

PLANNING COMMISSION SUMMARY NOTES

Draft Short-Term Rental Ordinance Public Workshop

May 10, 2018

On May 10, 2018, the Butte County Planning Commission held a Public Workshop concerning the Draft Short-Term Rental Ordinance. Previously on February 12, 2018, the Board of Supervisors had directed Development Services Staff to prepare a Draft Short-Term Rental Ordinance to allow this use, and to ensure that short-term rentals would not create nuisances or disturbances in neighborhoods and residential zones. The purpose of the Planning Commission's May 10, 2018 Public Workshop was to provide an opportunity to receive questions and comment from Planning Commissioners and the public. Direction received from the Planning Commission during this meeting will be incorporated into the Draft Short-Term Rental Ordinance for consideration at a future public hearing.

Principal Planner Dan Breedon provided a PowerPoint presentation concerning the Draft Short-Term Rental Ordinance. At the conclusion of the presentation, there was an opportunity for the Planning Commission to provide comment and answer questions. There was also an opportunity for members of the public to submit written comments and to address comments directly to the Planning Commission. After the conclusion of public comment, the Planning Commission discussed the proposed ordinance and provided direction to staff. A summary of the Planning Commission's discussions and direction, as well as public comment, is provided below.

Questions and Comments from the Planning Commission

COMMISSIONER JOHN: Concerning the limitation on no outdoor amplified sound, can we use the same limitations as special events?

Staff: Noise Studies are completed in the course of receiving a permit for a special event facility. Homeowner may not have the ability to provide a noise study and detailed noise level information at this scale. It is more appropriate to limit outdoor amplified music. The transient nature of each guest makes it difficult to assess individual noise concerns.

COMMISSIONER JOHN: Concerning AG (Agriculture) and TM (Timber Mountain) zones. What amount of properties would this limit? He is concerned about Agricultural lands not being able to have short-term rentals.

Staff: The AG and TM zones occupy a large area of the County. The concern being addressed is dust, noise and other impacts on the occupants of short-term rentals.

COMMISSIONER CHASE: The allowance of short-term rentals in AG and TM zones could also present impacts to the farming operations.

COMMISSIONER DONATI: Short-term rentals of residences in AG zones does happen quite often.

COMMISSIONER JOHN: Discussed that using Accessory and Second Dwelling Units as short-term rentals would be likely to happen if the original occupant vacates.

COMMISSIONER DONATI: What is driving this issue of short-term rentals?

Staff: Sites like Airbnb facilitate short-term rentals. The main concern is complaints, and not having the ability to prohibit or permit short-term rentals. The Board has provided direction to allow this use and determine what level of regulation should be associated with them.

COMMISSIONER CHASE: Indicated that without an ordinance, things could get worse, someone enjoying this use may not be protected in the future.

COMMISSIONER JOHN: Pointed out that it is more equitable to collect Transient Occupancy Taxes (TOT) under an ordinance.

COMMISSIONER CHASE: Asked if there was an issue or comment concerning fire hazards.

Staff: There was a public comment made during the Board meeting about not allowing short-term rentals in the High Fire Hazard areas, but that limitation is not currently included in the Draft Ordinance.

CHAIR GRUNDMANN: Discussed that a process to work problems out with the proprietor before escalating to a violation is a good direction.

CHAIR GRUNDMANN: Discussed concern about allowing a second dwelling as a short-term rentals and creating a permission where there currently is not one. He was concerned that it could create an avenue for a rental businesses where there was not one intended.

COMMISSIONER JOHN: Stated that for this reason he likes Pasadena's approach to provide a cap to the short-term rental. He stated that the concern was turning single-family residential zones into rental properties and that the same concern could be applied to AG zones.

COMMISSIONER CHASE: Asked if there are restrictions in place about occupancy in general. Parking is also an important implication.

Staff: There are restrictions in the Draft Ordinance on how many people can occupy a bedroom and the minimum amount of square feet allowed per person.

COMMISSIONER JOHN: Asked what other municipalities in the County are doing concerning short-term rentals.

Staff: Indicated that they were not aware of any efforts to develop an ordinance. Staff indicated that the ordinance was sent to all cities and the Town for coordination, and that ideally would like to see their ordinances coordinated with the County.

CHAIR GRUNDMANN: Stated that a main concern was changing the nature of single-family residential areas and encouraging the construction of short-term rental units.

COMMISSIONER CHASE: Stated that the intention was also that second units be available for long-term housing.

Staff summarized the following letters addressed to the Planning Commission: Debbie Hall, Rebecca Solaire, Neil McCabe, and Mandy Whigham. Copies of the letters were also distributed to the Planning Commission.

Chair Grundmann opened the Workshop for public comment

Steven B. Smith. Operates an Airbnb since last summer that has seven bedrooms. His children have moved out and they started the Airbnb with the space provided. The short-term rental provides him with the ability to maintain a beautiful home and gardens. Stated that the rental made the home less active because they previously had nine children living at home. Indicated that they are responsible neighbors and the last thing we want is to be an impact to neighbors. The rules appear to be considerate at this time. Thanked the Planning Commission for their consideration.

Georgie Bellin. Indicated that she does not have an Airbnb, but has real estate clients that do and indicated that they offer benefits. Stated that many clients have empty homes because their children have moved out and that events draw people to the area. Also indicated that agriculture and country areas are a draw. Indicated that she has the need to rent out to visiting professors or doctors attending Enloe Hospital on an infrequent basis. Indicated that owner occupancy does provide more care regarding what is happening on property. Indicated that the County should include the Agriculture and timber areas as being allowed for short-term rentals.

Mellissa Schuster. Indicated that she sits on Paradise Town Council, also advisory member of Tourism Business Improvement District (TBID), and has been involved in tourism for many years. She operates Airbnb in the Town of Paradise. Indicated that Airbnb is largest room provider in the world and that Airbnb has a mechanism to collect TOT for jurisdiction. Indicated that it is difficult to collect TOT and TBID taxes without the benefit of an ordinance, and that the TOT and TBID funds are valuable for public safety and tourism. Tourism provides benefits of revenue to the County. Indicated that agritourism is huge right now, and that people want authentic experiences. Indicated that occasionally someone would like to have a wedding and that there could be the ability to receive a one-time use permit for one wedding event. Indicated that hosted vs. unhosted stays make a big difference and that the community does not want to see corporations renting out unhosted rentals.

COMMISSIONER JOHN: Asked if Town of Paradise was looking to develop an ordinance. Ms. Schuster responded yes that it would be in the 2018/19 timeframe.

COMMISSIONER CHASE: Asked Ms. Schuster about her experience with noise. She indicated that they live in a rural area, but are always careful; house rules express no noise after 10:00 pm. Some visitors are from Sacramento and San Francisco, but primarily our biggest traffic is Chico State graduation and the Wildflower ride.

Mandy Whigam. Indicated that she went through an issue concerning an Airbnb with the City. Stated that these are our personal homes, we want to be polite to neighbors and guests. Indicated that the County Draft Ordinance was a very strict ordinance, stricter than any other was. She stated concern about noise violations if someone is in the pool. Indicated that her biggest concern presented by the Draft Ordinance was the creation of a platform for the squeaky wheel. The terms in the ordinance are above and beyond what should be expected for a short-term rental. Regulations are very strict and excessive and was concerned about complaints being filed unfairly. Asked if the collection of TOT creates an expectation of service from the government. Indicated that their rentals are a private agreement between two parties and that they choose who stays there. The regulations should not be any different from any other residential use. The requirement for 24-hour property management is a little absurd.

Staff indicated that the intent is to have a property manager available on a call as needed basis to address situations.

COMMISSIONER JOHN: Asked County Counsel about whether the lack of an ordinance means the existing short-term rentals are operating illegally.

County Counsel: Indicated that generally, the County has a zoning ordinance that sets forth uses that are allowed, and that the County does have a definition for a Bed and Breakfast. There is a need for an ordinance because there is confusion about what is covered and what is not. The Draft Ordinance is trying to ensure harmony and compatibility in neighborhoods.

CHAIR GRUNDMANN: Explained that there is a need to guard against the issue of the squeaky wheel, and balancing complaints against the rights of the use. He agreed that these concerns should be built into the ordinance.

Sam Ditty. He stated that he owns an Airbnb. His experience was that all Airbnbs are responsible. He asked who wrote the ordinance. He stated concerns about imposing limitations on short term rentals due to septic systems. Asked if the Draft Ordinance included experience from Airbnb operators. He additionally stated concern about the three strikes and you are out provision under the Draft Ordinance, that it was alarming and strict. He also asked about how to differentiate between a personal party and noise coming from short-term renters.

Staff Response: Development Services staff, who researched similar ordinances throughout California, drafted the ordinance. The process includes receiving input from this public workshop and refining the Draft Ordinance, reflecting a balance between those who operate Airbnbs and those who live next to them.

CHAIR GRUNDMANN: Indicated that the Draft Ordinance would need a second outing and that this would not be the last workshop on this, that this will serve a preliminary outing on the Draft. Indicated that the staff has heard many good comments.

COMMISSIONER CHASE: In response to San Ditty, indicated she wants to see protections regarding noise and parking. Having a string of people coming into a short-term rental is different from a resident who is familiar with their neighbors.

COMMISSIONER JOHN: Asked if a use permit could be allowed for amplified sound through a temporary use permit.

Staff indicated that a Festival License would allow for a gathering of individuals exceeding 100 people.

CHAIR GRUNDMANN: Closed the Public Hearing portion of the Workshop.

Staff introduced the issues discussed in the Staff Report and staff presentation, which required direction from the Planning Commission. These issues are itemized below.

1) Direction on Applicable Zoning Districts, and Whether AG (Agriculture) and TM (Timber Mountain) Zones were appropriate for Short-Term Rental Use.

COMMISSIONER DONATI: Recommends contacting the Farm Bureau to get their recommendation concerning this issue.

COMMISSIONER JOHN: Indicated that there are areas in Magalia and Forest Ranch where there may be Airbnbs and that he was not sure if we should exclude them. He indicated that if they already exist, they should be permitted and regulated.

2) Direction on Accessory and Second Dwelling Units, and whether it is appropriate to use these units for a Short-Term Rental Use.

CHAIR GRUNDMANN: Indicated that he was against the use of these units for short-term rentals due to density and existing restrictions as set forth under Zoning Ordinance Section 24-172 should stand.

COMMISSIONER DONATI: Indicated that if you are living on the parcel and watching over it (the short-term rental) then it should be fine, but if it is just a rental, it is a problem.

Staff: Asked if it is a hosted short-term rental, meaning someone is living in the primary unit but are renting out the second unit, would it then be suitable?

County Counsel: Indicated that under the existing County Code regarding accessory and second dwelling units owners are required to live on site.

The consensus was that further information and direction was needed to continue a discussion concerning this issue.

3) Direction on Multiple Short-Term Rentals on a Single Parcel, and whether this should be allowed.

COMMISSIONER DONATI: Asked why short-term rentals were not regulated similarly to Bed and Breakfasts?

Staff: Bed and Breakfasts are defined very narrowly, they do provide meals (breakfasts), intensity would be a little higher in a Bed and Breakfast as multiple (up to 8) rooms are occupied. A minor use permit, as required for a bed and breakfast would subject people to a discretionary permit process and would take longer to permit. The Board's direction was to provide a streamlined way to allow short-term rentals.

COMMISSIONER DONATI: Stated concern about creating and splitting off multiple rooms and rentals. This use would be more like a Bed and Breakfast than a short-term rental. This would result in more conflicts and staff should look into whether a minor use permit should be required if multiple rooms are being rented out to multiple parties such as a Bed and Breakfast.

COMMISSIONER JOHN: Indicated that if I have a large home I should have the right to rent out a room or second unit for a short-term rental for one event (such as the Wildflower event) or some limit amount that would not be subject to the short-term rental ordinance.

4) Direction on whether it is appropriate to limit the number of days/year that a short term rental can be occupied, such as with a stated frequency and duration

CHAIR GRUNDMANN: Some variance of Pasadena's ordinance may be appropriate.

COMMISSIONER JOHN: Would like more examples of other municipalities. Indicated that he liked the Pasadena approach of hosted and not hosted but would like to see other jurisdictions as well.

Staff: Indicated that areas such as Lake Tahoe are written on the stricter side; more rural areas are less so. However, we have both rural and urban areas in Butte County.

COMMISSIONER JOHN: Asked about what the rental laws in Butte County were regarding long-term rentals and whether they should they be regulated like short-term rentals. Asked whether the same restrictions on short-term rentals could be applied to long-term rentals.

Staff: Staff replied that long-term rentals could not be regulated the same way as short-term rentals. There is a difference between an established single-family residential use and short-term rentals. Staff would not recommend regulating short-term rentals in the same manner as long-term rentals.

County Counsel: Advised the Planning Commission to think about enforcement of the ordinance. Does the three strikes and you are out mean that the Zoning Administrator will decide if the citation is valid, or is there a monetary fine that goes with a citation?

COMMISSIONER JOHN: Indicated that the issue becomes the validity of the strike (or citation) and whether 24-months is too long to wait after a permit is suspended.

CHAIR GRUNDMANN: Discussed concern about complaints and that the first move should not be to pick up and call the cops, and that the complainant should speak with owner first.

COMMISSIONER DONATI: Asked if you do not get a permit then what. There does not appear to be any appropriate enforcement in that case.

Staff: Pointed out that the fee for operating without a permit would be 10 times greater than the normal fee. Staff would also cite those who do operate without a permit through the normal code enforcement process. An extreme example of enforcement is the City of South Lake Tahoe, which requires a fine of \$1,000.00 without warning on violators. Staff is trying to determine what is appropriate for Butte County.

COMMISSIONER CHASE: Brought up noise impacts, and when a complaint is unjust, what the process should be.

Staff: In some cases, a Sheriff's Deputy would respond and a misdemeanor concerning disturbing the peace would be cited. We can develop and design an enforcement process appropriate for this ordinance.

COMMISSIONER JOHN: Moved to continue the public workshop to June 7, 2018 at 9:00 am. Passed unanimously.

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