



Writer's Email:
nmaguire@fcoplaw.com
Reply to: Ventura Office

November 9, 2020

Via Email

Ventura County Board of Supervisors
c/o Clerk of the Board
800 S. Victoria Avenue
Ventura, CA 93009
Email: clerkoftheboard@ventura.org

Re: *Item No. 41 of Ventura County Board of Supervisors November 10, 2020 Agenda*

Dear Chair Long and Members of the Board:

On behalf of Real Estate Recovery Capital and Palm Road, LLC, we provide the following comments regarding the proposed ordinance regarding the implementation of a homeless parking area in an unincorporated area north of the western portion of the City of Ventura (the "Ordinance").

The Proposed Ordinance: The area affected by the Ordinance—portions of North Ventura Avenue, Crooked Palm Road, Canada Larga Road, and Casitas Vista Road—includes a range of uses. Residential neighborhoods exist on the east side of North Ventura Avenue and south of Canada Larga Road. The west side of Ventura Avenue includes businesses such as Patagonia, a self-storage facility, and a truck rental shop. Real Estate Recovery Capital owns the former Petrochem site located at 4777 Crooked Palm Road, which is being prepared for redevelopment.

Currently, vehicles may not park along North Ventura Avenue, Crooked Palm Road, Canada Larga Road, or Casitas Vista Road for longer than 72 hours. (County Code, § 7260(a).) Despite this prohibition, numerous people in dozens of cars and recreational vehicles have

VENTURA OFFICE
1050 SOUTH KIMBALL ROAD
VENTURA, CALIFORNIA 93004
PHONE: (805) 659-6800 FACSIMILE: (805) 659-6818

WESTLAKE VILLAGE OFFICE
4550 E. THOUSAND OAKS BLVD., SUITE 250
WESTLAKE VILLAGE, CALIFORNIA 91362
PHONE: (805) 659-6800 FACSIMILE: (805) 379-1744

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regularly been living in their vehicles along these roads. The encampment has resulted in trespassing onto private property, including the former Petrochem site, which has involved the occupancy and defacing of private buildings as well as the destruction of private fences. Residents leave trash along the roads and the bicycle path in the area. The residents often cook with open flames, and there are not adequate restroom or trash disposal facilities in the area for people living in cars. The residential encampment requires attention from the County Sheriff's Department.

The Ordinance proposes to shift the residential encampment away from certain road segments, including North Ventura Avenue by Patagonia, by prohibiting parking at any time or by prohibiting any overnight parking, even for 72 hours, along those segments.

In addition to those parking restrictions, the Ordinance will consolidate the encampment along Crooked Palm Road by allowing 72-hour parking along those road segments with a permit. The Ordinance provides that a permit shall only be available to a person who "is experiencing homelessness and lacks housing alternatives." Among other conditions, a permittee must maintain his or her designated parking area in an orderly fashion and must dispose of trash in a designated location, although the Ordinance does not provide for any trash disposal locations. The Ordinance provides for enforcement of the permitting requirements, but such enforcement is neutered with reduced \$10.00 daily fines for violations.

Lastly, the Ordinance and all permits issued under it automatically expire after one year.

Lack of Notice: At the outset, we note that the County has never provided notice to Real Estate Recovery Capital regarding the ordinance despite the fact that the County is consolidating the residential encampment in front of 4777 Crooked Palm. Neighbors informed the property owner of the proposed Ordinance. Such notice is required, at a minimum, by due process principles.

The County Cannot Rely on a CEQA Exemption for the Ordinance: Broadly speaking, the California Environmental Quality Act, or CEQA, requires local agencies such as the County to evaluate the potential impacts of certain decisions on the environment. If a CEQA exemption applies, an agency need not proceed with further environmental review such as an environmental impact report. The Board letter concludes that the Ordinance is categorically exempt from CEQA pursuant to CEQA Guidelines section 15308.

Section 15308 categorically exempts from CEQA "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment." Guidelines section 15308 further states that the "relaxation of standards allowing environmental degradation are not included in this exemption." In order to invoke this exemption, the County must demonstrate with the substantial evidence that its action assures the protection of the environment.

The County provides no information that its consolidation of the residential encampment along Crooked Palm Road qualifies for the section 15308 exemption. There is no discussion as to the “environment” being protected, nor is there a discussion as to how the consolidation of the residential encampment will further protection of that environment. As with the status quo, any benefits from the Ordinance depend entirely on the County’s willingness to enforce its provisions. And in that regard, the Ordinance actually reduces the penalties associated with illegal parking. By doing so, the Ordinance increases the possibility that the residential encampment will continue to result in the degradation of the area.

Notably, the exemption provided for by CEQA Guidelines section 15308 does not apply to agency actions that involve environmental trade-offs. For example, in *Save Our Big Trees v City of Santa Cruz* (2015) 241 Cal.App.4th 694, a city could not rely on CEQA Guidelines section 15308 to exempt amendments to the city’s heritage tree regulations because the regulations strengthened some provisions but weakened others. (See also *Cal. Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.* (2009) 178 Cal.App.4th 1225; *Dunn-Edwards Corp. v Bay Area Air Quality Management Dist.* (1992) 9 Cal.App.4th 644.) The Ordinance does not qualify for the section 15308 exemption because it has the potential to adversely impact the environment by consolidating and entrenching the residential encampment with less stringent penalties for violating prohibitions on long-term parking in the area.

Additionally, CEQA Guidelines section 15300.2(d) negates the exemption, which cannot be used “for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.” Highway 33 is a designated scenic highway.¹ Even a consolidated encampment with consistent, long-term parking will adversely impact scenic resources along the 33. For the same reasons, this action is inconsistent with Policy COS-3.1 of the 2040 General Plan, which states, “The County shall protect the visual character of scenic resources visible from state or County designated scenic roadways.”

The County should conduct an environmental review of the Ordinance that ensures, through CEQA mitigation measures or otherwise, that the consolidated residential encampment will not degrade the area and that such protective measures may be enforced by the public. Such measures should include, at a minimum:

- regular and frequent monitoring of the consolidated encampment by health officials and law enforcement;
- signage in the area providing the public with County contact information to report violations of the Ordinance, including abandoned vehicles;

¹ Caltrans’ list of designated State Scenic Highways may be located at: https://dot.ca.gov/-/media/dot-media/programs/design/documents/desig-and-eligible-aug2019_all1y.xlsx, which is hereby incorporated by reference into the administrative record for this matter.

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- the provision by the County of adequate trash disposal facilities as well as the cleanup by the County of improperly disposed trash; and
- signage for, and enforcement of, setbacks from private property and driveways.

Thank you for your consideration.

Sincerely,

Neal Maguire

Attachments

Cc: Dwight Stenseth



REAL ESTATE RECOVERY
CAPITAL

November 6, 2020

Mr. Neal Maguire
Ferguson Case Orr Paterson LLP
1050 S. Kimball Road, Ventura, CA 93004

Transmittal by e-mail: nmaguire@fcoplaw.com

RE: 4777 Crooked Palm Road, Ventura County, CA

Dear Mr. McQuire:

We are a national Brownfield redeveloper and own property located at 4777 Crooked Palm Road through a subsidiary of ours called Palm Road, LLC. We purchased the property in December 2019 and since that time have experienced numerous issues caused by people that use Crooked Palm Road as a homeless camp to park RV's and overnight campers. Some of the things we have experienced include the following:

- Trash along the street, as well as the bike path that borders our property
- Open fires, apparently used for grilling
- Illegal occupancy of buildings
- Graffiti on buildings
- Property fences broken
- Trespassing onto the property
- Hygiene appears to be an issue
- Abandoned vehicles along Crooked Palm Road

We have worked with the Ventura County Sheriff's Office on these issues and although they have been very helpful, they are limited as to enforcement abilities and staffing issues.

Please contact me with any questions. Thank you.

Best regards,

President

NEWS

RV owners facing challenges near Ventura, parking tickets forced to shuffle along

Erin Rode Ventura County Star

Published 8:00 a.m. PT Apr. 15, 2020 | Updated 2:29 p.m. PT Apr. 15, 2020

Editor's note: The Star is making this story free to readers due to public health concerns related to coronavirus. Please consider a digital subscription to The Star so we can continue doing this important work.

Boo Strachan lost work as a behavioral technician at a Santa Barbara school district due to the coronavirus.

He then drove his RV – and home – from a beach in Santa Barbara County to a community of people living in vehicles off Highway 33 between Ventura and Ojai.

"I'm just staying hunkered down in my vehicle. There's a lot of people up and down this strip, and we've made this our safe space," said Strachan. He estimates about 70 vehicles line the unincorporated area that includes Ventura Avenue, Crooked Palm Road and Cañada Larga Road.

Strachan and about 25 others received warning notices from the California Highway Patrol on Monday morning, telling them they must move their vehicles within 72 hours.

Coronavirus: Deputies say commercial burglaries, vehicle thefts on the rise

According to CHP Officer Steve Lutzke, an agency spokesman, the vehicles are violating a county ordinance that prohibits parking a vehicle in a county right-of-way for over 72 hours.

Lutzke said officers issued the notices because of complaints from local residents.

"It is an ongoing problem in that area, and we take complaints periodically at certain times

from residents and then will go down to try to make contact with people telling them they need to move. It's what happens down there," he said.

"It becomes an issue when a lot of stuff is getting set up outside of there RVs, when it's not just RVs parked there or people resting but when people are starting to live there."

Some people living in vehicles in the area say it provides a sense of community and a steady location to wait out the coronavirus pandemic.

Strachan says some residents who previously moved from location to location came to the unincorporated area near Highway 33 to stay put. He's lived in his RV on Cañada Larga Road for about a month, and says the community has grown since he moved there.

"We haven't been moving much. I know some people would go to different locations to camp out each night, but now we're all trying to stay put here," he said. "I don't think it's a good thing for us to move at least until this crisis is over."

Coronavirus: Landlords, tenants face the new reality of rent payments during pandemic

Before the outbreak, community members would work together on projects, cook each other dinners and watch movies together. Now, Strachan says they're staying apart in their own vehicles, but occasionally bring each other food when needed.

Under interim guidance on people experiencing unsheltered homelessness during the coronavirus pandemic, the U.S. Centers for Disease Control and Prevention recommends that authorities not clear out encampments unless individual housing units are available.

"Clearing encampments can cause people to disperse throughout the community and break connections with service providers. This increases the potential for infectious disease spread," states the guidance.

While Lutzke says the vehicles near Highway 33 could be considered an encampment, action was taken due to parking violations, not to clear out an encampment.

"This area and us going down there to enforce that has nothing to do with the coronavirus. If we get called on parking complaints, it is our duty as CHP to respond," he said. "It's a bunch of vehicles parked in a stretch of an area that after 72 hours have to move their vehicles."

Lutzke also noted that people were parking in the area long before the coronavirus

outbreak.

"If any residents call and complain, then we handle those parking complaints. It could be that area, a street in Oak View or even someone parked outside of a residence.

Coronavirus: County moves homeless people into motels in Ventura, Oxnard and Thousand Oaks

"It's no different than Ventura Avenue or Crooked Palm. It is dealing with a parking complaint, not clearing out an encampment," he said.

Strachan and others moved to the unincorporated area from cities to avoid tickets in other areas.

"It's just tough. Like where do we go? It's getting harder to find a safe place. It's like they're trying to make it someone else's problem by moving us again, and we're just accruing tickets but it's not like we have money to keep paying tickets," said Strachan, who says he's been on a waitlist for a safe parking program for six months.

Coronavirus in Ventura County: Nurses move into RVs to protect loved ones from COVID-19; 'I could have it in me'

Andrew Cristofono, who also lives in an RV in the area, says he accrued over \$1,000 in parking tickets last year, mostly in the city of Ventura.

"That's how we all got chased out of town because it was tolerated up here. We're trying to shelter-in-place but how do we do that if we have to move? We don't know where to go from here. This is as far as we could get away from towns," he said.

During the week, Cristofono babysits the daughters of another woman who lives in a vehicle in the area. She works in food service, which is an essential industry during the outbreak. He estimates about "one in three" vehicles in the area have children inside.

Cristofono isn't sure where he'll go when he needs to move, but might try to stay in the same general vicinity.

"Maybe I can go up this same road and find a different spot and tell people up on Crooked Palm to switch with the people on Cañada Larga Road," he said.

Strachan had a similar idea.

"Maybe I'll just go up the street and see what happens," he said.

Technically, this is an option, as long as they move more than a mile from their original location.

"The vehicle has to be moved at least 1 mile within each 72 hour period, so truthfully it doesn't say they can't come back to that location or somewhere in that area," said Lutzke.

Erin Rode covers housing, real estate and development for The Star. Reach her at erin.rode@vcstar.com or 805-437-0312.