

BOARD OF SUPERVISORS
SPECIAL MEETING
July 31, 2007

The Lassen County Board of Supervisors convenes in Special Session on Tuesday, July 31, 2007, at 10:01 a.m. Present: Supervisors Brian Dahle, Robert Pyle, Jim Chapman, Lloyd Keefer, and Jack Hanson; County Counsel Craig Settlemyre, County Administrative Officer (CAO) John Ketelsen and Deputy Clerk of the Board Susan Osgood. Following the flag salute, the invocation is offered by Supervisor Dahle.

ANNOUNCEMENT OF ITEMS DISCUSSED IN CLOSED SESSION

Chairman Dahle announces that no closed session was held.

AGENDA APPROVAL, ADDITIONS AND/OR DELETIONS

It is moved by Supervisor Pyle, seconded by Supervisor Hanson and carried to approve the agenda as posted.

The agenda consists of one item: Public Hearing: Tentative Parcel Map and Development Agreement #2001-035, Dyer Mountain Associates.

PUBLIC COMMENT

Chairman Dahle asks for public comment and no comments are received.

**PUBLIC HEARING - COMMUNITY DEVELOPMENT DEPARTMENT -
PLANNING DIVISION**

Chairman Dahle opens the Public Hearing at 10:01 a.m. on Tentative Parcel Map and Development Agreement #2001-035, Dyer Mountain Associates, to divide approximately 7,000 acres into 13 parcels ranging in size from 40 acres to 1,118 acres, and certification of the Program Environmental Impact Report (EIR). The proposed division is associated with the long-term development of the Dyer Mountain four-season resort, which will include recreational facilities (primarily golf and skiing), approximately 4,104 residential units (a mix of single family, multi family, and lodging), and approximately 333,800 square feet of commercial/retail and support facilities. The proposed Development Agreement would guide development of the Project and ensure implementation of the mitigation measures identified in the EIR. The project occupies approximately 7,000 acres located south of Clear Creek, and southwest of Westwood, from the west shore of Mountain Meadows Reservoir, to the top of Dyer Mountain.

Lassen County Assistant Community Development Director Joe Bertotti: Presents information about the agenda packet organization and distributes information received after the agenda packets had been distributed. He states

that during the Public Hearing the Board will take comment with the intent of assisting the Board in its decision as to whether or not to 1) certify the final Environmental Impact Report (EIR) for the Dyer Mountain Project; 2) approve or conditionally approve the proposed 13 parcel map; and 3) offer and approve a Development Agreement (DA).

History: The Board of Supervisors and the Planning Commission held a joint workshop on May 29, 2007 and the Commission held Public Hearings on July 11 and July 24, 2007. At the July 24 meeting the Planning Commission adopted three resolutions: 1) recommending certification of the EIR, 2) recommending conditional approval of the Parcel Map and 3) recommending the DA with certain amendments. North Fork Associates representative Cathy Spence-Wells will present information on the EIR, Special Counsel Rick Crabtree will discuss the DA and Mr. Bertotti will speak on the Parcel Map.

North Fork Associates Representative Cathy Spence-Wells: Presents a brief summary on broad topics addressed at meetings held since May 29, 2007. Comments were received from public agencies (40); organizations (22), individual concerns (61), and public meeting comments from four meetings. The Final EIR (Volumes I – VI) reviews each comment specifically and provides a specific response to the comment. Ms. Spence-Wells reviews Power Point presentation originally shown at the May 29 meeting. Introduction; Master Responses; Detailed Comments listed with responses, organized by affiliation; consolidated EIR (which is the draft EIR, re-circulated draft EIR and final EIR text changes as regard to comments in a clean format); the Mitigation Monitoring Reporting Program (MMRP) and the new appendices that had not been included in previous documents.

Project revisions since the re-circulated draft EIR was published: States there was a change in land ownership; Dyer Mountain Associates (DMA) bought the entire property. Slight revisions were made to the proposed Parcel Map; tertiary wastewater treatment is now proposed for all phases. There was a slight change in water source; no longer a potential for using surface water for snowmaking. There were some minor changes to the vegetation management plan. Notes the EIR as it stands is a program level analysis of the Development Concept Plan. Each phase will undergo a project level review as it is submitted to the County. The Development Agreement (DA) will reinforce mitigation implementation with project compliance reports submitted through construction and operation of the resort.

Extensive discussion is held regarding the use of holding tanks. Mr. Bertotti reports that staff previously recommended restricting the use of individual wells, leach field, septic tanks and holding tanks to remote locations but that the PC was not in favor of that; they prefer the language in Exhibit A on page 8, #2. Supervisor Chapman responds that the language in #2 does not mention or make any reference to holding tanks, only to water supply and septic tanks. He further states the Planning Commission Minutes on Page 18 specifically states the motion passed with the condition regarding prohibition of use of individual

septic tanks and holding tanks as part of the exclusion; Mr. Bertotti's statement is inconsistent with the minutes and the action. Supervisor Chapman strongly insists that the record reflects what the Commission wanted, what they voted on. He states they made it clear they did not want any sewage on the mountainside except that which came down through the sewer lines to tertiary treatment. Holding tanks and septic tanks and leach fields are not acceptable to them. Mr. Bertotti states that the Board of Supervisors has the authority to craft the conditions any way they want and if staff missed a representation of what the action was, that was a misstep on their part. The recommended conditions of approval are contained in Exhibit A. It was clearly the intent of the Planning Commission to prohibit wells, septic tanks, leach fields and holding tanks with Condition #2.

Special Counsel Rick Crabtree: Explains the DA is designed to provide the County additional planning tools necessary due to the unique situation presented as a result of the initiative. There is one General Plan land use designation and one zoning designation that apply to 6,000 acres.

Mr. Crabtree presents detailed changes recommended by the Planning Commission cited in the packet for this meeting:

Section 1.9 Extension for Outside Delay. (Page 7 of DA, Page 61 of packet) Add to end of the paragraph "up to a maximum extension of three years." This provision would allow the project to be delayed due to a pending litigation.

Section 2.9 Property Line Survey. (Page 10 of DA, Page 64 of packet) – previous language indicated the requirement the Developer obtain a survey of the boundary between the developers property and PG&E property was contingent on PG&E cooperating and paying half the cost. The Planning Commission suggested that be deleted; revised language indicates the Developer is to pay 100% of the cost of obtaining the survey and the requirement is no longer contingent under the PC recommendation on the participation of PG&E.

Section 2.21 Timing of Development. (Pages 15-16 of DA, Pages 69-70 of packet) – Reviews A10 (requiring ski facilities be included in first phase) and A18 (requiring championship golf course be included in first phase); states the Planning Commission did not want to exclude lodging and timeshares from the 400 unit count. The reference "lodging and time shares" will be deleted from A10 and A18.

Exhibit E-1. (Page 99 of packet) – Change recommended by Planning Commission Exhibit E set forth a maximum building height of 120' both for multi-family high density and for mixed use. The Planning Commission thought that was too high and recommended a change to a maximum of 60' for each of those designations. The Planning Commission also recommended diagrams of street sections (Pages 100-102 of packet) be omitted and deleted in their entirety.

Other changes were requested by the Planning Commission at other meetings but have not yet been incorporated into the agreement; staff is looking for Board direction.

Assistant Community Development Director Joe Bertotti: States that a number of changes were brought into the proposed DA by mutual agreement between/among the Planning Commission, County staff and the Developer. The DA is an agreement that would need to be entered by both parties. The Planning Commission made their recommendations without discussion with the other part to the agreement. Those recommendations were proposed to DMA and they responded through Mr. Clyde's July 29, 2007 memo (in packet).

Doug Clyde of Dyer Mountain Associates: As just stated by Mr. Bertotti, the Public Hearing had closed at the time the Planning Commission deliberated so they did not get the benefit of any of DMA's responses to their issues. He presents a letter to provide an organized response on the Planning Commission recommendations with highlighted items noted:

Extension for outside delay: DMA feels strongly that granting any expiration of 3 years on the extension would only serve to strengthen the hand of any potential litigant and they prefer the original language of the DA remain.

Timing of Development: DMA had specifically excluded the lodging units and the time share units from triggering the first phase commitments (golf and skiing) because lodging units are typically not economically viable in the early phases of a resort and we didn't want the Developer to be penalized by getting lodging units to be built on site in those early years. We excluded those from the trigger on the timing of development for the first phase commitments and we would respectfully request that the Commission leave the DA unchanged in that regard.

Development Standards: DMA would also like both the height and road standards in the DA to remain unchanged. It is common throughout resort communities to have multi family high density heights in excess of 60', typically ranging from 60-90' and sometimes up to 120'. Lodging units would be essential to the success of this resort. Every project will come back to the Board with a specific height analysis so the visual impacts of any building will be subject to future analysis.

Road standards: States this is one of the more important items. DMA has worked with Lassen County Public Works and Planning Department staff to develop the road standards in the DA. Those road standards are the recommendations of their traffic engineer who has previously worked for the County and is well versed in development of roads in mountain communities. Mr. Clyde states that these cross sections have been used in other resort developments and DMA is comfortable with their workability and definitely would like them re-instated in the DA.

Building height and road development: Extensive discussion is held on building height and on road development. Supervisor Keefer asks what criteria the Planning Commission used to establish the 60' height; states the Planning Commission notes didn't give a lot of background discussion or rationale they used. Mr. Clyde responds it is not DMA's intention that any buildings be visible from off site. This would be a zone maximum that DMA wants to leave open subject to future analysis that would be brought in on a project specific phase.

Supervisor Chapman states the Planning Commission indicated they would like to see projects come in case by case to have each project analyzed using Ordinance #475 (the standards adopted and used by Lassen County) and that is why they excluded Exhibits 1, 2, and 3. He asks Mr. Clyde if it would be a problem for the Developer to live by the same rules as everyone else in Lassen County. Mr. Clyde responds that considerable time was spent on this matter with Public Works and Planning. States this is a very different project than what Lassen County is normally used to and the Ordinance #475 standards are basically for publicly maintained roads and in relatively flat environments. The project is in a very different environment topographically and the resort needs to be able to apply smaller pavement sections in order to have a successful project. Further discussion is held. Mr. Clyde states they have been advised by their staff that the DA is the place in which to modify these regulations and a report was done that specifically analyzed a road network and located where these sections would be appropriate.

When asked, Mr. Clyde states there is no change to Section 2.9.

Recess 11:07 – 11:14 a.m.

SPEAKING IN OPPOSITION

Westwood resident Judy Robinson: States her many concerns: Lack of affordable housing for workers building the project; impact on the people of Westwood. States the EIR is vague on this issue. Increased traffic and snow removal are also a concern as well as the significant impact on air quality from additional wood stoves and fireplaces. She questions the EIR conclusions regarding this. Other concerns: diesel emission of particulate matter generated during construction and operation of the project; fire safety with one road in and one road out of the project; Native American issues. She does not believe people would vote on this matter today; states the County will be sued and asks where the money will come from for that.

Mountain Meadows Conservancy Executive Director Steve Robinson: Passes out written comments that he states he delivered to the County on July 30, 2007. He states the project is not what was voted on. The population of the town will double; the project is eight times larger than the present community of Westwood. States that what the County gives DM today will set the tone for development for the County from now on. Concerns: does not feel the EIR properly covers the waste water system; states the fire plan is a joke; states there is only one road and doubts PG&E or other land owners have been approached for deeded access; groundwater issues are unresolved. Also issues of concern: law enforcement; Native American protection; the DA time table for build out; height of buildings; no increase in mitigation fees for 20 years for road maintenance, law enforcement and schools. With reference to the EIR, the County could end up with 13 different developers. Analysis of project's impact on population, employment and housing, analysis of traffic, air quality impacts,

impacts related to utilities and public services are all inadequate. Global warming was only addressed in the EIR; EIR should be revised and reissued. Mr. Robinson requests copies of any new documents as soon as they are available so comments could then be provided to the Board.

Ron Lunder of Mountain Meadows Conservancy: Reports he sent the Board a letter after the first Planning Commission Public Hearing and has more information to add today. He refers to his attorney's letter that states the EIR fails to meet standards under the CEQA. Concerns: fire ecology issue needs to be looked at up front; analysis could help planners select sites for development. Fire: He points out that the fire ecology issue on DM seems to lack serious discussion of fire on the mountain but the EIR "defers review of fuel breaks until project level review of each development phase". He thinks that issue needs to be looked at up front; the EIR must include a comprehensive site specific fire risk and hazard analysis before it can be approved. This analysis must consider factors such as slope, fuels and fire history to evaluate the existing baseline conditions regarding fire risks and hazards on the slopes of DM. Such an analysis could help planners to select sites for development that are relatively fire safe and to avoid mid slope sites that are not defensible.

Comments on the DA: Suggests the Supervisors to ask themselves if they would support this project if it were to be located near their home. He feels Mountain Meadows is a truly significant natural area, one of the crown jewels of the Sierra Nevada, an incredible place for all kinds of rare migratory birds and thinks this place deserves to be a wildlife refuge and not a refuge for yuppies. States he is glad the Planning Commission has recommended there be some way of assuring the ski hill gets built in the first phase; and states the agreement between Lassen County and the Developers gave no priority to the ski hill. Suggests putting tough language in the DA requiring a \$60,000 fee per unit after 400 units be put in escrow as indicated by the feasibility study done in the early 1990's. Also would like specific language that the Developer maintain undeveloped lots in a fire safe condition and also post a performance bond.

Westwood resident Louise Biggs: States she is "half and half" in favor of the project; would love to see downtown revitalized, and as a teacher would love to see schools full again. But she would hate to think her grandchildren couldn't fish out at Walker Lake; or afford to live in Westwood; or couldn't play football because the particulate matter was so bad that kids couldn't practice. She asks the Board to look at all of the ideas and concerns and do the best they can to protect people. She is concerned about the building heights because of fire and is concerned about parking over water springs.

SPEAKING IN FAVOR

Jim McCarthy of Susanville: States he voted for the project and would like to see it keep moving forward; it falls on Board of Supervisors' shoulders to make sure the project is something to be happy about in a few years; some folks will never be happy.

Comments on Exhibit A: The Planning Commission suggestion on extension that would limit the time for the project; states setting a time limit would give opposition an opportunity to insure the financial ability of the Developer and he feels it is safe to keep in there.

Property Line Survey: The Planning Commission succeeded in negotiating with PG&E to have the Developer pay for this and PG&E will benefit.

Facilities: States it is important to have the ski element in the early the phase in order to attract people.

Building Height: As a former fire sprinkler contractor he presents detailed information on fire safety issues and problems fighting fires in tall buildings. He suggests putting in a tough fire sprinkler ordinance requiring sprinklers in all buildings and in every hotel room as well as hallways and stairways. Deciding whether height should be 60' or 120' could be left open to the topography and whatever the Developer can prove they can safely manage.

EIR: Feels the general consensus regarding the document is it is about as good as it can get and hopes the Board will adopt it. States if the EIR is done it will attract more money and expertise that can help do different phases of the development in a thought-out manner; will attract people with different skills to build high rises, golf course, ski lifts and commercial village builders, continue to do more work on the DA, making sure it meets the long term needs and get the project going. He encourages the Board to move ahead.

Westwood resident Rod Theobald: Is in support of the project; thinks it has a lot to offer the area. Does not think putting parking lots over the springs is an issue; feels the voters would want the ski portion at the front of the project. Members of the public are frustrated the project is taking so long to get going. He urges the Board to either fully support the project or drop it; Lassen County needs more industry than prisons.

Westwood Resident Nick Ceaglio: States he is also an employee of the project and shares many of the same concerns as others in the community. As an engineer who has worked on large projects that took longer than seven years, he states that this is a program level EIR that looks at cumulative impacts. It has phase specific development that will undergo additional environmental analysis with County input and direction before approval of permitting. States Board is charged to do their due diligence, move forward cautiously but confidently and direct this project; asks the Board let the State, County and local resources drive how this project is built through active participation.

Richard Parker: States staff and attorneys have done a wonderful job. He has worked hard for the passage of the initiative and would like to see the Board act positively and pass the Planning Commission's recommendation. Feels the process has improved the project and made it better than it was in the beginning; has experience with many conservation projects and feels this plan has done an adequate job for the endangered species and wildlife. He asks that the Board move forward.

Stephen Pezzullo: States he and the people of Lassen County voted for this project; they wanted something new for this County. It appears the project would give new tax revenues to the County that can be used for fire or police protection or to give some well deserved and long needed raises to employees. States he has owned the Lassen West Mobile Home Park in Westwood for two years and of 98 spaces, 70 of them are vacant. This project is badly needed and it needs to be done fast.

30 year Lassen County resident Larry Smith: He questions where the number of 17,000 people in Westwood comes from. He is associated with Lassen West Mobile Home Park and they have worked hard to clean that up; it is an affordable place to live. He is 100% behind the project and hopes to see it passed.

Elta Silva: States she is a 35-year Westwood resident, a member of the Westwood Chamber and the Westwood Community Services District. States she has seen a lot of changes in Westwood and agrees that Westwood does need jobs. With regard to additional wood stoves, she states most of Westwood burns wood and if people don't like what it causes, asks why doesn't everyone stop burning wood. She voted for the project and would like to see it happen.

Life-time Westwood resident Frances Bertoluzza: Is not concerned with the increased population; states the population in Westwood used to be 10,000. Does not want to harm the environment but states businesses are needed; Dyer Mountain could help with schools, fire and ambulance. Hopes the Board will pass it.

Pastor Terry Johnson of Westwood's Calvary Chapel: Speaks as a Chamber of Commerce member. If there is not some economic development in the area more people will have to leave, schools will suffer, and good law enforcement people will have to move to other areas as they seek finances to raise their families. Encourages the Board to examine the positive impact DM would provide to the business climate of Lassen County when looking at the bottom line.

Jeffrey Allen: Speaks as Vice President of the Clear Creek Community Services District, President of the Property Owners and member of the Fire Department. Concerned with the stop sign at the top of the hill mentioned in the EIR report; could cause a problem when it is snowing. Other concerns: watershed and impact on fire department during transition period.

Terri Stevens of Stevens Realty: Has lived in area many years, seen many changes. Feels there is no culture as there was 20 years ago. Westwood area is dying; there is no diversity. She would like to see beautiful country saved.

Jennifer Gorohoff: Voices her support; sees a need for jobs other than government in the area. She asks the Supervisors to move forward with this.

Frances Bertoluzza: Forgot to mention that a lot of businesses have tried to come into Westwood in the last 35-40 years but they couldn't survive; feels Dyer Mountain could help.

Jeffrey Allen: Thanks Mr. Pyle for attending Service District meetings.

Chairman Dahle closes the Public Hearing at 12:10 p.m. Recess 12:23 p.m. – 1:34 p.m. (CAO Ketelsen enters at 1:38 p.m.)

Supervisor Chapman asks for staff clarification on E1, 2 and 3 in the EIR. Katherine Waugh responds to the questions.

Supervisor Keefer: Fire: Speaking in reference to the Angora Fire in the Tahoe Basin, he states this project is quite different; the Tahoe area had a lot of restrictions. He feels there should be fairly adequate standards for residential areas with the mitigation measures for this project that apply to fire protection, the fuel management plan that will have to be approved by California Department of Forestry and Fire Protection (CDF) involving fuel breaks, and the project compliance with the Lassen County Fire Safe Ordinance #502, Public Resources Code 4290 and 4291. States that in some areas, the Lassen County Code is more stringent than the Public Resources Code. The 100' clearance requirement around residences is good. Agrees with Mr. Lunder that there needs to be fuel management for vacant or adjacent parcels. The fire protection plan calls for a cooperative agreement with CDF within the first year.

Initiative: Supervisor Keefer refers to details in the Initiative voted on in 2000 and states he does not agree with those that say the project is not what the voters voted on.

Environmental Impact Report and Parcel Maps: Agrees with the Planning Commission on the certification of the EIR; feels the contractors have done due diligence in looking at potential impacts of the project and would be comfortable in certifying the EIR as well as approving the Parcel Map.

Development Agreement: #1 Cap: Supervisor Keefer is not in favor of putting cap on extension for outside delays; it could take longer if litigation is filed.

Supervisor Pyle agrees. Supervisor Dahle states the cap would be allowing leverage for one of the parties of the other. Supervisor Keefer states they should go back to the original wording in the DA. Supervisor Pyle agrees.

#2 of Mr. Clyde's letter: Could support Mr. Clyde's recommendation.

#3 Height of Buildings: Mr. Clyde stated 60-90' height would be more common in resort areas and Supervisor Keefer could agree with that; could go to 10' below the height of the trees.

Fire: Thinks Mr. McCarthy had some good points; it is a good idea to fully sprinkler buildings is a good idea and would go a long way in protection. If there are some high rises at some point that would be the time to justify a truck

company. CDF will be approving fire protection plans for the subdivision and they are the experts.

Ingress and egress: Would like to omit the word “reasonable” in Section 2.8 of the DA (Page 10 – packet page 64) where it states the Developer will include in any final map recorded ...for ingress/egress and utilities to the “reasonable satisfaction of the County Public Works Director”.

Supervisor Pyle: States he agrees with Supervisor Keefer’s points.

Fire: Biggest concern. Supervisor Pyle asks Mr. Bertotti if there will be a firebreak and about ingress/egress. Mr. Bertotti replies that part of the application package includes a fuel management plan and vegetation management; it is a comprehensive approach to the whole matter of fire safety including vacant or undeveloped lots.

#1 Cap: Shouldn’t put restrictions on a project that will make it impossible to make a profit. The cap will hurt the project.

Height: Feels 120’ is high but he could support Supervisor Keefer’s suggestion of 10’ below the height of the trees. If they put up a 120’ building they need to have the ability to provide fire protection.

Roads: States there should be wide roads going to the resort, but smaller within the resort. Feels the DA is where road standards should be set.

Supervisor Pyle states he could support the EIR today with the parcel map and DA without Planning Commission changes, as long as what he suggests is taken care of.

Supervisor Hanson: Agrees with much already stated by Supervisors Keefer and Pyle. Thanks staff, project proponents and opponents; feels this is a better project because of the open discussion through last seven years.

Height: The DA sets a maximum height for buildings. Does not have problem with 120’ in some instances, the Board would see visual renditions and have an opportunity to decide if it would fit.

Timing of the development: The ski resort needs to be kept at the forefront of the project and would encourage the Developer to stay with a schedule that accelerates the ski development area. He does not see a reason to exclude lodging and interval ownership, as that would go hand in hand with the ski resort.

Roads: Not sure how to approach it but because it is a programmatic document he would be in support of it. Also states, in response to an earlier question, he would like to have this development in his backyard.

Supervisor Chapman: States he agrees with many comments made by other Supervisors. The voters were told the project would follow the regular laws and they would not have any special standards, but would be consistent with State law. The EIR process has been completed and Supervisor Chapman concurs with the rest of the Board that it is a substantial document and would agree to certify the document. He commends the Planning Commission on doing a superb job of reviewing the documents; their work is appreciated. States the

Consultants did a good job; there are still a lot of issues to be looked at but this is a solid foundation to work on. The EIR gives the Planning Commission, staff and the Board an information base to make better decisions. States he has several areas of conflict.

Parcel Map/Road: (Pages 118-119) Maps show a legend with only existing roads. Feels that, at this level, the maps should define the framework of major road network and how main traffic movement will be between the 13 parcels, however they will be developed. Need to be consistent with Ordinance #475 or a variation of that under a variance or other process under law. The EIR looked at broad framework and did not analyze the impacts of E1, 2 and 3.

Ingress/egress: Agrees with Supervisor Keefer that the word "reasonable" should be removed; there is a need to have checks and balances. Asks if there is single or double access and is told the map shows the single proposed main access with one bridge and it also shows where the two fire access exits will be (east and west).

Fire: Ordinance 502 deals with fire safety and the County must stick with those standards. He agrees with Supervisor Keefer and Mr. McCarthy regarding sprinklers and suggests this is a good opportunity to look at a partnership with the developer in establishing a County fire department that might be started in this area but could grow and address some bigger County-wide issues.

Supervisor Keefer responds that he would not want to see this as a requirement for the project but the County might be able to move in that direction.

Development Concept Plan: Supervisor Chapman asks for and receives clarification of the Dyer Mountain Development Concept Plan of April 2004.

Development Agreement: Pg. 60 – Have already been discussed the Exhibits 1, 2, 3 and fully support the Planning Commission recommendation to delete the Project specific matters from the programmatic function because that will come back later. Section 1.6a: Lists the Clerk's address (220 S. Lassen St., Suite 5, Susanville) as the principle office of the County; asks CAO Ketelsen to decide where all communications should be routed and inform people how that will be handled.

Section 1.8: Not in favor of any sort of capping; the clock starts running the day this is approved.

Section 1.9: Feels the extension due to outside delay is a moot point because the project starts when it starts and if it has to re-start because the court re-sets the clocks, then that is outside of the County and the Developer's control.

Section 1.10 Priority of Enactment: Feels the DA and the mitigation measures need to be consistent with Lassen County's Land Use Regulations.

Page 63, 2.4: Feels contribution of \$200,000 is too small an amount of money to go to the County and Westwood Community Services District for the purpose of upgrading and rehabilitating parks at the end of Phase 1 (defined in 2.21 of the agreement). Supervisor Pyle states that in Section 2.7 \$265,000 would be given to improve the boat launch; Supervisor Chapman states that may not be needed for that purpose if a grant can be obtained. Supervisor Chapman states that, as of last week, Dyer Mountain Associates had not paid their property taxes, and he

questions the credibility of an agreement with them saying they would contribute money for other parts of the project.

Page 65 Section 2.14 #7: An Annual Mitigation Report (AMR), due no later than 30 days prior to every anniversary date, is one of the requirements but there is no penalty attached to that if the report is not timely filed. Feels there should be an enforcement penalty.

Section 2.16: Project Compliance Report – has concerns about wording and lack of accountability.

Section 2.17: Development Manual – questions wording “may be waived by the Director” and “parties shall meet informally to resolve any disputes”; feels that type of issue should go back to Planning Commission, the Board of Supervisors or be presented to the CAO as an approving authority so it would be “sunshined” to the public.

Page 68 Section 2.19(b) - Fees: It appears the current fee structure would be locked in for the duration of this project; feels that is unfair and would like to see this revised. This project should not have a unique status.

Page 71: “f” is blank. Mr. Crabtree states it should be deleted.

Section 2.22 – LAFCO: Wonders what happens if LAFCO does not agree to the agreement; states there should be an alternative defined in the DA if LAFCO does not approve.

11 (Page 74, 3.3 and 3.5): States that Planning Commissioner Totten stated these two sections need to work together and not cancel each other out.

Planning Commission meeting Minutes of July 11, 2007 states there was specific discussion about the issue; Supervisor Chapman would like this corrected. Mr. Crabtree clarifies that the change made was to delete a period and insert “if and only if”.

Performance bonding: Supervisor Chapman asks if there is any bonding for performance in the agreement. Thinks there has to be a way to guarantee performance under the terms of the agreement.

Transportation: States traffic impact causes greatest concern with this project; very concerned with limited accesses. Suggests the County could impose a type of fee per dwelling that would be available by the County to use in conjunction with Caltrans to conduct some road improvement work. Feels there needs to be something in the agreement for funds collected towards transportation mitigation. States the County should contribute to the solution rather than the problem; would like to see the project move forward but some areas need to be cleaned up and it needs to be done right.

Supervisor Dahle: States this is the opportunity for the Board to give direction to staff on the DA. Believes the biggest issue is the ingress/egress due to a natural disaster, flood as well as snow, fire or other. He states that before he can support the EIR that issue needs to be addressed.

Height: Does not like to put a limit such as “below the trees” as it leaves too much room for someone to litigate. Suggests giving a height of 90 – 100’ and it has to be placed in an area that does not have a negative visual impact.

Ingress/egress: Would direct staff to make two good accesses somehow; developers also need to look at that.

Global Warming: Supervisor Hanson asks Mr. Crabtree why the global warming issue was not addressed in the draft but is addressed in the final EIR. Mr. Crabtree responds that global warming, in terms of being a legal issue, is a relatively new issue. California recently adopted some laws regarding global warming that require the development of some regulations but there has not been anything enacted in Sacramento that relates to a CEQA requirement. The EIR consultants described global warming in a general way in the final EIR and he feels that is appropriate. Supervisor Chapman states that during a Planning Commission hearing one of the Commissioners stated that global warming should be addressed in the EIR.

Clarification: Assistant Community Development Director Bertotti states he heard some differing opinions regarding certain Planning Commission recommendations and would like clarification. Regarding four items that were raised by Mr. Clyde:

1) Three year extension: Supervisor Pyle states the Board agrees they are not in favor of the three year extension.

2) Timing and Development: Supervisor Pyle states the Board agrees that the ski slope needs to go first but maybe with some other development to help cash flow and make the economics work. Further discussion is held. Kate Hart of Abbott and Kenderman explains the applicant’s position regarding this matter, stating that in no event would the project receive ski or golf facilities beyond four years; it is a delicate balance between getting the money needed to put in all infrastructure and the lodging and the time interval ownership in addition to the facilities. Supervisor Keefer states he would like to exclude the lodging and go back to the original wording of the DA. Mr. Bertotti responds he could create estimates of a gross total number of the sort of lodgings but could not speculate which product type would be offered in the first phase.

3) Height: The Planning Commission recommends 60’ maximum. Supervisor Chapman suggests leaving the Planning Commission’s suggestion and looking at the project at some point later when the developers can present, at the project level, what would be an exception that could then be reviewed by the Planning Commission and Board of Supervisors working with the developer. CAO Ketelsen states the Board can decide on a maximum height, which would be subject to the developer getting a special permit to go higher if they could make the case for that change. Supervisor Dahle wants to have a firm height of 70 or 90’; Supervisors Keefer and Pyle state they do not want to tie someone’s hands with a restriction. Ms. Hart clarifies that the 120’ maximum is typically used at resort developments like this and re-emphasizes this is subject to further and

specific project CEQA review. Discussion is held. Supervisors Keefer, Pyle, Hanson and Dahle agree to a 90' maximum height.

4) Road standards: Extensive discussion is held regarding the access for the projects as well as what the road standards will be

Regarding what the road standards will be, Supervisor Keefer states one of the documents talks about maintaining the logging road standards which may not work. The County has lately been requiring County Road Standards 5 where there is a publicly dedicated easement with a county road standard applied to that. Supervisor Keefer states he would be comfortable with that in terms of what the County is requiring other people to do and it would meet the intent of the ingress/egress issue. Another concern would be the need for signage at major intersections to advise people where the emergency access roads are located.

Supervisor Chapman states that in order to address fire and other issues, he feels the Parcel Map needs to emulate what is on the Concept Plan map and the Parcel Map; the major framework has to be in place with the beginning of the 13 parcels. As the other 13 parcels start spinning off into individual development projects, they would come back to the Board and the developer create additional loops of ingresses and egresses. He wants to see where they would go on the map.

Supervisor Chapman states he would like the base map fixed. Supervisor Hanson feels it is adequate and Supervisor Pyle agrees. Supervisor Keefer states that he feels that the current master plan is adequate with three points of access, one main one coming in and two (going east and west with west being maintained and open year-round), and both being built to County Road Standard 5 with dedicated easements and appropriately signed as stated.

Supervisor Chapman asks Mr. Bertotti why the base map can't be fixed and he responds that the County doesn't have the jurisdiction to change the project application.

Mr. Crabtree states that he and CAO Ketelsen and County Counsel Settlemire have discussed Section 2.10 on Page 64 of the DA. They suggest that the Board consider deleting 2.10(b) that defines a fire escape road in a way that differs from Lassen County Code. The normal requirements of the County Code would then apply. Supervisor Chapman asks if they want to let Ordinance 475 (road standards) be the rule; Supervisor Keefer adds Ordinance 502 (fire) as well. CAO Ketelsen states this would be putting the current standard back. Chairman Dahle asks if the Board agrees to this. Supervisor Chapman states he likes it a lot better but thinks the base map needs to have two accesses clearly defined. The Supervisors agree to the deletion of 2.10(b).

Exhibits 1, 2, 3: Chairman Dahle states the Planning Commission recommended omitting the road standards contained in the DA. Lengthy discussion is held.

Supervisor Chapman feels the road standards need to be part of project documents and not done at this point. The EIR doesn't support E 1-2-3; the language of 6-110 says it will be done at the time the project is done. States the Planning Commission wants to see projects brought back at the appropriate time when studies have been completed and each case can be justified. He does not want to see Ordinance 475 short-circuited and is opposed to leaving E 1-2-3 in; feels the Ordinance provides for flexibility. States that snow removal is a big issue.

Supervisor Keefer states he could agree with Mr. Chapman but recognizes there may be a need to look at road standards a little different for this project than for rest of the County and they would need to meet all public safety criteria. Ms. Hart states the road standards created if Board approves the tentative map would provide the County consistency throughout those parcels. Resort areas do have smaller road standards internally for purposes of slowing traffic, encouraging pedestrian and bicycle use as well as maintaining safety. Supervisor Pyle states he agrees with Supervisor Chapman to a point but the people voted to take the property out of TPZ and put it under the restrictions of Mountain Resort. Ordinance 475 was put together for certain traffic or circulation within Lassen County but this is different. States DMA engineers state this is necessary for the success and economic stability of this project; questions how DMA can plan a future development if they don't know the standards they will have to go by.

Mr. Bertotti states that when Ordinance 475 was drafted it was for standards created for residential subdivisions not with the kind of terrain seen in this project. It was written in 1987 and doesn't speak to a Mountain Resort.

Supervisor Keefer states that the people voted on the Initiative as a Mountain Resort with the amenities identified and he goes along with Supervisor Pyle.

Supervisor Hanson states he feels the design is good but this is a difficult decision. He asks County Counsel if there is any other place where this would come to the Board for approval of the road design that would accommodate their future development and yet not include it within the DA, as he is not sure it fits in the DA. CAO Ketelsen explains that the DA, which is adopted by ordinance, is a mechanism by which the Board can deviate from prior ordinances. A process that is less than a variance process can be adopted in the DA, if a variance is felt to be too high a standard. County Counsel Settlemire further states that Ordinance 475, Code Section 16.32.070 allows the Board to consider when a specific project comes before them with a proposal for the number of lots in the parcel and where streets would be located, they can ask for relief from the general standards and do something different. When a provision is put in the DA which actually comes out with a street profile, then the DA, adopted as an Ordinance, will amend the General Ordinances with regard to road standards and make a special provision specific to this project only. Further discussion held.

Mr. Bertotti asks if the Board's direction is to omit the E 1, 2, 3 standards. Chairman Dahle states "stick with what we have". Supervisors Keefer, Pyle and Hanson are not in support of that. Supervisor Hanson would like to find another document that could accomplish the same thing. Supervisor Chapman suggests using the process that is already on the books. Supervisor Keefer states he has a problem doing project by project and suggests amending Ordinance 475 to start the process so DMA knows what is going to be required down the road.

County Counsel Settlemire suggests it might be appropriate for staff to come back with some additional discussion regarding alternatives. Chairman Dahle asks if this is the only outstanding item; states the Board will need more information on E 1, 2 and 3. Supervisor Chapman states he brought up two additional items for discussion: the bonding and responsibility aspect of the agreement and the transportation mitigation fair share per dwelling to the long term mitigation fund.

Mitigation Measures (Exhibit D): Mr. Bertotti presents detailed information on the mitigation measures which are contained in the EIR and attached as an obligation of the Developer to the DA. The approach taken was to require the project to either fully fund certain improvements in both Lassen and Plumas Counties and to provide fair share contributions to mitigate other improvements. He states the Mitigation Monitoring Reporting Plan (MMRP) contains a complete traffic monitoring framework that will allow the County to see the way traffic counts go over time as the project develops, taking into consideration other projects in the Almanor Basin. The framework would be that the mitigation measures are identified and are required of the Developer and would be built as impacts arise instead of the approach of paying fees into a pot. Chairman Dahle asks what the guarantee is. Mr. Crabtree states the DA contains language about obligations and remedies and the requirement of bonds is done all the time with subdivisions as a condition of the approval of the next phase.

Sprinklers: Mr. Bertotti states he heard a lot of support for sprinklering during the discussion and proposes research and negotiation with the proponents before coming back with a provision that requires all structures be sprinklered.

Section 2.9: Planning Commission changes are agreeable to DMA.

Mr. Crabtree states his job is to try and negotiate mutually agreeable provisions because the DA is a contract that has to be acceptable to both sides; the County doesn't have the ability to unilaterally impose conditions in a DA.

Term: Did not hear consensus on the term and asks for direction if the Board wants something different than 20 years. Supervisor Keefer recommends Mr. Crabtree discuss the matter with the Developer and suggests not less than 20 years. Supervisor Chapman states the term should be equal to the life of the perceived project. Mr. Crabtree states he will confer and make sure 20 years is a reasonable estimate of the project build out.

Contributions: Asks if he is being given direction from Board to try and negotiate something different from the \$200,000 (upgrading and rehabilitating parks) and

\$265,000 (boat launch) contributions discussed earlier. Supervisor Keefer suggests leaving the boat launch money as is and if grant money is received, then that money can be rolled over into the parks. Supervisor Pyle agrees. Remedies for default: The DA contains an entire section about remedies for default. It is usual to state that the parties would meet and try to resolve disputes informally.

Impact fees: The current wording of the DA would exempt DMA from future imposition of Development Impact Fees (DIF). If the County decided to adopt universally applicable DIF in the future DMA would be exempt from that requirement under the current wording of the agreement. Mr. Crabtree would need direction to go back and renegotiate those provisions. Further discussion is held regarding fees. Supervisor Hanson states that it is hoped the County will receive additional revenues through TOT, sales tax revenue and others. In answer to a question by Supervisor Hanson, Mr. Crabtree states a Community Services District or other governmental organization providing services would retain the ability to collect fire protection or other fees. Supervisor Pyle states the Almanor Regional Transportation Assessment anticipates DIF to cover the increased circulation from DM and the Almanor Basin. He does not think DM should be exempt from DIF. Mr. Crabtree states the policy option in the agreement says the applicant pays a processing fee in place at the time it submits subsequent applications. But, it could say the applicant pays the DIF in place at the time they submit subsequent applications or as it is currently worded they would be exempt from future fees. CAO Ketelsen states if as the project is developed some sort of improvement is found that was not anticipated, the homes already built are not going to pay for that, putting a greater burden on future development to pay for that amenity that was not included. Supervisors Pyle, Keefer and Chapman agree they should not be exempt from that. Mr. Crabtree states that if the DA was changed to say the applicant shall pay all applicable DIF at the time they pull their application, in the short run that is not going to have any impact, but it may have an impact some day. Mr. Crabtree asks if this is the consensus and Chairman Dahle states it is.

Chairman Dahle asks when this will be back to the Board. After discussion is held, Mr. Bertotti suggests August 21st as a time for a mid-term report on negotiations with the Developers on what the Board has directed. About 30 days would be necessary for the creation of the documentation for the certification of the EIR which needs to be done first. States in the absence of specific direction regarding E 1, 2, 3 suggests discussing the whole issue with the proponents and bring back a joint recommendation.

Supervisor Chapman asks about a letter from Caltrans regarding the legality of keeping funds beyond a five-year period; asks if this pertains to AB1600. Mr. Crabtree replies that he has seen the letter in question and disagrees with the statement in the letter that ABN1600 rules do not apply because there is a DA. He explains that under AB1600 there is a requirement that every five years findings must be made regarding fees that have been collected and unspent.

The findings would indicate there is still a need for the fees that there are still projects in the capital improvement plan that would be funded with the fees. If the findings cannot be made every 5 years there is a requirement the money be refunded. Supervisor Chapman states he wants that on the record and thinks a response needs to go to Caltrans so they understand. Ms. Hart agrees with Mr. Crabtree's statement but states it is specifically agreed to in the EIR and as part of the mitigation for the EIR (Exhibit D) that the Developer won't take the money back; the County can take the money and allocate it for traffic improvements.

There being no further business, the meeting is adjourned at 4:53 p.m.

CHAIRMAN OF THE BOARD OF SUPERVISORS

ATTEST:

SUSAN OSGOOD, DEPUTY CLERK OF THE BOARD