



Legislation Text

File #: 17-610, Version: 1

MEMORANDUM

TO: Board of Supervisors

FROM: Robert Massarelli, Community Development Director
Mireya G. Turner, Associate Planner

SUBJECT: (Continued from June 20, 2017) Appeal (AB 17-03) of Planning Commission's denial of an appeal of the departmental issuance of a Categorical Exemption (CE 16-64) Supervisor District 5

DATE: June 7, 2017

EXHIBITS:

- A. Vicinity Map
- B. Planning Commission Minutes of March 9, 2017
- C. Planning Commission Staff Report dated February 27, 2017
- D. Appeal form
- E. Letter from Department of Fish and Wildlife, dated October 27, 2016
- F. Email from Trinity Associates dated May 31, 2017
- G. Application for Initial Study

I. SUMMARY

On behalf of the Bell Haven Homeowners Association, Ms. Lauri Dohring applied for a Lakebed Encroachment Permit to remove and replace the existing boating structure. A step in the permit process is to secure a California Environmental Quality Act (CEQA) determination from the Community Development Department. Staff issued a Class 2 Categorical Exemption (CE 16-64), for the replacement or repair of an existing structure located on the same site. This categorical exemption was appealed to the Planning Commission by Diane Chien-LeValley, and denied. Joan Sturges submitted a timely appeal to the Board of Supervisors, citing the 128 species of birds feeding, and the carp and hitch spawning in this location. Additionally, the California Department of Fish and Wildlife made a determination that an Initial Study would be required to address effects of the project on the Clear Lake Hitch, a recently listed Threatened Species. Ms. Dohring has retained a fishery biologist and has applied for an Initial Study. Staff recommends the Board continue this item while staff prepares the Initial Study.

II. PROJECT DESCRIPTION

Appellant: Joan Sturges, 3385 White Oak Way, Kelseyville, CA

Location: 6460 Soda Bay Drive, Kelseyville, CA

APNs: 044-030-01, 044-040-01, 044-050-01 and 044-070-01

Parcel Size: ±0.27 acres (18,295 sq. ft.) total of combined parcels associated with the Bell Haven Homeowners Association

General Plan Designation: Public Facilities

Zoning: "O" Open Space

III. **BACKGROUND**

Prior Appeal

The first appellant, Diana Chien-LeValley, appealed staff's environmental determination to issue a Class 2 Categorical Exemption for the Lakebed Encroachment Permit, stating the proposed project would have a significant effect on the environment. In cases where a project may have a significant effect on the environment, an Initial Study or an Environmental Impact Report may be required to analyze the impacts and propose mitigations and conditions, if appropriate.

The department's position was that the project qualified for a Class 2 Categorical exemption from CEQA, "Replacement or reconstruction of existing structures and facilities where the new structures will be located and will have substantially the same purpose and capacity as the structure replaced". The project was also found to be consistent with the County of Lake's General Plan, the Rivas Area Plan and the Zoning Ordinance.

The Planning Commission had the option to deny the appeal and affirm staff's decision to issue a Categorical Exemption, or uphold the appeal and require an Initial Study for the project. After two hours of input, the Planning Commission denied the appeal, finding the project qualified for a CEQA Class 2 exemption and was consistent with the Lake County General Plan, the Rivas Area Plan and the Zoning Ordinance.

IV. **APPEAL DISCUSSION**

Ms. Sturges appealed the Planning Commission's decision with the following explanation,

"Shoreline is wildlife area with 128 species of birds that does flock feeding involving thousands of birds. This dock is in that area. Carp spawn and hitch are present. This is the longest uninterrupted shoreline in Soda Bay and it needs to be maintained."

Additional background information

The Clear Lake Hitch has been listed as a Threatened Species by the California Department of Fish and Wildlife. On June 23, 2015, the Department of Fish and Wildlife (DFW) met with the Board of Supervisors to discuss the development of a Clear Lake Hitch Conservation Strategy. This strategy plan will provide the County with direction on projects to benefit the species, as well as necessary alterations in processes in both Community Development and Water Resources Departments for Lakebed Encroachment Permits for lakeside development.

In a letter dated, October 27, 2016, DFW recommended completion of an Initial Study and environmental checklist for permits including pile driving activities (Exhibit E). Additionally, after the Planning Commission hearing, they repeated this recommendation to both Planning staff and to the applicant. Ms. Dohring retained Trinity Associates for the preparation of an Initial Study and a biological assessment to meet the DFW requirements (Exhibit F). She applied for the Initial Study with this department on May 27, 2017(Exhibit G).

The options before the Board of Supervisors remain the same as in the Planning Commission appeal. The Board may approve the appeal, rescind the Categorical Exemption and require an Initial Study; or the Board may deny the appeal. However, now that DFW requires an Initial Study, it would be prudent to postpone taking action while this further environmental review continues.

V. RECOMMENDATION

Staff recommends the Board continue this item to a future date, pending the preparation and review of the Initial Study.

Sample motion:

I move that the item be continued to a future date.

