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Art, Community, & Education



Johnny Cash Tribute at the Firehouse

Honour Award Winner to Discuss His Theory of 'Defensive Posturing'



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Happening
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second section**

Section II is filled with information about arts, entertainment

Change in Ag. Mitigation Rules Rejected

By Richard Yates

Efforts to eliminate the agriculture mitigation requirement for a proposed development in South Livermore was rejected last week by the Livermore Planning Commission.

A 13-acre site in South Livermore originally intended as part of a 20-acre school site in 1997 and currently owned by the school district at Caldeira and San Vicente Drive is being purchased by a developer who wants to build houses on the land. The South Livermore Valley Area

Plan requires that new residential developments falling within the South Livermore Plan be mitigated by easements on agricultural land at the combined rate of one acre per house and one acre developed.

The Planning Commission voted 4 to 1 against a recommendation by the city staff to substitute the mitigation requirement with the payment of a fee. The request was made on behalf of Ponderosa Homes II Inc. last Tuesday. The issue will go before the City Council for a final

decision in May.

The proposed modification of the mitigation requirement would enable the developer to pay cash instead of permanently protecting ag. land. The staff has suggested that the required amount of land to be mitigated, 64.5 acres, is worth approximately \$1.6 million at \$25,000 per acre. Staff recommended the reduction of the mitigation fee by 45% in order to account for the effect of current market conditions on the feasibility of development. The resulting

\$886,875 contribution would be used by the city for South Livermore Plan development projects, such as completing recreation trails or landscaping projects.

Jeff Schroeder, Senior VP of Land Acquisition and Planning for Ponderosa Homes, described the venture as a joint opportunity for his business and the city to grow through repurposing a vacant lot for residential use. He said that Ponderosa originally committed to the property near top market value, has been willing to work with the city to relo-

cate the recreational trails, and has been sensitive to neighbor comments, and in one case, revised a through street design (Santa Croce Drive) to be maintained as a cul-de-sac. Ponderosa is also planning to contribute to upgraded plantings along San Vicente Drive and along the trails. In monetary terms, Schroeder proposed that the city would generate \$7 million dollars in fees in addition to the school district receiving \$6 million on the sale of the land. He

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MITIGATION

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replied to the agricultural mitigation requirement by advising, "You have more agriculture than you need."

The original South Livermore Plan for the school site included a clause that states, "If the school is not developed, a minimum of seven acres of the school site shall be retained for acquisition as a park site." Ponderosa offered the seven acres to the Livermore Area Recreation and Park District for a park. LARPD decided not to accept the acreage.

The city's Project Planner, Scott Lee, presented the in lieu contribution as helping the city to satisfy unmet goals. The staff report suggested that the money could be used for enhancing the "existing viticulture environment" and fulfilling the goals of the South Livermore Plan. Examples given include: contributing to the completion of trails (though the monies would not alone cover their cost), crafting programs to develop seven undeveloped commercial sites in South Livermore, and repurposing finger islands (small narrow easements near developments) for alternative uses requiring less maintenance.

The substitution of a reduced monetary contribution for the 65-acre agricultural mitigation was the central topic of debate. The methodology used to arrive at the original sum of the cash payment was questioned by both the commissioners and public alike. As described by staff, the \$25,000 per acre valuation of the agricultural land was based on an assessment by Wente Vineyards as a price that they would currently sell planted land. There was deliberation as to what such a hypothetical appraisal of non-existent land would amount to, especially in regard to whether it was planted and being sold at a competitive market value. Schroeder, himself, suggested that an acre of planted land would currently be worth more than \$25,000 per acre.

Staff described the process of arriving at the 45% reduction in the fee as one of negotiating with the developer based on the developer's financial projections. The concern is that the development would not pencil out if the developer were forced to pay the full fee. Members of the public expressed concern over offering a unique financial benefit to only one commercial business.

Bob Baltzer, Chairman of Friends of Livermore, questioned the proposal, saying, "The city is under no obligation to guarantee the profit of a developer."

Tom O'Neill summarized that by altering the South Livermore Plan, the city would "grant something that wasn't granted to others." O'Neill weighed the effect on those developers that have "already written the check" in addition to the impact on future developments.

According to staff, there are only two other undeveloped sites. The owners have entered into development agreements

with the city for agricultural mitigation when the land is developed for residential use. The agricultural mitigation requirement on these properties is considered binding.

Other speakers pointed out that Ponderosa would likely apply for an extension of the reduced fees at the end of the initial two-year development agreement in order to coordinate the timing to sell at peak market value. Though this would initially be justified based on the continuation of current economic trends, this scenario could lead to a negation of the original reasoning behind the reduction in the fee, which was intended to encourage development in the near future.

Reducing the fee would allow the school district to receive its \$6 million within a couple of months. On the other hand, the city would receive its \$7 million in fees at the time occupancy permits were issued.

The heart of the issue for the majority of the eleven speakers representing the public was that the proposed measure would diminish the South Livermore Plan's requirement to preserve actual land for agricultural use, what is seen as the primary thrust of the open-space initiative. Jean King, chair of the Tri-Valley Conservancy Board, stated that while the organization does not oppose the residential development of the property (and has been trying to work with the developer to find appropriate easements), they do oppose amendments that undermine the mitigation of land.

For the Conservancy and Friends of the Vineyards, the precedent created by moving forward with the plan amounts to essentially compromising the integrity of the mitigation requirement and the efforts of many passionate community individuals. Maryanne Brent, secretary of Friends of the Vineyards, declared, "I am dismayed that the Planning Commission is considering a change to the South Livermore Valley Area Plan not to fully mitigate residential units to be built at the former school site near Robertson Park. The concept is to jealously guard open, green or agricultural space that exists or might become available."

Marc Roberts, Director of Community Development, doesn't believe that a precedent would be set with regard to mitigation because there is no more developable land left. A reverse precedent is also a non-issue be-

cause the city has the authority to change rules as needs change. Roberts added that the city has met the major goals of the original South Livermore Plan, including total planted acreage, preserving land, encouraging new wineries, and a major portion of the trails. The fees from the development could be used to complete those goals still unmet.

Public speakers and commissioners also raised legal concerns, including the question of altering an agreement in which Alameda County and the City of Pleasanton are involved.

Staff responded that they did not know of any legal consideration that would bar the city from passing the proposed amendments to the development plans. At the prodding of commissioners Bob Woerner and Michal Lea, the staff was asked to consult with Alameda County and the City of Pleasanton about the issue.

With the exception of Neal Pann, each member of the Planning Commission voted against the staff proposal to bypass the requirement for agricultural mitigation through a reduced fee structure.

Pann did ask for language to be included to require the money be linked to specific projects, otherwise it would be simply placed in the city's General Fund.

Lea explained her vote, "We have an A- with regard to our acreage. We have a chance to have an A."

Woerner remarked, "Too many people have worked too long to overwrite this agreement."

Of the two individuals, apart from the staff and developer, who expressed support for the recommendation to reduce mitigation requirements, Commissioner Pann did not discuss his vote.

A neighbor living on San Vicente Drive said that while the open space created by the South Livermore Valley Plan originally brought him to the area, on a practical level, he likes the developer's solution for the public landscaping issues and would enjoy seeing a rise in property values from developing the vacant lot.

The issue is further confounded since the school district would be a beneficiary of the development project. The \$6 million from the sale of land and savings in property taxes could potentially make a significant difference to the district's current financial situation.