



## Legislation Text

**File #:** PC 19-023, **Version:** 1

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PUBLIC HEARING to consider an appeal of the Director of Resource Management's denial of Administrative Permit Application No. AD-18-02 of Leeanna Ellis for an outdoor special events facility for up to 6 events per year with up to 150 attendees. The property is located at 5580 Nicholas Lane, a 31.9-acre parcel approximately 2.5 miles east of the City of Vacaville in an Exclusive Agriculture "A-40" Zoning District, APN: 0141-090-250. (Project Planner: Karen Avery) **Staff Recommendation:** Deny appeal and affirm the Director of Resource Management's decision of denial

### **DEPARTMENTAL RECOMMENDATION:**

The Department of Resource Management recommends that the Planning Commission:

1. Conduct a public hearing to consider an appeal of the Director of Resource Management's denial of Administrative Permit Application No. AD-18-02 of Leeanna Ellis for an outdoor special events facility for up to 6 events per year with up to 150 attendees;
2. Deny the appeal and affirm the Director of Resource Management's decision denying Administrative Permit Application No. AD-18-02.

### **SUMMARY:**

The Planning Commission is being asked to consider an appeal filed by Leeanna Ellis of the Director of Resource Management's denial on April 5, 2019 of Administrative Permit Application No. AD-18-02 for an outdoor special events facility for up to 6 events per year with up to 150 attendees.

The Planning Commission, upon completion of a public hearing on this matter, may choose one of the following options:

1. Affirm the Director of Resource Management's denial, or
2. Reverse the Director of Resource Management's denial, or
3. Continue the public hearing in order to obtain additional information.

### **BACKGROUND:**

Neighborhood History:

The Ellis property is Parcel 4 in a four-lot subdivision created by parcel map in 1978. See Attachment B. According to the parcel map, the Ellis property is to have access to Fox Road, a county-maintained public road, via a private access easement that bisects Parcel 3 and runs between Parcels 1 and 2. In 2002, the owner of all 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. However, this mapped private access easement has never been improved to the County's road standards and the property owners instead use an unmapped private road running along the northern and western edges of the subdivision and terminating at the north-west corner of Parcel 4 to access Fox Road. This unmapped private road is named Nicholas Lane. There does not appear to be a recorded road maintenance agreement for

Nicholas Lane.

There is a history of complaints on file with the Department of Resource Management and the Solano County Sheriff's office concerning the properties along Fox Road and Nicholas Lane. There continues to be a dispute between the Ellises and the Folettas, the Ellis' immediate neighbors to the north (Parcel 3) regarding the use of the mapped access easement. In October 2017, the Superior Court issued a civil restraining order prohibiting Christopher Ellis from harassing Marshall and Khris Foletta, including a specific prohibition against allowing any person other than family members to use the mapped access easement for any purpose unless otherwise allowed by the Court. See Attachment C. This restraining order was upheld by the Court of Appeal on March 8, 2019. See Attachment D.

In 2014, the Planning Commission approved use permit U-14-03 for a public stable and cross-country equestrian center on the Folettas' property, based on finding that Nicholas Lane provided adequate public access to the property. The neighbors attended the hearing but did not appeal the Planning Commission's finding or decision. In 2016, the Mendoza's applied for a building permit to construct a gate across Nicholas Lane at the north-east corner of Mendozas' Parcel 1. That application was denied based on the Commission's finding that Nicholas Lane provided public access to the Folettas' public stable use. The application was later approved, in 2017, when the gate location was moved to the southern end of Nicholas Lane at the north-west corner of Ellis' Parcel 4.

#### Administrative Permits and Appeals:

The County created the administrative permit process as part of the 2012 comprehensive zoning ordinances update. Uses which require an administrative permit are allowed by right within the zoning district but, as explained in section 28.101 of the Solano County Zoning Regulations, "the purpose of an administrative permit is to provide a mechanism for verifying that all standards and requirements of the use, as described in [the County Code], are met prior to the commencement of the use and can continue to be met during the operation of the use. The Director of Resource Management is to approve an application for an administrative permit, without public notice or hearing, if he finds that all standards and requirements specified in the County Code are satisfied. If he cannot make that finding, he must deny the application. The Director's decision on an administrative permit application is ministerial, and the Director has no discretion to deviate from the objective standards and requirements identified in the Zoning Regulations.

Pursuant to Section 28.112 of the Zoning Regulations, the Planning Commission is to hear and decide appeals when it is alleged by the appellant that there is error in any order, requirement, permit, decision or determination made by an administrative official in the administration or enforcement of the Solano County Zoning Regulations, including decisions of the Director on applications for administrative permits.

#### **DISCUSSION:**

Per Section 28.21, Table 28.21A of the Zoning Regulations, special events facilities with up to 6 events per year and 150 person 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 E. If the parcel on which a special event facility is to be operated has access to the county road system via a private road, there must a recorded road maintenance agreement for that road executed by all lot owners served by that road.

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 complete application is attached - Attachment F.

In the project narrative for the administrative permit application, the applicant describes the event facility to be an outdoor facility with no existing permanent structures being utilized. Included in the narrative is a

description of the access, food vendors, hours of operation, outdoor lighting, noise, parking, sanitation and setbacks from property lines. Access to the property was to be from Nicholas Lane. As part of her application, the applicant submitted a copy of the 2002 Road Maintenance Agreement for the road to be constructed within the mapped easement but did not provide a similar maintenance agreement for Nicholas Lane.

On March 6, 2019, the Dixon Fire Department sent a notice to Resource Management stating that Nicholas Lane does not provide adequate access for use by fire apparatus due to the poor condition of the road. (Attachment G.)

On April 5, 2019, the Director sent a letter to the applicant denying the administrative permit application and stating his reasons for the decision. (Attachment H). On April 15, 2019, Leeanna Ellis filed an appeal of the Director of Resource Management's decision to deny Administrative Permit No. AD-18-02 (Attachment I).

#### Reasons for Denial:

Per the letter from the Director of Resource Management, there are two reasons the administrative permit was denied. One reason being that there is not adequate access to the property and secondly, approval of the administrative permit would be inconsistent with a restraining order issued by the Superior Court.

#### Access:

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 have 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. While the property is served by a private road, the existing road is not mapped or described in any legal document and the Ellis' right to use that existing road is unverified. Also, the private road easement shown on the parcel map is not improved to County standards for private roads.

#### Superior Court Issued Restraining Order:

Currently, there is a restraining order in place for Christopher Ellis issued by the Superior Court which prohibits Christopher Ellis from using, or allowing any person other than his family members to use, the mapped private road easement for any purpose. Also included in that restraining order are limitations on noise. Hosting outdoor special events with live music or recorded music would potentially violate the limitations described in the restraining order.

#### Conclusion:

Until such time as the private road access easement is resolved and the Superior Court's restraining order is lifted or expires, the Director of Resource Management is unable to make a finding that there is adequate access to the property for the operation of a special events facility. In the absence of such a finding, the Director has no authority to approve Administration Permit No. AD-18-02.

#### **RECOMMENDATION:**

The Department of Resource Management recommends that the Planning Commission deny the appeal and affirm the Director of Resource Management's decision denying Administrative Permit Application No. 18-02 of Leeanna Ellis for an outdoor special events facility for up to 6 events per year with up to 150 attendees.

#### **Attachments**

- A - Draft Resolution
- B - Parcel Map Bk 15 Pg 88
- C - Restraining Order
- D - Appellate Court Opinion
- E - Section 28.73.30(B)(6) Standards
- F - Application with 2002 Road Maintenance Agreement

G - Fire Dept. letter  
H - Denial  
I - Appeal