

MONO COUNTY PLANNING COMMISSION

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commdev@mono.ca.gov

PO Box 8
Bridgeport, CA 93517
760.932.5420, fax 932.5431
www.monocounty.ca.gov

AGENDA

April 18, 2019 – 10 a.m.

Supervisors Chambers, County Courthouse, Bridgeport

***Videoconference:** Town/County Conference Room, Minaret Village Mall, Mammoth Lakes

Full agenda packets, plus associated materials distributed less than 72 hours prior to the meeting, will be available for public review at the Community Development offices in Bridgeport (Annex 1, 74 N. School St.) or Mammoth Lakes (Minaret Village Mall, above Giovanni's Pizzeria). Agenda packets are also posted online at www.monocounty.ca.gov / boards & commissions / planning commission. For inclusion on the e-mail distribution list, interested persons can subscribe on the website.

**Agenda sequence (see note following agenda).*

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

2. PUBLIC COMMENT: Opportunity to address the Planning Commission on items not on the agenda

3. MEETING MINUTES: Review and adopt minutes of March 21, 2019 – *p. 1*

4. PUBLIC HEARING

10:10 A.M.

A. COMMISSION INTERPRETATION 19-001/Toledo: Proposal to implement General Plan Mobile Food Vendor standards on Mixed Use LUD on US Hwy 395/main street frontages in the Antelope Valley based on area plan policies. *Staff: Jake Suppa – p. 5*

5. WORKSHOPS

10:30 A.M.

A. WEST-WIDE ENERGY CORRIDOR: Presentation on the West-Wide Energy Corridor, a federal project seeking to create a corridor for energy transmission through 11 western states. Within Mono County, the corridor runs through the Tri-Valley. *Staff: Michael Draper – p. 10*

10:50 A.M.

B. WALKER BASIN WATER TRANSACTION PROGRAM: Potential water transaction programs to convey water to Walker Lake in Nevada for restoration purposes, including release of a Notice of Preparation for an Environmental Impact Report, range of actions, and alternatives. *Staff: Wendy Sugimura (for Bentley Regehr) – p. 13*

More on back...

DISTRICT #1
COMMISSIONER
Patricia Robertson

DISTRICT #2
COMMISSIONER
Roberta Lagomarsini

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris I. Lizza

6. REPORTS

A. DIRECTOR

B. COMMISSIONERS

7. INFORMATIONAL

8. ADJOURN to regular meeting May 16, 2019

***NOTE:** Although the Planning Commission generally strives to follow the agenda sequence, it reserves the right to take any agenda item – other than a noticed public hearing – in any order, and at any time after its meeting starts. The Planning Commission encourages public attendance and participation.

In compliance with the Americans with Disabilities Act, anyone who needs special assistance to attend this meeting can contact the Commission secretary at 760-924-1804 within 48 hours prior to the meeting to ensure accessibility (see 42 USCS 12132, 28CFR 35.130).

*The public may participate in the meeting at the teleconference site, where attendees may address the Commission directly. Please be advised that Mono County does its best to ensure the reliability of videoconferencing but cannot guarantee that the system always works. If an agenda item is important to you, you might consider attending the meeting in Bridgeport.

Full agenda packets, plus associated materials distributed less than 72 hours prior to the meeting, will be available for public review at the Community Development offices in Bridgeport (Annex 1, 74 N. School St.) or Mammoth Lakes (Minaret Village Mall, above Giovanni's restaurant). Agenda packets are also posted online at www.monocounty.ca.gov / departments / community development / commissions & committees / planning commission. For inclusion on the e-mail distribution list, send request to cdritter@mono.ca.gov

Commissioners may participate from a teleconference location. Interested persons may appear before the Commission to present testimony for public hearings, or prior to or at the hearing file written correspondence with the Commission secretary. Future court challenges to these items may be limited to those issues raised at the public hearing or provided in writing to the Mono County Planning Commission prior to or at the public hearing. Project proponents, agents or citizens who wish to speak are asked to be acknowledged by the Chair, print their names on the sign-in sheet, and address the Commission from the podium.

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DRAFT MINUTES

March 21, 2019

COMMISSIONERS: Bridgeport: Scott Bush, Chris I. Lizza, Dan Roberts & Patricia Robertson. Mammoth Lakes: Roberta Lagomarsini

STAFF: Bridgeport: Gerry Le Francois, principal planner; Michael Draper & Hailey Lang, planning analysts; CD Ritter, PC secretary

Mammoth Lakes: Christy Milovich, deputy county counsel

PUBLIC: Erinn Wells; Denise Moore

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Chair Scott Bush called the meeting to order at 10:05 a.m. at the board chambers in Bridgeport with teleconference to Town/County Conference Room in Mammoth Lakes. Commissioner Lagomarsini attended in Mammoth. Attendees recited the pledge of allegiance.

2. PUBLIC COMMENT: None

3. MEETING MINUTES

MOTION: Adopt minutes of February 21, 2019, as amended:

4. WELCOME NEW COMMISSIONER PATRICIA ROBERTSON: Lived in Mammoth for eight years, director of nonprofit Mammoth Lakes Housing.

5. ELECTION OF VICE CHAIR: Roberta Lagomarsini. (Ayes: 5-0.)

6. PUBLIC HEARING

A. CONDITIONAL USE PERMIT 18-012/Moore for short-term, commercial lodging rental use of a detached four-unit structure at 264 Highway 182 (APN 008-213-011) in Bridgeport. The land use designation is Mixed Use (MU). Each unit contains two bedrooms, and eight parking spaces are provided. In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed.

Michael Draper reviewed project by PowerPoint. Mixed use parcel has four-unit apartment building plus duplex. Eight bedrooms, two stories, 1,836-square foot size. Constructed in 1980s, use permit in 1981 as General Purpose for construction of apartment building, existing duplex 1,600 square feet. Parcel 14,000 square feet. Existing nonconforming use. STR not expansion of use so not require coming into conformance. Use permit didn't mention STR. Walker River Lodge units. After change in ownership, Moore wanted continued use of building for STR. Began process of coming into compliance. The LDTAC accepted application August 18, 2018, noticed to public for comments (none received). Mailer sent to 300' radius. Mixed Use is intended for compatible residential and commercial uses, business and professional. Provides for transition.

--- Christy Milovich arrived at 10:17 a.m. ---

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DISTRICT #5
COMMISSIONER
Chris I. Lizza

These Bridgeport properties have MU designation. Bridgeport has shown steady decline of economic activity, local businesses closed or on brink, need economic opportunities. Reduce time and cost of permitting. Bridgeport Valley policies want development on existing developed sites. Existing, new use.

Parking: Need 12 spaces. Duplex = four, apartments = eight. Site contains eight, but five straddle property line so considered off-site parking. Owner shall maintain parking, prior consent of County needed if changed. Applicant owns both properties. Commercial = one space/sleeping unit, one space/two employees. Five in front, three in rear. Duplex: two spaces/unit = four spaces. Site plan shows two spaces. No changes proposed for either structure, so duplex = existing nonconforming on parking.

Asked condition to provide two more spaces for duplex to meet parking standards. Lot coverage: 14,500-sq. ft. parcel, 96% lot coverage over maximum allowed 60% lot coverage. Existing, nonconforming element. Front and side setbacks 10', both less, so nonconforming. Not deemed expansion of use. Ch. 34 allows nonconforming when use is not enlarged or extended. No increase in developed land area. MU allows duplexes outright. Altering nonconforming not detrimental. Current = long-term rental, alterations not increase intensity (same as month-to-month). Proposal has generated opposition in other land uses in county. CEQA: Categorical exemption class 1, 15301. Rented apartment units still used in same manner as full-time or long-term residents. Findings: Commercial lodging subject to Director Review. Off-site parking brings into conformance. Setbacks, lot coverage existing nonconforming. Site relates to streets and highways, OK for traffic. Access off Aurora Canyon Road as well as Hwy 182. No significant environmental impacts. Require Ch. 26 compliance. UP provides for public comment on potential issues. MU provides for commercial, including commercial lodging. Economic opportunity. Conditions: UP, TOT certificate, business license.

Lighting shielded now? *Yes. Used to be run by lodge.*

Who manages property? *Prop owner Moore, who lives in duplex.*

Owner-occupied? Roberts: MU does not have that. Draper: Commercial lodging. Roberts: Moores own property.

Two long-term renters? *Draper: Owners decide on lease conditions.*

If approved, collect TOT? *Draper: Unsure.*

Le Francois stated if all four are STR, units subject to TOT. Approval today allows all four. Approve as proposed, modify or deny. Require one or two month-to-month? No mechanism due to MU commercial aspect. Staff not comfortable with transient rental.

Bush is always worried about workforce housing. Could PC limit by top and bottom separation (top floor long term, bottom floor STR)? Asking four units to STR. Monitor through TOT or annual review.

Milovich described enforcement issue as clunky. PC can make conditions. Draper noted five conditions of UP. Provide 12 on-site paved parking spaces, parking/driveways paved. Plot plan approved by Planning Division, encroachment permit, comply with special district. First condition not met. Site plan now shows 10.

Lizza asked about historical use. Built by lodge? Le Francois recalled Phil Meyers signed application in 1981.

Erinn Wells, Walker River Lodge owner, stated first apartments, then STRs and paying TOT ever since. Audits by tax collector.

Long-term stay?

Denise Moore: Convert all to STR? Seasonal USFS leaving end of April, other renter signed year lease. Wanted four apartments STR. Discuss at end of lease if go elsewhere or re-sign lease.

OPEN PUBLIC COMMENT: Employee housing after 1991? *Moore: Never employee housing until transition.*

Robertson noted conditions similar to other commercial lodging facilities, including Ch 26. Draper cited Dark Sky regulations, fire protection, 8 and 9 standards. Ch. 26 relatively new. If not in residential land use, must comply with Ch. 26. Robertson wanted to add comply with Ch 26 to conditions.

Displaced tenants a liability for Mono County? *Milovich: None. Privately owned property so Mono not liable. UP authorized units as STR.*

Tenants noticed? *Milovich: Mono not on hook for changing nature of use via UP. Haven't researched, could provide more thorough response.*

Any opposition? Tenants aware?

Moore must give notice to year-lease tenant if asking her to leave. Duplex on site 24/7 to respond to anything. Owner/property manager right next door. **CLOSE PUBLIC COMMENT.**

Lizza when driving by did not realize adjunct to Walker River Lodge. Removing property from workforce housing. Not want to lose workforce.

Draper noted limiting occupancy. Maximum of two/bedroom + two additional persons = six maximum occupancy, could condition less. Bush noted could have 24 people.

REOPEN PUBLIC COMMENT: When historically fully rented, how did parking work? *Wells: All units STR on July 4, no parking issue. House changed into duplex, back into house (not changed in paperwork). Not rent out, new owners live there.*

Moore explained expectations of new owners: STR as retirement, just want to be in Bridgeport. Got small business loan.

Airbnb? *Moore: Fishermen return during season. Not on computer.*

No signage? *Moore: Sign shows apartments there.*

Draper cited Ch 26 exterior signage. Include in conditions. **CLOSE PUBLIC COMMENT.**

Robertson saw struggle as treating like Airbnb, or hybrid with commercial lodging. Conditions on management operations, trash, etc. Bush noted historically used that way.

Draper stated purpose of Ch 26 is catching non-residential properties doing STR. Explore nonconforming, long-term rental use. Get entire project to PC.

Lagomarsini saw no need to limit number of people, no condition to add to "no-longer" duplex. Bush noted tried/tested since 1981.

Roberts cited potential of controversy so at PC.

Robertson lamented using two long-term units. Could rent long-term again.

Milovich noted basically Government Claims Act exceptions. Not issuance of CUP. Claim of action against Mono could be displacing two full-time renters. Mono not be subject to that.

Lizza encouraged owner to consider long-term to satisfy needs of workforce.

Roberts thought owner willing to extend tenant's lease.

Le Francois reminded Ch. 26 states owner accessible 24/7.

Wells cited always have backup by phone. Moore will have someone there responsible.

Bush thought always could be one time it won't work. Roberts saw PC approving land use, not how managed.

Bush approved partly because owner lives there. Example: C from Bridgeport Inn, locked out, can't find 24-hr front desk. Traumatic for locked-out person. All conditions should be common sense, but one person could spoil for others.

Milovich found no definition for "timely manner." Future GPA could include definition. PC at its discretion to define term for response. Difficult to enforce.

MOTION: Find that the project qualifies as a Categorical Exemption under CEQA guideline 15303 and instruct staff to file a Notice of Exemption; approve requirements to be met through off-site parking; make the required findings as contained in project staff report; and approve Use Permit 18-012 subject to Conditions of Approval, with change to Condition 4: The **existing prior** duplex **now SFR** shall not be used for transient rental. (*Lizza/Lagomarsini. Ayes: 5-0.*)

10:30 A.M.

B. CONDITIONAL USE PERMIT 18-016/Thompson for an owner-occupied short-term rental of one bedroom in an existing Single-Family Residential (SFR) house with three bedrooms at 1613 Eastside Lane (APN 002-130-047) in Coleville. The land use designation is Rural Residential (RR), and maximum occupancy shall be limited to two persons and two vehicles. In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed.

Commissioner Lizza recused himself due to personal and commercial connection to applicant.

Milovich acknowledged not full commission but no alternate, so proceed as full commission.

Hailey Lang described proposal. Ten acres allows room for STR parking. Shared kitchen, living room. UP non-transferable. Owner lives in home. Driveway paving not required. Project noticed to property owners within 300', no comments received

Robertson noted no area plan policies in staff report. *Staff concurred.*

Dirt road reason for denial? *Lang: Not graded at all, holes, lumps, rain washes out. Subject to interpretation.*

Roberts indicated denial conditions there in case of opposition. Robertson noted road not improved but accessible. Le Francois cited Ch. 6: paved parking not needed on acre.

MOTION: Find that project qualifies as a Categorical Exemption under CEQA guideline 15301 and file Notice of Exemption; make the required findings as contained in project staff report; and approve CUP 18-016 subject to Conditions of Approval (*Roberts/Robertson. Ayes: 4. Recused: Lizza.*)

C. ROAD NAME CHANGE/June Lake. Public Works staff proposes changing the name of the portion of "Brenner Street" south of Knoll Avenue to "Raymond Avenue." The name change will clean up addressing discrepancies and has been requested by residents along the affected roadway. A recommendation by the Planning Commission is requested so that this item can proceed to the Board of Supervisors for a formal Resolution authorizing the proposed road name change.

Garrett Higerd handed out supplemental information from Milovich on findings. This is cleanup item related to addresses on Brenner Street. Wetland prevented road construction. Making legality consistent with practice of homeowners. Two residents approached Mono asking for change.

Lehmann noted Google Earth says Raymond Lane. Roberts thought Raymond never was dedicated into Mono.

Higerd recalled in 2014-15 Mono rehabbed streets in June Lake. Installed storm drain along Raymond, accepted as drainage easement but not road. Left better than found. No acceptance of Raymond Avenue into Mono road system.

How would lots 3 and 4 along Raymond ever get access? *Higerd: Road vacation goes to BOS, not PC. Vacating Mono's right to build roadway through there does not vacate rights of property owners to build driveway or other access. Environmental obstacles exist, however. Permits from Lahontan, CDFW, Army Corps of Engineers needed to build driveway. Maybe work with neighbors on easements to avoid wetland.*

MOTION: Recommend to BOS proposed road name change on the portion of "Brenner Street" south of Knoll Avenue to "Raymond Avenue." (*Roberts/Robertson. Ayes: 5-0.*)

7. WORKSHOP: No items

8. REPORTS

A. DIRECTOR: 1) Tioga Inn SP: Update with workforce housing, supplemental EIR, to public review, comments ready for PC; 2) May: Five-unit infill housing project near Gull Lake in June Lake (Jon Head), use permit + variance for stream setback.

B. COMMISSIONERS: Robertson: Town Council voted to raise housing mitigation fees 3% in Mammoth.

9. INFORMATIONAL

10. ADJOURN at 11:47 a.m. to regular meeting April 18, 2019

Prepared by CD Ritter, PC secretary

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To: Mono County Planning Commission

From: Jake Suppa, Code Compliance Analyst

Re: Commission interpretation of a Mobile Food Vendor use in a Mixed Use land use designation in Walker, CA, along US Hwy 395

RECOMMENDATION

Based on the Antelope Valley Area Plan policies, interpret Mobile Food Vendors to be compatible with Mixed Use land use designations on US Hwy 395 in the Antelope Valley subject to the standards of General Plan §04.330 (Plan of Operations) and §04.340 (Mobile Food Vendor Standards and Guidelines).

BACKGROUND

A workshop on Mobile Food Vendor Standards & Guidelines was held with the Planning Commission on August 14, 2014. Discussion included processing permits based on a Director Review permit for temporary installations of 180 days or less, or a Conditional Use Permit for an annual operation. Environmental Health enforces the Mobile Food Vendor equipment and the Permanent Food Facility commissary, while General Plan standards, §04.330 Plan of Operations and §04.340 Mobile Food Vendor Standards govern the land use.

Currently, the parcel at 107038 Hwy 395 has a residential structure on a Mixed Use land use designation (LUD) on US Hwy 395 frontage. In 2017, a Director Review permit was processed to establish *Walker Western Art Gallery*. The structure has been used as a realty office, RE/MAX Realty Affiliates.

PROJECT

The applicant is proposing an interpretation of General Plan regulations that a Mobile Food Vendor is permissible on Mixed Use LUD on US Hwy 395/main street frontages in the Antelope Valley based on area plan policies.

The nature of this proposal needs the interpretation of the Planning Commission, which is consistent with General Plan policy allowing for the commission to make interpretations on development regulations as stated in section 01.040 as follows:

Unless otherwise provided, any ambiguity concerning the content or application of the Land Development Regulations shall be resolved by the Planning Commission (§04.030, Interpretation of "Similar Uses") or, on appeal therefrom, by the Board of Supervisors.



ANTELOPE VALLEY AREA PLAN CONSISTENCY, Area-Specific Land Use Policies:

Objective 4.A. Guide future development to occur within the US 395 corridor and existing communities.

Action 4.A.2. Provide for a mix of residential, commercial, recreational, institutional, and industrial park land uses in a manner consistent with the overall goal for the Antelope Valley.

Action 4.A.2.a. Designate a sufficient amount of land to accommodate tourist and community commercial needs within existing community areas.

Action 4.A.2.d. To promote main street and economic development as provided by other policies (Objectives 4.D and 4.E.), emphasize commercial character and uses on US 395/main street frontages in the Mixed Use (MU) designation.

Objective 4.D. Maintain and enhance the local economy.

Objective 4.E. Promote the economic revitalization of the Walker and Coleville Main Street districts.

Policy 4.E.2. Encourage district infill that improves connections and integration among businesses and improves the physical appearance of Walker and Coleville Main Streets.

GENERAL PLAN LAND DEVELOPMENT REGULATIONS GENERAL

§4.340 Mobile Vendor Standards and Guidelines:

The sale of food and other retail items from a motorized vehicle or from a trailer, or from a portable unit, is permitted in Commercial land use designations. Temporary uses (i.e., fewer than 180 days) may be permitted through a Director Review or Special Event permit. Longer-term or permanent operations shall be permitted through a use permit. The following standards and guidelines shall apply to all operations:

- A. A permit application shall be submitted and shall include the following:
1. A Plan of Operations as defined in 04.330;
 2. The location of the Commissary for food vendors;
 3. Renderings of the proposed mobile vendor;
 4. A description of vending services including incidental merchandise, sales methods, and the nature of the products; and

Commission Interpretation/ Mobile Food Vendor

April 18, 2019

5. A copy of current California vehicle registration.
- B. Comply with any applicable California Building Code requirements.
 - C. Comply with California Health and Retail Code and Environmental Health regulations including:
 1. Approval from Mono County Environment Health;
 2. Display of required health permits in a visible location; and
 3. Provision of a restroom within 200 feet for employees.
 - D. The application shall be sent to the applicable Fire Protection District for a compliance review prior to permit approval.
 - E. No amplified sound or music is permitted. The project shall operate in compliance with Mono County Code Chapter 10.16 (Noise Regulation).
 - F. Signage shall be placed on the food truck. All signs shall be in compliance with Chapter 07 of the Mono County General Plan.
 - G. The site shall be kept free of any litter or debris at all times.
 - H. Mobile food facility shall be sited in the designated location as listed on the permit.
 - I. Bear-proof waste and recycle containers shall be provided for the deposit of food scraps and trash. If the operation occurs only in areas where bears are not present, the bear-proofing requirement may be waived.
 - J. Vendors shall not obstruct pedestrian access or vehicle traffic.
 - K. If propane is used as a part of the operation, a fire extinguisher shall be kept with the food cart/truck at all times.
 - L. Sales shall occur only during hours of operation listed on the permit.
 - M. The operation shall not be approved as a home-based business and shall be based out of an appropriate commercial location.
 - N. Vending within fire lanes, loading zones, etc. is prohibited.
 - O. Comply with all traffic and parking laws.
 - P. Placement of tables, chairs, or similar items in the right of way (streets or sidewalk) is prohibited.
 - Q. Supply or drainage pipes or power supply cords that pertain to the vending operation shall not be placed on or across surface parking or unimproved areas, or be attached to adjoining or nearby buildings, unless the vending operation is located immediately adjacent to the building so that the attached pipes or power cord have minimal exposure and do not present a potential hazard for passersby. New food vendors should diversify offerings to food not currently being available in the community.

ENVIRONMENTAL REVIEW

The project qualifies as a Class 3 categorical exemption under CEQA (CEQA Guidelines, §15303). A Class 3 exemption consists of construction and location of limited number of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversions of

existing small structures from one use to another where only minor modifications are made in the exterior of the structure. A mobile food truck has no permanent foundation and as a vehicle is by nature “small”, and any equipment would also be constrained by the size of the unit. Further, the construction of a commissary would be a small infill conversion of an existing structure, and also include small equipment.

ANALYSIS

§04.030 Uses not listed as permitted.

- A. It is recognized that in the development of comprehensive land use development standards that:
1. Not all uses can be listed nor can future uses be anticipated; and
 2. Uses may have been omitted from the list of those specified as permissible in each of the various Land Use Designations described in this Land Use Element, hence the phrase, "plus such other uses as the Commission finds to be similar and not more obnoxious or detrimental to the public health, safety and welfare."

B. Interpretation of "similar uses."

Where the term "and such other uses as the Director or Commission finds to be similar and not more obnoxious ..." is mentioned, it shall be deemed to mean other uses that, in the judgment of the Director or the Planning Commission, as evidenced by a written decision, are similar to and not more obnoxious to the general welfare than the uses listed for the same designation. If a use is found similar to a permitted use or similar to a use requiring a Director Review or Use Permit, it shall also be permitted subject to the same requirements as its most similar listed use. The Director shall make the interpretation concerning uses permitted or uses permitted subject to director review; the Planning Commission shall make the interpretation for uses permitted subject to use permit. For interpretation of uses of a potentially controversial or sensitive nature, the Director may submit the matter to the Commission for an interpretation.

Any decision may be appealed in accordance with Chapter 47, Appeals.

Prior to taking an action to find a use similar to and not more obnoxious to the general welfare than the uses listed for the same designation, the Director or the Planning Commission shall find all of the following:

1. That the proposed use is consistent with this General Plan and any applicable area plans or specific plans:

Mobile Food Vendors are similar to, but not more obnoxious than, retail food establishments permitted subject to Director Review permit in the Mixed Use LUD. However, General Plan §4.340 states only the Commercial LUD as permitting Mobile Food Vendors. Given that the Antelope Valley Area Plan policies emphasize commercial use and character in Mixed Use LUDs on US Hwy 395/main street and a mobile food vendor can be considered similar to, but not more obnoxious than, a use listed in the underlying Mixed Use LUD, a mobile food vendor use is consistent with the General Plan and Area Plan.

2. That the proposed use is compatible with the intent of the land use designation and is applicable throughout the county in that designation:

The Antelope Valley Area Plan policies only apply to the Antelope Valley, so only Mixed Use LUDs in Antelope Valley on US Hwy 395/Main Street would be subject to this interpretation. Based on the analysis above (under #1), the proposed use is compatible and applicable to the entire Antelope Valley.

3. That the use is capable of meeting the standards and requirements of that designation;

The Mixed Use LUD allows for retail food establishments subject to a Director Review permit. The existing lot is one acre, meeting the minimum lot area, coverage, and dimensions with sufficient space to meet setback, ingress/egress and parking requirements. The project is within the height limitations. Also, the project could meet the special regulations of a Mixed Use LUD, as both §04.330 Plan of Operations and §04.340 Mobile Food Vendor Standards and Guidelines mandate similar requirements.

4. That the use will be similar to and not be more obnoxious to the general welfare (i.e., health, safety) than the uses listed within the designation.

Retail Food establishments are allowed on Mixed Use LUDs with a Director Review permit. The proposed Mobile Food Vendor is a similar use governed by Community Development, with regulations imposed by the Mono County General Plan, Mono County Municipal code, California Building code, and Environmental Health through the California Retail Food code; thereby, the safety and health of the public is considered similar to a retail food establishment on Mixed Use Land Use Designations.

CONCLUSION

If the Planning Commission interprets Mobile Food Vendors to be compatible with Mixed Use LUD on US Hwy 395 in the Antelope Valley subject to the standards of General Plan §04.330 (Plan of Operations) and §04.340 (Mobile Food Vendor Standards and Guidelines), the applicant may submit a use permit application for annual use or a Director Review permit application for a temporary use, to be processed by the Mono County Planning Division.

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May 18, 2018

To: Planning Commission
From: Michael Draper, Planning Analyst
Re: West-Wide Energy Corridor Section 368, Region 5

RECOMMENDATION

Receive presentation, and provide input and direction to staff

FISCAL IMPACT

No impact

BACKGROUND

Section 368 of the Energy Policy Act of 2005, Public Law 109-58 (H.R. 6), enacted August 8, 2005, directed the Secretaries of Agriculture, Commerce, Defense, Energy and the Interior to designate under their respective authorities corridors on federal land in 11 Western States for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities (energy corridors).

In November 2007, a Draft Programmatic Environmental Impact Statement (PEIS) was issued by the BLM, Department of Energy, USFS, Department of Defense, and USFWS. The Final PEIS was issued November 2008 and evaluated issues associated with the designation of energy corridors, identified potential corridors, evaluated effects of potential future development within designated corridors, identified mitigation measures for such effects, and developed Interagency Operating Procedures (IOPs) applicable to planning, construction, operation, and decommissioning of future project within the corridors. The IOPs are intended to expedite the permitting process; provide coordinated, consistent interagency management procedures for permitting rights of way (ROWs) within the corridors; and identify mandatory requirements for future projects.

Based upon the information and analyses developed in the PEIS, the Secretaries of the Interior and Agriculture signed Records of Decision (RODs) in 2009 designating Section 368 energy corridors by amending land and resource management plans on lands administered by their respective agencies in the 11 Western states.

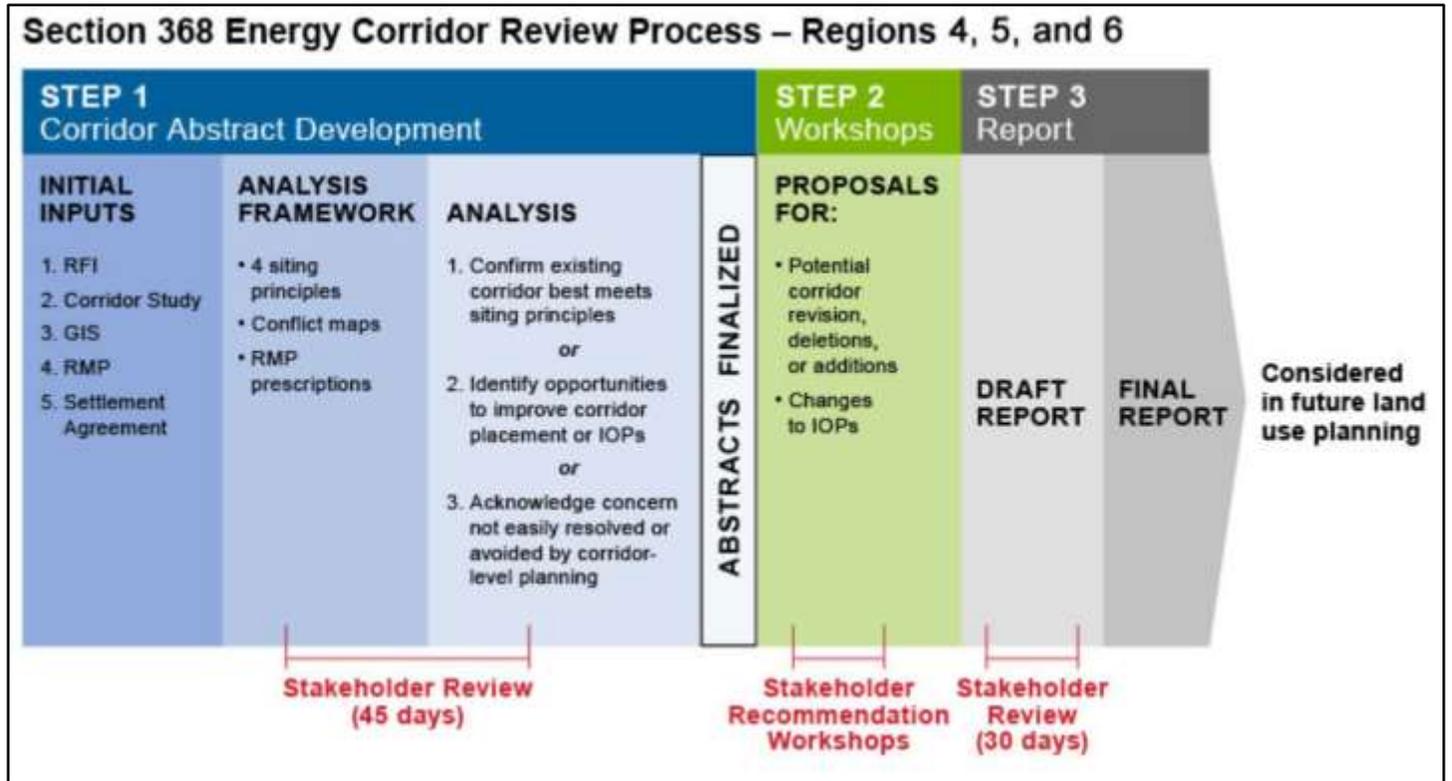
The designation of energy transport corridors in land and resource management plans identified the preferred locations for development of energy transport projects on lands administered by the USFS and BLM. These locations were selected to avoid significant known resource and environmental conflicts; promote renewable energy development in the West; and improve reliability, relieve congestion, and enhance the capability of the national grid to deliver electricity.

The evaluation of future project-related environmental impacts must await site-specific proposals and the required site-specific environmental review. A quantifiable and accurate evaluation of impacts at the local project level can be made only in response to an actual proposed energy project, when a proposal for an action with specific environmental consequences exists.

In July 2009, a variety of plaintiffs filed a complaint against the agencies, challenging the PEIS, DOI and USFS RODs, and associated Section 368 energy-corridor designations (Wilderness Society, et al. v. United States Department of the Interior, et al., No. 3:09-cv-03048-JW [N.D. Cal.]). In July 2012, a settlement was reached, and the agencies were required to

complete an interagency Memorandum of Understanding (MOU) addressing periodic corridor reviews, update agency guidance, update agency training, and complete a corridor study.

The corridor abstracts were created using the 2016 corridor studies, information from the 2012 Settlement Agreement, the 2014 Request for Information comments, GIS analysis, and applicable agencies’ land use plans. The goal of the abstracts is to summarize why the corridor was designated, what energy infrastructure it already contains, and identify concerns that may limit future energy-corridor development. The abstracts were then published for regional reviewers to examine and provide input on the energy corridors (Step 1, and where we currently are). Based on this information, the agencies will then identify potential revisions, deletions, or additions to the corridors and identify possible changes to the interagency operating procedures (IOPs).



In Step 2, the corridor abstracts serve as the foundation for stakeholder workshops, which will serve as a collaborative venue for consideration and development of potential corridor revisions, deletions, or additions and potential changes to IOPs. This input will be compiled into a draft report (Step 3) for Regions 4, 5, and 6 targeted to be released in late 2019 or early 2020 for a 30-day stakeholder review, followed by the release of the final report that will include results of regional reviews for all six regions.

DISCUSSION

In 2014 Mono County Community Development responded to a Request for Information from the Agencies on the corridor (see Attachment 1). The County’s response identified that the corridor passes through sensitive environmental areas in Mono County, including proposed critical habitat for the Bi-State Sage Grouse and Townsend Long-Eared Bat. The response also noted that the corridor passes through visually sensitive terrain and is visible from several designated scenic highways, routes, and wilderness areas. The physical terrain also presents development obstacles. Lastly, it was noted that the County and its citizens have traditionally expressed concerns on placement of new corridors and expansion of energy-development projects.

On February 20, 2019, the BLM, USFS, and DOE published draft corridor abstracts for Region 4, 5, and 6, initiating a 45-day stakeholder review period which closed April 8. Community Development used this opportunity to again reiterate the concerns made in 2014 and included additional concerns and current General Plan policy and goals related to visual resources and energy resources (see Attachment 1).

A new mapping tool created by the agencies shows the proposed corridor and allows users to gain a detailed look at the path. Using the tool, staff was able to identify where the corridor leaves the existing 220kV – 450kV line along US 395, crosses the Owens River Gorge and Volcanic Tablelands, and connects to existing 115 -, 138-, 345-kV transmission lines and a DC transmission line. However, the corridor then leaves that infrastructure, running parallel on the east until crossing Benton Paiute Reservation lands, and then continues north paralleling the existing line again but on the western side before rejoining infrastructure south of Adobe Valley. This issue was discussed as a concern to the County due to the potential disturbance to ecological zones and potential cultural and archeological resources that may exist.

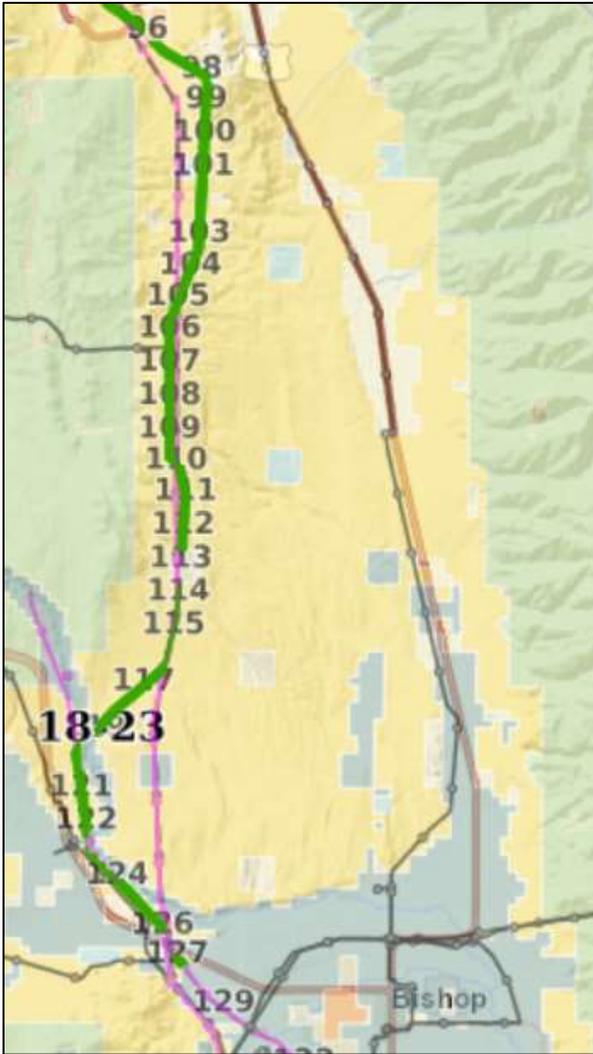


Figure 1. Section 18-23 south of Hwy 120 East

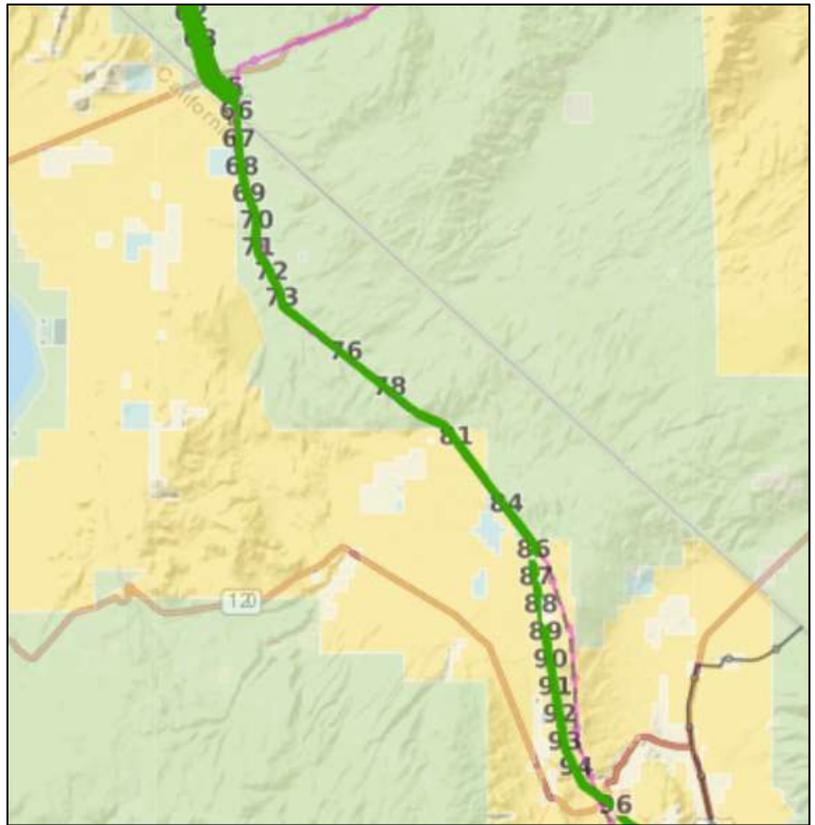


Figure 2. Section 18-23 north of Hwy 120 East

At the April 23, 2019, Collaborative Planning Team public meeting a representative from the BLM will be present to discuss the corridor project. Agencies also plan to conduct a stakeholder meeting on June 4 in Reno, NV, to discuss the project and receive input. Community Development staff will continue to participate in the planning process for the West-Wide Energy Corridor, Region 5, Section 18-23, and provide updates to your Commission when applicable.

ATTACHMENT

- Comment letter submitted 04.08.19 with the 2014 letter

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April 18, 2019

To: Mono County Planning Commission

From: Bentley Regehr, Planning Analyst

Re: Walker Basin Water Transaction Project Update

BACKGROUND

The Walker Basin Restoration Program is aimed at restoring and maintaining Walker Lake in Nevada through the transfer of water from land owners in the basin. The program is managed by the Walker Basin Conservancy (WBC), a nonprofit established in 2014. Transactions are already occurring in Nevada, where all acquisitions have been from small, hobbyist agriculture operations. The model established in the Nevada portion of the basin has been to acquire both the water and its associated land simultaneously to ensure healthy land management practices and reduce long-term impacts.

The Decree Court must approve a change to the location of diversion from Mono County to Walker Lake. Change in flows would require the applicant to demonstrate there would be no injury to other rights holders. In May 2018, the 9th Circuit Court of Appeals (*United States v. U.S. Board of Water Commissioners*, 2018) upheld a water transfer threshold established by the Nevada State Engineer and California State Water Resources Control Board (SWRCB) that avoids injury to other water users. The Appeal Court agreed with the Nevada State Engineer that the consumptive portion of a water right, which was estimated as 53 percent of the total right, could be diverted to Walker Lake as part of the restoration program. The remaining 47 percent of the water right, consisting of the return water or non-consumptive portion, must remain part of the historic diversion to ensure no injury to downstream water users occurs.

In accordance with the memorandum of understanding between the County and the National Fish and Wildlife Foundation (NFWF) signed in 2012, transactions will not occur in the Mono County section of the basin until the County has established guidelines for transfers. A County program is anticipated to be finalized in 2020 and all acquisitions must occur prior to 2024 to qualify for current funding through NFWF.

DISCUSSION

The first step in defining a water transaction program is to identify types of water transactions that could be implemented. The type of transaction would depend on the type of water right. A decree-flow water right is the right to a portion of the natural flow of the Walker River. Any changes, transfers, or adjustments to rights are adjudicated by the Decree Court.

Storage water rights are the rights to possess and use water stored in the storage reservoirs within the Walker River basin. Most storage rights are junior to the decree rights and therefore fulfilled only after decree rights have been satisfied. All proposed transactions include some combination of decree and storage rights.

Water transactions explored by the program can be divided into three categories:

- 1) Long-term leasing (exceeding one year) or permanent transfer of decree rights. This type of transaction is often paired with the acquisition of land to make management practices easier to implement and enforce;
- 2) Temporary leasing of decree rights and storage rights for up to one year; and
- 3) Surplus storage water sale.

Six strategies were then created, using various combinations of transaction types:

Strategy 1: Allow all transaction types.

Strategy 2: Allow all transaction types with caveat that long-term leases must include transfer of land.

Strategy 3: Only allow sale of surplus storage water

Strategy 4: Only allow temporary (one year) leasing of flow-water rights

Strategy 5: Allow temporary leasing (one year) and storage-water sale.

Strategy 6: No program.

The strategies will be evaluated based on consistency with General Plan Conservation/Open Space Element objectives:

- Preservation of existing open space and scenic viewsheds;
- Maintenance and restoration of botanical, aquatic and wildlife habitats in Mono County;
- Protection of the Public Trust values of the resources of Mono County;
- Preservation and maintenance of surface and groundwater resources to protect Mono County's water quality and water-dependent resources; and
- Encourage retention of agricultural and grazing lands

The County's current preferred alternative is Strategy 5, which allows for temporary leasing and storage-water sale. The strategy provides multiple options for water-rights owners to participate in the program, while minimizing long-term impacts to county resources. It should be noted, however, that the current Walker Basin Restoration Program includes purchase of water-righted land and transfer of the consumptive portion of the water right to Walker Lake. Therefore, the CEQA review process will evaluate the wider range of potential transaction types described in Strategy 2, in accordance with Conservation/Open Space Element, Policy 3.E.4.

Conservation/Open Space Element, Policy 3.E.4. *Evaluate participation in the Walker Basin Restoration Program (WBRP).*

Action 3.E.4.a. Pursue funding with the National Fish and Wildlife Foundation (NFWF,) to collect and analyze all the information necessary for the County to determine if and how participation in the WBRP may be possible, including full CEQA review to assess the potential effects on various resources, a potential pilot water-transaction program, and any necessary General Plan policy updates.

A Notice of Preparation (NOP) is set to be issued April 23, with comments due May 23. Scoping meetings that offer opportunity for comment are scheduled for the following venues:

- May 6, 1 pm – Mono County Resource Conservation District Meeting (Bridgeport);
- May 7, 10 am – Mono County Board of Supervisors (Bridgeport); and.
- May 7, 6:30 pm – Antelope Valley RPAC Special Meeting (Walker Community Center).