



MENDOCINO COUNTY BOARD OF SUPERVISORS PLANNING APPEAL FORM

Appeals must be received in the Executive Office within the appeal period, 10 days from the date of the hearing* (post-marks will NOT be accepted). The Clerk of the Board or Planning and Building Services will verify appeal fee amounts*. The appeal fee must accompany the appeal letter/form in order to be considered valid.

**Verify with Planning and Building Services or with the Clerk of the Board of Supervisors*

Date Appeal Submitted*: 11/23/22

Appeal Fee*: \$ \$2620.00

☐ Verified ☐ Receipt Generated

Case No.: PC_2022-0018

Applicant: Colin W. Morrow, Esq. on Behalf of:

Heard by: Planning Commission

Friends of Coastal Access and Paul Clark
Hearing Date: 11/17/22

Source:

Planning Commission • MHRB • Zoning Administrator • Administrative (Planning) • Coastal Permit Administrator

Printed Name, Address, and Phone No. of Appealing Party:

Colin W. Morrow, Esq. on Behalf of:

Friends of Coastal Access and Paul Clark

P.O. Box 1214, Mendocino, CA 95460

(707) 380 - 1070

Basis for Appeal (Please provide sufficient detail to describe the nature of the appeal. Letters describing appeal may also be attached):

Please see the undersigned's attached letter of November 23, 2022; as well as the undersigned's letters to the Planning Commission of November 1, 2022 and November 16, 2022.

Signature

Submit completed form to:
Mendocino County Clerk of the Board
501 Low Gap Road, Room 1010
Ukiah, CA 95482
(707) 463-4221

Fee made out to :
County of Mendocino

Staff Use:

- ☐ Obtain Agenda for meeting/appeal verification (distribute with appeal form to all parties listed below)
- ☐ Appeal period verified and confirmed
- ☐ Appeal fee verified and confirmed
- ☐ Form distribution completed/Date Stamp form
- ☐ Copy of receipt and check attached to original appeal form and provided to DCOB
- ☐ Other _____

Distribute: Planning & Building Services (& Coast office, if applicable); District Supervisor; County Counsel; copy to BOS meeting-pending file (COB); Original to Planning Appeals Folder (DCOB); Note: If project is considered to be 'county-wide', copy to all BOS

Revised 7/11/11 - COB\Departmental Procedures\Planning\Planning Appeal Form.doc

VANNUCCI MOMSEN MORROW

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An Association of Sole Practitioners

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November 23, 2022

VIA PERSONAL DELIVERY

Mendocino County Clerk of the Board
Mendocino County Board of Supervisors
501 Low Gap Rd., Rm. 1010
Ukiah, CA 95482

Re: Appeal of Mendocino County Planning Commission's November 17, 2022, Resolution 2022-0018 Limiting Short Term Vacation Rentals

Dear Honorable Members of the Board of Supervisors:

I am submitting this appeal on behalf of Friends of Coastal Access and Paul Clark. Friends of Coastal Access is a group of concerned citizens who, among other things, want an inclusive and open County of Mendocino that welcomes visitors to this county from all walks of life and on all kinds of travels. Paul Clark is a local real estate broker.

Recently, the Mendocino County Planning Commission adopted a deeply unpopular, and inherently pessimistic, resolution to further limit short term vacation rentals in our county. In two separate meetings, numerous stakeholders spoke out against the resolution. After proceedings that the Anderson Valley Advertiser described as "convoluted" and "confusing," (Mendocino County Today, November 20, 2022), the Planning Commission narrowly passed the resolution on a divided 3-2 vote.

Underlining the breadth of the deeply unpopular perception of the Planning Commission's resolution, I have received, and am including with this letter, over a dozen unsolicited letters in support of this appeal from a wide variety of stakeholders ranging from hotel operators, to wineries, to private citizens, to short term vacation rental operators. These letters are collectively attached hereto as Exhibit A. Each

of these letters raises compelling reasons for this Board to invalidate the planning commission's resolution.

The short sighted and pessimistic justification for limiting short term vacation rentals is the claim that curtailing access to short term vacation rentals will somehow solve a housing shortage for local workers. This thinking is ill founded for a number of reasons. Limiting short term vacation rentals is a deeply pessimistic act of protectionism that builds barriers to economic development. The implicit message is that we as a county cannot afford to welcome visitors to spend money at our wineries, restaurants, and tourist attractions because we have to sacrifice such economic life. The solution is not to clamp down on the use of what limited housing we have, but to make it easier to develop additional housing. While some part of fostering the ease with which additional housing can be built can come from this board easing permitting restrictions, developing infrastructure, and providing community services; another requirement for additional housing is putting money in the pockets of local residents to permit them to afford housing. A rising tide lifts all boats. Short term rentals bring dollars to our community. Restricting short term rentals sends dollars elsewhere and encourages economic stagnation or contraction. Protectionism is the institutionalization of economic failure.

I will further note from my own experience that the fundamental justification for the resolution—that short term vacation rentals are in direct competition with worker housing—is not the case. Long term residents need market rate and below-market rate housing. Many short-term vacation rentals do not fit into this category. In my personal experience, a number of short-term vacation rentals are second homes that are rented to subsidize their owners' ability to have a home in Mendocino County. These homes are never going to be rented to long term renters. They are simply going to be left vacant if they cannot be short term rentals. Those vacant homes correlate directly with empty tables at restaurants, wine tastings that do not occur, and the like. I would also note that while California has a fairly high and strict bar as to what constitutes a minimally habitable residential rental, we have an idiosyncratic housing stock in this county that often does not conform to California's strict rules for residential rentals, but that can serve as very welcoming short-term rentals. Other short term vacation rentals are simply well above-market units and will not be the kind of units that residents in need of housing will ever be looking to for homes.

In addition to these pragmatic political reasons, the frank reality is that the Planning Commission's resolution is also likely contrary to law as inconsistent with the county's general plan and having been adopted without necessary environmental review.

As for the general plan, “the ‘general plan has been aptly described as the constitution for all future developments’ within the city or county.” (*Orange Citizens for Parks & Recreation v. Superior Court* (2016) 2 Cal.5th 141, 152 quoting *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 570.) Actions inconsistent with a general plan are subject to judicial reversal. Putting the kibosh on short term vacation rentals that simultaneously provide economic activity while preserving disparate rural development within the county would be contrary to the county’s general plan.

Principal 2-1a of the county’s general plan provides that “[c]onservation of Mendocino County’s natural resources, farmland, forest land, and open spaces is essential to the rural quality of life desired by residents and visitors alike;” and short term vacation rentals allow for disbursed visitor facilities that preserve this rural character. Principal 2-2a focuses upon “[e]mphasiz[ing] long-term and sustainable economic and community needs over short-term gains,” but the Planning Commission’s resolution does just the opposite. It extinguishes long term sustainable development in the hope of placing a supposed short-term bandage on housing supply. Housing Element Policy 1.4 requires the County to “[r]ecognize that the different regions of the County have varying housing needs unique to the specific geographic regions;” but this resolution paints the entire “inland” area with a single brushstroke. Moreover, it should be remembered that there are many areas that are “inland” for purposes of zoning and land use that would colloquially regarded as “coastal” in the minds of most residents of this county. The resolution does not distinguish among our county’s varied regions. Housing Element Policy 3.2 talks about “[p]romot[ing] the development of accessory dwelling units;” but restricting short term rentals restricts visitors from subsidizing such development with income from short-term vacation rentals. Housing Element Policy 3.5 talks about “[e]ncourag[ing] and assist[ing] in developing affordable housing by reducing constraints and identifying incentives and tools for affordable residential unit development;” but the Planning Commission’s resolution adds constraints. Mendocino County General Plan Coastal Element Policy 3.7-5 specifically provides that “[l]ower-cost visitor and recreational facilities for persons and families of low and moderate income shall be protected, encouraged and, where feasible, provided.” I specifically addressed this issue in my November 16, 2022 letter to the planning commission, and that letter should already be part of the administrative record in this matter. As it explains, short-term vacation rentals aid in low income access to visitor facilities. Among other things, tourists can forego certain luxuries of hotels or motels, and cook meals in short term vacation rentals. The list goes on as to inconsistent general plan provisions. Because the Planning Commission’s resolution was inconsistent with the General Plan, it is contrary to law. It is properly reversed by the Board of Supervisors, and may well be potentially reversed by the Courts if not addressed by the Board of Supervisors.

Similarly, the Planning Commission acted without environmental review by claiming the resolution is not a “project.” The California Environmental Quality Act

("CEQA") defines a "project" as a public action "which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (Pub. Res. Code § 21065.) "CEQA's conception of a project is broad," and "the term is broadly construed and applied in order to maximize protection of the environment." (*Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 271.)

[A] proposed activity is a CEQA project if, by its general nature, the activity is capable of causing a direct or reasonably foreseeable indirect physical change in the environment. This determination is made without considering whether, under the specific circumstances in which the proposed activity will be carried out, these potential effects will actually occur. Consistent with this standard, a "reasonably foreseeable" indirect physical change is one that the activity is capable, at least in theory, of causing.

(*Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1198 citing *Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th 372, 381.)

The Proposed Ordinance also attempts to skirt CEQA by utilizing the exemptions provided under California Code of Regulations, Title 14, Sections 15060(c)(2) and 15060(c)(3). But, "a finding of categorical exemption cannot be sustained if there is a 'fair argument' based on substantial evidence that the project will have significant environmental impacts, even where the agency is presented with substantial evidence to the contrary." (*Banker's Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 262, fn. 12.) "This unusual 'fair argument' standard of review over a public agency's decision has been characterized as setting a 'low threshold requirement for initial preparation of an EIR and reflects a preference for resolving doubts in favor of environmental review when the question is whether any such review is warranted.'" (*Georgetown Preservation Society v. County of El Dorado* (2018) 30 Cal.App.5th 358, 370 quoting *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1316–1317.)

Moreover, "[e]ven if a public agency meets its initial burden to show the exemption is supported by substantial evidence, it still has to defend against claims that the exemption is subject to an exception. . . ." (*Save the Plastic Bag Coalition v. City and County of San Francisco* (2013) 222 Cal.App.4th 863, 877 quoting *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 228.) One exception is that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (Cal. Code Regs., tit. 14, § 15300.2, subd. (c).)

A fair argument can be made that the resolution is likely to have at least two significant and important effects upon the environment.

First, short-term vacation rentals provide a sustainable means of development because they permit existing structures to be used for transient occupancy. Restricting short-term vacation rentals necessarily directs any expansion of transient occupancy inventory into large centralized hotel developments which are more likely to have intense and focused impacts while short-term rentals remain disbursed about the community. And second, the proposed ordinance is likely to increase traffic and vehicle-miles driven. Short-term vacation rentals actually generate less traffic than a traditional single family unit. Short-term vacation rentals also generate less traffic during peak times. Moreover, there is a fair argument that the differential application of restrictions limiting only inland—and not coastal—short-term rentals will increase vehicle miles traveled by requiring travelers wishing to visit Mendocino County to drive farther—and expend more greenhouse gases—traveling to the coastal zone where short-term rentals will remain protected. While—per Google Maps—the major population center of San Francisco is only just 114 miles from inland Ukiah, the coastal town of Fort Bragg is roughly 177 miles from San Francisco. That could easily translate to a roughly 55% increase in greenhouse gas emissions for a weekend trip to Mendocino County. Both of these points are emphasized in studies submitted to the Planning Commission with my letter of November 1, 2022. Again, I would hope that that all these materials would already be made part of the administrative record. To the extent that either my November 1, 2022 or my November 16, 2022 letters are not already part of the administrative record, I would ask that they be made part of it.

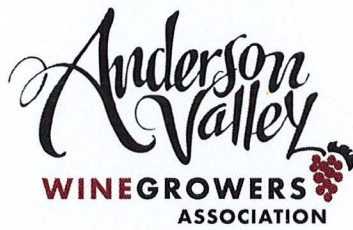
Looking forward as a final parting comment, I have heard through the grapevine that wholesale revisions to the county's zoning ordinances are on the horizon. To the extent that is the case, that would seem the proper time to examine such an important and weighty issue in a deliberative and holistic manner. There is no rush, and the current slapdash band-aid seems poised to only harm the county. For the foregoing reasons, on behalf of my clients, I would respectfully ask this honorable Board to vacate the adoption of Planning Commission Resolution 2022-0018.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Colin W. Morrow', with a long, sweeping horizontal line extending to the right.

Colin W. Morrow, Esq.

EXHIBIT A



November 22, 2022

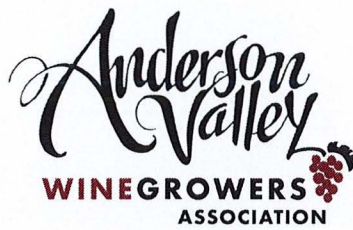
Representative Ted Williams
Mendocino County Board of Supervisors

This letter is to voice our concern with the resolution passed by the Planning Commission last Thursday to adjust the classification of short-term rentals (including those homeowners with ADUs on their primary residence) from residential to commercial use type permits. We understand that this changes the permit type from a Minor Use to a Major Use with a different fee schedule and permit process, and the permit will not transfer upon selling a property.

On behalf of the Anderson Valley Winegrowers Association, with a membership of 141 businesses and individuals, our Board of Directors is concerned with decreasing existing short-term rentals by as much as 50%. With an already known challenge of lodging in Anderson Valley to support our local businesses (primarily tourism-related), we expect that this may have a serious impact on tourism, which in turn may impact the profitability of our local businesses and their ability to hire/retain employees.

While we realize that housing for locals in the county is an agreed-upon and serious issue, this resolution is criticized for not exploring additional options that have been noted as being successful in other counties (as mentioned in public comments by Samir Tumar last Thursday). We also would like to see the Planning Commission and County consider adjustments to zoning limitations that prevent additional hotel and inn accommodations, as well as worker housing development.

Additionally, the proposed resolution by the Planning Commission was not appropriately advertised in Anderson Valley and our community, which is a significant economic center for the county contributing to county tax income. We only learned about the scheduled vote Thursday morning and many in our community who the resolution will impact were unaware of the discussion and vote.



We request the current resolution be tabled and other scenarios be explored and presented. There is also no plan for how the county will make up the lost TOT (bed tax that funds county promotion) and county tax income, which appears to be short-sighted with an additional economic impact on county tourism. Last, we are concerned that despite all public comments heard last week that were in opposition (with no comment in support), there was little consideration of this by the Planning Commission.

Thank you in advance for your consideration on this matter.

A handwritten signature in black ink, appearing to read "Sarah Wuethrich".

Sarah Wuethrich, President
(Winemaker Maggy Hawk Wines)

A handwritten signature in black ink, appearing to read "Courtney DeGraff".

Courtney DeGraff, Executive Director

Anderson Valley Winegrowers Association Board of Directors:

Cris Lanier, Vice President (General Manager Lula Cellars)

Cris Carter, Treasurer (Proprietor, Weatherborne Wines)

Douglas Stewart, Secretary (Proprietor, Lichen Estate)

Ramon Jimenez, Hospitality Representative (Visit Mendocino)

Norman Kobler, Vineyard Representative (Proprietor Philo Vineyard Solutions & Vonarburg Vineyard Owner)

Dunlap Roofing, Inc. and Rain Gutters

Cal. Lic. #806498

In Fort Bragg

32301 Pearl Drive

Fort Bragg, CA. 95437



November 21, 2022

Dear Honorable Members of the Mendocino County Board of Supervisors:

I write regarding proposed changes to short term vacation rentals.

As the owner of Dunlap Roofing I employ 12 roofers and 3 office staff. As the owner of Pacific Blue Vacation Rentals I employ an average of 6 employees depending on the season. I also have layers of support professionals for both businesses, all of whom need long term housing.

I would like to encourage the County not to infringe upon the ability of short term vacation rentals to support our local economy. Our coastal communities (and my employees) all rely on tourism as the major source of income as you all well know. Tourism permits my employees to afford long term housing.

Because of my several businesses I engage with county staff at many levels & for various reasons. *The people I work with at the county are great*, but they are often overworked subject to multiple layers of bureaucracy. This slapdash modification of the County's regulation of short term vacation rentals will only bog things down further.

To illustrate this, for decades I could walk into Planning and Building and walk out with a re-roof permit a few minutes later. These days it takes days, and sometimes weeks. This is just one example of current service levels I daily encounter. It should not take longer accomplish simple permitting matters than it did decades ago, especially in light of all the rapid communication and information access technologies we now have.

I do support some simple restrictions. For example, Sonoma County has a regulation against corporations buying multiple homes for rental purposes. All of our homes are owned by private parties. The homes were purchased and remodeled for vacation use of the owners, and short term rentals keep them occupied with tourists contributing to our economy while their owners are away.

I have offered both the County of Mendocino and City of Fort Bragg my experience with home building—as well as my recent ownership experience with several tiny homes—for no charge to help provide more long term housing locally. That offer remains.

Thank you, Stephen Dunlap

LITTLE RIVER INN

November 22, 2022

To: The Mendocino County Board of Supervisors

Re: Appeal of the Planning Commission resolution on STRs

The past couple of years, Little River Inn has intermittently taken guest rooms offline to house new hires or current employees that lost their housing. While this practice lowers our income (and the TOT we pay to the County), without this stopgap measure, we would not have a full crew to provide services to our guests.

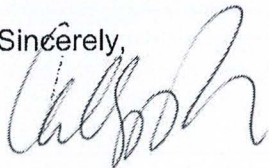
The issue of affordable housing is not new, though from an employer's point of view, it feels like the situation has become worse since the pandemic. We have been exploring several solutions- turning lower-end guest rooms into employee housing, installing tiny homes on the back 40, and assisting The Woods in converting their lodge to workforce housing. None of these paths would solve our problem alone, but together they may offer viable long-term housing for our staff.

While I applaud the Planning Commission for beginning to tackle the problem of affordable housing in Mendocino County, I am also dismayed at their lack of global thinking. It is easy for locals to point to vacation rentals as the reason we do not have housing. The situation is so much more complicated than that and I would expect the individuals that sit on the Planning Commission to see beyond the complaints of a few uninformed citizens.

I would support a multi-pronged approach to the housing problem that might include changing the way Mendocino County permits STRs, but the current resolution will do way more damage than good. It will lower property values, lower property taxes and lower TOT. Even if one could get past the harm the resolution will do to individual property owners, the fact that the resolution does not include a plan to make up for the lost revenues to the County is fiscally irresponsible.

Please ask the Planning Commission to go back to the drawing board and explore multiple ways to ameliorate the affordable housing problem.

Sincerely,



Cally Dym
Little River Inn- owner/operator



November 22, 2022

Mendocino County Planning Commission

RE: Short Term Vacation Rentals

To Whom it May Concern:

I strongly urge the Mendocino County Planning Commission to reconsider its "Resolution for Transient Habitation – Short Term Vacation Rentals".

There is no doubt that rental housing and other longer-term housing options in the Anderson Valley and more broadly Mendocino County is in short supply and therefore an issue that the Planning Commission and Board of Supervisors need to address. As a winery owner in the Anderson Valley, we feel the impact of the lack of suitable housing in both our access to necessary vineyard workers and tasting room staff.

However, we also need Short Term Vacation Rentals for the critically important tourist trade that helps keep Mendocino County's wineries and other revenue producing operations in business. Without an inventory of suitable short-term rentals for tourists to utilize it will negatively impact the level of tourism coming to Anderson Valley and Mendocino County and sharply decrease both the revenues of our tourist-dependent businesses and tax revenues of Mendocino County.

Additionally, in my opinion it is a false premise to believe that this resolution that makes it substantially more difficult for a home in the county to be used as a vacation rental will result in that home being converted into long-term housing. Many of these homes are used throughout the year as a second home by their owners and converting the property to a long-term rental would deprive them of that use, thereby likely causing the homeowner to elect not to include the house in the County's rental market at all, short or long term. This creates an even greater housing problem, no longer term housing for residents and no short-term housing for tourists. It exacerbates the rental shortages in the County, not ease the issue as intended.

Housing is a major issue that needs to be addressed and resolved, but this resolution is not the answer.

Respectfully,

Ken Avery, Proprietor

Lula Cellars
2800 Guntly Road, PO Box 145, Philo California 95466 ~ 707-895-3737
E-mail: info@lulacellars.com

FROM THE DESK OF
HEATHER & ROBERT DOUGLAS

November 22, 2022

Mendocino County Board of Supervisors
501 Low Gap Road
Ukiah, CA 95482

Re: Letter in Support for Filing an Appeal to Stop Implementation of Resolution PC-2022-018

Dear Honorable Board of Supervisors,

We respectfully request that you stop implementation of resolution PC-2022-018 passed by the Planning Commission on November 17, 2022. This resolution, if enacted, will require all new short-term vacation rental owners located in the inland zone to apply for and obtain approval of a Major Use permit prior to being granted a business license. These permits are financially costly, time consuming, and a significant barrier to property owners being able to use their properties for supplemental income to support living in a county where wages are lower and the cost of living higher compared to other communities.

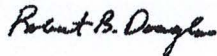
As two professionals that have been living and working in Fort Bragg for over two decades, we found it necessary to find alternative means to supplement our income to remain here. In 2014, we purchased a small, one-bedroom cabin adjacent to public land as an investment property, which generates income covering expenses (mortgage, taxes, insurance, maintenance, etc.) as a short-term vacation rental that would otherwise not be possible if the property was rented long-term. This income supports maintenance and restoration of the property, our two college-bound daughters, construction of a long-term rental at our primary residence, and will eventually provide income for us in retirement.

Our vacation rental not only benefits local workers, contractors, and businesses that help us maintain the property, but also attracts guests who financially contribute to the local tourism economy, which in turn supports the Mendocino County Tax Collector. Since 2015, we have paid transient occupancy taxes and business improvement district taxes totaling five figures but have been unable to obtain a business license because of the financial and process barriers associated with a Major Use permit. Expanding barriers to more small businesses like ours would have downstream consequences for the local economy up to including the county budget which relies on these taxes.

We do not support any use permit requirements for short-term vacation rentals as it will not free up housing stock or make housing more affordable. A deeper discussion and more thoughtful analysis about the use permit process (and all of its obvious inequities with current allowable uses) should be undertaken by the Board of Supervisors as this issue remains unfinished business from August 2017. This discussion should also be separate from entertaining proposals that address the complex issue of affordable housing in Mendocino County.

Moreover, the Planning Commission is an unelected, appointed body and should not be making decisions that have far-reaching economic consequences on residents, property owners, county government, and businesses of Mendocino County. These decisions are the responsibility of the Board of Supervisors. Please stop implementation of the Planning Commission's action codified in their resolution (PC-2022-018). This resolution is divisive, will hurt real people, and cripple our local economy.

Sincerely,



Heather and Robert Douglas
500 N Whipple Street
Fort Bragg, CA 95437

November 22, 2022

To: Mendocino County Board of Supervisors
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482

Honorable Board of Supervisors,

This letter is in support of appealing the actions of the Mendocino Planning Commission per November 17, 2022 Resolution No. PC_2022-0018 (*RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, PROVIDING CLARIFICATION REGARDING INTERPRETATION OF THE APPLICABILITY OF MENDOCINO COUNTY CODE SECTION 20.164.015(L) AND 20.024.135 AS THEY RELATE TO OCCUPANCY OF AN ENTIRE DWELLING UNIT AS TRANSIENT HABITATION.*

The close passage of Resolution No. PC_2022-0018 at the Planning Commission Meeting of November 17, 2022 by Mendocino Planning Commissions Jones, Pernell, and Wiedemann applied new interpretations to Mendocino County Code, altered County Code processes without consideration of the full spectrum of impact, specifically in regards to 20.164.015 (L) without following the historical precedence of years back of previous actions of the Tax Collector's Office, Planning and Building Department, Board of Supervisors, and Planning Commission.

In clarifying the interpretation, providing continuity, and reflecting the actions of Mendocino County in regards to logistically and logically how the exact same roads are actually used and impacted, the public requested to strike part of 20.164.015 (L): as indicated below:

(L) Room and Board. The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, ~~provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road.~~

Inland Code 20.164.015 (L) Room & Board (Short Term Rental) is the only incidence of use limited by location being on a private non-publicly maintained road in the whole of Mendocino County Coastal or Inland.

California Civil Code Section 845 covers private road maintenance including: (3) In the absence of an agreement addressing the maintenance of the easement, any action for specific performance or contribution shall be brought in a court in the county in which the easement is located.

Neighbors attempting to block private road usage of neighboring properties need to be directed to California State Law; not a protected action, or part of the Planning & and Building Department or Board of Supervisors or Planning Commissions considerations of determination or condition of approval.

Jordan v. Worthen [Civ. No. 39123. Court of Appeals of California, First Appellate District, Division A, historic California Civil Case, in Mendocino County, and appeal, points out that reputation evidence is inadmissible under code of common law where private property rights are affected because it could cause great wrong of injustice as neighborhood gossip veered with ever changing feelings of friendliness or hostility toward the rightful claimant.

Of the written legal opinion, with family farms no longer in existence, areas have divided into smaller parcels with private roads now used for access to and from properties by persons owning the same for recreational, second home, and retirement purposes. On private roads this is consistent with surrounding properties and use.

Businesses allowed throughout the Inland Zone, including on private roads, without the requirement of any type of Use or Administrative Permit, or limitation as to private road include: Day Care (for 8 children), School, Family Care Home, Beauticians, Barbers, CPA's, Mail Order, Fix It Shops, and Sawmills which potentially, due to use, has more impact than an existing residence that is used for a vacation home, or short term rental. These uses are allowed uses as part of our neighborhoods.

In the December 2, 2021 the Planning Commission Meeting Packet under *"8. Matters from Commission. 8a. Discussion and Possible Action to Create an Ad Hoc Committee of the Planning Commission Related to Short Term Rentals."*

On page 35/36 in the packet, page 2 of the April 10, 2018 Memorandum from Mendocino Planning and Building to the Board of Supervisors:

"Room and Board is the only accessory use that requires discretionary review under Chapter 20.164. Per direction of the Board of Supervisors, these discretionary reviews are being processed at the cost of a minor use permit, rather than a major use permit. While reduced, this cost remains a significant barrier to entry for home-owners located on private roads. Additionally, it presents a significant logistical challenge for staff in terms of processing, response, and customer service without significant or demonstrated reasoning as to why the regulation exists."

Requiring any Use Permit for Short Term Rentals, Room and Board, or Vacation Rentals for any property (including on private non-publicly maintained roads) with requirement of an arduous process of lengthy application, exposure and approval from a selection of 40 departments, notices, meetings, EIR's, expensive staff time, costly fees, all for properties without any building changes or changes to the primary use, consistent with the Zone use, and that have already been through this exhaustive process, including road approval, at time of the property subdivision, option for developer to create CC&R's, and building construction is unnecessarily over burdening to a private property owner without reason.

The Board of Supervisors in 2017 were in discussions on Short Term Rental / Room and Board topics. Time available to thoroughly address the subject as they desired was limited as time sensitive cannabis regs were immediate and emergent fires followed so it was delayed and actions rushed. Their intention was to address the subject as a whole and grandfather in those that were paying TOT/BID taxes in advance of new regulations. The extensive work that was done and the costly hours of staff investment in relation to a short term rental draft at that time is no less important.

Since that time, additional uses, impacts, and business categories have been approved on these exact same roads with no limitation. New business Cannabis Regulations have been developed without limitation or neighbor notifications on private roads with many County officials on record stating that private roads are Civil Matters. ADU's, JADU's have no limitation or neighbor notification on private roads. The Board of Supervisors also recently discussed Tiny Houses with no reference or limitation on private non-publicly maintained roads.

Passage of this Resolution strongly limits Inland Property Rights and income access, including for senior citizens on limited incomes with low household counts/low property impacts, while directly benefiting distant corporate hotels. The passed resolution will not result in creating affordable housing, which has not been proved directly connected to Short Term Rentals but is a lobbying tactic. As separate issues, Mendocino County should address affordable housing separately from Tourism, Room and Board, and Short Term Vacation rentals that make a strong County economy supporting jobs, County TOT/BID, and keeping funds local.

Sincerely,
Suzanne Lemley Schein, PO Box 910, Mendocino, California

Planning Commission action November 17, 2022

Good morning, all, this action was appealed for many reasons. Quite a few people spoke against this, supposed action to increase rental housing. Just a guise of course. This action will have little or no impact, but restrict many people of the rights to use their property.

The process is flawed, any decision with as much impact as this restriction of private property rights has to be transparent, not just a decision made by unelected officials and staff.

Many ideas were brought up in this process, but they planning commission pushed ahead, giving some of us even more reason to distrust our government.

Housing has many reasons for being in short supply, government being the biggest reason. The City of Fort Bragg has an extremely restrictive general plan, put in place when Supervisor Dan Gjerde was on the city council. Has not really been changed since put in place. No reasonable annexation plan, only the hope that the City could decide the fate of the GP mill site, well they slept too long, and while trying to get the site donated to the city, along comes the Skunk Train and bought it. Politics all the way. The City still has made no attempts of real substance to help the housing crunch. No out of area sewer or water hookups allowed. None, and it has talked for years about it. Talk about stalled government.

Please toss this decision by the planning commission and direct them from the Board on what policies shall be considered.

Thank you. Sorry many people have to resort to this process. Expensive and time consuming, the planning commission would not listen.


Paul Clark

11/21/22

Mendocino Board of Supervisors

From:

Dan Sweet

44451 Little River Airport Road

Little River, CA 95456

Dear Supervisors,

I am a retiree residing in Mendocino County. I was fortunate to purchase a small cottage in 2013, which previously was part of the Wages Creek Campground. The cottage has never been a primary residence but had been rented for short term guests by the campground for decades. My wife and I enjoy staying at the cottage when we can, and when we are not using the cottage, we rent it to short term guests to help with our expenses.

The rental of this cottage to short term guests strongly supports the economy on the Mendocino Coast. We pay of the required TOT and BID taxes. We pay our cleaners very generously. Our guests use many other services while visiting the Mendocino Coast, including restaurants, grocery stores and other shopping.

My understanding is that the new resolution to restrict vacation rentals will require my wife and I to spend tens of thousands of dollars in hopes of acquiring a special use permit if we intend to continue lawfully providing our cottage to guests.

We strongly encourage you to reverse course and find a less costly approach to homeowners like ourselves in your objective of reducing improper vacation rentals in the county.

Respectfully submitted,

Dan Sweet

Dan Sweet

11/22/2023

Dear MBOS,

We have been an Airbnb for 12 years, one of the first in the county. We live on private road in Redwood Valley where there are 40-50 homes on this road. Collectively we have maintained the road for over 60 years with no help from the county.

Our space is an old recording studio- attached to house, which has no kitchen or full bath thus we cannot offer it as a long-term rental.

To date we have paid over five figures in BID/TOT axes over the years and have kept current. We tried twice to get a business license and both times were denied because 1) building and planning had a moratorium on this type of license till the ordinance was reviewed and voted on by the board and 2) they stated we needed a major use permit to operate because of the ordinance of not being on a county-maintained road, which was a decades old regulation still on the books.

In the Aug 1st, 2017 meeting where this issue was initially brought up, several of us addressed the board and a vote was taken that a Major Use Permit was not needed to operate a short-term rental and the language and rules were kicked back to building and planning to create review and create a new ordinance. It seems this vote has been overlooked to date.

In cases such as ours, we fall through the existing cracks where we are sent a TOT/BID bill every quarter, pay our taxes, yet cannot get a business license and a \$7500 major use permit is warranted because of an outdated ordinance on the books for short term rentals.

Being on the Visit Ukiah board for years as well as Visit Mendocino Events Committee for years, we are staunch advocates around tourism in the county and operate our small short-term rental which is a service to the county financially by being proponents supporting local businesses and paying our taxes.

We encourage the supes to take into account situations like we are in before voting to ban short-term rentals in the county or make us pay an exorbitant amount to get permitted.

Sincerely,

Spencer Brewer & Esther Siegel
Redwood Valley

Dear Mendocino Planning Commission,

My name is Ben Toffey, a 28-year-old landscape designer and bio-organic gardener based out of Venice, California. Over the past 5 years, I've fallen in love with Mendocino and tried to spend as much time up here as possible. A realistic dream of mine is to buy a home I can use for gardening and also short-term rentals. I am currently looking at property in Comptche and Elk with my realtor Sheri from Rancheria Real Estate.

The reality is, I cannot afford a home up here that lays vacant for 6 months per year. I would much prefer hiring local staff to keep it running and well-maintained, who in turn welcome traveling guests to explore the area and support the economy. A short-term rental needs lots of local support to keep the land healthy and in top shape. It is a vibrant node of the local economy, both from the consumer and the employee side.

My desire for more affordable housing is deeply shared, and I wish the county could look into more direct solutions that provide real options for those in need. Converting vacant motels, allowing for more flexible ADU zoning for LTR tenants, giving opportunity to contractors to build genuine, Mendocino-friendly affordable housing. The reality is: a 6-acre lot with 1 home is not ideal for long-term rental affordable housing. Of the 6 acres, it only provides shelter to 1 family. The large lot of land will most likely get disregarded by the tenant and the landlord (who has limited access to the property and less incentive to keep it up). It is a costly and inefficient way of solving the need for practical, affordable housing.

Short-term rentals provide a new sector to the economy that many long-term rentals failed to achieve. Firstly, the property owners are small business entrepreneurs (like myself) who employ weekly staff. They provide more flexible rights to the owner and in turn the land is better maintained. There is healthy competition amongst the Airbnbs to maintain a beautiful property with the support of local staff. There is even the option to house locals at discounted long-term rates, which happens quite often. Airbnb offers a monthly rate as well as nightly. It is flexible, legitimate housing for a variety of different guests.

If this new law is targeted against Airbnb because of the more "not in my backyard" approach, then there are plenty of ways to regulate short-term rentals without effectively banning them. Increase annual fees, impose noise restrictions, increase taxes on them. From my experience though, 95% of guests in Airbnbs are families with kids (who need space to play outside a hotel lobby) and couples (who want a place to cook). They are mostly friendly tourists looking to explore the nature and restaurants that Mendocino has to offer.

Overall, I am writing this with a heavy heart as I see this new law prohibiting my dream of a small business from coming true. I encourage you to see all the net good short-term rentals

can provide and talk to more property owners, staff, and guests. I urge you to look at realistic solutions to the serious affordable housing crisis.

Please call me if I can be of any assistance.

I'm staying hopeful that one day I can be a resident of an inclusive and forward-thinking Mendocino County.

Sincerely,
Ben Toffey

908-337-2410

bentoffey@gmail.com

Dear Mr. Morrow,

Please count me as yet another Coastal realtor who strongly objects to the Mendocino County Planning Commission vote to require vacation rental owners to obtain major use permits. I'd also like to point out that the real estate community's attention to this issue is disproportionate compared with that of the general public because of the lack of public notice.

Three appointed individuals should not have the power to reinterpret a longstanding status and overhaul such an vital industry. The topic demands far closer scrutiny with regard to property rights, county tax implications, tourism and job losses.

The planning commission states they are aware of a large number of illegal vacation rentals. within the County. It seems more sensible that they enforce the current rules rather than penalize compliant property owners with a lengthy process and burdensome fees. That sounds like a good starting place for creating fairness to property owners.

Lastly, tourism is our main industry here. So let's welcome visitors and let them contribute to our challenged economy.

Very truly yours,

Gale Beauchamp
Gale Beauchamp Realty
345 Cypress Street
Fort Bragg, CA 95437

Sent from my iPhone

Gale Beauchamp

I am an owner of a small vacation rental located on our property. We are a local family who are working day and night to survive in this small expensive town!

The money we receive from this small rental that we built for this purpose helps to offset the major debt we went into while building in the middle of a pandemic. I think your laws of limited vacation rentals should be reserved for non locals renting out large homes while they sit pretty in a different city! Not the Harding working locals trying to make ends meet!

Pretty outrageous!

Sincerely,

Dakotah & Jose Mendoza

Waitress & carpenter

Sent from my iPhone

Dakotah Mendoza <dakotahmendoza@yahoo.com>

November 22, 2022

**Mendocino County Board of Supervisors
County of Mendocino
501 Low Gap Road
Ukiah, CA 95482**

This letter supports the appeal being filed to negate the Planning Commission's action passed at their November 17th meeting, Resolution # PC-2022-018

RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, PROVIDING CLARIFICATION REGARDING INTERPRETATION OF THE APPLICABILITY OF MENDOCINO COUNTY CODE SECTION 20.164.015(L) AND 20.024.135 AS THEY RELATE TO OCCUPANCY OF AN ENTIRE SINGLE-FAMILY RESIDENCE DWELLING UNIT AS TRANSIENT HABITATION

The Planning Commission's effort to increase housing stock and affordable housing by restricting and penalizing property owners ability to participate in Short Term Rentals is misguided for a number of reasons; just some are addressed here.

Mendocino County's Inland code already attempts to unfairly restrict Short Term Rentals on Non-publicly Maintained (private) roads; assuming expensive and questionable Use Permits will discourage owners from participating. And if the unsubstantiated permit expenses are not enough, the three Planning Commissions who voted in favor of this resolution also believe that neighbors have the veto power over their neighbor's property rights. This condition of permit expense and neighbors ability to quash a STRs is contrary to a laundry list of other allowed business types on Mendocino's private roads. This condition is also contrary to legal precedence in California. California private road issues are civil matters and the County's existing *MENDOCINO COUNTY CODE SECTION 20.164.015(L)* is out-dated and unjustified.

Non-publicly maintained (private) roads in Mendocino County are a normal evolution and a natural force of increasing human activity in rural Mendocino County; these roads have all been sanctioned and approved by the County during a progression of land divisions. The County has and had the ability to encumber or create justifiable requirements for each of these divisions and private roads during prior permitting processes. The County has no similar restrictions for many businesses nor the sizes and/or activities of a family owning, renting monthly or residing on these same private roads. The impact of Room and Board Short Term rentals on private (non-publicly maintained) roads is most often less onerous and with less burdensome effect than an average full time monthly rental would be.

Business Licenses with greater impacts than Room and Board do not require Use Permits on private roads. Coastal private, non-publicly maintained roads have no such Use Permit requirement or restriction. Some Inland private roads even traverse in and out of the Inland and Coastal Zones. Potential effects from Coastal Zone portions of these traversing roads can be greater than impact from the Inland Zone portions.

Over the years during County Board of Supervisors and Planning Commission meetings, I have watched private road issues discussed at length. During Cannabis Cultivation agenda items the supervisors stated and concluded that Inland private roads issues are civil matters and proceeded to approve a new business category on Inland private roads without similar restrictions or concerns. Some discussions even directly pointed to the disparity as it was applied to short-term type rentals vs Cannabis Cultivation on Inland Zone non-publicly maintained, private roads. Members of the Planning Commission and the Board of Supervisors have personally stated that they knew this inequity was ill-advised, definitely problematic, certainly unfair and would not hold up in court. When queried as to the reason this restriction on Room and Board STRs exists, Mendocino County could not cite either the basis for the language or minutes from when this code restriction was enacted.

Use Permit requirements, whether minor, major, or discretionary are conditions that are problematic and need to be relieved and eliminated for Inland Zone property owners just operating short term

rentals. This condition does not exist for the identical uses in the Coastal Zone on non-publicly maintained private roads or public roads. This condition does not exist for even more potentially impactful and burdensome business on Inland non-publicly maintained roads. Please review the list of businesses (Mail Order, Day Care School, Family Care, Fix-it Shops, Barbers, etc) that are easily granted a business license and can operate on Inland private roads without any use permits or neighbor's veto power.

This Resolution states "*CLARIFICATION REGARDING INTERPRETATION*" in its title yet it seems to set some rather major changes and broader implications. Modeling the current *Inland Private Road* inequities in existing *MENDOCINO COUNTY CODE SECTION 20.164.015(L)* and expanding this burden to Public Roads via *Resolution PC-2022-018* seem, at best, problematic and against the interests of Mendocino County residents.

Thank you for your attention and resolution of this matter,

Glenn Schein
PO Box 910
Mendocino, CA 95460
gaschein@mcn.org

November 21, 2022

Regarding- Opposition to Planning Commission STR vote

Planning Commission Members,

It is my opinion that the decision to change the application process for short term vacation rentals will require a "use permit" was approved 3 to 2 by this commission. Mendocino County is one of the largest counties in the state with varying community dynamics and economics that does not necessarily benefit from a one size fits all decision. The coastal community's economy greatly depends on coastal visitors and vacation rentals so to make that process more difficult and costly will only eventually hurt the small businesses, local contractors ultimately eliminating jobs. This is another layer of government that eventually will only benefit the rich and limit families from the pleasure of sharing in the beauty of our coast.

If more housing is the true focus than efforts to change, simplify and streamline planning requirements for additional building on the coast might be a better solution. The discouragement agents see from potential single-family residence or small multi-unit builders is unprecedented. It is the reason land sales are always very low and the land purchased remains undeveloped.

It is my understanding this committee is not comprised of elected members nor has the general public been made aware this change was being discussed and voted on. A decision of this magnitude should have full public notification, short and long term economic studies and the opportunity for community input. As one commissioner stated the opposition is mainly comprised of Realtors and STR property owners may not be true if everyone had an opportunity to give input. Realtor's viewpoints should not be dismissed with a bias. Our real estate community works with homeowners, buyers, contractors, businesses, and we have a unique and valuable viewpoint of the interactions and workings within the communities.

I would like to see the decision overturned with a plan to find other ways to increase housing and deal with a few disgruntled neighbors.

Kindest regards,
Cheryl Scott, Realtor
PO Box 399
Fort Bragg, CA 95437

November 22, 2022

Mendocino County Planning Commission
Mendocino County Board of Supervisors

RE: Comment in Opposition to Agenda Item 6b on the Planning Commission's November 17 Agenda

My experience with vacation rentals is in the area of Mendocino County known as Anderson Valley which includes the small towns of Yorkville, Boonville, Philo and Navarro. I recently searched these areas on Airbnb and found approximately 20 properties available. My experience is based on 22 years as a Real Estate Agent and almost 20 years as a Property Manager in Anderson Valley.

I am familiar with several of the properties that are available for short term rental. Based on my knowledge of those properties, I do not believe that the actions that are being proposed by the Planning Commission will make a difference in the full time rental market. I also believe that the way the properties are being used meets the definition of an accessory use and NOT a commercial transit habitation use.

My reasons are as follows:

1. A number of the rentals are part time homes. The owners make them available on the short term rental market only during those times they will not be using the property. It is not likely that they will decide to give up the use of their property and turn it into a full time rental. The part time rental is an accessory use of the property. The primary use is as a second home residence.
2. In most cases, if properties that are part time homes were to go on the full time rental market, the rent would be high due to the size and style of the home. This would not provide relief for the full time rental market.
3. A number of the rentals are cottages, cabins, studios that are separate dwelling units from the main home. The short term rental allows those owners to make additional income and be in control of maintenance of and the when/who/how the unit will be rented. With full time tenancy the tenant/landlord laws kick in which make maintenance of the property and changes in tenancy, rents etc much more difficult.
4. I have observed families of inherited properties who are looking for ways they can afford to keep the home place. The short term rental market is often a means that can assist. Again, this allows them to use the home place part time.
5. This is a rural community and there can be many activities going on with the neighbor that might be annoying. If the reason for moving to a Major Use permit process is to enable neighbor input, I suggest you would have to consider that for a number of other items that are very concerning for neighbors; noise, chemical use, animals, smells etc.

If a property is ONLY being used as a short term rental property, it may move it into the commercial transit habitation category. This is the exception, not the rule. As long as the property is being used for residential purposes full time (accessory dwelling unit situation) or as a part time residence, the short term rental use of the property is an accessory use.

From reviewing the draft proposal, it appears the long term rental market and neighbor input are the primary drivers to these changes. Please refocus your efforts and seek ways to enable affordable housing in rural communities through means that really will provide additional affordable rental homes.

Sincerely,

Sheri Hansen
DRE # 01292144
Associate, Rancheria Realty

Subject: Letter of appeal to County Supervisors

Dear County Supervisors,

I am writing you to appeal your plans on limiting the vacation rentals in Mendocino County. I use my home as a vacation rental. It is located on five acres with a private road. I paid two property tax bills. I also live in a studio apartment which part of the house. There is also a 2 bedroom home on the property where my property manager lives.

The ramifications of losing my ability to use my house as a vacation rental, would mean that I would be forced to sell. The property managers would lose her position and their home.

I am blessed to have owned the home for over 40 years, I am retired and receive \$1,400.00 social security. My mortgage is \$2,700.00 a month and I still owe 14 years on it. I support myself and my son who is in Vietnam with 2 little girls.

I was really hoping to bequeath my 4 young grandchildren special land. Yes, I should be able to sell my property but, it is the only place I own. So then what? I do have a home in Eureka the renters have an option to buy, do I move there and kick them out?

I send Bed Taxes that are significant, how are you going to replace the money in county coffers?

There are also the loss Sales Tax revenue, from both my guests and myself.

I pay a lot of sales tax in the supplies and maintenance that is required. My gardener would lose her job. The lady who cleans the house would lose her job. The small engine repair would lose business, the list goes on and on.

Why have TOT tax is your if are anti-tourism. Families can not afford hotel rooms. My place sleeps 10. Think about it?

Another point is at \$9000.00 a month rent, very few people (not the people you attempting to help). Is a big loss to Mendocino County. Our community and myself.

A use permit is prohibitive ! Only the rich could afford it.

What do I do with the paid reservations for 2023 and 2024?

I beseech you please, do not proceed with your plan for the coast.

Respectfully,

Holly Kuchar

Holly Kuchar <hollyagogo@gmail.com>