



Agenda Submittal

Agenda #: 23 **Status:** Regular Calendar
Type: Resolution **Department:** Resource Management
File #: 19-542 **Contact:** Karen Avery, 784-3165
Agenda date: 9/24/2019 **Final action:** 9/24/2019
Title: Conduct a noticed public hearing to consider an appeal of the Planning Commission's denial of Administrative Permit Application No. AD-18-02 for Leeanna Ellis to have an outdoor special events facility for up to 6 events per year with up to 150 attendees at 5580 Nicholas Lane, Dixon (continued from the July 23, 2019 Board meeting)
Governing body: Board of Supervisors
District: All
Attachments: 1. A - Updated Resolution, 2. B - Updated Map of Nicholas Lane, 3. C - Link to Board Appeal Package, 4. D - Planning Commission Resolution, 5. E - Excerpt from May 16, 2019 PC Minutes, 6. F - Links to Planning Commission Staff Report Package, 7. G - Links to Planning Commission Meeting Comment Letters, 8. H - Public Notices, 9. I - Administrative Permit & Appeal Zoning Regulations, 10. J - Planning Division Permit History, 11. K - Updated Record of Survey, 12. L - July 23, 2019 Minute Order, 13. Adopted Resolution, 14. September 24, 2019 Minute Order

Date	Ver.	Action By	Action	Result
9/24/2019	1	Board of Supervisors		
7/23/2019	1	Board of Supervisors		

Published Notice Required? Yes ☒ No ☐
Public Hearing Required? Yes ☒ No ☐

DEPARTMENTAL RECOMMENDATION:

The Department of Resource Management recommends that the Board of Supervisors:

1. Conduct a noticed public hearing to consider an appeal of the Planning Commission's denial of Administrative Permit Application No. AD-18-02 for Leeanna Ellis to have an outdoor special events facility for up to 6 events per year with up to 150 attendees (*continued from the July 23, 2019 Board meeting*);
2. Adopt a resolution to deny the appeal and affirm the Planning Commission's decision to deny Administrative Permit Application No. AD-18-02.

SUMMARY:

The matter before the Board of Supervisors involves an appeal of *the Planning Commission's denial of an Administrative Permit to allow an outdoor special events facility (maximum of 6 events per year, minimum of 150 attendees) for Leeanna Ellis on property located at 5580 Nicholas Lane in the unincorporated area outside Vacaville. The proposed event facilities would be located on a 31.97-acre property which is developed with a single family dwelling and a large metal storage building. The Administrative Permit Application No. AD-18-02 was denied by the Director of Resource Management on April 5, 2019. There were two reasons for that denial, they were 1) lack of an adequate connection to a private road for which there is a recorded road maintenance agreement, which is a requirement for approval of a special events facility located on a private*

road and 2) the administrative permit would be inconsistent with a restraining order issued by the Superior Court *against one of the co-owners of the property (Christopher Ellis) on the appellant/applicant's spouse* regarding noise and nuisance activities on the Ellis property.

On April 15, 2019, the applicant filed an appeal of the Director's denial of the Administrative Permit to the Solano County Planning Commission. The Solano County Planning Commission held a public hearing on May 16, 2019 to consider the appeal of the Director of Resource Management's denial of Administrative Permit Application No. AD-18-02. After closing the public hearing and considering all comments, written and oral, regarding said application, the Planning Commission voted 5-0, to affirm the Director of Resource Management's decision and denied the appeal. The applicant subsequently filed an appeal to the Planning Commission's denial with the Clerk of the Board on May 24, 2019. In her appeal, the appellant stated the Planning Commission failed to state any legal basis for their denial of her appeal. ~~The Board of Supervisors is being asked to consider the applicant's appeal of the Planning Commission's action.~~

The Board originally scheduled its hearing on the appeal for July 23, 2019. Immediately prior to the July 23, 2019 Board of Supervisor's meeting, the appellant requested a continuance of the public hearing. Resource Management staff concurred with the continuance request as the appellant submitted additional materials for staff's review and consideration.

With staff's recommendation, the Board granted the request for the continuance. To accommodate members of the public in the audience, the Board opened the public hearing and allowed members of the public to proceed with public comment. After hearing public comment, the Board subsequently closed the public hearing and voted to continue the public hearing to September 24, 2019 at 2:00 p.m. The Board is now being asked to consider the applicant's appeal of the Planning Commission's action.

FINANCIAL IMPACT:

Costs associated with Administrative Permit No. 18-02 have been paid by the applicant, and the cost associated with filing an appeal of said permit to the Board has been paid by the appellant.

DISCUSSION:

Project Description:

The proposed project includes an outdoor event facility with no existing permanent structures being utilized and no new structures being proposed. The nature of the events would likely be weddings, etc. The project narrative describes access to the property, use of food vendors, hours of operation, outdoor lighting, noise, an improved parking area, sanitation and setbacks from event activities from their property lines. Access to the property is described to be from Nicholas Lane. As part of the application, the applicant submitted a copy of a 2002 Road Maintenance Agreement for the road that was to be constructed within the easement shown the approved subdivision map. ~~The applicant did not provide a similar maintenance agreement for Nicholas Lane, an unmapped private road.~~ An attachment displaying the easement described in the 2002 Road Maintenance Agreement and Nicholas Lane is attached.

Board Appeal:

The appellant cites the following reasons for appealing the Planning Commission's action:

1. Permit denied with actual bias where others have been allowed to have a permit issued.
2. No legal basis for the denial of appeal by statute, code or other was cited.
3. An administrative permit on its face is allowed by right, provided all qualifications have been met.

The appellant also noted that the ten-day appeal period was not sufficient to do the legal research required.

Appellant will be submitting more documentation no later than 5 days before the hearing to all relevant parties.

The appeal application is attached within.

Planning Commission Action:

On May 16, 2019, the Planning Commission conducted a public hearing with regards to the applicant's appeal of the Director of Resource Management's decision to deny Administrative Permit No. AD-18-02. The Planning Commission, after reviewing the staff report and receiving public testimony, voted 5-0 to affirm the Director of Resource Management's decision to deny the Administrative Permit. The Planning Commission adopted Resolution No. 4673 which made the following findings regarding Administrative Permit Application No. AD-18-02 (Attached).

1. The property for which the use is proposed is not located on a public road.
2. Nicholas Lane is a private road for which there is not a recorded road maintenance agreement executed by all lot owners served by that private road.
3. A road meeting County road standards does not currently exist within the private access easement shown on parcel map for the property.
4. An administrative permit for a special event facility runs with the land is not personal to the named applicant. Christopher Ellis, the husband of the named applicant and a co-owner of the property, is currently under a court restraining order prohibiting him from allowing any person other than family member from using the access easement for any purpose unless otherwise ordered by the court.

The Planning Commission minutes are included as an attachment.

Access Issue:

The Ellis property is one parcel in a four-lot parcel map approved in 1978. The map is included in the Planning Commission Staff Report Package. The Ellis parcel is Parcel 4. The parcel map included a private access easement which bisected Parcel 3 (Foletta) and runs between Parcels 1 (Mendoza) and 2 (Fielding). In 2002, the owners of the four parcels recorded a road maintenance agreement requiring all property owners within the subdivision to share in the costs of installing and maintaining a road within the mapped easement (Planning Commission Staff Report Package). Upon review by the Department, this mapped easement was never improved as a private road and the property owners have instead used an unmapped private road that runs along the edges of the subdivision and terminates at Parcel 4. This unmapped private road is known as Nicholas Lane. It appears that this private road has been in existence for quite some time as 3 of the 4 primary dwellings built after the subdivision was recorded front Nicholas Lane. The County Surveyor conducted extensive research and was unable to identify documentation in County records that there is a recorded road maintenance agreement for Nicholas Lane.

Additional Information Submitted by Appellant:

Prior to the July 23, 2019 Board meeting, the appellant submitted a copy of a Record of Survey recorded in June of 2018 (attached) and a copy of a Grant Deed recorded in 2015 during the purchase of the property. Upon further review by Counsel and staff, it was discovered that in addition to the 60' access and utilities easement recorded on the 1978 Parcel Map, a 60' wide easement was described along the northern boundary of Parcel 1 and the westerly boundaries of Parcels 1 and 3. This easement is also described in the 2002 road maintenance agreement recorded by the subdivider and included in the Grant Deed for parcels 1, 3 and 4. A 16' -20 wide portion of this easement has been developed as Nicholas Lane. The road maintenance agreement requires all property owners within the subdivision to share in the costs and expenses of maintaining the roadway within each of the easement areas. Based on this new information, staff is now recommending that the Board find that a recorded road maintenance agreement does exist for Nicholas Lane. This additional information requires some adjustment to the findings for denial but does not change the

recommended action to deny the appeal. Nicholas Lane is in poor condition and does not appear to provide adequate access to the Ellis property for emergency vehicles.

Superior Court Issued Restraining Order:

In October of 2017, the Superior Court issued a civil restraining order prohibiting Christopher Ellis, the appellant's spouse and co-owner of the property, from harassing Marshall and Khris Foletta, owners of Parcel 3. This restraining order prohibited any person other than family members from using the mapped access easement for any purposes. The restraining order also limited noise levels coming from the Ellis property. This restraining order was upheld by the Court of Appeal on March 8, 2019. Copies of the restraining order is included in the Planning Commission Staff Report Package.

Special Events Facilities - Ellis Request/Summary of Issues:

On August 30, 2018, Leeanna Ellis submitted an Administrative Permit application for an outdoor special events facility for up to 6 events per year with up to 150 attendees. A copy of the application is attached as part of the Planning Commission Staff Report Package. In the project narrative for the application, the applicant describes the event facility to be an outdoor facility with no existing permanent structures being utilized. An improved parking area is proposed.

Per Section 28.21, Table 28.21A of the Zoning Regulations, special events facilities with up to 6 events per year and 150 persons or less requires an Administrative Permit in the A-40 zoning district. Additional standards and requirements for special events facilities is described in Section 28.73.30 (B)(6) of the Zoning Regulations (See Attachment - Planning Commission Staff Report Package).

Summary of Analysis Update Findings:

One of the requirements for special events facilities listed in Section 28.73(B)(6) is that "each parcel where the special event is conducted shall be a connection to a public road, or a private road if there is a recorded maintenance agreement executed by all lot owners served by that private road." In this case, there is *no* evidence of a road maintenance agreement for Nicholas Lane. *However, neither Nicholas Lane nor the access easement shown on the 1978 Parcel Map have been developed or maintained per County road standards.* There is correspondence from the Dixon Fire Department stating that Nicholas Lane does not provide adequate access for use by fire apparatus due to the poor condition of the road (Attachment - Planning Commission Staff Report Package). In addition, the Ellis parcel is located furthest from a public road (Fox Road) which combined with the inadequacy of the current road condition to accommodate events, the distance to reach the Ellis parcel for events would exacerbate the road's poor condition and access issues and in turn impact neighboring properties.

The updated Resolution and Findings reflect staff's recommendation that the Board deny the appeal due to the lack of adequate access and the limitations outline in the restraining order issued by the Superior Court. Staff does not believe that the new evidence submitted during the appeals process is adequate to allow an outdoor special events facility for up to 6 events with up to 150 attendees as described by the appellant. The Director of Resource Management cited two reasons (listed above) for the denial of the Administrative Permit. The Planning Commission conducted a de novo hearing and heard and considered the evidence presented by the Department and the public. Based on the evidence presented, the Planning Commission affirmed the Director's findings and decision, and denied Administrative Permit No. AD-18-02. Staff does not believe any new evidence has been submitted during the appeals process to change any of the findings or conclusions made by the Director of Resource Management and Planning Commission to approve the Administrative Permit.

ALTERNATIVES:

Depending on the evidence presented, the Board of Supervisors, upon completion of a public hearing on this

matter, may choose to:

1. Uphold the appeal and approve Administrative Permit Application No. AD-18-02 allowing the applicant to operate an outdoor special events facility for up to 6 events per year with up to 150 attendees. Such action is not recommended as the access easement is being legally contested and the condition of the private road being utilized, is not adequate to accommodate event traffic. Operation of the facility and access to the facility would still be subject to the terms and conditions of the court's restraining order.

PUBLIC NOTICE REQUIREMENT

Consistent with *sections 28.122 and 28.04 of the Solano County Code*, ~~Government Code Section 63858~~, a public hearing notice was published in the Fairfield Daily Republic, and Vacaville Reporter at least ~~10~~15 days prior to the public hearing. (Notice of Public Hearing attached).

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed this item and concurs with the findings and recommendation.

CAO RECOMMENDATION:

APPROVE DEPARTMENT RECOMMENDATION