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Item 6a
9:05 AM
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STAFF REPORT

TO: Planning Commission

FROM: Mireya G. Turner, Community Development Director
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Michelle Irace, Resource Planner
Scott Webb, Water Resources Technician

DATE: May 22, 2025

SUBJECT: Consideration of Lakebed Encroachment Permit and Variance request for the Disney Boat Rental Facility Project (PL 25-18; VR 24-01), located at 2200 Lakeshore Boulevard Lakeport (APN 026-031-29)

ATTACHMENTS:

1. Application Materials (Project Description for overall Disney's Boat Rental Project, Variance Justification, and Draft Maintenance Plan)
2. Site Plans
3. Draft Conditions of Approval
4. Agency Comments for Variance
5. Final Initial Study and Mitigated Negative Declaration for Disney Boat Rental Facility Project
6. Initial Study Attachments
7. Mitigation, Monitoring and Reporting Program for adoption

EXECUTIVE SUMMARY

The Planning Commission would consider a request for Lakebed Encroachment Permit and Variance from the County's Shoreline Ordinance for the Disney Boat Rental Facility Project (Disney Development Project). Although the planning entitlements and building permits for the Disney Development Project are within the City of Lakeport's jurisdiction, the installation of two floating docks and buoys require a Lakebed Encroachment Permit from the Lake County Water Resources Department, in accordance with Chapter 23, Clear Lake Shoreline, of the Lake County Municipal Code ("Shoreline Ordinance"). To support the development, protect sensitive species and mitigate environmental concerns, the applicant seeks a Variance from the following two sections of the Shoreline Ordinance. Please refer to the Project Description and Staff Analysis portions of this Staff Report for more information.

- 23.6.3(E)(2) - Types and Numbers of Piers, Docks, Boat Ramps, etc.
 - Code allows 1 for boating activities but the applicant proposes two for boating activities.
- 23.6.5(A) - Size, Length
 - Code allows docks to be 100 ft in length from Zero Rumsey but the applicant proposes 125 ft.

Per Section 4.6 of the Shoreline Ordinance, Planning Commission Review, the Planning Commission is the discretionary approval body for Lakebed Encroachment Permits requiring an Initial Study, as well as applications for variances.

Application materials, including the applicant's justification for the requested variance, a Draft Maintenance Plan, and the complete Project Description prepared for the City of Lakeport's Use Permit application is included in Attachment 1.

PROJECT DESCRIPTION

<u>Project Title:</u>	Disney Boat Rental Facility Variance and Lakebed Encroachment Permit
<u>Permit Numbers:</u>	PL-25-18 for VR 24-01
<u>Applicant Name & Address:</u>	Brandon Disney Disney's Boat Rentals 401 S. Main St., Lakeport
<u>Project Location:</u>	2200 Lakeshore Blvd., City of Lakeport
<u>Parcel Number(s) (APN):</u>	APN 026-031-29
<u>Parcel Size:</u>	±6.08 acres
<u>General Plan Designation:</u>	N/A, within City of Lakeport
<u>Zoning District(s):</u>	N/A, within City of Lakeport
<u>Flood Zone:</u>	AE, Special Flood Hazard Area with a high flood risk due to low elevation and proximity to water sources

Background

The Disney Development Project includes a Tentative Parcel Map, Use Permit, Architectural and Design Review Permit, and Shoreline Development Permit for the property situated at 2200 Lakeshore Boulevard. Disney's Boat Rentals intends to relocate its existing operations from downtown Lakeport to this Lakeshore Boulevard site. The project involves the construction of a two-story, 4,778-square-foot building that would serve as a rental office, shop, and boat storage facility, including space for the repair of fleet boats. Shoreline development includes the installation of two floating docks. The development is located within the jurisdiction of the City of Lakeport and was approved by the City's Planning Commission on January 8, 2025. Additionally, an Initial Study and Mitigated Negative Declaration (ISMND) was approved for the Disney Development Project. The City of Lakeport's January 8, 2025, Planning Commission agenda packet, including the staff report and all attachments, can be found online at: <https://www.cityoflakeport.com/Full%20Packet%20-%20Compressed.pdf>

Existing Features and Uses

The proposed project site is in the north-eastern portion of the City of Lakeport. The project is located directly west of, and extending into, Clear Lake. The Project site is located on APN 026-031-29 that is approximately 6.07+ acres in size. The property is also divided by Lakeshore Boulevard. The Project site is currently vacant.

FIGURE 1- AERIAL IMAGERY OF THE SITE



Source: Lake County GIS-Parcel Viewer, 2025

Proposed Features and Uses Subject to the County's Shoreline Ordinance

Floating Docks. The project includes two floating docks. A detailed description of these components is provided in the Project Description (Attachment 1) and Initial Study (Attachment 5).

- One floating "Customer Dock" that would be 235 ft long x 8 ft wide, with a 35 ft wide popout and 6 ft x 20 ft "dock building" that would be used for the storage of lifejackets, kayaks, inner tubes, and boating related items
 - This dock would not be open to the general public, but would be utilized for customers renting boats and jet skis.
- One floating "Fuel Dock" that would be 150 ft long x 8 ft wide.
 - Mobile fuel trailer that would remain stationary and parked on a concrete pad while Disney's Boat Rentals is operational (typically from Spring to Fall).
 - Use of the dock and fuel trailer would be limited to trained employees only. This area would not be accessible to customers or the public.
 - The fuel dock would also feature storage for fuel spill response equipment, nozzle drip control, fire suppression systems, etc.
 - When the fuel trailer requires refueling, it would be attached to a pickup truck and moved to the west side of the property, adjacent to the office building and parking lot to avoid potential spills near the lake.
 - In the winter months, the mobile trailer tank would be stored at the Disney office, away from the lake.

Two concrete pads (“A” and “B”) would be installed on the east side of Lakeshore Boulevard for access to the docks from the Disney boat rental building that would be located on the west side of Lakeshore Boulevard. Pad A would provide pedestrian access to the Customer Dock and would be located immediately after the crosswalk that would be installed as a part of the overall Disney Development Project. Pad A would extend approximately 20 feet toward the lake, with an additional extension of 10 feet on both the North and South sides, resulting in a total frontage of 30 feet along Lakeshore Blvd. Pad A would be accessible via an ADA-compliant curb cut, allowing customers to proceed to the Customer Dock. Pad B would be approximately 115 feet north of Pad A at the refueling area for the Fueling Dock. This area would not be accessible to customers or the public; access to Pad B would be limited to trained employees only.

The docks would be accessed via a 40-foot gangway attaching to a 25-foot suspended pier, then a 20-foot gangway to attach the floating dock to the pier. This combination of gangway to pier, to gangway, to floating dock would lengthen the docks and keep boats further from the shoreline and above the high-water mark. This distance from shore would protect native tules (*Schoenoplectus acutus*) and potential habitat close to shoreline. The floating docks would remain stable using stainless-steel cables attached to a series of 13 anchors, each weighing approximately 300 pounds. As the lake level decreases, winches concealed beneath the decking planks would tighten the stainless-steel cables connected to the anchors, allowing for variable water levels, while also minimizing excessive swaying of the dock during high winds. The docks would be removed and stored on dry land in the winter months.

Mooring. Boat mooring is the process of securing a boat in a specific location using anchors, chains, ropes, or other devices. Ten (10) Boat mooring spaces would be available for Disney boats and jet skis. These spaces would be situated to the north of the fueling dock and south of the Customer Dock. The anchors would have a minimum weight of 90 lbs and would be secured with 3/16” coil or galvanized chain. Employees would be dispatched to a moored boat to retrieve the vessel and transport it to the Customer Dock for customer boarding.

Navigational Buoys. The applicant proposes to install 5 MPH regulatory buoys and would adhere to all County requirements for navigation and safety. The number and placement of buoys is identified within Figure 1 below. However, the number and location of buoys may be modified based on lake level conditions and safety considerations.

Construction. Construction is anticipated to take 12-16 months. A marine contractor would be obtained by the applicant for construction of the docks. Typically, all work is conducted from the water via barges and takes approximately 2-3 weeks to complete. All work that may result in lakebed disturbance would be conducted within the Clear Lake hitch (*Lavinia exilicauda chi*) “work window” (October 15-December 31), which has been established by the California Department of Fish and Wildlife to reduce impacts to spawning and rearing of hitch; and all applicable mitigation measures associated with the approved ISMND have been included as Conditions of Approval for the proposed Variance and Lakebed Encroachment Permit (Attachment 3).

Variance Requests

To support the development, protect sensitive species and mitigate environmental concerns, the applicant seeks a Variance from the following two sections of the Shoreline Ordinance as a part of their Lakebed Encroachment Permit.

Variance Request #1

Section	Regulation	Proposal
Section 23.6.3(E)(2) - <i>Types and Numbers of Piers, Docks, Boat Ramps, etc.</i>	If a resort or commercial property owns contiguous littoral parcels ¹ for the use of its residents, guests, or tenants, it may be permitted to construct two (2) piers or docks and two (2) launching facilities, other than a boat ramp, for use in connection with the parcels by its residents, guests or tenants, if such piers, docks or launching facilities would not violate the standards established in Sections 23-5.1, 23- 5.2 or 23- 6.1. The second pier or dock shall be for the use of non-boating activities.	Two docks for boating activities: one for launching and one for fueling.

Justification Provided by Applicant: “The last sentence of this ordinance is where we are seeking a variance. We need our second pier/dock to *include* boating activities. The second dock (our fueling dock) came about from a workshop-style discussion with Lake County Environmental Health on January 17th, 2024 regarding fuel tanks; how and where to refuel our boats. In our meandering discussion, it was expressed that a second dock, specifically for refueling and off-limits to customers, would be beneficial. This second boating dock would allow several opportunities relating to safe fueling practices. The dock itself would contain our fuel spill response kit and procedure manual, as well as dedicated fueling staff. This would help ensure that staff can stay focused on refueling without the distraction of customers loading and unloading, lifejackets, inner tubes, etc. Of course, Lake County Environmental Health has the interest and jurisdiction to oversee fueling operations and, through our discussion, the use of a second boating dock was a great way to help ensure the protection of Clear Lake. Our original plan called for only one boating dock; the inclusion of a second boating dock was seen as a necessity to continue this development.”

Variance Request #2

Section	Regulation	Proposal
Section 23.6.5(A) <i>Size, Length</i>	Piers or docks shall not extend beyond a point where the water depth is greater than ten feet (10') when the lake is at a level of zero on the Rumsey Gauge or that length necessary to dock or service the proposed number of boats, or one hundred feet (100') measured lakeward from Zero Rumsey perpendicular to the shoreline, whichever is most limiting	The customer dock would extend approximately 125 ft feet from Zero Rumsey

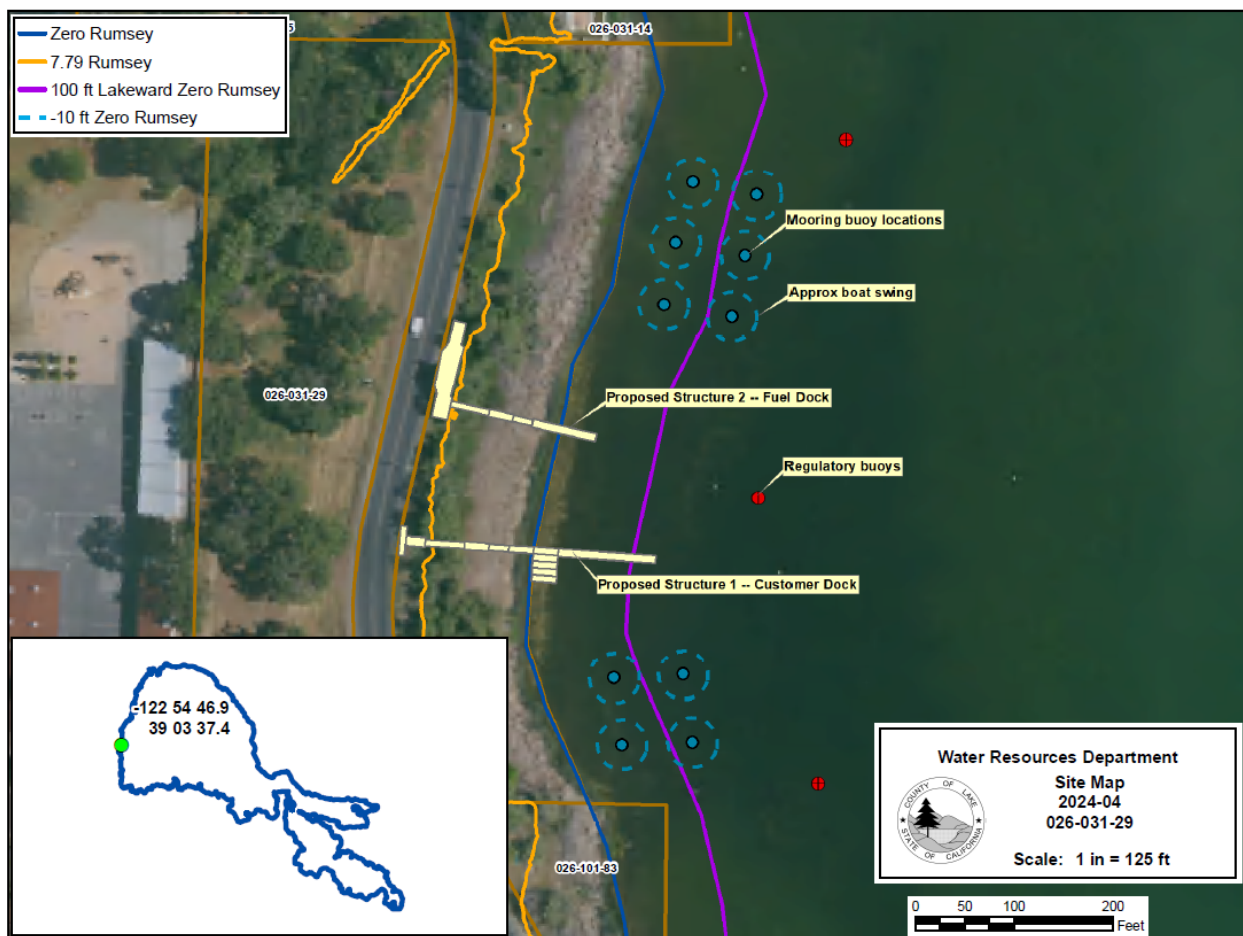
Justification Provided by Applicant: “Our original proposed development was to use our currently-permitted floating dock and to mount it to a seawall on the shoreline of 2200 Lakeshore. However, after working with Lake County’s Water Resources Department, we were required to extend our dock further from the shoreline to help protect native tules. While this was a great solution to protect the tules, it now puts our dock further from shore than originally planned. We had

¹ Littoral Parcel is defined as a parcel of land which is located, in whole or in part, within or abutting the foreshore (the zone lying between the low water mark (0.00 feet Rumsey) and the high-water mark (7.79 feet Rumsey)).

expressed to the Water Resources Department that we would remove and replant tules as permitted in Chapter 23.15(B); however, it was expressed that a longer pier would be preferred rather than tule removal and replanting. Not only does the added length aid in the protection of tules, it also gets our boats into deeper water. Chapter 23.8.2(C) states “When permitted, marinas and harbors, shall be located in the following areas...(1) In a depth of water that would minimize the need for dredging (2) In natural inlets to avoid the use of breakwaters.” This section of the lake is relatively shallow compared to other areas. The greater length of the dock would allow the use of boating activities, without the need to dredge, another factor that protects tules and the lakebed. This variance is crucial in our continued development. The added pier and additional length past zero Rumsey, originally came at the request of the Water Resources Department to protect tules. Although an extended dock was not an addition we were planning on, protecting the tules and the lakebed has proven to be a decision vital to our operation.”

The applicant also provided information related to the need for 10 mooring buoys because Section 26.3 notes that one mooring buoy is permitted for use by an individual property owner, family or guest. However, per Section 23-3.46, a Marina is defined as “a commercial facility of docks and mooring buoys”; the number of mooring buoys is not specific for commercial developments. As such, a variance from this section is not required.

FIGURE 2- SITE MAP



Source: Lake County Water Resources Department, 2025

ASPECTS OF INTEREST

Impacts to Tules and Clear Lake hitch. The analysis within the Initial Study included impacts specific to shoreline development, including impacts to Clear Lake, tules and Clear Lake hitch. These were concerns raised by the County's Water Resources and Community Development departments, as well as California Department of Fish and Wildlife during circulation of the Draft Initial Study of the project. The noted entities worked with the City of Lakeport to redesign aspects of the project to ensure that concerns were addressed and mitigated. These efforts resulted in the Biological Resources Assessment and the Initial Study being revised and recirculated prior to adoption. A summary of impacts to Tules and Clear Lake hitch is provided below. Please refer to the Biological Resources discussion in the Initial Study (Attachment 5), as well as the Biological Reports, Habitat Restoration Plan and comments from CDFW, which are included as attachments to the Initial Study (Attachment 6 to this staff report).

The proposed gangways leading to the suspended piers would be designed to avoid any direct impact on the Tules, allowing sufficient space for their continued growth. However, the concrete pads, pylons and anchors would result in the removal of riparian vegetation and impacts to biological resources, if not mitigated. The Biological Resources Assessment and Initial Study prepared for the Disney Development Project evaluated potential impacts on the riparian habitat. To mitigate effects on the Clear Lake Hitch, all activities resulting in lakebed disturbance of Clear Lake shall be conducted between October 15 and December 31. The applicant is also required to obtain a Lake and Streambed Alteration Agreement from California Department of Fish and Wildlife. Furthermore, the applicant is required to implement the Habitat Restoration Plan developed by Graening and Associates (included within Attachment 6 to this staff report) to minimize impacts on the Clear Lake Hitch. Approximately 508 square feet of riparian habitat (including Himalayan Blackberry and European Grasses and Forbs) and approximately three square feet of aquatic habitat (lacustrine wetlands and Tules) would be affected. Specifically, the project would require installation of eight pilings in areas containing Tules within an area totaling approximately three square feet. According to the Biological Assessment, the density of Tules is approximately seven plants per eight-inch diameter circle (width of piling), resulting in an estimated number of 56 affected Tule plants. To mitigate this impact, the applicant is required to establish new riparian/lacustrine vegetation on-site at a ratio of 3:1, resulting in approximately 1,524 square feet of new native riparian vegetation and nine square feet of lacustrine vegetation. Tule rhizomes would serve as the primary plants for the revegetation of the lacustrine areas.

PROJECT SETTING

The Disney Development Project 6.07+ acre site is located within the northeastern portion of the City of Lakeport. The Project site is bordered by the Lakeport Unified School District (Includes Lakeport Elementary, Terrace Middle School, and Clear Lake High School) to the west. Clear Lake is located directly to the east of the project site, and residential homes are located to the north and south.

STAFF ANALYSIS

County of Lake General Plan and Zoning Ordinance

As previously mentioned, the project site is located within the City of Lakeport and subject to the City's General Plan and Zoning Ordinance. As such, the County of Lake's General Plan and Zoning Ordinance are not applicable. However, the overall Disney Development Project is supported by policies within the General Plan related to economic development, tourism and recreation opportunities. Lastly, compliance with the Shoreline Ordinance is also consistent with goals and policies related to protection of the lake.

Lakebed Encroachment Permit and County of Lake Shoreline Ordinance Variance Request

Although the Disney Development Project is within the City of Lakeport's jurisdiction, the shoreline development portion (installation of two floating docks and buoys) is subject to a Lakebed Encroachment Permit, in accordance with Chapter 23, Clear Lake Shoreline, of the Lake County Municipal Code ("[Shoreline Ordinance](#)").

The purpose of the Shoreline Ordinance is to, "Improve and protect the public's interest in the waters and the bed of the waters in and around Clear Lake, and to insure that the lands would be used for general statewide interests in furtherance of commerce, navigation, fishery, recreation and, wherever possible and appropriate, preservation of the land and waters in their natural state by establishing minimum standards for the construction, alteration, removal and maintenance of structures or other prescribed activities in the nearshore and foreshore of the lake."

According to Section 5.1 of the Shoreline Ordinance, before Lakebed Management shall issue any administrative encroachment permit, it must be established that the proposed use, operation, alteration, construction, or activity would not cause significant harm to:

- "(A) The water quality of the lake, including but not limited to its clarity, temperature, color, taste and odor.*
- (B) The nearshore and foreshore.*
- (C) The land underlying the lake.*
- (D) Fish and other aquatic forms of life, their habitats, their breeding and spawning grounds.*
- (E) The natural beauty of the area.*
- (F) Navigation, safety, or health.*
- (G) The long-term preservation of the project site in its natural condition.*
- (H) Archeological or historical resources of state-wide significance.*
- (I) The wetlands."*

According to Section 5.2 of the Shoreline Ordinance, before Lakebed Management shall issue any administrative encroachment permit, it shall find that the proposed use, operation, alteration, construction, or activity would:

- "(A) Be in furtherance of general statewide interest.*
- (B) Not be inconsistent with the public rights of commerce, navigation, fishery, recreation, and preservation of the project site in its natural state.*
- (C) Not result in substantial interference with public use of the lake's navigable waters.*
- (D) Be supported by sufficient accessory uses to accommodate the proposed construction or use.*
- (E) Not violate any other provision of law.*
- (F) Not be incompatible with existing nearshore and foreshore uses or structures on or in the immediate vicinity of the littoral parcel."*

According to subsection 23-16, *Variances*, of the Shoreline Ordinance,

“16.1 The Planning Commission may grant variances from the terms of this chapter only if it is found that because of special circumstances or unique conditions applicable to the property involved, a strict application of the provisions of this chapter works a hardship (other than economic) on the property. Where such conditions are found, the variance permitted shall be the minimum departure from existing regulations necessary to avoid such hardship, to facilitate a reasonable use, and which would not create significant probabilities of harmful environmental consequences. In no case may a variance be granted that would provide the applicant with privileges not enjoyed by other similarly regulated properties.

16.2 Before granting any variance from the terms of this chapter, the Planning Commission shall find that the proposed use, operation, alteration, construction, or activity would:

- (A) Further a general statewide interest; and*
- (B) Be consistent with the public rights of commerce, navigation, fishery, recreation and preservation of the project site in its natural state; and*
- (C) Not result in substantial interference with public use of the lake's navigable waters; and*
- (D) Not violate any other provision of law.”*

As further described below in the *Findings* section of this Staff Report, the main purpose of the proposed Variance is to mitigate impacts to sensitive resources, such as the Clear Lake hitch (and tule habitat), which is a local, state and federally identified sensitive species. This portion of the shoreline is relatively shallow compared to other portions of the lake. By extending the dock length by 25 feet, tule habitat would be protected and the boats would be in deeper water to support safe launching. The addition of one extra dock to separate fueling activities was suggested by the County's Environmental Health Department and is reasonable for the commercial development. As previously stated, per Section 23-3.46, a Marina is defined as a “commercial facility of docks and mooring buoys” and the number of mooring buoys is not specific for commercial developments. As such, a variance from this section is not required.

Section 23-8, *Marinas and Harbors*, contains development standards and requirements for marinas, including submittal of a Development and Maintenance Plan to Lakebed Management. The project meets all applicable requirements within this section of the code and is working with Lakebed Management to finalize the Development and Maintenance Plan (Draft included in Attachment 1).

A comprehensive analysis of environmental impacts was conducted within the Initial Study and all impacts were found to be less than significant with the incorporation of mitigation measures. Lastly, the project proposes two docks and buoys in accordance with all regulatory and safety regulations. The project would not result in substantial interference with public use of navigable waters and would promote recreational opportunities and public use of the lake.

Based on the aforementioned, the findings noted above to support issuance of the Lakebed Encroachment Permit and proposed Variance can be made.

ENVIRONMENTAL REVIEW

An Initial Study and Mitigated Negative Declaration (ISMND; Attachment 5) was prepared by the City of Lakeport and circulated for public review from September 30, 2024, to October 29, 2024.

Following the feedback received during the review period, including but not limited to, comments from Lake County's Water Resources Department and Community Development Department, the ISMND was revised and recirculated from November 27, 2024, to December 31, 2024. On January 8, 2025, the ISMND (SCH No. 2024091171) was adopted by the City of Lakeport's Planning Commission. A Notice of Determination was filed with the County Clerk and State Clearinghouse on January 14, 2025. Agency comments related to the Variance request are included in Attachment 4, while agency comments received by the City of Lakeport related to the development project and CEQA are included as Attachments G, H and M of the Initial Study attachments (Attachment 6 to this staff report).

The ISMND included an analysis of the boat rental office/development, as well as the shoreline development and operation. Technical studies prepared for the project include Biological and Botanical Reports, County of Lake Water Resources Habitat Evaluation, as well as a Cultural Report. Additionally, a Stormwater Control Plan and Revegetation Plan were prepared for the project. The analysis within the ISMND determined that all impacts would be less than significant with mitigation incorporated for the following resources: Air Quality, Biological Resources, Geology/Soils, Noise, Cultural Resources, Hazards & Hazardous Materials, Hydrology & Water Quality, Noise and Tribal Cultural Resources.

As a part of the Initial Study process, the City of Lakeport sent out AB 52 notices to Scotts Valley Band of Pomo Indians and Big Valley Band of Pomo Indians. As a result of these efforts, the Scotts Valley Band of Pomo Indians requested for a cultural monitor to be present on-site during all ground disturbance; this was included as Mitigation Measure CUL-3 for the Disney Development Project. All Lake County tribes were also notified of the Lakebed Encroachment Permit and Variance being considered by the Planning Commission.

For CEQA purposes, the City of Lakeport is the Lead Agency and the County of Lake is a Responsible Agency, which includes all public agencies other than the Lead Agency which have discretionary approval power over the project (CEQA Guidelines Section 15381 and 21069). Pursuant to CEQA Guidelines Section 15050(b), the decision-making body of each Responsible Agency shall consider the Lead Agency's EIR or Negative Declaration prior to acting upon or approving the project. Each Responsible Agency shall certify that its decision-making body reviewed and considered the information contained in the EIR or Negative Declaration on the project and adopt a Mitigation, Monitoring, Reporting Program (MMRP) for the components (and resulting impacts) within their jurisdiction.

The analysis and mitigation incorporated within the ISMND included impacts specific to shoreline development, including impacts to Clear Lake, tules and Clear Lake hitch. These were concerns raised by the County (Water Resources and Community Development) during initial review of the project and the County worked with the City of Lakeport to ensure that all County concerns were addressed. With incorporation of the mitigation, all impacts associated with development within the County's jurisdiction would be reduced to less than significant. As such, the Community Development Department (as a Responsible Agency) has determined that the ISMND prepared for the project is sufficient for the purposes of approving the proposed Lakebed Encroachment Permit and Variance.

The Draft ISMND, associated technical studies, and Notice of Determination can be found online at: <https://ceganet.opr.ca.gov/Project/2024091171>. The Final ISMND is included in Attachment 5, ISMND attachments are included in Attachment 6, and the Mitigation, Monitoring and Reporting Program (MMRP) for adoption by the Planning Commission is included in Attachment 7. The MMRP includes mitigation related to air quality, biological resources, cultural resources, geology

and soils, noise, and hazards and hazardous materials. The MMRP adopted by the City of Lakeport is sufficient in mitigating impacts associated with shoreline development within the County's jurisdiction; as such, no edits to the MMRP are proposed for the Planning Commission's consideration.

LAKEBED ENCROACHMENT PERMIT FINDINGS FOR APPROVAL

According to Section 5.1 of the Shoreline Ordinance, before Lakebed Management shall issue any administrative encroachment permit, it must be established that the proposed use, operation, alteration, construction, or activity would not cause significant harm to:

- (A) The water quality of the lake, including but not limited to its clarity, temperature, color, taste and odor.
- (B) The nearshore and foreshore.
- (C) The land underlying the lake.
- (D) Fish and other aquatic forms of life, their habitats, their breeding and spawning grounds.
- (E) The natural beauty of the area.
- (F) Navigation, safety, or health.
- (G) The long-term preservation of the project site in its natural condition.
- (H) Archeological or historical resources of state-wide significance.
- (I) The wetlands.

Response: As described within the Initial Study and Mitigated Negative Declaration for the overall Disney Development Project, all impacts would be less than significant with mitigation incorporated for the following resources: Air Quality, Biological Resources, Geology/Soils, Noise, Cultural Resources, Hazards & Hazardous Materials, Hydrology & Water Quality, Noise and Tribal Cultural Resources; all other impacts would be less than significant or have no impact. Technical studies prepared for the project include Biological and Botanical Reports, County of Lake Water Resources Habitat Evaluation, a Cultural and Archeological Report, a Stormwater Control Plan, and a Revegetation Plan. Lastly, the Variance proposed is intended to mitigate impacts to sensitive aquatic species and water quality.

The Water Resources Department, Lakebed Management, has determined that the above findings can be made to grant issuance of the Lakebed Encroachment Permit.

According to Section 5.2 of the Shoreline Ordinance, before Lakebed Management shall issue any administrative encroachment permit, it shall find that the proposed use, operation, alteration, construction, or activity would:

- (A) Be in furtherance of general statewide interest.
- (B) Not be inconsistent with the public rights of commerce, navigation, fishery, recreation, and preservation of the project site in its natural state.
- (C) Not result in substantial interference with public use of the lake's navigable waters.
- (D) Be supported by sufficient accessory uses to accommodate the proposed construction or use.
- (E) Not violate any other provision of law.
- (F) Not be incompatible with existing nearshore and foreshore uses or structures on or in the immediate vicinity of the littoral parcel.

Response: As noted below in the findings for the Variance, the main purpose of the proposed Variance is to mitigate impacts to sensitive resources, such as the Clear Lake hitch (a local, statewide and federal species of interest) and tule habitat. The addition of the second dock was suggested by Environmental Health to separate fueling activities; and the extended length of the

customer dock was suggested by the Water Resources Department to avoid impacts to wetlands, tules, as required by the Shoreline Ordinance. As proposed, the docks are reasonable for the associated commercial development, would not be incompatible with surrounding uses, and would not result in substantial interference with public use of the lake's navigable waters.

The Water Resources Department, Lakebed Management, has determined that the above findings can be made to grant issuance of the Lakebed Encroachment Permit.

VARIANCE FINDINGS FOR APPROVAL

In accordance with Lake County Code Chapter 23, subsection 16.2, before granting any variance from the terms of this chapter, the Planning Commission shall find that the proposed use, operation, alteration, construction, or activity would:

(A) Further a general statewide interest.

Response: The main purpose of the proposed Variance is to mitigate impacts to sensitive resources, such as the Clear Lake hitch and tule habitat. The Clear Lake hitch, is endemic to the lake, and is a species that is historically significant to local tribes and critical to the region's aquatic ecosystem. The hitch population has substantially declined over the years, and in 2014 was listed as a threatened species under the California Endangered Species Act. In March 2023, Governor Newsom issued an [executive order](#) directing the State Water Board and California Department of Fish and Wildlife to evaluate minimum instream flows, work with water users and tribes on voluntary actions, and consider emergency regulations to protect the Clear Lake hitch. County, State and other stakeholders have developed programs in response to this order, as well as the [Clear Lake Hitch Strategy](#), which identifies conservation actions that would be implemented to reduce and/or eliminate the threats that are impacting spawning, rearing, and recruitment of hitch, and preserve the viability of this unique subspecies. Further, in January of 2025, the US Fish and Wildlife Service proposed to list the hitch as federally threatened species. As such, granting the Variance to mitigated impacts to the hitch supports the aforementioned regional and statewide interest, and this finding can be supported.

(B) Be consistent with the public rights of commerce, navigation, fishery, recreation and preservation of the project site in its natural state.

Response: The Disney Development Project includes a retail office space, as well as docks that would be available to the public for watercraft rentals. After receiving comments from several agencies and stakeholders, including the County's Environmental Health Department, Community Development Department and Water Resources Department, the project was redesigned in response to concerns raised regarding the hitch, tules, and fueling practices. Granting of the Variance would encourage commercial commerce and recreation, as well as provide protection of environmentally sensitive resources, such as the tules and Clake Lake hitch.

This portion of the shoreline is relatively shallow compared to other portions of the lake. By extending the dock length by 25 feet, tule habitat would be protected and the boats would be in deeper water to support safe launching. As such, this finding can be supported.

(C) Not result in substantial interference with public use of the lake's navigable waters.

Response: The project includes approval of a Lakebed Encroachment Permit, which is intended to ensure protection of Clear Lake's resources and navigable waters. The project proposes two docks for boating activities, as well as safety buoys, and would promote recreational opportunities and public use of the lake. According to Section 6.4(c) of the Shoreline Ordinance, all regulatory buoys and mooring buoys shall be of a type approved by regulations of the U. S. Coast Guard and vessels attached to mooring buoys shall conform to Title 14, Section 6600.1 of the California Code of Regulations. Based on the aforementioned, the project would not result in substantial interference with public use of navigable waters. As such, this finding can be supported.

(D) Not violate any other provision of law.

Response: The project includes approval of a Variance from two sections of the Shoreline Ordinance. The addition of the second dock was suggested by Environmental Health to separate fueling activities; and the extended length of the other dock was suggested by the Water Resources Department to avoid impacts to sensitive species. The project does not otherwise violate any provisions of the law. As such, this finding can be supported.

RECOMMENDATIONS

Staff recommends the Planning Commission take the following actions:

- A. Adopt the Mitigation Monitoring Reporting Program (MMRP) for the ISMND prepared by the City of Lakeport with the following findings:
 1. On January 8, 2025, the ISMND (SCH No. 2024091171) was adopted by the City of Lakeport's Planning Commission (Lead Agency) for the Disney Boat Rental Project. A Notice of Determination was filed with the County Clerk and State Clearinghouse on January 14, 2025.
 2. The analysis within the ISMND determined that all impacts would be less than significant with mitigation incorporated for the following resources: Air Quality, Biological Resources, Geology/Soils, Noise, Cultural Resources, Hazards & Hazardous Materials, Hydrology & Water Quality, Noise and Tribal Cultural Resources.
 3. Pursuant to CEQA Guidelines Section 15050(b), the County of Lake, as a Responsible Agency, has determined that the ISMND and MMRP prepared and adopted by the City of Lakeport (SCH No. 2024091171) analyzes and mitigates all impacts related to shoreline development within the County's jurisdiction, and is sufficient for the purposes of approving the proposed Lakebed Encroachment Permit and Variance.
- B. Approve Variance VR 24-1 from Sections 23.6.3(E)(2) and 23.6.5(A) of Chapter 23, "Shoreline Ordinance", of the Lake County Code, with the following findings.

The Project would:

 1. Further a general statewide interest; and
 2. Be consistent with the public rights of commerce, navigation, fishery, recreation and preservation of the project site in its natural state; and

3. Not result in substantial interference with public use of the lake's navigable waters;
and
 4. Not violate any other provision of law.
- C. Approve Lakebed Encroachment Permit for the Disney Boat Rental Facility Project, in accordance with Sections 5.1 and 5.2 of the Shoreline Ordinance, based on the following findings:
1. That the project would not cause significant harm to:
 - A. The water quality of the lake, including but not limited to its clarity, temperature, color, taste and odor.
 - B. The nearshore and foreshore.
 - C. The land underlying the lake.
 - D. Fish and other aquatic forms of life, their habitats, their breeding and spawning grounds.
 - E. The natural beauty of the area.
 - F. Navigation, safety, or health.
 - G. The long-term preservation of the project site in its natural condition.
 - H. Archeological or historical resources of state-wide significance.
 - I. The wetlands.
 2. That the project would:
 - A. Be in furtherance of general statewide interest.
 - B. Not be inconsistent with the public rights of commerce, navigation, fishery, recreation, and preservation of the project site in its natural state.
 - C. Not result in substantial interference with public use of the lake's navigable waters.
 - D. Be supported by sufficient accessory uses to accommodate the proposed construction or use.
 - E. Not violate any other provision of law.
 - F. Not be incompatible with existing nearshore and foreshore uses or structures on or in the immediate vicinity of the littoral parcel.

Sample Motions

Mitigated Negative Declaration

As a Responsible Agency under CEQA, I move that the Planning Commission adopt the Mitigation, Monitoring, Reporting Program (Attachment 7) for the Initial Study (SCH No. 2024091171) adopted by the City of Lakeport's Planning Commission (Lead Agency) for the Disney Boat Rental Project, based on the findings in the Staff Report dated May 22, 2025.

Shoreline Ordinance Variance

I move that the Planning Commission approve the Variance request from Sections 23.6.3(E)(2) and 23.6.5(A) of the County's Shoreline Ordinance for the Disney Boat Rental Facility Project (PL 25-18 for VR 24-01), located at 2200 Lakeshore Blvd., Lakeport (APN 026-031-29), based on the findings in the Staff Report dated May 22, 2025 and subject to the conditions in Attachment 3.

Lakebed Encroachment Permit Variance

I move that the Planning Commission approve the Lakebed Encroachment Permit for Disney Boat Rental Facility Project (PL 25-18; VR 24-01), located at 2200 Lakeshore Blvd., Lakeport (APN 026-

031-29), based on the findings in the staff report dated May 22, 2025, and subject to the conditions in Attachment 3.

NOTE: The applicant or any interested person is reminded that the Lake County Municipal Code (Chapter 23, Shoreline Ordinance provides for a seven (7) calendar day appeal period. If there is a disagreement with the Planning Commission, an appeal to the Board of Supervisors may be filed. The appropriate forms and applicable fee must be submitted prior to 5:00 p.m. on or before the seventh day following the Planning Commission's decision on this matter.