

November 2, 2022

TO: COUNTY OF MENDOCINO PLANNING COMMISSION

COMMENT FOR MEETING: November 3, 2022, 9am

PER ITEM: #6a (*Discussion and Possible Action including Presentation by Planning Commission Ad Hoc Committee on Short Term Rentals and Possible Adoption of a Resolution 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 a single-family residence as transient habitation.*)

Dear Mendocino County Planning Commissioners,

I believe the resolution being presented November 3, 2022, under the guise of clarification, misses historic and legal perspectives of inequity of limitation of Inland Private Road Rights as addressed pertaining to Short Term Rentals, which are much more complex and intertwined with unlimited other uses today, such as more recent ADA's and newer allowed business impact uses approved by the County that do not require any type of approval or permit, but are located on the same private roads.

Inland Property Rights

The State of California is precedent and clearly addresses shared private road maintenance, with or without formal agreements, providing direct statements of responsibility and process for property owners.

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 via voicing concerns pertaining to maintenance agreements or lack thereof, need to be directed to State Law; not part of the Planning & Building Department or Planning Commissions considerations of determinations.

A historical California Civil Case, and in Mendocino County (*Jordan/Worthen*), 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 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.

Mendocino County has allowed additional ADU uses which increase usage on private roads without comment or limitation.

The Board of Supervisors and Planning Staff were well aware, even in 2018, that 20.164.015 (L), in regards to Private Roads, was being processed inconsistently and discriminately. Possibly, because Mendocino County historically, and rightly so, has not interfered or participated in private road issues because private roads are Civil matters in the hands of California Civil Courts.

Although 20.164.015 (L) states: "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."

For Room and Board or Short Term Rentals, Private Road use restrictions in regard to requiring any Use or discretionary permits or approval needs to be eliminated from this resolution based on California Property Rights laws and past actions of the County.

Thank you for your time and attention to this matter.

Sincerely,
Suzanne Lemley Schein
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