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HEADLINE: Off-road rules hit a speed bump;

COUNTY: Planners want more time to study tough restrictions that would affect private property.

BYLINE: DOUGLAS QUAN AND KIMBERLY TRONE; THE PRESS-ENTERPRISE

BODY:

A proposal to impose some of the nation's strictest rules on off-road vehicles in unincorporated Riverside County received a lukewarm reception Wednesday from the county Planning Commission.

The proposal would limit off-road activity to three days a week in unincorporated areas and restrict the number of off-road vehicles on private property.

Supporters of the proposal - which came up nine months ago because of noise and dust complaints - say off-roaders are ruining their quality of life. Opponents say the county has no right to interfere with what people do on private property, including those who bought large plots solely for off-road use.

Private-property rights advocates say all property owners - whether they live near an off-road site or not - ought to pay attention to the debate because the proposal if adopted could set a dangerous precedent on how governments regulate land use.

Some commissioners said the proposal on the table Wednesday was too far-reaching and would be difficult to enforce.

Commissioner John Snell said the county should seek a more reasonable compromise by adopting a noise ordinance that would apply to everyone, not just off-road enthusiasts.

"There is no question something needs to be done," Snell said. "But we have a big gaping hole because the county has no sound ordinance."

STATE WILL REVIEW

The commissioners agreed to postpone until Aug. 31 any recommendations to the Riverside County Board of Supervisors. . . The county has sent its draft ordinance to the state for review.

Such an ordinance could open the door for future infringement of property rights and create a ripple effect in governments across the state, said David Hubbard, an attorney representing a group of off-road property owners.

But some experts say people who own properties next to off-road sites have an equal right to enjoy their properties in peace and that there are times when it is appropriate for the government

to step in and regulate activity on private land.

'DISGRUNTLED NEIGHBORS'

Off-road enthusiasts say the county is the national epicenter for their sport, in part because international motocross champion Jeremy McGrath regularly trains at his private 98-acre track in Aguanga.

"We have a few disgruntled neighbors and they're trying to fix the problem by stepping on the whole of Riverside County," said Jack McGrath, Jeremy's father, who attended the hearing.

More than 48,000 off-road vehicles are licensed in Riverside County and some 150,000 off-road vehicles are registered in the neighboring counties of San Bernardino, Orange and San Diego, according to the Riverside County Planning Department.

Edward Moreland, spokesman for the American Motorcyclist Association, a Washington D.C., motorcycle advocacy group, said he is optimistic about the commission's reluctance to recommend such a stringent law. The planning commission on Wednesday agreed to work with the association to craft off-road rules that would address the noise and environmental concerns voiced by opponents.

But Michael Gray, a resident of Mead Valley, said off-roading has ruined his rural tranquility.

"This is a great abuse. There's hardly an evening that goes by when I get to sit out and enjoy a quiet evening," Gray said.

Commissioner James Porras said society is in flux and nobody lives in isolation and that issues like the controversy over off-roading are not likely to go away.

"Things change. People come. Developments occur," Porras said.

Dan Silver, executive director of Endangered Habitats League, said off-roading creates "intrinsic and unavoidable environmental damage," and that the ordinance does not go far enough.

He said that off-roading should be completely banned from private property. But he also advocates the creation of more off-roading parks.

The state is in the planning stages of developing an OHV recreational area on more than 1,200 acres near Highway 60 and Interstate 10, but off-roaders who purchased private property to pursue their hobby say they should not be forced to go there.

RECENT COURT SETBACK

Private property rights advocates already suffered a blow last week when the U.S. Supreme Court narrowly upheld government rights to take privately owned land, houses and businesses and transfer it to other private entities to develop that land - even when property owners don't want to sell.

"The property rights of everybody are at risk and at the behest of whatever the majority thinks is proper conduct," Ralph Rossum, director of the **Rose Institute** of State and Local Government, an arm of Claremont McKenna College, which conducts research on California government and politics, said of the Riverside County proposal

He said he doesn't think the dust and noise argument is enough of a nuisance to require a new law.

A scenario that would justify some sort of intervention would be if a facility was burning old tires and sending noxious fumes into neighboring properties, he said.

But John Eastman, a professor of constitutional law at Chapman University School of Law, disagrees.

Eastman described himself as a vigorous defender of property rights. But he said property owners also have a right to enjoy their properties peacefully.

"You're not supposed to be regulated unless it's interfering

with your neighbor's equal right to use his own property and the peace and enjoyment of his own property."

SPECIFIC RULES URGED

The key for resolving these sorts of disputes is for local governments to issue ordinances that use specific language. Several years ago in Redondo Beach, for instance, residents complained that neighborhood dogs were barking too loudly.

It would have been unfair if the city banned dogs from yards, he said. Instead, the city adopted a rule that said dogs couldn't bark above a certain decibel level.

A reasonable compromise in the off-road dispute might be for county regulators to set a decibel-level standard for off-road vehicles, he said.

"The line should be drawn along the level of the nuisance," he said.

* * *

Staff writer Claudia Bustamante contributed to this report.

NOTES:

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GRAPHIC: CAITLIN M. KELLY/THE PRESS-ENTERPRISE / (1) A sign on a road leading to two ranch properties near Aguanga allows for motorcyclists to ride in the area. (2) Kenny Allen, 43, rides a dirt bike as his nephew, Colton Allen, 9, follows on a quad in Aguanga. Allen uses his off-road bike to run errands, such as hauling weeds and feeding the horses. (3) Allen unloads his trash while running errands on land he owns in Aguanga. "You can't walk," Allen said, "It is too far and too hot."; PHOTOS

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