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Board of Supervisors

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Ryan Gregory
Chair

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⁴ SEP 23 2019

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

September 17, 2019

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

Mr. Kort van Bronkhorst
Foreperson
2018-19 Grand Jury
38 Lodestar Lane
Napa, CA 94558

Dear Judge Ortiz and Mr. van Bronkhorst:

Enclosed is the response to the Grand Jury's report "Where's My Costco? A History of the Napa Pipe Project."

The Board acknowledges the members of the 2018-2019 Grand Jury for the time they have devoted to the report.

Sincerely,

Ryan Gregory
Chair
Napa County

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NAPA COUNTY
RESPONSE TO THE GRAND JURY FINAL REPORT ON
WHERE'S MY COSTCO? A HISTORY OF THE NAPA PIPE PROJECT
September 17, 2019

Findings

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.

Response, Board of Supervisors: The Board of Supervisors disagrees partially with the finding, as it pertains to the County. The Board of Supervisors cannot respond on behalf of the City Council or their staff. Certainly, the County has been a strong proponent of the Napa Pipe plan since the Developer first submitted it. The project is an ambitious proposal to address the housing and commercial needs of the community. The 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.

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.

Response, Board of Supervisors: The Board of Supervisors disagrees wholly with the finding, as it pertains to the County. The Board of Supervisors cannot respond on behalf of the City Council or their staff. From the County perspective, earlier versions of the project had a number of unresolved issues, including impacts related to traffic, groundwater, affordable housing, schools, flooding, site contamination, and financial feasibility. 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.

Finding 3: The City and 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.

Response, Board of Supervisors: The Board of Supervisors disagrees partially with the finding, as it pertains to the County. The Board of Supervisors cannot respond on behalf of the City Council or their staff. 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, there were a number of compelling reasons for the City and County to work together on Napa Pipe, including an expanded housing supply, reduced regional vehicle trips, redevelopment of an obsolete industrial site, and protecting agricultural land by focusing development within the city.

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.

Response, Board of Supervisors: The Board of Supervisors agrees with the finding, as it pertains to the County. The Board of Supervisors cannot respond on behalf of the City Council or their staff. The Developer appropriately proposed changes in the Napa Pipe project, to better reflect the consumer demand and market realities of 2018, which have shifted since the City and County approved the plan in 2015. These changes have resulted in an improved and more feasible development, which increases the potential for future success.

Finding 5: The Developer sought changes to the Napa Pipe plan that in 2018, led the City and 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.

Response, Board of Supervisors: The Board of Supervisors agrees with the finding, as it pertains to the County. The Board of Supervisors cannot respond on behalf of the City Council or their staff. County staff anticipated that the approved Napa Pipe plan would largely build out by 2023, including the housing planned for Phase 2. This would have allowed the County to receive credit for home construction to satisfy a portion of its RHNA obligations for the current cycle of the Housing Element. As the years passed, the delay in implementing the project made it increasingly unlikely that the County would receive any RHNA credits under the project as approved.

With the proposed changes, the Developer will build homes sooner as a part of Phase 1, to bring much needed housing opportunities to the community. The additional work needed to process these changes through both the City and the County meant that the Developer could not build Phases 2 and 3 (both of which are currently in the unincorporated area) prior to their annexation to the City in 2023.

As a creative solution to this problem, the City, County, and Developer worked with State elected officials to draft legislation that would allow the County to receive RHNA credit for housing built, even if the city subsequently annexes the land. If approved by the Governor, this approach will provide an opportunity for the City of Napa to annex the remainder of the Napa Pipe property sooner, thereby streamlining the process for the Developer. By reducing the processing time, the Developer can expedite construction, while recognizing the County's long years of work in bringing this housing to realization by awarding it with commensurate RHNA credits.

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.

Response, Board of Supervisors: The Board of Supervisors agrees with the finding. The devastating fires of 2017 and 2018, as well as a continuing strong economy, have placed significant demands on the supply of both construction materials and labor. The cost of labor has been a particularly strong driver of recent increases in building costs, such that the Bay Area now has the second most expensive construction costs in the nation. Since real estate prices have also risen steeply, it can be difficult to ascertain the effect on the net profit potential on any individual development proposal. The cost of building is certainly a factor in the Napa Pipe project, but it is an issue that affects projects for businesses, homeowners, and local government throughout the county.

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.

Response, Board of Supervisors: The Board of Supervisors agrees with the finding. Every development project is subject to multiple approvals from a variety of government agencies. In addition to the City and County, the Developer may have to obtain permits from State Fish and Wildlife, Regional Water Quality Control Board, US Army Corps of Engineers, Bay Area Air Quality Management District, Napa Sanitation District, CalTrans, and other agencies. Each agency focuses appropriately on its area of responsibility. Balancing and integrating all of the concerns into a project that people want to buy at a price that provides a return for the investor is a daunting task. Facilitating annexation of the remaining property into the City will not resolve all of the potential conflicts that may arise among the many agencies involved, but it will help to streamline permitting and will significantly help the project to go forward.

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.

Response, Board of Supervisors: The Board of Supervisors agrees with the finding. The timing of new construction is the decision of the Developer. This is true not only for the Napa Pipe project, but for all private development. Local government can offer incentives and penalties, but a landowner cannot be compelled to develop their property.

Recommendations

The 2018-19 Napa County Grand Jury recommends that:

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.

Response, Board of Supervisors: This recommendation has not yet been implemented. The City and County of Napa must execute an agreement to implement SB 235. Staff from both jurisdictions are currently working on a draft agreement for consideration by the City Council and Board of Supervisors to address each jurisdiction's legitimate housing interests. Once the two parties execute the agreement to implement SB 235, LAFCO should expedite the annexation process to provide the Developer with every opportunity to begin construction in the spring of 2020.