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Agenda Date: 11/19/2008

Agenda Placement: 9C

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** Chris Cahill, Planner - 707.253.4847  
**SUBJECT:** Inglewood Village Airspace Condominium Tentative Parcel Map No. P08-00493-TPM

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### **RECOMMENDATION**

#### **PHILLIP SMITH/ INGLEWOOD BUSINESS PARTNERS, LLC / INGLEWOOD VILLAGE BUSINESS PARK - TENTATIVE PARCEL MAP APPLICATION #P08-00493-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 three commercial condominiums at the Inglewood Village commercial office development. The proposal would convert three 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 2.9 acre parcel located on the southeast side of Inglewood Avenue, adjacent to its intersection with the St. Helena Highway (CA-29), and within the CN (Commercial Neighborhood) zoning district. APN: 027-120-063. 1275 Inglewood Avenue, St. Helena, Calif., 94574.

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

**Staff Contact:** Chris Cahill, 253.4847 or ccahill@co.napa.ca.us

### **EXECUTIVE SUMMARY**

#### **Proposed Action:**

1. That the Planning Commission find the project Categorical Exempt from CEQA based on finding 1 of Exhibit A.
2. That the Planning Commission approve Tentative Parcel Map P08-00493-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 three existing commercial buildings located within the County-approved Inglewood Village 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:** Inglewood Business Partners, LLC

**Applicant:** Phillip Smith

**Representative (Engineer):** Bob Serrao, Michael W. Brooks & Associates, Surveyors

**Zoning:** CN (Commercial Neighborhood)

**General Plan Designation:** AR (Agricultural Resource)

**Filed:** August 5, 2008                      **Determined Complete:** September 18, 2008

**Building Size:** Three buildings (A, B, and C) totaling 23,444 square feet of floor area.

Buildings A and B are single-story structures; each including 4,030 square feet of floor area. Building C, a two-story structure, includes 15,384 square feet of floor area. The existing ground area (lot area) of the 2.9 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 126 parking spaces, the shared septic system, landscaping, signage, and associated improvements.

**Adjacent Zoning / Land Use:**North

RS:B-1/CL - Residential/Commercial - including a .2 acre residential parcel (Taylor), a second .2 acre residential parcel (Taylor), a .6 acre residential parcel (Edano), a .1 acre residential parcel (Edano), a .4 acre commercial parcel (St. Helena Wine Merchants), and Inglewood Avenue;

South

CL - Commercial - a 2 acre commercial parcel (Storage Pro of St. Helena);

East

CL/AP/AW - Commercial/Agriculture - a .5 acre commercial parcel (Flyers Beacon Gas Station), State Highway 29 and the Wine Train right-of-way, a 1.6 acre commercial parcel (V. Sattui Winery & Deli), and a 21.7 acre winery and vineyard parcel (V. Sattui Winery); and

West

AP - Residential - a 1 acre residential parcel (Wheaton).

**Property History & Evolution of this Application:**November 1975

The Planning Commission approves **use permit U-247576**, a limited term use permit allowing a retail nursery and garden supply center to operate on the property until November 1978.

November 1980

The Planning Commission approves **use permit U-497980**, renewing the retail nursery and garden supply approval and including a 1,500 square foot building and a 16 space parking area.

January 2001

The Planning Commission approves **use permit 99077-UP**, allowing a nursery/garden center along with the establishment of a "commercial office complex for general business offices" within three new buildings. The approved office buildings include a 3,575 square foot single-story structure, a 4,030 square foot single-story structure, and a 15,384 square foot two-story structure.

February 2001

The Board of Supervisors approves **zoning ordinance text amendment 00249-ORD** to allow garden centers and professional offices within the CN zoning district and **rezoning request 00255-RZG** to rezone the subject parcel from CL to CN.

December 2004

The Planning Commission approves **use permit modification P04-00428**, deleting the 3,575 sq. ft. garden center building and one-acre outdoor nursery and replacing it with a 4,030 sq. ft. single-story office building (Building A) and vineyard. Building B, a 4,030 sq. ft. one-story office building, and Building C, a 15,384 sq. ft. two-story office building, were unchanged.

January 2008

The Planning Director makes a formal written determination that "processing a tentative map for commercial condominiums on CN zoned property with an Agricultural Resource General Plan land use designation" is allowed and can be found consistent with the General Plan and Measure J.

**Code Compliance History:**

According to code enforcement staff, in the distant past there may have been some illegal auto repair taking place on this property. However, that activity ceased many years ago and we are currently unaware of any code compliance issues on the parcel.

**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.

In an attempt to clarify this, admittedly, confusing area at the intersection of State law and local land use controls, we provide the Commission with a few examples:

**Compliance with Land Use Restrictions**

*Permitted* - Subdivision of an approved multi-tenant office complex into commercial airspace condominiums for continued use as a multi-tenant office complex.

*Not Permitted* - Subdivision of a legal single family residence to create 2 individual residential units within the AW zoning district.

**Compliance with Lot Area Minimums**

*Permitted* - Subdivision of a retail shopping complex to create tenant-owned spaces where the uses conform to an approved use permit and all of the land area remains as a single parcel controlled by a tenant association.

*Not Permitted* - Condominiumization of a vineyard to create separate 1 acre plots within the AP (40 acre minimum lot size) zoning district.

The General Plan and Measure J

General Plan Agricultural Preservation and Land Use Policy AG/LU-45 allows for the continuation, and limited expansion, of existing commercial uses that are located on commercially-zoned property despite the fact that the underlying General Plan land use designation may be agricultural. Additionally, General Plan Agricultural Preservation and Land Use Policy AG/LU-103 states that, "all land zoned for commercial uses in the South St. Helena area... shall be allowed to develop in conformance with that commercial zoning as if it were designated (for commercial uses) on the Land Use Map." The Inglewood Village property is subject to each of the above policies, as it is within both the CN zoning district and the AR General Plan land use designation, and is located in the South St. Helena area. The tentative parcel map proposed by the applicant would create airspace condominiums which would not in any way effect the design, use, structural development, or zoning conformity of the underlying commercially-zoned parcel. The property was approved for commercial uses via use permit 99077-UP and use

permit modification P04-00428, those uses comply with the property's CN zoning and the County's General Plan, and nothing in this application would alter that.

Recognizing the allowance for commercial activities created by General Plan policies AG/LU-45 and AG/LU-103, commercial condominiums would only be possible on agriculturally-designated land where that land has a pre-existing, legally established commercial zoning designation. Condominium subdivision of the type proposed here would not be possible on any other land designated as Agricultural Resource or Agriculture, Watershed, and Open Space on the General Plan Land Use Map. We would also point out that this analysis applies solely to properties which are entirely commercially-zoned. Where properties are split-zoned, containing agricultural and commercial zoning on a single legal lot, the creation of commercial condominiums would not likely be possible without a vote of the citizens of Napa County (as required by Measure J) because General Plan policies AG/LU-45 and AG/LU-103 only apply to the commercially-zoned portion of the property.

### **Consistency with Standards:**

#### Zoning

As analyzed above, (please see "Discussion Points"), this project is consistent with CN (Commercial Neighborhood) 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

Assistant County Fire Marshall Alicia Amaro has reviewed this project and determined that it, "does not warrant additions to fire protection conditions." Please see her September 17, 2008 memo (attached).

#### Public Works Department Requirements

The Public Works Department recommends approval with standard conditions. Please see Erich Kroll's November 7, 2008 comment and Annamaria Martinez's October 29, 2008 memo (attached).

#### Environmental Management Department Requirements

Assistant Director Christine Secheli 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 September 16, 2008.

### **SUPPORTING DOCUMENTS**

- A . Exhibit A - Proposed Findings
- B . Exhibit B - Scope and Conditions of Approval
- C . Director Gitelman's 1.28.08 Condominium Determination
- D . Environmental Management Comment Memo

- E . Fire Marshall Comment Memo
- F . Building Division Comments
- G . Public Works Comments
- H . Public Works Water Demand Comment Memo
- I . City of St. Helena Comment Letter
- J . Submitted Application Materials
- K . Supplemental Submitted Materials
- L . Original Use Permit Approval Letter & Conditions
- M . 2004 Use Permit Modification Approval Letter & Conditions
- N . 2004 Use Permit Modification Staff Report Packet
- O . Presentation Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell