

Item available for public inspection in the Clerk's office during regular business hours (Monday - Friday, 9 AM - 5 PM)

May 2, 2023

Regular Meeting

Item # 7b.

Public Hearing:

**Appeal of a Planning
Commission Decision
Denying a General Plan
Amendment that would
allow for Transient Rental
Uses on a Parcel in
Bridgeport**

Appeal of the Planning Commission's Denial of General Plan Amendment 22-03/Nichols

May 2, 2023

Mono County Board of Supervisors

Procedures

- Mono County General Plan Land Use Element Chapter 47 requires an appeal be submitted within 10 days of the decision.
- Planning Commission decision: November 17, 2022
- Appeal received: November 22, 2022
- Per §47.030, the hearing must be agendized within 60 days of the date the appeal was filed.
- Appeal was scheduled for January 17, 2023; then carried to March 14, 2023; then carried to May 2, 2023.
- The appeal was noticed in accordance with Chapter 47, as well as published in The Sheet and on the County's website and via newsletter to subscribers.

Project Setting and Description

- 171 Aurora Canyon Road, Bridgeport
- 0.34 acres with two residential units
- Multi-Family Residential – Moderate (MFR-M) designation
- GPA 22-03 proposed changing the land use designation to Mixed Use (MU) to conduct a transient rental.
- Transient Rentals in MU are subject to a Director Review permit, which was elevated to a Use Permit by Board direction due to the moratorium on short-term rentals.



Surrounding Land Use Designations

- East: Private land – Single-Family Residential, developed with a residential unit and garage
- West: Private land – Multi-family Residential-Moderate, developed with a residential unit
- South: Private land – Mixed Use, developed with a mobile-home residential unit.
- Private land- Industrial Park, contains six satellite dishes.
- North: Private land – Multi-Family Residential-Moderate, undeveloped.



Background

- Property contains a 1,500-sf garage and 1,833-sf dwelling with a one-bedroom unit on the first floor, and two-bedroom unit on the second floor.
- Transient rentals are prohibited on MFR-M.
- Board passed moratorium on single-family residential overnight rentals on all land use designations on May 3, 2022.
- Board directed staff to return with consideration of expanding moratorium to multi-family units, which has not yet been done.
- Applicant also owns a transient rental on a Commercial property on Hays Street in Bridgeport.
- Notices of Violations for unpermitted overnight rentals issued in June 2017 and September 2019.
- TOT license cancelled in July 2021; rental advertisements observed through December 2021.



Existing duplex is nonconforming to the western side yard setback. All other development standards are met.

The proposed transient rental would meet all development standards except the existing nonconforming western side yard setback.



Analysis: Land Use Designation Change

- MFR-M encourages long-term multifamily housing and excludes commercial lodging.
- MU provides for resident- and visitor- oriented uses, including business, professional, and retail uses; provides for efficient use of land and affordable housing; provides a transition between commercial and residential uses; and is to be applied in areas with existing mixed-use development.

Analysis: Land Use Designation Change

Development Standards	
Multi-Family Residential - Moderate	Mixed Use
<p>Minimum Lot Area:</p> <ul style="list-style-type: none"> Minimum Lot Dimensions: Width – 60’ Depth – 100’ Maximum Lot Coverage: 60% <ul style="list-style-type: none"> Minimum Setbacks: Front: 20’ Rear: 10’ Side: 10’ Maximum Building Height: 35’ Building Density: Condominiums, multifamily residences and similar uses – 15 du/acre. In no case shall projects containing density bonuses exceed 26 units/acre. Units designated as manager/employee housing unit shall not be counted in density calculations. MFR-M Minimum lot size – 7,500 sf <ul style="list-style-type: none"> Developments of three or more units – (number of units) x 2,904 sf 	<p>Minimum Lot Area:</p> <ul style="list-style-type: none"> Minimum Lot Dimensions: Width – 60’ Depth – 100’ Maximum Lot Coverage: 60% <ul style="list-style-type: none"> An additional coverage bonus of 10% (total coverage of 70%) shall be granted to structures that contain mixed commercial and residential (employee or long-term rentals) uses; commercial uses with public accommodations; or commercial uses that front a public pedestrian mall or plaza. Minimum Setbacks: Front: 10’ Rear: 5’ Side: 10’ Maximum Building Height: 35’ Building Density: Hotels, resort hotels, motels – 40 du/acre Apartments, multifamily units, condominiums and similar uses – 15 du/acre <ul style="list-style-type: none"> Minimum lot size: Areas lacking community water and sewer – one-acre minimum all uses; all uses – 10,000 sf <ul style="list-style-type: none"> Land uses on lots measuring less than 10,000 sq. ft. shall be limited to single-family residences, duplexes and triplexes.

Analysis: Land Use Designation Change

Permitted Use	
Multi-Family Residential - Moderate	Mixed Use
<ul style="list-style-type: none"> • Single-family dwelling • Manufactured home used as a single-family dwelling – MFR-L only • Duplexes and triplexes • Accessory buildings and uses • Animals and pets (see Animal Standards Section 04.270) • Home occupations (see Home Occupation regulations, Section 04.290) • Small-scale agriculture • Transitional and Supportive Housing • Outdoor cultivation of a maximum of six mature and 12 immature cannabis plants under the Compassionate Use Act. 	<ul style="list-style-type: none"> • Single-family dwelling • Manufactured home used as a single-family dwelling. Mobile homes are excluded from June Lake • Duplexes and triplexes • Accessory buildings and uses • Animals and pets (see Animal Standards Section 04.270) • Home occupations (see Home Occupation regulations, Section 04.290) • Small-scale agriculture • Transitional and Supportive Housing • Outdoor cultivation of a maximum of six mature and 12 immature cannabis plants under the Compassionate Use Act.

USES PERMITTED SUBJECT TO DIRECTOR REVIEW (Director Review Processing, Ch. 31)

MFR-M

- MFR-L Model units
- None stated for MFR-M and MFR-H

MU

- Residential uses – e.g., condominiums, townhomes, commercial lodging, cluster developments, and apartments
- Retail trade – e.g., food, drug, hardware, apparel, arts and crafts, sporting goods, bookstores, bakery, florist
- Social care facilities – e.g., medical and dental offices, welfare and charitable services
- Professional offices – e.g., real estate, financial, insurance, rental and reservation services, legal services
- Business services – e.g., business centers, general advertising, business and management consulting
- Recreational activities – e.g., health clubs, dance studios
- Food service establishments – e.g., restaurants, cafes, delicatessens
- Conversion or expansion of existing operations
- Transient rentals (fewer than 30 consecutive days)

USES PERMITTED SUBJECT TO USE PERMIT (Use Permit Processing, Ch. 32)

MFR-M

- Art galleries
- Quasi-public buildings and uses
- Public utility buildings and structures, not including service yards
- Country clubs and golf courses
- Condominiums, cooperatives, townhomes, cluster developments, apartments containing four or more units
- Parking lots and parking structures

MU

- All of the above uses subject to Director Review, if determined to be necessary by the Community Development director
- Parking lots and parking structures other than required off-street parking when abutting a commercial district
- Religious and cultural activities – e.g., museums, art galleries, churches
- Small-scale malls, plazas, parks and related pedestrian open space
- Conversion or expansion of existing operations
- Mobile-home parks (see Development Standards – Mobile-home Parks and RV Parks, Ch. 17) c
- Recreational-vehicle parks (see Ch. 17) c
- Manufactured housing subdivision (see Ch. 18)
- Commercial cannabis activity: Manufacturing Type N, Manufacturing Type P, Distribution, Testing, Retail, and Microbusiness (only individual cannabis activities permitted in this designation shall be permitted in a Microbusiness), conducted in compliance with requirements of Chapter 13 of the Land Development Regulations and with the permit and operation requirements of Chapter 5.60 of the Mono County Code.

The Planning Commission denied the GPA on a 5-0 vote because the following findings could not be made:

C. The site of proposed change in land use designation is suitable for any of the land uses permitted within the proposed land use designation because:

- Project is surrounded by and within an area characterized by residential development for long-term residential uses. Existing MU properties are separated by Aurora Canyon Road, and also contain residential uses. An MU designation allows for more intensive commercial uses and does not align with existing land uses.

D. The proposed change in land use designation is reasonable and beneficial at this time because:

- The Board has identified long-term housing as a need throughout the county, which is the purpose of MFR-M. Redesignating to MU would allow commercial uses that do not necessarily encourage long-term housing and therefore is not beneficial at this time. The designation change corrects a violation.

Planning Commission Decision: Nov. 17, 2022

Basis for Appeal

- **Applicant was not given an opportunity to respond to Commission's deliberation:**

The applicant requested to speak using the "Raise Hand" feature of Zoom after the close of the public hearing. The request was not granted.

Section 12 of the Planning Commission's Rules for the Transaction of Business (pursuant to 2.36.040.C.) allows for an applicant statement to open the public hearing, and an applicant's rebuttal to close the public hearing after public testimony is heard. This procedure was followed. Beyond that, Article II, Section 12, Rule 6b provides the Commission with the discretion to take further public testimony or not.

- Land Development Technical Advisory Committee (LDTAC): Feb. 4 and Nov. 7, 2022.
- Public notice published in newspaper and sent to property owners within 300' of project site.
- SB 18 Tribal Consultation notices sent March 15, 2022.
- No public comments received on the project.
- California Environmental Quality Act (CEQA) Addendum (attached to Planning Commission staff report).

Noticing, Public Comments & CEQA

Summary

- The Planning Commission could not make the General Plan Amendment findings because changing the land use designation allows commercial uses to displace the long-term residential uses intended by MFR-M, and long-term housing is a need in the county.
- The Commission voted 5-0 to deny the land use designation change.
- Public hearing procedures were followed.

Recommendation

- Consider the appeal and either affirm, affirm in part, or reverse the Planning Commission's decision denying GPA 22-03/Nichols.
- If affirming in part or reversing the Commission's decision such that a transient rental permit application is to be considered, either remand UP 22-011/Nichols to the Planning Commission or direct staff to process the short-term rental application as a Director Review, making appropriate findings.
- Provide any other desired direction to staff.