

**CITY OF CALISTOGA  
PLANNING COMMISSION  
DRAFT REGULAR MEETING MINUTES**

Wednesday, February 22, 2012  
5:30 PM  
Calistoga Community Center  
1307 Washington St., Calistoga, CA

Chairman Jeff Manfredi  
Vice Chairman Paul Coates  
Commissioner Carol Bush  
Commissioner Nicholas Kite  
Commissioner Walter Kusener

**“California Courts have consistently upheld that development is a privilege, not a right.”**

Among the most cited cases for this proposition are Associated Home Builders, Inc. v. City of Walnut Creek, 4 Cal.3d633 (1971) (no right to subdivide), and Trent Meredith, Inc. v. City of Oxnard, 114 Cal. App. 3d 317 (1981) (development is a privilege).

**MEETING CALLED TO ORDER AT 5:31 p.m.**

**A. ROLL CALL**

**Present:** Chairman Jeff Manfredi, Vice Chairman Paul Coates, Commissioners Carol Bush, Nick Kite and Walter Kusener. **Absent:** None. **Staff Present:** Ken MacNab, Planning and Building Manager and Erik Lundquist, Senior Planner.

**B. PLEDGE OF ALLEGINACE**

**C. PUBLIC COMMENTS**

1. Dieter Deiss, 3000 Palisades Road. Mr. Deiss commented on traffic management in the upper Napa Valley. Mr. Deiss suggested that planning activities related to upper valley traffic management need to be more transparent, inclusive and strategic. Mr. Deiss discussed the possibility of looking at improving five intersections surrounding the City. Mr. Deiss opined that improvements to these five intersections may help to mitigate projected traffic impacts related to the Enchanted Resorts project.
2. Kristin Casey, 1132 Denise Drive. Ms. Casey shared concerns about modifying area intersections. Ms. Casey requested that she be notified and included on any future discussion of intersection improvements.
3. Norma Tofanelli, 1001 Dunaweal Lane. Ms. Tofanelli concurred with Ms. Casey's concerns and requested that she be notified and included on any future discussion of intersection improvements.
4. Clarence Luvisi, 285 Rosedale Road. Mr. Luvisi expressed concern about how the City is communicating on plan changes and development

proposals. Mr. Luvisi suggested that the City should consider adding a "communication element" to the General Plan.

5. Joe Mathews, 26 View Road. Expressed concern about the land use changes being proposed for implementation of the Urban Design Plan.

**Chairman Manfredi** advised Mr. Mathews that he will be allowed to address the Commission on his concerns under Item H2.

#### **D. ADOPTION OF MEETING AGENDA**

**MOVED** by Commissioner Bush, seconded by Vice Chair Coates, to approve the meeting agenda of February 22, 2012 as provided.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

#### **E. COMMUNICATIONS/CORRESPONDENCE**

Chairman Manfredi noted receipt of the following two communications:

1. Adopted 2012 Planning Commission's Rules of Procedure.
2. Correspondence from Joe Mathews dated February 11, 2012 regarding proposed General Plan Amendments for implementation of the Urban Design Plan.

#### **F. CONSENT CALENDAR**

**MOVED** by Vice Chair Coates, seconded by Chair Manfredi, to approve the regular meeting minutes of February 8, 2012 as provided.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

**G. TOUR OF INSPECTION**

None.

**H. PUBLIC HEARINGS**

1. **T 95-2:** Consideration of a request submitted by Don Albin to amend the terms of the affordable housing obligation required by Condition 21 of Tentative Subdivision Map 95-2 (Centre Court Subdivision), which requires payment of \$450,000 dollars in-lieu of constructing three deed-restricted single-family homes. The subject properties are located at 1711, 1721, and 1739 Emerald Drive, Lots 10, 11, and 13 of the Centre Court Subdivision (APN 011-032-013, -014, & -016) within the "R1", Single Family Residential Zoning District. This proposed action is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines.

**Planning Manager MacNab** gave the staff report.

**Commissioner Kite** asked for clarification on the status of the "old" and "new" condition and whether the requirements of the new condition had been satisfied.

**Commissioner Kite** asked for clarification on whether an affordability obligation was ever recorded on the properties.

**Commissioner Kite** asked for clarification on how staff identified \$18,000 as an appropriate in-lieu fee, and how the in-lieu fee would be applied to the lots created by the subdivision.

**Commissioner Kusener** recognized that the lots have dropped in value but the in-lieu fee has not changed. Questioned if there should be some sort of relationship between the two.

**City Manager Spitler** provided clarification on the economics of inclusionary housing fees, how the \$18,000 in lieu fee was identified, and how fees are typically applied to a subdivision project.

**Commissioner Kusener** asked if staff has followed up on the other conditions of project approval that have been imposed on the project – and whether unfulfilled conditions automatically transfer to new owners.

**Commissioner Kusener** asked if the loss of the subject lots as affordable lots would impact the ability to meet our affordable housing obligations or comply with the current Housing Element.

**Chairman Manfredi** asked for confirmation that at the time the investor group represented by Mr. Albini made loans on the properties there was no recorded affordable housing obligation on the title of any of the properties. **Planning Manager MacNab** confirmed.

**Chairman Manfredi** invited the applicant up to address the Commission.

**Don Albini** 886 Jensen Lane, Windsor (Applicant). Mr. Albini reviewed the history of how the investors he represents became involved with the properties and detailed events leading to current circumstances and the request for relief from the requirements of Condition No. 21.

**Commissioner Kite** asked for clarification on which of the two versions of the condition was recorded on the title. **Planning Manager MacNab** stated that it was the original condition. Mr. MacNab informed the Commission that the delay in recording the condition was due to efforts by the previous owner to modify the condition almost immediately after it was imposed.

**Mr. Albini** claimed that the investors in these properties are “innocent victims” of circumstance and would not have made the loans had they known about the affordability obligation.

**Commissioner Kite** asked Mr. Albini if the previous owner was still involved in the project. Mr. Albini stated he had not had contact with the previous owner since the investors foreclosed on the properties.

**Commissioner Kite** asked Mr. Albini to give an estimate on the value of the unimproved lots. Mr. Albini stated an estimated value of \$80,000 to \$90,000.

**Commissioner Kite** asked if Mr. Albini owned any of the other lots. Mr. Albini stated the investors only have interests in the three subject lots.

**Commissioner Bush** asked staff to explain what the affordable housing requirement would be today if the Centre Court project was coming forward as a new project.

**Commissioner Kusener** asked for clarification on how the \$18,000 in-lieu fee would be collected if assessed.

**Vice Chair Coates** stated his familiarity with the project, the previous owner and the City’s affordable housing requirements. Mr. Coates noted he was adamantly opposed to the change to Condition No. 21 when it was

proposed back in 2008. Mr. Coates stated that he is very disappointed with the failure of the system in this process.

**Chairman Manfredi** opened the public hearing.

**James Rose**, 1734 Emerald Drive, Secretary of the Centre Court Homeowners Association. Mr. Rose stated that the Homeowners Association fully supports Mr. Albini's request.

**Jim Barnes**, 1710 Michael Way. Stated his support for waiving the required in-lieu fee. Mr. Barnes noted that waiving the in-lieu fee requirement would allow development to continue in the subdivision, which in turn would be beneficial to the neighborhood and to the property tax roll.

**Carolyn Wilkinson-Clair** 1507 Lincoln Avenue. Asked what effect a reduction to the in-lieu fee for this project would have on other pending or future commercial projects in the City. **Planning Manager MacNab** stated that reducing or waiving the fee for this project would not put any additional pressure on other commercial projects.

**Cody Kirkham** 1713 N. Oak Street. Surprised at handling of the deed restriction by the City. Ms. Kirkham stated her opinion that the City has already made enough concessions for this project and that she does not support the request for a waiver of in-lieu fees for this project. Ms. Kirkham thinks \$18,000 is a reasonable fee.

**Chairman Manfredi** closed the public hearing.

**Commissioner Kite** asked what impact or precedent would be set if the Commission were to waive fees for this project. Mr. Kite also asked if a decision to waive fees would affect other projects that have pending in-lieu fee payments due.

**Commissioner Kusener** asked Mr. Albini if thought a fee waiver or reduction would help his group sell the lots. Stated he would like to see the City walk away with some benefit from this.

**Chairman Manfredi** stated that he thought the Commission should acknowledge to the Council that some relief would be helpful to the neighborhood and project, but that some sort of fee should be required.

**Chairman Manfredi** applauded efforts by the City and investors to resolve this situation without attorney involvement.

**Chairman Manfredi** shared his opinion that the Council should consider some sort of fee for project.

**Commissioner Kite** stated support for Chairman Manfredi's position, suggests a possible payment threshold if the lots sell for a certain price.

**MOVED** by Chairman Manfredi, seconded by Vice Chair Coates, to support Mr. Albini's request for relief from the current affordable housing obligation for the Centre Court subdivision and recommend to the City Council that a reduced in-lieu fee [unspecified] be required.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

2. **GPA 2011-01:** Presentation of final draft General Plan Amendments implementing portions of the 2010 Urban Design Plan for review and recommendation to the City Council. The General Plan is the City's long term plan for guiding growth and development within the City. The proposed amendments would establish new land use "overlay districts" that set forth specific land use and development objectives for new development in certain areas of the City. A Negative Declaration has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA).

**Planning Manager MacNab** gave the staff report.

**Commissioner Kite** asked for clarification that the Commission is just reviewing the text in "blue" tonight as the text in "red" has already been reviewed and accepted by both the Planning Commission and City Council.

**Chairman Manfredi** opened the public hearing.

**Joe Mathews**, 26 View Road. Stated concern about the impact new development would have on the privacy of View Road lots that are adjacent to the large vacant property Lincoln Avenue.

**Mr. Mathews** asked for clarification on how proposed changes will address this concern.

**Planning Manager MacNab** provided examples of the types of design techniques that staff would look for in response to the proposed General Plan language to address the privacy concerns of Mr. Mathews and area residents.

**Commissioner Kite** notes that while the City doesn't know what exactly will be developed on this property the intent is to establish language that would guide the design of future development in a way that would avoid neighborhood impacts.

**Larry Kromann**, Calistoga Affordable Housing, Inc. Mr. Kromann expressed concern about General Plan statements related to the adequacy of existing housing for meeting the needs of the community. Mr. Kromann does not believe that the proposed Urban Design Plan amendments are adequate in addressing affordable housing needs.

**Clarence Luvisi**, 285 Rosedale Road. Stated his support for Mr. Kromann's comments. Mr. Luvisi also stated his support of the Planning Commission Rules of Procedure that were adopted at the last Planning Commission meeting.

**Mr. Luvisi** stated he was pleased to see that "planning area" is being recognized in the graphics.

**Mr. Luvisi** stated he was disappointed not to find anything in UDP amendments related to solar energy. Mr. Luvisi is also concerned that the draft General Plan Amendments do not appropriately recognize General Plan "Entry Corridors".

**Planning Manager MacNab** clarified that Entry Corridors are not proposed to be eliminated as part of amendments. Mr. MacNab noted that the Entry Corridors are shown on a separate graphic and are not proposed to be changed as part of the amendment.

**Norma Tofanelli**, 1001 Dunaweal Lane. Stated her concern that a Negative Declaration is not an appropriate environmental document. Ms. Tofanelli stated her belief that the changes to language for Bounsall property alone warrant an Environmental Impact Report.

**Ms. Tofanelli** expressed concern that the new language being added is inconsistent with language being deleted and inconsistent with other General Plan goals and policies that pertain to development along the State Highway 29 Entry Corridor.

**Commissioner Kite** asked Ms. Tofanelli for clarification on her concern about language changes, noting that the language Ms. Tofanelli referred to as being deleted is still included in the proposed amendments.

**Planning Manager MacNab** confirmed that while the Bounsall PD overlay is being eliminated, much of the language from the PD has been incorporated into the proposed Character Area overlay.

**Commissioner Kite** asked for clarification on whether land use changes require an Environmental Impact Report.

**Planning Manager MacNab** stated that no new development is being proposed as part of the draft amendments and that the proposed modification to allowable land uses is not significant. Mr. MacNab stated it is staff's opinion that an EIR is not warranted given these circumstances.

**Commissioner Kite** asked for clarification if cumulative impacts are considered as part of an EIR analysis.

**Ms. Tofanelli** warned of the unintended consequences of promoting future development of bicycle paths and opined that she may bear some liability for its action.

**Ms. Tofanelli** reminded the Planning Commission that there was not a lot of public support for the Urban Design Plan when it went through public review.

**Dieter Deiss**, 3000 Palisades Road. Noted that improvement of the surrounding intersections he discussed earlier could improve traffic flows and reduce concerns about traffic.

**Jeff Bounsall** 414 Foothill Boulevard. Reminded the Planning Commission of his family's involvement in past city planning efforts, including development of the Urban Design Plan. Mr. Bounsall noted his family has worked hard to get the language included in the UDP, and is looking forward to the Planning Commission's and City Council's support.

**Chairman Manfredi** closed the public hearing.

**MOVED** by Chairman Manfredi, seconded by Commissioner Kite, to adopt Planning Commission Resolution PC 2012-03 recommending that the City Council adopt a Negative Declaration based on the Initial Study that has been prepared for the General Plan Amendments implementing the Urban Design Plan Character Areas.



The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

**MOVED** by Vice Chair Coates, seconded by Commissioner Bush, to adopt Planning Commission Resolution PC 2012-04 recommending that the City Council adopt the proposed amendments to the Land Use, Community Identity and Circulation Elements of the General Plan for implementation of the Urban Design Plan Character Areas.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

**I. NEW BUSINESS**

None.

**J. MATTERS INITIATED BY COMMISSIONERS**

None.

**K. COMMENTS/PROJECT STATUS**

None.

**L. ADJOURNMENT**

**MOVED** by Chairman Manfredi, seconded by Commissioner Kite, to adjourn to the next regular meeting of the Planning Commission on Wednesday, March 14, 2012, at 5:30 p.m.

The motion carried with the following vote:

- AYES: (5) Manfredi, Coates, Bush, Kite, Kusener
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (0)

**MEETING ADJOURNED AT 7:43 p.m.**

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Ken MacNab,  
Planning Commission Secretary