

Staff Report

Meeting Date: May 2, 2023

To: Siskiyou County Board of Supervisors

From: Shelley Gray, Assistant Planner

Subject: Appeal of Sinibaldi Use Permit (UP-22-04)

Exhibits:

- A. A Resolution of the Board of Supervisors of the County of Siskiyou, State of California, Denying the Appeal of the Sinibaldi Use Permit (UP-22-04)
 - A-1 Recommended Findings
- B. March 15, 2023, Staff Report
 - B-1. Comments Received after March Staff Report was published.
 - B-2. March 15, 2023, Planning Commission Meeting Minutes
- C. Sinibaldi Appeal
- D. A Resolution of the Board of Supervisors of the County of Siskiyou, State of California, Approving the Appeal of the Sinibaldi Use Permit (UP-22-04)
 - D-1. Notations and Recommended Conditions of Approval
 - D-2 Recommended Findings

Introduction

This item before the Board is a result of an appeal of the Planning Commission's denial of use permit application UP-22-04 for a vacation rental. Staff is recommending that the Planning Commission's decision be upheld, and the appeal denied. Staff has prepared a resolution denying the appeal. If, in the alternative, the Board decides to grant the appeal (in lieu of referring the matter back to the Planning Commission with further directions for consideration) and approve issuance of the use permit, staff has prepared an alternative resolution with proposed findings and conditions of approval. Primarily, the purpose of the zoning ordinance, as set forth in SCC Section 10-6.102, is to protect public health, safety, peace, morals, comfort, convenience, and general welfare. As to a use permit, the following additional considerations are identified in SCC Section 10-6.1502: uses will not be unreasonably incompatible with the uses permitted in surrounding areas: damages or nuisances from noise, smoke, odor, dust, or vibration; hazards from explosions, contamination, or fire; and hazards occasioned by an unusual volume or character of traffic or the congregating of a large number of people or vehicles. This item is being heard pursuant to SCC Section 10-6.1405, which states that any action of the Planning Commission may be appealed to the Board. That section states the Board shall hear the appeal "de novo", which means it is not bound by the findings of the Planning Commission.

Background

The subject parcel is owned by Luis Sinibaldi and Joan Mendoza. The project is located at 1900 Maple Drive on APN 021-560-400 approximately four miles southwest of the city of Weed and six miles northwest of the city of Mount Shasta.

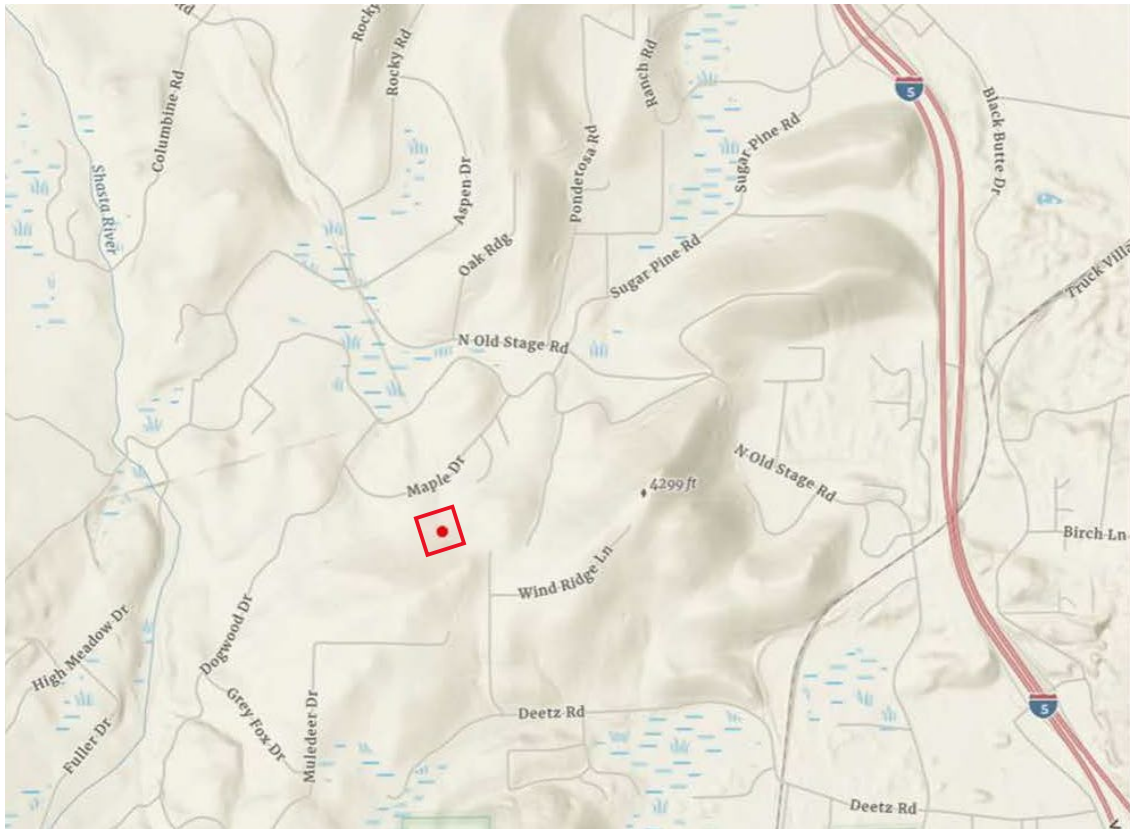


Figure 1: Project Location

On March 15, 2023, the Planning Commission held a public hearing and the Commission reviewed and denied the Sinibaldi Use Permit application. The reason stated for the denial was the project is not compatible with neighboring properties and presents a high likely threat to public health and safety.

Additionally, the Planning Commission raised concerns of limited road access for ingress and egress during heavy snowfall, ability for renters to have adequate parking, and high fire danger based on project location.

Maple Drive is a private road that is maintained by the residents on a volunteer basis. During winter months the road narrows from a two-lane road into a one lane road, which makes it impassable due to heavy snowfall and high berms if a vehicle becomes stranded. As the road ascends south towards the project site, there is steep terrain at the base of the road which limits ability to access the project site resulting in vehicles parking on Maple Drive. Snow removal to provide access to the designated parking at the top of the 700-foot access road raises further concerns of satisfying the condition of approval for the use permit, requiring guest parking to be located off-street.

Furthermore, concerns were raised that the project site exhibits high fire severity due to the dense tree canopy surrounding the home and neighborhood.

Following the Commission's denial of the project, an appeal application was filed by the project applicant, Luis Sinibaldi. This Board of Supervisors staff report is intended to address the appellant's arguments and the Planning Commission's reasons for denial, while the March 15, 2023, Staff Report (Exhibit B) provides the framework for review of the requested land use permit for the proposed short-term vacation rental.

Due to the appeal, the Board of Supervisors is now the final decision maker on the Sinibaldi Use Permit project. While the Planning Commission decided to deny the project in March, the Board will need to make its

own findings to approve or deny the project. Should the Board find merit in the appeal, the attached Resolution (Exhibit D) includes findings in support of approval of the project.

Appeal

The project applicant submitted an appeal application requesting that the Board of Supervisors overturn the Planning Commission's denial of the Sinibaldi Use Permit application (see Attachment C). Mr. Sinibaldi's appeal listed four reasons for the request. They are summarized as follows:

1. Assistant Planner recommended granting approval of the use permit, citing property has sufficient parking for the intended use.
2. The Applicant received only one written concern the day before the meeting, while the other three statements were submitted during the hearing, which left them insufficient time to prepare and articulate a response.
3. The issue regarding a surge of traffic on Maple Drive is unfounded.
4. Parking on the street by guests is a minor inconvenience that can occur to anyone during snow season.
 - a. Shared contact information with neighbors to allow prompt response in the event of such incidents.
 - b. Parking on the street is a rare occurrence and approximately 4-8 times this has occurred in the last two years.
 - c. Promptly responds and proactively resolves situations that arise. The vehicles getting stuck in the snow is not an isolated incident just on Maple Drive and is essentially on other roadways.
 - d. We strongly believe we must be considered for the use permit to operate a short-term vacation rental. Other businesses are not held to the same standards. Everyone in other areas has experienced difficulties with snow and ice and vehicles getting stuck. The standard is unreasonable and unjust.
 - e. Maple Drive is a private road and is not a maintained road. There is no further impact on the community except for two adjacent property owners.

Discussion

Planning staff visited the project site on November 2, 2022, and April 11, 2023. At the most recent site visit, staff found that a portion of Maple Drive, ascending in the southerly direction towards the subject property, has an approximate slope of 18% at the base of the road, which eventually begins to level off to approximately 5% slope mid-way, and the remaining 200 feet to the subject property is at approximately 15% slope. During the visit in April, two large patches of ice were visible on the road within the 200-foot distance of the property due to the dense tree canopy along the road. The use of a four-wheel drive vehicle was required to ascend the road to the subject property. The access road to the project site is a thirty-foot-wide easement extending over 700 feet in length, which provides access to three adjacent parcels in addition to the subject property.



Figure 2:
Ice patches visible on
Maple Drive facing
south
approximately 200 feet
from the subject
property.



Figure 3: Facing North from the subject property.

The Planning Commission raised concerns that the County Code requires off street parking for vacation rentals, and if renters are unable to park on the property, it would be a violation of the use permit. During heavy snowfall, even if the property owner plowed their property, if Maple Drive isn't plowed the renter would be

unable to access the proposed short-term vacation rental. In addition, the Planning Commission also raised concerns of the high wildfire impact due to the tree canopy touching, which surrounds the entire project site.

On March 21, 2023, CalFire made a third attempt to access the property to perform a 4290 inspection and was again unsuccessful due to the snow conditions and ice present on the access road to the project site. A condition of approval to satisfy CalFire's 4290 and 4291 is a requirement prior to the issuance of a use permit. (See Figure 4)



Figure 4: CalFire's third attempt to perform 4290 Inspection.

Appeal Item #1

This project was originally presented to the Planning Commission during the March 15, 2023, Planning Commission meeting. At that time, planning staff recommended the approval of the subject property based on compatibility with the General Plan, Land Use Element, as well as standard conditions of adequate parking. Due to personal observation and based on comments from CalFire and neighboring property owners, staff has determined that vehicular access is limited during November through April when the level of snowfall and ice conditions do not provide safe conditions and accessibility to the subject property. This lack of access impacts ingress and egress to the onsite parking of the proposed vacation rental. The designated parking area appears

to be adequate for the proposed vacation rental provided the driveway landing is plowed and no obstructions hinder guests from turnaround capabilities for egress.

Appeal Item #2

As required by state law (Government Code Section 54953(e)(2)(C)), public comments are not required to be submitted in advance of the meeting and the opportunity was provided for members of the public to address the Commission during the meeting. However, the public is not required to provide advance notice to Staff, Applicants, or the Planning Commission of what the content of a public comment they wish to make at a public hearing in order for an applicant to have time to articulate a response. Three members of the public spoke in opposition to this project during the meeting, as allowed by state law and encouraged by the Planning Commission protocol specified on the Planning Commission agenda.

Appeal Item #3

The County was made aware through a code enforcement complaint that the property had been operating as a short-term vacation rental without a proper permit. On March 14, 2022, Code Enforcement issued a cease-and-desist order to stop all media advertisement and use of the subject property as a short-term vacation rental. Ten days later, on March 28, 2022, the applicant applied for a use permit. However, it was determined that the applicant continued to advertise on other vacation rental platforms disregarding the requirements set forth in the County ordinances. It was not until January 25, 2023, when fines reached a total of \$3,000.00, that the applicant complied with the cease-and-desist order.

Public comments were raised regarding an increase in traffic along Maple Drive due to the renting of the subject property. The applicant stated he rents his home sixteen (16) days every month and the increase is primarily because of maintenance workers and snow removal.

Appeal Item #4

Public comments received opposing the project indicated that guests had parked their vehicles at the base of the driveway in the street because they could not access the subject property during snow season. The applicant identifies it as a "minor inconvenience"; however, there are three to four residences directly impacted if vehicles remain parked at the base of the road. Egress and ingress on the narrow road during winter months proposes a public safety issue for residents and guests.

The applicant commented that while renting their home they provided their contact information for residents in the event any issues were to arise. While the property owners live in Los Angeles, California, it is a condition of approval for a use permit that a short-term vacation rental be managed by a County resident or professional property management firm located in Siskiyou County, and that such resident or firm shall be available on a twenty-four (24) hour basis. As part of the permitting process, the applicant has provided a local property manager and contact information as of March 15, 2023.

Proactive measures have been taken by the applicant in purchasing a tractor for purposes of snowplowing the access road and designated parking area for guests. However, at the time of the site visit on April 11, 2023, staff were unable to witness a tractor on-site due to the high snow levels surrounding the house. (See Figure 5)

While there are no legal requirements for guests to have four-wheel drive vehicles to access Maple Drive, staff personally experienced the inability to ascend south from the base of the road without the use of a four-wheel drive vehicle.



Figure 5: Designated parking areas
(April 11, 2023)

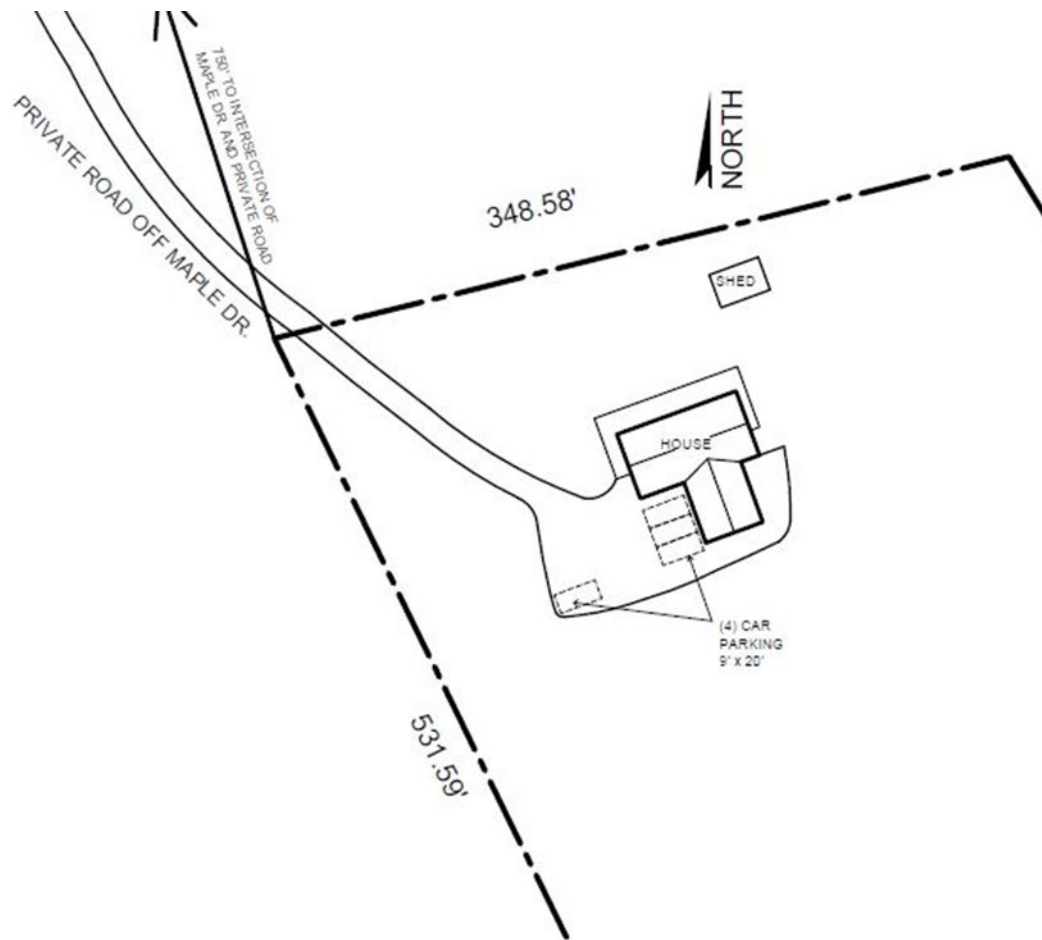


Figure 6: Site Plan – Designated Parking Spaces (9' x 20')

Staff Analysis

For a use permit application to be recommended for approval by Planning staff, the proposed project shall be consistent with the Zoning and General Plan for its area and be reasonably compatible with the uses permitted in surrounding areas. The Planning Commission stated reasons for denial that were analyzed and addressed as part of the review conducted by Planning staff. Planning staff's analysis is summarized below. The full analysis of the Findings is included in Exhibit A of this staff report.

Compatibility with the Neighborhood

The uses listed in Article 15 have unique characteristics that make it impractical to include them within the zoning districts. The use of this property as proposed, is allowed with a conditional use permit pursuant to the *Vacation rentals may occur within a single or two-family dwelling* in SCC Section 10-6.1502(h). In evaluating a use permit request, the primary focus is compatibility of the proposed use with the site and surrounding uses to determine if the proposed project should be allowed, and to review the configuration, design, location, and potential impact(s) of the proposed project. It should be determined if the proposed use will be unreasonably incompatible with the uses already permitted in the surrounding areas. Factors to consider include "nuisances from noise, dust, hazards from fire; and hazards occasioned by an unusual volume or character of traffic or the congregating of a large number of people or vehicles," (SCC Section 10-6.1502).

Staff had determined the approximately 5-acre project site has an access road that is at an approximate 18% slope at the base of the entrance, which levels off relatively flat at an approximate 5%

slope midway and increases into an approximate 15% slope about 200 feet from the subject property. The location of the project is not compatible with the proposed use and surrounding areas due to the limitations of road access during heavy snowfall.

If the Board were instead inclined to grant the appeal and approve the use permit, staff makes these additional remarks:

Zoning Consistency

The subject parcel is zoned Rural Residential, with a 5-acre minimum parcel size (R-R-B-5) and is not proposed to be as changed part of this project. Pursuant to Siskiyou County Code (SCC) Section 10-6.1501, the uses designated in Article 15 may be allowed subject to the issuance of a use permit.

Staff has determined that this project is consistent with the zoning of its area.

General Plan Consistency

The Land Use Element of the Siskiyou County General Plan identified the project site as being within the mapped overlay area for Woodland Productivity, Erosion and Wildfire Hazard. In addition, the planning staff has identified that Composite Overall Policies, 41.3(e), 41.3(f), 41.6, 41.7, 41.8, 41.9, and 41.18 all apply to the proposed project.

- **Erosion Hazard**

No new development is proposed as part of this project. Therefore, there would be no potential for erosion impacts due to implementation of the project.

- **Wildfire Hazard**

Conditions of approval have been recommended for this project to provide safe ingress, egress, and have an adequate water supply for fire suppression purposes as discussed previously in this staff report. They are attached in full as Exhibit A-1 to this staff report.

- **Woodland Productivity**

No new parcels are proposed as part of this project. Short-term vacation rentals are a permitted use per Policy 32 and the proposed use will not create erosion or sedimentation problems. No new land use or change in density is proposed as a part of this project.

Composite Overall Policy Review

- This project site has direct access to Maple Drive, a private road that during heavy snowfall, would be incapable of accommodating the traffic that could be generated from the proposed use.
- The proposed site is surrounded by land zoned and utilized for rural residential agricultural purposes or uses compatible with neighboring parcels. Future development in the area for Rural Residential Agricultural uses is not expected.
- No new development is proposed as part of this project; therefore, no disruption of a mapped resource would occur.
- Sewage disposal for the primary single-family dwelling is provided by an existing private septic system. No new development is proposed as part of this project.
- Water service to the primary single-family dwelling is provided by a connection to an approved groundwater well. No new development is proposed as part of this project.

Conformance with all applicable policies in the Land Use Element has been reviewed and documented. The staff has conducted a detailed analysis of each of the required findings and has found that the proposed project is consistent with all but one of the applicable General Plan policies governing the subject site due to

snow levels at the project site's elevation, vehicular access limited from November through April, which interferes with ingress and egress for public safety.

Environmental Review

The proposed project (i.e., permitting of the existing use of the property as a short-term vacation rental), CEQA does not apply to the proposed project if the public agency rejects or disapproves.

Recommended Action

That the Board of Supervisors conduct a public hearing and adopt a Resolution taking the following actions:

- Deny the appeal and sustain the decision of the Planning Commission disapproving the application for the Sinibaldi use Permit.
- Find that CEQA does not apply to projects which a public agency rejects or disapproves.

Recommended Motion

I move that we deny the adoption of the Resolution hereby taking the following actions:

- Deny the appeal of the Planning Commission's decision; and
- Find that CEQA does not apply to projects which a public agency rejects or disapproves.

Alternatives

The Board of Supervisors has several options that may be exercised during the review process of this application. While the staff had initially made a recommendation for approval to the Planning Commission, their decision to deny may be reconsidered by the Board if they wish to consider alternatives and approve the appeal. The alternative options available to the Board of Supervisors other than the recommended action include:

1. Uphold the Planning Commission's decision, deny the appeal and approve the use permit subject to the proposed alternative resolution attached to the staff report.
2. Add, delete, or modify the proposed conditions of approval.
3. Continue the public hearing.
4. Require additional review and refer back to the Planning Commission with any directions regarding further review.