



HILLARY GITELMAN
Director

January 28, 2008

Mr. Reverdy Johnson
P.O. Box 145
Pope Valley, CA 94567

RE: INGLEWOOD VILLAGE - COMMERCIAL CONDOMINIUMS
Inglewood Avenue/South St. Helena Highway
(APN 27-120-063)

Dear Mr. Johnson:

The Napa County Conservation, Development and Planning Department has reviewed your letter dated January 18, 2008, regarding converting the buildings in the Inglewood Village Business Park into commercial condominiums. The property is zoned Neighborhood Commercial (CN) and is within an Agricultural Resource General Plan Land Use Designation. As you mentioned in your letter, the property owner had been told in the past that processing a tentative map for commercial condominiums on property with an Agricultural General Plan designation that did not meet the minimum lot size of 40-acres was not possible. Since that time, staff has done additional research into the matter and concluded that processing a tentative map for commercial condominiums on CN zoned property with an Agricultural Resource General Plan Designation is allowed based on the following:

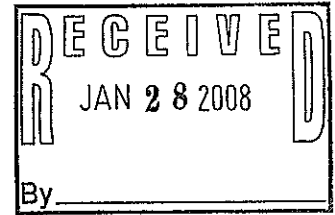
1. County General Plan Policy 5.4 allows for the continuation and limited expansion of existing commercial uses on commercially-zoned property within the agriculturally designated land use areas. Creation of commercial airspace condominiums can be accomplished without affecting the design, use and zoning conformity of the commercially-zoned property. It is therefore possible to subdivide commercially-zoned property that overlays an agricultural General Plan designation into commercial airspace condominiums when the subdivider can demonstrate that the resulting development is consistent with all applicable zoning and General Plan land use designations, policies and requirements.
2. Section 66427 of the Subdivision Map Act essentially obligates the County to treat commercial airspace condominiums no different than leased commercial space. Leasing of individual tenant spaces of commercially-zoned property within agricultural General Plan land use designated areas occurs throughout Napa County. It is possible for a subdivider to demonstrate that a commercial airspace condominium subdivision will function in essentially the same manner as leased commercial space, and therefore not materially affect an authorized or approved land use for the subject property.

Examples:

- A) Permitted - Subdivision of an allowed multi-tenant retail shopping center or office complex into commercial airspace condominiums for continued use as a multi-tenant retail shopping center.
- B) Not Permitted - Changing a 25-room hotel into a 25-unit condominium project.

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3. The County General Plan, as set forth by voter initiative (Measure J), prohibits the establishment of non-agricultural land uses on agriculturally designated property, and prohibits subdivision of agriculturally designated property that does not meet the minimum lot size requirements. Therefore, recognizing the allowance for commercial activities pursuant to General Plan Policy 5.4, commercial condominiums would only be possible on agriculturally-designated land where the land has a pre-existing, legally established commercial zoning. Condominium subdivision would not otherwise be possible on any other land designated as Agricultural Resource or Agriculture, Watershed and Open Space.
4. As set forth in Subdivision (f) of Section 1351 of the Civil Code, the division of airspace into commercial condominiums does not result in the creation of property below minimum lots sizes, because, by definition, condominiums are an "undivided interest in common in a portion of real property coupled with a separate interest in space called a unit." In other words, units do not have lot area and reside in a single fee-title parent parcel governed by a collectively held owner's association. It is therefore possible for a subdivider to demonstrate that a commercial condominium project would not result in a development on commercially-zoned property falling below minimum zoning standards.
5. Likewise, this determination applies solely to a property that is entirely commercially-zoned. Several commercial zoning districts within agricultural General Plan land use designations occupy only a portion of a larger parcel. Such properties typically contain agricultural and commercial zoning on a single legal lot. Creation of commercial condominiums on such a parcel would not likely be possible without triggering a vote of the citizens of Napa County pursuant to Measure J. General Plan Policy 5.4 (see item #1 above) only applies to the commercially-zoned portion of the property. Although it is possible under the Subdivision Map Act to designate the agricultural portion of the property as a remainder parcel, the resultant required "parent" parcel for the commercial condominiums would still result in the creation of a new parcel within an Agricultural General Plan Land Use Designation in violation of Measure J.
6. As stipulated by the County Subdivision Ordinance, a tentative parcel map and final map are required in order to subdivide property into commercial airspace condominiums.

Your letter also mentioned that a fourth building is authorized under the use permit. To date, the developer has not contacted the County about a possible fourth building, nor was a fourth building authorized by the original use permit and use permit modification. If the developer/property owner chooses to pursue an additional building, or any change to the site plan, the County would be obligated to process his request as a modification to the use permit with a hearing before the Planning Commission. There is no certainty about the possible outcome of such a request.

Should you have any questions or comments please contact Sean Trippi at (707) 299-1353 or email at strippi@co.napa.ca.us.

Sincerely,


Hillary Guelman
Director of Conservation, Development and Planning

cc: Patricia Tyrell, Deputy County Counsel
John Tuteur, County Assessor
Phil Smith