

From: [McDowell, John](#)
To: ["Kelly Wheaton"; St. Claire, Linda; Galambos, Nathan](#)
Subject: RE: Inglewood Village Office Park USE PERMIT VIOLATION Formal Complaint and Request for Investigation
Date: Monday, January 23, 2012 4:06:21 PM

Mr. and Mrs. Wheaton - We are presently looking into the drainage issue and looking at whether the existing improvements were constructed in compliance with the previously issued use permit and building permits. We were looking into this issue before your email today, but we have accepted your email below as constituting a formal complaint. There is no need to fill out one of our complaint forms. Complaints are normally kept anonymous, but being that your email was sent to the whole of the Planning Commission, it is required to be a public record and part of the project's administrative record.

Investigation of the complaint will proceed diligently and concurrent with the processing of the proposed use permit modification. Several years ago, the Board of Supervisors directed staff to seek out voluntarily compliance from permittee's whenever possible. Therefore, if it is determined that the current permit is out of compliance, staff will work with the permittee to determine feasible measures for gaining compliance in a timely fashion which we will strive to have incorporated into the final project design. I expect that the Commission will be very interested in this topic and would like to hear from all interested parties during the course of their deliberations, and consequently they will likely be integrally involved determining use permit compliance as well as feasibility of any corrective measures proposed.

Our staff report should be available for download off of our website this Wednesday.

Thank you

John

John McDowell
Deputy Planning Director
Napa County Conservation, Development and Planning Department
(707) 299-1354

From: Kelly Wheaton [mailto:a4est42@gmail.com]
Sent: Monday, January 23, 2012 3:18 PM
To: McDowell, John; St. Claire, Linda; Galambos, Nathan
Subject: Re: Inglewood Village Office Park USE PERMIT VIOLATION Formal Complaint and Request for Investigation

Thanks John for your quick reply,

Can you let us know how a request for investigation into A Use Permit Violation is handled

and how it might impact a pending Use Permit Modification. It would be helpful for us to understand the process and time frames involved.

And yes we will continue to work with Linda and Nate on this matter.

Sincerely

Michael & Kelly Wheaton

On Mon, Jan 23, 2012 at 3:02 PM, McDowell, John <John.McDowell@countyofnapa.org> wrote:

Mr. and Mrs. Wheaton,

Thank you for your comments. Your comments will be incorporated into the administrative record for the project and hard copies of your communication to the Commission will be provided to the Commissioners and made available for the public. I have cc'd the project planner, Linda, and our Clerk of the Commission, Sarah, to ensure this will occur. As set forth in the Ralph M. Brown Act concerning public meeting laws, I cannot include Planning Commissioners in this response to your email. Staff will respond to your concerns in our staff report, which will be publishing this week, and in during the public hearing.

I'm glad to see that you have talked with Linda and Nate. They will be responsible for looking into your concerns and I encourage you to continue working directly with them. Staff will be recommending that on February 1st the Commission open the public hearing, take testimony, and then continue the item to a future uncertain date to allow time to conduct further evaluation of all issues raised.

Thank you for your participation in the process. Linda's direct line is 299-1348. I can be reach by email and by phone at 299-1354.

Sincerely – John

John McDowell

Deputy Planning Director

Napa County Conservation, Development and Planning Department

(707) 299-1354

From: Kelly Wheaton [mailto:a4est42@gmail.com]

Sent: Monday, January 23, 2012 2:47 PM

To: McDowell, John

Cc: St. Claire, Linda; Trippi, Sean; Hillary.Gitleman@countyofnapa.org; Galambos, Nathan; Lander, Drew; heather@vinehillranch.com; napacommissioner@yahoo.com; fidd@comcast.net; tkscottco@aol.com; mattpope384@gmail.com; mattipope@gmail.com; Diane Dillon

Subject: Inglewood Village Office Park USE PERMIT VIOLATION Formal Complaint and Request for Investigation

Mr. McDowell,

This is a Formal Request to investigate Conditions of Approval for the Inglewood Village Office Park Use Permit #990077-UO and to ask for a postponement of any decisions regarding the Inglewood Village Office Park Use Permit Modification Application P11-00107 until the Use Permit Violations outlined below can be investigated and corrected.

This AM we spent 2.5 hours reviewing files, talking with Linda St. Claire of Planning and Nate Galambos and Drew Lander of Public Works. We have not yet been supplied with sufficient information regarding the original Drainage calculations, Detention Basin sizing and New calculations that Public Works have requested from Bartelt Engineering regarding the Use Permit Modification. ***No one in Public Works nor Paul Bartelt have been able to explain (to date) how the Retention Basin was supposed to work or why it is not working.*** We need these requested documents in order to have our Hydrologist review them. The public hearing is scheduled for February 1, 2012. **We ask that this matter be continued/postponed until these can be provided to us and we have time to prepare our response.**

VIOLATION

In Short Condition 4 of The Inglewood Village Office Park Use Permit:

"The site shall be graded such that storm water from the project is discharged from the site into an approved drainage facility. Stormwater runoff shall be directed toward the southwest corner of the property. No increase in runoff will be allowed from this project onto adjacent properties unless adequate private easements have been established. Each phase of the development shall include drainage improvements to ensure that additional runoff is not directed to Inglewood Avenue or surrounding properties unless otherwise allowed through aforementioned easements. **All on-site drainage facilities shall be maintained by the permittee in proper working order.**" (emphasis mine)

The Retention basin is currently full. We have provided photos that demonstrate that after a one month dry period and 3.5" of rain the Retention basin is full. All waters from the Inglewood Village Office Park flow directly into an inadequate drainage system. The County has a long standing awareness of this problem. There is no effective retention. It is not possible to know for sure whether any Retention can adequately prevent the water from Inglewood Village Office Park from flooding surrounding properties in violation of the original conditions as well as state law regarding storm water discharge and flooding of neighboring properties.

It is not possible under CEQA guidelines to exclude the original NON-WORKING Drainage Plan from Requirements addressing the Cumulative Hydrology regarding the the Inglewood Village Office Park Use Permit Modification Application P11-00107

CEQA: IX. HYDROLOGY AND WATER QUALITY.

d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?

e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

We were told that the retention basin would prevent runoff water from exacerbating an already over taxed drainage system. ***EVERYONE was wrong.***

We respectfully request that the reason for the failure be determined and adequate remedies be instituted before any further development is considered.

Supporting documents and photos have been sent to the planner in charge, Linda St. Claire, and Nate Galambos and Drew Lander in Public Works. We have also requested that these be included in the Use Permit Modification Packets.

Sincerely

Michael & Kelly Wheaton
1335 Inglewood Ave.
St. Helena CA 94574
[707-963-9609](tel:707-963-9609)

PS. Please advise if you need this in writing with wet signatures.

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Kelly Wheaton
a4est42@gmail.com

[Wheaton Surname Resources](#)

From: McDowell, John
To: "Kelly Wheaton"
Cc: St. Claire, Linda; Lander, Drew; Galambos, Nathan; Gallina, Charlene
Subject: RE: Inglewood Village Use Permit Violation
Date: Tuesday, January 31, 2012 11:50:42 AM

Dear Mr. and Mrs. Wheaton,

Yes, I am aware of your complaint and I am the person who forwarded your complaint to Linda St. Claire, who is managing the project for the Planning Division, and Drew Lander, who is managing the project for Public Works. Please accept that the County is in the process of evaluating the situation and has not yet made a determination whether the existing state of site is compliant with the current use permit.

Please be aware that we are also working with the property owner's representatives concerning how drainage is being addressed in the currently pending application to add a fourth building. I believe Linda previously indicated to you on or around January 18th that we would be augmenting our originally published environmental document as a result of your concerns once we had completed our evaluation.

At present, timing on completing our review is now largely dependent upon the applicant's engineer providing the County with their responses, and any design changes they may request. I cannot say with certainty, but I would suspect that it will be a minimum of a month before we see a response from the project engineer. We will be sure to provide you their response as soon as we receive it.

Lastly, as you point out, the County is obligated to look at a project as a whole. Consequently, resolution of drainage concerns is presently being addressed in concert with the evaluation of the proposed additional development. In the event that the applicant withdraws the request for the fourth building, the County will complete our assessment of your claim within a compliance context of the presently entitled use permit.

Thank you – John

John McDowell
Deputy Planning Director
Napa County Conservation, Development and Planning Department
(707) 299-1354

From: Kelly Wheaton [mailto:a4est42@gmail.com]
Sent: Tuesday, January 31, 2012 8:24 AM
To: McDowell, John
Subject: Inglewood Village Use Permit Violation

John,

Re: Use Permit #990077-UO AND Use Permit Modification P11-00107

If you are not otherwise aware we were forced to file a Complaint on the Current Use Permit because Public Works and Planning insisted on separating the drainage from the Use Permit Modification, from the Drainage of the current Use Permit. As I previously stated this is a violation of CEQA Guidelines:

Section 402. Project Segmenting. [State CEQA Guidelines §15378] A project is defined as the "whole of an action" and may not be segmented nor divided into smaller parts in an attempt to avoid full consideration of its environmental impacts. **Thus, all of the separate permits and approvals for a particular project shall be considered together (along with the underlying activity itself) when determining the project's environmental effects.** The environmental review of a project must include an analysis of the environmental effects of future expansion or other action if: (a) such future expansion or other action is a reasonably foreseeable consequence of the initial project; and (b) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects. When actions are remote or speculative, so that meaningful information regarding their impacts is unavailable, they are not reasonably foreseeable parts of a particular project and therefore need not be considered at the same time.

I also want to make you aware that we have documents going back to 1992 regarding neighborhood efforts to get the County to recognize the drainage problems in this area. Consistently the County has dealt with each project separately and allowed the collection and diversion of drain waters into the drainage ditch on our property. We have been told it is not the County's problem but the County continues to approve projects that increase the water and flooding in our ditch in clear violation of the law. Now it seems the County wants to consider *each phase* of a development separately in order to avoid considering the cumulative aspects of an untenable drainage system which is not the natural drainage pattern of the area. Before the Inglewood Village Project was built there was no drainage on the parcel---water just puddled until it evaporated or percolated. The addition of 3.5 Acres of Drainage into a "Detention Basin" of *inadequate size* (such that it is full after 3.5" of rain). Again in violation of the original EIR recommendations.

It is also clear that the Negative Declaration for Inglewood Village is incorrect. We especially would like to call your attention to the discussion under Hydrology c-e:

"The Department of Public Works requested a hydrology study which concludes that the existing detention basin is adequate to store the increase in storm water runoff from the proposed development."

Please be advised that there is a huge difference between Retention and Detention. Below ground level retention is impossible (as the Engineer correctly deduced) in an area of high ground water. However, it also should have been deduced that a drainage system based on Detention would need to be sized with a much higher capacity and there would need to be a way for the water to be discharged safely. (There is no effective evaporation in a closed underground system.)

We asked after the approval of the Inglewood Village Use Permit to see copies of the drainage plan which we were told was a "retention system" with "metered flow." On Monday January 23 when we met with Nate Galambos and Drew Lander we asked to see those plans. Details were not available and we were advised that we would be notified when they were located. We emailed yesterday asking again when they might be made available. We are awaiting information from you and/or Public Works so that we can have it reviewed by our own Engineers/Hydrologists as we believe it is only prudent, given past performance.

We would appreciate knowing the time frames for handling our complaint and how we will be apprised of where we are in the process.

Sincerely,
Michael & Kelly Wheaton