

February 4, 2016

Mayor Wilkins
Vice Mayor Clerici
Councilmember Thomas
Councilmember Borelli
Councilmember Acuna

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References

1. Letter from James McGuire to Pierre Rivas, January 19, 2016
2. Letter from Robert A. Laurie, Attorney, to Pierre Rivas, August 28, 2014 (attached to Ref 1)
3. Video recording of Planning Commission Meeting, January 19, 2016

Attachment

Letter from James L. Brunello, Attorney, to Placerville City Council, September 23, 2014

Subject: City Council Meeting February 9, 2016 – Public Hearing on General Plan Amendment and Zoning Ordinance

Members of the City Council:

My name is Larry Parker. I am writing on behalf of the owners of the property at 928 Adams Way in Placerville – one of the sites listed in Appendix E of the Housing Element for potential rezoning to R-5. The majority owner and occupant of the property is Eileen Johnson, and the minority owner is Margaret Johnson. My wife is Eileen’s daughter and Margaret’s sister.

The purpose of this letter is to call your attention to a major problem with the proposed changes to the General Plan and the Zoning Ordinance, which in my opinion renders the proposed changes unacceptable and unworthy of approval until the deficiency has been corrected.

The inventory of potential low-income housing sites in Appendix E of the Housing Element is severely deficient and prejudicial.

How is the inventory deficient?

The word “inventory” suggests some degree of completeness, as though all suitable potential sites for R-5 zoning in Placerville had been identified and listed. But the list in Appendix E includes only 10 sites, and it is not clear how they were selected nor how many other sites were considered. Mr. James McGuire has identified more than 30 additional sites in his letter (Ref 1) that he believes are potentially suitable for R-5 zoning, and the list is credible because of his extensive relevant knowledge and experience.

During the Planning Commission meeting on January 19, 2016, Mr. Pierre Rivas expressed appreciation for the list of properties provided by Mr. McGuire and said it would be helpful to the City staff. A member of the Commission asked "Before this would go to Council then, is staff going to review the potential inventory that Mr. McGuire has prepared?" (emphasis added) Mr. Rivas replied "We asked him. He provided it to us. You bet we're going to take a look at these sites." (Ref 3, approx. 2 hours 20 minutes mark)

It appears likely that examination by the City staff of the properties identified by Mr. McGuire will lead to inclusion of a significant number of additional properties in the list of sites to potentially be rezoned R-5. In my opinion (for reasons explained below) it is **essential** for the inventory to be expanded and included in the General Plan before the proposed changes are approved by the City Council. **I therefore request you** to postpone the final hearing on the proposed changes until after the inventory update has been completed. The inventory as it stands now is deficient because it apparently includes only a small subset of the sites that should be considered for rezoning. This is unfair to the owners of the properties that have been singled out.

How is the inventory **prejudicial**?

Property owners are justifiably concerned that rezoning to R-5, with its minimum density of 20 dwelling units per acre, would drastically reduce or destroy the value of their property. Such zoning would prohibit more suitable uses of the property, such as moderate density apartments or townhouses appropriate for the site. Mr. McGuire explained in his letter (Ref 1) multiple reasons why it is very unlikely that properties of the required R-5 density will actually be built in Placerville, so rezoning would probably render the property unusable for development. This would damage the interests of the City as well as the property owner.

The two letters from attorneys (Ref 2 and the Attachment to this letter) both include language addressing this point:

"It serves no positive purpose except perhaps to allow the City meet the state housing mandate, to limit the Subject Property to a 20 units/acre development if such a project can never be actually constructed due to the aforementioned constraints. Such action could actually amount to a **taking** of the Subject Property." (Ref 2)

"By constraining permitted densities and uses as provided in the proposed R-5 ordinance, a handful of landowners whose property is zoned R-5 will be deprived of most, if not all, of the reasonable economic use of their land – essentially a "**taking**" to achieve a public purpose." (Attachment)

This same point was raised during the Planning Commission discussion of these proposed changes. A member of the Commission stated "This change really results in a **taking** in a lot of respects, and I think we need to be cognizant of that." (Ref 3, approx. 2 hour 11 minutes mark)

Here is the main point concerning how the existing inventory is prejudicial: just the fact of having a property included in a list of only 10 sites for *potential* rezoning to R-5 can have a major negative impact on the value of the property. A potential developer who wanted to build a multi-unit project of

reasonable density would be likely to avoid such a property because of the perceived likelihood that the City will rezone it and thus prohibit the intended development. Such damage could be significantly reduced by expanding the inventory to three or four times its current size.

Furthermore, Mr. McGuire makes the important point that "The City has numerous City owned vacant and underutilized parcels" that could be used for R-5 zoning, and that "the City should exhaust its own supply of vacant land for such uses before **"taking"** parcels from its private citizens". (Ref 1)

Because the land inventory is both severely deficient and prejudicial to the property rights of the owners whose sites are included, **I respectfully request** each of you to vote against approving the proposed changes until the City staff has had time to complete the process of creating an adequate and comprehensive inventory of potential sites for low-income housing. (This is a task they already agreed to do.) If the proposed changes are approved now I believe it is very unlikely that the inventory in Appendix E will ever be expanded and corrected, with the result that the handful of land owners on that list will continue to suffer unnecessary damage. I hope you will agree that the City should seek to minimize damage to the property rights of its citizens while finding a way to satisfy the State mandate.

Thank you for your attention.

Sincerely,

Larry D. Parker
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Camino, CA 95709