

MONO COUNTY PLANNING COMMISSION

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SPECIAL MEETING MINUTES

December 21, 2017
(Adopted January 18, 2018)

COMMISSIONERS: Scott Bush, Roberta Lagomarsini, Chris I. Lizza, Mary Pipersky, Dan Roberts

STAFF: Gerry Le Francois, principal planner; Wendy Sugimura & Michael Draper, analysts; Walt Lehmann, public works; Christy Milovich, assistant county counsel; CD Ritter, commission secretary

GUESTS: Sandi Forstenzer, Maureen Vogel, Clifford Mann, Kathie Tipton, Cheyanne Renfro, Stan Riffel, Jeph Gundzik, Mike Rosas, Chris Martinez, Patrick Gale, Ian Fettes

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Chair Dan Roberts called the meeting to order at 10:05 a.m. in the Town/County Conference Room in Mammoth Lakes. Attendees recited pledge of allegiance to the flag.

2. PUBLIC COMMENT: No items

3. MEETING MINUTES

MOTION: Adopt minutes of November 16, 2017, as submitted (*Bush/Pipersky. Ayes: 5.*)

4. PUBLIC HEARING

A. CONDITIONAL USE PERMIT 17-014/Baker for use of existing bedroom for short-term rental with the owners living on site. The property is located at 305 Aspen Springs Ranch Rd. in the community of Crowley Lake. This parcel (APN 062-090-017) has a land use designation of Estate Residential (ER 3). A CEQA exemption is proposed.

Michael Draper described the proposal. Estate Residential allows application for owner-occupied Type I short-term rental conditional use permit. Three bedrooms on first floor, occupancy of eight. Applicant requested extension due to absence. Stacey Simon indicated go ahead today, withhold decision and further public comment in January. One parking space/bedroom. Can be met. Applicant received violation notice in August, owner responded with application. Project received five letters and one petition plus another letter and additional petition signatures. Comments: HOA has CC&Rs that prohibit nightly rentals. Applicant did not communicate intent to HOA or pursue exemption. HOA not want to police, change character of neighborhood, cope with road conditions in winter. Mono not reinforce CC&Rs, verify interpretation of articles. May be construed as reasonable opposition. First application in neighborhood, none taking place at this time, according to staff. Opposition letters from adjacent neighbors, across road. Two CC&Rs sections: residential uses and no unauthorized non-residential purposes. Staff recommends denial subject to reasonable opposition by those directly affected and one finding not met.

Recent purchase? Attendees confirmed.

OPEN PUBLIC HEARING: Clifford Mann, HOA president, confirmed owner purchased year ago August. Referred to CC&Rs restrictions on use. Lived there 16 years. Most owners longtime residents. Unique SFR property. Road grade issues of runoff, ditching, ruined a truck on that road. Owner-occupied status questionable. Great drive in summer. HOA was not notified, board members opposed. Protect lifestyle.

Representing self and/or HOA? *Both. Opposed to proposal.*

Difference in seasons? *Opposed to STR in area. Nobody but owners to enforce. Want to be left alone.*

HOA not notified, but what difference would it have made? *Applicant could have met with the HOA.*

Copy of HOA CC&Rs? *Assumed so. Longevity over 40 years. Automatic rollover of CC&Rs.*

Owner renting illegally? *Hasn't actually rented, just placed ad on Airbnb.*

Rent bottom floor long-term rental?

When did CC&Rs take effect? *June 10, 1976.*

--- Commissioner Lizza left to consult with counsel, & recused himself due to connection with current speaker ---

Maureen Vogel, who lives at bottom of street, cited safety factor, not wanting people who don't belong, privacy, and security. Cars slide down hill in winter, and traffic in summer unwanted.

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Roberta Lagomarsini

DISTRICT #3
COMMISSIONER
Daniel Roberts

DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris I. Lizza

Kathie Tipton, owner 25 years who raised family there, ran nightly rentals 40 years in Mammoth. Rentals do not fit in neighborhood. She has spun out on road. Possibly open can of worms. **CLOSE PUBLIC HEARING.**

DISCUSSION: Commission will be two votes short on Jan. 18, but could continue. Pipersky had heard enough, but thought it nice to continue for applicant. Bush noted all things would not be equal next meeting. Simon reminded rights of appeal still in effect. Lagomarsini indicated nothing applicant could say would change her mind. Go with consensus of commission. Bush thought owner bought property to do this, but still has property. Bush had no problem denying. Pipersky cited substantial, reasonable opposition.

MOTION: Deny CUP 17-014 due to reasonable opposition and HOA regulations. (*Pipersky/Lagomarsini. Ayes: 4. Abstain: Lizza.*)

--- Commissioner Lizza returned at 10:47 ---

5. WORKSHOPS

A. CANNABIS: Wendy Sugimura noted PC recommendation to BOS of 600' from schools, plus community centers, libraries instead of 1,000'. BOS addressed personal cultivation. Move to next level of detail relating to setbacks, siting of operation, how to run. Would be GPA (General Plan Amendment), as zoning was integrated into GP (General Plan). Workshop would prefer dialog not presentation.

Consistency analysis. Activities not fit clearly into land use designations, more a finding of "similar to but not more obnoxious than."

Commercial and MU (Mixed Use) allow manufacturing and testing? Comments wanted use in more land use designations. Not typically active storefront. Vibrant main streets encourage visiting within community. Manufacturing not open to public. Keep compatible with existing policies, on side streets, rear entry, second floors. Questions: Available in LUDs (Land Use Designations), OK in retail frontages or different locations. Manufacturing contains permitting types: non-volatiles, volatiles, infusions, packaging/labeling.

Bush saw manufacturing at all different levels, anything but cannabis. Where do it now? Almost banning manufacturing? *Industrial and Industrial Park, or Service Commercial. June Lake C and MU.*

Lots empty storefronts throughout county, could revitalize. New business in June Lake, jeep audio installation, not much walking in/out of storefront. Could be more retail use. *Retail allowed in C. Are manufacturing and testing OK, not contributing to vitality of main streets.*

Manufacturing license means not sell product on site? *True in manufacturing laws.*

Storefront where still not sell to public or let them watch? Back streets make it scary. Second-story OK. *Microbusiness allows for all but testing. Microbusiness OK with retail component. State regulations on separation of uses. Microbusiness each entity has to follow State regulations. Capped at 10,000 sf.*

Roberts indicated professional office serves only certain clients, but in commercial location. Lizza thought Main Street locations better suited for receiving/distributing goods. Lagomarsini wanted to add knowledge to topic at time instead of coming back to it.

Big picture of what doing today? Sugimura cited policy questions related to LUDs, setbacks, aesthetics, visuals. Commercial cannabis uses nonexistent, currently illegal. Add which activities to allow in LUDs, specify if prohibited. Permissive zoning not recommended.

Legally defensible to whom? Stacey Simon stated local code enforcement. Beneficial if activity is not allowed. Public can make decisions on clear information. Sugimura noted federal Cole memo lays out certain priorities.

Lizza mentioned Green banking to open up financial system. Jeph Gundzik noted more states have it, not that far from feds.

Bush noted most of population favors recreational use. Pipersky reminded it's illegal.

Simon wanted regulation regime that meets needs of residents. Sugimura wanted to provide for commercial activity in Mono.

Comparison to alcohol, a heavily regulated commercial product? Sugimura planned future workshop on State regulations.

Roberts wanted to reduce restriction on commercial space use. Limited throughout county.

Lagomarsini thought any cannabis uses that pose potential danger should not be in commercial/retail zone. Volatile processing fit into category? Is it dangerous, obnoxious, odor, smell? Not in core retail area.

Chris Martinez, who represents a few investors, mentioned crude oil distillation. Could fill all places up, work on land use designation.

Sugimura stated consistency analysis on nonvolatile and volatiles is not compatible with MU and C, should be I and IP. Infusing could be similar to other commercial uses.

How much space? Gundzik cited shipping container with all equipment.

Lizza recalled coffee roasting problems with neighbors, certain hours restricted impact. Maybe limit to off-hours? *Allow for manufacturing, infusions, packaging/labeling. Active street-front issue not more obnoxious. Require discretionary use permits.*

Commercial OK, but how similar in MU designation? Bush cited gas stations in Walker. Sugimura confirmed MU in June Lake and Walker.

Lizza: Small-scale ag? Sugimura stated limited to residential or personal use. Subject to permit. Not finding great match for existing uses. Edibles not defined as food.

Main Street Lee Vining? *Commercial.*

Type 7: Volatile solvents. Prohibited outright over safety factors? Local FPDs did not see it as a problem. Mammoth Lakes FPD has state fire marshal, non-incorporated do not. Tom Perry has experience with operation in Mammoth.

Liz noted meth lab has volatiles. Martinez indicated in safe area nothing to blow up but self.

Roberts thought handling propane is safer. Bush does it all time at gas station.

Sugimura cited land development regulations, discretionary permitting process Draper will address.

Prohibit type 7 entirely? Bush thought not till people who know how show way to be done. Martinez indicated he will present next month.

Sugimura noted buffers around community centers, parks. Limited land base available. Need to limit number of businesses. Staff has limited capacity to monitor. All uses except ag do not need numerical cap. June Lake has no school, but available space. Need/desire for proximity buffer around established commercial business. Mammoth has 500' buffer for medical dispensaries. Disperses uses, impacts, visibility. Self-limiting factor. Only certain number can be there.

Maybe different buffer for Mono. Market difficult to predict. Start more conservative till understand market, or have businesses come in and then create buffers, caps. Same proximity buffer throughout Mono.

Take to June Lake CAC? *Yes. No opportunity in Long Valley. Lots of ag land. Numerical cap on operations maybe more appropriate for monitoring.*

Different caps for land size? Different license for every parcel. Could limit number of licenses to individuals to avoid land barons. Separate State license needed to operate on multiple parcels.

Roberts thought setting limits might preclude applying for permits in first place. Bush noted alcohol licenses limited, expensive. Simon added not transferable.

Draper noted if did merger to expand cultivation, would apply again. Simon indicated recovery of only cost of services.

State limit on number of licenses? Sugimura cited rigorous application requirements. Roberts saw self-limitation.

Lagomarsini wanted to encourage smaller operators to stay in business. She wanted lots of cottage industries in Mono and Inyo to prosper.

Lagomarsini noted Benton warehouse has no power till Edison upgrade occurs. Unclear on size comparison.

Annual renewals? *No other use permits have annual renewals. Inspections/fees associated with it.*

Draper continued the presentation. Specific issues on development standards at past public meetings. Setbacks: Prevent odor nuisances, enhanced security via setbacks. Notably cultivation setbacks from habitable space. Additional setbacks? Set toward specific operations? *Inyo got pushback on 100', wanted more.*

Lizza cited many setback requirements already.

Lagomarsini wouldn't want character of residential neighborhood next to commercial. Setbacks based on parcel size make sense. Sugimura noted 100' between habitable spaces for cultivation. Roberts did not want to add more setbacks to existing. Lizza wanted to discover setbacks insufficient for new activities. Look at existing, see where inadequate, make adjustments.

Additional setbacks maybe not necessary? Draper suggested modifications for existing setbacks.

Visual screening: Fencing around crop, visual screen of commercial property. Cannot see product from outside already intact. Requirements on fence height elsewhere maybe prevent theft, obnoxious views.

Incentive enough for grower to protect crop? *State not require fencing. No State security requirements.*

Sugimura recalled almond orchard gets theft all time. Growers maybe fence to keep wildlife out. Provisions in building code to prevent harm. Do we want to require, what should it look like?

Jeph Gundzik of Banner Springs Ranch mentioned need for some type of screen for wind, dust, pollen, protection from animals.

Lizza thought limits to fencing make Mono unique. Draper recalled Antelope Valley thought open view sheds could be disrupted by fences unless well designed. Roberts wanted fences not to affect viewshed.

Storefronts with signage of cannabis? Martinez suggested maybe green cross as with medical.

Draper cited research on design criteria, ordinances to steer toward good fences.

Odor nuisances: Could bring to code compliance, but difficult to pinpoint threshold of nuisance. Operation standards require filtration, ventilation systems not addressed in State regulations. Denver requires odor control plan.

Masking odor or filtering maybe case by case? Odors by various processes?

Martinez suggested locating away from towns. Pipersky wanted to try to mitigate odors. Draper indicated it's difficult for staff to determine mitigation.

Take odor issue to AV and Tri-Valley areas?

Security plan: No requirements for cultivation. Manufacturing has its own: prevent access, prevent access against theft. Draper indicated microbusiness would not need, but manufacturing would.

Sugimura talked with Sheriff Braun, need to find what would be required. Draper thought could require lockable gates or video surveillance. Sugimura noted State not required to feed to sheriff.

Draper mentioned robust security plans, businesses entering market to help. Need to be required up front.

Bush favored security, burglar alarm-type setup to notify law enforcement.

Security plan at time of application? Lagomarsini wanted same throughout county. Town has its own scheme, as does Inyo.

Pipersky noted Town MLPD chief approves security plan.

Sheriff approve every plan? *Yes, part of approval process.*

Draper noted State sets operating hours: 6 am-10 pm. Waste disposal plans set forth. Not deliver product through front door.

Sugimura planned to bring items back in more detail before BOS recommendation in March, so workshop in January, approval in February. Other big policy items: STR, housing also result in GPAs.

--- Commissioner Bush to work: 12:41 pm ---

--- Meeting resumed 12:53 pm ---

B. SHORT-TERM RENTALS & JUNE LAKE AREA PLAN UPDATE: Wendy Sugimura acknowledged community agreement on process developed and why based on BOS direction. Conversations with community, revisiting process would not be productive, so go with CAC recommendation. Back to principles: opportunity for input but not necessarily agree with or get their way, can't give everybody everything they want. Many hours of public engagement led to finality and certainty. Once decision is made, stick by it. If revisit, back to same issues. Find best way forward, no right decision.

Votes in neighborhoods translated into June Lake Area Plan policies. Leonard Avenue awaited enforcement cases, now closed. Types I and II appropriate, specific to owner, not land. Sugimura outlined various neighborhoods: Highlands: Allow through SP area. Dream Mountain: No input, CC&Rs rumored. South 158 area, opposite village: Split. No Type II due to workforce housing. Fall back under Mono regulations. Clark Tract: No traction on splitting into sections. Ideas generated by participants. Split Nevada Street off. Upper Nevada Street: No II, I year-round under 3% cap (eight). Three existing. Petersen Tract: No I or II.

Sugimura indicated Ch. 25 would apply countywide. No reasonable opposition to I or II.

Type II: Specific to owner, not land. Currently on moratorium till February 2018. Policy in June Lake Area Plan, but maybe throughout Mono.

Noticing: Drawn from outer limits from set of parcels owned 500'.

June Lake Area Plan Amendments: No more TRODs, replace with short-term rental. Balancing residential with tourist. Ch. 26 applies as well: Dark Sky Regulations, response time flexibility, quiet hours, no outdoor amplified sound or parties. Personal liability on private roads: home insurance coverage. Mono not qualified to evaluate, just require. Notify lender, as not all allow. Detached unit, owner live in other. Hideaway key.

Roberts saw some Ch. 26 regulations as overreach, throwing stumbling blocks. Mike Rosas saw the process as "restrict, prohibit, discourage."

Sugimura noted road condition disclosure. Workforce housing impact? PC consistently asked to look at whole housing situation. Specific criteria were provided on potential denied instead of prohibited. Changed throughout. Identify where STRs are appropriate; e.g., Rodeo Grounds SP.

Enforcement tools expanded based on public input and researching other jurisdictions. If violation not noted by Mono, allows private citizen to initiate civil action.

Simon stated it needs to be fleshed out. Private citizens have rights of action for other things (nuisance, noise). If legitimate, Mono pursues it.

--- CD Ritter departed at 1:45 pm ---

Sugimura continued discussing details of short-term rentals and June Lake Area Plan. Other attendees on rentals included Stan Riffel of Aspen Springs HOA.

6. REPORTS

A. DIRECTOR: None

B. COMMISSIONERS: None

7. INFORMATIONAL: No items

8. ADJOURN at 2:55 pm to January 18, 2018, at Bridgeport

Prepared by CD Ritter, PC secretary