

**AMADOR COUNTY PLANNING COMMISSION MINUTES
SUMMARY MINUTES OF TAPE RECORDED MEETING
April 23, 2019 – 7:00 P.M.**

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The Planning Commission of the County of Amador met on Tuesday, April 23, 2019 in the Board of Supervisors Chambers at the County Administration Center, 810 Court Street, Jackson, California. The meeting was called to order at 7:00 p.m. by Chair Byrne.

THOSE PRESENT WERE:

Planning Commissioners: Keith DesVoignes, District 1
Dave Wardall, District 2
Earl Curtis, District 3
Andy Byrne, Vice Chair, District 4
Ray Ryan, District 5

Staff: Chuck Beatty, Planning Director
Ruslan Bratan, Planner 1
Krista Ruesel, Planner 1
Mary Ann Manges, Recording Secretary

THOSE ABSENT WERE: None

NOTE: The Staff Report packet prepared for the Planning Commission is hereby incorporated into these minutes by reference as though set forth in full. Any Staff Report, recommended findings, mitigation measures, conditions or recommendations which are referred to by Commissioners in their action motions on project decisions which are contained in the Staff Reports are part of these minutes. Any written material, petitions, packets, or comments received at the hearing also become a part of these minutes. The recording tapes of this meeting are hereby incorporated into these minutes by reference and are stored in the Amador County Planning Department.

A. Pledge of Allegiance.

B. Approval of Agenda:

MOTION: It was moved by Commissioner Ryan, seconded by Commissioner DesVoignes and unanimously carried to approve the agenda as presented.

C. Minutes: None

D. Correspondence:

Letters were received from Molly Watson, Cathy Yochheim, Bruce and Liz Elliott, Oisín McGuigan, Susan Brown, Robert Gurley, Katherine Evatt representing the Foothill Conservancy, Jamie Webbenmire, Terri Sweet and Marion Anderson/Jesse Daley with a phone call from Jackie Vaughn.

E. Public Matters not on the Agenda: Chair Byrne advised that anyone may address the Commission on any matter in the Commission's jurisdiction, but no action may be taken.

Chair Byrne asked if anyone desired to speak. No one desired to speak.

F. Recent Board Actions: None

Public Hearing

Item 1. Public Comment Session Regarding Short-Term Rentals. The Planning Commission will receive public comments on the benefits and impacts of short-term housing rentals. Following comments, the Commission may provide direction to staff and/or schedule

additional public input sessions.

Chair Byrne introduced the item.

Chuck Beatty, Planning Director, shared that this session is to discuss short term rentals and was scheduled at the last Planning Commission. He added that a request had been received to also re-present a presentation that staff made.

Planners Ruslan Bratan and Krista Ruesel shared the Short Term Rental presentation from the previous Planning Commission meeting.

Chair Byrne opened the public hearing. He requested that those that desire to speak sign in ahead of time and that initial comments be limited to 3 minutes with organizational comments limited to 5 minutes. He added that there is a possibility that second comments could be accepted later in the meeting. He clarified that the Planning Commission is not making a decision at this meeting and that comments are being taken for Staff to assist in the preparation of an ordinance. He commented that he believes there is another meeting to be held after a document has been prepared as a draft document.

Chuck Beatty elaborated that there would be at least two meetings. He added that one will be based on what the Commission directs staff to do and then it will come back to a public hearing probably at a second meeting with the Planning Commission and then it will go on to the Board of Supervisors.

Mary Ann Manges, Recording Secretary, announced that a short PowerPoint presentation was going to be presented by Lynn Van Tilburg who lives next to short term rental.

Lynn Van Tilburg, homeowner and resident on Emily Way in Sutter Creek, acknowledged the positives of short term rentals and shared points during a PowerPoint about challenges incurred while living close to a short term rental thought of as a party house in her neighborhood. Some of the challenges shared included noise, over capacity, weddings, discharge of firearms, a nonresponsive absentee owner, and commercial uses. She added that she feels her serenity and quality of life have been ruined and that an ordinance would help. She suggested that in addition to an ordinance each permit application should be reviewed on a case by case basis with a discretionary approval process with recommendations for two persons per bedroom excluding children under five. Other suggestions included no smoking on the entire property, 24 hour noise restrictions on the volume of music, quiet hours and limit on outdoor activities between 7 p.m. and 8 a.m., penalties applied to owner and renter for occupancy limits, quiet hours, and other nuisance requirements. She added that fines levied should be higher dollar amounts, owners property manager should live on premises, and days rented should be limited to 80 days per year. Ms. Van Tilburg requested consideration of conditional Use Permits where the intent would be so that uses would not have an adverse impact on surrounding areas and property values. She suggested that there be a code enforcement officer available so that neighbors do not have to monitor themselves.

Marion Anderson, homeowner, shared the definition of vacation rental in El Dorado County. She shared concerns about noise and responsibility for neighbors to disclose the noise. She requested that short term vacation rentals on larger acreages not be allowed on parcels if next to smaller parcels due to noise. It should be under a special use permit.

Terri Sweet, Sweet Oaks-Plymouth, requested that when drafting ordinance to consider location, season, neighborhood density, owner occupancy, number of guests allowed. Ms. Sweet recommended policies that she feels are successful and has maintained over the years such as maximum occupancy, no day time guests, quiet hours, no smoking indoors or outdoors, no pets, no open flames including candles or barbecues, only battery operated candles. She requested that there be no new fees.

Vice Chair Byrne asked where Ms. Sweet's short term rental is located.

Ms. Sweet replied that it is in Burke Ranch, Plymouth.

Vice Chair Byrne requested clarification from County Counsel that an ordinance would affect the unincorporated areas of the county only.

Greg Gillott, County Counsel, confirmed and added that cities have their own ordinances.

Nell Raymond, vacation rental owner in Amador County, shared her empathy for neighbors of the short term rental on Emily Way. She asked if the neighbors had called the rental agency to complain and added that they are entitled to quiet enjoyment of their property. She shared that each neighbor can file in small claims court for their inability to enjoy their properties. She added that her and her husband are seniors and need additional income. There is a lack of lodging in River Pines which was originally a vacation destination community. They live close by and monitor and greet all their guests. It is not inexpensive to run a short term rental such as taxes, washing, amenities, cleaning fees and rental fees are not just clear profit.

Commissioner DesVoignes asked if Ms. Raymond lives at the property.

Ms. Raymond shared that she lives one house away.

Commissioner DesVoignes asked Ms. Raymond that if the neighbors have a problem, how can calling the rental agency help.

Ms. Raymond stated that if there are many bad reports on one vacation rental that the rental agency is going to recognize that there is a problem. She stressed the importance of the neighbors also file small claims court claims.

Erik Christeson, General Manager of Kirkwood Meadows Public Utilities District, shared that Kirkwood operates under its own specific plan because it sits in 3 counties; Amador, Alpine, and El Dorado. It is subject to governance through the Tri-County Technical Advisory Committee, through the respective counties' Planning Commissions, and ultimately through the respective counties' Boards of Supervisors. He added that the specific plan provides for the Kirkwood Community Association to collect a fee which satisfies all of the reasons for this ordinance as illustrated by staff for roads, community involvement, recreation, and overall benefit to the community of Kirkwood. Subjecting Amador County side of Kirkwood to one set of rules different from Alpine and El Dorado Counties will create a disparate condition on similar properties and result in a disparity in value. Mr. Christeson shared that Kirkwood is a resort community that is not like anywhere else in Amador County. He suggested that Kirkwood should be excluded from this ordinance. He suggested that if the Planning Commission wishes to address the issue of short term rental it should be done through Tri-TAC, through the respective three counties, and with the input of the Kirkwood community.

Commissioner Wardall asked Mr. Christeson if there are CC&Rs and an HOA at Kirkwood.

Mr. Christeson replied that there are 24 HOAs in Kirkwood and each have different CC&Rs. All single family residences in Kirkwood are within an HOA within their service area.

Commissioner Wardall asked if there is a problem with BNBs being out of control with their CC&Rs.

Mr. Christeson replied that Alpine County Sheriff is their main law enforcement response and Vail Security provides security with the HOAs contracting with them since Alpine County Sheriff is 45 minutes away if Carson Pass is open.

Madonna Wiebold shared that she feels a use permit is the way to go with short term rentals like the one on Emily Way. She agrees with Ms. Raymond in not placing a mass amount of restrictions on them and for neighbors to make a claim in small claims court. She added that an appropriate restriction could be charged to the owner if the sheriff has to go out so that they begin accept responsibility. Heavy restrictions will diminish values which will effect sales and County tax dollars when values are reduced. Money will be coming out of everyone's pocket for one person's bad behavior.

Bertrand Perroud, Board Member of the Kirkwood Meadows Association stated CC&Rs are on every single home. He shared that they have not experienced any complaints on short term rentals. Mr. Perroud stated that he agrees with Mr. Christeson. He shared short term rentals do not impact the availability of housing or long term housing in Kirkwood. He added that it is very expensive to live in Kirkwood so property owners need ability to have supplemental income.

Brandy LaRae, owner of the Amador Wellness Cottage on the outskirts of Plymouth, shared that she has been a host for the last two years which allows her to be a single mom, homeschooler, and take care of a child with special needs. She shared concern about how the other house is causing problems, but for the most part the short term rentals have been a great benefit in opening up revenue for those who need a little extra income. She shared that the Transient Occupancy Tax is a hassle because she has to write a check and added that she would like to see the County work in conjunction with AirBNB and add the tax directly to the reservations. She shared that she believes that the County would see an increase in the tax collected.

Commissioner Wardall asked Ms. LaRae if she owns her property.

Ms. LaRae replied that she does and stated that she is at the old Central House and that she rents out the cottage as her Airbnb. People take self-care retreats, get massages, go to wine country, and sleep in a nice and peaceful place before they take off.

Commissioner Wardall asked if Ms. LaRae is in the city or the unincorporated area.

Ms. LaRae replied that she is in the unincorporated area.

Commissioner Wardall stated that he does not know where Central House is.

Ms. LaRae answered that it is at the corner of Hwy 16 and Hwy 49. She added that it was quite a difficulty because when she went to start her short term rental, she went to the County and was met with a shrug. She had to figure it out on her own, nobody said anything about the Transient Occupancy Tax. She understands that the majority of short term rentals do not pay their tax. Having it automatically taken from reservation sites and sent to the County would increase the collection rate.

Rocky Raymond, vacation rental owner in River Pines, stated that AirBNB does collect the tax and we also get a bill every quarter from the County. Everyone who has rented from him has taken great care of the property and it's a great way to service to people who come up to enjoy the wine country. He feels for Emily Way neighbors which is a resort hiding behind the veil of a vacation rental. Addressing Emily Way could take care of the most of the problems that we have and the concerns people of Amador County.

Chair Byrne asked if Mr. Raymond lives on his property.

Mr. Raymond replied that he lives next door to his rental and added that his rental is not cheap and that he charges a stiff deposit that people want to get back.

Gene Cummin, stated that it is sad that we have to debate this and also feels sad for those who have smaller rentals trying to make a little extra money. One AirBNB is causing the problem with the owner not in attendance and it should be regulated. Something has to be done. He asked what the difference was

between the Cramer commercial operation on Ridge Road and what the owner at Emily Way is doing. She is paying her TOT tax.

Chair Byrne replied that that there were guidelines for Cramer, but there are none for renting a room and that that is something that they can do without an ordinance.

Carolyn Manassero, Surrey Junction resident for 30 years, stated her neighborhood was a quiet residential area and now there are loud noises, guns going off at midnight, neighbor's horses getting spooked, loud music, yelling, and screaming at all hours.

Carl McDaniel, representing Mother Lode Highland Games which holds an event at fairgrounds each year, stated that there is a little over 800 hotel rooms in the county. Only 50 hotel rooms are near the fairgrounds. Housing tourists is a serious problem including participants and attendees of the Highland Games. AirBNBs provide a valuable resource for housing for keeping Amador County Fairgrounds viable.

Chair Byrne asked if anyone else had anything to add.

Vice Chair Ryan stated that the direction for staff is to go back and start putting together the framework and get language in place and bring it back and have another meeting with most of the audience here tonight in attendance. After listening to comments, we have only heard about one property that is a problem so there's a valid question about why an ordinance should impact everyone else. But, if we do not put something in place then this situation can repeated over and over again. That's why we have to have codes in place. He added the he does not see the need to include Kirkwood in this because they are self-governing.

Commissioner Wardall shared that he has empathy for the neighbors on Emily way and asked Commissioner DesVoignes if he is a realtor.

Commissioner DesVoignes confirmed that he is.

Commissioner Wardall asked Commissioner DesVoignes if property values could be effected at Emily Way and would neighbors have to disclose that there is a known public nuisance if they want to put their property up for sale.

Commissioner DesVoignes answered absolutely.

Commissioner Wardall asked if it would be a significant impact to anyone that wants to sell their property.

Commissioner DesVoignes confirmed.

Commissioner Wardall commented that causes a problem for him when it impacts somebody that negatively.

Commissioner DesVoignes stated that he would like to see something in the ordinance that helps define if you are actually running a business instead of just renting a room.

Commissioner Wardall added that his observation for staff is that he does not like to see a lot of government regulation for the reputable people that are doing a good job and thinks the one rotten apple has to be taken care of. The proposed ordinance should prevent future rotten apples.

Chair Byrne commented that by creating an ordinance it levels the playing field. When you start a business like a short term rental, you will know what the ground rules are. He asked staff if STR owners on private roads need to have permission from the other members of the private road ownership.

Mr. Beatty shared that it has been discussed internally to have a policy similar to the tasting room policy. Approval is needed from at least half of the owners of the road, and if a Road Maintenance Agreement is in place, it has to be renegotiated to include terms that take additional traffic into account.

Chair Byrne asked for confirmation that you would have to get half of the people to agree to use that road.

Mr. Beatty stated that that is how it is set up for tasting rooms.

Ms. Anderson added that Emily Way is a private road.

Vice Chair Byrne said that that might have some effect.

Vice Chair Ryan wanted it to be clear that he does not see any grandfathering here. He does not know from a county legal stand point that it is possible but he expects that once this ordinance put into place it goes back to every property that would be involved. Different cities and counties that have implemented this sort of an ordinance have had no grandfathering. He wants to make sure that we do not, either.

Mr. Beatty said that unless you specifically grandfather the ones that are in existence, the ordinance would apply to new and existing short term rentals.

Commissioner Curtis added that when talking about the private road that the normal vacation rental by owner does not increase the occupancy.

Chair Byrne added that it does if they are living in the house and they are renting out part of it or if it is second unit.

Commissioner Curtis added that they already had the bedrooms.

Chair Byrne stated that it is an additional business.

Vice Chair Ryan shared that the other side of the issue is that some vacation rental units are rented for the sole purpose of having parties which drastically increases the number of people on the road as well as the noise levels.

Commissioner Curtis commented that instead of telling everyone how to run their business that maybe we should tell some people how they cannot run their business.

Vice Chair Ryan commented that he understands where Commissioner Curtis is coming from, but our experience from being on the Commission has been that if you have to set in place the ordinance or the rules so the county can go in and fix the problem if needed.

Chair Byrne added that you cannot do enforcement if you don't have an ordinance.

Ms. Sweet shared that a short term renter will use a private road far less than a full time renter. A typical short term renter will make two car trips per two days a week. A long term renter 10 trips a day and is there all week.

Commissioner DesVoignes asked if a use permit would help with Emily Way or are you better off with an ordinance.

Vice Chair Ryan commented that he believes the language in the ordinance should dictate what the maximums are. If you have 4 beds with 2 people per bed, then you can have 8 people, total. There should be no room for parties. In the Emily Way case, it's obvious it is being run for business purposes and there isn't anything in place that would allow a use permit for it.

Mr. Beatty shared that only thing close is the bed and breakfast ordinance which could allow commercial weddings, but no other events.

Vice Chair Ryan added that a use permit gets the local residents' input which helps place limits on the permit.

Vice Chair Ryan shared that if anyone that does not fall within the guidelines of whatever ordinance we end up with their recourse would be to come in to apply for a use permit at which time the neighbors would be notified and it would come before the Planning Commission and we could grant or decline and they could appeal to the Board of Supervisors. That would allow for the community to put tighter restraints on permits and deal with problems such Emily Way.

Vice Chair Ryan added that a current B&B requires someone to be on site as a manager 24/7 as long as you have guests.

Mr. Beatty shared that is correct.

Chair Byrne is there a way of putting a number on guests.

Vice Chair Ryan elaborated that a B&B is 5 beds and asked if that includes the manager or can the manager be in separate quarters.

Mr. Beatty commented that the manager can be in separate quarters or in the house. The 5 bedrooms are triggered by the building code, beyond that requires a higher occupancy type.

Vice Chair Ryan asked if we are looking at some kind of permit or application to allow the County to identify these locations and at the same time have some kind of inspection process that weeds out the mini houses and platforms under an oak tree.

Mr. Beatty added that we could prohibit anything that is not permitted as a residence. He recommend staff issue the permits for short term rentals that are not event-related. Those permits are still subject to the 10-day, 300foot notice that gives adjoining property owners the opportunity to comment. This does not always give staff criteria to deny a permit, but it allows people the ability to comment if they want to.

Vice Chair Ryan added that if we issue that permit and a year later they go back to their old ways with complaints from the neighbors that permit could be reviewed and removed from that property.

Mr. Beatty stated that it could be revoked by staff and their relief could be to go onto the Planning Commission and then on to the Board of Supervisors. With there being about 300 rentals in the county right now on about 20 different websites, it wouldn't be practical to have the Planning Commission review all of them.

Vice Chair Ryan commented that for the most part with an ordinance we are going to address about 95 or 99% of these short term rentals. I think that a few that are along the lines of a getaway or a resort or a wedding venue and the use permit is a good method to get the local community involved and get restrictions in place.

Commissioner Curtis asked if a threshold has been thought of for how many days a year you rent your place before you need to get a permit or how many occupants before you are required to get a use permit.

Vice Chair Ryan said we are talking about two different things.

Commissioner Curtis replied that he is talking about size.

Vice Chair Ryan elaborated that he is referring to different permits. When we are getting into something that is four bedrooms or greater and renting those out all the time we are talking about a B&B use permit. What we are hearing is an over the counter permit for a short term rental could be applied for when 2 or 3 bedroom or a bedroom in a home is rented. A search on the property would be done where occupancy is checked. If they do not fall within the guidelines of the new ordinance an applicant would apply for a use permit where the Planning Commission drafts the language of that use permit on a case by case basis.

Chair Byrne asked for confirmation that a Bed and Breakfast is a maximum of five bedrooms.

Mr. Beatty confirmed.

Chair Byrne added so that if somebody is renting out more than five bedrooms they are aiming towards hotel proprietorship.

Commissioner Curtis asked how many bedrooms are in the Emily Way house.

Chair Byrne replied that Emily Way has 5 bedrooms, but they are not putting a limit on guests. One of the limitations that shows up a lot is two people per room. There could also be a maximum number of rooms. That would be a way of creating those caps.

Mr. Beatty added that the Building Code limits B&Bs to 5 bedrooms with two people per room.

Ms. Anderson shared that one of the bedrooms in the Emily Way house is not permitted, so will that count as a bedroom?

Chair Byrne replied not if it wasn't permitted.

Ms. Anderson added that she already checked with the Building Department and it is not permitted.

Commissioner Wardall shared that one of the things in a use permit that the Planning Commission is required to do is to look at the impact of the safety, health, wellbeing, and tranquility of the community. If there is an adverse impact to these, then there has to be overreaching substantial reasons why the use permit is issued.

Chair Byrne commented on enforcement and added that in this County enforcement is traditionally done on a complaint basis. Assuming that is the direction we would be going with this, there is not a lot of staff to go out and check each property with onsite permits unless there complaints.

Mr. Beatty shared that this that is still the current policy. We are working on strengthening the code enforcement process and whether or not it should be complaint driven.

Vice Chair Ryan added that staff is available Monday-Friday 8-5 and that since the majority of guests are going to be on weekends, problems are going to be on weekends and we should have some kind of number to leave a message so that Code enforcement can follow up on Monday or think about how someone can submit a complaint after hours without having to call the Sheriff.

Ms. Van Tilburg stated that she spoke to one of the Sheriff's deputies who said that it is okay to just make a complaint with the Sheriff and say that there is no need for them to come out. She added that if a use permit is issued, is there is a mechanism for the owner of a property or the community to appeal it?

Chair Byrne replied absolutely and said that if they appeal they go to the Board of Supervisors and added that all decisions by the Planning Commission can be appealed.

Mr. Beatty shared that a handout was available on the table in the back of the Board Chambers with a list of variables that are being discussed for the ordinance. He stated that comments can be written on the back and forms left on the table. We will try to have a draft ordinance at the June meeting.

Commissioner DesVoignes asked what the procedure is to issue a use permit.

Mr. Beatty answered that if they are not event-related and it does not look like it is more than five bedrooms rented, that those would be staff-issued permits. Anything beyond that scope would be issued by the Planning Commission.

Chair Byrne added that generally a use permit goes through CEQA.

Mr. Beatty confirmed that it would go through CEQA if it is reviewed by the Planning Commission.

MOTION: It was moved by Commissioner Wardall, seconded by Commissioner DesVoignes, and unanimously carried to close the public hearing.

Adjournment: At 8:31 p.m. Chair Byrne adjourned this meeting of the Planning Commission, to meet again June 11, 2019.

Andy Byrne, Chair
Amador County Planning Commission

Mary Ann Manges, Recording Secretary
Amador County Planning Department

Chuck Beatty, Planning Director
Amador County Planning Department