

MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION

Meeting of November 1, 2018

The regular meeting of the Solano County Planning Commission was held in the Solano County Administration Center, Board of Supervisors' Chambers (1st floor), 675 Texas Street, Fairfield, California.

PRESENT: Commissioners Rhoads-Poston, Walker, Hollingsworth, Bauer, and Chairperson Cayler

EXCUSED: None

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Eric Wilberg, Planner Associate; Jim Laughlin, Deputy County Counsel; and Kristine Sowards, Planning Commission Clerk

Chairperson Cayler called the meeting to order at 7:00 p.m. with a salute to the flag. Roll call was taken and a quorum was present.

Approval of the Agenda

The Agenda was approved with no additions or deletions.

Approval of the Minutes

The minutes of the regular meeting of October 4, 2018 were approved as prepared.

Items from the Public

There was no one from the public wishing to speak.

Regular Calendar

Item No. 1.

CONTINUED PUBLIC HEARING to consider Rezoning Petition No. Z-17-04 and Minor Subdivision Application MS-17-06 of Hubert & Aurelia Goudie and William & Sylvia Marshalonis to rezone 15.69 acres from Rural Residential "RR-2.5" and Exclusive Agriculture "A-20" to Rural Residential "RR-5"; and subdivide two existing parcels into three lots. The property is located at 4420 Peaceful Glen Road, 2.5 miles north of the City of Vacaville, APN's: 0105-060-390 and 40. (Project Planner: Eric Wilberg) **Staff Recommendation:** Approve the minor subdivision application and recommend rezoning approval to the Board of Supervisors

Eric Wilberg noted that this item was continued from the October 4, 2018 Planning Commission hearing. At that hearing, the applicant's representative stated concerns during the public comment period regarding a condition of approval related to road improvements. The Condition No. 8 would require the construction of a private roadway to serve proposed

Parcel 2. As conditioned, the roadway would extend from Timm Road, across APN 0105-060-240, then to the eastern property line of proposed Parcel 2.

Mr. Wilberg further noted that the applicant's representative presented the case to the commission that the ongoing use of proposed Parcel 2 is intended for agricultural purposes and that no residential development is proposed as part of this project. It was also stated that the property has been historically utilized solely for dry farming and that upgrading the existing access to private road standards would prove excessive and too costly for current and future uses on-site. At the end of that meeting, the commission directed the department to explore alternative road improvements for access to proposed Parcel 2.

Mr. Wilberg stated that Conditions of Approval Nos. 9 and 10 in the resolution attached to staff's report reflect changes to the previous condition. The newly proposed conditions address the scope and sequencing of the road improvements required to serve proposed Parcel 2. In general, road improvements have been reduced to a commercial driveway apron at Timm Road and a 50-foot stretch of private driveway outside of the public right-of-way.

Mr. Wilberg pointed out that since the drafting of that resolution, staff received correspondence from a neighboring property owner who had additional concerns regarding access to the proposed project. Based in part on those concerns, staff requested that the commission continue this item to allow sufficient time to review the new information.

Since there were persons in the audience wishing to speak on this item, Chairperson Cayler opened the public hearing.

Charles Wood, Mattice Law Offices, Jefferson Street, Fairfield, appeared before the commission. He stated that he agreed with the request for a continuance. He noted that he had submitted a letter to staff dated October 31, 2018 on behalf of Robert and Diane Karn ("Karns") who are neighbors of the project. The letter voiced concern pertaining to road access. Mr. Wood stated that he believes the commission should examine exactly how the parcel he refers to in his letter as landlocked is going to be accessed. He said it was their understanding the Goudie family were not going to access the property through the old easement, however lately they have asserted that the easement is good. Mr. Wood commented that they would like time to work out this issue with the applicant. He suggested that the commission review this application by looking at all the Goudie properties concurrently as it pertains to access from the public road.

The property owner, Al Goudie, Peaceful Glen Road, Vacaville, stated that the purpose of this project is simply to sell grandma's house. Mr. Goudie noted that they have been trying to accomplish this task for almost two years and keep getting delayed by this disgruntled neighbor. Mr. Goudie stated that Mr. Karn seems to think that his antics will allow him cause to get an easement vacated. He stated that the easement has been standing for 118 years untouched, unmolested, and unbothered. He said Mr. Karn's contention that the additional parcel of land is landlocked is untrue. Mr. Goudie noted that he has a map depicting two separate easements, as well as deeds showing that the parcel is not landlocked. Mr. Goudie requested that the commission not delay this matter any further and decide on the application tonight. He stated that if the commission would like to add a condition of approval requiring verification that the parcel is not landlocked, they would be happy to accept that condition.

Brian Goudie, Peaceful Glen Road, Vacaville, introduced a map to the commission showing the easements serving the parcel being referred to as landlocked. He provided an overview of the map. He explained that the red outline is their parcel, and to the south is the 10-acre parcel that is supposedly landlocked. He described the lines depicted in blue, yellow and green as the different easements that are serving the parcel. Those were created in the early 1900's. Mr. Goudie reiterated that the parcel is not landlocked. In response to Commissioner Hollingsworth's question, Mr. Goudie stated that the easement the Karns have asked to be vacated is shown as the southern blue line that zig zags through the middle of the Karn parcel.

Commissioner Walker asked if staff also just received the documents that were handed out to the commission this evening. Mr. Wilberg stated that this is the first time that staff were seeing the documents.

Dan Figueroa, Master Planner from Community Planning Services, Dixon, spoke on behalf of the applicant. He handed out to the commission some documents relating to the property such as recorded easements, deeds, and map exhibits. He stated that he was late in handing out these materials because it took longer than expected to put this information together due to its complexity. Mr. Figueroa commented that this matter was continued from the last meeting to allow staff time to rewrite Condition No. 8 as well as modify a couple of related conditions. He stated that the issues raised at that meeting have been addressed and the applicant is accepting of all the conditions as written and they would like to move forward.

Mr. Figueroa spoke regarding the complaint. He explained that Mr. Karn's specific concerns were brought up a couple of months ago during a meeting with himself, county representatives, and the project engineer. Mr. Figueroa stated that the issues raised were not related to the parcel map at hand. He and the Goudie family continued with that understanding and felt comfortable that county staff had agreed as well. Mr. Figueroa made it known that there were also some allegations made in the letter by Mr. Wood that he would disagree with. Mr. Figueroa stated that this would be a civil matter and for that reason he did not want to go into too much detail.

Mr. Figueroa stated that Mr. Karn offered a solution which would be to eliminate the easement that runs through his property. Mr. Figueroa stated that this is a recorded easement that dated back to 1903 and was shown on the tentative map. He stated that he has never seen a map that abandons the Goudie's easement through the Karn property. He said the parcel the Karn family are complaining about is presently served by two recorded easements to Timm Road and are illustrated on the exhibits that he handed out. Mr. Figueroa commented that this would be a matter that should be discussed between the Goudie and Karn families and not before the planning commission.

Since there were no further speakers, Chairperson Cayler closed the public hearing.

Commissioner Bauer commented that the continuance appears to be a reasonable request and could possibly alleviate problems further down the road. She said that she would support a continuance.

Commissioner Hollingsworth agreed, he said in looking at these easements that run through the Karn property he could understand why they would have concern. He stated that he would

be hesitant to move forward with something that could end up in a lawsuit. He stated that he supported the request for a continuance.

Commissioner Rhoads-Poston asked about the possibility of approving this application contingent upon the proof that the easements are valid and real, so the property owner would not have to come back before the commission.

Jim Laughlin responded by stating that the 1903 map shows a right-of-way, but he does not know how the property was conveyed and whether anybody was led to believe that they had access rights to that road. That would depend upon searching the deeds. He stated that there is a 2002 parcel map that says the easement was being abandoned. Under the Map Act, once a map is approved with that condition, the public right of access in the 1903 map would have been extinguished. However, there may be underlying private easement rights to continue using that road. Mr. Laughlin stated that there would be no point in continuing this for a staff decision because it is up to a court to decide if there are any private rights to use that roadway. Mr. Laughlin stated that he would advise against approving this contingent upon on that factor.

Commissioner Walker asked what exactly it would be accomplishing to continue this matter if it will ultimately end up in court. He also wanted to know how a continuance would benefit the applicant or neighbor.

Mr. Laughlin stated that it would at least give staff a chance to look through the deeds to see whether there is even a colorable claim of easement. He said that currently there are a lot of unknowns. He stated that if nothing refers to the easement and there does not seem to be a legitimate claim, staff would feel more comfortable moving forward at that point one way or another.

Chairperson Cayler said that she would be inclined to agree. She believed there is too much information that was just put upon the commission and she would not feel comfortable voting on this especially when it affects so many people. Commissioner Cayler said she would support a continuance.

A motion was made by Commissioner Bauer and seconded by Commissioner Hollingsworth to continue this matter to the regular meeting of November 15, 2018. The motion passed unanimously.

ANNOUNCEMENTS and REPORTS

There were no announcements or reports.

Since there was no further business, the meeting was **adjourned**.