

LAKE COUNTY PLANNING COMMISSION

MINUTES

REGULAR MEETING – January 22, 2009

Commission Members

P Michael van der Boon, I
P Gary Briggs, II
P Clelia Baur, III
P Cliff Swetnam, IV
P Gil Schoux, V

Staff Members

P Richard Coel, Director
P Robert Bridges, Sr. Deputy County Counsel
P Danae Bowen, Office Assistant III

9:03 a.m. CALL TO ORDER

Pledge of Allegiance was led by Gil Schoux

ELECTION OF CHAIR AND VICE CHAIR

Chair – Gary Briggs was elected unanimously.

Vice Chair – Clelia Baur was elected unanimously.

Michael van der Boon, District I Planning Commissioner introduced himself.

Comm. Baur moved, 2nd by Comm. Swetnam to approve the minutes of November 13 and December 11, 2008.

9:04 a.m. CITIZEN’S INPUT – None

STAFF UPDATE

Richard Coel, Community Development Director, announced that the first draft of the Middletown Area Plan has been completed and Committee meetings should be restarting in the last week of February. He added that the Shoreline Communities Area Plan Public Draft will be out to the Advisory Committee for their final review before releasing it to the general public for public workshops.

9:12 a.m. Public Hearing on consideration of General Plan of Conformity GPC 08-08. The project applicant is the Lake County Redevelopment Agency proposing to acquire two lots, construct a new building for use by the Clearlake Oaks Senior Center, and a parking lot. The project is located at 12497, 12501 & 12513 The Plaza; 12504 Pine Street and 12502 Foothill Blvd., Clearlake Oaks and further described as APNs 035-143-14, 15, 53, 54 & 55. (Alan Flora)

Comm. Baur disclosed her observations conducted during her site visit.

Alan Flora, Assistant Planner, provided background information.

Comm. Baur stated that the additional parking proposed for the Senior Center will better serve the needs of the Senior Center and the United Methodist Church. She asked staff what the legal agreement would be as to who would take care of it and the liability involved.

Richard Coel, Community Development Director, stated that it would be part of the review process and any agreements that the Redevelopment Agency has.

9:16 a.m. Opened Public Hearing.

No one present wished to speak.

9:16 a.m. Closed Public Hearing.

Comm. Baur thought this would be a practical solution for the needs for parking there and was in favor of this project application.

Comm. Baur moved, 2nd by Comm. Swetnam that the Planning Commission report that the General Plan Conformity (GPC 08-08), as proposed by the Lake County Redevelopment Agency, is in conformity with the Lake County General Plan.

GENERAL PLAN CONFORMITY 5 Ayes 0 Noes

9:18 a.m. Public Hearing on consideration of a mitigated negative declaration based on Initial Study (IS 08-22) for Minor Use Permit (MUP 08-26). The project applicant is ROBERT AND SUSAN WILOTH proposing a minor use permit to authorize use of existing commercial stables and a riding academy. The project is located at 18115 Diamond Ridge Road, Lower Lake and further described as APN 012-050-15 & 39. (Brian Horn)

Comm. Baur disclosed her observations conducted during her site visit and her exparte conversation with Susan Wiloth.

Brian Horn, Assistant Planner, provided recent photographs of the site to the Commission and background information on the project.

Comm. Swetnam asked who built the non-compliance structures without permits.

Mr. Horn said that the current applicant built them.

Comm. Swetnam stated that this is another situation with the building of illegal structures, violating easements and using the property without the proper permits and it is not until someone gets caught that they come before us to try to make it legal. He said he was not in favor of this project the way it stands, however was more in support of getting all of the issues taken care of before coming to the Commission for a permit.

9:24 a.m. Opened Public Hearing

Susan Wiloth, the applicant, addressed permit and easement issues. She explained that they have an ag. exempt permit on file, which the structures/arena were built under. She said they were not aware of any road easements and did not realize that they had to go to any other extent other than having a handshake agreement with their neighbors. She said they built this with the knowledge of the setbacks and thought they were in compliance.

Kevin Destiny, neighbor on eastern side of the applicant, addressed the structures that were built on easements or on setbacks and the granny unit not being ADA compliant. He asked what the consequences would be for these actions and asked who enforces/monitors the mitigations proposed by staff. He felt the Wiloths were not up front in obeying the rules and shared his concerns with liability issues of handicapped riders on the road, insects/odors and traffic/safety. He said he felt with the high water usage of irrigating pastures, watering horses and the close proximity of his property to their well, that his well would run dry. He did not think this was the right location for this endeavor.

Liza Kursa, Diamond Ridge Road resident, shared her concerns with the commercial operation in a residential development, increase in traffic in the neighborhood, dust nuisance from the dirt road, building without permits, liability issues with out of control trail riders on the road, well issues, runoff, drainage, manure and aquifer impacts. She felt that the neighbors should not have to share in road maintenance for a commercial enterprise.

Joyce Lashbrook, twin lakes resident, felt the benefits of the children who use this facility is immeasurable and far outweighed the road impacts or concerns that are being addressed today.

Mark Freeman, Noble Ranch Road resident, did not think that the mitigations proposed by staff are enough. He addressed the six inches of gravel proposed for the parking lot to help control erosion/dust and felt that something similar should be proposed or required for the roads for similar reasons. He stated that horse trailers are noisy and felt there should be a noise study done.

Comm. Briggs asked staff to explain what is allowed in Rural Land Zoning.

Mr. Coel explained that Rural Lands Zoning allows for residential and/or agricultural uses, which allows one house per 20-acres or on a parcel of 20-acres or less there can be one house and a granny unit. He said the agricultural uses are uses-by-right, which would be raising farm animals not for public use, vineyard/orchard development or agricultural related uses.

Percy Tejada, Hidden Valley Lake resident, said that he has been taking his son who has special needs to the ranch for the past six to seven months. He said he understands the position of the homeowners, but felt the benefits of the service that the families are getting outweighed the property owner seeking out the proper permits. He asked that the applicant be given appropriate measures to be able to come into compliance and fulfill their requirements to the County to make this service accessible to the handicapped children.

Cynthia Vandegoot, said that she has not had any problems with her well and felt the minor inconveniences of traffic/noise from vehicles and riders on the road are far outweighed by the service they are providing.

Else Ahlman, Spruce Grove Road resident, felt this program made this County a better place to raise a family and was in full support of it.

Donna Reichman, Lake County resident, said that she has a child with special needs and was in favor of this positive program.

Page Sutton, Noble Ranch Road resident, agreed that this was a positive program for these children; however she felt there were negative road and well impacts.

Susan Wiloth addressed concerns that were brought up by the neighbors with reference to ADA standards for the restroom facilities, odor/flies, composting manure/pasture maintenance, traffic safety and noise from horse trailers. She said that they are at capacity and will not get any bigger and asked that the neighbors please direct any future concerns or issues to them.

Comm. Baur noted that the permit application was to have 35 horses on-site and asked Ms. Wiloth how many horses she currently has and what the ratio was of program horses to horses that are being boarded.

Ms. Wiloth said currently there are 15 program horses and 8 boarding horses.

Debra Peek, Pine Oak Lane resident, said that she owns horses and pulls a horse trailer up and down the road. She said that there are other neighbors who have heavy trailers and noise can sometimes be an issue. She said she has a well on the same aquifer and has not had any issues with her well.

10:19 a.m. Closed Public Hearing

Comm. Swetnam said that the purpose of the Commission is to decide land use and that the decisions made go with the land. He reviewed that there is a granny unit that is not ADA compliant, traffic and road issues that have not been settled, structures that have been constructed on the wrong parcels, a business that has been in operation for two years

without a use permit, a covered arena constructed without a permit and placed partially in a road easement. He said he was not in favor of supporting this project until the applicant comes into compliance.

Comm. Baur agreed with Comm. Swetnam's comments. She said even if the permits were all in order, how do they address the fact that there is an extensive dirt road running through private property that is shared and the expense/maintenance of putting gravel on the road.

Mr. Coel said that this is a privately maintained road and the County cannot force any particular solution to this. He said the County could require that before these operations are legalized these issues need to be resolved amongst the property owners with a road maintenance agreement/mechanism for pro-rata amounts for maintenance.

Comm. Schoux said that there are too many problems that need to be worked out in the minor use permit before they can approve this use permit today.

Comm. Briggs said that ignorance of the law is no excuse and citizens are responsible for finding out what is necessary when building. He said when residences are close to agriculture it is the requirement of the person who bought that land that is zoned "RL" to realize that there can be livestock on that property. He did feel that it was not proper for the Commission to shut the operation down without giving them the opportunity to make things right and to work with their neighbors. He said that he felt they should be given a year to meet the conditions in the permit.

Comm. Baur said she did not want to shut the operation down, but felt there should be a reduction of the number of horses that are kept there. She said there are issues that are among the private property owners with liability of riding on the road, the condition and the long term upkeep of the road, which the County cannot solve or address, but we can encourage the local residents to do.

Mr. Coel said perhaps as a compromise, condition A2 could be changed to read: *"This permit allows for a maximum of 15 program horses for use by the riding center and 10 horses to be commercially stabled on the property in designated pasture areas . . ."*

Comm. Briggs asked his fellow Commissioner's if they were in agreement to allow the Wiloth's to operate for another year and bring this operation into compliance.

Comm. Swetnam said that his position has not changed.

Comm. Schoux suggested a shorter time period to allow the applicants to bring back changes to come into compliance. He said he was not in favor with allowing a year.

Mr. Coel suggested that the Commission consider continuing this item for 30-60 days to address the issues and set a clear deadline with the applicants for the additional information and issues to be resolved by. He asked that the Commission give guidance on specific issues that they would like to see be resolved, so it would not shut down their operation.

Comm. Baur was in favor of a 60 day continuation to bring in a specific plan, so that the Commission could feel more confident that some of these issues are being addressed.

Comm. Swetnam said he did not recall reading in the staff report if the covered arena was an engineered/approved safe structure as it sits now.

Mr. Coel said there was not a zoning clearance or building permit obtained for it.

Comm. Baur also had concerns with water use and felt there should be some kind of projected water use plan for specific irrigation and dust mitigation measures.

Comm. Briggs asked Ms. Wiloth if she was in agreement for a 60 day continuance and resolve the issues that were raised today with Planning Staff.

Ms. Wiloth said she would do whatever it took to keep this program going.

10:41 a.m. Closed Public Hearing

Mr. Coel said the biggest problem would be with the road maintenance. He said staff would work with the Wiloth's to suggest ways to deal with road maintenance, but ultimately that would be a community decision. He suggested that this item be continued to the March 26, 2009 at 9:05 a.m.

Ms. Wiloth was in agreement with this time and date.

Comm. Briggs confirmed the date of March 26, 2009 at 9:05 a.m.

10:45 a.m. Break

11:01 a.m. Back to Order

11:01 a.m. Public Hearing on consideration of a Minor Modification to a Minor Use Permit (MMU 08-08). The project applicant is TERRY HOPKINS proposing the establishment of a home occupation within an oversized detached accessory structure that was approved as a collector's garage in 2003. The project is located at 1519 McMahon Road, Lakeport and further described as APN 015-002-22. (Keith Gronendyke)

Comm. Baur disclosed her observations conducted during her site visit and her exparte conversation with Mr. Hopkins.

Comm. Swetnam asked staff how long the road was and did it access any other properties.

Keith Gronendyke, Associate Planner, said the road was 800-1000 feet long and accesses four other properties.

Richard Coel, Community Development Director, explained that this is a situation that was started by a code violation and staff is trying to rectify it through a minor use permit.

Mr. Gronendyke stated that while home occupations are allowed by the Zoning Ordinance, the applicant's proposal to operate the home occupation in the accessory building does not comply with one section of the Zoning Ordinance, which requires that home occupations be conducted entirely within the principal dwelling or an accessory structure that is incidental in size to the principal dwelling. He said the detached collector's garage is approximately 3,100 square feet in size, while the primary residence is 1,668 square feet and additionally, the 696 square foot two car garage attached to the house would be added to the square footage for accessory structures and the total would be 3,796 square feet. He added that the Zoning Ordinance limits visits by clients of home occupations to the principal dwelling only, and not in a detached accessory structure. He said the addition of this home occupation will create adverse traffic impacts on a private road that accesses the collector's garage. He noted that the pavement width of the private road is 10 feet, which does not accommodate two opposing lanes of traffic and additionally, this driveway serves as an ingress/egress for four residences adjacent to the applicant's property.

Comm. Baur stated in the conversation she had with Mr. Hopkins that he indicated that there is a calculation error in the staff report, which affects the square footage calculations.

11:07 a.m. Opened Public Hearing

Terry Hopkins, the applicant, stated that he thought there were errors in the report and explained that there are 696 square feet added to the collector's garage as a two car attached garage, which was actually attached at his residence, making the square footage

at his residence 2,364 feet. He said the floor area of the collector's garage is 2,572 square feet, which is a difference of 208 square feet between the two buildings, which he believed can be incidental in size. He reviewed granny unit requirements, traffic concerns and noted that there is not any off-street parking on McMahon Road to accommodate his home occupational business at the main residence.

Comm. Baur asked Mr. Hopkins to speak to the easement situation with his driveway and his adjacent neighbor.

Mr. Hopkins said that he and the adjacent property owner are involved in a title lawsuit over the common driveway at his personal residence.

Comm. Schoux asked for clarification of the square footage calculations and how these numbers were arrived at.

Mr. Coel explained that staff arrived at the figures based on the original plans that were reviewed and did not think that Mr. Hopkins counted the loft, which added approximately 256 square feet in the collector's garage. He said the reason Mr. Hopkins had to get a use permit several years ago was because this structure far exceeded the size of the residence. He pointed out that a portion of the collector's garage was converted and a kitchen was built without permits and also added that parking needs to be on-site for home occupations.

Mr. Hopkins submitted a photograph of his primary residence's driveway area and explained that he has not changed anything since the original plans were submitted and finalized in 2005.

Comm. Baur asked staff if the applicant changes the location of his business to his primary residence, would there be any problems with clients parking there and if he is not going to be able to use the other structure for his office, what kind of options he has to come into compliance.

Mr. Coel said that the garage at the residence meets the needs for their personal cars with one additional space outside of the garage or along the driveway for the home occupation. He said if the property line is off and Hopkins does not prevail in court, then the garage will not be usable. He said it does not appear that there will be an adequate back-up area at the main residence.

There was further discussion on the size of the garage at the primary dwelling and parking issues with the operation of a home occupation.

Mr. Coel stated that the biggest challenge is the Zoning Ordinance requirements with home occupations and if clients are going to the site, the home occupation needs to be within the principal dwelling. He said it is not something that modifying the use permit can take care of.

Comm. Baur asked staff if Mr. Hopkins agreed to meet with clients at another location/conference room could he still use the collector's garage for his home occupation/office.

Mr. Coel said a minor modification to that use permit to allow the collector's permit for the home occupation to be conducted within that detached collector's building provided that no clients were allowed at this location could be the solution here.

Comm. Swetnam asked if there were any collectables in the garage.

Mr. Gronendyke said there are two cars in the garage with lifts to work on them and it is legitimately used as a collector's garage.

Comm. Briggs asked staff how they determined incidental.

Mr. Coel said in residential districts it is based on square footage of uses. He said it is categorized as residential use and accessory structures is another use. He said a collector's permit is required anytime the amount of square footage for a garage significantly exceeds that of the house with a lenience of 100 square feet, based on Department policy.

Mr. Hopkins said when he originally applied for the minor use permit for a collector's garage the planner explained that there should not be any commercial garage activity at that location, which he agreed to. He said as it turned out, there is no home occupation allowed, which was not his original intent and he agreed that there would not be commercial garage activities in the garage.

Comm. Briggs said the home occupation permit goes with the property. He explained if the property is sold then new owners could conduct a business in the garage, because there is an approved home occupation permit.

Comm. Schoux wanted clarification that the minor use permit was obtained to construct the garage. He asked if a permit was obtained to add a pool, pool house, kitchen and bathroom.

Mr. Hopkins said that the bathroom was on the original permit and the pool was a separate permit.

Mr. Coel said that the kitchen is what was added and there is not any record of it being inspected/approved by the Building Division. He said it is something that would have had to have been approved by planning, which is a trigger for a granny unit or second residence and clarified that this parcel does not qualify for a second residence.

Comm. Baur asked Mr. Hopkins if the building with the kitchen was finaled by someone in the Building Division.

Mr. Hopkins said everything that is presently there has been approved and he has the finaled records for the building structure and pool.

Mr. Coel said the question here is the home business.

Maryann Baty, adjacent neighbor, shared her concerns with a fence built on the property line and shared driveway issues.

Sear Baty, adjacent neighbor, stated that the collector's garage was built on a seasonal creek. He shared his concerns with materials/contaminants that come off of Mr. Hopkins property that go directly to his well-site. He felt there would be major effect on them with the increase in traffic due to the home occupation and safety concerns with a narrow roadway and steep shoulder.

11:37 a.m. Closed Public Hearing

Comm. Swetnam said that this building was built for one purpose and is now being turned into another use, which does not comply with the County's zoning. He said he has a problem with the size of the road and safety issues with one lane roads. He felt it was not a compatible use for this zoning and was in favor of staff's recommendations for denial.

Comm. Schoux had issues with there not being a building permit for the kitchen and felt it was done illegally. He agreed with staff's recommendations to deny this project application.

Comm. Baur said in spite of the fact that the business requires one room with a computer and a fax machine seems to be very innocuous and the business itself would not have an impact on the neighborhood, she was concerned with safety issues regarding the parking area and the narrow road. She said as it stands right now, she was not in favor of approving this project.

Comm. Briggs said the way the Zoning Ordinance is written we would almost be setting precedence to allow this to be used the way it is set up and for that reason he would be voting against this project.

Comm. Swetnam moved, 2nd by Comm. Schoux that the Planning Commission find that the Minor Modification of Minor Use Permit applied for by Terry Hopkins, on property located at 1519 McMahon Road, Lakeport, does not meet the requirements of Section 127.3 of the Lake County Zoning Ordinance and therefore deny this project with the findings listed in the staff report dated January 9, 2009.

MINOR MODIFICATION OF MINOR USE PERMIT DENIAL 5 Ayes 0 Noes

Comm. Briggs noted that there is a seven (7) calendar day appeal period provided by the Lake County Zoning Ordinance.

11:42 a.m. Lunch Break

1:01 p.m. Back to Order

1:01 p.m. Public Hearing on THE DRAFT ENVIRONMENTAL IMPACT REPORT PREPARED FOR THE VALLEY OAKS PLANNED DEVELOPMENT PROPOSAL. The purpose of this hearing is to provide increased opportunities for public comment on the Draft EIR. The comment period is open through January 23, 2009. The Valley Oaks project proposes construction of residential, commercial, and open space/park uses on approximately 150 acres of land. The project would consist of 380 detached, single family residences, a community commercial “village” to provide a full range of goods and services, a residential care facility and trails system with 35 percent of the site as open space. The site is located adjacent to the Hidden Valley Lake subdivision, and is within the Coyote Valley Community Growth Boundary with frontage along Hartmann Road and State Route 29. No formal action on this proposal will be made by the Planning Commission during this informational, first hearing concerning the project. (Emily Minton)

Mr. Coel announced that the applicants are present and will be presenting a power point presentation for the purpose of orientation and project overview.

Emily Minton, Senior Planner said the purpose of this hearing is to provide the Commission a chance to familiarize themselves with the project and to allow the public to submit comments and ask questions. She said there will be at least two additional hearings before the Planning Commission and one before the Board of Supervisors. She explained at the next hearing the Commission will have received all comments submitted for the DEIR and staff will ask that the Commission make recommendations about any additional analysis or information that they would like to see in the EIR and direct staff to prepare the Final Environmental Impact Report. She said that final document will include all of the responses/comments that have been submitted and staffs written responses to their concerns and also any additional information that the Commission requests to be in the document. She said the third hearing is for two purposes, the first would be for staff to ask the Commission to certify that the final EIR addresses all of the environmental impacts adequately and that it is consistent with the California Environmental Quality Act (CEQA). She said once the Commission certifies the EIR, the project itself will be reviewed, which includes the Rezone and the Tentative Subdivision Map.

Mr. Coel introduced the applicants, Ken Porter, Jean Kapolchok, and Matt Watson from Cobblestone Homes and Katherine Lee from PMC.

Jean Kapolchok, representing Ken Porter from Cobblestone Homes, provided a brief power point presentation and overview of the Valley Oaks Planned Development project.

1:17 Opened Public Hearing

Victoria Brandon, Lake County Sierra Club, stated that they were generally supportive of many aspects of this project. She said it is inside the growth boundaries, has community services, infrastructure and is sensitively designed in many ways and is a mixed use project, however there are various issues. She expressed concerns with having better clarity in the document when referencing regions and felt there would be urban blight by the creation of a new commercial area that was based on a 6-percent growth rate. She commended the consultant in addressing climate change in a separate section rather than putting it under air quality, but felt there could be difficulties in that these climate change impacts are considered to be cumulatively considerable and significant and that no mitigations are available. She added that the State of California has held that Global Warming is a significant threat to public health and safety and with an environmental document that concludes it is significant and unavoidable; it is questionable whether a finding of overriding considerations will be legally defensible. She said that the Sierra Club would be submitting a letter with all of their concerns.

David McMillian, Architect and Hidden Valley Lake resident, said this project was admirable in that it is a mixed use project and has many nice features. He said his primary concern is the detrimental effect that this project would have in Middletown. He added that Middletown is a gateway to Lake County and thought it would be hard for them to survive the competition.

Hal Muskat, Hidden Valley Lake resident, shared his concerns with the estimated amount of traffic on Highway 29 where it passes Hidden Valley, and felt these were old numbers from Caltrans and the CHP. He was concerned with a central propane facility that was proposed for this subdivision and that this area is proposed to be denser than Hidden Valley Lake. He asked that the Commission acknowledge the concerns of the homeowners in the area.

Mr. Coel said that today's comments will be added to the comments received on the Draft EIR and information will be continued to be analyzed. He said new legal notices will be sent to all surrounding property owners of the new hearing date, which he suspected would be in the next six to eight weeks.

Ms. Brandon added that as far as cumulative impacts are concerned in the south county one thing that should be addressed in every environmental document for development in this area is traffic going over Mt. St. Helena on Highway 29. She said currently it is at safe limits and had concerns that it will exceed the safe limit capacity.

Comm. Baur asked Ms. Kapolchok if there was a proposal for a shuttle for commuters.

Ms. Kapolchok said that there is not a proposal for a shuttle. She said that their traffic analysis shows that with the construction of the commercial area, it would actually reduce some of that traffic and keep people from going into Santa Rosa to shop

Mr. Coel expressed thanks to everyone who made additional inputs/comments and said that it will help staff with addressing those issues and questions in the EIR.

ADJOURNED 1:45 pm

Respectfully Submitted,

Gary Briggs, Chair
Lake County Planning Commission

By: _____
Danae Bowen,
Office Assistant III