



COMMUNITY DEVELOPMENT RESOURCE AGENCY
PLANNING DIVISION
County of Placer

HEARING DATE: February 23, 2017
ITEM NO.: 4
TIME: 11:15 AM

TO: Placer County Planning Commission
FROM: Development Review Committee
DATE: February 16, 2017
SUBJECT: **CAMEL'S HUMP CARETAKER'S RESIDENCE**
THIRD-PARTY APPEAL OF THE ZONING ADMINISTRATOR'S APPROVAL OF
AN EXTENSION OF TIME FOR A MINOR USE PERMIT MINOR USE (PMPC
20110109)
PREVIOUSLY ADOPTED MITIGATED NEGATIVE DECLARATION
SUPERVISORIAL DISTRICT 5 (MONTGOMERY)

COMMUNITY PLAN AREA: Placer County General Plan

COMMUNITY PLAN DESIGNATION: Agriculture Timberland, 80 acre minimum

ZONING: TPZ (Timberland Production)

ASSESSOR PARCEL NUMBER: 071-270-003-000, 071-310-001-000, 071-320-001-000, 071-330-008-000

STAFF PLANNER: Melanie Jackson, Associate Planner

LOCATION: The project site is located east of Interstate 80, approximately halfway between Weimar and Colfax, in the Colfax area. The site is accessed off of Gillis Hill Road which branches off of Yankee Jims Road.

APPELLANT: Michael Garabedian, on behalf of Friends of the North Fork and Sierra Club Placer Group

PROPOSAL: On November 17, 2016 the Zoning Administrator approved an Extension of Time to an approved Minor Use Permit that allows for construction of an 1,800 square foot caretaker's residence and a 625 square foot garage. On November 28, 2016, an appeal (Attachment A) was filed by Michael Garabedian, on behalf of Friends of the North Fork and Sierra Club Placer Group, of the Zoning Administrator's approval of the Extension of Time for the Minor Use Permit.

CEQA COMPLIANCE:

A Mitigated Negative Declaration was prepared for this project and was adopted by the Board of Supervisors on June 17, 2014. At the November 17, 2016 hearing, the Zoning Administrator found that

the previously adopted Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program was adequate for this Extension of Time request. These items are attached to this staff report and must be found adequate to satisfy CEQA by the Planning Commission. A finding for this purpose is included at the end of this staff report.

PUBLIC NOTICES AND REFERRAL FOR COMMENTS:

Public notices were mailed to property owners of record within 300 feet of the project site. Other appropriate agencies, public interest groups, and citizens were sent copies of the public hearing notice. Community Development Resource Agency staff and the Engineering and Surveying Division, Department of Public Works and Facilities, Building Services Division, Environmental Health Services, Air Pollution Control District and the Fire Department were transmitted copies of the project plans and application for review and comment.

PROJECT DESCRIPTION:

On November 17, 2016 the Zoning Administrator took action to approve a two-year Extension of Time for a Minor Use Permit which allows for construction of a maximum 1,800 square-foot caretaker's residence with a 625 square-foot attached or detached garage on one of two building sites on a portion of a 597.5-acre parcel. The caretaker's residence would house a full-time caretaker on the property who would act as property custodian. The caretaker would oversee a Forest Management Plan (Attachment I) that the property owners would implement in order to restore the property, a good portion of which was heavily damaged by the Ponderosa fire in 2001. The property would be accessed by Gillis Hill Road, which will be improved to a minimum 18-foot width as a requirement of permit approval.

On November 28, 2016, Michael Garabedian, on behalf of Friends of the North Fork, filed an appeal of the Zoning Administrator's action citing issues related to inadequate findings, changes to the circumstances that provide grounds for denial, conflicts with the California Constitution, incompatibility of the building locations with the Timberland Production zone district, alternative building sites, fire hazards, a private road easement and other issues which are described later in this report.

SITE CHARACTERISTICS:

The property is located in the Sierra Nevada foothills and consists of mostly north-south trending, undulating, west-facing ridge tops. East, north and south facing aspects are also present on the property. Elevations range from 1,600 feet to just over 2,600 feet above mean sea level. The majority of the property is bisected by three north-to-south flowing tributaries to Bunch Creek.

The majority of the property consists of chaparral and foothill woodland intermixed with isolated stands of canyon live oak, blue oak, ponderosa pine and Douglas fir. Riparian forest is present along the Bunch Creek and Smuthers Ravine drainages. Non-native annual grassland is intermixed within the chaparral and woodland.

The property has been logged in the past and some skid trails are still evident. In 2001, approximately 379 acres of the subject property were completely burned in the Ponderosa Wildfire. An additional 21 acres were left partially burned and the remaining property, approximately 198 acres, was not affected by the fire. Existing dirt roads traverse parts of the property and access all potential building sites. In 2006, the applicants had a Forest Management Plan created in order to reforest and restore the property.

**Camel's Hump Caretaker's Residence
Adjacent Land Use Designation/Zoning/Improvements**

Location	Zoning	Placer County General Plan Designation	Existing Conditions and Improvements
Site	TPZ (Timberland Production – 160 Acre Minimum Parcel Size)	Agriculture Timberland, 80 acre minimum	Undeveloped
North	TPZ (Timberland Production – 160 Acre Minimum Parcel Size); RF-B-X-80 Ac. Min. (Residential Forest, Combining an 80-Acre Minimum Parcel Size); RA-B-100 PD = 0.44 (Residential Agricultural, Combining Minimum Building Site of 100,000 square feet, Planned Development of 0.44 units per acre)	Agriculture Timberland, 80 acre minimum	Developed with a caretaker's unit and agricultural structures for the timberland use
South	F-B-X 20 Acre Min. (Farm, Combining a 20-acre Minimum Lot Size) and W (Water Influence)	Agriculture Timberland, 80 acre minimum	Undeveloped and owned by U.S. Government; has similar topography and vegetation as project site
East	F-B-X 20 Acre Min. (Farm, Combining a 20-acre Minimum Lot Size) and W (Water Influence)	Agriculture Timberland, 80 acre minimum	Monte Verde Estates Residential Subdivision
West	F-B-X 3-Acre Min. (Farm, Combining a 3-acre Minimum Lot Size); F-B-43 PD=1 (Farm, Combining a 1-Acre Minimum Lot Size); F-B-X 4.6 Acre Min. (Farm, combining a 4.6-Acre Minimum Lot Size); F-B-X 20 Acre Min. (Farm, Combining a 20-acre Minimum Lot Size)	Agriculture Timberland, 20 acre minimum	Undeveloped to the Southwest, with similar topography and vegetation as the project site; three five-acre parcels developed with single-family residences

BACKGROUND:

This project was originally approved by the Zoning Administrator on November 21, 2013. During this hearing, the Zoning Administrator received a presentation of this project from the Development Review Committee and took oral testimony from the applicant and the public, after which the Zoning Administrator closed the public hearing and took action to adopt the Mitigated Negative Declaration prepared for the project and approved the Minor Use Permit. In taking action to approve the project the Zoning Administrator found that the establishment of a caretaker's residence on TPZ property was consistent with the zoning and would improve the property owner's ability to re-establish forest lands on the site and manage them for timber production.

A third party appeal of the Zoning Administrator's decision was filed by Friends of the North Fork on December 2, 2013. On March 27, 2014 the Planning Commission heard the appeal of the Zoning Administrator's decision, during which it received an oral presentation from County staff and took testimony from the appellant and the project applicant. After hearing from staff, the applicant, the

appellant and the public, the Planning Commission took action to uphold the Zoning Administrators decision to approve the Minor Use Permit and to adopt the Mitigated Negative Declaration and denied the appeal. In taking action the Planning Commission modified a Condition of Approval to limit the caretaker's residence to a single-story.

On April 7, 2014 a third party appeal of the Planning Commission's decision was filed by Michael Garabedian on behalf of Friends of the North Fork. On June 17, 2014, the Board of Supervisors heard the third party appeal of the Planning Commission's decision. After hearing staff's presentation and presentations from the appellant and the applicant, the Board took unanimous action to deny the third party appeal and to uphold the decision of the Planning Commission. No judicial appeal was filed and the Minor Use Permit term commenced to run with a 24 month period to exercise the permit.

Extension of Time Application

On June 15, 2016, the applicant filed a request for an Extension of Time for the Minor Use Permit. As discussed above the Extension of Time was approved by the Zoning Administrator on November 17, 2016.

APPEAL

On November 28, 2016, the present appeal (Attachment A) was filed. On December 28, 2016, the appellants submitted explanatory appeal materials (Attachment B).

RESPONSES TO APPEAL

To assure that each assertion set forth in the appeal letter and explanatory materials are responded to, staff has prepared a specific response for each issue raised in the appeal letter.

The appellant states that the decision to extend the permit was erroneously based on economic conditions.

The appellants assert that the Zoning Administrator erred in approving the Extension of Time because the Zoning Administrator's decision was based on economic reasons. The appellant further states that the level of forest management activity on the property has not changed and that the request to extend the timeframe to exercise the project based on economic infeasibility demonstrates an intent of building a caretaker's residence for reasons other than forest management, and possibly for non-caretaker occupancy. The appellant concludes that there is no economic or practical need for a caretaker cottage on the property.

Response

The request for the Extension of Time cited the economic downturn and lack of funding for the construction of a caretaker's residence, which was discussed in the October 20, 2016 Zoning Administrator staff report. In addition, the staff report also included information regarding the applicant's due diligence in pursuing the implementation of the Minor Use Permit. The staff report includes the following:

"Although the applicants have not been able to construct necessary improvements for the caretaker's residence, they have been continuously implementing the Forest Management Plan, which was the basis for the caretaker's residence.

Since the date of approval, no change of conditions or circumstances has occurred on the subject property that would have been grounds for denying the original application. The applicant has been

diligent in pursuing implementation of the permit by implementing the Forest Management Plan with reforestation practices including clearing, planting and spraying. Conditions of approval have been imposed that update the permit to reflect current adopted standards and ordinance requirements, where applicable.”

It should be further noted that the applicant has obtained grant funding that was used to implement the Forest Management Plan, as required by the grant. As such, the Zoning Administrator reasonably concluded that an extension of the permit was warranted because the applicant has been diligent in implementing the Forest Management Plan as required.

There have been changes in circumstances since the time of the original approval that provide grounds for the denial of the extension.

The appellant cites several reasons why this Extension of Time should be denied, including the King Fire, the Robbers fire, the Emergency Fire Access and Egress regulations, the Cal Poly San Luis Obispo June 2016 Dead-Ends Road Report for the Board of Forestry, the current CAL FIRE Fire Resource and Assessment Program (FRAP) maps including the Wildland Urban Interface maps and, how the project would increase the Wildland Urban Interface.

Response

The project was reviewed by CAL FIRE at the time of the original application review. CAL FIRE provided comments and conditions of approval that are included in Attachment E of this staff report. The Extension of Time application was routed to CAL FIRE and reviewed a second time. In both cases, CAL FIRE determined that, with the implementation of the conditions of approval, the proposed project met all fire requirements and regulations. These regulations did include all those listed by the appellant that were applicable to the project. Because of these reasons, staff has determined that the changes in circumstances that the appellant mentions would not be grounds for denying the Extension of Time.

The appellant states that the rationale for the decision based on an economic situation conflicts with Articles XIII, Section 3(i) and Article VIII, Section 13 of the California Constitution.

The Articles referred to by the appellant, as cited in the appellants’ appeal materials, relate to government tax reductions for Timberland Production properties and the restrictions on those properties that allow reduced taxes. The appellant suggests that the caretaker’s residence is inconsistent with these restrictions and that construction of the caretaker’s residence would violate the California Constitution.

Response

Uses supported by the applicable Articles of the California Constitution include timberland production. As detailed above, the property owners have been diligently working to implement the Forest Management Plan by re-forestation of the property. As mentioned by the appellant, much of the property was burned during the 2001 Ponderosa Fire and the majority of vegetation on the project site was destroyed. The goal of the Forest Management Plan is to reforest the property for future timber operations. Both reforestation and future timber operations are consistent with applicable articles of the California Constitution.

As the local land use authority, Placer County has the discretion to determine if the construction of a caretaker’s residence to support this use, which is permissible under County Code with approval of a

Minor Use Permit, would be a compatible land use and would further promote timberland production. The County staff has previously analyzed these issues when the original applicant was processed and in 2013 the Zoning Administrator determined that the use was compatible and would further promote timberland production. On appeal, the Planning Commission affirmed the Zoning Administrator's decision and on appeal of the Planning Commission's decision the Board of Supervisors also affirmed that the use is compatible and would further timberland production on this site. In reviewing the request for Extension of Time, staff reviewed the original issues and rationale for supporting approval of the Minor Use Permit and determined that there is no change of circumstances presented in the current request that would cause staff to change its position.

The appellant states that the location of the proposed 1,800 square foot structure on either of the two locations would be an incompatible use with Timberland Production Zone properties.

The appellants state that the approved locations of the caretaker's residence would result in forest management issues due to increased fire hazards and the visual impact of locating the residence near areas viewable from public lands.

Response

Staff reviewed the proposed locations where the caretaker residence would be constructed and determined that the locations were logical, would not interfere with timberland production or reforestation activities, would conform to requirements of the County Zoning Ordinance pertaining to setbacks, building height and other applicable land development standards, and would be consistent with all applicable provisions of the Placer County General Plan. Furthermore, CAL FIRE reviewed the project and determined that with implementation of state fire code requirements that are implemented as part of the County's Building Permit review process, which includes permit approval and final inspection approval by the serving fire agency to verify that all fire suppression requirements are implemented, the residence would meet all CAL FIRE requirements and would not increase fire hazards. These issues were previously analyzed and disclosed in the Mitigated Negative Declaration prepared and adopted for this project.

The appellant asserts that the construction of the caretaker's residence would result in fire hazard risks to the property, the surrounding properties and would not prevent fire danger.

Response

This assertion was previously addressed in the March 27, 2014 Planning Commission hearing. In the staff report for that hearing, staff responded with the following:

The subject property is located in an area highly susceptible to wildland fires and was the subject of a wildland fire when the Ponderosa fire occurred in 2001. However, mitigation measures were included in the environmental document that will reduce these risks to levels compatible with the implementation of a caretaker's residence, including shaded fuel breaks, fuel reductions, roadside fuel reductions defensible space and on-site water storage.

A comment letter was received by Mathew Reischman on behalf of CalFire. The comment letter includes recommendations for Compliance with the Forest Practice Act and Rules as follows:

- *Submittal of a Timber Harvest Plan (RM-63) or other harvesting document for timberland acreage included in the project.*
- *Submittal of a timberland conversion permit or applicable timberland conversion exemption.*
- *Incorporation of a California Licensed Timber Operator for conduct of timber operations.*

All recommendations noted above have either been completed by owners of the property, or are not applicable to the Minor Use Permit.

Staff has evaluated whether changes in circumstances or conditions of the property would warrant further assessment than what was previously addressed or that would cause staff to change its previous conclusions and has found that there are none. Therefore, staff has found that the response in the March 27, 2014 Planning Commission staff report still applies and has nothing further to add.

The appellant asserts that staff ignored fire prevention issues that could result from the approval of the Minor Use Permit Extension of Time.

Response

The subject property is located in an area highly susceptible to wildland fires and was the subject of a wildland fire when the Ponderosa fire occurred in 2001. However, mitigation measures were included in the environmental document that will reduce fire hazard risks to levels compatible with the implementation of a caretaker's residence, including shaded fuel breaks, fuel reductions, roadside fuel reductions, defensible space and on-site water storage. Therefore, staff has adequately addressed fire safe building locations and public safety concerns related to the construction of a caretaker's residence on the subject property.

The appellant suggests that the environmental document should be revisited so that it discloses fire prevention impacts.

Response

Staff's evaluation of the Extension of Time request included a review of the previously adopted Mitigated Negative Declaration prepared for the project to ascertain whether there has been any substantial change to the project or change in circumstances that would necessitate additional CEQA analysis (CEQA Guidelines Section 15162). Staff concluded that there were no such changes to the project or its circumstances and the previously adopted mitigation measures adequately address fire hazards and prevention.

The appellant states that baseline conditions should have been described.

Response

An MND was prepared for this Minor Use Permit and Extension of Time. This MND, as required by CEQA, described the baseline conditions of the property. This information was also included in the Zoning Administrator staff report for the Extension of Time. Therefore, staff has concluded that the baseline conditions were adequately described and characterized and that no further changes to the environmental document are warranted.

SUMMARY/RECOMMENDATION:

In approving the Extension of Time for the Minor Use Permit the Zoning Administrator found that there were no changes to the description of the project or the circumstances that would have resulted in denial of the Extension of Time. The Development Review Committee has reviewed each of the issues raised by the appellants and has determined that there is no merit in any of the issues raised and no new issues have been identified by appellants that would cause staff to change its original recommendation. Therefore, staff recommends that the Planning Commission take the following actions:

1. Deny the third-party appeal filed by Michael Garabedian on behalf of Friends of the North Fork and Sierra Club Placer Group.
2. Find that the Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program prepared for this project is adequate for this Extension of Time pursuant to CEQA.
3. Uphold the Zoning Administrator's decision to approve the Extension of Time for the Camel's Hump Caretaker's Residence Minor Use Permit to allow for the construction of a 1,800 square foot residence with a 625 square foot garage on a property zoned for Timberland Production, subject to the findings and conditions of approval.

FINDINGS:

CEQA:

A Mitigated Negative Declaration was adopted for the project on June 17, 2014 by the Board of Supervisors. The Planning Commission finds that no changes have occurred to the project or to existing circumstances that would warrant additional environmental analysis for this Extension of Time request.

Extension of Time Findings:

1. No change of conditions or circumstances has occurred that would have been grounds for denying the original application;
2. The applicant has been diligent in pursuing implementation of the permit; and
3. Modified conditions have been imposed which update the permit to reflect current adopted standards and ordinance requirements.

Respectfully submitted,



Melanie Jackson
Associate Planner

ATTACHMENTS:

Attachment A – Appeal
Attachment B – Explanatory Materials
Attachment C – Mitigated Negative Declaration
Attachment D – Mitigation Monitoring and Reporting Program
Attachment E – Conditions of Approval
Attachment F – Site Plan
Attachment G – CAL FIRE comments
Attachment H - Visual Exhibits
Attachment I – Forest Management Plan and Addendum

cc: Steve Pedretti – CDRA Director
Paul Thompson – Planning Director

EJ Ivaldi – Deputy Planning Director
Karin Schwab – County Counsel
Lisa Carnahan – Parks Division
Rebecca Taber – Engineering and Surveying Division
Angel Green – CDRA/Air Quality

