

Balcher, Wyntress

From: David Gilbreth <dbgilbreth@gmail.com>
Sent: Tuesday, September 20, 2016 4:26 AM
To: Balcher, Wyntress
Cc: Andrea Matteraso; David Moreland
Subject: Request for continuance of NAPA vault to October 19

Planning Commission Mtg.

SEP 21 2016

Agenda Item # 8A

Wyntress

As we discussed, would you please forward this email to the chairman and members of the Napa County planning commission:

Dear Chairman and Members of the Napa County Planning Commission

On behalf of my client, David Moreland, who owns adjacent property to the proposed Napa Vault development, I am requesting that this matter be continued to Wednesday, October 19, 2016 because I will not be available October 5 and it is likely there will be a resolution of the issues I have been discussing with the representatives.

I am now on my way out of the country and will not be returning until the evening of October 5. My plans and reservations for this trip were put together almost 6 months ago so I cannot change them.

Had this matter proceeded as scheduled earlier I would have attended if we had not resolved our issues. That's not possible now at this time.

Thank you for your consideration.

David B Gilbreth

Sent from my iPhone

September 20, 2016

Napa County Planning Commission
c/o John McDowell, Deputy Planning Director
1195 Third Street, Second Floor
Napa, CA 94559

Re: Napa Vault Use Permit Modification #P14-00296; Tentative Parcel Map #P15-00298; Response to July 18, 2016 Comment Letter from David Moreland of 1111 Soscol Ferry Self Storage, LLC to Napa County Planning Department (the "Comment Letter")

Dear Commissioners:

On behalf of our client, Storage Tech, LLC, owner of the Napa County real property that is the subject of the Use Permit Modification application and Tentative Parcel Map application referenced above, this letter is in response to the Comment Letter referenced above, particularly the comments related to the use of Storage Tech's property and a potential future connection to Napa Sanitation District.

Condominium Structure

The Comment Letter expresses concern regarding the proposed use of our client's property (the "Property"), including the division of the land "into 129 individual legal lots that are generally less than 0.03 acres". As outlined in the project materials and the draft Declaration of Covenants, Conditions and Restrictions" for the project (the "CC&Rs"), this project will not result in 130 separate and individual owned legal lots. This project is a condominium development that will be managed by an Owners' Association (the "Association"). The project plans call for 11 buildings housing approximately 130 units. The owners who purchase such units will only own the interior of the unit that they are purchasing (within the interior walls) together with a fractional interest in the Common Area that comprises the rest of the project. In other words, this project will not house 130 separate legal lots that are subject to the development plans of each individual owner. The Association will own and maintain the exterior components of the buildings and systems, as well as the common area of the project.

Water Usage

The Comment Letter also notes that "one of the conditions of approval is monitoring and reporting water usage" and asks "[w]ould this not be better managed if the property was brought into the water district"? This concern is addressed in the CC&Rs, which provide that the limited water facilities and systems that will serve the project will be managed by the Association. The project will only include approximately 7 restrooms and a small communal kitchen, and the applicant does not anticipate regular usage of such facilities. As a result, the project is functional under the proposed septic system and does not require

the additional capacity or oversight that would be involved if it joined the Napa Sanitation District. The Association will be required to monitor all water usage as part of its obligations, as well as maintaining and repairing all water equipment and systems.

Project Use

The Comment Letter suggests that the project does not constitute a ministorage project and will instead be used to support small business activity. However, the limitation on commercial use of the Property is addressed in the Conditions of Approval for the project, which specifically prohibits commercial automotive repair, commercial sales, or any industrial or manufacturing activities. These restrictions are further reiterated in the CC&Rs that we have drafted for Storage Tech, LLC. The CC&Rs prohibit retail and manufacturing uses, as well as commercial maintenance and repair use. The Project units cannot be used for residential use or uses that would be noxious or constitute a nuisance. Finally, all uses must comply with applicable laws and regulations, including the conditions of approval adopted by the County. The Association established pursuant to the CC&Rs will have the authority to monitor and enforce the terms and conditions of the CC&Rs.

NSD

The Comment Letter makes numerous references to Napa Valley Sanitation and/or Napa Sanitation District ("NSD"), suggesting that the project Developer should be compelled to join the Napa Sanitation District and/or share in the costs of related infrastructure. As we have reiterated in our discussions with Mr. Moreland's representatives, our client is willing and prepared to engage in discussions with LAFCO, NSD and neighboring property owners regarding the annexation of the project into NSD. Contrary to the concerns expressed in the Comment Letter, decisions related to NSD would not be subject to the approval of all or even a majority of the owners of the storage units within the project. Such decision would be handled by the Association and its Board of Directors, which would be tasked with reviewing any proposals to determine the financial and logistical feasibility of connecting to NSD. To emphasize this point, we have included the following provision in the CC&Rs regarding NSD:

"5.1.4.2 NSD Service. As of the date of recordation of this Declaration, sanitary sewer service is not currently available at the Project from the Napa Sanitation District. In the event the Napa Sanitation District is willing to annex the Project Property into the Napa Sanitation District service area, the Association shall cooperate with the Napa Sanitation District and surrounding property owners to determine if such annexation, and the costs thereof, is within the best interests of the Project".

Given the unknown costs, timing and other factors involved with connecting to NSD and building out the necessary infrastructure, our client cannot enter into a binding commitment to join the NSD. However, our client's representatives have spoken to NSD staff at length regarding the procedure for joining NSD, which is initiated with an annexation application to LAFCO. Our client is more than willing to join other property owners in applying to LAFCO, which would then allow NSD to develop specific terms and

conditions of annexation, which could be used to prepare a cost analysis and determine any fair share cost allocations to the various property owners. At that time the Association's Board of Directors would be able to make an informed decision regarding NSD given the potential costs and benefits and the nature of the project.

We appreciate Mr. Moreland's desire to develop a comprehensive agreement with his neighbors to outline the specific process, time frame and costs that would be needed to join NSD. Unfortunately, that level of information is not available at this time nor will it be on October 19th, the date in which Mr. Moreland's representative has requested for the hearing to be continued. We request the hearing on this matter remain on the October 5th date with our agreement we will proceed with an annexation application to LAFCO .

Sincerely,

Holman, Teague Roche Anglin LLP



Cathy Roche

cc: Client
Beth Painter
Wyntress Balcher