# Staff Report

Meeting Date: December 13, 2022

To: Siskiyou County Board of Supervisors

From: Hailey Lang, Planning Director

Subject: Proposed Zone Change (Z-14-01) to rezone approximately 170 acres of Timber Production Zone (TPZ) to Rural Residential (RR) and a Use Permit (UP-11-15) to increase the allowable occupancy to 622 increase (Project Alternative Number 4) the physical size of the camp from 333 to 580 acres, and allow for additional structures and recreational features, including a pond, and ancillary facilities.

## Background

**Prior Approvals**

The existing camp was permitted by three separate Use Permit approvals beginning in 1976. Use Permits were approved in 1977 (UP-76-39), 1985 (UP-85-37), and 1996 (UP-95-12). The 1996 Use Permit approved the current occupancy capacity of 165 guests, a maximum annual occupancy of 3,340, with an on-site parking limitation of 215 vehicles, and an average daily traffic volume of 131 vehicles. Mitigated Negative Declarations were prepared for the 1985 Use Permit (SCH# 1985110397) and for the 1996 Use Permit (SCH# 1996103658) project approvals. The camp also obtained approval on December 5, 1979, for a Use Permit (UP-68-79) for a 2.3’ x 3’ (6.9 square feet) directional sign to be placed at the State Highway 3/South Kidder Creek intersection. A Negative Declaration was prepared and adopted for the project (SCH# 79110922).

**Existing Conditions**

The existing Kidder Creek Orchard Camp (KCOC) occupies approximately 333 acres. The property has been used for residential programs for more than 40 years, and continues to be operated by Scott Valley residents, both paid and volunteer, with seasonal staff hired locally and outside the area. Elevations at the site range from approximately 3,000 to 3,950 feet. In addition to Kidder Creek, which traverses the northwesterly portion of the site, a number of seasonal waterways and the Barker Irrigation Ditch traverse the site. The low elevation areas include a meadow with some jurisdictional wetlands and an apple orchard. Upland areas are generally forested with conifers, interspersed with oak trees. Natural habitats include riparian woodlands, cobbly/sandy riverbanks, wet meadows, mixed conifer forests, and oak woodlands. Surrounding land uses include timber production and open space to the south and west, and vacant lands and rural residential uses to the north and east. Kidder Creek traverses the northwesterly portion of the site for approximately 2,200 feet.

**Proposed Project Summary**

The project consists of a proposed rezone of approximately 170 acres and a proposed use permit to increase the capacity of the existing organized camp. The rezone would reclassify 170 acres from Timberland Production District (TPZ) to Rural Residential Agricultural, 40-acre minimum parcel size (R-R-B-40). The use permit application is to increase the allowable occupancy at the camp from 165 guests to a total occupancy of 844 (guests, staff, and volunteers), increase the physical size of the camp from 333 acres to 580 acres, and add a number of structures, recreation features, including a second pond and ancillary facilities. The proposed expansion is expected to occur over a twenty-year period. South Kidder Creek Road would continue to provide primary access to the site. Secondary emergency access would be from Patterson Creek Road and access easements to the south and east of the project site.

This project also includes a revocation of the previous use permits to consolidate all the approved uses into a single use permit and Environmental Impact Report (EIR). Therefore, all existing use permit conditions of approval and all previously adopted mitigation measures, are proposed for the new use permit where necessary. Conditions of approval and mitigation measures that are no longer necessary, have been complied with, or would be satisfied/fulfilled with new conditions of approval or mitigation measures may be eliminated. Should the proposed zone change (Z-14-01) and/or use permit (UP-11-15) not be approved, the existing use permit approvals and mitigation measures would not be revoked and would continue to be effective.

## Discussion

**General Plan and Scott Valley Area Plan (SVAP) Consistency**

The Land Use Element of the Siskiyou County General Plan identifies the project site as being within the mapped resource overlay area for Soils: Erosion Hazard; Wildfire Hazard; Soils: Severe Septic Tank Limitations; Slope; Flood Hazard; Surface Hydrology; Wildfire Hazard; and Woodland Productivity. Planning staff has identified that Composite Overall Policies 41.3(a), 41.3(c), 41.3(e), 41.3(f), 41.5, 41.6, 41.7, 41.8, 41.9, 41.10, 41.12, 41.13, 41.18, and 41.19(b) apply to the proposed project.

A portion of the project site, mainly consisting of the flat meadow and orchard areas, is designated as Prime Agricultural Land, as shown on the Scott Valley Area Plan Natural Resources Map 3. Kidder Creek Orchard Camp predates both the Scott Valley Area Plan and the current General Plan. The proposed expansion of the camp does not include any structures or other permanent type uses on those areas designated as Prime Agricultural Land. This area has been used for passive recreational uses in the past and will continue to be used for similar uses. The project would not conflict with applicable plans that have jurisdiction over the project area. Consistent with the applicable County land use and Scott Valley Area Plan policies, the project is an organized camp, compatible with adjacent land uses.

Staff has conducted a detailed analysis of each of the required findings, which findings are detailed as set forth in Exhibit D to the proposed resolution and found that the proposed project is consistent with the applicable General Plan policies governing the subject site. Additionally, the use of the property, is compatible with the surrounding land uses, would have adequate roadway access for transportation and public health and safety provisions, and would not create significant environmental impacts to on- or off-site resources.

**Zoning Consistency**

In concert with the General Plan and Scott Valley Area Plan, the Siskiyou County Code establishes zoning districts within the County and specifies allowable uses and development standards for each district. Under state law, each jurisdiction’s zoning must be consistent with its general plan. The area of the project site currently zoned TPZ is proposed to be changed to Rural Residential Agricultural, 40-acre minimum parcel size (R-R-B-40). Pursuant to Section 10-6.4802 of the Siskiyou County Code, the R-R-B-40 district permits single-family dwellings and residential accessory structures and uses. Existing zoning on the rest of the project site is Prime Agricultural District, 80 acre-minimum parcel size (AG-1-B-80); Rural Residential Agricultural, 5- acre minimum parcel size (R-R-B-5), Rural Residential Agricultural, 10-acre minimum parcel size (R-R-B-10), and Rural Residential Agricultural, 40-acre minimum parcel size (R-R-B-40).

Siskiyou County Code (SCC) Section 10-6.1502(c) allows for recreational facilities in any zoning district upon approval of a conditional use permit. In addition to the zone change described in the previous paragraph, the applicant is requesting a use permit, pursuant to SCC Section 10- 6.1502(c) and 10-6.1201 et seq. to expand occupancy, acreage and additional structures for recreational use of the property.

**Project Features**

The information below describes the various existing and new features of the Proposed Project:

1. Main Entrance – The entrance to the camp will remain in the same location.
2. Welcome Center and Dining facility – New arrivals will be directed to the Welcome Center where the registration and administrative offices will be located along with a gift shop and infirmary. The new Dining facility would be adjacent to the Offices and situated to overlook the new Pond and Recreation area.
3. Small Pond and Recreation Area – The existing areas would expand to include a new snack shack, a new restroom, and a recreation room.
4. Large Pond & Recreation area – This new seven-acre pond would be built in the existing Sawmill and storage area. The source of water for supplying this pond will not change from the current source providing water to the existing pond. Along with the new pond, additional water toys and non-motorized vessels such as kayaks and canoes will also be enjoyed.
5. Perimeter Road – This design allows all traffic to be on the perimeter of the camps activities, eliminating crossover of pedestrian and vehicle traffic.
6. The Pines – This new area will handle the traditional camp programs currently running at Timberline and will accommodate week-long programs during the summer and weekend and weekend programs during the spring and fall. These cabins will be suitable for all season use.
7. Ranch Camp – The existing program will be moved to a new, larger location closer to the camp entrance. These cabins will accommodate week-long programs during the summer and weeklong & weekend programs during the spring and fall. These cabins will be suitable for all season use.
8. Equestrian Area - The existing equestrian area will move to a new location with expanded facilities that will allow for all-season use and would include an enclosed Arena and educational building.
9. Base Camp - These camps have a basic campground layout with a centralized restroom and shower facility and an outdoor, covered but open dining pavilion. Campers will sleep on the ground in sleeping bags.
10. High Adventure Camps – These have very simple sleeping structures, with a centralized restroom and shower facility and an outdoor, covered but open dining pavilion. Sleeping structures could be tent platforms or an open-sided, framed structure with a simple roof.
11. RV Areas - These areas are not open to the public and would be used by individuals or groups working at the camp, and individuals or groups helping with or involved in a program.
12. Staff Housing and Retreat Centers - The primary purpose during the summer would be housing for summer staff. During the spring & fall these structures would be used for adult retreat housing, usually on weekends.
13. Staff/Guest Houses – Currently the camp has five homes on the property. These include the Warken home, the Orchard House, Cedar Lodge, Creekside and the Jones home. They are to be used throughout the year by staff and guests.
14. Staff Residence – Two of the current residences are included with the homes listed above, the Warken and Jones homes, and one more would be added in the future.
15. Adult Retreat Centers - These will be used year-round and would accommodate guests staying two to six days. These cabins are suitable for all season use.
16. Worship Pavilion – located on a remote and secluded hill with a panoramic view, this structure would be an open sided, covered pavilion.
17. Recreation Areas – These areas are set apart for future development of recreational activities.
18. Maintenance Facility – This new area will include a maintenance shop with equipment and storage facilities.
19. Amphitheatre – These areas are designed for large group meetings and situated where there is a nice view and where the sound can be projected into a hillside with a large amount of vegetation to absorb noise.
20. Picnic Area/Park – This new area would be situated between the new Dining facility and the existing pond and recreation area. Designed for large groups, it would be utilized by the camp programs and for community and special events.
21. Greenbelt – Designated to allow for large open spaces in the center part of the camp to protect and preserve the natural beauty of the site.
22. Sawmill/Storage Area – The existing sawmill and lumber storage area would be relocated to allow for the development of the new pond.
23. Water Storage Tanks – Additional water storage to accommodate the camps expansion would enlarge the existing storage tanks and add a secondary location.

Proposed routine camp activities and uses include a horse riding/equestrian area, archery course, target range, zipline, ropes courses, a paintball course, mountain biking, waterslide and water activities. Off-site activities include hiking, camping, horse-packing, rock climbing, river rafting, swimming, mountain biking and horseback riding on and off national forest lands.

**Planning Commission Meetings**

*August 17, 2022, Planning Commission meeting*

The proposed project was presented to the Commission at the August 17, 2022, meeting. Due to the longevity of this project and due to the high level of controversy, staff presented this item for discussion and to allow for the public to provide comment. During this meeting, staff presented the proposed project and answered any questions related to the project from the Commission, as well as answered questions from the public. Requests for additional information from the Commission include:

* Ask CDFW on clarification on whether or not an LSA permit is needed.
* Address fire concerns.
* Address secondary access concerns.
* Confirm if ‘recreation’ is explicitly spelled out in the Scott River Adjudication Decree.
* Confirm on whether or not the 2018 comment letter from Cal Fire is still satisfactory.
* Revising Condition of Approval #17 to be under the authority of the local fire department.

*November 16, 2022, Planning Commission meeting*

The proposed project was presented to the Commission at the November 16, 2022, meeting. During this meeting, staff presented the proposed project and answered any questions related to the project from the Commission. Additionally, KCOC staff had presented information on their Wildland Fire Emergency Plan. Cal Fire staff attended the meeting to answer any questions from the Commission related to KCOC’s plan, fire safety, ingress/egress, and wildfire behavior. The Commission also decided to reduce the size of the camp from 844 to 622 guests (known as Project Alternative Number 4), in order to reduce the noise impact, thus reducing the need and requirement for a Statement of Overriding Considerations. Lastly, there was a lengthy discussion from the Commission regarding a comment letter dated November 16, 2022, submitted by attorney Marsha Burch on behalf of a group identified as ‘Keep Scott Valley Rural’.

The letter highlighted four main concerns, which have been summarized below:

1. The Combining of a Mitigated Negative Declaration and Environmental Impact Report violates CEQA
2. The Mitigation Monitoring and Reporting Program must be Approved at the Time of Project Approval
3. The proposed Findings and Statement of Overriding Considerations are Deficient
4. The Response to Comments is Insufficient

Staff and Counsel responded to comments from the Commission regarding this letter. A summary of responses are highlighted below:

1. The Combining of a Mitigated Negative Declaration and Environmental Impact Report violates CEQA

An MND was prepared for the KCOC project and then elevated to an EIR based on comments received on the MND. The MND was never certified through the decision-making agency (the Siskiyou County Board of Supervisors) and thus never certified through the State Clearinghouse. Since the MND was not approved or certified, CEQA guidelines allow for a local agency to utilize the information contained in the document. A review of appellate case law indicates that it is acceptable to incorporate an Initial Study or Mitigated Negative Declaration into an EIR.

1. The Mitigation Monitoring and Reporting Program (“MMRP”) must be Approved at the Time of Project Approval

An MMRP must be approved at the time of project approval. Since the Planning Commission is a recommending agency, it is not required by statute to review the MMRP and the MMRP is otherwise not a direct part of the EIR. The Board of Supervisors, as the decision-making agency, is the project approving body and thus is required to review the MMRP. The MRRP is contained in the staff report package (CEQA guidelines 15097).

1. The proposed Findings and Statement of Overriding Considerations are Deficient

The Statement of Overriding Considerations was reviewed by County Counsel and Counsel confirmed that the document met all requirements of CEQA (CEQA guidelines 15093). The Planning Commission decided to reduce the occupancy number from 844 to 622, thus removing the requirement to produce a Statement of Overriding Considerations because the reduction in occupancy reduced the potential noise to less than significant levels (with any associated mitigation measures addressing noise). The reduction in occupancy meant the Planning Commission essentially adopted Project Alternative Number 3 but without the elimination of various miscellaneous structures and, for sake of convenience and reference, the Planning Commission’s recommendation was described as “Project Alternative Number 4”, though it is mainly an adoption of Project Alternative Number 3.

1. The Response to Comments is Insufficient

The letter also raises some issues with the adequacy of the comments of the final EIR in the areas of water and biology. While it is the conclusion of staff that the comments adequately address issues raised staff contacted Glen Pearson regarding the sufficiency of issues related to water as raised by the Burch letter. His responses are as attached to this report at Attachment H. The EIR otherwise includes explicitly considers the public trust doctrine (DEIR p. 3.3-11) and concludes there is no substantial interference with groundwater recharge that would require further consideration. At the Planning Commission, the Commission further noted that there are no agricultural or production wells that are part of the Kidder Creek project and that domestic wells are not in the present jurisdiction of an SGA. Further, the Planning Commission noted that the multiple studies proposed by the NMFS/NOA (on FEIR p. 2-1.10) would likely be in an amount costing hundreds of thousands of dollars based on a similar studies that were done in the Planning Commission’s experience. Further there was little Kidder Creek frontage on the project and there was otherwise no authority for placing studies off the project’s property and went far beyond the scope of the project.

As to biological resources, consideration of biological resources is found in the MND that is attached to the DEIR and biological mitigation measures are presented. the letter states the DEIR did not take address previous comments by the Department of Fish and Wildlife. In fact, two mitigation measures were added in response to DFW comments, pertaining to Pacific Fishers and land disturbance activities (MM 4.2 and 4.5).

## Environmental Review

On September 9, 2016, the Kidder Creek Orchard Camp Zone Change (Z-14-01) and Use Permit (UP-11-15) Draft Initial Study/Mitigated Negative Declaration (IS/MND, State Clearinghouse (SCH)#2016092016) was circulated by the County for a 30-day public review period.

CEQA Guidelines Section 15204 recommends that in reviewing negative declarations, persons and public agencies should focus on the proposed finding that the project will not have a significant effect on the environment. If persons and public agencies believe that the project may have a significant effect, they should: (1) Identify the specific effect, (2) Explain why they believe the effect would occur, and (3) Explain why they believe the effect would be significant. Reviewers should explain the basis for their comments, and should submit data or references offering facts, reasonable assumptions based on facts, or expert opinion supported by facts in support of the comments. Pursuant to State CEQA Guidelines § 15064, an effect shall not be considered significant in the absence of substantial evidence supporting such a conclusion.

The County received a number of letters and post cards commenting on the IS/MND. The comments were both for and against the Proposed Project. While many of the comments did not raise concerns with the adequacy of the environmental analysis, there were a number that raised environmental concerns. These comments fall into the following general categories:

* Agriculture: Loss of timber resources
* Hazards: Wildland fires
* Noise: Construction noise and project noise
* Traffic: Emergency access, roadway safety, and traffic increase
* Water: Water quality, stream diversion, and water allocation usage

As a result of comments on the Draft IS/MND, the County determined that an EIR level of analysis was required for specific impact areas. Those areas include agriculture (project and cumulative), hazards (project and cumulative), noise (project and cumulative), traffic (project and cumulative), and water (project and cumulative). These impact areas are the subject of this EIR. All other impact analysis areas defined in Appendix G of the CEQA Guidelines and analyzed in the 2016 Draft IS/MND will not be included in this EIR. However, all mitigation measures identified in these sections, as shown below, will be included as mitigation in this EIR and in the Mitigation Monitoring and Reporting Program (MMRP).

In accordance with CEQA Guidelines § 15082, the County prepared a Notice of Preparation (NOP) of an EIR for the Proposed Project that was distributed to responsible agencies and the public for a 30-day comment period, beginning on August 31, 2018, and concluding on September 29, 2018. One public scoping meeting was held on September 13, 2018, at the Fort Jones Town Hall in order to receive additional comments and input from the public as to the scope and content of the EIR. Comments received in response to the NOP were considered during preparation of the DEIR.

The Draft EIR (Draft EIR) was released for public and agency review on August 7, 2019, with the review period set to end on September 20, 2019. The DEIR contains a description of the Project, description of the environmental setting, identification of Project impacts, and mitigation measures for impacts found to be significant, as well as an analysis of Project alternatives. The Draft EIR was provided to interested public agencies and the public and was made available for review at the County offices and on the County’s website.

The County received a large number of public comment letters and postcards on the DEIR. The County determined that some of the comments received on the DEIR required further analysis of the Project’s potential impact to specific resource areas. As such, in accordance with Section 15088.5 of the CEQA Guidelines, the County determined that the new information brought to light by this analysis merits recirculation of portions of the DEIR. As defined under CEQA Guidelines Section 15088.5(c), “If the revision is limited to a few chapters or portions of the EIR, the lead agency need only recirculate the chapters or portions that have been modified”. Therefore, only those portions related to wildfires, hydrology and water quality, and noise were revised and included in the Partial Recirculated DEIR.

The Partial Recirculated Draft EIR was released for public and agency review on April 5, 2022, with the review period set to end on June 20, 2022. The 2nd Partial Recirculated DEIR was completed to address an unintentional error in traffic average daily trips (ADT) provided in the original and the updated Environmental Noise Assessment for the Proposed Project. The original 2017 noise assessment as well as the 2021 updated noise assessment used traffic ADTs of 1,067. This error in ADTs was commented on in a letter commenting on the DEIR. However, the comment was not discerned until after the Partial Recirculated DEIR was circulated for public review. The actual ADT for the Project is 1,448. As such, the 2nd Partial Recirculated DEIR has been completed to address this increase in traffic ADTs. All other sections of the DEIR use 1,448 ADTs to evaluate the potential for impact to the environment. Therefore, only those section of the DEIR which are affected by the incorrect ADT count, Section 3.4 Noise and Section 4.0 Alternatives, were recirculated as a part of this 2nd Partial Recirculated DEIR. The 2nd Partial Recirculated Draft EIR was released for public and agency review on June 23, 2022, with the review period set to end on August 8, 2022.

The County received 237 comment letters from interest groups, government agencies, and the public regarding the Draft EIR, and 57 comment letters on the on the Partial Recirculated Draft EIR and 2nd Partial Recirculated Draft EIR.

CEQA Guidelines Section 15091 requires the County make certain findings for each significant environmental impact identified in an IS/MND or EIR. Except for traffic-related noise, all of the significant impacts of the project will be mitigated, consistent with the following Finding: “Changes or alterations have been required in, or incorporated not, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR”.

Below is a summary of the Mitigated Measures that have been or will be incorporated as part of the project for each of the identified significant impacts:

| **Environmental Issue Area** | **Significance Before Mitigation** | **Mitigation Measure** | **Significance After Mitigation** |
| --- | --- | --- | --- |
| Hazards and Hazardous Materials:  Wildland Fire Hazards | Significant | MM 8.1 Prior to the initiation of construction of habitable structures for the Proposed Project, the emergency access road will be developed by the Project and approved as to form and function by the California Department of Forest and Fire Protection (CAL FIRE) and the Siskiyou County Public Works Department. Additionally, all CAL FIRE required improvements to existing Project roadways shall be implemented. These roadways and the new access roadway shall be maintained by the Project, verified for compliance of the CAL FIRE roadway safety requirements at the start of each Kidder Creek Orchard Camp recreation season by a CAL FIRE approved wildfire expert, and re-approved on an annual basis. | Less than Significant |
| Hazards and Hazardous Materials:  Flooding as a Result of the Failure of a Levee or Dam | Significant | MM 9.1 Prior to any land disturbance activities associated with the construction of the proposed seven-acre pond, the following shall be completed:  1) If the dam necessary to impound the proposed pond is subject to Department of Water Resources, Division of Safety of Dams jurisdiction, proof of full compliance with the required permitting and plan approval shall be provided to the Siskiyou County Community Development Department – Planning Division; or  2) f the dam necessary to impound the proposed pond is not subject to the Department of Water Resources, Division of Safety of Dams jurisdiction, the applicant shall submit plans to the County, stamped by a qualified engineer registered in the State of California, detailing the structural design of the dam. The County will review and approve said plans to ensure that the proposed dam is structurally adequate and is not a hazard. The applicant shall be responsible for paying all costs associated with the County’s review of said plans. The County retains the right to hire a third-party engineering firm to review the required plans.  3) Consultation with the State Water Resources Control Board Division of Water Rights to determine if any changes to the existing water rights or any permitting is required for the filling of the pond. If revised water rights and permits are required, proof of full compliance with the required permitting and plan approval shall be provided to the Siskiyou County Community Development Department – Planning Division. All consultation and resulting requirements with the SWRCB shall be provided to the California Department of Fish and Wildlife – Region 1. | Less than Significant |
| Air Quality:  Expose sensitive receptors to substantial pollutant concentrations? | Significant | MM 3.1: Prior to construction activities, the project applicant shall submit a Dust Control Plan to the Siskiyou County Air Pollution Control District (SCAPCD). This plan shall ensure that adequate dust controls are implemented during all phases of project construction, including the following:  1) Water exposed earth surfaces as necessary to eliminate visible dust emissions;  2) When grading within 100 feet of any residence, park or other sensitive receptor boundary, utilize pre-soaking with sprinkler or water trucks in addition to normal watering for dust control;  3) Suspend grading operations when wind is sufficient to generate visible dust clouds;  4) Pave, use gravel cover, or spray a dust agent on all haul roads;  5) Impose an onsite speed limit on unpaved roads to 15 mph or lower (this speed must be posted);  6) All grading operations shall be suspended when sustained wind speeds exceed 25 mph;  7) All exposed surfaces and overburden piles shall be revegetated or covered as quickly as possible;  8) If fill dirt is brought to, or stockpiled on, the construction site, tarps or soil stabilizers shall be placed on the dirt piles to minimize dust problems;  9) Clean earthmoving construction equipment as needed to ensure that haul trucks leaving the site do not track dirt onto area roadways;  10) Cover all trucks hauling soil, sand, and other loose materials and ensure that all trucks hauling such materials maintain at least two feet of freeboard;  11) Institute measures to reduce wind erosion when site preparation is completed;  12) Install sandbags or other erosion control measure to prevent silt runoff onto public roadways;  13) Designate a person or persons to monitor the dust control programs as approved by the SCAPCD, and to order increased watering, as necessary, to prevent the transport of dust offsite. This designee’s duties will include holiday and weekend periods when work may not be in progress. A phone number of the applicant’s designated contact person shall be included in the Dust Control Plan and updated as necessary.  14) The approved Dust Control Plan shall be included on all development plans, including, but not limited to building permit plans and grading plans. | Less than Significant |
| Biological Resources:  Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?  Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | Significant | MM 4.1 Regarding the two identified populations of Chaenactis suffrutescens (Shasta chaenactis), as identified and described in the Botanical Resource Survey (Tyler 2014), the following mitigation measures shall be implemented:  a. A qualified botanist shall survey the area identified as containing the two plant populations. The extent of the plant populations shall be mapped at a legible scale and include setbacks to identifiable natural and/or human-made structures or features. The map shall be provided for review to Planning Division staff. No land disturbances shall occur until said map is reviewed and approved by Planning Division staff. Prior to any land disturbances within 100 feet of the identified plant populations, construction fencing shall be erected to protect the plant populations. The fencing shall be located and secured in a manner that does not adversely impact the plant populations. A qualified biologist shall provide best management practices (BMPs) regarding the placement of construction fencing to ensure that the plant populations are not adversely impacted.  b. Interpretative signage shall be placed in proximity to the plant populations to educate camp staff and visitors regarding the plants status as a special status species. A description of the plants habitats and illustrations or photographic images of the plant shall be included on the signage. A minimum of one sign shall be placed at each of the identified plant populations. The proposed signage shall be submitted to Planning Division staff for review and approval.  MM 4.2 Regarding Pacific Fishers (Martes pennant), the following mitigation measure shall be implemented.  a. Land disturbance and construction activities that involve the removal of vegetation shall take place outside of the Pacific fisher denning period of March through August, when the female Pacific fisher and kits are vulnerable to incidental take while residing in tree dens or ground dens in the area; or  b. If construction or land disturbance activities that involves the removal of vegetation takes place during the denning season (March through August), preconstruction surveys shall be completed by a qualified wildlife biologist to ensure that construction activities do not adversely impact denning fishers. The survey shall take place no more than one week prior to vegetation removal associated with construction or land disturbance activities. If an active den is discovered during the survey, no vegetation shall be removed within 375 feet of the den until the fishers have vacated the den. The results of the pre-construction survey shall be sent to the CA Department of Fish and Wildlife, Attn: CEQA, 601 Locust Street, Redding, CA 96001.  MM 4.3 To reduce potential impacts to Pacific Fishers (Martes pennant) from poisoning due to the eating of dead or dying rodents exposed to rodenticides, the following mitigation measure shall be implemented:  • No rodenticides shall be used to control the proliferation of rodents.  MM 4.4 In order to avoid impacts to nesting migratory birds and/or raptors, including osprey (Pandion haliaetus), protected under California Fish and Game Code Section 3503, one of the following shall be implemented:  a. Vegetation removal associated with construction of driveways, structures, and residences shall be limited to September 1 through January 31 when birds are not nesting; or  b. If vegetation removal will occur during the avian breeding season of February 1 through August 31, a survey for nesting migratory birds shall be completed by a qualified biologist no more than one week prior to vegetation removal associated with construction of driveways and residences. If an active nest is located during the survey, no vegetation shall be removed until the young have fledged, as determined through additional monitoring by a qualified biologist. The results of the nesting bird survey(s) shall be sent to the Department at: California Department of Fish and Wildlife, Attn: CEQA, 601 Locust Street, Redding, CA 96001. | Less than Significant |
| Biological Resources:  Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?  Have a substantial adverse effect on federally protected wetlands, as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal wetlands, etc.), through direct removal, filling, hydrological interruption, or other means? | Significant | MM 4.5 Where structures, buildings, or other land disturbing activities are proposed to be located less than 150 feet from a naturally occurring waterway or water body, the following shall be completed:   1. A stormwater pollution prevention plan (SWPPP), completed by a Qualified Storm Water Pollution Prevention Plan Developer (QSD), shall be submitted to the Siskiyou County Community Development Department – Planning Division for review and approval. The SWPPP shall be developed to the same standards that would be required for Construction General Permit; and 2. Stormwater associated with newly created impervious surfaces shall be retained, detained, or directed away from said waterways or water bodies.   MM 4.6 Jurisdictional Waters of the United States, as regulated by the US Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act, shall be avoided; or  If avoidance is not possible, an application for a Section 404 permit shall be approved by the USACE prior to any land disturbance activities that would result in the dredge, fill, or alteration of hydrology to any jurisdictional waters. Where avoidance is not possible measures shall be implemented to minimize unavoidable impacts, restoration procedures, and compensatory creation or enhancement to ensure no net loss of wetland extent or function.  MM 4.7 A no-disturbance buffer of 150-feet from the edge of a bank, edge of the floodplain, or outer edge of the riparian dripline shall be established to the specifications of the California Department of Fish and Wildlife (CDFW). The Project shall result in no net loss of riparian habitat. | Less than Significant |
| Cultural Resources:  Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?  Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?  Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?  Disturb any human remains, including those interred outside of formal cemeteries?  Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074? | Significant | MM 5.1 If, during the course of project implementation, cultural resources (i.e., prehistoric sites, historic features, isolated artifacts, and features such as concentrations of shell or glass) are discovered, all work shall cease in the area of the find, the Siskiyou County Community Development Department – Planning Division shall be immediately notified, and a professional archaeologist that meets the Secretary of the Interior’s Professional Qualifications Standards in prehistoric or historical archaeology shall be retained to determine the significance of the discovery. The County shall consider mitigation recommendations presented by a professional archaeologist and implement a measure or measures that the County deems feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures.  MM 5.2 If, during the course of project implementation, paleontological resources (e.g., fossils) are discovered, all work shall cease in the area of the find, the Siskiyou County Community Development Department – Planning Division shall be immediately notified, and a qualified paleontologist shall be retained to determine the significance of the discovery. The County shall consider the mitigation recommendations presented by a professional paleontologist and implement a measure or measures that the County deems feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures.  MM 5.3 If, during the course of project implementation, human remains are discovered, all work shall cease in the area of the find, the Siskiyou County Community Development Department – Planning Division shall be immediately notified, and the County Coroner must be notified, according to Section 5097.98 of the California Public Resources Code and Section 7050.5 of the California Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in California Code of Regulations Section 15064.5(d) and (e) shall be followed. | Less than Significant |
| Geology and Soils:  Result in substantial soil erosion or the loss of topsoil? | Significant | MM 6.1 The applicant shall either revegetate soils disturbed by land clearing for construction of improvements or provide and maintain an adequate ground cover within these disturbed areas. Adequate ground cover may be accomplished through paving and/or laying down wood chips, shredded bark, or similar material(s). If construction activities are suspended for six (6) or more months, disturbed soils shall be revegetated or adequately covered until construction activities resume. Upon completion of construction activities, soils shall be revegetated or adequately covered within six (6) months. All revegetation shall be completed with plants native to the area. | Less than Significant |
| Hydrology and Water Quality:  Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of a failure of a levee or dam? | Significant | MM 9.1 Prior to any land disturbance activities associated with the construction of the proposed 7-acre pond, the following shall be completed:  a) If the dam necessary to impound the proposed pond is subject to Department of Water Resources, Division of Safety of Dams jurisdiction, proof of full compliance with the required permitting and plan approval shall be provided to the Siskiyou County Community Development Department – Planning Division; or  b) If the dam necessary to impound the proposed pond is not subject to the Department of Water Resources, Division of Safety of Dams jurisdiction, the applicant shall submit plans to the County stamped by a qualified engineer registered in the State of California detailing the structural design of the dam. The County will review and approve said plans to ensure that the proposed dam is structurally adequate and is not a hazard. The applicant shall be responsible for paying all costs associated with the County’s review of said plans. The County retains the right to hire a third-party engineering firm to review the required plans. | Less than Significant |
| Noise:  Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance or of applicable standards of other agencies? | Significant | MM 12.1 During project site development construction activities shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday, and from 8:00 a.m. to 6:00 p.m. on Saturdays.  Construction activities are prohibited on Sundays and federal holidays. This condition shall be noted on Building Permits documents and any Improvement Plans required for this project.  MM 12.2 The use of loud or amplified sound (i.e. music, stereo equipment, public address (PA) systems, etc.) shall be limited to 8:00 AM to 10:00 PM Monday through Saturday, and 9:00 AM to 10:00 PM Sunday and National and State-recognized holidays. Noise shall be limited to 60 dB Leq at the boundaries of the project site during the hours listed above and 45 dB Leq at all other times. | Less than Significant |
| Noise:  Exposure of persons to or generation of nighttime noise levels. | Significant | MM 12.3 The Project shall enforce the following in order to limit the potential for nighttime noise disturbances.  • Camper pick up and drop off hours shall be set to avoid the need for traffic on South Kidder Creek Road between the hours of 10 pm and 7 am. All other camp traffic should be limited to daytime hours to the maximum extent practical.  • Quiet periods between the hours of 10 pm and 7 am shall be established and strictly enforced by camp personnel. | Less than Significant |
| Noise:  The Project would generate a substantial, permanent increase in ambient noise levels due to noise produced by traffic increases. | Significant | None feasible, this impact is significant and unavoidable. | Significant Unavoidable |
| Noise:  The Project, when considered with future development, is likely to have a significant cumulative impact due to traffic noise sources. | Cumulatively Considerable | None feasible, this impact is cumulatively considerable and significant and unavoidable. | Cumulatively Considerable, Significant Unavoidable |

Due to the data analyzed in the Noise section of the EIR, noting that the project may create a *significant and unavoidable impact*, staff had prepared a Statement of Overriding Considerations pursuant to CEQA Guidelines 15093 for Planning Commission review.

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable.”

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

However, it was the recommendation of the Commission to reduce the occupancy number from 844 to 622, which reduces the impact of the Noise environmental area. Due to the occupancy decrease and an impact decrease, a Statement of Overriding Considerations is no longer required as noise no longer remains an unmitigated significant impact.

**CEQA Process and the role of the Planning Commission and Board of Supervisors**

*Approving the EIR*

CEQA requires the County proceed along one of three paths and find either that:

1. The project will not have a significant effect on the environment (and no mitigation measures are required at all); or
2. The project will have some significant environmental effects, but all the effects will be eliminated or reduced substantially by mitigation measures.
3. The project will have some significant environmental effects and not all of them can be eliminated or reduced by mitigation measures, which then requires the Planning Commission and/or the Board of Supervisors to consider potential “alternative projects” and also, possibly, a Statement of Overriding Considerations.

The Planning Commission decided to go with option #3, and reduce the occupancy from 844 to 622, also known as Project Alternative Number 4 (and not also reduce structures).

Project Alternatives:

A “project alternative” is a “theoretical” modification to a project that would lessen a project’s environmental impacts. Project alternatives are only considered when there is an impact that cannot be mitigated. Generally, a project alternative is balanced against the proposed goals of the project in determining whether the project alternative is reasonable to adopt instead.

Here, the Kidder Creek project identifies a substantial environmental impact as to noise, specifically traffic noise on Saturday mornings, that the EIR analysis does not find can be mitigated to a less than significant level. The Planning Commission found that traffic noise is a significant effect, and the Planning Commission considered the project alternatives. Project Alternative #4 was adopted (reduced occupancy down to 622 persons) because it addresses the noise impact, then the proposed CEQA findings would need to be adjusted accordingly

Statement of Overriding Considerations:

If a proposed project has a substantial impact that cannot be mitigated and none of the project alternatives are feasible, but the project would otherwise be approved, then the last step is making the Statement of Overriding Considerations (SOC). The purpose of the SOC is to identify that the project has overriding benefits that justify approving the project despite its environmental harm. As mentioned above, no Statement of Overriding Considerations is required. If the Board were to reject the Planning Commission’s recommendation of the reduction of occupancy, a SOC could be required and staff would return with an SOC if appropriate.

*Disapproving the EIR*

A lead agency may refuse to certify a final EIR if it finds that the final EIR is inadequate. An EIR may be inadequate if revisions to the EIR are required to: (1) respond to changes to the project, (2) because of changes in circumstances, or (3) new information arose after the final EIR was completed. If the final EIR must be revised, the revised portions of the EIR may have to be circulated for public review and comment before it is certified.

## Recommended Motion

I move to take the following actions:

* 1. Introduce, waive, and approve the first reading of the ordinance, changing the zoning of APN 025-370-380 from Timber Production Zone (TPZ) to Rural Residential (RR).
  2. Approve a resolution approving: (1) the Kidder Creek Orchard Camp use permit application, (2) the project’s Environmental Impact Report and adopt Project Alternative Number 4, and (3) adopting a mitigation and monitoring reporting plan.

## Attachments

1. Final EIR
2. (Exhibit A) Draft Resolution
3. (Exhibit A) Fact of Findings
4. (Exhibit B) Mitigation Monitoring Reporting Program
5. (Exhibits C and D) PC Resolution 2022-018
6. County Counsel Memo
7. Response by Glean Pearson to Marsha Burch letter of November 15, 2022
8. Draft Zoning Ordinance
9. (Exhibit A) Zoning Ordinance Mao