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Agenda Date: 1/21/2009

Agenda Placement: 8A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Melissa Gray for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: LINDA STCLAIRE, PLANNER II - 707.299.1348
SUBJECT: Napa Valley Gateway Airspace Condominium Tentative Parcel Map No. P08-00531-TPM

RECOMMENDATION

CHARLES SLUTZKIN - NAPA VALLEY GATEWAY I, LP - NAPA VALLEY GATEWAY BUSINESS PARK TENTATIVE PARCEL MAP APPLICATION P08-00531-PM

CEQA Status: Categorically Exempt Section 15301 (Class 1(k) Existing Facilities - Subdivision of existing commercial or industrial buildings where no physical changes occur which are not otherwise exempt.)

Request: Approval of a tentative parcel map to create four commercial condominiums at the Napa Valley Gateway commercial office development. The proposal would convert four existing commercial buildings to airspace condominium units with the ground area of the property designated as common area. No new development or change of allowed uses is proposed as part of this application. The project is located on a 5.7 acre parcel located on the south west corner of the intersection of Gateway Road West and Devlin Road, and within an IP:AC (Industrial Park: Airport Compatibility Combination) overlay zoning district, APN: 057-200-012; 477 Devlin Road and 211, 215 and 221 Gateway Road West, Napa, Calif., 94558.

Staff Recommendation: Find the project categorically exempt from CEQA and approve the tentative parcel map as conditioned.

Staff Contact: Linda St. Claire, 299.1348

EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission find the project Categorical Exempt from CEQA based on based on finding 1 of Exhibit A.
2. That the Planning Commission approve Tentative Parcel Map P08-00531-PM based on findings 2 - 8 of Exhibit A and subject to the recommended conditions of approval (Exhibit B).

Discussion:

The applicant requests Planning Commission approval of a Tentative Parcel Map to allow the creation of one airspace condominium within each of four existing commercial buildings located within the County-approved Napa Gateway Business Park. Each condominium owner will be a member of an owners association and will be expected to meet all obligations related to maintenance of the common area, including landscaping, parking, and utilities. State law obligates the County to treat single lot airspace condominium subdivisions of the type proposed here very much as we would treat leased commercial space. Because no division of lot area is proposed and the condominiumization of the buildings would involve no changes to the structures or the approved uses, the proposed parcel map is consistent with the General Plan and Zoning Code. Planning staff recommends approval.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT**ENVIRONMENTAL DETERMINATION:**

Categorically Exempt CEQA Guidelines Section 15301 (Class 1(k)- Existing Facilities. Subdivision of existing commercial or industrial buildings where no physical changes occur which are not otherwise exempt.)

BACKGROUND AND DISCUSSION

Owner: Napa Valley Gateway I, LP

Applicant: Charles Slutzkin

Representative: Charles Slutzkin

Zoning: IP:AC (Industrial Park: Airport Compatibility Combination) overlay

General Plan Designation: Industrial Park

Filed: Sept. 9, 2008 **Determined Complete:** October 10, 2008

Building Size: Four buildings (1, 2, 3, and 4) totaling 58,800 square feet of floor area.

All of the buildings are single-story structures, buildings 1 and 2 each total 16,200 square feet of floor area. Building 3 includes 14,400 square feet and building 4 includes 12,000 square feet of floor area. The existing ground area (lot area) of the 5.7 acre parcel is proposed to remain undivided and would become a common area maintained by a condominium owners association. The common area would include all 211 parking spaces, septic systems, landscaping, signage, and associated improvements. A Lot Line Adjustment in July, 2008, created one parcel which includes all four structures.

Adjacent Zoning / Land Use:

North

IP:AC (Industrial Park: Airport Compatibility Combination) - including a 2.5 acre parcel (Creekside Napa LLC)

South

IP:AC (Industrial Park: Airport Compatibility Combination) - a 2.89 acre parcel (Reichers) with six condominiumized businesses; a 2.1 acre parcel (White Barella) with two condominiumized businesses; an 18.72 acre vacant parcel (Napa Gateway Holdings); and a 33.85 acre vacant parcel (Napa 34 Holdings LLC).

East

IP:AC (Industrial Park: Airport Compatibility Combination) - a 1.61 acre parcel (Airport Realty Boulevard II LLC); and a 1.51 acre vacant parcel owned by the same.

West

IP:AC (Industrial Park: Airport Compatibility Combination) - a 2.17 acre parcel (Safe Harbor Partners LLC).

Property History & Evolution of this Application:

August 1990

The Planning Commission approves **use permit U-89-55** limited to the removal of the farmhouse located on APN #057-190-012 and is further limited to the establishment of the farmhouse as an office building on APN #057-060-041 (now known as 057-200-013) in accordance with the Conditions of Approval.

October 1990

The Planning Commission approves **use permit U-90-11**, allowing construction of four office/warehouse structures. 58,800 square feet in total on APN# 057-200-012 and 013, in accordance with the Conditions of Approval.

November 1990

The Napa County Zoning Administrator approves a **modification to use permit U-89-55** to permit a height of 37'9" for the relocated farmhouse, subject to Conditions of Approval.

May 1991

The Planning Commission approves **modification #1 to use permit U-90-11**, to permit certain additional uses as listed in the Conditions of Approval.

June 1991

The Napa County Zoning Administrator approves **modification #1 to use permit U-89-55 and modification #2 to use permit U-90-11**, to coordinate the landscaping requirements for the Greenwood House relocation and construction of new industrial/office buildings in accordance with the Conditions of Approval.

The Napa County Zoning Administrator approves **sign permit #SP-90-7** to extend the use of three temporary signs, relocating and altering the copy of one of the three in accordance with the drawings dated June 19, 1991.

January 1992

The Napa County Zoning Administrator approves **use permit modification 91276-MOD** to use permit U-90-11 to add a comprehensive sign program into the development plan for the project in accordance with the Conditions of Approval.

March 1993

The Planning Commission approves **tentative parcel map 92116-PM**, subject to compliance with the Conditions of Approval.

September 1994

The Napa County Zoning Administrator approves **use permit modification #94035-MOD** to use permit U-90-11 to allow installation of a \pm 650 sq.ft. mezzanine to the interior of the 16,200 sq.ft. industrial building and subject to the Conditions of Approval.

February 1999

The Napa County Zoning Administrator approves **use permit modification #98272-MOD** to add medical offices as a permitted use of the four buildings located at APN#s 057-200-012 and 013.

July 2008

The Napa County Public Works department finds the **Lot Line Adjustment application #W08-00299** in compliance with applicable provisions of Section 17.46.040(C) of the Napa County Subdivision Ordinance allowing for the transfer between 2 parcels: APNs 057-200-012 and 013 to result in 2 parcels of 5.7 and 1.17 acres in area. The proposed adjustment is a reconfiguration of the existing boundary lines.

Code Compliance History:

There are currently no code compliance issues on the parcels.

Discussion Points:Single Lot Parcel Maps for Airspace Condominium Purposes (Generally)

Section 66427 of the Subdivision Map Act essentially obligates the County to treat commercial airspace condominiums in the same way we would treat leased commercial space. Tenant spaces (be they commercial, industrial, or residential) exist throughout the county in any of a number of zoning districts and General Plan land use designations. In each case, our test for General Plan and Zoning Code compliance focuses on the nature of the use along with its structural and operational character. The County does not, as a general rule, concern itself with the terms of the leasehold. Further, because Civil Code Section 1351(f) defines a condominium as, "an undivided interest in common in a portion of real property coupled with a separate interest in space called a unit, the boundaries of which... need not be physically attached to land except by easements for access and, if necessary, support," condominiums as proposed here have been interpreted not to have physical lot area. Put another way, airspace condominiums subdivide only the space above the earth while preserving an "undivided interest in common" in the actual ground area of a property. Since no division of ground area is actually taking place, subdivisions of this sort do not result in new parcels below Zoning Code and General Plan minimum lot sizes.

Consistency with Standards:Zoning

As analyzed above, (please see "Discussion Points"), this project is consistent with IP:AC (Industrial Park: Airport Compatibility Combination) zoning district regulations. No new or altered uses are proposed and the requested airspace condominium units would not result in any physical change to the property.

Assessor's Office Requirements

Elvin Valverde, Chief Appraiser for the Napa County Assessor-Recorder's Office has reviewed this application and has no comment.

Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their October 27, 2008 memo

(attached).

Fire Department Requirements

County Fire Marshall Gabriella Avina has reviewed this project and determined that it, "does not warrant additions to fire protection conditions." Please see her October 30, 2008 memo (attached).

Public Works Department Requirements

The Public Works Department recommends approval with standard conditions. Please see Erich Kroll's October 21, 2008 comment and Annamaria Martinez's November 12, 2008 memo (attached).

Environmental Management Department Requirements

Senior Environmentalist Kim Winthrow has reviewed this application for the Department of Environmental Management and recommends approval with conditions related to sewerage easements and water service. Please see her memo of October 24, 2008 (attached).

Napa Sanitation District Requirements

Todd Herrick, in his memo dated October 27, 2008, (attached) has reviewed the application for Napa Sanitation District and recommends approval with CC&Rs.

A Will Serve letter (attached) was issued in October 1990, reviewed and updated for this application.

City of American Canyon

A Will Serve letter, dated December 17, 2008, (attached) was issued and signed by City of American Canyon Public Works Director, Charles J. Beck.

SUPPORTING DOCUMENTS

- A . Exhibit A Findings
- B . Exhibit B Proposed Conditions of Approval
- C . Environmental Management Comments
- D . Building Department Comments
- E . Fire Department Comments
- F . Public Works Comments
- G . Napa County Public Works Groundwater Memorandum
- H . Napa Sanitation Comments
- I . Application Submittal
- J . Napa Sanitation Will Serve Letter
- K . City of American Canyon Will Serve Letter
- L . Graphics

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray