

## RESOLUTION NO. 2008-\_\_\_

**A RESOLUTION OF THE CITY COUNCIL, COUNTY OF NAPA, STATE OF CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION BASED ON AN INITIAL STUDY PREPARED FOR THE VINEYARD OAKS SUBDIVISION PROJECT [ZONING ORDINANCE TEXT AMENDMENT (ZO 2008-01), DEVELOPMENT AGREEMENT (DA 2007-02), TENTATIVE SUBDIVISION MAP (TTM 2007-02) AND DESIGN REVIEW (DR 2008-01)] LOCATED AT 2400 GRANT STREET AND 1881 MORA AVENUE WITHIN THE "RR", RURAL RESIDENTIAL ZONING DISTRICT. (APNS: 011-010-013, -014 & 011-021-002)**

**WHEREAS**, BNK Investments, LLC, requests an amendment to the Zoning Ordinance to provide an alternative means for residential projects to satisfy the affordable housing requirements and to subdivide approximately 18 acres of land into 15 single-family lots. The lots are approximately 1 acre in size. The subdivision includes a lot line adjustment with the property to the east along Mora Avenue strictly for utility and emergency vehicle access;

**WHEREAS**, in accordance with the California Environmental Quality Act (CEQA), the City of Calistoga, Planning and Building Department prepared an Initial Study/CEQA Checklist, which identified potentially significant impacts to aesthetics, air quality, biological resources, cultural resources, geology/soils, hydrology/water quality, and noise;

**WHEREAS**, the Planning Commission has reviewed and considered the Initial Study prepared for the project at its regular meeting on March 12, 2008 and prior to taking action on the application, the Commission received written and oral reports by the Staff, and received public testimony;

**WHEREAS**, the City Council has reviewed and considered the Draft Initial Study/Mitigated Negative Declaration prepared for the Project at its regular meeting on April 1, 2008, and prior to taking action on the application, the Council received written and oral reports by the Staff, and received public testimony; and

**WHEREAS**, that on the basis of the Initial Study prepared for the Vineyard Oaks Subdivision project as requested by BNK, LLC, on behalf of property owners, will not have a significant effect on the environment and, therefore, a mitigated negative declaration is adopted based on the following findings.

1. An Initial Study was prepared pursuant to the California Environmental Quality Act and has been considered as a result of this project and although the project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures to reduce all impacts to a level of insignificance or to avoid such impacts have been identified and agreed to by the applicant. A Mitigated Negative Declaration should therefore be prepared with the mitigation measures as adopted as Conditions of Approval.
2. As mitigated this project will not result in any significant adverse environmental impacts. There is no evidence that this project will result in any adverse impacts to fish and wildlife habitat.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga that the City Council adopts a Mitigated Negative Declaration, subject to the following Mitigation Measures.

Aesthetics:

Mitigation Aesthetics-1: Prior to building permit issuance or Improvement Plans, all lighting shall be hooded, shielded and directed downward and shall be designed and equipped with motion detector switching and/or timers upon review and approval of the Planning and Building Department.

Air Quality:

Mitigation AQ-1: Prior to building permit or grading permit issuance, the applicant shall incorporate the following Best Management Practices into the construction and improvement plans and clearly indicate these provisions in the specifications upon review and approval of the Public Works and Planning and Building Departments. The construction contractor shall incorporate these measures into an Erosion and Sediment Control Plan to limit fugitive dust and exhaust emissions during construction.

- a) Exposed soils shall be watered periodically during construction, a minimum of twice daily. The frequency of watering shall be increased if wind speeds exceed 15 mph. Only on-site well water, purchased city water or reclaimed water shall be used for this purpose. Responsibility for watering shall include weekends and holidays when work is not in progress.
- b) During excavation activities, haul trucks used to transport soil shall utilize tarps or other similar covering devices to reduce dust emissions.
- c) Grading and construction equipment operated during construction activities shall be properly muffled and maintained to minimize emissions. Equipment shall be turned off when not in use.
- d) Construction sites involving earthwork shall provide for a gravel pad area consisting of an impermeable liner and drain rock at the construction entrance to clean mud and debris from construction vehicles prior to entering the public roadways. Street surfaces in the vicinity of the project shall be routinely swept and cleaned of mud and dust carried onto the street by construction vehicles.
- e) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- f) Post-construction revegetation, repaving or soil stabilization of exposed soils shall be completed in a timely manner according to the approved Erosion and Sediment Control Plan and verified by City inspectors prior to acceptance of improvements or issuance of certificates of occupancy.
- g) The Developer shall designate a person with authority to require increased watering to monitor the dust and erosion control program and provide name and phone number to the City of Calistoga prior to issuance of grading permits.

Mitigation AQ-2: Prior to occupancy, wood burning fireplaces, wood stoves and outdoor stoves/cooking centers shall require the use of natural gas or Environmental Protection Agency certified fireplaces in order to reduce any potential emissions.

Biological Resources:

Mitigation Bio-1: Prior to grading and/or building permit issuance, a Tree Removal and Replacement Plan consistent with the approved Tree Mitigation Plan dated December 16, 2007 shall be reviewed and approved by the Public Works Department in conjunction with the Planning and Building Department. All requirements and restrictions contained in Chapter 19.01 of the Calistoga Municipal Code (CMC) shall be complied with, which shall incorporate replacement trees for those trees slated for removal and shall include any recommendations of the Project Arborist into the project.

Mitigation Bio-2: Before any site work is commenced, including grading and/or trenching), a six-foot chain link fence shall be installed at the drip line (but no closer than 6 feet to any trunk) of the oak trees to be preserved. Drip line is defined as the point where the distance from the edge of the tree canopy to the trunk is the greatest. This radius shall be used in establishing the perimeter of the exclusion fencing. Fencing materials shall be highly visible and sturdy such as a portable cyclone fence or comparable fencing material. Signs shall be posted on fencing prohibiting parking of vehicles or storage of materials within the trees' drip line. Fencing shall remain in place until all construction work is complete. Four to six inches of mulch shall be placed around the perimeter of the trees when the project landscape is installed. If any ground disturbing activities are required within the dripline of the trees, an on-site qualified arborist shall monitor the work.

Mitigation Bio-3: Prior to the issuance of building permits, the project applicant shall apply to the U. S. Army Corps of Engineers, California Department of Fish and Game and the San Francisco Bay Regional Water Quality Control Board for permits under the Clean Water Act. For unavoidable impacts to existing resources, the applicant shall implement on-site mitigation and on-going monitoring. Mitigation shall include enhancement and creation of on-site wetland habitat at a ratio of 2:1 for impacts to wetlands. Impacts to "other waters of the U.S." shall be mitigated at a ratio of 1:1 for in-kind enhancement of waters and 2:1 for out-of-kind creation of wetlands.

Mitigation Bio-4: Non-native invasive plant species shall be removed from the project site and revegetated with native trees, shrubs, and herbs to improve plant diversity and wildlife cover and foraging habitat. The applicant shall be responsible for the maintenance, monitoring and funding of a three-year establishment period. Photo monitoring and survival counts shall be conducted yearly and submitted to the City's Planning Department for the first three years.

Mitigation Bio-5: If project construction is to occur from February 1 through August 31 a qualified biologist shall conduct pre-construction surveys of all potential nesting habitats within 500 feet of project activities. If nesting birds are identified on the project site or within the surveyed area, a non-disturbance buffer (determined in coordination with the California Department of Fish and Game) shall be established around the nest tree during the breeding season or until the young have fledged. If preconstruction surveys

indicate that nests are inactive or potential habitat is unoccupied, no further mitigation measures are required. Raptor or other bird nests initiated during construction are presumed to be unaffected and no buffer is necessary. However, the "take" of any individuals is prohibited.

Mitigation Bio-6: Prior to construction activities within 500 feet of trees potentially supporting special-status bats, a qualified bat biologist will survey for special-status bats. If no evidence of bats is present, no further mitigation is required. If evidence of bats is observed a no-disturbance buffer acceptable in size to the CDFG will be created around active bat roosts during the breeding season (March 15-August 15). Bat roosts initiated during construction are presumed to be unaffected, and no buffer is necessary. However, "take" of individuals is prohibited. In addition, removal of trees showing evidence of bat activity will occur during the period least likely to impact bats, as determined by a qualified bat biologist, generally between February 15 and October 15 for winter hibernacula and between August 15 and March 1 for maternity roosts. If exclusion is necessary to prevent indirect impacts to bats from construction noise and human activity adjacent to trees showing evidence of bat activity, these activities shall be conducted during these periods as well.

#### Cultural Resources:

Mitigation CR-1: Prior to the initiation of construction or ground-disturbing activities, all construction personnel should be alerted to the possibility of buried cultural remains (i.e., prehistoric and/or historic resources). Personnel should be instructed that upon discovery of buried cultural materials, work in the immediate vicinity of the find should cease and a qualified archaeologist should be contacted immediately.

Mitigation CR-2: If archaeological, historical, paleontological resources or other human remains are encountered, all construction activity in the affected area shall cease and no materials shall be removed until a qualified professional surveys the site and mitigation measures can be proposed by the qualified professional to the satisfaction of the Planning Division for approval and subsequent implementation by the permit holder.

#### Geology and Soils:

Mitigation Geo-1: Prior to the issuance of grading permits, the developer shall prepare a storm water pollution prevention plan (SWPPP), consistent with the State Water Resources Control Board NPDES requirements. The SWPPP shall be submitted to the City Engineer for review and approval.

Mitigation Geo-2: Prior to the approval of the improvement plans and/or final map, a final design-level geotechnical report, with consideration of recommendations from the Geoservices Group, shall be prepared and submitted to the City for review and approval. The recommendations of the final geotechnical report shall be incorporated into the project design prior to issuance of grading or building permits for review and approval of the Public Works and Planning and Building Departments.

#### Hydrology & Water Quality:

Mitigation WQ-1: Prior to Final Map approval or grading permit issuance, the Public

Works, Planning and Building Departments shall have reviewed and approved all drainage improvements. Said improvement plans shall be designed by a civil engineer and in accordance with the Napa County Design Criteria and any applicable adopted City standards. The capacity and condition of existing drainage facilities downstream of the development shall be analyzed and off-site drainage improvements shall be constructed as necessary. Site grading and drainage improvements shall be shown on the improvement plans.

Mitigation WQ-2: Prior to grading and/or building permit issuance, the applicant shall submit finalized engineered drainage plans and design calculations for the City Engineer's review and approval.

Mitigation WQ-3: All drainage inlets shall be permanently marked "No Dumping-Flows to River".

Mitigation WQ-4: Prior to building or grading permit issuance, verification shall be provided indicating that a permit has been obtained or a Notice of Intent (NOI) has been filed with the California Regional Water Quality Control Board for a General Permit to Discharge Storm Water Associated with Construction Activity subject to the review and approval of the Planning and Building Department.

Mitigation WQ-5: No discharge of hazardous materials shall be allowed in ground or surface waters or on the land. All hazardous materials shall be stored and managed.

Mitigation WQ-6: Prior to issuance of a grading or building permit, the permit holder shall submit a stormwater drainage plan for approval by the Department of Public Works in conformity with the National Pollution Discharge Elimination System and including Best Management Practices (BMP) as described in the California Stormwater BMP Handbook or equivalent, such as sheet flow from pavement into vegetated drainage swales.

Noise:

Mitigation N-1: The applicant shall develop a construction management plan to reduce traffic congestion during project construction, including staging areas on the project site and truck movements delivering and/or exporting fill material. Approval of the plan shall be required from the City prior to issuance of any grading permit.

Mitigation N-2: Construction travel shall be managed to minimize noise levels consistent with the City's Construction Ordinance.

Mitigation N-3: Construction activities shall be limited to the hours of 7 AM and 7 PM Monday through Saturday consistent with the City's construction ordinance.

Mitigation N-4: Construction restriction shall be posted on-site for the duration of construction.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Calistoga at a regular meeting held this 15<sup>th</sup> day of April, 2008, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**JACK GINGLES, Mayor**

**ATTEST:**

---

**SUSAN SNEDDON, City Clerk**