



County of Sonoma
Permit & Resource Management Department

Sonoma County Planning Commission Draft Minutes

Board of Supervisors Chambers
575 Administration Drive, Room 102A
Santa Rosa, CA 95403
PlanningAgency@sonoma-county.org

April 6, 2023
Meeting No.: 23-07

Roll Call

Commissioner Carr, District 1
Commissioner Gilardi, District 2
Commissioner Ocana, District 3
Commissioner Koenigshofer, District 5
Commissioner Deas, Chair, District 4

Staff Members

Scott Orr, Deputy Director
Katrina Braehmer, Planner
Tasha Levitt, Administrative Assistant
Jennifer Klein, Chief Deputy County Counsel

1:00 PM Call to order, Roll Call and Pledge of Allegiance.

Correspondence

Planning Commission/Board of Supervisors Actions Staff Scott Orr stated there is no correspondence and shared several recent actions from the Board. **0h01m**

Commissioner Announcements Commissioner Deas has to be out by 5:15pm **0h02m**

Items scheduled on the agenda

Planning Commission Regular Calendar

Item No.: 1
Time: 1:05 PM
File: ORD23-0001, Timeshare Regulations
Applicant: County of Sonoma
Owner: Same
Cont. from: N/A
Staff: Katrina Braehmer
Env. Doc: Exempt per CEQA Guidelines Section 15061(b)(3)

Proposal: The proposed ordinance would amend Sonoma County Code Chapter 26 (the Zoning Code) to add definitions and standards related to timeshares, including fractional ownership models, to Article 4 (Glossary) and Article 28 (Service Use Standards); update the land use table in Article 10 (Commercial Zones) to specify that timeshares are conditionally permitted within the K (Recreation and Visitor Serving Commercial) District; and update Article 77 (Visitor Residential Combining Zone) to clarify the applicability of affordable housing requirements.

Recommended

Action: Recommend that the Planning Commission approve a resolution recommending Board of Supervisors approval of the proposed ordinance to amend the Zoning Code to clarify timeshare regulations.

Location: Countywide, excluding the Coastal Zone

APN: N/A

District: Countywide

Zoning: N/A

Commissioner Disclosures: None **0h5m**

Staff Katrina Braehmer summarized the staff report, which is incorporated herein by reference. **0h5m**

Commissioner Questions:

Commissioner Carr asked about article 77, exhibit D and if there is a use table. **Staff Katrina Braehmer**, responded correct. **0h13m**

Commissioner Carr about hotel use. **Staff Katrina Braehmer**, responded K-zoning does allow for hotels. **Comprehensive Planning Manager, Ross Markey**, clarified where to find this in the code. **0h14m**

Commissioner Carr asked about mixed occupancy. **Staff Katrina Braehmer** responded this term refers to different lengths of occupancy within the same development. So it could be longer than 30 days or less than 30 days. That is the intent of the combining zone to allow for different lengths. **0h14m**

Commissioner Carr asked so that would be considered a timeshare? **Staff Katrina Braehmer** responded a timeshare use is allowed within the VR combining zone, but transient occupancy of timeshares would not be permitted. A vacation rental couldn't happen within a time share, but a fractional owner at the timeshare could stay for less than 30 days under the proposed ordinance. **0h15m**

Commissioner Carr asked if that would still be considered a timeshare. **Staff Katrina Braehmer** responded correct. **0h16m**

Commissioner Carr asked about results of litigation in other jurisdictions. **Staff Katrina Braehmer** responded in the staff report we mentioned approaches that other jurisdictions have taken which is what is presented to you today to regulate the use of the timeshare. **0h16m**

County Counsel Ivan Jimenez stated there haven't been resolutions to that litigation yet. **0h17m**

Commissioner Koenigshofer asked what role does the 30 day or less constraint play in the staff-proposed recommendation? **Staff Katrina Braehmer** responded it doesn't play a role. We don't specify a time period for time shares. We say for any period under 1 year. Unlike vacation rentals, timeshares would allow both. **0h17m**

Commissioner Koenigshofer asked so the criticism that some may have about this is accurate in terms of what's recommended? **Staff Katrina Braehmer** responded vacation rentals allow for non-owners to stay for periods of less than 30 days. Timeshares would be allowing owners to stay for 30 days or less or longer. **0h18m**

Commissioner Koenigshofer asked how does the department plan to monitor ownership? **Staff Katrina Braehmer** responded timeshares would be subjected to the same code enforcement process as others, a complaint bases. We acknowledge this might be difficult to investigate but there is no special enforcement provisions with this ordinance. **0h18m**

Commissioner Koenigshofer asked about the timeline of the St. Helena litigation and what are the issues at issue in that litigation and do any mirror what's proposed here? **Chief Deputy County Counsel, Jennifer Klein**, responded and described the issues. **0h19m**

Commissioner Deas asked how many of these fractional ownership properties are there currently? **Staff Katrina Braehmer** responded we don't have data for that. **0h20m**

Commissioner Koenigshofer asked about how staff would implement this? **Staff Katrina Braehmer** responded if someone wants to go through Picasso or another real estate company, it would have to be within the K zoning district and would require a use permit and to be rezoned to the CR combining district. **0h21m**

Commissioner Koenigshofer clarified if this would apply to any properties that wanted to embark on that ownership? **Staff Katrina Braehmer** responded yes. **0h22m**

Commissioner Carr stated if they didn't have the K zoning, they'd have to do a general plan amendment. **0h22m**

Public Hearing Opened: 1:22 PM

Patricia Smith
Janis Watkins
Roger Urban
Barbara Oddone
Walter Kieser
Nikolas Best
Lynn Skinner
Naseem Moeel
Shane McCarn
David Majerus
Sonia Beck
Yale Bernier

Public Hearing Closed, and Commission discussion Opened: 1:52 PM

Commissioner Carr stated a gentlemen asked a question about existing fractional ownerships, it would be nice to get an answer to that. **Chief Deputy County Counsel, Jennifer Klein**, responded if a use is legal when it's commenced and later becomes illegal, it may continue as a legal non-conforming use, consistent with the legal non-conforming use provisions of course code. If that legal non-conforming use is lost then it's lost. Currently we have timeshares in K zones only but timeshares are not defined. That would be for the Board to interpret what that means for existing uses. **0h52m**

Commissioner Carr stated he remembers the initial efforts on vacation rentals and how it was difficult to convince the powers that be what an important issue it was. We lost a couple years in parts of the county for lack of foresight. **0h53m**

Commissioner Carr referenced Mr. Keeser's comments and asked if there's a way to codify a distinction between single-family homes and residential. **Staff Katrina Braehmer** responded single-family residence does have a definition in the zoning code and read it aloud. **0h54m**

Commissioner Carr asked is it clear then that a single-family home does not include a timeshare, based upon that definition? **Staff Katrina Braehmer** responded as proposed the definitions do separate the two but a timeshare could occur in a structure that looks like a single family dwelling. **0h55m**

Commissioner Carr asked about outreach and if there was outreach directly to Picasso for preparation of this ordinance. **Staff Katrina Braehmer** responded no. **Commissioner Carr** asked if they were even aware of this. **Staff Katrina Braehmer** responded Board direction was last May. **Staff Scott Orr** stated here the Board directed us saying this is an emerging use, we don't know if it falls in our code or not, we'd like staff to research and get back to us. So it was more of an investigatory type process than major publication planning process. There was also public comment in the past. **0h56m**

Commissioner Carr asked what's the role of the manager in terms of complaints about behavior of fractional owner occupancy. Is it the same or similar in terms of how we manage vacation rentals? **Staff Scott Orr** responded he would be speculating based on comments heard today and in the past. **0h57m**

Commissioner Koenigshofer asked if the glossary defines what a family is. In the context of Picasso, if you look up the title documents, what does it say in terms of ownership, who is listed? **Staff Katrina Braehmer** responded our understanding is that they are typically owned by an entity like an LLC, so not a specific owner and more investigation is needed to know who actually has a share within that. **0h57m**

Commissioner Koenigshofer asked is there a way to tell how many existing there are just by the ownership titles? **Chief Deputy County Counsel, Jenifer Klein**, responded and suggests to look at the ordinance in front of you today. It's not exclusive to fractional ownership, we're not regulating ownership, we're regulation use. **0h58m**

Commissioner Koenigshofer stated he asked because it goes to the issue of how you define what is a pre-existing use. If this category was determined to be legal non-conforming, how do we determine that status? **County Counsel Klein** responded it would need to be looked at on a case-by-case basis. **0h59m**

Commissioner Carr asked if the operable factor would be the agreement or how they had agreed to use the property, rather than who owns it? **County Counsel Klein** responded that's correct. **1h00m**

Commissioner Koenigshofer asked about changes in ownership. **Commissioner Carr** commented it's a quagmire. **Commissioner Koenigshofer** agreed. **1h01m**

Commissioner Deas stated appreciation for Commissioner Koenigshofer's discussion. He stated he worries if did make this a legal non-conforming use, we'd have a difficult time getting that back. He has a hard time not thinking of this as a timeshare. We can use different words or parse it out differently than a timeshare, which has a place in a community. We have to figure out a way to either not grandfather these in or figure out a clear enforcing tool. If we just say these properties are legal non-conforming, we're going to run into problems with increased and decreased usage. **1h02m**

Commissioner Carr stated in response to that, there's a procedure for amortization. 1h03m

Commissioner Ocana asked staff to clarify where is Zone K. **Staff Katrina Braehmer** responded and clarified using the map. 1h05m

Commissioner Ocana asked for a lamens overview of what happens if we go through the staff recommendation. She clarified where timeshares are currently allowed. The idea is if we do more forward these are allowed within the K-zone? **Staff Katrina Braehmer** responded it would also require a use permit and a zone change to add the visitor residential combining district. **Staff Scott Orr** added clarification regarding combing districts. 1h06m

Commissioner Ocana asked going forward if this recommendation passes, if a new operation wanted to come in, what would be the process? **Staff Scott Orr** responded they would need to come to permit Sonoma for a use permit, zone change and likely a general amendment, because the K zone would be different from the existing land use, assuming it's not K-zoned already. 1h07m

Commissioner Ocana stated so it would be pretty difficult. **Staff Scott Orr** responded that would be a challenging entitlement process. He added our task was to look at our code and say where it fits rather than thinking about the process on the other side. If there's future work on this topic that's probably where the discussion would start. 1h07m

Commissioner Gilardi stated she thinks vacation rentals went sideways in 2008 when there were a lot of distressed properties on the market. We probably went from a handful to about 4,000 now. We have this example to look at. If the goal of the county is to preserve housing stock for people who live here, we can't sit on this. 1h08m

Commissioner Carr stated he's ready to support this. He's sure the fractional ownerships have kept up their properties well. The market affects of these vacation uses is killing any chance that the market will provide affordable housing to Sonoma County. This is part of the bigger issue in Sonoma County that affect almost everything we do, the balance between people who live here having the opportunity to live here and tourism. Tourism is a fickle master. We should allow it but there needs to be a balance between tourists, people visiting and locals. He sees the balance slipping towards favoring tourists. 1h09m

Commissioner Koenigshofer stated he concurs with the observations made by Commissions Gilardi and Carr. Our county has embraced tourism for a very long time. We do a lot of things that embrace and support county tourism. We don't do a very good job at balancing those promotional efforts with care and capacity of community life etc. We did fall behind on vacation rentals. If we do have the housing crisis that everyone talks about, the idea of continuing down a path that isn't devoted to people who live here is incongruous with policy. He thinks this is the right step. 1h11m

Commissioner Carr stated he hopes staff will take a look at and convey his discussion about single-family dwellings to the board. **Staff Katrina Braehmer** responded and clarified that there is a distinction between residential dwelling unit and single-family dwelling in the code. 1h14m

Commissioner Koenigshofer stated he endorses the 3 minute speaking time for the public giving public comment. **Commissioner Deas** responded in agreement and adjourned the meeting. 1h16m

Action: **Commissioner Carr** motioned to adopt this as recommended by staff. Seconded by **Commissioner Koenigshofer** and approved with a 5-0-0 vote. **1h15m**

Appeal Deadline: Not Applicable

Resolution No.: 23-31

Vote:

Commissioner Carr	Aye
Commissioner Gilardi	Aye
Commissioner Ocana	Aye
Commissioner Koenigshofer	Aye
Commissioner Deas	Aye

Ayes: 5

Noes: 0

Absent: 0

Abstain: 0

Hearing Closed: 2:16 PM