

**CALISTOGA
PLANNING COMMISSION REGULAR MEETING
MINUTE EXCERPT
FEBRUARY 13, 2008**

A. ROLL CALL

Present: Chairman Jeff Manfredi, Vice-Chairman Clayton Creager, Commissioners Carol Bush and Paul Coates. Absent: Commissioner Nick Kite. Staff Present: Erik Lundquist Associate Planner, Kathleen Guill, Planning Commission Secretary. Absent: Charlene Gallina, Planning and Building Director.

G. PUBLIC HEARINGS

2. Consideration of a request submitted by Peter E. Turner to amend the terms of the affordable housing obligation required in Condition 21 of Tentative Subdivision Map 95-2, which require the construction of 3 deed restricted single family units. The subject properties are located at 1713, 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 15303 of the CEQA Guidelines. *(This item was continued from the Planning Commission regular meeting of January 23, 2008.)*

Associate Planner Lundquist provided background noting the main consideration is this subdivision has housing obligations and there was no impetus for the developer to meet that obligation. The developer has proposed an in-lieu fee. Staff is seeking consensus of the Commission to provide a recommendation to City Council.

Bob Fiddaman, Calistoga Affordable housing, noted he spoke in January and provided his thoughts at that time. Stating he was available to answer any questions.

Chairman Manfredi requested an opinion on how this can be structured so that within a year's time the City will definitely get their due compensation.

Bob Fiddaman recollected Mr. Turner had offered a second on his house, and the City should file a second mortgage on these lots and Mr. Turner's house. He noted the City is in a position to prevent anything from being done within the subdivision, but not able to require compliance by the developer. The City was to get three houses and the City could consider going through a legal action to accomplish this with a lot of money spent. Instead the cash money could be used for development of any kind of housing project, maybe townhouses.

Vice-Chairman Creager stated the language needs to be clear and provide a strong commitment.

Bob Fiddaman noted it didn't include a second deed of trust, but it is definitely part of his recommendation.

Associate Planner Lundquist recapped the recommendation should include recording a second deed of trust and compensation was to be structured within a one year period.

Vice-Chairman Creager stated in terms of timing he would like to give the City flexibility and evaluate the second deed of trust.

Commissioner Coates stated consideration of this was really making a mockery of the system. He noted the provision was the developer was to provide the housing and this has been known and agreed to by the developer since day one. Mr. Turner was so well aware that he went ahead and incurred monies against the properties. He stated he could not comprehend consideration for getting whatever is left. The City has agreed we need a mixed use in housing. As a developer, Commissioner Coates stated he personally has provided affordable housing exceeding the requirements when he built a development, and he made the numbers work. Commissioner Coates stated there is no way that he will support this and he wants Mr. Turner to build the houses or turn the properties over to the City.

Commissioner Bush noted considering the circumstances maybe a compromise is the only way to go.

Vice-Chairman Creager stated there was a lot to learn from this and asked how we can do what Commissioner Coates was suggesting.

Commissioner Coates noted this is what conditions are for and asked why we would not adhere to and enforce the conditions. This is the opportunity to stand up and draw the line.

Vice-Chairman Creager again noted we have learned and we now have potential larger developments where we are making our expectations very clear. He stated we are trying to clean up this mess and cut our losses, although it is obvious Mr. Turner did not live up to obligations. The question was shall we get what we can or punishing him. Vice-Chairman Creager stated he shared the anger but this was a practical solution.

Bob Fiddaman provided additional rationale for the recommendation besides the risk and expense of litigation. He reported there are undeveloped lots within the subdivision and the developer did not notify the lot purchasers of the affordable

housing. There are property owners in the development that currently do not have the right to build. Then suggesting the most important thing is Mr. Turner has put loans on these lots and in the event of foreclosure the City could come up with nothing.

Dennis Kelly, stated he is a developer and very conscious that as a developer if there is an obligation you don't fulfill or you build something inappropriately you will be arrested. Should we let Mr. Turner off without punishment and let people do anything and or compromise. How can the City just say "cut our losses". Mr. Kelly stated maybe we need to come up with something other than saying it is ok.

Chairman Manfredi suggested we are saying it is not ok, bite the bullet and resolve this. Chairman Manfredi empathized, but recommended it was prudent to try and get something that is real and not money in a lawyers pocket. His recommendation was to make this as difficult as possible to allow Mr. Turner to give us nothing; \$150,000 up front and the balance within one year.

Vice-Chairman Creager stated he was ok with leaving the deadline fixed.

Commissioner Coates stated this has to do with honesty and integrity, and the buck stops with me. He stated he will try to make sure this does not go through.

Associate Planner Lundquist noted a consensus, other than that of Commissioner Coates to pass on a recommendation to come up with an alternative that allows the payment of an in lieu fee.

Commissioner Coates requested a role call vote: **Chairman Manfredi, Vice-Chairman Creager, and Commissioner Bush: Ayes. Commissioner Coates: No.**

Kathleen Guill
Planning Commission Secretary

**CALISTOGA
PLANNING COMMISSION REGULAR MEETING
MINUTE EXCERPT
DECEMBER 12, 2007**

A. ROLL CALL

Present: Chairman Manfredi, Vice-Chairman Clayton Creager, and Commissioner Paul Coates. **Absent:** Commissioners Donna Dill and Nick Kite. **Staff Present:** Charlene Gallina, Planning Director, Wynne Furth, Legal Counsel, Vincent Smith, Contract Planner and Kathleen Guill, Planning Commission Secretary. **Absent:** Erik Lundquist, Associate Planner.

H. NEW BUSINESS

1. Proposed amendment to the affordable housing obligation for Centre Court Subdivision.

Director Gallina provided a summary advising the subdivision was approved in 1995, with one of the conditions stating the developer was to provide three affordable housing units, and the agreement dictated specific criteria for the completion of these affordable units to occur prior to the majority of development of the remaining single family units within the subdivision. In 2005 the City adopted a Growth Management Program (GMA) that has allowed ten of the seventeen lots to move forward with a building permit. Of those, ten permits have been issued, with nine receiving certificates of occupancy, but no more building permits can be issued until the affordable units are constructed. The developer had initiated approval of the affordable units through GMA, but allowed those to expire. Pete Turner, the developer, requests the City consider a fee in lieu of \$450,000.00 instead of building the affordable units. Today Staff is proposing consideration of an administrative amendment to the agreement that would allow an in-lieu fee and further allow the remaining property owners to submit applications to build their units.

Bob Fiddaman, Calistoga Affordable Housing (CAH), advised CAH has had Centre Court in mind and is studying for a reasonable solution. He noted this project did not go the way of the City or the Developer intended and his recommendation to the City Manager was for an in-lieu payment at the \$450,000.00 figure, however previously the City had anticipated a higher dollar value. He noted Mr. Turner has put a mortgage on these lots @\$180,000, with a \$120,000 equity there would not be sufficient funds to cover the \$450,000. Mr. Fiddaman's recommendation was for the developer to provide \$150,000 up front in cash and a \$150,000 when sold, and all was to occur in 2008; with \$100,000 per lot, second deed of trust. Mr. Turner has also put up his house in Washington, and Mr. Fiddaman recommended a second deed of trust on that as well. To build a 1400 sqft house today in this subdivision would be

unmanageable. Therefore the recommendations were for a compromise and get cash payment.

Vice-Chairman Creager stated when he first read the staffs report his primary concern with allowing payment was to assure this agreement does not set a precedent, but it really is due to special circumstance with this project. Flexibilities should not be a constraint on that.

Commissioner Coates stated he needed additional information before he could make a decision.

Chairman Manfredi suggested continuing the discussion to the agenda of January 23, 2008, allowing staff to assemble information on leans, legal options, copy of Mr. Fiddaman's memo, a copy of the original Development Agreement, a list of current lot owners being impacted, etc. There was motion by **Commissioner Coates**, seconded by **Vice-Chairman Creager** to continue the discussion to the regular meeting of January 23, 2008. **Motion carried: 3-0-2-0.**

Kathleen Guill
Planning Commission Secretary

**CITY OF CALISTOGA
STAFF REPORT**

TO: CHAIRMAN MANFREDI AND PLANNING COMMISSIONERS
FROM: CHARLENE GALLINA, PLANNING & BUILDING DIRECTOR
MEETING DATE: FEBRUARY 13, 2008
SUBJECT: CENTRE COURT SUBDIVISION – AMENDMENT TO AFFORDABLE HOUSING OBLIGATION

1
2 **REQUEST**
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4 Consideration of a request submitted by Peter E. Turner to amend the terms of the
5 affordable housing obligation required in Condition 21 of Tentative Subdivision Map 95-
6 2, which require the construction of 3 deed restricted single family units. The subject
7 properties are located at 1713, 1721, and 1739 Emerald Drive, Lots 10, 11, and 13 of
8 the Centre Court Subdivision (APN 011-032-013, -014, & -016) within the "R1", Single
9 Family Residential Zoning District. This proposed action is exempt from the California
10 Environmental Quality Act (CEQA) under Section 15303 of the CEQA Guidelines.
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12 **BACKGROUND:**
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14 On December 12, 2007, staff presented this item for Commission discussion and
15 recommendation to the City Council. As a result of Commission discussion and public
16 comment, Staff was directed to provide clarification on the terms of Mr. Turner's
17 request, provide additional information concerning Calistoga Affordable Housing, Inc.
18 review of this request, and distribute a public notice to the surrounding neighborhood.
19 Given this direction, the Commission continued this item to this meeting. A copy of the
20 December 12, 2007 Planning Commission Staff Report and Meeting Minutes have been
21 provided for your review.
22

23 **DISCUSSION:**
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25 In response to Commission direction, attached to this report is the following information
26 for Commission review and discussion:
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- 28 • List of Centre Court Subdivision property owners
- 29 • CAH Memorandum dated September 10, 2007
- 30 • Copy of Deed of Trust of subject parcels
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32 It should also be noted that a public hearing notice was distributed to the entire
33 subdivision and surrounding properties. Furthermore, please note that a Development
34 Agreement was not processed for this Subdivision. Regulations governing this
35 Subdivision consisted only of conditions of approval for the Tentative Subdivision Map

36 (refer to letter dated November 15, 1999). Given this additional information, staff is
37 requesting Commission discussion and a recommendation on this proposal so Staff can
38 proceed to the City Council for final action on this request.
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40 **ATTACHMENTS:**

- 41
- 42 1. Centre Court Subdivision Property Owner & Permit Status Report
 - 43 2. CAH Memorandum dated September 10, 2007
 - 44 3. Deed of Trusts
 - 45 4. Planning Commission Meeting Minutes of December 12, 2007
 - 46 5. Planning Commission Staff Report of December 12, 2007
 - 47 • Letter of Request by Peter E. Turner, November 6, 2007
 - 48 • City Correspondence, October 23, 2007
 - 49 • Memorandum on Centre Court Subdivision Affordable Housing Obligation, May
 - 50 25, 2006
 - 51 • Amended Tentative Subdivision Map Conditions of Approval, November 15, 1999
 - 52 • Agreement for Affordable Housing
 - 53

CENTRE COURT SUBDIVISION									
LOT #	APN	ADDRESS	PROPERTY OWNER	GMA #	DESIGN REVIEW SUBMITTED	DESIGN REVIEW APPROVED	BUILDING PERMIT NO.	BUILDING PERMIT ISSUED	CERTIFICATE OF OCCUPANCY
1	011-032-021	1774 Emerald Drive	Doug and Jenny Sterk	2005-01	4/4/2006	3/22/2006	No. 4268	8/3/2006	8/27/2007
2	011-032-022	1764 Emerald Drive	Wayne Elzey	2006-12	2/23/2006	4/26/2006	No. 4277	6/6/2006	11/14/2006
3	011-032-023	1754 Emerald Drive	Wayne Elzey	2006-14	3/17/2006	5/24/06	No. 4316	7/14/2006	1/17/2007
4	011-032-024	1744 Emerald Drive	Wayne Elzey	2006-15	2/1/2006	3/8/2006	No. 4242	5/2/2006	10/23/2006
5	011-032-025	1734 Emerald Drive	Eric Hellman	2006-11	5/19/2006	6/26/2006	No. 4365	9/26/2006	8/13/2007
6	011-032-026	1724 Emerald Drive	Wayne Elzey	2006-13	3/17/2006	5/24/2006	No. 4315	7/14/2006	4/27/2007
7	011-032-027	1714 Emerald Drive	Neil Schafer	2006-02	3/22/2005	12/14/2005	No. 4169	2/1/2006	12/12/2006
8	011-032-028	1704 Emerald Drive	Koala Development						
9	011-032-012	1701 Emerald Drive	Koala Development						
10	011-032-013	1711 Emerald Drive	Caroliann Holdings LLC/Pete Turner	2005-13 Exp					
11	011-032-014	1721 Emerald Drive	Caroliann Holdings LLC/Pete Turner	2005-14 Exp					
12	011-032-015	1729 Emerald Drive	Todd and Eszter Heith	Urgency Ord.	7/6/2004	7/28/2004	No. 3811	1/6/2005	4/13/2006
13	011-032-016	1739 Emerald Drive	Caroliann Holdings LLC/Pete Turner	2005-15 Exp					
14	011-032-017	1749 Emerald Drive	Elaine Hudson		8/19/2004	10/13/04 Adm Ext Granted	No. 4556	4/23/2007	
15	011-032-018	1759 Emerald Drive	David and Judi Hudson (Transferred Ownership to Leonid Kogan)	2005-04					
16	011-032-019	1769 Emerald Drive	KASCO	Urgency Ord.	6/21/2004	7/28/2004	No. 3810	1/6/2005	12/19/2006
17	011-032-020	1779 Emerald Drive	John and Lilia Paoletti						