



APPEAL TO THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE

RECEIVED

DEC 20 2021

CITY CLERK'S OFFICE
CITY OF ARROYO GRANDEDate 12/16/2021Name and Address of Appellant Stewart and Francine ErricoAppeal of The denial of appeal (21-004) and the approval of PPR (21-029).

Case No.

Approved/Denied by AG Planning Commission (PC) on 12/07/2021

Date

Reason for Appeal Appeal (21-004) was denied even though it proved multiple instances where PPR21-029: Denied rights to applicable property owners through violations of due process and procedure, didnot adhere to code, or meet established performance standards.At the hearing, the PC did not address material errors raised, made in the City staff memo, or addressour request for a continuance so that those errors could be corrected and properly addressed.Further detail is attached, is contained in appeal (21-004), and more will be provided at a later date.Signature [Redacted]Mailing Address 1570 Strawberry Ave. AG, CA 93420Telephone [Redacted]Fee - \$1,163Receipt No. 001-00518782Date 12/20/21

Director of Legislative and Information Services/City Clerk

Additional information Re: Appeal of both: -the denial of appeal (21-004) and the approval of PPR (21-029).

We spoke to the issue of our concerns relating to the denial of appeal (21-004) and the approval of PPR (21-029) was spoken to, and guidance and assistance was requested from the City Council during public comment at the 14 Dec 2021 meeting. At that time, the Council directed the City manager to contact us and provide assistance. She stated that she was pretty certain that the City already had our contact information, which is correct. We have corresponded with the City including receiving email directly from the City manager over the past few months. As of 20 Dec we have still not received the desired guidance which is particularly undesirable and extremely dissappointing as apparently the deadline for filing a City Council level appeal over this matter is also 20 Dec. We so not want to lose an opportunity to have our concerns properly addressed, but would have preferred to learn and explore more by working more directly with the City and exploring collaborative options instead of feeling forced to file another expensive appeal to invoke a response from the City and continue to try to receive their assistance which has thus far been withheld. We have already been unfairly treated in our appeal at the Planning Commission level through their failure to even attempt to address a number of our grievances officially filed at that level.

It is very apparent that City codes are not being followed and processes are not being followed. This desperately needs to be corrected, but there appears to be very little recourse, and perhaps even official interest in this problem.

Please also read the statement notes from us relating to our comments at the City Council meeting on 14 Dec, and our speaking points from the Planning Commission hearing on 07 Dec 2021 which have been attached for your reference. They contain a great deal of further relevant information.

The documents filed in our appeal also contain extremely relevant additional material, but have not been attached in this filing as they are already on file with the city.

We also would like to note that during the PC hearing we tried to provide additional relevant comment during the hearing of our appeal following our initial 3-minute presentations to the commission, but the City did not allow us to make any further comment during our appeal hearing period.

Since we have been provided no other option in trying to ensure fairness than through this City Council level appeal we also feel it necessary to point out that the further review of our appeal and the City memo provided to the Planning Commission should be taken by an entity that is independent to the Staff that prepared that memo and appeal review in order to address the obvious conflict of interest that exists if they were to be asked to re-review their own material and provide an opinion on our claims that they themselves have not properly or fairly performed their task in the first instance.

One of our objections raised in our PC level appeal related to the invalid notification list used in the filing of the VR application. An additional supporting quote taken directly from PC appeal filing, and application cover sheets calls for notification of "... all property owners within a radius of 300 feet of the exterior boundaries of the subject property...". This is further supporting evidence in support of the 4 leaf clover shaped notification area we make reference to in our appeal documentation being the only legitimate notification area which directly conflicts with the simple offset circle that the City utilized. We have proven multiple addresses that are within the notification area that were not notified. Again this is just one of many points in the initial appeal.

Some of our personal information has still not been properly redacted in all documents contained in the PC appeal attachments. Corrective action is also requested to rectify this important error surrounding our sensitive personal information.

We further request a refund for the costs of taking the action of filing an appeal at the City Council level. This City Council appeal has become necessary and is largely redundant due to the fact that the original appeal, at the Planning Commission level, was not properly addressed or adjudicated, where it was initially filed. It is not fair or reasonable to have to pay to appeal to the City Council level to solicit a proper response that should have already taken place that we have already filed and paid for.

Thank You,
Stew ERRICO

December 20, 2021

To the City Council members,

We the appellants, feel the appeal against PPR 21-029 1562 Strawberry Avenue was not given fair or due consideration by the Arroyo Grande Planning Commission on December 7 and in doing so the residents of approximately 24 properties were denied their right to be informed about the application for a vacation rental within the prescribed radius of the mentioned property and denied their right to appeal. Our appeal proved that application was not complete and on this basis the application should have been denied.

We were told by the staff at the city council that an appeal would only be successful if the application was in error or did not follow code. Our appeal demonstrated, not only was their application not complete, but that it was also in error.

City staff were negligent in their response to our 37 page document, leaving out relevant points and using arguments with conflicting and confusing information which was therefore not fairly addressed by the Planning Commission.

Considering that this vacation rental will adversely affect over 500 residents in the 300ft buffer, most of which have no way of contacting the "local Contact" person if they have reason to complain. Many are renters who are not furnished with this information because the ordinances state the owners not the renters are given the contact details for a "local contact."

The actual local contact is confusing in this application, as two contacts were put on the notice, one of which does not comply with the city ordinances of living within a 15 minute drive. The property manager for this vacation rental is located some 45 minutes away. In fact at the planning commission meeting, the property manager themselves spoke about their professionalism and their ability to manage vacation rental properties, but the legitimate contact person (within the 15 minutes drive) did not speak about their abilities to manage complaints.

Definition of "adverse impact on adjacent properties" seems to be in question. It would appear that the city staff take this to mean only in so far as building code allows. But adverse impacts can take on a number of issues and definitions and should be fairly considered within the broader context.

It is wrong for the Planning Commission infer that our appeal did not contain cite to have "unique or specific" issues as grounds for a denial of the application for a vacation rental, however how many vacation rentals could adversely affect over 500 residents which fall within the 300ft buffer. In such an instance, the City is failing many of its constituents.

It is noted that at the Planning Commission meeting one of the Commissioners said that he had been a long time manager of hotel in Pismo Beach and personally acknowledged that people on vacation did not act like they do at home and further acknowledged that they could be disruptive in nature.

One other planning commissioner openly admitted that he was a restaurant owner and that tourists, including those who rent out vacation rentals were vital to the city. This constitutes a conflict of interest, and he should have recused himself from voting on the application and the appeal.

It is clear that on a number of issues our appeal for the vacation rental at 1562 Strawberry Avenue has not been adequately and fairly addressed. We request that we speak directly with a City counsellor on this, be afforded more than 3 minutes to state our case and have the ability to physically show our findings on the conflicting documents presented by the City staff.

Francine Errico

14/7

14 Dec 21 CC meeting speaking points:

Members of the Council, thank you for your time and attention.

We recently exercised our rights as community members and paid the substantial fee to file an appeal (21-004) with the Planning Commission relating to PPR: 21-029, which is a Vacation Rental application.

In our appeal submission we were able to clearly demonstrate multiple instances where the associated application did not: follow code, or adhere to established performance standards; and denied rights to applicable property owners through violations of due process and procedure.

Just prior to the hearing, during our review of the city's related memo to the Commissioners regarding our appeal, it was readily apparent that The City staff had made significant mistakes in their assessments and analysis, including blatantly incorrect attachments with an invalid, much too small, owner notification buffer area utilized. This is supported by two of the City's own attachments (#6 and #7) which directly conflict with each other, and elude common sense.

We pointed out a number of errors in the memo to the Commission at the hearing and asked that either a continuance be granted to allow for these errors to be correctly assessed by the city which would then allow for a legitimate assessment of, and response to our appeal, or for our appeal to be approved.

Our requests, including the appeal itself, were effectively disregarded, as there was no response to either the request for a continuance, or relating to the material errors made by the city we raised.

Our appeal was then denied, but "ignored" may be a more accurate description.

We do not find this to be reasonable.

There are laws and codes that apply and must be adhered to. Although California may have once been the Wild West, we are supposed to have moved on from that standard a long time ago.

To us, and many other members of the community, this is a critical matter that directly and meaningfully impacts our lives and deserves to be properly addressed. Not circumvented.

As residents that are not experts on city process, we are hoping that our city system is not so broken that the only next appropriate course of action would be to file a civil court action.

As such, we are respectfully asking for your guidance and assistance on how to ensure that fairness and legal correctness prevail on this matter.

We appreciate the assistance provided, and hard work performed, by the city staff throughout this process and extend our thanks to them as well as the Planning Commission for their time and attention to this matter.

~~Add notes from "Insert" page.~~

Although multiple significant concerns have been well documented in the appeal, it is now necessary to ask for a continuance on this matter in order to ensure that these concerns are given the opportunity to be properly understood and properly adjudicated. There remain, unfortunately, several areas where it is apparent that our appeal has not been properly and fairly dispositioned, or given due consideration, based upon multiple errors in the City's related memorandum to the commission which include, but are not limited to, the following:

The first major area that has been improperly address is Appeal Section 5.a.ii.2

(1): In the City staff memorandum, an existing VR property is established as located 177 feet away from 1562 Strawberry Ave. This is further and clearly highlighted in Attachment 7. Having defined this geometry it is unclear how this property which is only 177 feet away is not contained within the notification radius representation provided in Attachment 6 which is supposed to be 300 feet.

This strongly suggests that, in this case, the notification area utilized was not correctly determined. The area in attachment 6 used appears to be a simple circle, of too small a radius, which is centered on a location outside of the subject property area.

In the appeal team's notification area assessment, a 300 foot radius was determined from all sides and corners of the subject property and joined together in a shape which resembles a four leaf clover which represents all areas that lie within 300 feet of the entire property, which is not a simple circle. This is the only legitimate way to ensure inclusion of all properties that exist within a defined distance of the property.

Since the notification area has not been correctly determined, the noticing procedure was improperly performed and we respectfully request a reevaluation of the corrected assessment area be performed followed by a revision to both: the assessment of our full appeal and the City staff findings before our appeal can be considered properly assessed.

If the planning commission were to deny this action, they would be knowingly denying the rights of the property owners who should have been, but were not, notified, and they would be complicit in a failure of due process and procedures.

We are requesting either a continuance as just outlined, or a denial of the VR application for 1562 Strawberry Ave.

Other notes: We prepared to speak to the documents that were provided from the city to the public late last week. The documents presented tonight differ from those provided to the public and impact the ability for the public to meaningfully respond. Isn't there a requirement for information to be provided several business days prior to the hearing?

but were not aware of the changes that have been made since then as no notification was provided, and that material was not made available, although it was still presented tonight.

As a follow on from Stewart's comments, one of the other areas whereby the city memo is at best confusing and at worst in error is that it identifies Erika McCann as the primary Point of Contact for the vacation rental, with Kathy Kelly as a secondary contact in appeal section 5A ii 3. The memo also references Ms McCann's abilities to perform the role of POC and the city's confidence that she meets the criteria. But contrary to what the memo says, the appeal does not make any comments or objections relating to Ms McCann's abilities. As Ms McCann is not mentioned as an emergency contact on the PPR notice, none of this has any relevance to the application or the appeal.

The memo by the city also identifies that any change in the Local contacts would create a need for further notification to nearby property owners. Again, in the PPR notice of approval sent out in October, Nancy Tucker, not Ms McCann is identified as the Primary contact, which also aligns with information from a public records review.

It would seem there is a lack of clarity, even at the city level, over who is actually the primary Point of Contact for this property, and it remains unclear if this individual qualifies for this role. Given that most complaints that arise from Vacation Rentals are supposedly dealt with by this role, its accuracy is of utmost importance and if it is not clear or in error, than surely should be grounds for denial.

To make matters more confusing the PPR primary contact information, lists not one but two contacts.

The city memo states and I quote "The AGMC does not prohibit an applicant from providing additional emergency contact persons that can assist in addressing concerns from neighbors." They do not, however, make any reference to additional emergency contacts being exempt from the performance requirements of needing to be within a 15 minute drive from the property. Kathy Kelly of Digs Rentals, located in Atascadero, remains well outside that 15 minute criteria, which should make her ineligible to serve in that role. In fact, putting her on the mailer card has caused much confusion and may continue to do so if she remains in the future.

As evidenced in our appeal, multiple contacts used in this manner circumvents the intent of a singular "point of contact" and adds ambiguity and confusion. It is known that Digs Vacation Rentals is the intended property manager and would prefer to be the main contact to deal with issues and complaints relating to their clients directly except they don't meet the performance criteria.

Because the city memo is in error in identifying Ms McCann rather than Nancy Tucker as the point of contact, we question the validity of city memo.

This appeal has not been fairly represented on this and a number of other issues and given that this VR has the ability to affect over 500 people living within 300ft, there are a lot of people who are vested in the accuracy and fairness of the city in relation to this issue.

Patrick Holub

From: [REDACTED]
Sent: Wednesday, January 12, 2022 3:36 PM
To: Brian Pedrotti; Patrick Holub
Cc: Whitney McDonald; Francine Errico
Subject: Appeal relating to 1562 Strawberry Ave
Attachments: Houses within 300 feet.JPG; AppealMailingListFull.pdf

Gentlemen,

Here is the information you requested at our meeting yesterday relating to homes within 300 feet of the subject property:

The specific addresses listed below are a preliminary, and likely incomplete, listing of addresses that should have been included in the notification list utilized in the permit application, but weren't. They are a good starting point, but it is extremely likely that there are additional properties that were also not properly notified. All properties within 300 feet are also visually indicated on the map attachment.

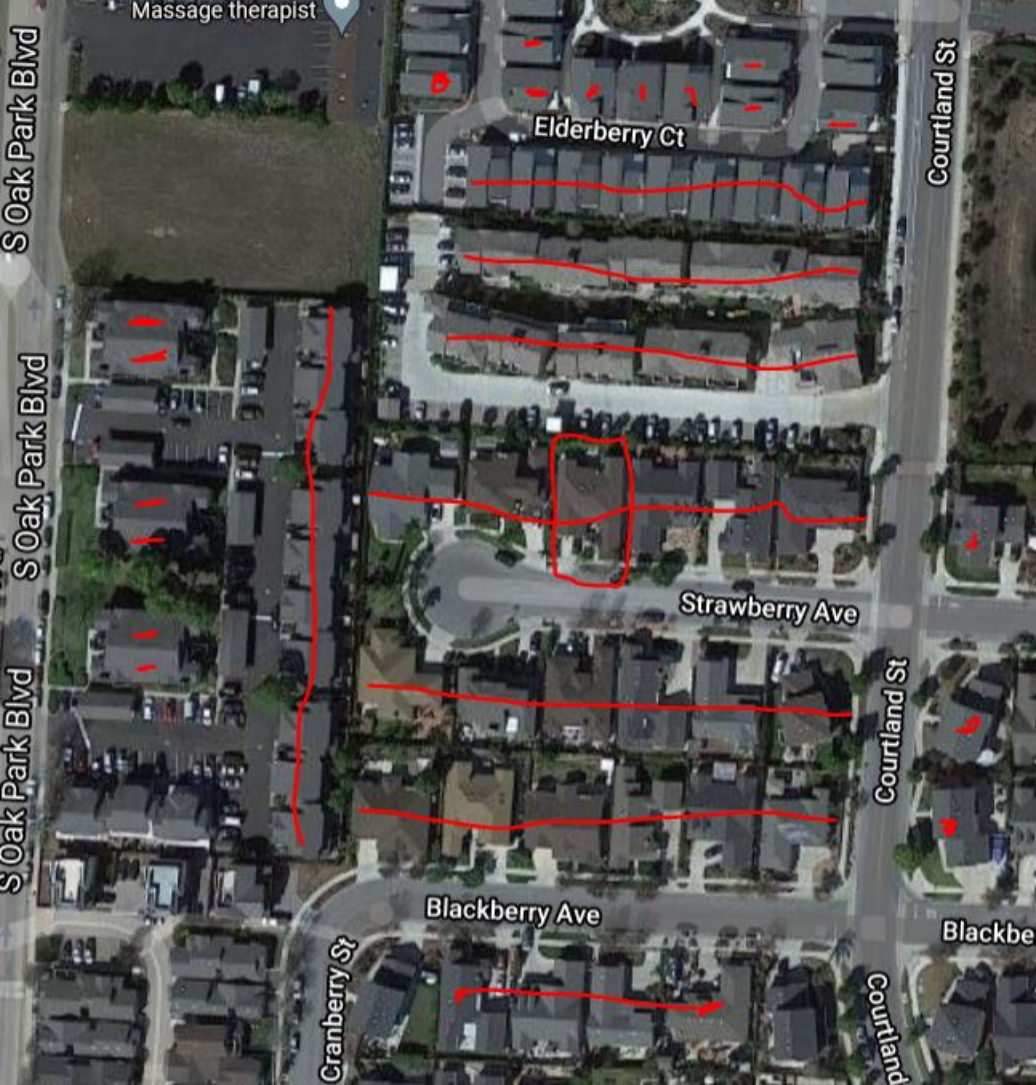
We recommend checking all of the addresses listed in the mailing list we provided with our appeal for falling within 300 feet of the property lines of the subject property. There may also be a few additional addresses that are not listed.

A copy of the full mailing list we filed in our appeal as well as a copy of the map indicating units that our research demonstrates need to be included in notifications is attached for your convenience (individual properties are indicated by red marks at each applicable property on the map).

Properties NOT notified that should have included:

1530, 1524, 1516, 1510, 1506 Elderberry Court 1581, 1565, 1553, 1529 Blackberry Ave.
1490, 1496 Strawberry Ave.

Thank you,
Stew and Fran Errico.



Massage therapist

S Oak Park Blvd

S Oak Park Blvd

S Oak Park Blvd

Elderberry Ct

Courtland St

Strawberry Ave

Courtland St

Blackberry Ave

Blackbe

Cranberry St

Courtland

Jason Bolen and Karen Hendricks

[REDACTED]
[REDACTED]

Dennis Machado

[REDACTED]
[REDACTED]

Michael Burke and Aisling Fearon

[REDACTED]
[REDACTED]

Linda Weeks

[REDACTED]
[REDACTED]

Fred and Irma Contreras

[REDACTED]
[REDACTED]

Victorino and Gloria Dres

[REDACTED]
[REDACTED]

Nilesh and Nehaben Patel

[REDACTED]
[REDACTED]

Marc and Caroline Goldsmith

[REDACTED]
[REDACTED]

Christopher Lock

[REDACTED]
[REDACTED]

Richard and Jevir Ibuna

[REDACTED]
[REDACTED]

Robert and Sandra Sathrum

[REDACTED]
[REDACTED]

Marc and Clara Lossing

[REDACTED]
[REDACTED]

Delphine Cowles

[REDACTED]
[REDACTED]

Jomel and Rebekah Fontanilla

[REDACTED]
[REDACTED]

Arthur and Karen Degoede

[REDACTED]
[REDACTED]

Pamela and Stephen Gilmore

[REDACTED]
[REDACTED]

Alan and Irma Layshot

[REDACTED]
[REDACTED]

Eugene and Patsy Lynch

[REDACTED]
[REDACTED]

Maurice and Loraine Alford

[REDACTED]
[REDACTED]

Jeremy and Samantha Freund

[REDACTED]
[REDACTED]

Kawaoke C

[REDACTED]
[REDACTED]

Ernest and Miyoko Yasukochi

[REDACTED]
[REDACTED]

Brandon and Tiana Vistro

[REDACTED]
[REDACTED]

Mark and Janette Pell

[REDACTED]
[REDACTED]

Jerry and Penelope Kelly

[REDACTED]
[REDACTED]

Donald and Jaqueline Weber

[REDACTED]
[REDACTED]

John and Angelina McCollom

[REDACTED]
[REDACTED]

Gerard and Cheryl Schweitzerhof

[REDACTED]
[REDACTED]

Howard and Patricia Funk

[REDACTED]
[REDACTED]

Henry Handelsman
and Shirley Hughes

[REDACTED]
[REDACTED]

Terry Jaurigui and Gloria Pedregon

[REDACTED]
[REDACTED]

Renato and Mina Sapasap

[REDACTED]
[REDACTED]

Gary and Theresa Smee

[REDACTED]
[REDACTED]

Jacques Martina
Kim Isaac

[REDACTED]
[REDACTED]

Francine and Stewart Errico

[REDACTED]
[REDACTED]

MELILLO JOSEPH & DIANA L

[REDACTED]
[REDACTED]

GARCIA FERNANDO III & SUSAN ML

[REDACTED]
[REDACTED]

Resident

[REDACTED]
[REDACTED]

Property Owner

[REDACTED]
[REDACTED]

YIP ALVIN S

[REDACTED]
[REDACTED]

Nestor and Annabelle Ganotisi

[REDACTED]
[REDACTED]

Richard and Delores Ventura

[REDACTED]
[REDACTED]

Scott R Noma
The Scott R Noma Revocable Trust

[REDACTED]
[REDACTED]

Stephanie N Dias
The Stephanie N Dias Revocable Trust

[REDACTED]
[REDACTED]

Pat and B. Goroski

[REDACTED]
[REDACTED]

DRUMMY LINDA K TRE

[REDACTED]
[REDACTED]

FREUND, JEREMY TRE ETAL

[REDACTED]
[REDACTED]

BUTLER CASEY & JENNIFER

[REDACTED]
[REDACTED]

Property Owner

[REDACTED]
[REDACTED]

HEON GARY M TRE ETAL

[REDACTED]
[REDACTED]

Steven Skalisky
The Steven Walker Skalisky Revocable

[REDACTED]
[REDACTED]

John F Debtz

[REDACTED]
[REDACTED]

Patrick and Ericka McCann

[REDACTED]
[REDACTED]

Marco and Cecelia Teniente

[REDACTED]
[REDACTED]

Courtland Street Apartments Lp A Ca
Ltd Pty

[REDACTED]
[REDACTED]

HASTINGS VICTORIA L ETAL

[REDACTED]
[REDACTED]

Property Owner

[REDACTED]
[REDACTED]

LOSSING MARC A & CLARA C

[REDACTED]
[REDACTED]

JORGENSEN JUSTIN & LISA

[REDACTED]
[REDACTED]

Property Owner

[REDACTED]
[REDACTED]

Property Owner
[REDACTED]
[REDACTED]

Property Owner
Oak Park Village Apartments
[REDACTED]
[REDACTED]

ALEXANIAN CHARLES H &
CHRISTINA M
[REDACTED]
[REDACTED]

FERMIN RODERICK J ETA
[REDACTED]
[REDACTED]

JOHNSON-FARIAS RACHEL L
ETCON
[REDACTED]
[REDACTED]

JORGENSEN JUSTIN & LISA
[REDACTED]
[REDACTED]

ALEXANIAN CHARLES H &
CHRISTINA M
[REDACTED]
[REDACTED]

JOHNSON-FARIAS RACHEL L
ETCON
[REDACTED]
[REDACTED]

Courtland Street Apartments Lp A Ca
Ltd Pty
[REDACTED]
[REDACTED]

DEGOEDE ARTHUR S & KAREN A
[REDACTED]
[REDACTED]

Property Owner
[REDACTED]
[REDACTED]

Property Owner
[REDACTED]
[REDACTED]

IBUNA RICHARD L & JEVIR R
[REDACTED]
[REDACTED]

Patrick Holub

From: Whitney McDonald
Sent: Friday, January 28, 2022 4:35 PM
To: francine errico
Cc: S. Errico; Brian Pedrotti; Patrick Holub
Subject: RE: Appeal of Vacation Rental application for 1562 Strawberry Ave

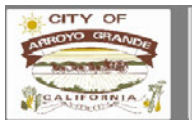
Good afternoon, Francine and Stewart.

It was my pleasure to coordinate a meeting with staff and to hear directly from you regarding your concerns. I am forwarding this email to Brian and Patrick for their review and further response on the contact person and notice questions.

While staff will provide their interpretation and responses on these issues, the City Council will ultimately make the decision on your appeal, which is scheduled for hearing on February 8th. In light of the upcoming appeal hearing, would you like this correspondence, including the follow-up response from Patrick and Brian, to be included as part of the package that the City Council considers? I just want to make sure that the Council receives all of the information you would like them to consider.

Best regards,

Whitney



Whitney McDonald

City Manager

Administration

Tel: 805-473-5408 | www.arroyogrande.org

300 E Branch St | Arroyo Grande | CA | 93420

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From: francine errico <[REDACTED]>
Sent: Friday, January 28, 2022 2:51 PM
To: Whitney McDonald <wmcdonald@arroyogrande.org>
Cc: S. Errico <[REDACTED]>
Subject: Appeal of Vacation Rental application for 1562 Strawberry Ave

Hello Whitney,

We would like to thank you again for making time to hear some of our concerns relating to our appeal of 1562 Strawberry Ave at our meeting on January 11.

We had hoped to hear back from the city staff regarding the issues we raised at this meeting and to give us a direction on our appeal to the city, which is schedule in 11 days time. Sadly we have had not correspondence since this meeting.

Since you needed to depart the meeting before we had concluded, we wanted to inform you of the discussion which continued after you left and our concerns going forward on the issue of the "local contact" which formed another part of our appeal.

We discussed with Brian and Patrick our concerns that the placing a "secondary" contact on the notification form (which was unusual and unprecedented) did not conform to the few required performance criteria of a "local contact" as specified in the Arroyo City Council Code of Ordinances pertaining to Vacation Rentals:

" The operator of the *vacation rental* shall, at all times while the property is being used as a *vacation rental*, maintain a *contact* person/entity within a fifteen-minute drive of the property. The *contact* person or entity must be available via telephone twenty-four (24) hours a day, seven days a week, to respond to complaints regarding the use of the *vacation rental*. The *contact* person or entity shall respond, either in person or by return telephone call, with a proposed resolution to the complaint within three hours between seven a.m. and nine p.m., and within thirty (30) minutes between nine p.m. and seven a.m. "

The inclusion of the invalid secondary contact, which was added after the city spoke directly with the applicant and the applicant specifically requested because their property manager (the secondary contact) was based in Atascadero, both the city and the applicant circumvented the ordinances. The second point of contact clearly does not fit the specified performance criteria and was intended to be an option as the only "point of contact" the applicant could come up with that is within a 15 minute drive of the Vacation Rental is a family member who would not be familiar with the vacation rental bookings and clients. Patrick and Brian spoke to this point by saying that they included it because they felt that the property manager would be in a better position to attend to any issues and would therefore be of benefit to the local community. While this may be true, when we are being told by yourself and others at the City that the Planning Commission and the Staff are only able to comply with the ordinances they have in place when considering VR applications, even if they are fundamentally flawed, the inclusion of a secondary contact outside that specified and permitted by the ordinances speaks to staff making their own determination and enabling the applicant to "get around" the ordinances in order to obtain a permit.

If the performance criteria no longer make sense then clearly then need to be changed or a second category added, but it is unreasonable and irresponsible to selectively disregard some of the small number of requirements that exist as official doctrine and are intended to protect the public.

This is likely another reason why the City of Arroyo Grande VR processes and procedures are in serious need of revision and will benefit from the pending revisit, however in other areas where one could argue that common sense should apply to inappropriate code, the City tends to take a position of needing to follow the existing approved doctrine, even when it clearly does not make sense as is the case for a large number of other VR permitting considerations.

So much damage is being done to the communities in our city while we wait for procedures to be corrected and revised. It should be obvious that all VR applications should be put on hold and not be eligible for approval until after the City's delayed procedures revisit is completed with appropriate updates in place. In any instance we ask that the City look more closely at this section of our appeal, because we firmly believe that this is another grounds for the application to fail.

You may also remember at our meeting January 11 that the City staff were going to look into the implications of providing wrong information regarding the 300ft notification zone in the appeal recommendations to the Planning Commission and what implications this had moving forward. We are also still waiting to hear back on this issue.

As we are fast approaching the appeal date for the City Council meeting, we urgently request that you respond to these issues raised at our meeting last month and trust you are able to investigate these matters and are happy to discuss this in person with you either via phone or a zoom call should you require any further clarification or information. We thank you for your time on this matter.

Yours sincerely

Francine and Stewart Errico

[REDACTED]

February 3, 2022

To the City Council members,

We the appellants, feel the appeal against PPR 21-029 1562 Strawberry Avenue was not given fair or due consideration by the Arroyo Grande Planning Commission on December 7 and in doing so the residents of approximately 11 properties were denied their right to be informed about the application for a vacation rental within the prescribed radius of the subject property and denied their right to appeal. Our appeal proved that a number of areas in the application were either invalid or not complete and on this basis the application should have been denied.

We were told by the staff at the city council that an appeal would only be successful if the application was in error or did not follow code. Our appeal demonstrated, not only was their application in error, but it also did not follow code.

City staff were negligent in their response to our 37-page document, leaving out relevant points and using arguments with conflicting and confusing information which led to the Planning Commission not having the correct and appropriate information needed to fairly address the appeal.

Our major issues of concern center around:

1. The 300ft notification zone. The area designated and detailed in the staff memo to the Planning Commission was concluded to be incorrect at our meeting with City staff on January 11. This means that a number of owners who should have been notified were not only denied their right to appeal in this process, but were also not provided with "local contact" and other relevant information. On this basis the application for the vacation rental should be denied.
2. The inclusion of a second contact person on the notification postcard was outside the scope and performance requirements of the current standards, which was also concluded at our meeting with City staff on January 11. Staff acted on their own determination and did not follow the standards, at the request of the applicant, and as such the application for the vacation rental should be denied.
3. The location of the proposed vacation rental at 1562 Strawberry Avenue, presents a unique situation in that it lies within a particularly high-density area. The 300ft notification zone from all property boundary takes in over 116 structures which house over 500 people. Most of the residents of these structures are not represented by the current performance standards and therefore have no way of reporting issues to the "local contact" because they are not directly provided with this information. Their safety and security in the neighborhood is not being considered and they are being treated like "second class" citizens. The application for the vacation rental in this high-density area should not be approved due to these unique and special circumstances.
4. As the appellants were advised by city staff and the Planning Commission that they approve vacation rentals based on the current standards and can only adhere to the ordinances as written, even if they are not in keeping with the changing landscape of vacation rentals within the City. We have cited three instances where staff have taken it upon themselves to determine what is rigid verses flexible code and what is not and then make their own judgement calls which lie outside the performance standards of code. This is inconsistent, confusing and wrong. Their incorrect assessments and judgements are cause for the application for this vacation rental to be denied.

5. During this process we have continually highlighted grave shortcomings in the current vacation rental ordinances and processes, to the extent that the City Council requested from City Staff a review of the current processes and performance standards last October. This process has been extremely delayed and for the City to continue to approval vacation rentals at the vastly increased rate while this review continues to be deferred is negligent, continues to allow outdated code to cause conflicts in areas known to be questionable and is morally wrong. This application should not be approved based on the fact that the City is reviewing its current standards due to concern that they are outdated and do not afford neighborhoods proper protections.

Furthermore, we have been disappointed that at each meeting we addressed the City Council with our concerns the Mayor said that City staff would contact us after the meeting to personally address our concerns. On both occasions this did not happen. After our meeting on January 11 with City staff, which we instigated ourselves, again we were promised feedback and we never received this, and this would have been important to our preparation for our appeal direct to the City.

It is clear that on a number of issues our appeal for the vacation rental at 1562 Strawberry Avenue has not been adequately and fairly addressed. We trust it will be given fair and due consideration at the City Council meeting on February 8, 2022.

Sincerely

Francine and Stewart Errico

Response comments made to the below document in RED are from the appellants.

MEMORANDUM

TO: Planning Commission

FROM: Brian Pedrotti, Community Development Director

BY: Patrick Holub, Assistant Planner

SUBJECT: CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION – 1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL.

DATE: December 7, 2021

SUMMARY OF ACTION:

Adoption of the proposed Resolution would deny the appeal and approve the proposed project in accordance with the approval granted by the Community Development Director on September 28, 2021.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

In accordance with Chapter 3.24 of the Arroyo Grande Municipal Code (AGMC), vacation rentals are required to pay the City transient occupancy tax (TOT) in the amount of ten percent (10%) of the rent charged by the operator.

RECOMMENDATION:

It is recommended that the Planning Commission adopt a Resolution denying Appeal Case No. 21-004 and approving Plot Plan Review 21-029 (Attachment 1).

BACKGROUND:

Vacation Rental Permitting

On June 10, 2014, the City Council adopted Ordinance No. 663, establishing vacation rentals and homestays as permitted land uses in the City's residential zoning districts, subject to the approval of a Minor Use Permit-Plot Plan Review (Attachment 2). During the development of Ordinance 663, both the Planning Commission and City Council had discussions about potential issues related to noise, parking, and other general nuisances, due to concerns expressed by some members of the public. The performance standards by which a vacation rental application is reviewed were generated from those discussions. For example, an applicant is required to provide a local contact to address noise and

general disturbance issues that may arise from a short term rental. Question: how are general disturbances issues raised with the local contact, by whom and how are they recorded?? A 300-foot buffer between rentals on the same street is required to prevent the oversaturation of short term rentals in a neighborhood. This is based on the short-term license only. Others may do 1 monthly rentals unlicensed and rent them out as vacation rentals, others do not apply for a license at all, thus oversaturation can still occur. The City Council seems ill equipped to deal with oversaturation and the current performance standards due not address the current situation. The 'same street' restriction also does not make sense for many circumstances including connecting properties on different streets. Ultimately, both bodies came to the conclusion that these concerns could be addressed by compliance with the performance standards and abiding by conditions of approval. This relies heavily on the effectiveness on the local contact, but does not give any requirements regarding their qualifications to address issues other than being a 15 minute drive away. It does however, rely heavily on neighbors to report and deal with such concerns. Additionally, these issues were found to be similar to instances when long-term renters, homeowners, and even private guests of homeowners are the cause of these types of nuisances. This argument has been put into question by comments made by planning commissioners and by complaints made directly by neighbors of existing VR rentals. At the December 7 Planning Commission meeting one of the Planning Commissioners even stated that in his experience as a hotelier, tourists do not act the same as a permanent residents. In a long-term rental situation, a renter could be in violation of their lease if there are "issues", and with homeowners and private guest's relationships are often developed in order to live as peaceful and harmonious neighbors. Short term rental vacationers are NOT neighbors. With short term rentals, the visitors come, they party, they vacation and then they leave over the course of the weekend. By the time complaints are heard they have often vacated with no course of action or recourse, and then the same happens again the next weekend. It is unfair and disingenuous to say that vacation rental guests are the same as long-term renters, homeowners and private guests. The City even classes them as vacationers not neighborhood renters when they define vacation rentals as a lodging business (in effect a hotel) A vacation rental includes additional protections, whereby the local contact is available to address any complaints and a property owner is motivated to comply with the conditions of approval to avoid possible revocation of the permit. It is important to note that the additional protection of a local contact is not the same as an on-site hotel manager, which most lodging businesses have. This suggested protection is extremely limited in scope. While vacation rentals are considered a lodging business in one instance by the City, they are then considered a single family home with a neighbor on the other. In addition, the process in which to revoke such a permit can take months while problems persist and impacts to the local community continue, and the City will always side with the permit holder to ensure they make amends rather than revoke their license. We have already seen this happen at the December 7 Planning Commission Meeting where even though the applicants for a vacation rental at 263 Spruce Street had been renting without a permit and had numerous complaints, were still granted their license. The question begs also does the party seeking to revoke the permit then have to pay to do this? if they do, this is a major unfair deterrent. Under the requirements of the Ordinance, the new vacation rental is conditioned to meet performance standards to minimize (which means that some adverse effects are OK?) adverse impacts on adjacent properties, ensure appropriate conditions are implemented, and prohibit overconcentration of these uses in residential districts.

The Ordinance went into effect on July 10, 2014. Since that time, the City has permitted seventy-one (71) vacation rentals and forty-one (41) homestays, not including this application. This report deliberately misses out the fact that the City Council has voiced concern over the validity of the current ordinances and that City Staff are in the process of reviewing these and reporting back to the City. It seems to suggest that vacation rentals are a resounding success, which is not true and based on limited and faulty information. In addition to this application, staff is currently processing applications for four (4) vacation rentals. Since the adoption of Ordinance No. 663, seven (7) permits that were approved by the Community Development Director for the establishment of a

vacation rental have been appealed to the Planning Commission. All seven (7) of the appeals were denied by the Commission and the Community Development Director's decision was upheld. Each of the previous appeals were denied due to the Planning Commission being able to make the required findings for the Plot Plan Review. **This statement seems to predetermine the outcome and is unfairly biased towards to the applicant.**

Property History

On September 28, 2021, the Community Development Director approved Plot Plan Review 21-029 for the establishment of a vacation rental at 1562 Strawberry Avenue. At the time of approval, notice of the Director's approval were sent to all property owners within 300 feet of the subject property. **This boundary area was questioned in the appeal and should have been noted. The fact that there is even a question over where the 300ft starts and finishes is a major failing of the city and the ordinances. For those who are not notified when they are legitimately within the 300ft, the city is in effect denying their right to appeal and their right to have information about the proposal to have a vacation rental near their property.** The notice included the name and phone number of the applicant's local contact person in accordance with Arroyo Grande Municipal Code Subsection 16.52.230.C.5, appeal information, and information about how to contact Community Development staff should there be questions about the project. The approval letter is included as Attachment 3. **This is incorrect, because in fact two people were named, one which does not comply with the Municipal Code Subsection 16.52.230.C.5. The other is a family member who was referenced after the applicant could not locate a suitable person within the 15-minute required drive time. This is substantiated through the email trail between the city and the applicant in their pursuit of trying to make their application compliant with the ordinances.**

On October 11, 2021, the appellants submitted an appeal of this determination to the Planning Commission. On November 12, 2021, the appellants submitted additional documents outlining the grounds for their appeal. The appellants' appeal documentation is included as Attachment 4. Planning Commission CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION – 1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL. December 7, 2021 Page 3

ANALYSIS OF ISSUES:

Basis of the Appeal

The subject appeal indicated concerns about the completeness of the application, the structure's adherence to Building and other Code requirements, availability of parking and perceived impacts on circulation, noticing procedures and the ability of the listed emergency contact to perform the required functions.

Vacation Rental Performance Standards

Arroyo Grande Municipal Code Section 16.52.230 outlines performance standards and conditions required for the operation of vacation rentals within the City. These performance standards and conditions are intended to ensure vacation rentals conform to the existing character of the neighborhood and do not create an adverse impact on adjacent properties. Applicable performance standards are included as conditions of approval to allow upfront understanding by the applicant of what the City requires for the operation of the vacation rental. Conditions include items such as having a structure consistent with the neighborhood, meeting applicable Codes, maintaining a local contact person, and limiting the number of guests allowed to occupy the rental. **The standards defined in Arroyo Grande Municipal Code Section 16.52.230 state:**

Purpose and Intent. The purpose of these regulations is to ensure that vacation rentals located in the city conform to the existing character of the neighborhood in which they are located and do not create an adverse impact on

adjacent properties. According to Wikipedia the definition of character of neighborhood is: Neighborhood character refers to the 'look and feel of an area',^[1] in particular a residential area. It also includes the activities that occur there. In everyday usage, it can often be synonymous with local character, residential character, urban character and place identity.

Adverse Effect is defined as the Merriam Webster Dictionary as 1) acting against or in a contrary direction, hostile or 2) unfavorable and harmful.

We argue that a vacation rental is indeed against the neighborhood character as specified in the original building plan and purpose for Berry Gardens (agreed on by the Arroyo City Council). It was never intended to be a tourism precinct and accommodate lodging businesses. And due to outdated ordinances (which are currently being reviewed by the Arroyo City Council due to concern over the applicability of their current standards), approval of a VR on Strawberry Ave leaves a high potential for adverse effects to over 500 residents within the 300ft buffer, without proper protections in place for these residents for whom the ordinances are supposed to protect. City Staff even conclude at the end of this document that adverse effects could occur and wrongly then justify their position to say that the current performance standards mitigate the likelihood of such adverse effects occurring.

Completeness of Application

The appellants have raised issue with the alleged incompleteness of the application for Plot Plan Review 21-029. For example, the appellants contend that the plans submitted as part of the Plot Plan Review application are inadequate. The checklist referenced by the appellants is intended for projects that propose new construction, rather than permitting a new use in an existing, permitted structure. Staff believes that the information included on the application provides staff with the required information in order to make the necessary findings for approval of the application. Recognizing that the "Minor Project Application" form is used for a wide array of application types, staff has made adjustments to the application form in order to more clearly indicate which fields are required to be completed for different permit types. These changes include clearly indicating that Section III, found on page three of the application, is not required to be completed for short term rental applications, which include vacation rental and homestay applications. **Staff's ability to determine which parts to include and omit on the form is confusing, especially for those who are raising an appeal. Do your constituents have to continue to pay nearly \$500 in order to find out that what they thought was incomplete was then overruled by staff's determination at the time. In some instances, staff are telling us they are able to determine eligibility based on certain internal and logical criteria and the next they are saying they have to comply strictly with the ordinances as written.**

Code Compliance

The appellants have alleged that due to the information provided on the application, staff would be unable to verify whether the existing structure meets provisions of the California Building Code (CBC). During the review of the application, information provided by the applicant was cross referenced with City documentation to confirm that the existing structure was permitted, constructed and inspected according to standard City procedures. **Further to confirmation with City staff, they do not actually visit the street and the property to concur such information before issuing a preliminary approval. It is noted that the applicant did not include the hot tub and fire pit in their backyard as part of their drawings. They noted a garage to be used for parking but did not inform the City or note on the drawings that this has been turned into a games room and that there is no intent for parking as provided on the drawings.** Furthermore, after approval of the application and before the applicant is able to rent the unit, the Building Division of the Community Development Department will conduct a safety

inspection to confirm that the necessary life safety devices are installed and in working order. This inspection includes verification that the structure is in Planning Commission CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION – 1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL. December 7, 2021 Page 4

conformance with the City's records regarding the structure as well as verifies that smoke detectors, carbon monoxide detectors, and fire extinguishers are installed as required by the current version of the CBC. Should any deficiencies become known before or during the safety inspection, the applicant will be required to address those deficiencies prior to obtaining their Business License, and therefore, will be unable to rent the unit until such deficiencies are corrected.

Parking

The appellants' submittal included concerns that guests of the rental parking on the street could have impacts on circulation within the cul-de-sac and that parked vehicles could have impacts on emergency response or trash collection for the street. Strawberry Avenue is classified as a local street, and as such, is designed to accommodate sidewalks, two lanes of traffic with driveway access, and on-street parking within the right-of-way. As a local road, the Strawberry Avenue was designed to provide emergency access with the presence of on-street parking. **This relies only on what the street was designed to provide, but does not take into consideration what actually occurs and the traffic build up on the street already. This should be properly investigated by the City Staff to ensure that safety concerns are met.** Many other cities, and in fact our county, does not allow VR related on street parking. Furthermore, the appeal documents allege that presence of game tables in the garage preclude the use of the garage for guest parking. The Municipal Code does not include a parking standard for vacation rentals, therefore the presence of any obstructions in the garage is not a basis for denial of a vacation rental application. However, because the game tables are not permanently installed in the garage, staff believes this to be a non-issue and parking vehicles within the garage is possible. **Staff know that the likelihood of heavy games tables (which took over a day to construct) being put away to create parking is unlikely and this is disingenuous to circumvent the concern over parking and using a space that the applicant put on their application as parking availability when they had no inclination to do so.** Lastly, the appellants have taken the presence of these games tables to constitute a "home occupation" of the garage. The section of the Business License application that the appellants have taken to prohibit this use of the garage is in reference to businesses that have obtained a Home Occupation Permit, which is not applicable in this situation. A Home Occupation Permit is meant to allow a business owner to conduct more typical business activities from their home. These activities include contractors who store vehicles on their property or home office related activities. The prohibition of utilizing a garage as a home occupation does not apply in the scenario of a vacation rental. Furthermore, the use of a garage as part of a vacation rental is to be expected based upon the fact that a vacation rental most closely imitates a residential use of the structure. **This implies that the Vacation Rental is more like a residential home than a hotel. This is incorrect, and the City acknowledges that Vacation Rentals are lodging businesses by virtue that their Tourism Business Improvement District Board including Vacation Rentals as a lodging business and collects transient tax for the purpose of promoting tourism and the lodging industry. As such, by definition they are doing business in and at their home. In any case, it is interesting that heavier conditions apply for someone operating a business out of their home (such as parking, type of activities and even the use of the garage), but vacation rentals have little or no restrictions yet their potential for "adverse effects" on the neighborhood are far greater.**

Occupancy Limitations

Condition of Approval No. 9 limits overnight occupants of vacation rentals to two (2) persons per bedroom, and an additional two (2) people. This is to ensure rentals are not over occupied and detrimental to surrounding residences. An applicant is required to submit a floorplan as part of the application so staff can verify the number of bedrooms in a dwelling unit. At 1562 Strawberry Avenue, the single family residence has three (3) bedrooms, therefore the permit was conditioned to have no more than eight (8) overnight occupants (Attachment 5). **Planning Commission**
CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT
PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION –
1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL.

Noticing Requirements

The appellants' submittal on November 11th makes the claim that noticing requirements were not followed for this project. Specifically, the appellants allege that properties within the required 300' radius were not notified. After conducting a thorough analysis of the properties notified of the Community Development Director's decision, staff has concluded that owner of all of properties within a 300' radius of the subject property were sent a copy of the approval mailer previously mentioned. The County of San Luis Obispo's Geographic Information Systems (GIS) information indicates that there are thirty (30) parcels within 300' of the subject property (Attachment 6). Staff believes that the forty-five (45) parcels notified actually exceeded the noticing requirements of the AGMC. Furthermore, staff believes that the appellants arrived at the total of sixty-nine (69) parcels in error due to the fact that "property owner" and "resident" labels were included in their mailing list. Only mailing labels for property owners within 300' are required to be submitted with an application for a vacation rental, pursuant to AGMC Section 16.12.030. Please see the City Councils Plot Plan Review Checklist which clearly states that the 300ft radius is required to be from the "property boundary". A property boundary runs to the edge of the legal property, which in Berry Gardens is to the edge of the street. Attachment 6, using the County of San Luis Obispo's Geographic Information Systems (GIS), clearly has the starting point (center of the circle) in the middle of the street and not on the boundary of the property. This is therefore in error and does not correctly calculate the 300ft radius and does not include all properties. We are not sure how the staff believed the appeal's data was in error and they did not contact the appellants to discuss or gather more information before making their erroneous judgement. This was also discussed directly with staff at a zoom meeting on January 11 where staff agreed that the GIS graphic was incorrect. We believe that the Planning Commission therefore made their approval based on false information provided by city staff. At that meeting it was also determined that the actual starting point for determining the buffer zone, ie. What actually determines the property boundary is also in dispute. It is our understanding that the property boundary starts at the curb to road, and that the sidewalk is an easement. As such we determine that a total of 43 properties (with over 500 residents) are within the 300ft notification buffer. This is important because if eligible owners are not notified of the application for a vacation rental, they are also denied their rights to appeal.

In relation to the issue of "owners" versus "residents" in the notification process, the ordinances omission of renters who may be affected by a vacation rental in affect treats them as "second class citizens" and not worthy of consideration. In the case of 1562 Strawberry Avenue, the 300ft buffer takes in numerous renters in single family homes, as well as 36 apartments at the Courland Street Apartments and 44 apartments at the Oak Park Village apartments (approximately 400 residents in the buffer zone who are renters). It is disappointing the Planning Commission did not consider the "unique" circumstances of approving a vacation rental in a high-density area, and making their conclusion knowing that most, if not all of these residents have no direct access to a complaints system of the contact details of the "local contact person", should problems arise. The Planning Commission expressed concern over this issue placing the blame back on the City Council for not updating the ordinances for which they were bound to make decisions by.

Local Contact Person

Condition of Approval No. 6 requires the vacation rental operators to maintain a local contact person or entity, within a fifteen (15) minute drive of the property, to be available to resolve any issues resulting from the use of the residence as a vacation rental. This is meant to give neighboring property owners a primary means of addressing issues with the rental instead of relying solely on City services, such as Police, Neighborhood Services, and Community Development. If in the future the local contact changes, the applicants are required to notify the City of the new local contact and property owners within 300 feet would be mailed a postcard with the new contact information. As part of their application, the applicant identified two emergency contacts. The primary emergency

contact is Erika McCann and the secondary emergency contact is Kathy Kelly. The appellants expressed concerns regarding the listing of two emergency contacts, stating that Ms. McCann was listed in an attempt to circumvent the City's vacation rental performance requirements. Staff has spoken with the applicant and is confident that Ms. McCann is able to perform the requirements of being listed as the primary emergency contact. Should community members have issues with the emergency contacts' ability to abate concerns related to the rental unit, revocation of the permit could be a solution, subject to a public hearing before the Planning Commission. The AGMC does not prohibit an applicant from providing additional emergency contact persons that can assist in addressing concerns from neighbors. **Staff later amended this to say that they were in error because Ms McCann was not mentioned, but if they contacted the applicant and determined that Ms McCann was able to perform this duty, why was it included and how did the error occur – this was not explained. Either they did contact the applicant and incorrect information was given, or they did not contact them. Which is true here?**

While City staff included an additional local contact person stating that the AGMC does not prohibit an applicant from providing additional emergency contact persons, it is very specific that the emergency contact person needs to be within a 15-minute drive of the property. Even by definition it is a "local contact", and anyone falling outside of a 15-minute drive cannot be considered because they are not "local". At our meeting on January 11, staff advised us that they felt it was in the public's best interest to have the second contact because the second point of contact was in fact the property manager and would have more knowledge and contact details for the "visitors" than the family person listed by the applicant. However, they acknowledged that because they were based in Templeton that they did not comply with the city ordinances and that this would be grounds for an appeal.

In this instance, staff are again making their own determination and not complying directly with the ordinances for which they say they must adhere to. The inclusion of the property manager on the notification postcard is both a disingenuous attempt by the applicant to circumvent the ordinances and causes confusion for anyone who received the notification with the contact numbers.

Concentration Limitations

During the Council's consideration of Ordinance No. 663, concerns were raised regarding the possibility that an overconcentration of vacation rentals and homestays could negatively impact the residential character of neighborhoods. In order to address this issue, the Council included separation requirements in the regulations that prohibit the establishment of a vacation rental within 300 feet of an existing vacation rental on the

Planning Commission CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION – 1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL. December 7, 2021 Page 6

same street. The nearest permitted vacation rental is located at 1515 Elderberry Court, which is located approximately 175 feet northeast of the subject property (Attachment 7). Although this property is within 300 feet of the subject property, the previously approved vacation rental is on a different street than the current application. Therefore, the address at 1562 Strawberry Avenue is eligible to be entitled as a vacation rental. If you search on Beachbumrresevations.com for vacation rentals, both 1515 and 1510 Elderberry are listed as vacation rentals. This means that the City Council permit process fails in its assumption that you can only have vacation rentals 300 ft of each other on the same street. Oversaturation is happening and occurring without proper consideration by City staff nor updated ordinances in place to deal with such occurrences. It is also noteworthy that although on a different street, both of the above VR properties are within 300 feet of 1562 Strawberry Ave.

Megan's Law

The appellant has reiterated concerns from a previous appeal that guests of the vacation rental could potentially be registered sex offenders and the proximity of the rental to school sites or locations where children congregate could cause safety issues. Staff would like to again state that while the safety of schoolchildren is of utmost concern, the transitory nature of vacation rental guests does not meet the reporting requirements of Megan's Law. The law was intended to compel individuals to register their permanent (or semi-permanent) address with law enforcement so that they, and the public, would know where offenders are residing. Additionally, this gives law enforcement the opportunity to check up on registered individuals and allows residents to check if any registered offenders reside in their neighborhood.

ALTERNATIVES:

The following alternatives are presented for the Planning Commission's consideration:

1. Adopt the attached Resolution denying Appeal Case No. 21-004 and approving Plot Plan Review Case No. 21-029;
2. Modify and adopt the attached Resolution denying Appeal Case No. 21-004 and approving Plot Plan Review Case No. 21-029;
3. Do not adopt the attached Resolution, take tentative action to approve Appeal Case No. 21-004, and provide direction for staff to return with an appropriate resolution including findings for denial of Plot Plan Review Case No. 21-029; or
4. Provide direction to staff.

ADVANTAGES:

Denial of the appeal and approval of the requested plot plan review would allow the applicants to establish a vacation rental in accordance with City regulations, and provide the applicants flexibility to use the home to generate supplemental income. The applicant would also collect and remit TOT from rentals which would be used to help maintain City streets and services. **By stating a financial reason as an advantage in the consideration of approving a Vacation Rental the City is putting its financial interests above the concerns and livelihoods of its tax paying constituents.**

DISADVANTAGES:

The establishment of a number of vacation rentals in an established neighborhood could impact the atmosphere developed in the neighborhood through time. **The City Staff duly note that adverse effects could be experienced by the vacation rental. There should have been a valid risk assessment completed, as the City would do for any lodging business (hotel/bed and breakfast) application.** Impacts to noise, **Planning Commission** CONSIDERATION OF APPEAL TO PLANNING COMMISSION CASE 21-004; APPEAL OF PLOT PLAN REVIEW 21-029 FOR THE ESTABLISHMENT OF A VACATION RENTAL; LOCATION – 1562 STRAWBERRY AVENUE; APPELLANTS – STEW AND FRANCINE ERRICO, ET AL. **December 7, 2021 Page 7**

traffic, property values, and neighborhood composition could be observed This is actually agreeing that it could result in having adverse effects on the neighborhood. However, concentration limitations and performance standards developed specifically for vacation rentals were intended to reduce this potential, including the designation of a local contact person to manage neighbor complaints and prevent overburdening City services. This relies on the current ordinances being relevant and effective, which is not the case and has been questioned by the current City Council in their call for a review of the ordinances. The staff should have included in this memo to the Planning Commission, but it is not mentioned. In opposition to this, staff continue to defend the ordinances saying that they prevent “adverse effects”. This is simply not true. It is worth noting at the December 7 Planning Commission meeting, when this appeal was heard, there was another appeal against another vacation rental application (who had been operating as a vacation rental for several months without a license) and another neighbor of a separate vacation rental, both who claimed anti-social behavior, disturbances, parking, traffic, and safety issues. While the Planning Commission requested that the public complain to the City so the complaints could be officially recorded, there is no known system at the City to record complaints and what to do with this information. Additionally, Citywide performance standards, including the Noise Ordinance, also apply to vacation rentals. If the vacation rental begins operating outside of any of these standards or the conditions of the permit, remedies are made available through the AGMC. Are we correct to assume that it is therefore up to the residents to compile data, complain and record any issues, for which they are not financially rewarded, are not given guidance on, or do not have set processes given by the City Council?

ENVIRONMENTAL REVIEW:

Staff has reviewed the project in accordance with the California Environmental Quality Act (CEQA) and determined that it is categorically exempt per Section 15301 of the CEQA Guidelines regarding existing facilities.

PUBLIC NOTIFICATION AND COMMENTS:

A notice of public hearing was mailed to all property owners within 300 feet of the project site, published in the Tribune, and posted on the City’s website and at City Hall on Friday, November 22, 2021. The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. At the time of report publication, no comments have been received beyond what was contained in the appeal forms.

Attachments:

1. Draft Resolution
2. Ordinance No. 663
3. September 28, 2021 Approval letter
4. Appeal form
5. Floor plan
6. 300’ notification radius
7. Vacation Rental vicinity map