

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

Wednesday, May 23, 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 5:35 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 ALLEGIANCE

C. PUBLIC COMMENTS

D. ADOPTION OF MEETING AGENDA

MOVED by Commissioner Kite, seconded by Commissioner Bush, to approve the meeting agenda of May 23, 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

None.

F. CONSENT CALENDAR

MOVED by Commissioner Bush, seconded by Vice Chair Coates, to approve the special meeting minutes of April 18, 2012 and the regular meeting minutes of April 25, 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. **VINEYARD OAKS SUBDIVISION DEVELOPMENT AGREEMENT (DA 2007-02):** Consideration of a request submitted by the Carter Family Trust to extend the term of the approved Development Agreement for the Vineyard Oaks Subdivision project for two years and to modify provisions of the agreement regarding payment of required development impact fees. No changes to the approved project are being proposed. The subject property is located at 2400 Grant Street within the RR - Rural Residential Zoning District. (APN 011-010-057).

Commissioner Kusener announced he was recusing himself from this item because he owns property within 500 feet of the subject site.

Planning Manager MacNab gave the staff report.

Vice Chair Coates asked for clarification on how the affordable housing in-lieu fee payments would be collected at the time building permit.

Commissioner Kite asked for confirmation that the request would result in the agreement being extended to July, 2014 and that no payment would be due until there was progress made on the project.

Chairman Manfredi asked for confirmation that the current agreement was still valid for another year and if it was possible not to recommend extending the agreement.

Planning Manager MacNab confirmed Chairman Manfredi's questions and noted that it would be unlikely for the current owner to bring a

developer on-board in time to prepare, submit and record a Final Map before the agreement expires in 2013.

Chairman Manfredi questioned whether a new developer would really come forward to advance the project in the current market and whether there was really any benefit to extending the agreement at this point in time.

Planning Manager MacNab noted that a lot of time and effort went into securing the entitlements for the project and that one benefit would be to help the owner keep those entitlements active.

Chairman Manfredi opened the public hearing.

Steve Carter, 1090 Wellsona Road, Paso Robles (applicant). Mr. Carter stated the staff report accurately reflects the situation that the Carter family is in. Mr. Carter noted that they are in negotiations with a developer to purchase the property and that it would be beneficial to the negotiations to have the agreement extended for an additional year.

Commissioner Kite asked Mr. Carter if they are selling property with the project/subdivision "as approved".

Mr. Carter stated that the subdivision layout/map would not change but that the home design may change.

Commissioner Kite asked staff if there were any conditions of project approval regulating the design of the homes.

Senior Planner Lundquist noted that there are approved design standards that each future home would be required to comply with and that two lots (Lots 1 and 15) would be required to come back to the Planning Commission for design review approval.

Commissioner Bush noted that the placement of homes on Lots 1 and 15 was an issue during review of the project and asked Mr. Carter if the approved placement would be changed.

Mr. Carter stated that no change was anticipated.

Senior Planner Lundquist noted that all approved lots have an approved building envelope that the developer would be required to comply with.

Norma Tofanelli, 1001 Dunaweal Lane. Ms. Tofanelli stated her support of the concerns expressed in the letter from Concerned Citizens of Mora

even though the letter was unsigned. Ms. Tofanelli noted that the situation the City and the Carter's are now in reflects the risk of entering into agreements with "LLC's". Ms. Tofanelli informed the Commission on who BNK LLC actually is according to required filings. Ms. Tofanelli questioned the discrepancies between the fees agreed to for Vineyard Oaks and the fees agreed to for the Silver Rose Resort project. Ms. Tofanelli suggested that it might be better to let the Vineyard Oaks agreement expire so that the fees could be renegotiated.

Rob Percel, 2424 Third Avenue, Napa (real estate broker representing Carter family). Mr. Percel stated that the main reason for the extension request is to give the Carter's time to thoughtfully finalize who the developer is going to be. Mr. Percel stated that it is unlikely any future developer would want to change the subdivision map. Mr. Percel noted that BNK and the Carter family are victims of the economy and that additional time is needed to right the situation.

Chairman Manfredi closed the public hearing.

Commissioner Bush stated she has no concern about extending the agreement and modifying the terms of payment.

Commissioner Kite stated that it makes sense to him to extend the timeframe and change the schedule for fee payment. Mr. Kite expressed some concern about the possibility of needing to change/renegotiate the fees in the future.

Vice Chair Coates asked for clarification on the differences between residential and commercial fee structures.

Planning Manager MacNab responded that fees in Development Agreement projects are negotiated by the City Manager and sometimes City Councilmembers. Mr. MacNab stated that the Vineyard Oaks fees were negotiated in a different economy and by today's standards are very high. Mr. MacNab noted that high fees have resulted in several approved projects failing because the fee burden was too great. Mr. MacNab stated that the fees negotiated for Silver Rose recognize the difficulties of the current economic environment and reflect sensitivity to overburdening a project with high impact fees.

Chairman Manfredi noted that the option to extend the agreement is provided for in the Development Agreement.

MOVED by Chairman Manfredi, seconded by Commissioner Kite, to adopt PC Resolution 2012-15 recommending that the City Council approve the

requested amendments to the Vineyard Oaks Subdivision Development Agreement.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kite
- NOES: (0)
- ABSTENTIONS: (1) Kusener
- ABSENT: (0)

I. NEW BUSINESS

None.

J. MATTERS INITIATED BY COMMISSIONERS

Commissioner Kite asked if there was any progress on advancing Municipal Code amendments for increasing penalties on illegal vacation rentals.

Planning Manager MacNab stated that a memo has been forwarded to the City Manager but that due to limited resources the amendment has not been made a priority by the City Council or City Manager.

Senior Planner Lundquist noted that the five enforcement letters sent out to suspected operators of illegal vacation rental units have resulted in compliance.

Commissioner Kite inquired about the issue of enforcement of motorcycle noise.

Planning Manager MacNab noted that enforcement is a Police Department matter and that Police Chief Mills would be the person to answer questions about existing laws and Police Department practices on enforcement.

Chairman Manfredi recognized that Mr. Larrecou was in attendance at the meeting and explained that he did not include in the packet a handout Mr. Larrecou had given to him at a previous meeting.

K. COMMENTS/PROJECT STATUS

Planning Manager MacNab provided the following updates:

- Brian Arden Winery is going back to the City Council on June 5, 2012.

- At the June 13th meeting the Commission will consider a conceptual design review for the “Berry Street Cottages” project and Municipal Code amendments implementing Housing Element programs.
- Enchanted Resorts has tentatively been scheduled for Planning Commission review on June 20, 2012.

L. ADJOURNMENT

MOVED by Commissioner Bush, seconded by Chairman Manfredi, to adjourn to the June 13, 2012 regular meeting of the Planning Commission.

The motion carried with the following vote:

- AYES: (4) Manfredi, Coates, Bush, Kite
- NOES: (0)
- ABSTENTIONS: (0)
- ABSENT: (1) Kusener

MEETING ADJOURNED AT 6:09 p.m.

Ken MacNab,
Planning Commission Secretary