

RURAL CALAVERAS LAND COULD BE REZONED FOR GOLF, RECREATION

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SAN ANDREAS - More than a third of Calaveras County that is now farm and rangeland could be potential terrain for golf under a zoning amendment county leaders will consider this year.

That proposal is virtually guaranteed to provoke debate between those who seek to preserve the county's rural character and those who see golf, or other businesses that have not traditionally been allowed in agricultural zones, as a way to subsidize struggling farm operations.

County leaders have already endured years of contentious public hearings and lawsuits over the Trinitas golf course south of Wallace, which was built in an agricultural preserve. County supervisors in May 2009 denied a request by Trinitas owners Mike and Michelle Nemees to change the property's zoning to recreation, which would have legalized the golf course. The board also later denied an appeal by the Nemees seeking to have the county government recognize golf as a legal form of agritourism.

It was during a meeting on Oct. 6, 2009, that a reluctant majority of the board said it would consider amending the zoning code to allow golf on land zoned A1, also referred to as general agriculture.

Calaveras County has about 110,000 acres zoned A1.

Another 130,000 acres or so is zoned AP, for agricultural preserve. The AP land could potentially also host future golf courses. The AP zoning is used for property that is under contract to receive a Williamson Act tax break. Once property owners allow those contracts to expire, the land reverts to A1 zoning.

Combined, A1 and AP make up more than 240,000 acres, or about 378 square miles. That's more than 36 percent of all the land in Calaveras County.

The Nemees have become the poster children for ranch owners who want the flexibility to operate a variety of businesses under the county's agritourism ordinance.

The Nemees argue that the golf operation will preserve open space by allowing them to continue operating the olive orchard that also exists on the 280-acre property.

Other ranchers, some environmentalists and even some supervisors are skeptical that golf is a good fit for the county's ranchlands.

"I just have a hard time thinking that golf should be considered compatible with agriculture. I think they are very different," said Supervisor Tom Tryon, who also is a cattle rancher.

Supervisor Gary Tofanelli, whose district includes Trinitas, was the strongest voice urging county staff to come up with ways that golf could be permitted in at least some A1 zones.

Just as Tofanelli suggested in 2009, the proposal now being drafted calls for owners of A1 lands who want to build golf courses to apply for a conditional use permit, according to statements made by Assistant County Counsel Janis Elliott during a court hearing last month on the Trinitas bankruptcy case.

Conditional permits are exactly that - conditional. They give county officials leeway to require the golf course owner to take a variety of measures to soften impacts the course could impose on roads, neighbors, the environment and the groundwater table.

Elliott said public hearings on the proposal would begin this month. Until then, details of the zoning amendment are not yet public.

Elliott also said the proposed zoning amendment could resolve a lawsuit by the Nemees against Calaveras

County by providing a way for the them to legalize their operation.

Still, both Elliott and other county officials say that even if the zoning amendment is approved and the Nemees apply for a conditional use permit, there's no guarantee they will get it.

Another obstacle is that the county's zoning code bars retroactive legalization of any land use that was illegal at "the time of its discovery."

And even if the amendment is approved and the Nemees win a conditional use permit, it is likely various environmental groups will file lawsuits to stop what they see as an attack on the county's agricultural lands.

"It will encourage others to violate county policies and then get those policies changed after the fact to legalize their violations as well," said John Buckley, executive director of the Central Sierra Environmental Resource Center. "It could affect a huge amount of acreage in the county for other kinds of currently unpermitted uses."

Buckley said his center has generally avoided filing lawsuits.

"But in this case, if the county doesn't stick with the clear legal decisions that it has made so far, there are many legal reasons why our center and others will certainly need to look at the possibility of legal action," Buckley said.

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