NEVADA COUNTY PLANNING COMMISSION
NEVADA COUNTY, CALIFORNIA

MINUTES of the regular meeting on April 25, 2019, at 1:30 p.m., Board Chambers, Eric Rood Administration Center, 950 Maidu Avenue, Nevada City, California

MEMBERS PRESENT: Chair Duncan and Commissioners Aguilar, Johansen and Bullock.

MEMBERS ABSENT: Commissioner Coleman-Hunt.

STAFF PRESENT: Planning Director, Brian Foss; Associate Planner, Janeane Martin; Senior Planner, Matt Kelley; Principal Planner, Tyler Barrington; Deputy Fire Marshal, Matt Furtado; Deputy County Counsel, Rhetta VanderPloeg; Administrative Assistant, Tine Mathiasen.

PUBLIC HEARING:
1. Commercial Rafting
   PLN19-0007, 0009, 0010 & 0011, RAF19-0001, 0002, 0003 & 0004
2. Event Helper
   PLN18-0080, DVP18-2, EIS18-0021

CALL MEETING TO ORDER: Chair Duncan called the meeting to order at 1:31 p.m.

STANDING ORDERS:
1. FLAG SALUTE
2. ROLL CALL:

PUBLIC COMMENT: Members of the public shall be allowed to address the Commission on items not appearing on the agenda which are of interest to the public and are within the subject matter jurisdiction of the Planning Commission, provided that no action shall be taken unless otherwise authorized by Subdivision (6) of Section 54954.2 of the Government Code.

Chair Duncan opened public comment at 1:33 p.m.

Richard Baker came forth and introduced himself to the Commission. He gave an update of the Western Gateway Bike Park project. He stated that they had raised enough money and had contracted with a builder to construct the first few elements of the park. He added that they had several volunteer events to clear underbrush and limb trees to prepare for construction. He stated that the builder would begin work on the 29th of that month, and would be there for approximately a week. When the builder was finished, the pump track element as well as two of the jump line elements would be completed. He discussed some of the other elements for beginner, intermediate, and advanced riders that would be operational. He said that as a group they would be doing some separate work to develop the parking space and install a drinking fountain that had been donated by local businesses, as well as signage and similar things. He stated that the project was coming along well, and they anticipated having another 2 to 3 elements completed by the end of 2019, with the majority of the park being completed by the end of 2020.
Chair Duncan thanked Mr. Baker and asked if anyone else would like to speak.

Chair Duncan closed public comment at 1:35 p.m.

**COMMISSION BUSINESS:** None.

**CONSENT ITEMS:**

3. Acceptance of Planning Commission Minutes for March 7, 2019. *(Removed from consideration.)*
5. Extension of Time (PLN19-0020; EXT19-0002) for Tranquility Lane Estates (FM07-001; EIS07-003)
6. Extension of Time (PLN19-0026; EXT19-0003) for South Woodlands (FM14-002; MGT14-007; MGT14-008; MGT15-011; EIS14-010)
7. Extension of Time (PLN19-0031; EXT19-0004) for Boreal Mountain Resort (Alpine Coaster Ride, BMX Park and Skate Park Use Permit (U16-002; formerly U11-002; EIS11-002)
8. Extension of Time (PLN19-0041; EXT19-0005) for Hilltop Estates (FM05-011; U05-013; EIS05-051)

Motion by Commissioner Aguilar to approve the seven items being considered on Consent; second by Commissioner Johansen. Motion carried on a voice vote 4/0 (Commissioner Coleman-Hunt was absent).

**PUBLIC HEARINGS:**

1. **PLN19-0007, 0009, 0010 & 0011, RAF19-0001, 0002, 0003 & 0004:** Four separate Commercial Rafting Permit Applications proposing guided tours on the Little Truckee and Truckee River pursuant to Sec. G-III 8.1 of the Nevada County General Code. Guided tours are proposed from Boca Dam to Floriston, and from Boca to the Farad Powerhouse site. Guided tours are also proposed to start at Floriston or the Farad Powerhouse site ending at a point(s) outside of Nevada County. Shuttle parking and portable toilets are proposed at each of these locations. At Floriston near the I-80 Bridge, two put-in/take-out and shuttle parking locations are proposed: (1) on the west bank of the river and (2) on the east bank of the river, both within the CalTrans right-of-way. At the Farad Powerhouse site, put-in/take-out and parking locations are proposed on the west side of the river. Ingress/egress outside of unincorporated Nevada County is not addressed with these applications. **PROJECT LOCATION:** Boca Dam; Floriston near the I-80 Bridge and the Farad Powerhouse site which is approximately two miles north of Floriston and east of Truckee. **ASSessor’S PARCEL NUMBER:** 048-160-003, 048-030-014 and 048-130-022 (this is the approximate location at Floriston Bridge within the CalTrans ROW, outside the west parcel boundary of 048-130-022). **RECOMMENDED ENVIRONMENTAL DETERMINATION:** Exempt per CEQA Section 15061 (b)(3). **RECOMMENDED PROJECT ACTION:** Recommend approval of a rafting permit for each applicant (RAF19-0001, RAF19-0002, RAF19-0003 and RAF19-0004). **PLANNER:** Janeane Martin, Associate Planner.
Associate Planner Janeane Martin introduced herself, the project, and the applicants to the Commission. She discussed the General Code, which requires permits for rafting, as well as regulations regarding rafting. As several of the routes were very close to the Hirschdale and Floriston communities, she discussed the Conditions of Approval proposed to help prevent disturbance to those neighborhoods as well as other users of the river to the greatest extent possible. She reviewed the proposed access points, as well as ingress and egress sites and porta potty locations, and additional approvals needed from jurisdictions outside of the County. She discussed public comment received, including recent concerns about a company operating outside of its permit. She then provided the Commission with staff’s recommendations.

Chair Duncan asked for questions of staff.

Commissioner Bullock asked what role the County plays in the regulatory aspect of providing a safe experience.

Planner Martin stated that they worked with the Fire Prevention Planner to insure that updated fire extinguishers were present in each of the vans, and when inspections are done the tags are examined to verify that they are current. The County does not allow incendiary devices along the river, or allow excess parking of private vehicles in small areas where egress would be difficult in an emergency. The County also requires that they have some sort of CB portable radio for emergencies.

Commissioner Bullock asked if there was any history of safety or regulatory complaints on any of the 4 applicants or the permit.

Planner Martin answered that the County has had good luck. Occasionally a report will come in late, as those are due by the 15th of each month, generally it’s been little things. She did add that a fire extinguisher had been out of date, the County notified the applicant immediately, and that the applicant was very good about correcting any issues.

Commissioner Johansen asked if there had been any credible complaints against the operators, and when that complaint was.

Planner Martin answered that there was a recent complaint that they were operating outside of their permit. She was discussing the matter with the applicants and the Town of Truckee.

Commissioner Johansen stated that his point was that they had been doing this for some time and that it was working.

Planner Martin answered that was correct.

Chair Duncan stated that last year we received no complaints or letters. She added that in the past concerned residents that lived along the river took issue with how the businesses were operating, however there had been a move toward cooperation. She believed that the rafting companies had done a good job of making sure those concerns were alleviated.

Commissioner Bullock asked if the 4 applicants were the only interest the County had received for commercial rafting permits this year.
Planner Martin answered yes, consistently these have been the 4 that have applied.
Chair Duncan stated that they had been dealing with five businesses at one point, however one went away. She said that they were very consistent, and it was nice that there weren’t any complaints to verify. She asked if any representatives from the rafting companies wanted to speak.

Mike Miltner of Tahoe Whitewater Tours introduced himself to the Commission. He stated that he had worked in paddle sports recreation since he was 13 years old, and that Tahoe Whitewater was his fourth company. He discussed his experience and his passion, and desired to share an award he had received from Trip Advisor for being voted number one for boat tours, water sports, and river rafting and touring in the Truckee Area. He read a positive comment from a client to illustrate to the Commission that they were indeed doing a good job. Regarding the question about safety, he described his experience on the river and other states, as well as his training and having been an instructor for swift water rescue. He said that in the Boca - Floriston Run, safety was a paramount issue, as it was a Class 3 and very technical. He described how they train their guides, including mandatory first aid and CPR, as well as additional protocols. He discussed some of the differences between California regulations and in other states and some of the equipment, such as sweep kits and first aid kits that the guides carry. He also discussed County Ordinance from the 1970’s which prohibited paddle sports on the Truckee, as well as the changes in the fire extinguisher Condition throughout the years. He said that in the first few years there had been much resistance and complaints that had been brought forth by Stephanie Wagner, none of which had been actionable and had been investigated. He believed that the locals had wanted to give them a hard time, and that they continue to do so, including threats and fishermen throwing lines across the rafters boats. He said that he appreciated that they do a good job and that they provide good service to the public, however they had to turn away hundreds of people due to restrictions in the Ordinance. He talked about how the verbalized complaints had been found to be untrue, and his belief that people in that area did not want them down there. He extended an invitation to the Commission to come out and join them for a good day of summer.

Chair Duncan invited the other companies to speak if they so desired.

Chair Duncan opened and closed public comment at 1:57.

Chair Duncan asked if staff would like to say anything after Mr. Milner’s comments.

Planner Martin stated no.

Motion by Commissioner Bullock to determine these projects are exempt from environmental review pursuant to Section 15061(b)(3) of the California Environmental Quality Act Guidelines, finding that they will not, directly or indirectly, result in a physical change to the environment, and that it can be seen with certainty that these permits will not have the potential for causing a significant effect on the environment; second by Commissioner Aguilar. Motion carried on a roll call vote 4/0 (Commissioner Coleman-Hunt absent).

Motion by Commissioner Bullock to approve a Rafting Permit for each of the four applicants, subject to the conditions shown in Attachment “1”, and making findings A-G below as required by Nevada County General Code Section G-III; second by Commissioner Aguilar. Motion carried on a roll call vote 4/0 (Commissioner Coleman-Hunt absent).

Chair Duncan noted the 10-day appeal period.
2. PLN18-0080, DVP18-2, EIS18-0021: A Development Permit proposing the construction and operation of an approximately 13,962-square-foot building for The Event Helper, Inc. The Event Helper is an internet/software research and development business that builds and develops website applications and is anticipated to have up to 40 employees. The proposed building would be two-stories in height, and consist of an approximately 6,808-square-foot first floor, a 5,328-square-foot second floor and an approximately 1,826-square-foot basement which would be used for parking and storage. Associated development would also include parking, lighting, and landscaping and storm water retention improvements. **PROJECT LOCATION:** 12897 Loma Rica Drive, Grass Valley, California 95945. **ASSESSOR’S PARCEL NUMBER:** 006-920-005

**RECOMMENDED ENVIRONMENTAL DETERMINATION:** Recommended approval of a Mitigated Negative Declaration (EIS18-0021). **RECOMMENDED PROJECT ACTION:** Recommend approval of the proposed Development Permit (DVP18-2). **PLANNER:** Matt Kelley, Senior Planner

Senior Planner Matt Kelley came forth and introduced himself to the Commission. He discussed the location of the site in Loma Rica, as well as its zoning and General Plan designation. He reviewed the background of the parcel and discussed previous permits, including a Development Permit which was renewed and later withdrawn, and a Less than 3 Acre Conversion from Cal Fire. He noted that a biological report was completed by Greg Matuzak, which noted that no Land Mark Oak Groves or Land Mark Heritage Trees were removed during the 3 acre conversion. He discussed the project including the size of the building proposed, what the business entails, parking, proposed driveway, onsite septic, and connection to Nevada Irrigation District for water. He discussed further proposals, such as retention ponds, trees, lighting, excavation and importation of material, signage, retaining walls, and trash enclosures. He reviewed the proposed site plan, and indicated where various items would be, and showed photos of the site as it is now. He discussed details of the building, including elevations, height, design, color, and materials, and the floor plan. He showed an artistic rendering, stating that the proposed building was in silver and white, however the Loma Rica Design Guidelines specify and recommend that buildings not contain any jarring light color. A Condition of Approval was recommended that the building be changed to earth tones as reflected by the Loma Rica Design Guideline, and due to being within airport boundaries, the pinging color of the building would need to have 50% or less reflectivity. He showed examples of other buildings in the area, demonstrating colors and similar construction. He discussed the landscaping and lighting, including trees that were being retained, as well as the proposed signage. He explained the zoning of the site, and that the project was reviewed by the Nevada County Transportation Commission and found to be compatible, however it did require the recordation of an overflight notification, which was largely standard in the Loma Rica area. He discussed traffic and circulation, and a Condition of Approval to limit time and duration of soil imports to avoid hours of peak traffic. He went on to discuss parking and impervious surface area of the project, as well as drainage, sewage disposal and water. He stated that a Mitigated Negative Declaration had been circulated, which received no comments, and that all impacts had been mitigated to a less than significant level, and discussed mitigation measures. He talked about the zoning and General Plan, and that the project was compatible with these. He ended his presentation with staff recommendations.

Chair Duncan thanked Planner Kelley and asked for any questions of staff.

Commissioner Aguilar asked if it was Code to not have lights in the parking area.
Planner Kelley answered that the Code did not specifically state that parking lot lights were required. He did speak with the Building Department, and Building Code does not specifically require parking lighting either. He added that if parking lot lighting was proposed, it would be limited to a height of 15 feet.

Commissioner Aguilar wondered at how the lighting in the parking area would be affected by the 50% reduction in reflectivity of the building. He also asked if any outdoor amenities were proposed.

Planner Kelley answered that there were, stating that both floors have outdoor patios as well as outdoor employee break areas.

Commissioner Aguilar asked how the huge white propane tanks shown in the presentation were approved, and asked if they were within the same flight designation. He stated that he got a little nervous changing colors when an architect had already put everything together. He stated that he saw a lot of white roofs in the area, and was curious about what the architect had to say.

Commissioner Johansen asked regarding Mitigations Measures 10A and 10B, if the use of retention ponds to decrease runoff was standard for commercial uses.

Principal Planner Tyler Barrington answered yes.

Commissioner Johansen asked if oil, grease, and silt traps in the parking area were also standard.

Planner Kelley answered yes, that condition came from the Public Works Department and was pretty standard for most commercial projects.

Chair Duncan clarified that the white building color was inconsistent with the Nevada County Airport Land Use Compatibility Plan.

Planner Kelley answered that was correct.

Chair Duncan asked if it expressly prohibited the use of those colors.

Planner Kelley stated that the Loma Rica Industrial Design Guidelines speak to white and jarring colors, as the building was proposed it would be a white and silver type of color. He added that most of the building in the Loma Rica area were more muted and earth tone colors. To be consistent with the guidelines, it was staff’s recommendation that the building be more muted and earth toned type colors.

Chair Duncan asked if the applicant would like to speak.

Richard Baker with Siteline Architecture came forth and introduced himself to the Commission. He clarified that the building would not be metal framed, it would be a precast concrete, similar to Briar Patch and the new addition to the Center for the Arts building. He did state that some of the interior as well as the roof would have metal components. Regarding the Commissions concerns of lighting in the parking lot, he explained that the owner was interested in a dark night sky and astronomy. The owner had looked for a site like this for years as it has an incredible view of the Sierra and alpenglow. He would prefer not to have it effected by outside lights. They did however
intend to light the parking space in such a way that employees felt safe. He added that they would work with the Planning Department as well as the Building Department to accommodate that kind of lighting. Regarding amenities, they do have the two patios that are attached to the building, however they hope to find an area suitable for an outdoor picnic area. He added that the majority of the site was remaining untouched, with only 15% of the actual parcel being developed. They did intend to try to develop walking trails for use on the parcel. Regarding the color, he stated that the original intention of the structure was meant to be a celebration of the owners’ love of the view of the Sierra, with the white tone representing the snowcapped mountains. The original concept had some jagged shapes to the upper parapet, however in early consultation with the Planning Department they were led away from that due to some of the architectural standards in the Loma Rica area. They had tried to keep some of the natural materials, such as the steel and the wood, and were hoping to have a white color to the building, however they were open to the concept of earth tones and working with the Planning Department to find a color scheme that works well within their standards.

Chair Duncan stated she liked the color scheme that was shown in the renderings.

Mr. Baker stated that they would like the roof to be a lighter tone, and discussed the grey tone of the single ply membrane roof that was proposed. He added that it would not be a jarring white, however it would have the cool roof reflectivity that is required for Title 24.

Chair Duncan asked if staff had any comments.

Planner Kelley stated that the Loma Rica Guidelines are just guidelines, if it was the pleasure of the Commission they could change the Condition of Approval.

Chair Duncan asked is Andy Cassano would like to speak.

Andy Cassano of Nevada City Engineering introduced himself to the Commission. He stated that they assisted with some of the planning and pre-engineering of project. He wanted to express how much he liked this project, and that he had worked for years on economic development. He stated that the project was designed to have 40 employees, with primary sales being out of the area which would bring new money to the area. He stated that he was proud of the fact that it was 82% open space on the site. He believed the project had a lot going for it and he appreciated the Commissions support.

Chair Duncan opened public comment at 2:30 p.m.

Colin Cahill, who owns the property next to the eastern border of the parcel introduced himself to the Commission. He stated that they had been concerned about the lighting, but as the owner had been identified as an astronomer he felt that it had been addressed. He asked how the water retention pond worked and if he could get a copy of the site plan, landscape, and lighting plans.

Chair Duncan asked if he would like to see copies of those exhibits.

Mr. Cahill clarified that he would like to receive a copy of those plans.

Chair Duncan stated that those were part of the public record, and indicated that he could speak with staff for direction on how to obtain those.
Ron Weichel, who owns the property directly below the project, came forth and introduced himself to the Commission. He stated that he owned directly below the NID siphon which goes beneath the property. While he liked the water settling ponds for run off, he asked if any water would be discharged from the back end of the property downhill. His other concern was that half of the property has been scraped to ground level with no real trees on top, while the other half was still in a heavily forested state. He said that residents in the area were very concerned with fire, and he was doing a great deal of fire mitigation around his home. He asked if it was part of the plan to do something about the fire danger.

Chair Duncan closed the public hearing at 2:34 p.m.

Planner Kelley stated that regarding the landscape and lighting plans, those could be made available. Regarding fire suppression, he stated that Condition E1 did require that the building meet appropriate fire code, and that fire flow is at 33,250 gallons per minute, as well as the installation of two fire hydrants and an extension of the NID main to the property. The property was located in a high fire hazard area, which under the Nevada County Land Use and Development Code requires a Fire Protection Plan which is approved by the Fire Prevention Planner, and is also a Condition of Approval. He added that Conditions F1 and F2 required the Fire Protection Plan, as well as meeting all defensible space requirements.

Chair Duncan stated that she believed the concern was with the area with fuels already present.

Planner Kelley deferred the question to the applicant.

Chair Duncan asked Planner Kelley to address the water discharge concern.

Planner Kelley answered that the engineer would be able to answer the more technical questions, however looking at the site plan and preliminary drainage report, the water would either go into the retention ponds or into the infiltration basin, where it was designed to infiltrate into the ground. He stated that some natural sheet flow would occur, however it was designed for water to flow into those two areas.

Chair Duncan asked if it was illegal for the development to cause an increase in flow off site.

Planner Kelley answered that was correct.

Chair Duncan verified that conditions were in place to keep that from happening.

Planner Kelley affirmed there were.

Chair Duncan asked the applicant to address the questions.

Mr. Baker thanked Mr. Cahill and Mr. Weichel for coming to the hearing. He stated that they were equally concerned about the lighting, they wanted to be good neighbors and do everything they could to not have excess lighting. Regarding water runoff, he answered that water was gathered either into the landscaping areas or retention ponds where it was designed to percolate into the ground. Any excess water that accumulated outside of those retention ponds during extreme rain events would go through a large stone rip rap construction which breaks it up and mitigates the
erosion concern. He added that the design was something that would be reviewed by the Building Department and won’t be able to be constructed without being in compliance with local and state ordinances. Regarding fire concerns, he stated that much less than half the site has been developed, and indicated on the site plan where has been cleared and what remains natural forest at this time. He added that there was a responsibility of the developer to mitigate fire issues within 100 feet of the structure when construction was occurring, some of which had already been accomplished through the previous 3 acre Conversion. He stated that the owner was very concerned about fire, and was going to do anything they could to mitigate that possibility of fire getting to his parcel or getting off his parcel and towards the neighbors properties.

Chair Duncan stated that fire safety was a concern for most people in Nevada County, and asked to hear from the Fire Planner to discuss options for reducing fuel load in the undeveloped area, or making it more fire safe.

Deputy Fire Marshall Matt Furtado introduced himself to the Commission. He stated that for this type and scale of project the only legal mandate was to create defensible space for the structure on the site, with no obligation to protect neighbors. He added that if the applicant desired to pursue other endeavors to reduce vegetation that was fantastic, however there was no legal mandate.

Chair Duncan asked for recommendations on how to make the project safer, as it appeared that a fire would move uphill quickly in that area, and wondered if the creation of fire breaks would be a better way to go.

Deputy Furtado answered that the recommendation would be for the applicant to work with a registered forester to develop a vegetation management plan to produce forest health and balance that with fire.

Commissioner Johansen stated that with more fuel reduction less water uptake would occur in extreme storms, he asked if there was a way to reduce fuels and not increase runoff.

Deputy Furtado stated that he would defer that question to someone more educated in forestry than himself, and that a Registered Professional Forester could make that decision.

Commissioner Johansen asked Mr. Baker how to balance fire protection and thinning with increase in runoff.

Mr. Baker answered that he did not believe that he could speak to that, however he did know that the owner was concerned about fire safety and would be doing some thoughtful clearing of the underbrush and raising of the canopy to accommodate that.

Chair Duncan asked for any questions of staff.

Commissioner Aguilar asked how staff and the applicant would get together on the building color issue.

Chair Duncan stated that the Commission had the option to change that Condition, however it was the guideline that staff uses to help guide the applicant and project.
Planner Barrington stated that staff tries to be as reasonable as possible while meeting the codes requirements.

Commissioner Aguilar stated that now would be the time for the applicant to state their intention

Mr. Baker stated that their intention was not to make it silver, their intention was to make it more of a white tone, however not stark white. They would err towards a less bright white, and did not feel that they were not far off. He found that Planning was very easy to work with in that regard, and trusted that they would be respectful of their needs while maintaining the needs of the Loma Rica Park.

Commissioner Bullock asked if it was a requirement specific to Loma Rica, or an airport CLUP requirement.

Planner Barrington answered that the 50% reflectivity was a CLUP requirement while the color was a specific area plan guideline.

Commissioner Aguilar said that it sounded like the applicant was willing to work with staff to come up with a suitable color.

Motion by Commissioner Aguilar to adopt the proposed Mitigated Negative Declaration (EIS18-0021) (Attachment 2) and Mitigation and Monitoring and Reporting Program (Attachment 1) pursuant to Section 15074 and 15097 of the California Environmental Quality Act Guidelines making Findings A through C; second by Commissioner Bullock. Motion carried on a roll call vote 4/0 (Commissioner Coleman-Hunt was absent).

Motion by Commissioner Aguilar to approve the proposed Development Permit (DVP18-2) subject to the attached Conditions of Approval shown in Attachment 1, making findings A-M pursuant to Sections L-II 5.6.G and L-II 5.5.2.C of the Nevada County Land Use and Development Code; second by Commissioner Bullock. Motion carried on a roll call vote 4/0 (Commissioner Coleman-Hunt absent).

Chair Duncan noted the 10 day appeal period.

Discussion ensued regarding upcoming Commission meetings and ongoing project statuses.

Motion by Commissioner Johansen; second by Commissioner Bullock to adjourn. Motion carried on voice vote 4/0 (Commissioners Coleman-Hunt was absent).

There being no further business to come before the Commission, the meeting was adjourned at 2:57 p.m. to the next meeting tentatively scheduled for May 9, 2019, at 1:30 p.m. at the Board of Supervisors Chambers, Eric Rood Administrative Center, 950 Maidu Avenue, Nevada City, California.

Passed and accepted this 22 day of August 2019.

Brian Foss (sp)
Brian Foss, Ex-Officio Secretary