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SEP 25 2019

Clerk of the Napa Superior Court
By: C. Brennan
Deputy

September 18, 2019

The Honorable Elia Ortiz
Presiding Judge
Superior Court of the State of California
County of Napa
825 Brown Street
Napa, CA 94559

Subject: City of Napa Response to the 2018-2019 Napa County Grand Jury Final Report entitled "Where's my Costco? A History of the Napa Pipe Project"

Dear Judge Ortiz:

The City of Napa has received and carefully reviewed the 2018-2019 Napa County Grand Jury Report entitled "Where's my Costco? A History of the Napa Pipe Project," dated June 28, 2019 (hereinafter "Grand Jury Report"). Pursuant to California Penal Code Sections 933 and 933.05, this letter documents the City's responses to each finding and recommendation in the Grand Jury Report (hereinafter "City Response"). The City Response was prepared by City staff, including the Community Development Director, and presented to the City Council for their consideration. At the public meeting on September 17, 2019, the City Council approved this City Response, and directed the City Manager to submit this City Response on behalf of the City Council.

Therefore, this City Response represents the required response to the Grand Jury Report from the City Council of the City of Napa.

General Responses

For clarity, the City Response only provides comments on matters under the control of the City of Napa. Thus, the City of Napa does not intend to make any representation regarding the operations of any of the other separate municipal agencies identified in the Grand Jury Report.

With regard to the 13-page report preceding the Findings and single Recommendation, the City of Napa recognizes the efforts put forth by the Grand Jury and understands the frustrations expressed in the report. The City of Napa takes exception to the many opinions expressed in the report about the City's involvement throughout the project evaluation process as a delay tactic. The City had legitimate land use policy and environmental concerns about the Napa Pipe project and as such, registered those comments through the normal course of the California Environmental Quality Act requirements and normal development review activities. Specifically, until a project alternative could be supported that addressed the City's concerns, the significant scope of the project required the City to register its ongoing concerns about impacts to traffic and transportation, water supply, and police/fire services.

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The City is pleased with the current progress of the project and intends to continue to support the Developer and the County to start construction in 2020 and deliver, most importantly, the affordable housing in 2021.

Grand Jury Report Finding 1 – *While the Napa County Board of Supervisors and County Staff generally have been in favor of the Napa Pipe development since 2007 due to its housing and affordable housing components, the Napa City Council and Staff were decidedly against it for many years from the time of its original proposal.*

City Response – The City of Napa partially disagrees with the finding.

It is important to understand the history of the "Napa Pipe Project" and how the project evolved from its original form in 2007 to the approved project. The original 2007 project proposed:

- 3,200 housing units in a mix of rental and for-sale homes. Components of the project included six to eight story residential buildings
- A residential population of nearly 6,500
- 790,000sf of commercial development including a 150-room hotel, 40,000sf of neighborhood retail and restaurant, and 550,000sf of office and R&D space.
- Recreational trails and parks.

To put the project into perspective, 3,200 housing units is 2.5 times the size of the Town of Yountville, 20% larger than the City of St. Helena and over half the size of the City of American Canyon. Development of this magnitude on a 150-acre site required construction techniques and densities not yet seen in the Napa Valley, all accessed largely by Kaiser Rd. It is true the City of Napa expressed significant policy and environmental concerns about the 2007 project. The scope of the proposed project presented significant potential impacts to land use policy since this was a site identified by the County as unsuitable for housing development, and significant environmental impacts to City facilities including water supply, traffic/transportation, police and fire services, parks, and utilities/infrastructure.

It is an overgeneralized statement to say "*...the Napa City Council and Staff were decidedly against it for many years from the time of its original proposal.*" More accurately, in 2007 the City Council endorsed the Napa Pipe City-County Study Group to evaluate Napa Pipe project alternatives. This was a collaborative group endorsed by both the County and the City to reach consensus on development alternatives at Napa Pipe. Subsequently over the next 6-years of Napa County project review, the City of Napa regularly communicated with the County of Napa noting concerns with the proposed development alternatives and requesting an ongoing collaborative approach to evaluating the project and creating a mutually supported project alternative.

Finally, in response to a Developer-initiated project modification, and following extensive negotiations between the City, County and Developer, in January 2014 the Final EIR was certified by the County Board of Supervisors based on a development plan supported by the City of Napa, County of Napa and Napa Pipe Developer that consisted of the following:

- 700-945 Housing Units
- 150 suite/225 bed continuing care retirement community
- 150 room hotel
- 154,000sf membership warehouse store with a gas-station
- 40,000sf of neighborhood serving retail and R&D space
- Trails and open space/parks

Although the Grand Jury Report does not go into any of the details that followed the 2014 Project Approval by the Board of Supervisors, it seems the record should be clear that a subsequent ballot measure to relocate the City Boundary to include Napa Pipe was approved by the voters in 2014. Furthermore, following the 2014 approval, the City, County and Developer continued to negotiate over primarily the water service agreement (reached in July 2015).

As noted by Napa County's response, the scope and complexity of the project required extensive review by all parties to ensure that the legitimate interests of the City, County, and Developer were all satisfied.

Grand Jury Report Finding 2 – *The opposition to the project by many in the City leadership caused much political infighting and led to years of delays in the development of the property.*

City Response – The City of Napa disagrees with the finding.

As noted in response to Finding 1, the City of Napa had multiple concerns with the earlier versions of the proposed project, including impacts related to traffic, City water service and groundwater, affordable housing, schools, flooding, site contamination, land use consistency and financial feasibility. The City of Napa regularly offered a collaborative approach to achieving a mutually supported development alternative. As such, through extended discussions, the parties involved were able to come to reasonable compromises and the Developer revised the project such that all of the parties could support the new plan.

Grand Jury Report Finding 3 – *The City and the County finally decided to work together on the project only after Costco had been introduced to the plan and a direct mail campaign showed how much County residents wanted the retailer.*

City Response – The City of Napa disagrees with this finding.

The original proposal included 3,200 residential units in seven-story buildings and intensive commercial development. After extensive community meetings and discussions between City and County officials, the Developer revised the project to include the proposed Costco. Although the addition of the Costco was an attractive feature for many in the community, the City of Napa did not support a project of this magnitude and importance solely based on the presence of one land use. There were a number of compelling reasons for the City to work cooperatively with the County and developer on Napa Pipe, including an expanded housing supply, redevelopment of an obsolete industrial site, and protecting agricultural land by utilizing non-agricultural land for development of the proposed range of uses.

Grand Jury Report Finding 4 – *The developer has made frequent and substantial changes to the project plan and phasing, which have caused numerous delays in obtaining City and County approvals.*

City Response – The City of Napa agrees with this finding.

Grand Jury Report Finding 5 – *The developer sought changes to the Napa Pipe plan that in 2018, led the City and the County to work quickly with the state legislature to seek legislation that would allow for Napa County to report RHNA credit in the current cycle for units built at Napa Pipe in areas already annexed to the City of Napa.*

City Response – The City of Napa agrees with this finding.

The City of Napa agrees with Finding 5; however, the City believes clarification is need to comments in the body of the report on Page 11 under "SUBSEQUENT DEVELOPMENTS" that support this finding. The second paragraph of the report states that the Developer's proposed

change to the approved land use plan to place housing within the City, versus the approved plan that would develop all of the housing within the County, resulted in a "major realization: swapping housing credits between the City and County was in fact NOT allowed under current state law." Factually, there was no "major realization" by the City regarding the limitations of State law. The limitations of State law were contemplated and addressed under the various complicated contractual relationships between the Developer, the County, and the City negotiated well in advance of the 2018 requested project modifications. Namely, the County would receive its credits for housing when the Developer constructed its housing projects in the unincorporated portions of the Project (west of the RR tracks). The land on the east side of the tracks was purposefully timed to be annexed to the City first as prescribed by the Development Agreement. This initial annexation phase was simply responding to the approved land use plan which contains no housing on the east side of the tracks, thus delaying annexation was unnecessary and protections for County desires to issue building permits were not needed.

However, when the Developer proposed (on its own initiative and for its own reasons) the major modification to the Project to propose housing be constructed in the portion of the project already annexed to the City, it was the Developer who had a "major realization" that the newly proposed Project was not allowed under the entitlements (the Development Agreement) that the Developer, the City and the County had processed for many years through complicated negotiations between all three parties. Thus, the Developer is required to substantially modify all previous approvals for the Project in order to achieve development of the revised land use plan and it is this new Developer-generated plan that creates the multijurisdictional complexities described later in this section of the report.

Grand Jury Report Finding 6 – *The cost of construction has increased substantially since the Napa Pipe development was initially proposed, which further complicates the financial ramifications of a project this size.*

City Response – The City of Napa agrees with this finding.

Grand Jury Report Finding 7 – *The current situation requiring the Developer to work with Two separate governmental entities for plan and design approval, as well as procurement of building permits, adds cost and complexity that have resulted in continued project delays.*

City Response – The City of Napa partially disagrees with this finding.

As noted in Finding 5, in response to the Developer-initiated project modifications, the City and County worked with State Senator Bill Dodd to initiate SB235, a bill that in part, would allow the County to earn credit for issuing affordable housing building permits on property annexed into the City of Napa. This legislation was pursued specifically to both provide the County the credit for the affordable housing units and allow the western portion of the Napa Pipe project area to be annexed earlier to the City than originally prescribed in the Development Agreement. This early annexation places the future infrastructure permits and building permits entirely under the jurisdiction of the City of Napa, thereby eliminating what would agreeably be a very complicated multijurisdictional process for development. It should be noted that the Developer's request to modify the approved plans and Development Agreement has required additional processing and project analysis with the City and County, not to mention the need to work with Senator Dodd and the State Legislative system to ensure the County is made whole if the project modifications are approved. Finally, Napa's elected officials and City have been actively and positively engaged in this effort to streamline the plan modification process.

Grand Jury Report Finding 8 – *Even if the City and County do everything in their power to enable the Developer to begin construction, it will still be up to the Developer to actually make the decision to do so.*

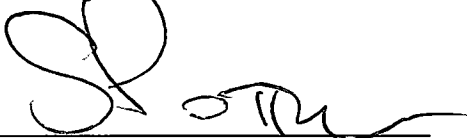
City Response – The City of Napa agrees with this finding.

Grand Jury Report Recommendation 1 – *Assuming SB 235 is signed into law in the Summer of 2019, the City and County of Napa should move as quickly as possible to annex the balance of the Napa Pipe Property into the City so that the Developer only has to deal with one entity for permitting, zoning, design and other related building issues. This annexation should take place no later than January 1, 2020.*

City Response – This recommendation has been not yet been implemented. As of June 7, 2019, the application for early annexation of the balance of the Napa Pipe property has been submitted and is ready for processing by Napa County LAFCO. This application was submitted in anticipation of SB235 being signed into law this summer. As of the date of this letter, SB235 had passed both houses and is awaiting the Governor's signature. It is the mutual goal of the City, the County and the Developer to complete annexation of all Napa Pipe property by the fall/winter of 2019. Furthermore, it is the mutual goal of the City of Napa and the Napa Pipe Developer to commence infrastructure installation by Spring/Summer of 2020 (i.e. construction of main roadways, water, sewer, stormdrain, utilities). The City of Napa and Developer have been diligently working on finalize the first phase infrastructure plans to accomplish this timeline goal.

The City of Napa thanks the Grand Jury for its service during the 2018-2019 term. If you or the Grand Jury Foreperson have any questions regarding the City's response, please let me know.

Respectfully Submitted,



Steve Potter, City Manager

cc: Kort van Bronkhorst, Foreperson, 2018-2019 Napa County Grand Jury
Michael Barrett, City Attorney
Vin Smith, Community Development Director
Erin Morris, Planning & Code Enforcement Manager