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SEP 23 2014

CITY OF PLACERVILLE
3101 CENTER STREET
PLACERVILLE, CA 95667

September 23, 2014

Placerville City Council
City Clerk Department
3101 Center Street
Placerville, CA 95667

Dear Mayor Hagen and City Council Members:

Please be advised that this office represents Eileen Johnson and her daughter, Margaret Johnson, the owners of the owner-occupied property located at 928 Adams Way (APN 003-241-55, hereafter "Subject Property"). The approximately six acre Subject Property is located off of Clark Street, near the intersection of Pacific, Clark and Lewis Streets.

The City of Placerville recently announced a project to amend the definition of the R-5 Zone to mandate a minimum density of 20 dwelling units per acre and to prohibit single-family residential use; and, then to rezone the Subject Property to R-5, high density residential. This is to advise you that the owners of the Subject Property are opposed to the proposed project, for the following reasons.

State Housing Element law allows the City the option to provide an analysis that designated sites are adequate to support lower-income housing development, or to zone the proposed site at the jurisdiction's "default" density level, in this case, a minimum of 20 dwelling units per acre. It appears the proposed R-5 ordinance is intended to apply the "default" density zone to specified parcels, to implement "Program 3" under the Housing Element adopted earlier this year.

To meet HCD requirements, the R-5 zone must allow 20 dwelling units per acre "by right", which appears to be the reason for eliminating the site plan review requirement. As drafted, the ordinance also sets the *minimum density of R-5 parcels at 20 units per acre*, which allows the City to sidestep the requirement to demonstrate how the number of units designated for the site will be achieved. There is little evidence to suggest that such densities are feasible, in fact, the Housing Element identifies only one

completed project in the City since 1995 that has reached the 20 unit per acre mark – all others have been 12 units per acre or less.

Further, Housing Element law requires the 20 unit per acre default density must be permitted “by right”, without the necessity of discretionary review. Yet, the proposed ordinance contains an asterisk that nullifies the permitted “by right” requirement, providing that the density “achieved” is to be determined by the City...” based on:

- a. Site specific environmental constraints such as slopes, water courses, roads, easements, etc;
- b. R-5 development regulations of yards (setbacks), height, etc.; and
- c. Consistency with the Housing Element, a 175 page document.

It is unclear whether this language is intended to limit allowable density to less than 20 units per acre, or to permit the landowner to build less than the “minimum density” where dictated by site constraints. Whatever the interpretation, the practical effect of this language is the 20 dwelling units per acre density is not “by right” and defeats the stated objective of the ordinance. The “determination” of achievable density by the city under the process created by the language of the ordinance is a discretionary project within CEQA.

This ordinance not only fails to meet the requirements for a default density level zone “by right” ordinance, but, it raises other concerns:

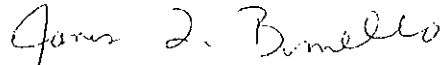
1. The ordinance is claimed Categorical Exempt since, at present, there are no parcels zoned R-5 and CEQA only applies to projects that have the potential to significantly affect the environment. However, this action is a piecemeal, segmented transaction starting with the Housing Element, through the R-5 zoning amendment to the ultimate planned re-zoning of specific parcels. These actions together comprise a project not properly analyzed by an environmental impact report that would analyze environmental effects of the proposed change based on existing physical conditions rather than assuming a property historically zoned R-4 is a short cut way to meet affordable housing requirements.

2. 928 Adams Way has the potential to provide much needed detached compact single family homes for moderate income households. This use would fit into the neighborhood, be compatible with site specific factors and meet a community need.

3. The development standards applicable to all multi-family sites, including building height, setbacks and building coverage, appear to be identical, regardless of whether the density is 8 or 20 units per acre. There does not appear to have been any serious attempt to assess whether higher densities require reconsideration of standards applicable at much lower densities. In fact, the only example cited by the City to achieve 20 units per acre was a senior housing project which received concessions to reduce parking to .5 spaces per unit, a significant reduction from standards applicable at 8 units per acre.

4. 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.

Sincerely,

A handwritten signature in cursive script that reads "James L. Brunello".

JAMES L. BRUNELLO
Attorney at Law