



CITY OF BUELLTON

PLANNING COMMISSION AGENDA

Regular Meeting of July 2, 2015 – 6:00 p.m.
City Council Chambers
140 West Highway 246, Buellton, California

Materials related to an item on this agenda, as well as materials submitted to the Planning Commission after distribution of the agenda packet are available for public inspection in the office of the Planning Department located at 331 Park Street, during normal business hours.

CALL TO ORDER

Chair Lisa Figueroa

PLEDGE OF ALLEGIANCE

Vice Chair Reif

ROLL CALL

Commissioners Brian Dunstan, Art Mercado, Joe Padilla, Vice Chair Foster Reif and Chair Lisa Figueroa

REORDERING OF AGENDA

PRESENTATIONS

None

APPROVAL OF MINUTES

- 1. Minutes of the regular Planning Commission meeting of June 18, 2015**

PUBLIC COMMENTS

Members of the audience wishing to address the Planning Commission on matters not on the agenda may do so at this time. No action will be taken on these items at this meeting. Please state your name and address for the record. Comments should normally be limited to three minutes.

CONSENT CALENDAR

None

CONTINUED PUBLIC HEARINGS

None

NEW PUBLIC HEARINGS

2. **Planning Commission Resolution No. 15-07 – “A Resolution of the Planning Commission of the City of Buellton, California, Denying the Appeal of Brian Kuykendall, 431 Dogwood Drive, and Making a Determination that a Vacation Rental Use is Not a Permitted or Conditional Use in the Single Family Zoning District, and Making Findings in Support Thereof”**
❖ *Staff Contact: Marc Bierdzinski, City Manager*

OTHER BUSINESS**WRITTEN COMMUNICATIONS****PLANNING COMMISSIONER COMMENTS****PLANNING DIRECTOR REPORT****ADJOURNMENT**

To the next regularly scheduled Planning Commission meeting of Thursday, July 16, 2015 at 6:00 p.m. in the Council Chambers located at 140 West Highway 246.

Please note that the date of any Planning Commission decision starts an appeal period. During the appeal period either the applicant or any aggrieved party may appeal the application of a perceived onerous or unreasonable condition or the decision itself to the City Council as governed by the applicable section of the Buellton Municipal Code.

CITY OF BUELLTON

PLANNING COMMISSION MEETING MINUTES

Regular Meeting of June 18, 2015 – 6:00 p.m.
City Council Chambers, 140 West Highway 246
Buellton, California

CALL TO ORDER

Chair Figueroa called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

Commissioner Padilla led the Pledge of Allegiance

ROLL CALL

Present: Commissioners Brian Dunstan, Art Mercado, Joe Padilla and Chair
Lisa Figueroa
Vice Chair Foster Reif arrived at 6:20 p.m.

Staff: City Manager Marc Bierdzinski
Contract Planner Irma Tucker
Staff Assistant/Planning Technician Clare Barcelona

REORDERING OF AGENDA

None

PRESENTATIONS

None

APPROVAL OF MINUTES

1. Minutes of the regular Planning Commission meeting of June 4, 2015

MOTION:

Commissioner Mercado moved and Commissioner Padilla seconded the motion to approve the Minutes of June 4, 2015.

VOTE:

Motion passed by a 2-0 voice vote with abstention by Chair Figueroa due to her absence from the meeting.

PUBLIC COMMENTS

None

CONSENT CALENDAR

None

CONTINUED PUBLIC HEARINGS

None

NEW PUBLIC HEARINGS

None

OTHER BUSINESS

2. Briefing on “What the General Plan Really Is”

City Manager Marc Bierdzinski provided an informational PowerPoint presentation outlining the City’s General Plan. A question and answer session followed.

WRITTEN COMMUNICATIONS

None

PLANNING COMMISSIONER COMMENTS

None

PLANNING DIRECTOR REPORT

City Manager Marc Bierdzinski updated the Commission on recent City Council actions and the status of various projects and upcoming agenda items.

ADJOURNMENT

Chair Figueroa adjourned the meeting 6:35 p.m. to the next regular scheduled meeting of the Planning Commission to be held July 2, 2015 at the City Council Chambers, 140 West Highway 246, Buellton.

Lisa Figueroa, Planning Commission Chair

ATTEST:

Clare Barcelona, Planning Commission Secretary

An audio CD of this Planning Commission Meeting is available upon request.

CITY OF BUELLTON
Planning Commission Agenda Staff Report

Planning Director Review: mpb
Planning Commission Agenda Item No: 2

To: The Honorable Chair and Commission Members

From: Marc P. Bierdzinski, City Manager

Date: July 2, 2015

Subject: Resolution No. 15-07 – “A Resolution of the Planning Commission of the City of Buellton, California, Denying the Appeal of Brian Kuykendall, 431 Dogwood Drive, and Making a Determination that a Vacation Rental Use is Not a Permitted or Conditional Use in the Single Family Zoning District, and Making Findings in Support Thereof”

BACKGROUND

In March 2015, the City received neighbor complaints regarding operation of a vacation rental at 431 Dogwood Drive. Staff undertook an investigation and determined that 431 Dogwood Drive was being used as a short-term vacation rental based on an AirBnB website listing (Attachment 1). On April 6, 2015, the City Manager issued a letter to Mr. Brian Kuykendall, 431 Dogwood Drive, Buellton, indicating that permits were never requested from the City of Buellton for a vacation rental use and that the use was not allowed in the single family zoning district (Attachment 2). The letter stated that the use must cease immediately. Upon further research, staff discovered five additional short-term vacation rentals within the City Limits in the single family zoning district. Letters were also sent to these five vacation rentals indicating that the use is not allowed and must cease operation.

After discussions with Mr. Kuykendall, staff stated that he could apply for a permit and if denied, appeal the determination to the Planning Commission pursuant to the Municipal Code. On April 22, 2015, Mr. Kuykendall submitted a zoning clearance (Attachment 3) to attempt to legalize the vacation rental use. On April 28, 2015, the City Manager sent a letter (Attachment 4) to Mr. Kuykendall denying the zoning clearance for a vacation rental use for the following reasons:

- *Pursuant to Section 19.02.110 of the Buellton Municipal Code, a vacation rental, B&B, motel, or hotel use is not allowed in the RS (Single Family Residential) zoning district. Section 19.02.110 clearly states that “land uses that are not listed on the tables or are not shown in a particular zone are not allowed...;”*

The closest use of a vacation rental in our Municipal Code is “Hotels and Motels.” Therefore, that is the land use that has been used to make the use determination. As

the code clearly states, a hotel or motel use is not permitted in the single family zoning district. Unless the use falls into the Home Occupation section of the Municipal Code, commercial uses are not permitted in the single family zoning district. Home Occupations require that only one room in the dwelling be used for the home occupation, that additional vehicles cannot be associated with the home occupation, and that the commercial use shall be strictly secondary and subordinate to the primary residential use and shall not change or detrimentally affect the residential character of the dwelling, premises, or neighborhood. Based on these criteria, renting out a house for transient occupancy is not consistent with a home occupation.

The potential for additional vacation rentals being established in the City if this use were allowed would change the residential character of the single family neighborhoods, with the potential for nuisance noise and parking impacts. This is why Solvang recently adopted regulations prohibiting vacation rentals in their single family zoning district as they had documented nuisance complaints from persons renting the houses.

Renting out a room or a house to a tenant or a group home is not considered a commercial operation. The room or house is the tenant's primary residential address and they are living in that space for more than 30 days. Renting an apartment, house, or room as a residence is a residential use and not a commercial use. Nightly or weekly rentals where the house is not the primary residence is a transient commercial use.

- *A vacation rental use does not fall within the meaning of Shared Living Arrangements. Pursuant to Section 19.02.140.B of the Municipal Code, shared living means a residential use and not a commercial transient use. Shared living includes home supportive services and licensed community care facilities;*

Shared living arrangements, as set forth in our Municipal Code, are residential uses governed by the federal and state fair **housing** statutes. They are not transient commercial uses in which a nightly fee is paid to the proprietor. Rather, shared living arrangements are intended to increase housing and rehabilitation options for individuals with disabilities and special needs. In general, these types of shared living arrangements are protected by both federal and state laws that bar discrimination in housing. Under these laws, shared living arrangements such as licensed care facilities are the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit. A transient, short-term rental situation, in which the only link between the renters and the landlord is a commercial transaction, and in which there are no supportive services, does not fall within this category.

- *The purpose of the RS zoning designation, as stated in Section 19.02.100.A of the Municipal Code, is "to reserve appropriately located areas for family living in detached dwelling units at a reasonable range of population densities, consistent with the sound standards of public health, safety, and welfare."*

The single family residential neighborhood is for single family residential uses, not transient occupancy uses that are more appropriate in our commercial zones. Buellton is too small a City to allow transient occupancies throughout its single family neighborhoods. Many other cities, including beach cities, have residential neighborhoods in which this type of use is allowed. Our residents expect the quiet enjoyment of their home and the potential increase in this type of use is not appropriate.

On May 6, 2015, Mr. Kuykendall appealed the determination stated in the City's April 22, 2015, letter requesting that the Planning Commission allow vacation rental uses in the RS (single family) zoning district (Attachment 5). Mr. Kuykendall disagreed with the points described above and raised the following additional points:

- *House Swapping is permissible and is no different than short term vacation rentals*

Staff believes that house swapping is a different situation and one that is far less prevalent. The commercial aspect of short-term rentals creates a financial incentive, which could result in more frequent transient guests in our neighborhoods.

- *Short-term rentals in Buellton will not create neighborhood impacts*

The fact that vacation rentals in Solvang have caused neighborhood noise and parking impacts refutes this statement. There is no guarantee that renters will be quiet and not cause problems. The potential for nuisance impacts in our neighborhoods will increase if more homes were allowed to provide this use. Moreover, the City has received complaints regarding vacation rentals, which demonstrates that there are neighborhood impacts.

- *Allowing short-term rentals will not create a slippery slope*

Again, once people become aware that this is an option, the more likely it is that the City will experience additional short-term vacation rentals. This type of use has become increasingly popular and problematic for cities throughout the state.

- *Other short-terms rentals in the City are paying Transient Occupancy Taxes*

The City does not receive any TOT from this particular vacation rental and they have never applied for a City permit to operate. The issue here is not about the City losing TOT money. If that were the case, the City would permit the use. The issue is neighborhood compatibility and the appropriateness of this use in the single family neighborhood. Two other vacation rentals in town have been paying TOT since 2012, but have never received permits to operate from the Planning Department. The prior Finance Director did not ask the Planning Department whether the use was legal. Once the staff found out what was happening, we sent the letter telling them to cease operations.

Staff's position has not changed regarding a vacation rental use not being allowed in the single family zoning district and recommends that the Planning Commission deny the appeal and make the determination that the vacation rental use is not allowed. Based on the reasons noted above, staff would recommend that the appeal be denied and that the appellant be directed to cease operation of 431 Dogwood as a vacation rental.

RECOMMENDATION

That the Planning Commission consider the adoption of Resolution No. 15-07, "A Resolution of the Planning Commission of the City of Buellton, California, Denying the Appeal of Brian Kuykendall, 431 Dogwood Drive, and Making a Determination that a Vacation Rental Use is Not a Permitted or Conditional Use in the Single Family Zoning District, and Making Findings in Support Thereof"

ATTACHMENTS

Attachment 1 – AirBnB Web Page, 431 Dogwood
Attachment 2 – April 6, 2015, Code Compliance Letter
Attachment 3 – Zoning Clearance Request
Attachment 4 – April 28, 2015, Letter Denying Zoning Clearance
Attachment 5 – May 6, 2015, Appeal Letter
Planning Commission Resolution 15-07

ATTACHMENT 1

Where are you going?

User

- Home
- Download the App
- Sign Up
- Log In
- Alerts
- Inbox 0
- Your Trips
- Discover
- Search
- How it Works
- Help
- Invite Friends
- Log Out

Browse

Sign Up Log In Help List Your Space



Modern Wine Country Home
 Buellton, CA, United States
 (4)

Molissa

Entire	10 Guests	5
home/apt		Bedrooms
10 Beds		

Request to Book Instant Book

\$350 Per Night

Check In _____

Check Out _____

Guests

Request to Book Instant Book Book Now

You'll be able to review before paying.

When are you traveling?
 Enter dates for accurate prices and availability.

Save to Wish List

Share: ...

About This Listing

3,000 square foot home in a great family area- in the heart of the wine country. Easy freeway access to all points North and South. Close to beaches and wineries. Great eateries nearby, close to Figueroa Mountain Brewery and Firestone Walker.

Contact Host

ATTACHMENT 1

The Space

Property type: House
Accommodates: 10
Bedrooms: 5
Bathrooms: 3
Beds: 10
Check Out: 12:00 PM (noon)
Pet Owner: Dog(s)

Amenities

Kitchen

TV

Essentials

Shampoo

Heating

+ More

Kitchen

Internet

TV

Essentials

Shampoo

Heating

Air-Conditioning

Washer

Dryer

Free Parking on Premises

Wireless Internet

Cable-TV

Breakfast

Pets-Allowed

Family/Kid Friendly

Suitable for Events

Smoking-Allowed

Wheelchair-Accessible

Elevator-in-Building

Indoor Fireplace

Buzzer/Wireless-Intercom

Doorman

Pool

Hot-Tub

Gym

Prices

Extra people: \$25 / night after 6 guests

Cleaning Fee: \$150

Security Deposit: \$350

Cancellation: Strict

Safety Features

Smoke Detector

Carbon Monoxide Detector

First Aid Kit

Safety-Gard

Fire Extinguisher

Availability

2 nights minimum stay

View Calendar

See all 12 photos

ATTACHMENT 1

4 Reviews

- Accuracy
- Communication
- Cleanliness
- Location
- Check In
- Value



Carrie

We all had such a wonderful time! Melissa and Brian were super helpful, the house was stocked and we were all very comfortable. The master bath is cozy and was perfect to relax in after running the half marathon in Santa Ynez. Location was perfect - very close to Solvang and Los Olivos. Will definitely book again! It was such a great weekend and staying here played a huge part in that. Thank you for everything!

+ More
From Santa Monica, CA · May 2015



Keri

We had a great stay here! Melissa was very helpful, the logistics were easy, and the house is beautiful. Great location in a nice and quiet neighborhood. We will definitely look to book this house again for our next visit.

+ More
From Manhattan Beach, CA · April 2015



Fallon

We had a wonderful stay! Melissa and her family were so helpful and kind. The home is beautiful, well stocked and spacious. It truly has everything you need from dishes to pots and pans to plenty of towels and cozy beds. The location is awesome! Close to the freeway, a beautiful neighborhood and just down the street from great bars and restaurants. I hope to stay again!

+ More
From Los Angeles, CA · February 2015



Nicholas

The reservation was canceled 40 days before arrival. This is an automated posting.

+ More
From San Diego, CA · February 2015

About the Host, Melissa



Santa Barbara, California, United States
Member since January 2015
Response rate: 50%
Response time: within a day

Contact Host

Connections

Are you or your friends connected with this host?

Connect with Facebook

Trust

5
Reviews



Verified ID

Listing Location

Dogwood Drive, Buellton, California, United States

Similar Listings

\$175
Open beam wine country guest studio
Entire home/apt — 6.0 miles away

\$195
Quaint and Cozy Cottage
Entire home/apt — 5.2 miles away

\$275
The Back Porch in Ballard.
Entire home/apt — 5.2 miles away

\$185
Los Olivos Valley Escape and Spa
Private room — 5.7 miles away

\$225
Romantic wine country retreat
Entire home/apt — 0.6 miles away

\$179
Wine country cottage in paradise
Entire home/apt — 4.9 miles away

\$300
Cozy private winecountry cottage!
Entire home/apt — 5.3 miles away

\$175
Olive Branch Farm Guest House
Entire home/apt — 5.8 miles away

\$185
Beautiful Santa Ynez Studio Cottage
Entire home/apt — 3.5 miles away

\$460
California Guest House in the Oaks
Entire home/apt — 3.9 miles away

\$175
The Retreat @ 11 Oaks
Entire home/apt — 4.8 miles away

\$500



City of Buellton

April 6, 2015

Certified and Regular Mail

Brian & Melissa Kuykendall
431 Dogwood Drive
Buellton, CA 93427

RE: Vacation Rental – 431 Dogwood Drive

Dear Mr. and Mrs. Kuykendall,

We have received a complaint regarding the use of your property as a vacation rental/B&B. You have never inquired with the City whether this use is legal or not in the single family zoning district. The use of a property as a vacation rental/B&B is not listed as a permitted or conditionally permitted use in the single family zoning district and is therefore prohibited. Therefore, you must immediately cease using the property for this purpose. Failure to comply may result in the issuance of administrative citations, with fines starting at \$100 per day and escalating to \$500 per day for three or more violations.

Our Code Compliance Officer, Tom Walton, will follow-up with you on compliance. He can be reached at 805-686-7435, or tomw@cityofbuellton.com.

If you have any further questions you may contact Mr. Walton, or you may contact me at 805-688-5177.

Sincerely,

A handwritten signature in blue ink that reads 'Marc P. Bierdzinski'.

Marc P. Bierdzinski
City Manager



PROJECT APPLICATION FORM
CITY OF BUELLTON
PLANNING DEPARTMENT

PROJECT LOCATION 431 DeGwood dr Buellton

SITE ZONING RS-6 SITE ASSESSOR'S PARCEL NO. 099-760-003

PROJECT DESCRIPTION Vacation Rental

Received

Attach additional sheets if necessary

APR 22 2015

PERMITS AND APPROVAL REQUESTED

CITY OF BUELLTON

- ANNEXATION
GENERAL PLAN AMENDMENT/REZONING
SPECIFIC PLAN
ZONING ORDINANCE TEXT AMENDMENT
FINAL DEVELOPMENT PLAN
PRELIMINARY DEVELOPMENT PLAN
DEVELOPMENT PLAN MODIFICATION
CONDITIONAL USE PERMIT
MINOR USE PERMIT
USE PERMIT MODIFICATION
LOT LINE ADJUSTMENT
SECONDARY DWELLING UNIT
VARIANCE
SUBDIVISION (TENTATIVE TRACT MAP)
SUBDIVISION (TENTATIVE PARCEL MAP)
CONDOMINIUM CONVERSION
ZONING CLEARANCE
CONCEPTUAL REVIEW
LAND USE EXEMPTION
SIGN APPROVAL
TEMPORARY USE PERMIT/SPECIAL EVENTS
APPEAL
OTHER
HOME OCCUPATION

The City charges 100% of its costs in processing to the applicant. Prior to receiving any permits, applicant shall coordinate with the city all processing costs. The city will review the application for completeness and will deny the application within 30 days of submission of a complete or incomplete application.

AUTHORIZATION: I, Brian Key Kendall, HEREBY AUTHORIZE TO ACT AS MY AGENT AND TO BIND ME IN ALL MATTERS CONCERNING THIS APPLICATION.

PROPERTY OWNER CONTACT INFORMATION

Name Brian Key Kendall (Please Print)

Phone 805.230.6171

Address 431 DeGwood dr

Buellton, Ca 93427

E-Mail brian.kendall@kayk.com

Property Owner Signature (Required) Date 4/22/15

I DECLARE THAT I AM THE APPLICANT, OWNER, LESSEE, OR ATTORNEY OF THE OWNER, AGENT, OR PERSON WITH THE POWER OF ATTORNEY FROM THE OWNER OF THE ABOVE PROPERTY INVOLVED IN THIS APPLICATION, AND THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE.

[X] THIS DECLARATION IS ALSO INTENDED TO APPLY TO ALL TRANSACTIONS WITH THE SANTA BARBARA COUNTY PLANNING AND DEVELOPMENT DEPARTMENT RELATED TO BUILDING PERMIT ISSUANCE.

AGENT CONTACT INFORMATION

Name (Please Print)

Phone

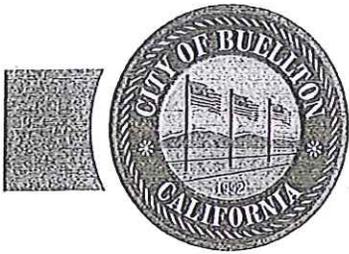
Address

E-Mail

Applicant Signature Date

Please see important information regarding Disability Access Laws on the back of this form.

OFFICIAL USE ONLY
Application Fee: Dollars Received
Permit/Development Agreement Fee
City Application Fee



City of Buellton

April 28, 2015

Certified Mail
Brian Kuykendall
431 Dogwood Drive
Buellton, CA 93427

RE: Zoning Clearance Request 15-ZC-09
Vacation Rental Use at 431 Dogwood Drive, APN 099-760-003

Dear Mr. Kuykendall,

After reviewing the Municipal Code, I hereby deny your request for a zoning clearance to establish a vacation rental at 431 Dogwood Drive. The following reasons support the denial:

- Pursuant to Section 19.02.110 of the Buellton Municipal Code, a vacation rental, B&B, motel, or hotel use is not allowed in the RS (Single Family Residential) zoning district. Section 19.02.110 clearly states that "land uses that are not listed on the tables or are not shown in a particular zone are not allowed..."
- A vacation rental use does not fall within the meaning of Shared Living Arrangements. Pursuant to Section 19.02.140.B of the Municipal Code, shared living means a residential use and not a commercial transient use. Shared living includes home supportive services and licensed community care facilities; and
- The purpose of the RS zoning designation, as stated in Section 19.02.100.A of the Municipal Code, is "to reserve appropriately located areas for family living in detached dwelling units at a reasonable range of population densities, consistent with the sound standards of public health, safety, and welfare."

Therefore, your vacation rental use, as noted in our April 6, 2015, is not permitted and must cease immediately.

You may appeal my decision to the Planning Commission within 10 days of receipt of this letter. I have attached the forms that need to be submitted for an appeal. A complete description of the reasons you believe a vacation rental use is permitted in the RS zoning district shall also be included. A fee deposit of \$660, pursuant to the City Council adopted fee schedule, shall accompany the application. Any unused funds after completion of the appeal process will be refunded. Your appeal will be scheduled as a public hearing at the next available Planning Commission meeting.

If you have any questions, please call me at 805-688-5177.

Sincerely,

Marc P. Bierdzinski
City Manager

ATTACHMENT 5



KUYKENDALL FAMILY HOME

May 6th, 2015

Mark Bierdzinski
City Manager
107 W. Highway 246
P.O. Box 1819
Buellton, CA 93427



RE: Appeal to denial of request relating to using my primary residence as a Vacation Rental

Dear Mr. Bierdzinski,

I agree that that Short Term Rentals (STR) are not specifically addressed, verbatim, in the Municipal Code. I contend that STR's fall under the Shared Living Arrangement of the Municipal Code. I understand that it is within your authority as City Manager to use your discretion to interpret the code and apply it to situations that are not specifically called out in the Municipal Code. However, situations like these where the entire decision is based solely on discretionary interpretation of the code, and not by the word of the code are especially susceptible to appeal. It is my intent to respectfully appeal your decision.

In your denial, you detailed three points (numbered below) in which you based your refusal on. I will outline my rationale for my position and appeal of each of the three facets of your decision below.

- 1) Pursuant to Section 19.02.110 of the Buellton Municipal Code, a vacation rental, B&B, motel, or hotel use is not allowed in the RS (Single Family Residential) zoning district. Section 19.02.110 clearly states that "land uses that are not listed on the tables or are not shown in a particular zone are not allowed"

You have taken the liberty of grouping STR vacation rentals in with hotels. I personally would not group a B&B/STR in with a hotel. While there are some aspects of the STR concept that are similar to a hotel, STR's typically do not have any employees, have a payroll or provide services to a client. One thing they do have in common is that they are engaged in commerce. As I will detail later in this letter, being engaged in commerce does not eliminate an activity from being acceptable in a RS zoning district. Furthermore, the fact that hotels and STR's both deal with transient guests cannot be used as a sound argument for denial as homeowners oftentimes entertain guests for overnight, weekend or extended stays, which also makes them transient in nature. I would assume that guests of a transient nature are allowed under Municipal Code, even though the code does not specifically state so.

ATTACHMENT 5



KUYKENDALL FAMILY HOME

- 2) A vacation rental does not fall within the meaning of Shared Living Arrangements. Pursuant to Section 19.02.140.B of the Municipal Code, shared living means a residential use and not a commercial transient use. Shared living includes home supportive services and licensed community care facilities.

My first point on this issue is that not only does this section of code fail to specifically state that Shared Living Arrangements are for residential use and not commercial transient use, it also does not fall under a category that specifically indicates a Zoning type, therefore this portion of your argument is completely a discretionary interpretation.

Considering the fact that there is no specific language relating to Shared Living Arrangements in the Municipal Code, whether or not a vacation rental does or does not fall within the meaning of the Shared Living Arrangements section of 19.02.140 Special Housing Types is also a complete discretionary interpretation.

There are many categories of land use in residential areas that involve commerce, therefore it is safe to say that the statement "commerce is not allowed in a residential area" is not supported by the language and the intent of the zoning code in general. In fact, the specific examples provided under the Shared Living Arrangement specifically involve commerce and are therefore commercial in nature.

On my final argument on this section, the language in section 19.02.140 does not specifically exclude any other type of shared living arrangement. The use of the word "including" in this circumstance means to "specify examples by listing items that loom large in the transaction.", also to "provide reminders to the other party of what is included, without necessarily being complete". I completely disagree that the intent of this portion of the code was to exclude any other category of Shared Living Arrangement besides what was stated.

- 3) The purpose of the RS Zoning designation, as stated in Section 19.02.100A of the Municipal Code, is "to reserve appropriately located areas for family living in detached dwelling units at a reasonable range of population densities, consistent with the sound standards of public health, safety, and welfare."

I am unsure as to why this was included as a reason for denial. I would contend that our activity complies with all facets of this statement. With two adults and five children, we are seven total. The children are actually transient as they go back and forth to their father's house on a weekly basis and are here only half a week at a time. I can assure you that most of our neighbors know when the five boys are in Buellton, but I can't say the same for the STR guests, as most of our neighbors were completely unaware of the STR guest's comings and goings.

Another activity for consideration by the counsel/commission is the practice of house swapping. We are members of online sites that bring people from different geographical areas together with the intent of making arrangements to swap houses, for example, someone living in Big Bear might swap with someone from Tempe. There is no currency exchanged in this transaction, so there is no commercial aspect, just an arrangement between homeowners to be each other's house guests.

ATTACHMENT 5



KUYKENDALL FAMILY HOME

In addition to addressing the reasons for denial, I would like to proactively address concerns relating to Short Term Rental Activity in Buellton:

- 1) "Goleta has all kinds of problems relating to Short Term Rentals and we do not want these types of problems in Buellton"
 - a. People in Goleta (Isla Vista) like to have loud house parties. Suffice to say that Buellton is a quaint, sleepy little town that I feel privileged to call home. People that come here like to go wine tasting get married and ride their bikes. These types of problems have not materialized in Buellton despite that fact that there has been STR activity here for several years. This concern is based in rumor and not historical fact.
- 2) "If we allow one person to do it, everyone will want to do it"
 - a. Again, STR activity has been present in Buellton for years. Not everyone is doing it. In fact, it does not make sense for "everyone" to do it. There has to be some kind of special circumstance that makes it desirable. In my family's case, we only have the children every other weekend and our jobs require/afford for travel much of the time when the children are not present. Most people need their homes to live in all of the time, so it can't work for everyone.

Transient Occupancy Tax - One question I have for the council/commission is that what was the trigger that, considering the City of Buellton had already provided de facto acknowledgement and approval of Short Term Rentals by accepting Transient Occupancy Tax from a Buellton resident, caused this issue to escalate to this contentious level. I think that the response to the complainant, who's only complaint, was that the activity did not comply with code, should have been that this activity had already been established by precedent and that it would be up to the complainant to spend his time and money on making it "no longer allowed" if he didn't like what his neighbors were doing inside of their home.

Per your request, I have provided the \$660.00 to cover costs relating to this appeal.

Again, thank you for accepting my appeal to your decision.

Respectfully Submitted,

Brian Kuykendall

431 Dogwood Drive

PLANNING COMMISSION RESOLUTION NO. 15-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BUELLTON, CALIFORNIA, DENYING THE APPEAL OF BRIAN KUYKENDALL, 431 DOGWOOD DRIVE, AND MAKING A DETERMINATION THAT A VACATION RENTAL USE IS NOT A PERMITTED OR CONDITIONAL USE IN THE SINGLE FAMILY ZONING DISTRICT, AND MAKING FINDINGS IN SUPPORT THEREOF

BE IT RESOLVED by the Planning Commission of the City of Buellton as follows:

SECTION 1: On April 6, 2015, the City Manager issued a letter to Mr. Brian Kuykendall, 431 Dogwood Drive, Buellton, regarding complaints associated with operation of a short-term vacation rental (less than 30 days in duration) at the Dogwood address located in the RS-6 zoning district (single family residential, 6,500 sf minimum lot size). The letter stated that a short-term vacation rental use is not allowed in the single family zoning district and permits were never requested nor issued. On April 22, 2015, Mr. Kuykendall submitted a zoning clearance to attempt to legalize the vacation rental use. On April 28, 2015, the City Manager sent a letter to Mr. Kuykendall denying the zoning clearance for a vacation rental use for the following reasons:

- Pursuant to Section 19.02.110 of the Buellton Municipal Code, a vacation rental, B&B, motel, or hotel use is not allowed in the RS (Single Family Residential) zoning district. Section 19.02.110 clearly states that “land uses that are not listed on the tables or are not shown in a particular zone are not allowed...;”
- A vacation rental use does not fall within the meaning of Shared Living Arrangements. Pursuant to Section 19.02.140.B of the Municipal Code, shared living means a residential use and not a commercial transient use. Shared living includes home supportive services and licensed community care facilities; and
- The purpose of the RS zoning designation, as stated in Section 19.02.100.A of the Municipal Code, is “to reserve appropriately located areas for family living in detached dwelling units at a reasonable range of population densities, consistent with the sound standards of public health, safety, and welfare.”

On May 6, 2015, Mr. Kuykendall appealed the determination stated in the City’s April 22, 2015, letter requesting that the Planning Commission allow vacation rental uses in the RS-6 zoning district.

SECTION 2: All proceedings having been duly taken as required by law, and upon review of the information provided in the staff report, consideration of the testimony given at the public hearing, as well as other pertinent information, the Planning Commission finds the following:

- A. Record.** Prior to rendering a decision on the Project, the Planning Commission considered the following:

1. All public testimony, both written and oral, received in conjunction with that certain public hearing conducted by the Planning Commission on July 2, 2015 (“PC Public Hearing”).
2. All oral, written and visual materials presented in conjunction with that certain PC Public Hearing.
3. The following informational documents, which by reference, are incorporated herein:
 - a. The staff report dated July 2, 2015, and all associated attachments.

B. Public Review. On the basis of evidence hereinafter listed, all administrative procedures and public participation requirements prescribed in the Buellton Zoning Ordinance have been lawfully satisfied:

1. A notice of PC Public Hearing was published in a newspaper of general circulation on June 18, 2015 (the “PC Public Notice”), a minimum of 10 days in advance of the PC Public Hearing conducted on July 2, 2015.
2. The PC Public Notice was mailed to the Applicant, affected public agencies, persons owning property within 300 feet of the Project site and others known to be interested in the matter on June 18, 2015, a minimum of 10 days in advance of the PC Public Hearing.
3. The PC Public Notice was posted in three public locations on June 18, 2015, a minimum of 10 days in advance of the PC Public Hearing.

C. Environmental Review. This determination was reviewed in accordance with the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, the State CEQA Guidelines, 14 C.C.R. section 15000 *et seq.*, and the Environmental Impact Report Guidelines of the City of Buellton, and the Planning Commission has exercised its independent judgment and finds that the project proposed in the amendment is exempt from CEQA pursuant to section 15061 (b) (3) of the State CEQA Guidelines as it is an action which can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

D. Consistency Declarations. Based on (i) the evidence presented in the project file (incorporated herein by reference), (ii) consultations with affected City Departments, and (iii) testimony and comments received in connection with the PC Public Hearing, the Planning Commission does hereby declare as follows:

1. Pursuant to Section 19.02.110 of the Buellton Municipal Code, a vacation rental, B&B, motel, or hotel use is not allowed in the RS (Single Family Residential) zoning district and that Section 19.02.110 clearly states that “land uses that are not listed on the tables or are not shown in a particular zone are not allowed...;”

2. A vacation rental use does not fall within the meaning of Shared Living Arrangements. Pursuant to Section 19.02.140.B of the Municipal Code, shared living means a residential use and not a commercial transient use. Shared living includes home supportive services and licensed community care facilities; and

3. The purpose of the RS zoning designation, as stated in Section 19.02.100.A of the Municipal Code, is “to reserve appropriately located areas for family living in detached dwelling units at a reasonable range of population densities, consistent with the sound standards of public health, safety, and welfare.” Allowing transient commercial occupancies in the RS zoning designation does not promote or ensure the quiet enjoyment of the City’s single family neighborhoods and could lead to nuisance impacts to the neighborhood (noise and parking issues).

SECTION 3: Based on the findings set forth in Sections 1 and 2, the Planning Commission hereby denies the appeal of Brian Kuykendall and makes a determination that a short-term vacation rental use (less than 30 days in duration) is not a permitted or conditional use in the RS (single family) zoning district.

PASSED, APPROVED and ADOPTED this 2nd day of July 2015.

Lisa Figueroa
Chair

ATTEST:

Clare Barcelona
Planning Commission Secretary

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) **SS**
CITY OF BUELLTON)

I, Clare Barcelona, Planning Commission Secretary of the City of Buellton, do hereby certify that the foregoing Resolution No. 15-07 was duly approved by the Planning Commission of the City of Buellton at a meeting held on the 2nd day of July 2015, by the following vote, to wit.

AYES: ()

NOES: ()

ABSENT: ()

NOT VOTING: ()

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of July 2015.

Clare Barcelona
Planning Commission Secretary