they don't receive compensation for having to continuously comment in opposition to the project over the years. She said she understands the Commission is addressing very technical issues. Ms. Stapleton said the Scott Valley Area Plan is clear in its intention to limit large scale development in areas of existing development. She said she believes KCOC does not meet the criteria for being a private recreational enterprise because they have public events and advertise them. She said it needs to be viewed as a major commercial

development that is in contradiction to the intent of the Scott Valley Area Plan and that it will set the precedent for other enterprises attempting to do the same thing in Scott Valley.

Ms. Anne Marsh of Etna spoke in opposition to the project. She said she wanted to address remarks made by Commissioner Hart that there was no concern with traffic but just noise. She said there is a major concern with traffic on the road and it will be a triple concern if the population the size of a small city in Scott Valley will be going to KCOC. Ms. Marsh said the other thing stated by Commissioner Hart was that if all the environmental checkboxes are taken care of, then that's fine with any Commission. She said that can't be true because the facts that are stated have to be factual and in some cases they just blatantly are not and have been refuted many times. She said even the county has agreed that they have not been stated correctly. Ms. Marsh said the project is blatantly not viable under the Scott Valley Area Plan because of its density and intensity. She said if the population were reduced to 450 or 400 maybe she wouldn't have a problem. Otherwise, she has a problem with the population the size of a city in the valley being put up at the end of a dead-end road which will affect all the people on that road and all the people on the other side of the creek on North Kidder Creek Road. She said she sent in a letter and hoped it was read. She said somebody decided that there would be no more input and that is one of her problems with the county allowing proponents to go on and on and not allowing those who are opposed to projects make even minimal comments that are put into the minute record. She said people look at the minutes beyond a proceeding and tend to believe what's in there.

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

Commissioner Hart stated he wanted to correct Ms. Marsh. He said he did say there was a traffic issue on South Kidder Creek Road which is why he specifically asked that a traffic study be done and incorporated into the conditions of the use permit. As far as the CEQA checklist is concerned, Commissioner Hart said if items are fully mitigated, whether they be high, medium or low, if there is something that cannot be mitigated and there is no good conscience to say no to a project, that is a political decision. The Planning Commission is not tasked with political views or political votes because those would be under the purview of the Board of Supervisors.

Motion: Following discussion, it was moved by Commissioner Hart, seconded by Commissioner Veale, to Adopt Resolution PC-2023-004, a Resolution of the Planning Commission of the County of Siskiyou Approving Further Mitigation Measures and a Mitigation Monitoring and Reporting Program for the Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP 11-15).

Before the motion was voted on, Commissioner Veale wanted it known that he originally voted in favor of the project because he believes in KCOC's mission, but he was concerned about the significant increase in traffic.

Commissioner Hart directed a question to staff regarding Ms. Gilmore's comment about the use of the well and her allegation that only a certain number of people are allowed to use it if it's not a public well. Mr. Dean said what Ms. Gilmore said is partially true. He said KCOC's system is a public water system and is regulated by the state. The parameters stated by Ms. Gilmore were referring to a small water system with 15 connections or 25 people which is a different category than the category KCOC is in. KCOC's water system exceeds 15 connections which makes it under the state's jurisdiction. Mr. Dean said in order to bridge the gap between domestic versus public water systems, KCOC's system serves multiple connections making it a public water system but the overall use is primarily for

domestic purposes. Discussion was held that a second well would become another component of the existing well.

Discussion was held regarding zoning and public comments made that recreational activity is not allowed under SVAP. Ms. Lang said the county's General Plan and SVAP do not specifically define recreational uses so it is highly subjective. Commissioner Hart said he believes the project fits the zoning defined under the current county zoning code and that any argument to the contrary should ultimately be decided by the Board of Supervisors. Vice Chair Fowle added that KCOC has met the legal requirements that are overseen by the Planning Commission.

After further discussion:

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

Ayes: Commissioners Hart, Veale and Fowle

Noes:

Absent: Commissioners Melo and Lindler

Abstain:

Commissioner Hart wanted it known that the ultimate decision for this project does not reflect his opinion of the project.

Items for Discussion/Direction: None

Miscellaneous:

- 1. Future Meetings:** The next regular meeting of the Planning Commission is scheduled for Wednesday, March 15, 2023, at 9:00 a.m.
- 2. Correspondence:** None
- 3. Staff Comments:** None
- 4. Commission Comments:** None

Adjournment: The meeting was concluded at approximately 1:13 p.m.

Respectfully submitted,

Signature on file

Hailey Lang, Secretary