

MONO COUNTY PLANNING COMMISSION

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

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

SPECIAL MEETING AGENDA

February 18, 2021 – 9:00 a.m.

TELECONFERENCE INFORMATION

As authorized by Gov. Newsom’s Executive Orders, N-25-20 and N-29-20, the meeting will be accessible remotely by live cast with Commissioners attending from separate remote locations. There is no physical meeting location. This altered format is in observance of recent recommendations by local officials that certain precautions be taken, including social distancing, to address the threat of COVID-19.

Important Notice to the Public Regarding COVID-19

Based on guidance from the California Department of Public Health and the California Governor’s Office, in order to minimize the spread of the COVID-19 virus, please note the following:

1. Joining via Zoom

There is no physical location of the meeting open to the public. You may participate in the Zoom Webinar, including listening to the meeting and providing public comment, by following the instructions below.

To join the meeting by computer

Visit: <https://monocounty.zoom.us/j/99145870745>

Or visit <https://www.zoom.us/> and click on “Join A Meeting.” **Use Zoom Meeting ID:** 991 4587 0745

To provide public comment (at appropriate times) during the meeting, press the “**Raise Hand**” hand button on your screen and wait to be acknowledged by the Chair or staff.

To join the meeting by telephone

Dial (669) 900-6833, then enter **Webinar ID:** 991 4587 0745

To provide public comment (at appropriate times) during the meeting, press ***9** to raise your hand and wait to be acknowledged by the Chair or staff.

2. Viewing the Live Stream

You may also view the live stream of the meeting without the ability to comment **by visiting:**

http://monocounty.granicus.com/MediaPlayer.php?publish_id=5c18e39d-e688-4a7f-8df4-3a76d3694d40

**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. Please refer to the Teleconference information section to determine how to make public comment for this meeting.

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

3. MEETING MINUTES

- A. Review and adopt minutes of December 17, 2020. (p. 1)

4. PUBLIC HEARING

- A. **9:05 a.m. CONDITIONAL USE PERMIT 20-006/Schott & Reedy.** The proposal is for placement of a 116- square foot storage shed prior to construction of the primary residence at 3858 Crowley Lake Drive (APN 060-150-004) in Crowley Lake. The parcel is designated Single-Family Residential (SFR). In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. (Staff: Kelly Karl) (p. 4)
- B. **9:35 a.m. CONDITIONAL USE PERMIT 21-001/Hemminger.** The proposal is for permitting the unauthorized installation of overhead powerlines at 194 Wunderlich Way (APN 002-440-029) in Coleville pursuant to the undergrounding exemptions provided in Chapter 11 – Utilities of the General Plan Land Use Element. The parcel is designated Rural Residential (RR). In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. (Staff: April Sall) (p. 36)

5. REPORTS

- A. Director
- B. Commissioners

6. ADJOURN to March 18, 2021

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).

Full agenda packets, plus associated materials distributed less than 72 hours prior to the meeting, will be available by request for public review by contacting the Community Development offices in Mammoth Lakes (760-924-1800). Agenda packets are also posted online at www.monocounty.ca.gov / departments / community development / commissions & committees / planning commission, on the Mono County calendar, and emailed to the distribution list. For inclusion on the e-mail distribution list, send request to bperatt@mono.ca.gov.

Commissioners participate from a remote location per COVID public health precautions. Interested persons may appear before the Commission at the digital meeting 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.

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DRAFT MEETING MINUTES

December 17, 2020 – 9 a.m.

COMMISSIONERS: Scott Bush, Roberta Lagomarsini, Chris Lizza, Dan Roberts, Patricia Robertson

STAFF: Wendy Sugimura, director; Michael Draper, planning analyst; Becky Peratt, planning commission clerk, Melissa Bell

PUBLIC: Justin Walsh, grantski

1. **CALL TO ORDER & PLEDGE OF ALLEGIANCE:** Chair Scott Bush called the meeting to order at 9:00 am in Zoom meeting room. Wendy Sugimura reviewed meeting procedures and format, and attendees recited the pledge of allegiance to the flag.

2. **PUBLIC COMMENT:** No public comment.

3. MEETING MINUTES

A. Review and adopt minutes of October 15, 2020

MOTION: Adopt the minutes of October 15, 2020

Lagomarsini/Bush. Roll-call vote- Ayes: Roberts, Robertson, Lizza, Lagomarsini, Bush

B. Review and adopt minutes of November 19, 2020

MOTION: Approve the minutes of November 19, 2020

Lizza/Robertson. Roll-call vote- Ayes: Roberts, Robertson, Lizza, Lagomarsini, Bush

***Agenda items taken out of order due to Commissioner Roberts recusing himself from the Public Hearing on June Lake Brewing*

4. WORKSHOP

A. Update on Mountain View Fire Recovery

- Director Wendy Sugimura provided building and planning updates. County permit fees will be waived for property owners who owned the property and the time of fire and lost their property. New structures will need to comply with CA Building code unless a portion of the structure remains and the previous structure was legally permitted. That may not be possible due to the way the state may conduct clean up. RVs will be allowed on properties with simple conditions and sign-off by Environmental Health. People who want to rebuild with prior nonconforming uses can rebuild in that way as long as they have documentation showing it was legally permitted at the time of the build.

5. PUBLIC HEARING

9:00 A.M.

A. **CONDITIONAL USE PERMIT MODIFICATION 20-003/June Lake Brewing** to modify existing Use Permit 13-003 at 101 South Crawford Avenue (APN 015-113-065). Modifications include expanding the outdoor premise where drinks and food may be consumed to include a 5,979-sf area between Ohanas 395 food truck and the brewery entry. The premise will include not more than 72 seats and two Porta-

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Potties. Separation between vehicular traffic and seating will include barrels, roping, fencing with a gate, and a low wall. Existing parking plus additional spaces on the adjacent property under same ownership will be utilized. The Modification will prohibit patrons from entering the indoor premise other than to use existing indoor sanitary facilities. Snow storage for the project will be available on adjacent undeveloped properties under the same ownership, APN 015-113-014 and 015-113-010, and an easement for such use shall be recorded against the properties. A vehicular path of travel will be maintained along the premise's perimeter to access an ADA parking space, and parking for existing apartments. In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed.

- Michael Draper presented project and answered questions from the Commission.
- **The Public Hearing was opened at 10:04 a.m. and Chair Bush called for public comment.**
 - Applicant, Justin Walsh, testified and commented on his future intentions, safety of the premise, parking and snow removal. Mr. Walsh responded to questions from Commission.
- **The Public Hearing and public comment was closed at 10:18 a.m.**
- Michael Draper presented the revised conditions relating to the parking easements.
- **DISCUSSION**
 - Lizza: Made suggestions about striping paved parking to delineate spaces, and to delineate spaces for parking in unpaved portions if possible. Suggested a timeline of six years to either pave those spaces, redevelop, or apply for an extension for the unpaved parking. Applicant agreed to stripe existing paved parking, that repaving would be part of a redevelopment plan, and that five to six years is a good estimate for repaving.
 - Robertson: Discussed tandem parking. Condition was added to make tandem parking designated as employee parking only. Made comment regarding adding condition to memorialize having signage that designates residential parking and that loading will not take place during business hours. Commissioners Lizza and Lagomarsini agreed. Wendy Sugimura suggested adding a general condition and working out exact language at a later date. Commissioners agreed.
 - Lagomarsini: Agreed that loading and unloading should not occur during business hours but suggested adding something to the conditions in the event of unforeseen circumstances. Applicant replied they do not load or unload freight while others are there and has back-up plans in the event of unforeseen circumstances. Applicant noted he would be okay with adding language about not loading freight or leaving it more vague and affirmed he is here to be the best community member he can and make sure neighbors, employees and customers are happy. Commissioner Robertson stated that the way the conditions are stated meets the intention.

MOTION: Find that the project qualifies as a Categorical Exemption under CEQA guideline 15301 and instruct staff to file a Notice of Exemption; make the required findings as contained in the staff report; and approve Use Permit Modification 20-003 subject to Conditions of Approval, with additional conditions relating to 1) limiting the delivery schedule during operating hours, 2) designating residential parking along the backside of the market area, 3) delineating parking spaces closest to the paved ones with striping and the unpaved ones as applicant sees fit, and requiring paving within 6 years of the date of approval of this permit, leaving some of that language to planning staff consistent with discussion.

Lizza/Robertson. Roll-call vote – Ayes: Lizza, Robertson, Lagomarsini, Bush. Abstention: Roberts

6. REPORTS**A. DIRECTOR**

- Director Wendy Sugimura provided a report on the Tuesday, December 15 Board of Supervisors Public Hearing on Tioga Inn. Director Sugimura also provided a report on upcoming Director Reviews, as well as the June Lake Highlands project short-term rental eligibility.

B. COMMISSIONERS

- Lagomarsini: New District 2 Supervisor
- Robertson: Update on Mammoth Lakes Housing Rental Assistance Program
- Lizza: Administrative appeal regarding abandoned house in Long Valley
- Bush: Update on Mountain View Fire
- Roberts: No report

7. INFORMATIONAL**8. ADJOURN** to regular meeting January 21, 2021.

Prepared by Becky Peratt, Planning Commission clerk

Mono County Community Development Department

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February 18, 2021

To: Mono County Planning Commission

From: Kelly Karl, Associate Planner

Re: Use Permit 20-006/Schott & Reedy

RECOMMENDATION

It is recommended the Planning Commission take the following actions:

1. Find that the project qualifies as a Categorical Exemption under CEQA guideline 15303 and instruct staff to file a Notice of Exemption;
2. Make the required findings as contained in the project staff report; and
3. Approve Use Permit 20-006 subject to Conditions of Approval.

BACKGROUND

Approval of an accessory use prior to a main use requires a Director Review permit. The existing 116-square foot (sf) shed is exempt from a building permit and the subject of a formal complaint filed with Mono County Code Compliance for an accessory use prior to the main. A Notice of Violation was issued in 2020 (Attachment 1). To abate the violation, the property owners were advised to submit a Use Permit application for the non-compliant accessory use. A Use Permit application was submitted on August 3 and after which the project was downgraded to a Director Review due the minor nature of the project and a subsequent Director Review application was submitted on August 26. The Director Review application was accepted by the Land Development Technical Advisory Committee (LDTAC) on September 9. Shortly after the LDTAC meeting, staff received public comments from neighboring property owners expressing concern about the project. The project was then upgraded to a Use Permit due to the significant number of comments received that indicated that this project was controversial to the neighborhood (Attachment 2).

PROJECT DESCRIPTION

UP 20-006/Schott & Reedy would permit a 116-sf existing non-permitted shed to remain at 3858 Crowley Lake Drive (APN 060-150-004) as an accessory use prior to the construction of the main residential use (see Figure 3, Site Plan). The parcel is over an acre (~1.04-acre) in size and is designated Single-Family Residential (SFR). The shed was constructed in 2020 by the property owners and came to the attention of Code Enforcement when a formal complaint was submitted. The shed is exempt from a building permit under the California Building Code because it is less than 120-sf and has no utility connections (e.g., water and power) and would have been permitted outright if a main use had existed on the property. The property owners are seeking a Use Permit to allow the shed to remain on the property while they move forward

with the design process for the main residence. The parcel is surrounded by SFR-designated parcels to the south and west and Mixed Use (MU) parcels to the north and east (see Figure 2).

A site visit was conducted by Planning and Code Compliance staff on September 30, 2020, to verify site conditions (see Site Photo 1). Staff verified that there are no utility connections to the existing structure and that the structure is mostly complete except for exterior siding. Code Compliance verified that the existing shed is 30' from the Hilton Creek tributary stream that passes through the parcel. The applicants' intended use of the shed, per their Use Permit application, is "storage for tools and personal items, building materials in preparation for main house build."

The order of development occurring on this parcel is resulting in the shed triggering standards that are typically associated with a main use. In a more traditional development scenario, the main use would have been constructed first which would have been subject to General Plan development standards and a building permit which includes a Long Valley Fire Protection District will serve letter. The shed in this scenario would not have required a building permit and no part of this project would have been subject to County approval.

FIGURE 1: PROJECT LOCATION



FIGURE 2: PROJECT LAND USE DESIGNATION



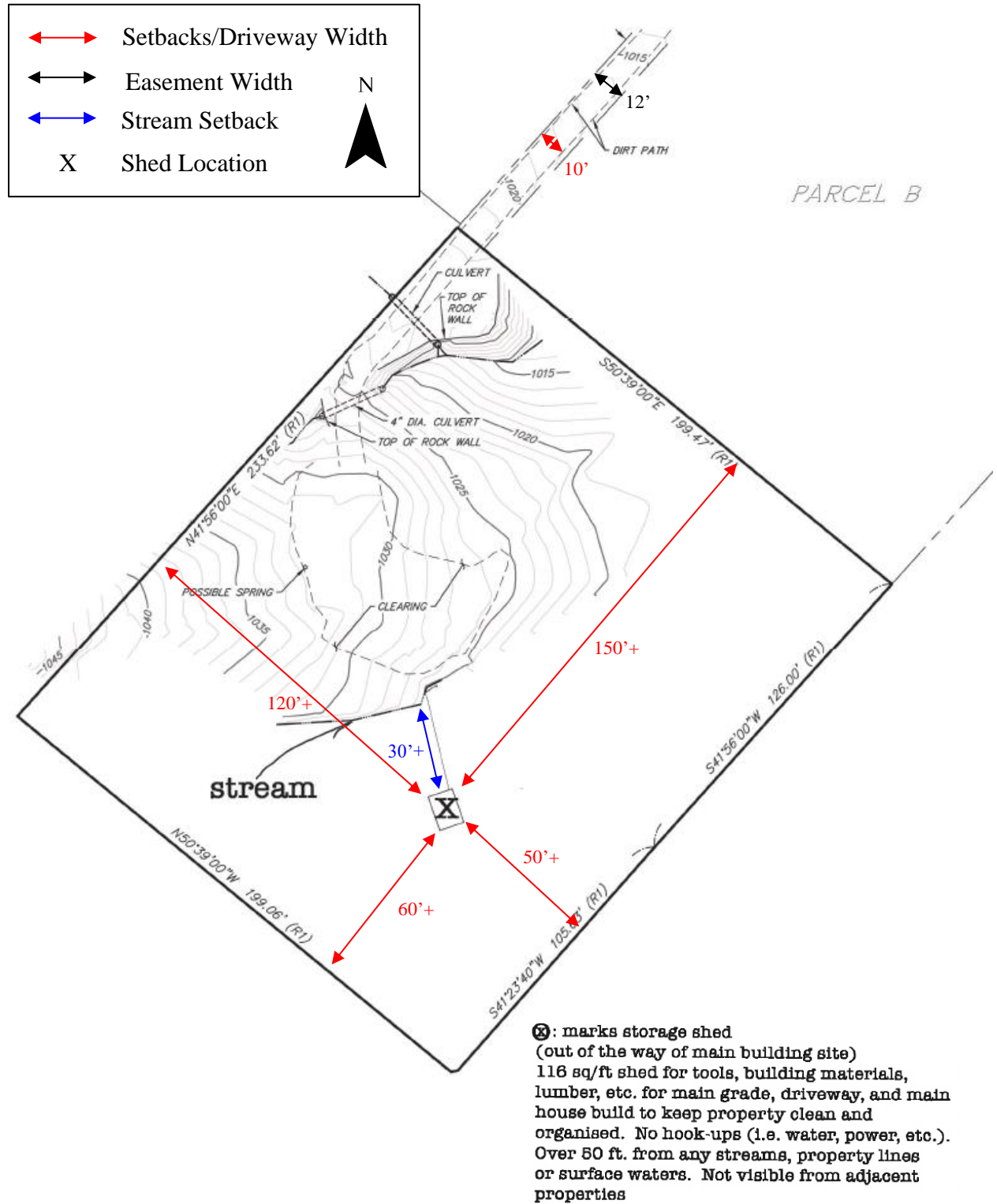
SITE PHOTO 1 – 09/30/2020



Existing 116-square foot shed, looking west.

UP 20-006/Schott & Reedy

FIGURE 3: SITE PLAN



LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE (LDTAC)

The LDTAC reviewed and approved a Director Review application for processing on September 9, 2020. The draft conditions of approval for this project were reviewed and approved with edits by LDTAC on February 1, 2021. LDTAC members did not have edits to the final conditions of approval, however, the Long Valley Fire Protection District and a member of the public submitted verbal comments and requested additions to the conditions of approval.

Below is a summary of comments received during LDTAC:

- Long Valley Fire Protection District:
 1. Locked Gate Access: The District requested that a copy of the key to the lock that holds the chain across the driveway be provided to allow emergency access to the parcel should they be required to respond to an incident on the parcel.
 2. Driveway Access: The District cited concerns that the driveway does not meet driveway width and surface material load capacity requirements for safe and effective emergency access to the parcel.
 3. Hazardous Fuels: The District cited concerns about hazardous vegetation on the property. In particular, the encroaching vegetation along the driveway might prevent proper emergency access and the heavy fuel loading immediately adjacent to the existing shed could increase fire hazard risk.
 4. Storage of Hazardous Materials: The District is concerned about the potential storage of hazardous materials in the shed (such as: gasoline, paint thinner, etc.) as storage of these materials will increase the fire risk to the project parcel as well as neighboring parcels.
 5. Emergency Water: The District noted that an emergency water source will be needed as the property owners proceed to the Building Permit process for the main residence.
- Public Members:
 6. Storage of Hazardous/Flammable Materials: A member of the public cited concerns that the potential storage of hazardous and flammable materials in the shed could increase the fire hazard of the parcel and the surrounding properties.
 7. Hazardous Fuels: A member of the public cited a concern for the fuel loading on the property.
 8. Illegal Construction: A member of the public cited concerns about approving an illegally constructed shed through the Use Permit process.

The concerns above are addressed as follows:

1. Locked Gate Access: The property owners confirmed that the chain across the driveway located at the driveway entrance does not have a lock. The chain across the driveway is simply wrapped around the tree to indicate private property and deter potential trespassers (see Owner Site Photos #1 and #2 below). Access to the parcel by the Fire Protection District is not impeded by a lock.

In addition, the easement that allows access to the project parcel does not allow the property owners of 3858 Crowley Lake Drive to place a chain across the section of driveway that is on their neighbor's property. A condition of approval for this project will require the property owners of 3858 Crowley Lake Drive to either obtain

- permission for the chain to remain from the property owners at 3860 Crowley Lake Drive or move it to the section of driveway that is on their property.
2. Driveway Access: The driveway will be required to meet current standards in land Use Element Chapter 22, Fire Safe Regulations, including but not limited to, surface material load capacity, driveway width, and turnout requirements as part of the Building Permit for the future residence.
 3. Hazardous Fuels: Maintaining proper horizontal and vertical clearance along the driveway is required for this project and minor vegetation clearance pertinent to an unoccupied storage structure is also required. However, the defensible space requirement is not required for an unoccupied shed and will only be required as part of the building permit for the residence. Please see the sections below on driveway vegetation clearance and hazardous fuels reduction requirements near the shed for a more detailed analysis.
 4. Storage of Hazardous Materials: The utility occupancy in the Building Code includes one-story detached accessory structures and is the same occupancy classification that is applied to residential garages. As long as typical household substances associated with residential uses such as gasoline, thinners, etc. are stored in approved containers in an approved environment and in reasonable quantities, they are permitted to be stored in the shed just as they would be permitted to be stored in a residential garage. The storage shed does not have an electrical hook-up which should further reduce the likelihood of ignition of any flammable substances from an electrical source. In addition, this project will be required to adhere to hazardous fuels reduction conditions immediately around the shed to further reduce the fire hazard (see analysis in the Fire Safe Regulations section below).
 5. Emergency Water: This standard will be required as part of the building permit for the main use. Please see Emergency Water section below for a detailed analysis.
 6. Storage of Hazardous/Flammable Materials: Please see Item 4 above.
 7. Hazardous Fuels: Please see Item 3 above.
 8. Illegal Construction: The subject of this use permit is related to a Notice of Violation for construction of an accessory use prior to a main use; however, it should be noted that the property owners contacted the Community Development Department prior to constructing the shed to ask whether a building permit was required for a shed under 120-square feet without utilities. Staff indicated that a building permit is not required in this case but were unaware no primary use existed on the parcel. Regardless, the SFR designation allows for the construction of an accessory use prior to a main use subject to approval of a use permit by the Planning Commission.

PROPERTY OWNER SITE PHOTO #1 – 02/10/2021

Existing chain across the driveway entrance at the junction with Crowley Lake Drive looking towards the property.

PROPERTY OWNER SITE PHOTO 2 – 02/10/2021

Existing chain across the driveway is wrapped around a nearby aspen without a lock.

PUBLIC HEARING NOTICE

A hearing notice was published in the January 30, 2021, edition of The Sheet. Notices were also mailed January 25, 2021, to property owners within a 300' radius of the site (Attachments 3 & 4). Initial comments were received shortly after application acceptance, however, as of the drafting of this staff report one comment has been received (Attachment 6).

INITIAL COMMENTS RECEIVED (SEPTEMBER)

As noted above, a number of comments from neighboring property owners were received shortly after the LDTAC application acceptance (Attachment 2). Comments from two neighboring property owners and the Long Valley Fire Protection District are included in the packet. However, it should be noted that a third neighboring property owner commented initially and requested to remove their comments from any future formal comment packet provided to the Planning Commission.

Comment 1 – Opposed based on the following:

1. Tiny Home: One commenter cited concerns that the existing structure on the parcel was being used as a tiny home by the property owners.

Comment 2 – Opposed based on the following:

2. Fire Hazards: One commenter cited concerns regarding existing fire hazards on the property and the use of chainsaws and generators (which require gasoline – a flammable substance) and no infrastructure exists to suppress any potential fire. The same commenter noted concerns about the existing driveway not meeting emergency access/egress requirements for the Fire Protection District.
3. Camping & Improper Use of Stream: Concerns were also expressed regarding the property being camped on illegally without proper sanitation facilities and the potential impacts to and improper use of the creek that runs through the property.

Comment 3 – Long Valley Fire Protection District:

4. Relevant Fire Codes: The LVFPD submitted a letter with no stated opinion (in support or opposition) about the project that provided a list of fire codes the parcel and specifically the U/Group R-3 occupancy must abide by.

These concerns are addressed as follows:

1. Tiny Home: The existing structure lacks utilities and is intended to be used by the property owners as a storage shed for personal property as well as building materials and supplies for construction of a main residence. Storage sheds are classified as a utility occupancy and this type of occupancy is prohibited from being used as a habitable structure. A condition of approval for this project prohibits living on the property prior to receiving a certificate of occupancy for the main residence.
2. Fire Hazards: Please see analysis in Fire Safe Regulations section.
3. Camping & Improper Use of Stream: A condition of approval for this project prohibits living on the property prior to receiving a certificate of occupancy for the main residence. A condition of approval for this project requires compliance with Lahontan Regional Water Quality Control Board water quality regulations.

4. Relevant Fire Codes: LVFPD provided relevant fire codes as a reference for this project which will be required through the building permit, which will also require a will-serve letter from the fire district.

COMMENTS RECEIVED (RECEIVED BY FEBRUARY 10)

One additional comment opposed to the project was received by staff by the February 10 publishing deadline (Attachment 6).

Comment 1 – Opposed based on the following:

1. Violation Precedent: Concerns over issuing the permit and forgiving the existing violation as potentially setting a precedent for future violations and continued noncompliance with codes and laws. Based on the above the commenter asserts that removing the shed from the property is the correct solution.

These concerns are addressed as follows:

1. Violation Precedent: The General Plan, specifically the SFR designation, allows for approval of an accessory use prior to a main use through the Planning Commission's approval of a use permit. A common means for remedying a Code Violation is to apply for a use permit to approve the noncompliant accessory use prior to a main use. There is a well-established history of other storage structures throughout the County that have applied for a use permit approval to abate this type of violation.

WETLANDS

The project parcel is in a potential wetland area (see Figure 4) and construction activities in wetlands are regulated by the U.S. Army Corps of Engineers (USACE) and Lahontan Regional Water Quality Control Board (LRWQCB). Construction projects in wetland areas are typically required to obtain a Nationwide Permit 29 from the USACE and a Clean Water Act Section 401 Water Quality Certification from LRWQCB. Both agencies were formally notified about this project and the comment received from USACE is included in Attachment 5.

USACE determined that the shed does not require authorization from the USACE; "based on the pictures and plans I've determined the shed is not a discharge of dredged or fill material nor does it have the effect of fill. Consequently, the shed does not require authorization for the Corps." In addition, the USACE noted that the property owners have already reached out about permitting the single-family residence.

LRWQCB was notified but did not submit a formal determination on whether a Clean Water Act Section 401 Water Quality Certification is required for the existing shed. A condition of approval for this project requires the property owners to obtain proper approval from LRWQCB for the existing shed.

Mono County has policies in both the Land Use Element and the Conservation/Open Space Element that encourages protection of wetlands and coordination with LRWQCB & USACE as the agencies with jurisdiction over construction in wetland areas. Therefore, while the County typically adds a condition for compliance with these agencies, the Mono County approval is not withheld for a determination. The project applicant/owner is responsible for obtaining required approvals, and the agency is responsible for enforcing its own regulations.

MONO COUNTY LAND USE ELEMENT, LONG VALLEY AREA PLAN WETLANDS POLICIES

Policy 21.C.3. Preserve, maintain and enhance surface and groundwater resources in the planning area.

Action 21.C.3.c. Develop a Special Area Management Plan⁹ in cooperation with the US Army Corps of Engineers for wetlands in Long Valley.

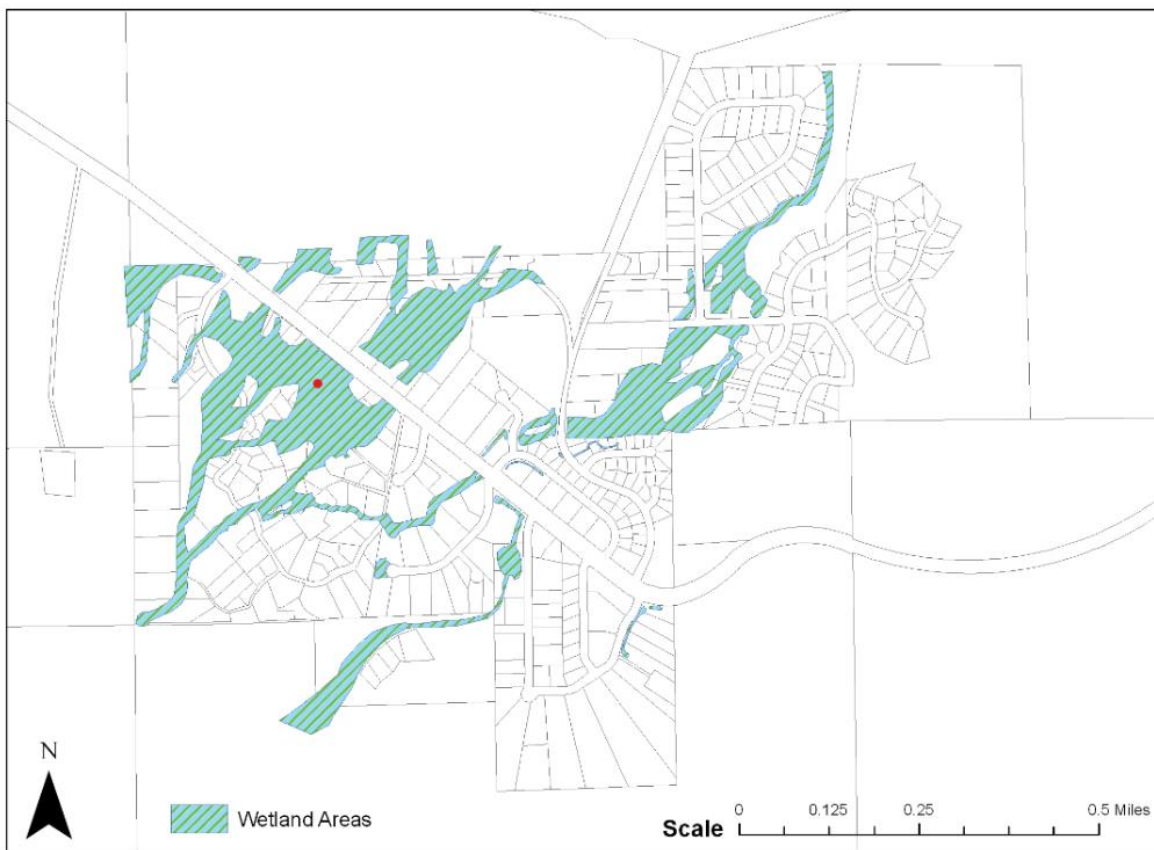
MONO COUNTY CONSERVATION/OPEN SPACE, WETLANDS POLICIES

Policy 4.A.7. Continue to support “no net loss” of wetlands at a regional scale.

Action 4.A.7.a. Establish policies for the management of wetlands in Mono County, including cooperation and compliance with state and federal agencies that manage wetlands.

Action 4.A.7.b. Continue collaborating with applicable agencies to monitor the status of wetlands, such as annual reporting to the Lahontan Regional Water Quality Control Board.

FIGURE 4: CROWLEY LAKE WETLAND AREAS



Project parcel location indicated with red dot.

STREAMS, CREEKS, & WATERWAYS

In addition to the wetlands discussed above, the project parcel also has a tributary stream that passes through the parcel. The California Department of Fish and Wildlife (CDFW) requires any

person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or
- Deposit or dispose of material into any river, stream, or lake.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. CDFW was formally notified about this project and CDFW's comment is included in Attachment 5. CDFW was unable to determine based on information included in the formal notification sent by County staff whether an LSA would be required for this project and requested that the property owners submit an LSA notification via CDFW's Environmental Permit Information Management System (EPIMS) portal.

FIRE SAFE REGULATIONS

Mono County's fire safe standards are set forth in the Mono County General Plan, Land Use Element, Chapter 22, Fire Safe Regulations. However, the State Board of Forestry and Fire Protection is in the process of completing a legislatively mandated comprehensive update to Title 14 of the California Code of Regulations, Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 "State Minimum Fire Safe Regulations." The 2021 update to Title 14 is anticipated to be completed in June or July of this year which will supersede all regulations in Mono County's existing Chapter 22. The fire safe regulations analyzed in this section reference the current Chapter 22 standards and the conditions of approval related to fire safe standards use the phrase "most recently adopted standard" to mean the standards in effect when a building permit is submitted for the main residence (i.e., Chapter 22 or the 2021 version of Title 14).

Existing Driveway & Vegetation Clearance

The existing access to the project parcel is provided via an approximately 350' long dirt driveway that is 10' wide and well below the maximum grade of 16%. To access the project parcel, the existing driveway crosses through a neighboring parcel (3860 Crowley Lake Drive) via a 12' wide easement for "ingress, egress and road purposes over the northerly 12 feet" of the parcel. There is a chain in place across the entrance to the driveway that is wrapped around a nearby aspen as a deterrent to trespassing. There is no lock holding the chain in place, so it does not prevent emergency access by the LVFPD. However, the existing access easement does not allow placement of a chain so the property owners of 3858 Crowley Lake Drive will need to either obtain permission from their neighbors for the chain to remain in its current location or move the chain to the section of driveway at the entrance to their property.

General Plan Land Use Element Section 22.110.J. of Chapter 22, Fire Safe Regulation, requires that all driveways be constructed to provide a minimum of one 10-foot traffic lane. The existing access is compliant with this standard per the site plan (Figure 3). Per section 22.150.B. of Chapter 22, Fire Safe Regulations the minimum clearance requirements for driveway access is a minimum of 7' of unobstructed horizontal clearance from the centerline (for a total of 14' of horizontal clearance) and unobstructed vertical clearance of 15'. However, since the project parcel is accessed through a neighboring parcel (3860 Crowley Lake Drive) via a 12' wide easement the property owners cannot meet the full horizontal clearance standard as it extends past the boundary of their easement on a neighbor's property. Per section 22.150.B3., "no person shall be required to

maintain any clearing on any land if that person does not have the legal right to maintain that clearing.” Therefore, the project is required to meet a 12’ wide vegetation clearance on the section of driveway provided by the easement and shall be required to provide the full 14’ width on the section of driveway that occurs on their property. The 15’ vertical clearance will be required on the entire length of the driveway.

Defensible Space Standards

In addition to the vegetation clearance required for proper emergency access/egress on the existing driveway, defensible space clearance will also be required near the existing shed. Per section 22.150.A.2.(b)-(c), dead or dying tree branches adjacent to or overhanging a building as well as any leaves, needles, or other vegetative growth on the roof of any structure need to be removed (full text below). Section 22.150.A.2.a. and d-f are not triggered for this project as it is not an occupied structure and a propane tank is not currently installed on the parcel. An optional condition of approval has been provided for consideration by the Planning Commission that would require flammable vegetation clearance within 30 feet of the shed (section 22.150.d.). However, implementing this requirement may be problematic since the 30’ clearance requirement abuts the existing creek and could impact wetlands and the existing streambed which are under the authority of the USACE, LRWQCB, and CDFW.

- “2. The existence or maintenance of any of the following conditions is prohibited:*
- a. Tree branches within 10 feet of a chimney outlet or stovepipe outlet;*
 - b. Dead or dying tree branches adjacent to or overhanging a building;*
 - c. Leaves, needles, or other dead vegetative growth on the roof of any structure;*
 - d. Flammable vegetation or other combustible growth within 30 feet of an occupied dwelling or structure that prevents the creation of a firebreak;*
 - e. Brush, flammable vegetation, or combustible vegetation located between 30 and 100 feet of an occupied dwelling or structure that prevents the creation of a Reduced Fuel Zone; or*
 - f. Brush or other flammable material within 10 feet of a propane tank.”*

Driveway Turnout Standard

The driveway is approximately 350’ in length and is existing nonconforming with the requirement for turnouts on driveways exceeding 150’ in length. General Plan Land Use Element Section 22.110.J. of Chapter 22, Fire Safe Regulation, requires driveways exceeding 150’ in length to provide a turnout near the midpoint of the driveway. Turnouts are required to be a minimum of 12’ wide and 30’ long with a minimum 25’ taper on each end. A turnout near the midway point of the driveway will not be possible for this project due to the halfway point occurring on the neighboring property and the width of the access easement on that property does not allow for a turnout to be legally constructed in that area. The property line occurs at approximately 246’ from the junction with Crowley Lake Drive (Figure 5, below), the precise halfway point for the approximately 350’ driveway would be at 175’ from the junction with Crowley Lake Drive. This requirement will be triggered as part of the Building Permit for the future main residence as the existing shed is a utility occupancy that does not allow for habitation and thus, will not create a need for occupants to evacuate in the case of an emergency. Additionally, the vegetation clearance requirements discussed above should allow for proper emergency access/egress by the Long Valley Fire Protection District should they need to respond to an incident on the parcel.

FIGURE 5: DRIVEWAY TURNOUT MEASUREMENTS

The most recently adopted standard for driveway access and turnouts will be applied to this project when the building permit application for the main residence is submitted. Four options for future compliance with the turnout requirement are provided below, however selecting an option is outside the purview of this use permit and will be completed at the building permit stage:

1. Option 1: The property owners can work with the owners of 3860 Crowley Lake Drive to adjust the existing easement to allow for the additional dimensions necessary to implement a turnout near the midway point of the driveway.
2. Option 2: A turnout could be provided close to the property line at 246' (a 71' difference from the true midpoint of the driveway). Given the constraints of the easement, such a turnout could be deemed to meet the intent of the Chapter 22 regulations and must be approved by the LVFPD through a will-serve letter for the building permit.
3. Option 3: The property owners could apply to CALFIRE for an exception to the turnout standard. An exception is defined in section 22.091 as “an alternative to the specified standard requested by the applicant that may be necessary due to health, safety, environmental conditions, physical site limitations or other limiting conditions, such as recorded historical sites, that provides mitigation of the problem.”
4. Option 4: The property owners could apply for an exemption to the turnout standard. One possible exemption is for the property owners to present documentation that the parcel was created before January 1, 1991 by a parcel map or tract map and that conditions relating to the perimeters and access to the buildings were imposed by the parcel map or final tentative map.

Driveway Surface

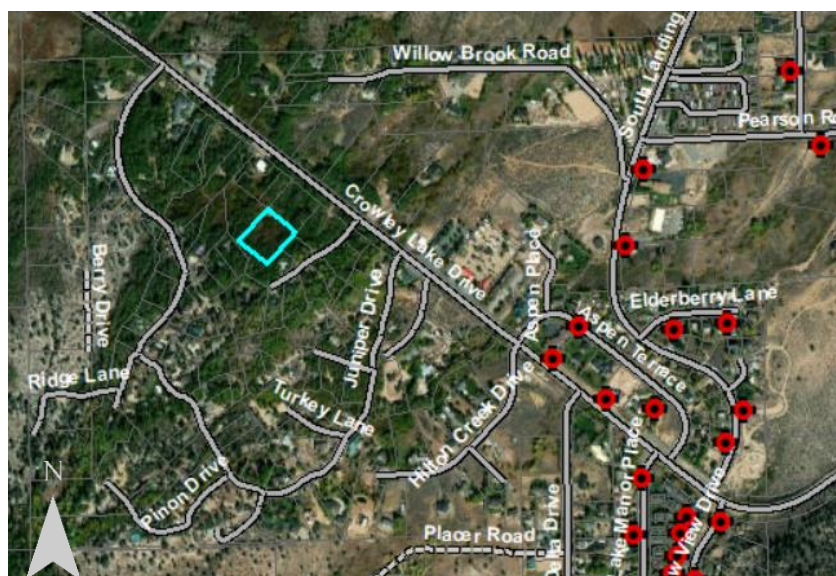
The existing access to the parcel is currently nonconforming with driveway surface standards. Section 22.110.B. specifies that driveways be designed and maintained to support at least 75,000 pounds and provide an aggregate base. To meet this standard, the road surface of the existing access will need to be upgraded. A variety of driveway surface materials could be used to meet

this standard, provided that the engineering specifications that indicate this surface material can support the required load is submitted to the Community Development Department. This requirement will be triggered as part of the Building Permit for the future residence and will be subject to the load requirement specified in the most recently adopted regulations.

Emergency Water Standards

Per section 22.130.A. of Chapter 22, Fire Safe Regulations (full text below) emergency water standards apply to all parcels being developed in Long Valley. The project parcel is located in an area without access to fire hydrants (see Figure 6) and installation of a water tank is the most common way to meet emergency water standards. However, there are a variety of ways to meet this standard. Per section 22.130.B., “such emergency water may be provided in a fire agency mobile water tender, or naturally occurring or man-made containment structure, as long as the specified requirement is immediately available.” Due to the existence of wetlands and a creek on the property, proper placement of any emergency water source will require consultation and approval from the USACE, LRWQCB, & CDFW. In addition, proper placement of an emergency water source will also need to take into account the buildable area of the future main residence, the driveway requirements discussed above (turnout, width, and an upgraded driveway surface), as well as coordinating with LVFPD for proper placement for the best access for emergency use. Thus, including the emergency water source as part of the Building Permit process for the main residence allows for proper site planning. The water source will be required to meet the National Fire Protection Associate (NFPA) 1142, “Standard on Water Supplies for Suburban and Rural Fire Fighting” 2012 Edition.

FIGURE 6: CROWLEY LAKE HYDRANT LOCATIONS



CEQA COMPLIANCE

This Use Permit qualifies for a Class 3 Categorical Exemption under CEQA Guideline 15303(e):

CEQA Guidelines 15303 construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are

the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone may be constructed or converted under this exemption.

(e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

This project qualified as a Class 3 exemption because it consists of the installation of a small accessory structure and the use of a storage shed is not substantially different from the use of other non-occupied structures such as a garage, which is specifically listed as exempt. The property owner will also be required to obtain proper approval for construction in wetlands and near streams/waterways from the USACE, LRWQCB, & CDFW and comply with any mitigation or remediation requirements from these agencies. The project is not expected to cause any significant environmental impacts.

GENERAL PLAN CONSISTENCY

The project is consistent with the intent and permitted uses of Single-Family Residential (SFR) land use designation, which permits construction of a secondary use (e.g., a storage shed) prior to the main use with approval of a Use Permit.

The project is consistent with Countywide Land Use Policies that seek to accommodate future growth in a manner that preserves and protects the area's scenic resources by regulating future development in a manner that minimizes visual impacts. The project is consistent with Long Valley Area Plan Policies which seek to maintain, protect, and enhance the livability of community areas.

MONO COUNTY LAND USE ELEMENT, COUNTYWIDE LAND USE POLICIES

Objective 1.A.

Accommodate future growth in a manner that preserves and protects the area's scenic, agricultural, natural, cultural and recreational resources and that is consistent with the capacities of public facilities and services.

Policy 1.A.6. *Regulate future development in a manner that minimizes visual impacts to the natural environment, to community areas, and to cultural resources and recreational areas.*

Action 1.A.6.a. *Implement the Visual Resource policies in the Conservation/Open Space Element.*

MONO COUNTY LAND USE ELEMENT, LONG VALLEY AREA PLAN POLICIES

The project is consistent with the following Long Valley Area Plan Policies:

Objective 23.B.

Maintain, protect and enhance the quality and livability of community areas.

Policy 23.B.1. *Preserve and enhance existing single-family residential uses.*

Action 23.B.1.a. *Future residential development in community areas shall have a minimum lot size of 15,000 sq. ft. except for areas adjacent to existing development with lot sizes of 7,500-10,000 square feet, where the minimum lot size may be 10,000 square feet if individual septic disposal systems are not required.*

SETBACKS

The existing shed meets the setback requirements for SFR parcels greater than one-acre in size which are 30' front, 30' side, and 30' rear setbacks. The waterway running through the property is a tributary of Hilton Creek and is USGS blue-line stream. Mono County's 30' stream setback requirement is triggered, and Community Development Department staff confirmed during a September 2020 site visit that the shed is more than 30' from the stream.

USE PERMIT FINDINGS

In accordance with Mono County General Plan, Chapter 32, Processing-Use Permits, the Planning Commission may issue a Use Permit after making certain findings.

Section 32.010, Required Findings:

1. *All applicable provisions of the Mono County General Plan are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features because:*
 - a. The parcel is adequate in size and shape to accommodate the existing 116-square foot storage shed as well as the future main use.
 - b. Lot coverage is well below the 40% maximum for the SFR designation.
 - c. The SFR designation allows for the construction of an accessory building prior to a main use with approval of a Use Permit.
 - d. The shed meets setbacks for the 30' front, side, and rear yard setbacks for the SFR designation.
 - e. The shed is setback more than 30' from the existing Hilton Creek tributary stream and meets County stream setback requirements.
2. *The site for the proposed use related to streets and highways is adequate in width and type to carry the quantity and kind of traffic generated by the proposed use because:*
 - a. No new impacts to streets and highways are expected from the construction of a 116-square foot storage shed. The existing dirt driveway will be required to meet current fire safe standards under a future building permit for the main residence. There are four options for this parcel to potentially comply with this requirement at the building permit stage.
3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area on which the property is located because:*
 - a. The shed is a minor property improvement that is typically exempt from planning and building permits because of the low likelihood that it would impact adjacent properties.

- b. Although already required by the General Plan, a condition of approval for this project prohibits camping or otherwise living on the property prior to construction of the main residence.
 - c. The construction of a main residence will require a building permit from Mono County as well as appropriate permits and approvals from LRWQCB, CDFW, and USACE.
 - d. The shed will be required to follow Mono County Design Guidelines, including the use of non-reflective materials and painting the shed a solid color that blends into the surrounding landscape (see Condition of Approval #5) which will mitigate potential visual impacts to surrounding property owners.
 - e. Proper storage of tools and supplies necessary for the construction of the primary residence will also be required as a condition of approval further minimizing any detrimental impacts to neighboring properties.
4. *The proposed use is consistent with the map and text of the Mono County General Plan because:*
- a. The SFR designation is intended to provide for the development of single-family dwelling units and permits the construction of accessory buildings prior to the main use with approval of a Use Permit. The shed will provide storage for personal items as well as tools and supplies for future home construction on the parcel consistent with the SFR designation.
 - b. The proposed use is not expected to cause significant environmental impacts or be detrimental to surrounding property.
 - c. The proposed use is consistent with the General Plan, the Long Valley Area policies, and Countywide land use policies.

This staff report has been reviewed by the Community Development Director.

ATTACHMENTS

- Attachment 1: Notice of Violation
- Attachment 2: Initial Public Comments (September)
- Attachment 3: Public Hearing Notice Mailer
- Attachment 4: Published Public Hearing Notice
- Attachment 5: USACE & CDFW Comments
- Attachment 6: Public Comment (Received by February 10)

MONO COUNTY**Planning Division****NOTICE OF DECISION & USE PERMIT****USE PERMIT:** UP 20-006**APPLICANT:** Matthew Schott & Melanie Reedy**ASSESSOR PARCEL NUMBER:** 060-150-004**PROJECT TITLE:** Accessory use (116-squaure foot storage shed) prior to construction of main use.**PROJECT LOCATION:** 3858 Crowley Lake Drive, Crowley Lake**CONDITIONS OF APPROVAL**

See attached Conditions of Approval

ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHELD AND SHALL BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

DATE OF DECISION/USE PERMIT APPROVAL: February 18, 2021**EFFECTIVE DATE USE PERMIT:** February 29, 2021

This Use Permit shall become null and void in the event of failure to exercise the rights of the permit within one (1) year from the date of approval unless an extension is applied for at least 60 days prior to the expiration date.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

MONO COUNTY PLANNING COMMISSION**DATED:** February 18, 2021

cc: X Applicant
X Public Works
X Building
X Compliance

CONDITIONS OF APPROVAL
Use Permit 20-006/Schott & Reedy

1. The project shall comply with provisions of the Mono County General Plan, Mono County Code, and project conditions.
2. The project shall comply with applicable requirements by other Mono County departments and divisions including, but not limited to, Public Works, Tax Collector, Sheriff's Office, Building Division, and Environmental Health.
3. Camping or living on the property is prohibited until the main residence has been constructed and receives a Certificate of Occupancy from the Building Division.
4. The shed is restricted to storage with a utility occupancy and is prohibited as habitable space.
5. The shed shall follow Mono County Design Guidelines, including the use of non-reflective materials. The shed shall be painted a dark solid color that blends into the surrounding landscape, vegetation, and/or structures.
6. A complete Building Permit application for the residence shall be submitted within (2) two-years of the decision date of this Use Permit. This submittal shall be compliant with the most recently adopted driveway standards (including but not limited to width, turnout, & surface load) as well as provide an emergency water source compliant with the most recently adopted standard.
7. The project is required to meet a 12' wide horizontal vegetation clearance on the section of driveway provided by the easement on the neighboring property and shall be required to provide the full 14' width on the section of driveway on the property. The 15' vertical clearance shall be required on the entire length of the driveway. Clearance must be maintained to allow for proper emergency access/egress by LVFPD.
8. The project shall remove dead or dying tree branches adjacent to or overhanging the storage shed as well as any leaves, needles, or other vegetative growth on the roof of the shed during non-snow months to reduce hazardous fuel loading immediately around the project site.
9. The property owners shall either obtain permission from the owners of 3860 Crowley Lake Drive for the chain across the driveway to remain in its current location or move it to the section of driveway on their property (3858 Crowley Lake Drive).
10. The property owners shall submit a Lake and Streambed Alteration (LSA) Agreement notification via California Department of Fish & Wildlife's Environmental Permit Information Management System (EPIMS) portal and receive any necessary approvals from this agency.
11. The property owners shall contact and receive Clean Water Act Section 401 Certification approval, if applicable, from the Lahontan Regional Water Quality Control Board for the existing shed.
12. Property shall be maintained in a neat and orderly manner. Storage of materials and equipment shall occur only within the storage shed.

13. Revocation: The Commission may revoke the rights granted by a use permit and the property affected thereby shall be subject to all of the provisions and regulations of the Land Use Designations and Land Development Regulations applicable as of the effective date of revocation. Such revocation shall include the failure to comply with any condition contained in the use permit or the violation by the owner or tenant of any provision pertaining to the premises for which such use permit was granted. Before the Commission shall consider revocation of any permit, the Commission shall hold a public hearing thereon after giving written notice thereof to the permittee at least 10 days in advance of such hearing. The decision of the Commission may be appealed to the Board of Supervisors in accordance with Chapter 47, Appeals, and shall be accompanied by an appropriate filing fee.
14. Termination: Per section 32.060 of the Land Use Element, a use permit shall terminate and all rights granted therein shall lapse, and the property affected thereby shall be subject to all the provisions and regulations applicable to the land use designation in which such property is classified at the time of such abandonment, when any of the following occur:
- There is a failure to commence the exercise of such rights, as determined by the Director, within two years from the date of approval thereof or as specified in the conditions. If applicable, time shall be tolled during litigation. Exercise of rights shall mean substantial construction or physical alteration of property in reliance with the terms of the use permit;
 - There is discontinuance for a continuous period of one year, as determined by the Director, of the exercise of the rights granted; and
 - No extension is granted as provided in Section 32.070.
15. Extension: If there is a failure to exercise the rights of the use permit within two years (or as specified in the conditions) of the date of approval, the applicant may apply for an extension for an additional one year. Only one extension may be granted. Any request for extension shall be filed at least 60 days prior to the date of expiration and shall be accompanied by the appropriate fee. Upon receipt of the request for extension, the Planning Division shall review the application to determine the extent of review necessary and schedule it for public hearing. Conditions of approval for the use permit may be modified or expanded, including revision of the proposal, if deemed necessary. The Planning Division may also recommend that the Commission deny the request for extension.

Optional Condition for Planning Commission Review:

1. Project shall clear flammable vegetation or other combustible growth within 30' of the storage shed and shall maintain such clearance.

ATTACHMENT 1: NOTICE OF VIOLATION

**Mono County
Community Development Department**

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1826, fax 924-1801
ncriss@mono.ca.gov

Compliance Division

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5424, fax 932-5431
jsuppa@mono.ca.gov

July 9, 2020

Melanie Reedy & Mathew Schott
PO Box 9157
Mammoth Lakes, CA 93546

NOTICE OF VIOLATION

Complaint No. 2020/020 – Regarding violations of the Mono County General Plan and the Mono County Code, 3858 Crowley Lake Drive, Crowley Lake, CA, Assessor’s Parcel No. 060-150-004.

To: Melanie Reedy & Mathew Schott,

The Mono County Compliance Division has received complaints regarding the unpermitted construction accessory structures on the aforementioned property. In response, the Mono County Compliance Division performed a site inspection and it was observed that a small accessory structure was in fact being constructed on site. Based on the recent inspection, the following violations were observed to exist on your property – Assessor Parcel No. 060-150-004:

Violation No. 1 – Mono County General Plan Section 04.020 – Uses Permitted

B. Buildings, structures and land **shall be used**, designed, erected, structurally altered or enlarged only for the purposes listed as permitted in the land use designation in which such building, structure or land is located, and then only after applying for and securing all permits and licenses required by law.

*Your property is designated Single Family Residential (SFR) within the Mono County General Plan Land Use Element. While accessory buildings and uses are generally permitted in the SFR designation, accessory buildings and uses customarily incidental to any of the permitted uses are permitted only when located on the same lot **and constructed simultaneously with or subsequent to the main building** or through the Use Permit process. At this time Mono County records indicate this is a vacant unimproved parcel and no use permit has been issued to construct an accessory structure prior to the main use. Construction or placement of accessory structures on vacant parcels without obtaining the required permits is a violation of Mono County General Plan Section 04.020.*

Violation No. 2 – Mono County Code Section 7.20.020 Nuisance Prohibition.

No person shall commit, create or contribute to the creation of a public nuisance in the county, nor shall anyone allow a condition constituting a public nuisance to exist on property in the county that is within their ownership or control. Mono County Code Section 7.20.010 D.1

UP 20-006/Schott & Reedy

defines a “Public Nuisance” as any violation of any provision of the Mono County Code, the Mono County General Plan, any county area or specific plan, airport land use plan, any variation or subpart of the foregoing, or any other land-use planning document duly approved by the board of supervisors or the planning commission. Mono County Code Section 7.20.010 D.4 defines a “Public Nuisance” as any violation of state law, including but not limited to the State Housing Law (commencing with Section 17910 of the California Health & Safety Code).

Violation 1 is determined to be “Public Nuisance” and is a violation of the Mono County Code Section 7.20.020.

You are hereby ordered to abate the violations and comply with the following directives:

Directive No. 1

On or before **August 14, 2020**, demolish and remove the accessory structure along with all associated demolition/construction material and debris from the property.

As per Mono County Code Sections 1.12.010, 1.12.020 and 1.12.030, failure to comply with a County Regulation may result in the issuance of an Administrative Citation (fines & penalties).

An Administrative Fine amounts to **\$100.00** per day for each violation of a County Regulation, applicable for each of the first five days of noncompliance. After the initial five-day period, the fine will then be **\$500.00** per day for each violation for each day thereafter.

If you have any additional questions or would like to schedule a site field meeting, please do not hesitate to call me at (760) 924-1826 M-F.

Thank you for your attention to this matter, and I look forward to your voluntary compliance with the Mono County codes.

Sincerely,

Nick Criss, Code Compliance Officer
Mono County Compliance Division

CC: File 2020/020
Wendy Sugimura, Community Development Director
Fred Stump, District 2 Supervisor

Via: Certified Mail:
Melanie Reedy & Mathew Schott
PO Box 9157
Mammoth Lakes, CA 93546

ATTACHMENT 2: INITIAL PUBLIC COMMENTS (SEPTEMBER)**COMMENT #1**

-----Original Message-----

From: Bill Mitchell <billmitchellconstruction@gmail.com>

Sent: Thursday, September 10, 2020 1:27 PM

To: Wendy Sugimura <wsugimura@mono.ca.gov>

Cc: Fred Stump <fstump@mono.ca.gov>

Subject: Reedy-Schott property illegal Structure

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Wendy, I am an adjacent property owner of the property under consideration for approval of what appears to be a Tiny Home disguised as a Shed. I would encourage you to definitely visit the structure so you can see for yourself the intended use. I recently sold a house which is also adjacent to 3858 Crowley Lake Drive, the address of the subject property. I would guess their property tax is north of \$600 per month. Their neighbors have attempted to build a tiny home illegally, pay no taxes for it, and use it for a getaway. You will have a very clear picture of the situation if you visit the site. Fred Stump will be happy to give you a tour. Also please touch base with Nick regarding my compliance requirements on my property.

Thank You for your attention to this issue. BILL AND MAGGIE MITCHELL

bmitchell iphone

COMMENT #2

From: Gordon Shaw <gshaw@qnet.com>
Sent: Monday, September 14, 2020 1:49 PM
To: Wendy Sugimura <wsugimura@mono.ca.gov>
Cc: Fred Stump <fstump@mono.ca.gov>; billmitchellconstruction@gmail.com; Kelly Karl <kkarl@mono.ca.gov>; Nick Criss <ncriss@mono.ca.gov>; 'Vince Maniaci' <longvalleyfd@gmail.com>
Subject: FW: Reedy-Schott property illegal Structure

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Wendy,

My name is Sharon Shaw and my property is located south of the Reedy-Schott property. We have a Juniper Dr. address. My husband Gordon and I would like to add our concerns with all the issues that Mr. and Mrs. Mitchell wrote you about as well as add a few of our own. I have served on the Long Valley Fire Protection Board of Commissioners for 26 years and was a firefighter prior to that for almost 4 years. Gordon served on the fire department for nineteen years. We have serious issues with the fire hazards that exist with no fire equipment access to the property. The use of chainsaws and generators (which require gasoline) on the property create a fire hazard and they have no way of putting out a fire should they create one. They have violated all the requirements to give the fire district proper access to their property. I believe that Chief Maniaci will be writing you regarding those violations. Additionally, I am the neighbor that witnessed the owner of the property bathing in the stream approximately 30 yards from the back of our deck. He was in his underwear and clearly saw me observe him. The following day a blue tarp had been placed over the stream where this occurred. The tarp has since been removed. This kind of behavior leads to many sanitation issues. There is no sewer connection from the property that I am aware of so where is sewage being disposed of? Thank you for your time regarding this matter.

Sharon and Gordon Shaw

COMMENT #3

From: Chief Vince Maniaci <longvalleyfd@gmail.com>
Sent: Wednesday, September 16, 2020 9:01 AM
To: Wendy Sugimura <wsugimura@mono.ca.gov>
Subject: Reedy-Schott

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Wendy,

Per my conversations with several Crowley Community folks; and reading the email chains, here are a few points of fire related issues they were referencing. Not sure to what extent the owners have submitted for their project but thought I could share what I could find. If you have any questions feel free to write or call. Thanks

Sincerely,

--

Chief Vince Maniaci
3605 Crowley Lake Drive
Crowley Lake, Ca. 93546

[]



Long Valley Fire Protection District

3605 Crowley Lake Drive •
Crowley Lake • California 93546-1145
Ph. 760.935.4545
longvalleyfd@gmail.com

September 14,2020

Reedy-Schott property

3858 Crowley Lake Dr.

Crowley Lake, CA 93546

All

I'm writing to follow up on the Reedy-Schott proposal. Several members of the community from Appleton-Juniper Loop have asked for clarification of Fire related codes this parcel must abide by. I offer the following brief description of just a few items which will need to be addressed prior to continuance of a Group U/ Group R-3 occupancy:

Mono County Chapter 22 -Fire Safe Regulations

Sections 22.010- 22.150

Mono county fire regulations on driveway and road design- standards and measurements.

California Fire Code.

Chapter 5

CFC 503.1-503.4 -fire apparatus access roads

CFC 505.1-premises identification street address numbers.

Chapter 3

CFC 313.1 -fueled equipment storage

CFC 315.1; 315.4 -general storage

Chapter 33

CFC 3310.1 access for firefighting.

CFC Appendix D

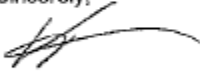
Chapter 57

CFC 5704.3.4.4-external storage of hazardous material

In addition to the above client should review requirements from California Code of Regulations Title 19 regarding extinguishers used in high hazard fuel loads during construction. WUI regulations of types of building materials.

If you have any further questions or would like me to elaborate on any of the above; please don't hesitate to contact me.

Sincerely,



Vince Maniaci

Fire Chief

Long Valley Fire Protection District

ATTACHMENT 3: PUBLIC HEARING NOTICE MAILER

Mono County Community Development Department Planning Division

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
commdev@mono.ca.gov

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that Mono County Planning Commission will conduct a public hearing **February 18, 2021**. As authorized by Gov. Newsom's Executive Orders, N-25-20 and N-29-20, the meeting will be accessible remotely by livecast at: <https://zoom.us/join> and by telephone at: 669-900-6833 (Meeting ID# is 991 4587 0745) where members of the public shall have the right to observe and offer public comment, to consider the following: **9:05 a.m. CONDITIONAL USE PERMIT 20-006/Schott & Reedy**. The proposal is for placement of a 116-square foot storage shed prior to construction of the primary residence at 3858 Crowley Lake Drive (APN 060-150-004) in Crowley Lake. The parcel is designated Single-Family Residential (SFR).

In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. Project materials are available for public review online at <https://monocounty.ca.gov/planning-commission> and hard copies are available for the cost of reproduction by calling (760) 924-1800.

INTERESTED PERSONS are strongly encouraged to attend the livecast meeting by phone or online, and to submit comments by **8 am on Wednesday, February 17** to the Secretary of the Planning Commission, PO Box 347, Mammoth Lakes, CA 93546 to ensure timely receipt, by email at cddcomments@mono.ca.gov, or via the livecast meeting (technology permitting). If you challenge the proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to Secretary to the Planning Commission at, or prior to, the public hearing.

For additional questions, please contact the Mono County Planning Division:

Kelly Karl, Associate Planner
PO Box 347
Mammoth Lakes, CA 93546
(760) 924-1809, kkarl@mono.ca.gov



ATTACHMENT 4: PUBLISHED PUBLIC HEARING NOTICE

MONO COUNTY PLANNING COMMISSION

PO Box 347
Mammoth Lakes, CA 93546
760.924.1800, fax 924.1801
commdev@mono.ca.gov

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

January 25, 2021

To: The Sheet
From: Becky Peratt
Re: Legal Notice for January 30 edition
Invoice: Becky Peratt, PO Box 347, Mammoth Lakes, CA 93546

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Mono County Planning Commission will conduct a public hearing on **February 18, 2021**. As authorized by Gov. Newsom's Executive Orders, N-25-20 and N-29-20, the meeting will be accessible remotely by livecast at: <https://zoom.us/join> and by telephone at: 669-900-6833 (Meeting ID# is 991 4587 0745) where members of the public shall have the right to observe and offer public comment, to consider the following: **9:05 a.m. CONDITIONAL USE PERMIT 20-006/Schott & Reedy**. The proposal is for placement of a 116-square foot storage shed prior to construction of the primary residence at 3858 Crowley Lake Drive (APN 060-150-004) in Crowley Lake. The parcel is designated Single-Family Residential (SFR). In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. Project materials are available for public review online at <https://monocounty.ca.gov/planning-commission> and hard copies are available for the cost of reproduction by calling 760-924-1800. INTERESTED PERSONS are strongly encouraged to attend the livecast meeting by phone or online, and to submit comments to the Secretary of the Planning Commission, PO Box 347, Mammoth Lakes, CA, 93546, by **8 am on Wednesday, February 17**, to ensure timely receipt, by email at cddcomments@mono.ca.gov, or via the livecast meeting (technology permitting). If you challenge the proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to Secretary to the Planning Commission at, or prior to, the public hearing.

###

ATTACHMENT 5: USACE & CDFW COMMENTS

USACE COMMENT

From: [Hidalgo, Gerardo L.CIV.USARMY.CESPL \(USA\)](mailto:Hidalgo_Gerardo.L.CIV.USARMY.CESPL@USA)
To: [Kelly Karl](mailto:Kelly.Karl)
Cc: [SPL Permit Inquiries](mailto:SPL.Permit.Inquiries)
Subject: RE: USACE Consultation for Mono County Use Permit Application
Date: Friday, January 8, 2021 3:17:29 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Kelly,

Based on the pictures and plans I've determined the shed is not a discharge of dredged or fill material nor does it have the effect of fill. Consequently, the shed does not require authorization for the Corps.

The property owners of 3858 Crowley Lake Drive (APN 060-150-004-000) have reached out about permitting the single-family residence. The property has received permits from the Corps in 2006 and 2012 to impact wetlands for the construction of a driveway and single family residence. However, these permits have expired and new permits are required.

Project proponents developing on potential wetlands should visit our website <https://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process.aspx> for more information on the permit process. We recommend project proponents complete a jurisdictional delineation (identifying and locating the geographic boundaries of jurisdictional Waters of the United States (including wetlands) on a property) and request a jurisdictional determination from the Corps to determine whether those areas are regulated by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. Receiving a jurisdictional determination is recommended when planning a project. The minimum standards for jurisdictional delineation reports are found here: https://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit_Process/Final%20Delin%20Report%20Standards%203-16-2017.pdf?ver=2017-03-24-115759-277.

Potential permits project proponents may apply for are Nationwide Permits (NWP). NWPs are for activities that will result in no more than minimal individual and cumulative adverse environmental effects. Here is a link to the current list of NWPs: https://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit_Process/Summary_Table_Final_2017%20NWPs_Jan%202017.pdf?ver=2018-06-21-171453-850. Permit applications (ENG4345 and PCN Form) are found on our website. Our permits have no fees. Our permits do require a 401 Water Quality Certification from the Regional Water Quality Control Board. Project proponents should contact the Lahontan Regional Water Quality Control Board for more information on the 401 WQC permit process.

I'm the primary POC for Mono County and project proponents can contact me with any questions.

Let me know if you have any questions.

Thanks,

Jerry Hidalgo
 Project Manager
 Regulatory Division, North Coast Branch
 Los Angeles District, U.S. Army Corps of Engineers
 60 South California Street, Suite 201
 Ventura, California 93001-2598
Gerardo.L.Hidalgo@usace.army.mil

Office: 805-585-2145
 Government Mobile: 213-320-8992

CDFW COMMENT

From: [Wildlife LSA](#)
To: [Kelly Karl](#); [Wildlife LSA](#)
Subject: RE: Lake and Streambed Alteration Consultation Request (Mono County)
Date: Thursday, December 24, 2020 11:46:08 AM
Attachments: [image001.png](#)

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Hi Kelly,

Thank you for contacting CDFW. Not being familiar with the natural resources or landscape in the area you described I could not provide an answer to whether or not the project would require a Lake and Streambed Alteration Agreement (LSA). My advice would be to have landowner submit an LSA notification to the Regional CDFW serving the area; that way the applicant would be covered under [Fish and Game Code 1602](#). If the project ends up not needing a permit, the Regional staff would provide a letter stating so.

As for how CDFW would like to be notified moving forward. CDFW recently converted to a completely online system for receiving LSA notifications and issuing LSA Agreements (permits) called EPIMS. Below is a link to the EPIMS website which provide enough information on the program to help you create your handout.

<https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>

I also wanted to add that I really appreciate the proactive approach you are utilizing. One thing I would like to suggest is to add a simple question on the county permit for applicants with streams on or around their projects.

Have you applied for or received a Lake and Streambed Alteration Agreement from the California Department of Fish and Wildlife?

Happy Holidays!

Jason Faridi

Senior Environmental Scientist (Specialist)
Lake and Streambed Alteration Program - Sacramento
Jason.Faridi@wildlife.ca.gov

ATTACHMENT 6: PUBLIC COMMENT (RECEIVED BY FEBRUARY 10)**COMMENT #1**

From: [Sharon Shaw](#)
To: [Kelly Karl](#)
Subject: Re: Use Permit20-006/Schott & Reedy
Date: Tuesday, February 9, 2021 12:37:26 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission Members,

My additional comments regarding the Use Permit20-006/Schott & Reedy property are as follows:

Having been informed at the last zoom meeting I attended that this permit is almost certainly going to be issued, I think that will send the wrong message to violators. It says do whatever you want and if you don't get caught that's great, but if you do get caught, no problem we will let you do it anyway. The first notice sent to these property owners was the correct solution. Take the building down that was illegally constructed and start over again following the codes and laws that are written to protect the community.

Hopefully the planning commission will set an example here instead of saying it's all right to ignore our codes and laws that protect the safety of others. If the owners are allowed to finish this shed instead of taking it down, why do we have the codes and laws in the first place?

Thank you

Sharon Shaw

Mono County Community Development Department

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
commdev@mono.ca.gov

Planning Division

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

February 18, 2021

To: Mono County Planning Commission

From: April Sall, Planning Analyst I

Re: Use Permit 21-001 / Hemminger

RECOMMENDATION

It is recommended the Planning Commission take the following actions:

1. Find that the project qualifies as a Categorical Exemption under CEQA guideline 15303 and instruct staff to file a Notice of Exemption;
2. Make the required findings as contained in the project staff report; and
3. Approve Use Permit 21-001 subject to Conditions of Approval.

BACKGROUND

The Mono County General Plan (MCGP) requires that all utilities be installed underground per Chapter 11 "Utilities" of the Land Use Element. Approval of overhead powerlines requires a Director Review permit prior to construction. The unauthorized installation of overhead powerlines along a private road in Coleville came to the Community Development Department's (CDD's) attention when an adjacent property received a formal complaint for a similar situation, resulting in an investigation by Mono County Code Enforcement. To provide a Certificate of Occupancy for the building permit for the single-family residence project, Code Enforcement required a Compliance Agreement to be signed that requires the property owner to either underground the lines or submit a Use Permit application for the non-compliant overhead powerlines. Per the requirement in Mono County General Plan §31.010 (MCGP), if a project is controversial, it is upgraded from a Director Review to a Use Permit. A Use Permit application was accepted by the Land Development Technical Advisory Committee (LDTAC) on January 20, 2021.

PROJECT DESCRIPTION

Use Permit (UP) 21-001 would permit the unauthorized installation of overhead powerlines at 194 Wunderlich Way (APN 002-440-029; Figure 1) in Coleville pursuant to the undergrounding exemptions provided in Chapter 11 – Utilities of the General Plan Land Use Element. Wunderlich Way is a private dirt road stemming off U.S. Highway 395 (US 395). The parcel is 9.57 acres and is designated Rural Residential (RR). The overhead power lines were installed in summer of 2019 to a 2,100-square foot (sf) single-family residence. An unpaved dirt driveway from Wunderlich Way provides access to the residence, and all yard setbacks and lot coverage requirements are met. Five overhead power poles were installed by Liberty Utilities at the owner's request (see Figure 2 and 4) extending the existing overhead power line service along Wunderlich Way. The line was then undergrounded the last 100 feet, as shown in the photo below (Figure 3). The electrical service was not installed as shown on the approved site plan under the building permit (see Attachment 1), which showed no overhead poles on the parcel and represented the entire line on the property would be undergrounded about 250-300 feet to Wunderlich Way.

The new overhead poles on Wunderlich Way resulted in a complaint, initiating an investigation. Code Enforcement contacted the owners informing of them of the requirements to underground all utilities serving an individual residence per the MCGP.



FIGURE 1. Project location: 194 Wunderlich Way, Coleville

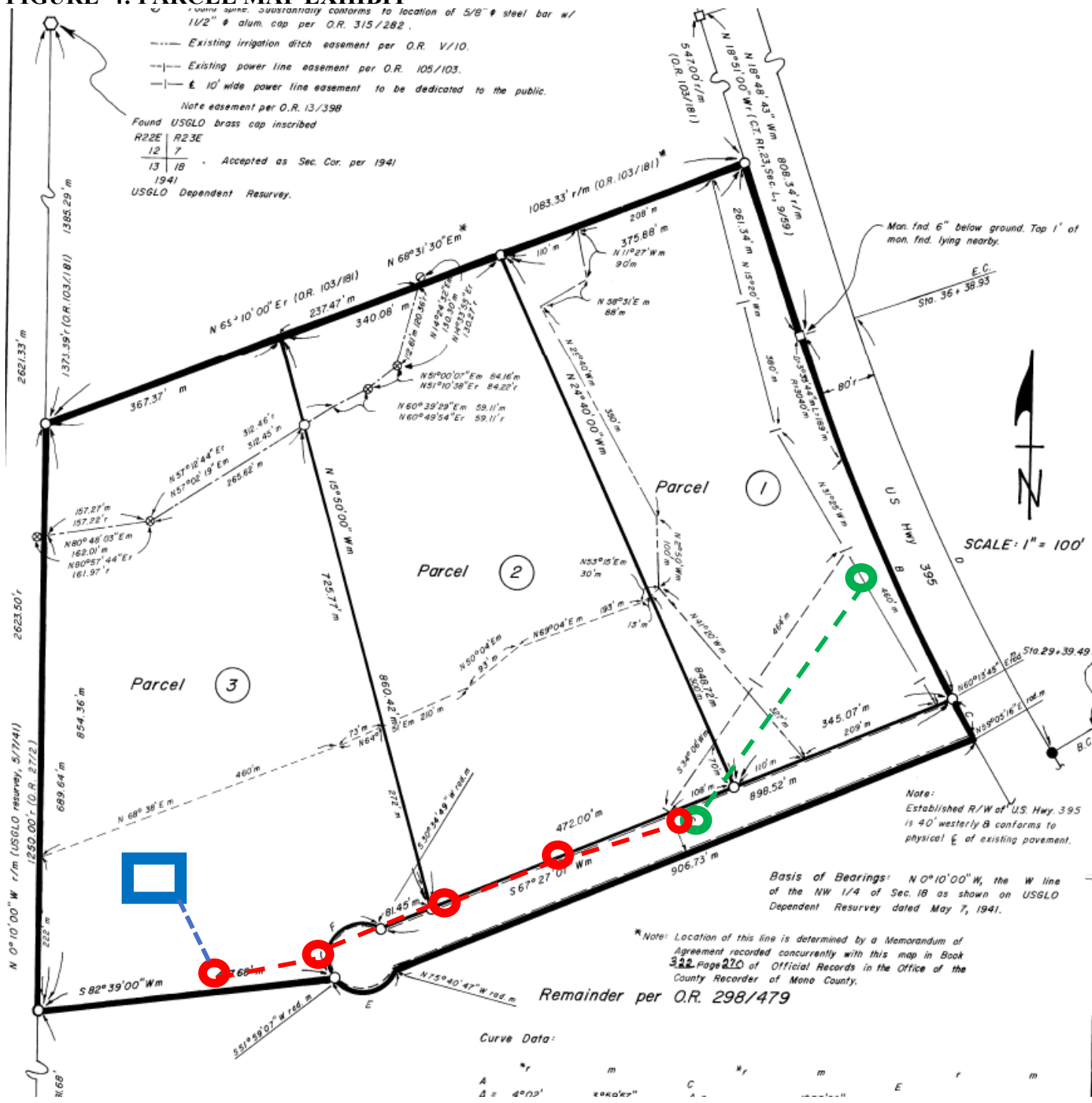


FIGURE 2: Hemminger Residence showing 3 of the 5 new unauthorized overhead power poles.



FIGURE 3: Hemminger Residence from the south looking north. Picture shows the last of the 3 poles and then the line is undergrounded the last 100+ feet to the residence.

FIGURE 4: PARCEL MAP EXHIBIT



- New overhead power line extension
- New Power poles
- Pre-existing/ original power poles
- Undergrounded line from last/5th new pole to house
- New Residence/ Hemminger

DISCUSSION

Chapter 11.010 Utilities requires lines to be undergrounded to an “Individual Development” but provides for overhead lines to be approved subject to a Director Review permit if at least one of four findings can be made.

D. Utility Distribution Lines to Individual Development.

Utility distribution lines to an individual development shall be installed underground, unless the applicant has obtained a Director Review permit with Notice for overhead installation, in the manner specified in Chapter 31, Director Review Processing. For projects that require a use permit, the application for overhead utility lines shall be processed as part of the use permit application.

Prior to considering issuance of a permit, planning staff shall work with the applicant to site and design the project in a manner that avoids or minimizes the use and impact of overhead lines. Consideration should be given to combining lines and co-locating with other applicable facilities whenever possible.

In granting a permit for overhead utility lines, the Community Development director (Director) or the Planning Commission (Commission) shall make at least one of the following findings in addition to the required Director Review or Use Permit findings, and shall also require anticipated impacts from all the findings be avoided, minimized, or mitigated to the extent possible:

1. *The overhead line placement will not significantly disrupt the visual character of the area. In making this determination, the Director or the Commission shall consider the following:*
 - a. *In areas without a number of existing overhead lines in the immediate vicinity, would overhead lines create the potential for a significant cumulative visual impact; i.e., would allowing an overhead line be likely to result in future requests for additional overhead lines in the area? If so, it may be determined that an overhead line will have a significant impact on the visual character of the area.*
 - b. *Does the topography or vegetation in the area effectively screen the proposed lines? If so, then an additional line may not significantly disrupt the visual character of the area.*
 - c. *Are there other potential alignments that would have less visual impact?*
 - d. *Does the project reduce the overall number of overhead lines and poles in the area; are the lines co-located with existing facilities; and/or do design features such as height of lines, size, color, reflectivity, tension in line, or other features reduce visual impacts? If so, it may be determined that an overhead line will not have a significant impact on the visual character of the area.*

The Director or the Commission may consider additional information pertaining to the visual character of the area that is deemed relevant to the application.

2. *The placement of utility lines above ground is environmentally preferable to underground placement and does not create public health and safety impacts. In making this determination, the Director or the Commission shall consider the following:*
 - a. *Will underground placement disturb an environmentally sensitive area, including but not limited to the following: cultural resource sites, significant wildlife habitat or use areas, riparian or wetland areas, or shallow groundwater? If so, above-ground placement may be preferable;*
 - b. *Will overhead placement cause impacts to sensitive species, such as the Bi-State Distinct Population Segment of Greater Sage-Grouse, or other environmental impacts? If so, above-*

ground placement may not be preferable, or perch deterrents and other mitigations may be required (see policies in the Conservation/Open Space Element);

- c. Will underground placement require disturbance of a waterway, including perennial, intermittent and seasonal streams? If so, above-ground placement may be preferable;*
- d. Will underground placement increase the utility line's exposure to environmental hazards, such as flood hazards, fault hazards or liquefaction? If so, above-ground placement may be preferable;*
- e. Are there other potential alignments that would avoid potential environmental impacts?; and*
- f. Are there adequate provisions for long-term maintenance and fire-hazard mitigation? If so, above-ground placement may be acceptable.*

The Director or the Commission may consider additional information pertaining to the environmental sensitivity of the area that is deemed relevant to the application.

- 3. The installation of underground utilities would create an unreasonable financial hardship on the applicant due to the unique physical characteristics of the property. In making this determination, the Director or the Commission shall consider the following:*

- a. Is the cost of the line to be installed excessive?*
- b. Will the installation of underground utilities require trenching under a stream bed?*
- c. Will the installation of underground utilities require unreasonable trenching or blasting through rock?*
- d. Are there alternate alignments that would eliminate or significantly lessen the financial hardship?*

The Director or the Commission may consider other site-specific financial hardships deemed relevant to the application.

- 4. The exclusive purpose of the overhead line is to serve an agricultural operation.*

For the purposes of this section, agricultural operations are defined as use of the land for the production of food and fiber, including the growing of crops and grazing of livestock. Above-ground utility lines may be permitted for agricultural uses such as pumps and similar uses.

- a. Impacts to sensitive species, such as the Bi-State Distinct Population Segment of Greater Sage-Grouse shall be avoided, minimized, or mitigated consistent with policies in the Conservation/Open Space Element.*

The applicant prepared a use permit application under provision 11.010.D.3. above for financial hardship and contacted Liberty Utilities and a private contractor to collect bids for undergrounding the existing service. After receiving bids, the applicant submitted a Use Permit application at the end of December.

The cost estimate for under grounding the utilities for this home site is approximately \$95,000 unless costs are shared with the adjacent property. The estimate includes approximately \$80,000 for trenching the underground and laying conduit, provided by Cruz Construction. In addition, there would be approximately \$15,000 additional cost to Liberty Utilities to pull approximately 700 feet of new line through the underground conduit.

If the costs were shared with the adjacent property owner, the estimate would be approximately \$77,500 in total cost (\$62,500 to trench and install the underground conduit by Cruz Construction – see Attachment 4 – and \$15,000 to Liberty Utilities).

Liberty Utilities is the utility company for Mono County north of Sonora Junction and Planning staff contacted them as part of this project. Liberty Utilities' position is that they are a contractor and the responsibility of following all MCGP requirements falls solely on the landowner. However, the building permit site plan indicates undergrounding of electrical lines "per Liberty Energy," which indicates the utility was aware of the requirement prior to installation. Regardless of Liberty Utilities' responsibility in this matter, the County's enforcement action for non-compliance is taken against a property owner. Staff will continue to outreach to Liberty Utilities on overhead line issues with the intent of reducing future compliance situations.

LAND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE (LDTAC)

The LDTAC reviewed and approved a Use Permit application for processing on January 20, 2021. The draft conditions of approval for this project were reviewed and approved by LDTAC on February 17, 2021.

PUBLIC HEARING NOTICE

A hearing notice was published in the February 6, 2021, edition of The Sheet (Attachment 2). Notices were also mailed February 3, 2021, to property owners within a 300' radius of the site (Attachment 3). No comments were received at the time this staff report was written.

GENERAL PLAN CONSISTENCY

The project is consistent with the intent and permitted uses of the Rural Residential (RR) land use designation which allows for a single-family residence. While the General Plan requires all utilities to be undergrounded to residences, Chapter 11 "Utilities" also allows power lines to go overhead with approval of a Director Review prior to construction. Again, because of the perceived controversy of this project, it was elevated to a Use Permit. The project is consistent with Antelope Valley Area Plan Policies which seek to maintain, protect, and enhance the livability of community areas.

CEQA COMPLIANCE

The project qualifies for a categorical exemption under California Environmental Quality Act (CEQA) Guideline 15303, New Construction or the Conversion of Small Structures. The exemption allows for construction of new facilities and water main, sewage, electrical, gas, and other utility extension of reasonable length to serve new construction.

CEQA Guidelines 15303 construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

Therefore, the extension of overhead utility lines to a new single-family residence as proposed under this use permit qualifies under this exemption.

USE PERMIT FINDINGS

In accordance with Mono County General Plan, Chapter 32, Processing-Use Permits, the Planning Commission may issue a Use Permit after making certain findings.

Section 32.010, Required Findings:

1. *All applicable provisions of the Mono County General Plan are complied with, and the site of the proposed use is adequate in size and shape to accommodate the use and to accommodate all yards, walls and fences, parking, loading, landscaping and other required features because:*

The property has a land use designation of Rural Residential (RR) which allows for residential uses, and the proposed use can comply with all applicable requirements of the RR designation and Land Development Regulations. In addition to the required Use Permit finding, overhead utilities require one of the four findings (see Discussion above for the list of options) to be made pursuant to Chapter 11 Development Standards – Utilities. This use permit is proposed under the finding for financial hardship, which requires the following findings (§11.010.D.3):

- a. *Is the cost of the line to be installed excessive?*

The cost estimate for undergrounding utilities to this home site is approximately \$95,000 total cost if costs are not shared with the adjacent property. The estimate includes approximately \$80,000 for trenching the underground line and laying conduit provided by Cruz Construction and a cost of approximately \$15,000 to Liberty Utilities to pull approximately 700 feet of new line through the underground conduit. See attached bids from Cruz Construction and letters from Liberty Utilities, Attachment 5.

If the costs were shared with the adjacent property owner, the estimate would be approximately \$77,500 in total cost (\$62,500 to trench and install the underground conduit by Cruz Construction and the \$15,000 to Liberty Utilities).

The cost of the home was in total about \$450,000 to construct, including approximately \$38,000 for the existing overhead lines. Cost estimates for undergrounding range from \$77,500 to \$95,000 and represent approximately 17-21% of the total home cost. If the Use Permit is denied and the applicant is required to underground the lines, they would absorb the initial overhead installation cost in addition to the undergrounding for a grand total of \$128,000 to \$133,000, or approximately 30% of the total home construction cost.

- b. *Will the installation of underground utilities require trenching under a stream bed?*
No, no streambeds exist along the path of underground trenching for this project.

- c. *Will the installation of underground utilities require unreasonable trenching or blasting through rock?*
No, however the soil type is rocky and gravelly from alluvial fan deposits for the top three to four feet.

- d. *Are there alternate alignments that would eliminate or significantly lessen the financial hardship?*
No, the proposed route is the most direct path available, with trenching occurring alongside Wunderlich Drive, a private road.

The Director or the Commission may consider other site-specific financial hardships deemed relevant to the application.

2. *The site for the proposed use related to streets and highways is adequate in width and type to carry the quantity and kind of traffic generated by the proposed use because:*
No new impacts to streets and highways are expected. The property has a residential land use designation, with a constructed single-family residence. The overhead or undergrounding of power is not expected to impact the traffic in any way.

3. *The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area on which the property is located because:*

The area is a residential neighborhood, and the original electrical services to this neighborhood were via overhead utilities. The addition of five new poles is not viewed as a significant visual impact since the existing area already has overhead utilities, and this is the last property on the road.

Fire hazard associated with overhead power lines has been an increasing concern and Mono County is aware of that risk. However, past incidents and increased risk appear to be associated more significantly with transmission lines that are under the jurisdictional authority of the Public Utilities Commission of California, which pre-empts Mono County authority, and not smaller distribution lines associated with individual developments under the County's jurisdiction.

4. *The proposed use is consistent with the map and text of the Mono County General Plan because:*
- The property has a land use designation of Rural Residential (RR). The existing use is for a single-family residence. This use permit analysis and the findings under 11.010.D.3 provides for the required findings to allow for the installation of an overhead line. The overhead power lines would result in a financial hardship if they were required to be installed underground.

The proposed use is consistent with the General Plan, the Antelope Valley Area policies, and Countywide land use policies.

This staff report has been reviewed by the Community Development Director.

ATTACHMENTS

- Attachment 1: Hemminger building permit site plan (BP18-001)
- Attachment 2: Published Public Hearing Notice
- Attachment 3: Public Hearing Notice Mailer
- Attachment 4: Construction bids from Cruz Construction and Liberty Utilities

MONO COUNTY
Planning Division
NOTICE OF DECISION & USE PERMIT

USE PERMIT: UP 21-001

APPLICANT: Dean Hemminger

ASSESSOR PARCEL NUMBER: 002-440-029

PROJECT TITLE: Conditional Use Permit 21-001/Hemminger

PROJECT LOCATION: 194 Wunderlich Way, Coleville, CA 96107

CONDITIONS OF APPROVAL

See attached Conditions of Approval

ANY AFFECTED PERSON, INCLUDING THE APPLICANT, NOT SATISFIED WITH THE DECISION OF THE COMMISSION, MAY WITHIN TEN (10) DAYS OF THE EFFECTIVE DATE OF THE DECISION, SUBMIT AN APPEAL IN WRITING TO THE MONO COUNTY BOARD OF SUPERVISORS.

THE APPEAL SHALL INCLUDE THE APPELLANT'S INTEREST IN THE SUBJECT PROPERTY, THE DECISION OR ACTION APPEALED, SPECIFIC REASONS WHY THE APPELLANT BELIEVES THE DECISION APPEALED SHOULD NOT BE UPHeld AND SHALL BE ACCOMPANIED BY THE APPROPRIATE FILING FEE.

DATE OF DECISION/USE PERMIT APPROVAL: February 18, 2021

EFFECTIVE DATE USE PERMIT: February 29, 2021

This Use Permit shall become null and void in the event of failure to exercise the rights of the permit within one (1) year from the date of approval unless an extension is applied for at least 60 days prior to the expiration date.

Ongoing compliance with the above conditions is mandatory. Failure to comply constitutes grounds for revocation and the institution of proceedings to enjoin the subject use.

MONO COUNTY PLANNING COMMISSION

DATED: February 18, 2021

cc: X Applicant
 X Public Works
 X Building
 X Compliance

CONDITIONS OF APPROVAL
Use Permit 21-001/Hemminger

- 1) Project shall comply with all Mono County Building Division, Public Works, and Environmental Health requirements.
- 2) If any of these conditions are violated, this permit and all rights hereunder may be revoked in accordance with Section 32.080 of the Mono County General Plan, Land Development Regulations.
- 3) Termination: A use permit shall terminate and all rights granted therein shall lapse, and the property affected thereby shall be subject to all the provisions and regulations applicable to the land use designation in which such property is classified at the time of such abandonment, when any of the following occur:
 - a. There is a failure to commence the exercise of such rights, as determined by the Director, within two years from the date of approval thereof or as specified in the conditions. If applicable, time shall be tolled during litigation. Exercise of rights shall mean substantial construction or physical alteration of property in reliance with the terms of the use permit;
 - b. There is discontinuance for a continuous period of one year, as determined by the Director, of the exercise of the rights granted; and
 - c. No extension is granted as provided in Section 32.070.
- 4) Extension: If there is a failure to exercise the rights of the Director Review within one year of the date of approval, the applicant may apply for an extension for an additional one year. Any request for extension shall be filed at least 60 days prior to the date of expiration and shall be accompanied by the appropriate fee. Upon receipt of the request for extension, the Planning Division shall review the application to determine the extent of review necessary. Conditions of Approval for the Director Review may be modified or expanded, including revision of the proposal, if deemed necessary. The Planning Division may also deny the request for extension. Exception to this provision is permitted for those Director Reviews approved concurrently with a tentative parcel or tract map; in those cases, the approval period(s) shall be the same as for the tentative map.
- 5) Revocation: The Commission may revoke the rights granted by a use permit and the property affected thereby shall be subject to all of the provisions and regulations of the Land Use Designations and Land Development Regulations applicable as of the effective date of revocation. Such revocation shall include the failure to comply with any condition contained in the use permit or the violation by the owner or tenant of any provision pertaining to the premises for which such use permit was granted. Before the Commission shall consider revocation of any permit, the Commission shall hold a public hearing thereon after giving written notice thereof to the permittee at least 10 days in advance of such hearing. The decision of the Commission may be appealed to the Board of Supervisors in accordance with Chapter 47, Appeals, and shall be accompanied by an appropriate filing fee.
- 6) Appeals: Appeals of any decision of the Planning Commission may be made to the Board of Supervisors by filing a written notice of appeal, on a form provided by the division, with the Community Development director within 10 calendar days following the Commission action. The Director will determine if the notice is timely and if so, will transmit it to the clerk of the Board of Supervisors to be set for public hearing as specified in Section 47.030.

Attachment 2

**Mono County
Community Development Department**

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
commdev@mono.ca.gov

Planning Division

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

February 2, 2021

To: The Sheet
From: Becky Peratt
Re: Legal Notice for **February 5th** edition
Invoice: Becky Peratt, PO Box 347, Mammoth Lakes, CA 93546

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Mono County Planning Commission will conduct a public hearing on **February 18, 2021**. As authorized by Gov. Newsom's Executive Orders, N-25-20 and N-29-20, the meeting will be accessible remotely by livecast at: <https://zoom.us/join> and by telephone at: 669-900-6833 (Meeting ID# is 991 4587 0745) where members of the public shall have the right to observe and offer public comment, to consider the following: **9:35 a.m. CONDITIONAL USE PERMIT 21-001/Hemminger**. The proposal is for permitting the unauthorized installation of overhead powerlines at 194 Wunderlich Way (APN 002-440-029) in Coleville pursuant to the undergrounding exemptions provided in Chapter 11 – Utilities of the General Plan Land Use Element. The parcel is designated Rural Residential (RR). In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. Project materials are available for public review online at

<https://monocounty.ca.gov/planning-commission> and hard copies are available for the cost of reproduction by calling 760-924-1800. INTERESTED PERSONS are strongly encouraged to attend the livecast meeting by phone or online, and to submit comments to the Secretary of the Planning Commission, PO Box 347, Mammoth Lakes, CA, 93546, by **8 am on Wednesday, February 17**, to ensure timely receipt, by email at cddcomments@mono.ca.gov, or via the livecast meeting (technology permitting). If you challenge the proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to Secretary to the Planning Commission at, or prior to, the public hearing.

###

Attachment 3

**Mono County
Community Development Department
Planning Division**

P.O. Box 347
Mammoth Lakes, CA 93546
(760) 924-1800, fax 924-1801
commdev@mono.ca.gov

P.O. Box 8
Bridgeport, CA 93517
(760) 932-5420, fax 932-5431
www.monocounty.ca.gov

NOTICE OF PUBLIC HEARING

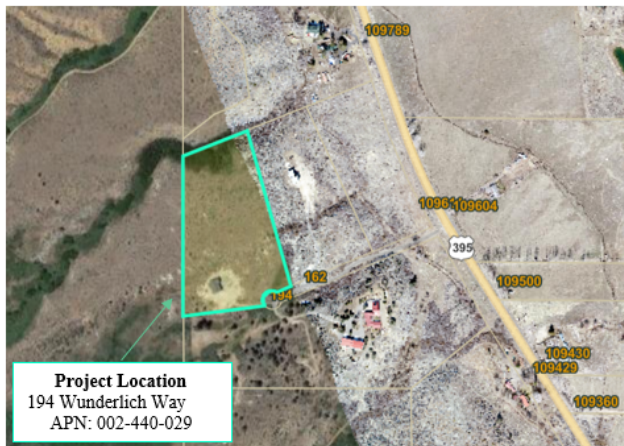
NOTICE IS HEREBY GIVEN that Mono County Planning Commission will conduct a public hearing **February 18, 2021**. As authorized by Gov. Newsom's Executive Orders, N-25-20 and N-29-20, the meeting will be accessible remotely by livecast at: <https://zoom.us/join> and by telephone at: 669-900-6833 (Meeting ID# is 991 4587 0745) where members of the public shall have the right to observe and offer public comment, to consider the following: **9:35 a.m. CONDITIONAL USE PERMIT 21-001/Hemminger**. The proposal is for permitting the unauthorized installation of overhead powerlines at 194 Wunderlich Way (APN 002-440-029) in Coleville pursuant to the undergrounding exemptions provided in Chapter 11 – Utilities of the General Plan Land Use Element. The parcel is designated Rural Residential (RR).

In accordance with the California Environmental Quality Act, a Notice of Exemption will be filed. Project materials are available for public review online at <https://monocounty.ca.gov/planning-commission> and hard copies are available for the cost of reproduction by calling (760) 924-1800.

INTERESTED PERSONS are strongly encouraged to attend the ~~livecast~~ meeting by phone or online, and to submit comments by **8 am on Wednesday, February 17** to the Secretary of the Planning Commission, PO Box 347, Mammoth Lakes, CA 93546 to ensure timely receipt, by email at cddcomments@mono.ca.gov, or via the ~~livecast~~ meeting (technology permitting). If you challenge the proposed action(s) in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to Secretary to the Planning Commission at, or prior to, the public hearing.

For additional questions, please contact the Mono County Planning Division:

April Sall, Planning Analyst
P.O. Box 347
Mammoth Lakes, CA 93546
(760) 932-5423, asall@mono.ca.gov



CRUZ

CONSTRUCTION CO., INC.

19 Cygnet Drive
Mound house, NV 89706
Tel: (775)883-6161 Fax: (775)246-5556

Proposal/Contract

General Contractor
Commercial - Industrial - Residential
NV License No. 41648
CA License No. 741126

Submitted to: Dean Hemminger	Telephone: Email:
Street: 194 Wunderlich Way	Job Description Overhead Electrical To Underground
City, State, Zip: Coleville, Ca 96107	Job Location: Same
Estimator: Billy Dunn	Date: 11/06/2020

Job Description:

Mobililzaiton: In/Out (Shared Portion)	\$2,000.00
Electrical Trenching: Shared 365/lf section and 424/lf section to residence.	
Excavate and install 4" conduit and 7ea. secondary pullboxes with sweeps. Install rigid pipe at telephone pole including standoffs (supplied by others) and weather head.	
Note- Shared Portion Price: \$18,195.00 + Resident Portion \$42,272.00= \$60,467.00	\$60,467.00

We hereby agree to furnish material and labor to complete job in accordance with the above specifications for the sum of: **\$62,467.00**

30% down - \$18,740.10

Payment Terms: 30% deposit due upon acceptance of proposal. Balance due upon completion of work.

A service charge of 0.75% bi-weekly or 18% annually will be assessed for payments over 15 days. There is a \$20.00 returned check fee.

Cruz rejects any requirement that payment shall be delayed until Hiring Party is paid by others.

All material is guaranteed to be as specified. All work will be completed in a workmanlike manner according to standard practices. All extra work done beyond the above job description will be an addition to this Proposal/Contract. We are not responsible for any damage caused by snow removal equipment, structural settling, erosion, or Acts of God. No Warrantee for crack patching and crack filling.

Authorized Signature: *Billy Dunn*

Date: 11/06/2020

The offer on this Proposal/Contract is good for ten days only from the above stipulated date if accepted and signed by client.

Client Signature:

Date:

Acceptance of Proposal/Contract:

The above prices, specifications, and conditions are satisfactory and are hereby accepted. Cruz Construction Co. Inc. is authorized to do the work as specified. Payment will be made as outlined above

ALL WORK GUARANTEED FOR ONE YEAR

On Wednesday, December 9, 2020, 02:24:44 PM PST, Andrew Gregorich <andrew.gregorich@libertyutilities.com> wrote:

Hi Angie,

In reference to your property, and what it would take to convert from overhead to underground, you'd be looking at a ballpark estimate from Liberty of approx. \$15,000.00. This estimate includes the removal of the existing facilities, and the addition of the new underground facilities. The total does not include any cost to trench in the area. I know you guys had a heck of a time digging out there due to the Volkswagen sized boulders in the ground. Please keep in mind that this is a ballpark estimate and may change either way by plus or minus 25%.

Please let me know if you have any questions.

Thanks,

Andrew Gregorich | Liberty Utilities (California) | Planner
P: 530-543-5278 | C: 530-721-2203 | E:Andrew.Gregorich@libertyutilities.com

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P: 530-543-5278 | C: 530-721-2203 | E:Andrew.Gregorich@libertyutilities.com
933 Eloise Ave, South Lake Tahoe, CA 96150