

Aug. 15, 2021

Dear Mono County Supervisors,

This is in regard to regular agenda item G on the BOS agenda for Tuesday, Aug 17, 2021, "Appeal of planning commission decision ...". My name is David Rosky, I am a resident of June Lake Loop. As a CAC member, I attended all of the meetings and workshops held during the multi-year process for STR policy in June Lake (including the preceding 'TROD wars').

I am not taking a position in this case because while I have read through the agenda item, I am not intimately familiar with the specific issues and claims, but I have a concern based on the documentation and general suggestion.

The concern is regarding the "reasonable opposition" bullet point. During the long policy process we went through in June Lake, attention was paid to this issue, and a very specific question came up asking whether, in a neighborhood which allows STR, it would be allowable for nearby residents to have simple, unconditional 'veto power' over whether a permit is granted. County Counsel indicated that they would research this question, and the result, presented at a later meeting, was that it was Counsel's opinion that such a veto power could not be legally allowed. As a result, the code allows for "reasonable opposition". In light of County Counsel's findings (at the time) that neighbors cannot be allowed to unconditionally 'veto' an application, this means that "reasonable opposition" has a burden of being something substantive, as apposed to being simply opposition to the local STR policy. While there may in fact be substantive issues as outlined in the other bullet points, the documentation doesn't specifically describe what the reasonable opposition is, only that it was received. Perhaps it is just referring to the other bullet points, though it is not clear, and it is important that a permit denial not appear as primarily granting a veto by neighbors.

After reading through this, the suggestion I have is regarding the fact that at the outset, it can be very unclear and unpredictable how discretion will be applied in these permit applications. There are many possible inputs, some of the conditions are nebulous and subjective (e.g., "reasonable opposition"), and even things that seem objective are subject to the interpretation of officials such as local fire chiefs etc. There can also be a tendency to be affected by highly vocal neighbors despite the fact that neighbors should not be allowed to unconditionally veto a permit. This can result in uneven application of policy. While it is known that the process is discretionary, the relatively wide and subjective bounds of the discretion, and the resulting unpredictability, can cause issues with property purchase decisions, and perhaps even draw legal challenges. As a way to partially address this, the suggestion is that whatever the result of this particular appeal is, that the county consider implementing some form of nonbinding pre-screening process, whereby a property under consideration for purchase can be quickly evaluated under similar discretion to what would be applied during an actual permit application. It may not be possible to touch on everything, but significant objective concerns such as fire safety and non-conforming setbacks could be quickly brought to light.

Best regards,  
David Rosky