

CALAVERAS REJECTS GOLF ZONING CHANGE

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SAN ANDREAS - A stalled court battle over the Trinitas golf course south of Wallace will likely resume after Calaveras County Supervisors on Tuesday rejected a zoning amendment that might have offered a resolution.

The golf course was built in an agricultural preserve without permits. In 2009, supervisors twice voted against proposals to legalize the course. That same year, Trinitas owners Mike and Michelle Nemees filed lawsuits against the county and filed for bankruptcy.

Now, the U.S. Eastern District Bankruptcy Court in Modesto is overseeing the bankruptcy case and a lawsuit in which the Nemees are hoping will force Calaveras County to recognize golf as a legal form of agritourism under a county ordinance.

But federal Judge Ronald Sargis has several times delayed key bankruptcy rulings and the start of a trial on the agritourism suit in hopes the Nemees and county officials might resolve the suit without a trial.

County officials, attorneys involved in the case and Sargis have all indicated the suit might be settled out of court if county officials gave the Nemees another route to legalization. The hope was that the proposed zoning amendment - which would have made golf a legal use on more than 100,000 acres zone A-1 for general agriculture - would offer that route.

That hope died Tuesday afternoon when the Board of Supervisors voted 3-2 against approving the environmental document for the proposed zoning amendment. Supervisors Darren Spellman and Gary Tofanelli were on the losing side of the vote.

Spellman argued that failing to give the Nemees what they wanted would open the county to legal attack because county officials over the years have allowed many other non-agricultural businesses on land zoned for agriculture. Spellman said a legal attack by the Nemees could pose a threat to such iconic Calaveras County institutions as the concerts at Kautz Ironstone Winery in Murphys, the Snyder's Pow Wow on a ranch near Valley Springs, and various equestrian businesses.

"We allow other operations to continue to exist," Spellman said of businesses such as Kautz Ironstone. Spellman encouraged his colleagues on the board to "approve the motions that have been asked by county counsel."

The board majority, however, did not agree.

"I do not find golf is compatible with agriculture," board Chairman Tom Tryon said.

Tryon and Supervisors Merita Callaway and Steve Wilensky all said they would want any zoning reforms that address golf to ensure that golf courses wherever they are built meet standards intended to protect neighbors and ensure adequate infrastructure, such as roads and water.

"It needs to have a sewer system," Tryon said.

Calaveras residents have been bitterly divided over Trinitas and the proposal to legalize golf on agricultural land. More than 20 people spoke at Tuesday's hearing, all but one of them in opposition to the proposed zoning amendment.

"Agricultural land is disappearing in a hungry world," said Will Moore of Valley Springs. The idea of approving a zoning amendment that could affect more than 100,000 acres to benefit Trinitas, he said, is an example of "special interest government."

Officially, however, Assistant County Counsel Janis Elliot and some county supervisors say that the proposed zoning amendment was in the works independently of the Trinitas case, and it is just a matter of unfortunate timing that it reached public hearings while Trinitas was being litigated in bankruptcy court. "There is no settlement of the Nemees vs. county case," Elliott said.

The Trinitas cases return to federal bankruptcy court March 23. That day, Sargis could rule on a request by Community Bank of San Joaquin to be allowed to foreclose and auction off the 280-acre Trinitas property in an effort to recoup some of the \$2.4 million the bank lent the Nemees.

At the same time, the Nemees, the bank and other creditors continue to wrangle over the accuracy and viability of the Nemees' plan to reorganize and run the business.

The bank argues that even if the course were legalized, it couldn't generate enough profits to pay off or refinance its more than \$9 million in business debts.

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