

The Planning Commission of the County of Amador met on Tuesday, July 9, 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, Chair, District 4
Ray Ryan, Vice Chair District 5

Staff: Chuck Beatty, Planning Director
Ruslan Bratan, Planner I
Krista Ruesel, Planner I
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 Vice Chair Ryan, seconded by Commissioner DesVoignes and unanimously carried to approve the agenda as presented.

Chair Byrne asked Chuck Beatty, Planning Director, to comment on the last item on the agenda.

Mr. Beatty shared that there was a procedural error with the newspaper notice on Item 4 and that an official public hearing cannot be held on that item.

C. Minutes: June 11, 2019

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and carried to approve the June 11, 2019, minutes with below recommended corrections.

Page 4 corrected: Vice Chair Ryan commented that Ms. Sweet's property is in the ~~incorporated~~ unincorporated area then.

Page 11 corrected: Vice Chair ~~Byrne~~ Ryan responded that Bed and Breakfasts can also host events.

D. Correspondence:

Item G.1 – Petition by Schmitz 24 Brix

Item G.3 – Letters by Bill and Sharon May and Wally Gallagher for Wally Gallagher, Amy Kinsch, and Andy Askix.

Item G.4 – Letters by Terri Sweet, Don Kline, Cynthia Wong, Lynne Van Tilburg, Marion Anderson, Marliana Pipal, Mara Feeney for the Foothill Conservancy, Tricia Norman, Teri Grace, Tricia Solage, and Gail Norman.

E. Public Matters not on the Agenda: Chair Byrne asked if there were any public matters not on the agenda. No one desired to speak.

F. Recent Board Actions: None

Commissioner DesVoignes asked for clarification that the Planning Commission can make decisions on Items 1, 2, and 3 at this meeting.

Chair Byrne elaborated that the notification error was for Item 4.

Mr. Beatty confirmed that the error was only with Item 4.

Public Hearing

Item 1 - Request for a zoning ordinance interpretation pursuant to Amador County Code Section 19.60.070, Change in Use. Section 19.60.070 allows the legal nonconforming use of a building to be changed to another nonconforming use if the proposed use is found to be similar or more restrictive in nature than the previous use. The proposed change in use is the addition of a mobile food facility. The property was previously approved for wine blending, bottling, distribution, and tasting.

Applicant: Schmitz Cellars

Supervisorial District: 5

Location: 17585 Highway 49, Plymouth just south of Randolph Drive and the City of Plymouth corporate limits (APN 008-100-009)

Chair Byrne introduced the item.

Ruslan Bratan, Planner, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Byrne opened the public hearing and asked if the project proponent was present and wanted to speak.

Paul Schmitz, representing Schmitz Cellars, shared copies of his presentation with the Commission, Counsel, and staff and asked that the Commission approve another nonconforming use for the property and stated that there have been nonconforming uses on the parcel for the past 45 years. He shared that he desires to offer a mobile food facility for take-out food. He commented that the public has requested that they be able to take food items with them for a picnic and wine tasting or for when leaving for the Shenandoah Valley. He shared that his tasting room is the first one traveling north into Plymouth and the last when traveling south. He shared details of the layout of buildings and parking on his parcel and added that all areas on the parcel total about 7,400 square feet and have been used at some point by consumers to walk and inspect the products displayed for sale. He shared information about the benefits of eating prior, during, and after drinking alcohol. Mr. Schmitz shared the history of prior uses of the parcel. Mr. Schmitz stated that the 600 square feet he uses for retail is less than previous uses and specified that he will be using 400 square feet for the tasting room, about 200 square feet for the food truck, and the rest of the square footage for staff and storage. He added that the proposed new use will be similar or more restrictive in nature than the previous nonconforming uses of the property over the prior 45 years, and that a lot of food trucks serve wineries in Amador County.

Vice Chair Ryan asked Mr. Schmitz how frequently there would be a food truck onsite.

Mr. Schmitz responded that there would be one Thursday through Sunday or Monday.

Chair Byrne asked if anyone else wanted to comment. No one else desired to speak.

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

Commissioner Wardall asked if the neighbors around the property were notified of the proposal.

Mr. Beatty responded that a mail notice was sent to land owners within 300 feet of the subject property.

Commissioner Wardall asked if any complaints or objections were received.

Mr. Beatty replied that a petition was received in favor of the request.

Vice Chair Ryan commented that the parcel is zoned R1A and stated that he and Chair Byrne were on the Commission when the nonconforming use for a tasting room was originally approved in 2015. Vice Chair Ryan stated that he has a number of concerns, but that his largest concern is the additional traffic. He added that he had read the minutes from the Planning Commission meeting in 2015 where the applicant stated that Caltrans was okay with the tasting room as long as there was no additional traffic or uses that would exceed what was experienced in the past. He voiced concern about the applicant joining the Vintner's Association within 2 weeks of the Commission's 2015 decision when the applicant had stated that he was not going to join the Vintner's Association. Vice Chair Ryan shared that by joining the Vintner's Association traffic had increased and shared that a motorcycle accident occurred weeks after the nonconforming tasting room was approved because of the traffic stopped in front of the motorcycle. He added that Mr. Beatty had stated to the Planning Commission in 2015 that there could be no weddings, receptions, or other social events, if approved. Vice Chair Ryan continued that the tasting room operations exceeded what was intended and what the Commission approved which was a small facility with a 400 square-foot tasting room with a maximum of 10 cars. Vice Chair Ryan shared he has observed barbeques, cars parked on the highway, and around 100 people stopping to pick up their wine glasses for Vintner events. He added that he is not inclined to approve any additional uses, specifically because Mr. Schmitz has already exceeded what was originally intended and previously approved by the Commission. He stressed that the facility was not intended to handle the amount of traffic seen today or every day of operation for a food truck.

Commissioner DesVoignes said that he assumes there is no left hand turn lane.

Vice Chair Ryan responded that there is no deceleration lane or turn lane.

Chair Byrne added that Vice Chair Ryan has more points than Chair Byrne.

Commissioner Wardall commented that Vice Chair Ryan's comments were enlightening and that Vice Chair Ryan's concerns sound valid.

Mr. Schmitz shared that over the past 3-plus years there has been one driving incident with poor driving on the driver's part and reminded the Commission that the building has been used for commercial use for 45 years. He shared details about his parking area and stressed that there is plenty of room to drive around the property. He commented that his neighbor, about 100 yards down, is a veterinarian who has livestock trailers coming in and out of his own property with no turn lane either and added that the neighbor has had no problems. He shared that they have had as many as 20 cars there and that he has not seen anyone park on either side of Highway 49. He elaborated that there is a 40 foot wide by 60 foot

long area where people can pull in and park, but that 90% of the parking comes on his property from the rear of the building. He commented that he was approached by the Vintner's Association because they had changed their by-laws which allowed him to join. He added that he has canceled his membership with them for this coming year. Mr. Schmitz stressed that in the past 3 ½ years that they were part of the Association they had never had trouble with events and that they never had 100 cars or 100 people at one time.

Vice Chair Ryan elaborated that the purpose of his discussion was to limit any further traffic increases to the property. He stated that it was approved as a tasting room and that certain circumstances have changed. He stressed that if he had known that it was going to be immediately used for events such as what the Vintner's put on he would have denied the tasting room the first time. He added that they were not there to discuss the validity of the existing approval, but to discuss the desire for additional uses which he shared that he is not inclined to do.

Chair Byrne stated that he is in agreement.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner Wardall, and unanimously carried to deny the request for an addition of a mobile food facility at 17585 Highway 49, Plymouth.

Mr. Beatty stated that the Planning Commission has found that the addition of a mobile food truck at 17585 Highway 49 is dissimilar to and less restrictive than prior uses of the property. Anyone wishing to appeal the decision may do so by filing a written appeal along with the appropriate fees with the Clerk of the Board of Supervisors by no later than 5:00 p.m., July 19, 2019.

Item 2 - Request for a zoning ordinance interpretation pursuant to Amador County Code Section 19.24.040, "A", Agricultural district regulations, regarding whether or not the "A" district would allow the production and tasting of distilled spirits from materials other than grapes.

Applicant: C. G. Di Arie Vineyard and Winery
Supervisory District: 5
Location: 19919 Shenandoah School Road, Plymouth approximately 4,000 feet east of Shenandoah Road (APN 014-230-005)

Chair Byrne introduced the item.

Ruslan Bratan, Planner, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in.

Chair Byrne asked if the applicant was present.

Chaim Gur-Arieh, applicant, introduced himself and his wife, Elisheva Gur-Arieh, and shared that they desire to have a distillery on the same parcel as their winery and wine tasting room. He commented that the proposed distillery will fit into a 350 square-foot area and will produce about 500 cases per year of distilled spirits such as brandy from wine and flavored spirits such as gin and vodka. He added that they will not be making whiskey or bourbon. He shared that there are two reasons they are doing this and elaborated that the first reason is to attract customers with something that their competitors have not done. He elaborated that food and music has been used by others and that they would like to do something different. He commented that the proposed spirits tasting room cannot be connected to the wine tasting room in order to comply with ABC regulations. He shared that the second reason for pursuing spirit manufacturing is that each year they have a 150 tons of grapes to process which gives them about 25,000 gallons of wine to be sold. He shared that it is very competitive and that there is too much wine to sell just in the tasting room. Mr. Gur-Arieh stated that through the years they have been

able to sell wine in a few other states as well as overseas, but that being able to make distilled spirits will help them deplete some of their inventory so they will not be tied to only to selling wine. He elaborated that 6,000 gallons of wine can make 500 cases of distilled spirits which is about 20% of the wine they make. He added that it is difficult to sell more wine than they are already selling and being able to make distilled spirits will help them use their inventory.

Mrs. Gur-Arieh shared their mission and immigration history. She commented that they moved from Israel to the United States and that they believe it is important to come back to the land. She stated that they fell in love with the Shenandoah Valley which reminds them of home. She added that their core values include staying with wine, education, and a commitment to the community. She commented that limos and buses are not allowed at their tasting room because some of the associated behavior is not part of their philosophy. As a result, there also is a more pleasant ambiance. Mrs. Gur-Arieh added that she sits on the board of Amador Vintner Association, El Dorado Association, and the Wine Institute. She shared that they plan to run the distillery the way they run the winery and reiterated that they are farmers who want to be creative and show what they can do regionally.

Chair Byrne asked if anyone else would like to comment.

Stephen Tumbas, neighboring property owner, shared that knows the applicants personally and wants to applaud them for what they are doing. He shared that there are other wineries who do distilled spirits with most using grapes, but there are others in the area who use plums and other fruits. He commented that in Jackson a retired school teacher founded Amador Distillery which was bought by a national distributor because of its success. He asked that the Commission consider this openly and allow them the opportunity for the same success.

Chair Byrne asked if anyone else wanted to speak on the matter.

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

Vice Chair Ryan disclosed that he discussed the project with the applicant a couple weeks ago and walked the property. He also attended several Vintner events and asked some close friends and employees of vintners their opinion and they were all in favor of the project. He stated that the property is beautifully kept and first class, and expects that the distillery will be the same.

Commissioner DesVoignes asked if there is a parking problem.

Vice Chair Ryan responded that there is more than adequate parking and that the winery does not cater to limos and buses so it is a reduced crowd and much more pleasant experience.

Commissioner DesVoignes added that he has been to their other winery in El Dorado County and commented that it is an excellent facility.

Chair Byrne questioned whether others would want to do the same.

Vice Chair Ryan shared that the product of grapes is one of the top agricultural products in the County. He added that finding alternative uses for them is very important and shared that 600 tons of valley grapes that were on contract were cancelled when the valley when Renwood Winery was sold. He commented that homes for grapes are needed and that he believes this is a good use of them. He stated that others may want to also do this depending on the applicants' success and how others view their success.

Chair Byrne commented that in the past we have allowed distillation.

Mr. Bratan added that we have for brandy.

Chair Byrne shared that a distillery could be distilling anything and commented that in the past grapes have been allowed for brandy. He suggested that wording for the interpretation could include using locally grown materials.

Vice Chair Ryan shared that he does not believe that it would be so much locally grown, but agriculturally based.

Mr. Beatty added that there have been wineries in the County that are make spirits, it but they are using grapes.

Chair Byrne said right, but that they are still using grapes and asked if somebody could just order potatoes.

Mr. Beatty shared that the State makes a distinction of allowing wineries to make brandy because it is made with grapes, but grapes can be distilled to where it is almost vodka. He added that it is not technically vodka because it is made with grapes.

Chair Byrne shared that if we make an interpretation to distill then it does not matter what can be distilled.

Mr. Beatty responded that it could because it goes on in the wine industry right now.

Vice Chair Ryan agreed that it goes on today with plums, peaches, dandelions, and more. He shared that it will open the door for agricultural products to be used in our County in a more versatile way. He added that it will be beneficial in that it will consume some of the grapes.

Commissioner Curtis asked if a Technical Advisory Committee meeting is needed.

Mr. Beatty replied that a use permit will be needed if the decision is favorable for the applicant and added that not only for this location, but for any "A" zoned location.

Chair Byrne answered that it was for the tasting room part.

Mr. Beatty replied that Chair Byrne was correct.

Chair Byrne desired confirmation that they already have a use permit for their wine tasting room and they will need one for the distillery.

Mr. Beatty said they do not need one for the wine tasting room because they are in the "A" zone, but they will need one if the distillery uses more than grapes.

Commissioner Curtis shared that from his background the distillery itself becomes a different type of occupancy.

Mr. Beatty added that it does and that there is a separate licensing requirement with the ABC; a wine grower license and a distillery license.

Commissioner Curtis commented that there will need to be a TAC meeting then.

Mr. Beatty replied correct.

Vice Chair Ryan asked if anyone else desires to speak.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and unanimously carried to find that the processing of agricultural products extends to the production and testing of distilled spirits for materials other than grapes and is consistent with the intent of the County Code 19.24.040a, agricultural uses with the finding that it is compatible with county code that the use of agricultural products are being used to make the end product.

Mr. Bratan stated that the Planning Commission has found that processing of agricultural products does extend to the production and tasting of distilled spirits from materials other than grapes and is consistent with intent of County Code 19.24.040, agricultural district conditional uses. Anyone wishing to appeal the decision may do so by filing a written appeal along with the appropriate fees with the Clerk of the Board of Supervisors by no later than 5:00 p.m., July 19, 2019.

Chair Byrne requested a 5 minute break for the Planning Commission.

Item 3 - Request for a Zoning Ordinance Interpretation pursuant to Amador County Code Section 19.24.040, "A", Agricultural district regulations, regarding whether or not the "A" district's conditional use of "recreation" extends to Recreational Vehicle Parks.

Applicant: Goose Hill Rock

Supervisorial District: 2

Location: 6080 Jackson Valley Rd., south of the intersection of Jackson Valley Rd. and Goose Hill Ranch Rd. (APN 012-040-049)

Chair Byrne reconvened the meeting and introduced the item.

Krista Ruesel, Planner, shared the Staff Report which is hereby incorporated by reference into these minutes as though set forth in full.

Chair Byrne asked if the proponent was present.

Doug Ketron, for Goose Hill Rock, shared that staff has explained it and that an interpretation is desired of whether the Agriculture zone extends to a recreational vehicle park similar to Pine Acres or to the park in Plymouth. He added that the mine's Reclamation Plan requires the land be restored to a beneficial use. Mr. Ketron stated that they need to be able to plan the reclamation of the property ahead such as the grading and things that are consistent with the reclamation plan. He asked if the Commission has any questions and commented that there is no application submitted, just a request for an interpretation.

Chair Byrne responded that the Commission had no questions yet and asked if anyone else desired to speak.

Michael Vasquez asked the Commission to look at this project as beneficial and to look at the upgrade of the reclamation permit since it is currently industrial. He shared that lots of things have happened with the mining operation. He stressed that this is an area that is underserved for recreational parking and commented that Lake Camanche has recreational parking on the beaches, but that there are no facilities for them. He added that Lake Amador has a number of RV spaces that are about 50 years old and not in really good condition. He shared that if the land at Goose Hill Rock is perfect for this with a number of lakes in the area. He stated that a similar application had gone to TAC in 2009 and said that none of this was brought up. He shared that the zoning had been changed and that they have been working under the assumption that they would be able to move forward. Mr. Vasquez commented that section 19.24.40 covers a broad area hopefully the interpretation will be that be to allow this with a conditional use permit.

Mr. Beatty clarified that there has been no zone change on the property.

Commissioner DesVoignes asked if a zone change is required to move forward.

Mr. Beatty answered that it could be. It has not been changed since the RV park conditional use application was filed in 2009, which was withdrawn.

George Lambert, resident in Jackson Valley south of this project, shared that he believes this interpretation has far reaching implications for the entire county, not just this project. He shared that he believes that if this change is approved anyone that wants to put in an RV park in an agricultural zone, such as in Shenandoah Valley, could do so. He added that the public and the Supervisors do not have the benefit of having more information about the project and that an interpretation should be made after an application is submitted so that consideration of the details about the project are known and considerations can be made for them and environmental and public safety concerns can be addressed. Mr. Lambert shared specific concerns of a change to the Reclamation Plan and that an RV park could be allowed to be below the dam in an inundation zone. He stated that about 10 years ago there was a proposal from the applicant for an RV park at the site and a concert facility and that asked that a project be known before proceeding with an interpretation.

Mr. Ketron shared that the County wants to phase out the site's current zone "X." He added that the applicant is just looking for an interpretation of whether recreation includes RV parks. He added that they need to know what to do for the reclamation of the property once the mining ceases and that the mining sequence includes reclamation as part of the mining plan and that it needs a coordinated effort.

Mr. Lambert commented that the applicant stated that it just needs to be returned to a beneficial use. He shared that the Staff Report states that the reclamation plan for Goose Hill Rock Surface Mine requires the mined land be reclaimed as wetlands, wildlife habitat, and water storage. He commented that that is pretty specific and added that the engineer who wrote the applicant's letter said the same thing. He shared that he was confused, but that he thinks they will need to go back to the State and get the Reclamation Plan changed in order to have an RV park.

Chair Byrne added that it is his understanding that in order to have an RV park, they will need to change their reclamation plan, change their zoning, and get a use permit.

Mr. Beatty commented confirmed.

Mr. Lambert continued that all these things should be bundled together and worked through in a good sequence with the final thing being to do the zoning interpretation.

Chair Byrne asked if anyone else wanted to speak.

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

Commissioner Wardall stated that we need to pick something that will work.

Chair Byrne commented that what is front of us is the question of whether or not the agricultural designation includes RV parks.

Commissioner Wardall shared that there will be controls with a use permit and having to go back to the State to get their Reclamation Plan amended for an RV park. He added it would need sewage and all the other infrastructure that it looks like a good use.

Commissioner DesVoignes asked if they need to address where it was actually mined.

Mr. Beatty responded that the Reclamation Plan addresses anything that was done after 1975.

Commissioner Wardall asked how much that was.

Mr. Beatty responded that he would need to look at the current Reclamation Plan, but believes it is about 70 or 80 acres.

Vice Chair Ryan reminded that the Commission needs to determine whether or not RV parks are consistent with the intent of the agricultural code. Trying to envision anyone who is "A" would be able to open up an RV park no matter the number of stalls. Having no project now has no bearing. It is whether or not we want to interpret and extend the "A" zoning to allow for anyone to permit RVs to be parked on their property. There may be a process in place for a use permit, but something like this should come under a different category such as commercial instead of a blanket approval because it is "A." He added that he is reluctant to interpret this as a by right code change and say that RVs are consistent with agricultural use.

Mr. Beatty added that it would require a use permit rather than by right.

Vice Chair Ryan continued that if we allow RV parks in "A" zoning that it then opens this up to large areas.

Chair Byrne asked if there is any zoning that allows an RV park.

Mr. Beatty responded "T1" and "T2" or current RV parks and campgrounds.

Vice Chair Ryan inquired if there is a reason that this zoned "X" parcel cannot be changed to that.

Mr. Beatty shared that the General Plan Land Use designation is General Agriculture. "A" district is the only one in the General Agricultural General Plan designation that allows recreation as a conditional use.

Chair Byrne asked what the "T" zoning is.

Mr. Beatty answered that "T" zones permit RV parks, mobile home parks, and campgrounds, but "T" zones are not deemed compatible with the General Agricultural designation or any other General Plan designation. He added that the "X" zone is now only compatible with the Mineral Resource Zone General Plan designation.

Chair Byrne asked if the new General Plan includes "T" zoning.

Mr. Beatty replied that the "T" zoning is not compatible with any General Plan designation, but the zoning is still in the zoning code.

Chair Byrne said it would require someone getting a zone change to a "T1" first and stated he thinks Mr. Lambert had some good points.

Vice Chair Ryan commented that he is looking at the core change and repercussions of that. He voiced concern about it being broad and about setting a precedent. He shared that the "A" zone allows recreation and that agri-tourism is recreational, but said he cannot see the Commission making that broad of a statement. Vice Chair Ryan reminded that this is about interpretation of current code and whether or not it was intended to extend to allow for recreational vehicle parks.

MOTION: Vice Chair Ryan made a motion to find that the "A" district's conditional use of "recreation" does not extend to Recreational Vehicle Parks under County Code Section 19.24.040, "A", Agricultural district regulations.

The Applicant asked to speak.

Vice Chair Ryan reminded that a motion is pending.

Chair Byrne allowed the Applicant to speak.

Mr. Vasquez shared that he believes that about 7 or 8 years ago the property was zoned "X" which allowed for recreational parks and the Reclamation Plan allowed for recreation. He stated that what is front of the Commission right now is under the "A" zoning and commented that because of the way the request is worded, they are limited with the "A" zoning. He added that he probably should have objected when the zoning was changed when the General Plan was approved. He added that if they have "A" zoning, they would still have to apply for a conditional use permit. He shared that "X" zoning would have allowed for recreation and that an upgraded Reclamation Plan application is in front of the Commission that he would like the Commission take it under consideration.

Mr. Beatty clarified that there has been no change to the parcel's General Plan designation or zoning and shared that the parcel is still zoned "X."

Commissioner Wardall and Vice Chair Ryan requested clarification that the parcel is zoned "X".

Mr. Beatty confirmed that it is still zoned "X" with General Plan designation of Agricultural-General.

Commissioner Wardall asked what the zoning is for parcels in the Shenandoah Valley that have wineries.

Mr. Beatty responded that they are either "A", "R1A", or "AG" with a Williamson Act contract.

Chair Byrne reminded that the Commission is looking for a second to the motion.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner Curtis, and carried to find that recreation does not extend to recreational vehicle parks and is not consistent with the intent of County Code 19.24.040, "A," Agricultural district conditional uses.

AYES: Ryan, Curtis, DesVoignes, Byrne

NOES: Wardall

Ms. Ruesel stated that the Planning Commission has found that the term recreation does not extend to recreational vehicle parks and is not consistent the intent of County Code 19.24.040. Anyone wishing to appeal the decision may do so by filing a written appeal along with the appropriate fees with the Clerk of the Board of Supervisors by no later than 5:00 p.m., July 19, 2019.

Chair Byrne requested to adjourn for a 5 minute break.

Item 4 - Zoning Ordinance Amendment (ZOA-19;6-1) regarding Short Term Rentals. Review and recommendation to the Board of Supervisors regarding a proposed amendment to County Code Chapter 19.48, General Provisions and Exceptions, by adding Section 19.48.200, "Short Term Rentals", pertaining to the rental of residential properties for periods less than 30 days. The amendment proposes to establish permitting processes and operational standards for such facilities in the unincorporated area of the County.

Applicant: County of Amador

Supervisory District: 1, 2, 3, 4, & 5

Location: All portions of the unincorporated area of Amador County

Chair Byrne introduced the item.

Mr. Beatty shared that there was a public hearing on June 11, 2019, where the Commission reviewed a draft Short Term Rental ordinance. He shared that after taking public comments and discussing amongst the Commission, staff was directed to make amendments to that proposal. He commented that although action cannot be taken tonight, in the past when there has been an error in the public notice, the Commission has taken comments and deferred action to a later meeting. He added that per the request of the Commission the track changes form draft was added to the County website two weeks ago.

Chair Byrne asked if anyone desired to speak.

Caryl Callsen, representing the Foothill Conservancy and District 3 resident, shared that they had submitted a letter with a table of suggested revisions. She shared that one of the issues not addressed in the current draft ordinance is limiting the number of short term rentals in the County. She added that too many in an area can affect availability of long term rentals and a sense of community. She commented that the definition of where short term rentals are and are not allowed should be more clear and recommended that time be taken to help create an ordinance that better fits Amador County. She suggested that an ordinance be created reviewing ordinances that have worked for other counties and possibly having a committee made up of short term rental owners and those who live near short term rentals help with the draft ordinance.

Terri Sweet, short term rental owner, voiced her disagreement with Foothill Conservancy's comments. She stated that she has two issues with one being that grandfathering needs to be allowed for lawfully operating short term rentals. She added that the second issue is the quality of the ordinance itself which she stated is not consistent with the General Plan and agri-tourism. She commented that she desires a law that applies evenly to all households and asked instead for consideration of the impacts from second family homes on parcels. He stated that fourteen policies in the General Plan support short term rentals. Ms. Sweet asked for clarification on which document initiated this proceeding such as a formal resolution from the Board of Supervisors, Planning Commission or a verified signed petition from a citizen and stated that without one this public hearing is premature.

Chair Byrne said that Counsel could advise.

Glenn Spitzer, Deputy County Counsel, stated that he would review the Board of Supervisors' directive to the Planning Commission.

Vice Chair Ryan shared that he was at the Board of Supervisors meeting where the short term rental ordinance was initiated by not only by the Board, but by families experiencing some of the things we are trying to prevent here.

Ms. Sweet shared that it needs to be a verified petition by a citizen and that she went to the Board of Supervisors office she was told that there was not a resolution and stated that she believes this whole thing is illegal.

Vice Chair Ryan desired clarification from County Counsel that county code would prohibit this ordinance from being invoked and that we would have to grandfather in anybody that is already operating a business like this. He added that the whole purpose here is to address current problems with the few short term rental owners that are not being respectful so we can shut down or put restrictions in place so that they cannot do what they are currently doing. If I'm hearing that we have to acknowledge grandfathering of existing facilities, that doesn't address current problems but will help going forward.

Mr. Spitzer replied that the code is clear that short term rentals are prohibited in residential zones without a short term rental permit. Regarding the nonconforming use issue, he suspects that it is not an issue but if staff needs to tighten up the ordinance they will do so.

Lynne Van Tilburg, neighbor of short term rental on Emily Way, thanked staff and Commissioners for all the time put in this. She asked if the Planning Department would review all the edits and comments that have come in and come up with a new draft or will it be the same draft submitted today since the hearing has been postponed to August 13th.

Mr. Beatty replied that if the Planning Commission directs staff to make revisions to the draft, we will do so.

Chair Byrne asked if that is without having notice.

Mr. Spitzer responded that staff can still work on it, and whatever version is noticed will be the one discussed at the public hearing.

Chair Byrne added that it is still a work in progress.

Ms. Van Tilburg asked if comments submitted could be incorporated into the draft if the Commissioners ask for that.

Mr. Beatty shared that it can certainly be modified between now and the time it gets noticed.

Chair Byrne shared that this is a bonus hearing.

Sean Kriletich, short term rental owner and resident of District 1, asked the Commission to drop the ordinance and stated that he believes this is unfair treatment of a small group of people trying to be micro-entrepreneurs who are already following the rules and bringing tourists to the County. He shared that only about 60 businesses are paying the Transient Occupancy Tax, but that there appears to be about 200 short term rentals operating in the County. He expounded that if the ordinance is adopted, those that are paying the TOT and doing the right thing will feel obliged to comply with the ordinance and permitting. He questioned why those already not paying the TOT would now comply with the new regulation when not complying with the TOT. He commented that the ordinance is really not going to stop the nuisance issue and was not sure whether the grandfather clause in Title 17 covers this ordinance or not, but that attorneys and courts can decide. He suggested that maybe the County needs a nuisance or noise ordinance to deal with Ms. Van Tilburg's issues.

Emily Taylor, who lives on a ranch in lone, shared that she currently does not own a short term rental and does not support the STR ordinance because it does not solve the original noise complaint problems or address similar issues with long term rentals. She commented that all ranches and farms rely on STRs to supplement their working farm income and stressed that STR renters are tourists who spend money locally and generate taxes. She added that STRs provide a bridge between city and county lives and stated that Amador County promotes tourism, but questioned how this can this be done when there is a shortage of hotels and Bed and Breakfasts. Ms. Taylor shared that the code is antiquated regarding trailers, camping, and yurts since these promote another way for people to get close to the land. She added that there are not enough studies that STRs are limiting housing stock in the County and stressed that current noise problems can be addressed with a nuisance ordinance. She shared that the ordinance is government overreach and will impact positive growth in the County. She commented that we all want open space large and cities small.

Carlos Oropeza shared that he and his wife moved to Amador County a couple years ago from Napa County where they rented a loft on their property through AirBnb for several years. He stated that he has seen both sides of STRs with problems with neighbors and neighborhoods and benefits such as extra income and tourism to the County. He shared that from his experience many of the problems relate to whether the owner lives on or near the proximity of the property. He shared that he does not see that the draft ordinance addresses this. He commented that when you live on a property that has extra space to

rent it does not contribute to the lack of housing. He shared that it is in the owner's best interest to not annoy the neighbors and that he does not want noise next to him all the time.

Chair Byrne responded that this has been his take on this, but that a discussion was had about hosted and non-hosted short term rentals and there was a big push back on that.

Commissioner Wardall stated that he understands this, but reminded that there has been a complaint and problems and that they are trying to resolve this with something that is fair to the families, the community, and to the private residents that have to reside next to the Emily Way property.

Mr. Oropeza said that there needs to be a responsible party that lives near the rental.

Chair Byrne commented that that is in the proposed ordinance.

Commissioner Wardall asked Mr. Oropeza if has read the proposed ordinance.

Mr. Oropeza responded that he had.

Chery Vera, short term rental owner on Bell Road, shared that she is against the ordinance and feels that the point is being missed. She commented that there is a nuisance issue that needs to be addressed, not putting restrictions on responsible short term rental owners. She added that a nuisance regulation would take care of problems on Emily Way and any other short term rental that is abusing the situation. She shared that she disagrees with the ordinance and believes that if it is adopted there should be a grandfather clause for those paying taxes and being responsible. She advised that corrections are needed in the definitions section for hosted short term rental and non-hosted short term rental because they have the same definition. Ms. Vera added that a land line should not be required where cell service is available and recommends clarification on the type of homes and number of people with consideration to the size of the home and the number of bathrooms to bedrooms.

Alan Roberts shared that he travels extensively and uses short term rentals in the United States and Europe and he never has had an issue. He stated that he also believes it is a nuisance issue and that the ordinance should be dropped. Mr. Roberts shared that he has been considering having a short term rental for a few years. His intention would be to be present if he has an STR. He shared that most people tend to live in fear and guesses that problems are very few locally and worldwide and that bad things make the news.

Chair Byrne shared that a couple weeks ago that he asked Mr. Beatty about the effects of STRs on regular rental housing.


Mr. Beatty replied that he had been asked staff had studied whether or not there has been an impact on long term rentals in the County. He shared that his response to Chair Byrne that data would be needed for several years on how many long term rentals have been available and what the change has been since the Airbnb phenomenon has taken off. He shared that his personal observation of the long term rental market in Amador County over the last 6 years is that the number of rental hasn't changed much, but the rents have increased greatly. He added that there are many national studies on short term rental impacts, but that it is hard to figure out where Amador County fits into those studies. He stated that a joint study between USC and UCLA showed areas with higher owner-occupancy rates are less impacted by short term rentals in their available housing stock. He shared that Amador County's owner occupancy rate is 77%, statewide it is around 55%, and in San Francisco it is around 35%. He added in areas with lower owner-occupancy rates, owners of vacant units are more likely to turn those over to the short term rental market because it is more profitable.


Chair Byrne asked if there were any other comments.

Mr. Beatty shared that the next public hearing will be completely re-noticed.

MOTION: It was moved by Vice Chair Ryan, seconded by Commissioner DesVoignes, and unanimously carried to approve to adjourn the meeting. The next meeting will be August 13, 2019 at 7:00 p.m.


Mary Ann Manges, Recording Secretary
Amador County Planning Department


Andy Byrne, Chair
Amador County Planning Commission


Chuck Beatty, Planning Director
Amador County Planning Department