

# ***MINUTES OF THE SOLANO COUNTY PLANNING COMMISSION***

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## **Meeting of March 21, 2019**

The regular meeting of the Solano County Planning Commission was held in the Solano County Administration Center, Board of Supervisors' Chambers (1<sup>st</sup> floor), 675 Texas Street, Fairfield, California.

PRESENT: Commissioners Rhoads-Poston, Cayler, Hollingsworth, Bauer, and Chairman Walker

EXCUSED: None

STAFF PRESENT: Mike Yankovich, Planning Program Manager; Eric Wilberg, Planner Associate; Jim Laughlin, Deputy County Counsel; Matt Tuggle, Public Works Engineering Manager, Jason Riley, Engineering Services Supervisor, and Kristine Sowards, Planning Commission Clerk

Chairman Walker called the meeting to order at 7:00 p.m. with a salute to the flag. Roll call was taken and a quorum was present.

### Approval of the Agenda

The agenda was approved with no additions or deletions.

### Approval of the Minutes

The minutes of the regular meeting of February 21, 2019 were approved as prepared.

### Items from the Public

There was no one from the public wishing to speak.

### Regular Calendar

#### Item No. 1

**PUBLIC HEARING** to consider Minor Subdivision Application No. MS-17-06 of Hubert and Aurelia Goudie et. al. to subdivide two existing parcels into three lots. The property is located at 4420 Peaceful Glen Road, 2.5 miles north of the City of Vacaville, within the Rural Residential and Exclusive Agriculture Zoning Districts; APN's 0105-060-390 and 40. This consideration is exempt from further environmental review under the General Rule Exemption of Section 15061(b)(3) of Title 14 of the California Code of Regulations because there is no possibility that the project may have a significant effect on the environment. (Project Planner: Eric Wilberg) **Staff Recommendation:** Approval

Eric Wilberg provided an overview of the written staff report. The report stated that the objective of the project is to subdivide two existing parcels into three lots. The intent is to isolate residential development on the northwest side of Sweeny Creek, generally the dividing line between the Rural Residential and the Agricultural zoned areas of the property. The property currently functions with two single family dwellings and associated residential accessory structures on the northwest side of the creek and agricultural production taking place on the southeast side. The subdivision would create a second rural residential lot on the

northwest side of the creek. Mr. Wilberg pointed out that a memo was provided to the commission which included several modifications to Condition Nos. 5, 11 and 12. He invited Jason Riley from the Public Works division to review those modifications.

Jason Riley explained that the conditions were revised in response to comments received from the Goudie family. He described the significance and intent of each provision.

Mr. Wilberg wrapped up his presentation by stating that staff recommends approval of the application with the conditions as amended.

Commissioner Bauer inquired as to the cost of the road improvements the applicant would be required to undertake. Mr. Riley stated the double-chip sealed roadway connection from Timm Road to Parcel 2 is estimated roughly between \$50 to \$75,000.

In response to Commissioner Hollingsworth, Mr. Riley explained that the county needs to provide access to the property for the current use taking place which is agriculture. He said there would need to be some level of road section within that easement to serve the property to provide adequate access.

Commissioner Hollingsworth referred to the site map that staff provided which highlighted the properties owned by the applicant. He was curious as to why the county is concerned how the property owner would travel around on their own land. Mr. Riley stated that the county cannot allow a parcel to subdivide without providing it with adequate access. He said in this case, without an access, the parcels in the subdivision would be landlocked.

Commissioner Hollingsworth said as he views it, the applicant is asking for residential use on the other side of the creek which does not seem to affect the parcel in question. He asked staff to clarify which property is being subdivided.

Mr. Yankovich pointed out the parcel which was highlighted in yellow. He indicated that that parcel is not being served by a road. In addition, there is anticipated travel for future subdivisions and therefore access must be provided, noting that this is the opportunity for the county to provide for that access.

Commissioner Hollingsworth asked why staff does not just require the access at the time the property owner decides to build on the property. Mr. Yankovich stated that there is only so much development that is going to take place in this area, and this is what the county would consider the time to be able to provide for those types of road improvements.

Commissioner Rhoads-Poston said she understands the idea of the county wanting to plan ahead, but why not make this improvement a part of the process at the time the property owner applies for a building permit. She said currently it appears that the road would be built to nowhere.

Mr. Wilberg explained that in the proposed subdivision, proposed Parcel 2 requires access. It is within the subdivision and needs access from Timm Road. Mr. Wilberg said it is staff's understanding that all the parcels are being farmed and at this point it does not appear access comes from Timm Road.

Commissioner Rhoads-Poston inquired as to why a double-chip sealed road is required for the access rather than just a dirt road for the time being.

Matt Tuggle explained that because this subdivision does not have adequate access for the southern parcel, a road must be built; otherwise the subdivision would occur with a parcel that would then not have adequate access. He said in looking at this from a deferred improvement standpoint, if a road is serving only a single parcel then it can be built at a driveway standard. He said the county is observing higher traffic rates on private roads because parcels now not only have a primary residence but will be allowed a secondary residence without any conditional approval.

Mr. Tuggle commented that English Hills has an established fee to help go toward the maintenance of periphery and primary road systems that serve the general flow of traffic throughout the area, but not for individual developments and subdivisions. He said in staff's review they looked at the alternatives and what was approached as a middle ground was a private road. Staff is deferring the public road standard and public easement, even though the code is specific to the zoning of the property requiring a higher standard.

Commissioner Cayler commented that where she grew up in the Midwest the roads had culverts and such to allow for access, and she wanted to know if something like that is currently existing or will that have to be established from Timm Road onto the property.

Mr. Tuggle said the new east west easement to tie into Timm Road will be the actual connection to the county road and would have to have an encroachment which would likely include a culvert. He said unless the flow of drainage does not move in that direction then one would not be required.

Commissioner Cayler said she was referring more to something like a farm drive or lane that allows access into the field for farming purposes.

Mr. Tuggle stated that he was unclear if any kind of access fully travels east west. He said the issue staff has been dealing with is there is a dispute because apparently there is a southerly access being used that does not have a fully connected route of easements. It does not meet the adequate access requirement and staff has received comments from a southern property interest. Mr. Tuggle said he believed some type of road exists that is being used although it is not a legal access.

Commissioner Cayler commented that in effect what the county is doing is making that access legal. She said clearly the first pieces of property that would be of interest during a property sale are always those properties along the roadway. If there is no road it would then further landlock the property. Commissioner Cayler said she understands the need for an access road, and while what staff is proposing may be a little more than desirable by the applicant, it is less than what is required. She said the last thing anyone would want is for the Goudie family to have to come back in five or ten years because a road was not required, and then it is an even bigger problem to deal with.

Commissioner Hollingsworth said he did not understand the purpose of requiring this expensive road. He said as he sees it, existing today are Parcels 1 and 2 and the applicant is asking to subdivide to make a Parcel 3. He said if Parcel 3 is the affected parcel and it does not touch any of the other parcels, when built, the road will not touch Parcel 3.

Mr. Tuggle stated that there is currently an east west easement, but a road would not be able to be built within that easement because there is not enough width. The easement is also off site. He commented that there is a bit of a flag portion of Parcel 2 that leads up to Peaceful Glen Road, but with all its constraints it would be financially infeasible by any means to build

passage. Mr. Tuggle said Parcel 2 itself needs to have an easement created so the road that is the east west connector serves the three different parcels.

Since there were no further questions of staff, Chairman Walker opened the public hearing.

The applicant, Al Goudie, Peaceful Glen Road, Vacaville, appeared before the commission. He stated that he has spoken in the last two weeks with two different paving contractors both of which have said that the paving itself would be in excess of \$150,000, noting that that does not include any of the incidentals. Mr. Goudie referred to staff's area map which depicted a southerly portion of land highlighted in blue. He stated that they have agreed to provide approximately three acres of that land for county benefit for a dedicated public road to be used at the county's convenience. Mr. Goudie commented that the proposed road will take approximately four acres from his farming operation, along with an acre of land at the southeasterly corner of his property. Mr. Goudie commented that he was under the impression that the goal of Solano County was to preserve agricultural lands.

Mr. Goudie addressed the modified conditions of approval. He stated that other than the road and access improvements they would agree with the rest of the conditions as modified.

Robert A. Karn, Buena Vista Lane, Vacaville, stated that he is the neighbor with the southern property interest. He stated that he is a licensed civil engineer and performed the subdivision that created Buena Vista Lane. He explained that in the process of doing that they abandoned a roadway, through the proper channels, which is part of the disputed southern access. He stated that this has been reviewed by several people including the county surveyor and they conclude that Mr. Goudie does not have access from the south from Buena Vista Lane. He stated that Mr. Goudie is using this access to farm his property and therefore is trespassing.

Mr. Karn went on to note that he received an email from Mr. Goudie's representative dated October 4, 2018 indicating that they will not use Buena Vista Lane for farm access. He said as recently as Monday, March 18<sup>th</sup>, a fully loaded hay truck and trailer driven by Mr. Goudie's contract farmer drove down Buena Vista Lane to access Mr. Goudie's property. Mr. Karn reiterated that access to Mr. Goudie's piece of property, highlighted in yellow on the map, does not exist except by trespassing. He said the Goudie's family farming operation has damaged Buena Vista Lane by running fully loaded hay trucks. Mr. Karn stated that he spent \$180,000 to build the fully paved road and it is being destroyed by Mr. Goudie. He said he strongly recommends that the commission go through with requiring the easements as staff has recommended. He said it meets the county code and to do anything short of that does not meet the state mandated subdivision ordinance and continues to create damages to his property.

Both Commissioners Hollingsworth and Bauer asked for clarification on the route of Buena Vista Lane. Mr. Yankovich depicted the route by using the area map. He said currently there are differences among the surveyors about the existence of some of the easements, but even if some of those easements do exist, they are not wide enough to provide for the road. Mr. Yankovich said the new easement being proposed would provide access.

Matt Tuggle added to the discussion by explaining that the southern easement which traces down to Buena Vista Lane is a mix of easements. He said the series of easements are each described differently and there are varying disputes on their status. Some of the easements exist, some are 30 feet in width, some 20 feet wide. There is a portion of the easement which has been ruled does not exist by the acting county surveyor. Mr. Tuggle commented that in one title deed it is not in the deeded property that it needs to be in. He said this would create a hard disconnection.

Mr. Tuggle commented that another issue being disputed between the parties is whether that easement was extinguished by map. He noted that staff did not explore this issue because the easement does not meet adequate access. Even if it was extinguished, it is not wide enough to build a road of an adequate access to the south. Mr. Tuggle noted that there are a lot of questions remaining with regard to the southern access. Staff received a letter from Mr. Karn's surveyor concurring with the findings of the county surveyor. Mr. Tuggle stated that he believes the issue for staff is that a built access is needed, otherwise an easement is created which does not solve the issue on the southern approach, which is potentially significant.

Stanley J. Schram, retired county surveyor for Solano County, appeared before the commission. He stated that he has reviewed all of the documents, including the report by the current acting county surveyor. He stated that he fully concurs with her conclusions that there is no southerly access up to the property through a 30-foot wide easement that was created by a map in 1903. Mr. Schram explained that the easement would have been extinguished by the filing of the current map on the Buena Vista Lane subdivision by the provisions of the Subdivision Map Act of the State of California, Section 66455. Mr. Schram said he fully concurred with staff's analysis and the need for the road as proposed. He provided a reminder that the east west connector shown in yellow on the area map is part of a General Plan Initiative whereby there would be an east west connected road from Timm Road to English Hills Road, and one from Peaceful Glen Road to Cantelow Road.

Mr. Goudie reappeared before the commission. He stated that he leases land to an independent farmer named Bill Nelson (spelling not confirmed) who farms multiple pieces of property in the area. Mr. Goudie commented that he has suggested to Bill in the past to only travel through his property when conducting business. Mr. Goudie commented that he does not have control over someone who is an independent contractor.

Commissioner Bauer asked Mr. Goudie to depict on the map the access he uses to enter the parcel in question. Mr. Goudie pointed out a farm road which travels partially across the main field to the direct north with a slight north turn. He stated that they travel through the trees and then out to the front of the property. He said they have been using this access for the past 40 years.

Since there were no further speakers Chairman Walker closed the public hearing.

Commissioner Hollingsworth stated that he was not going to support the resolution. He said he does not understand why a \$200,000 road needs to be built to something that is not going to be used. He said if Mr. Goudie can travel from one property to another on the road he depicted, then that piece of property is not landlocked, even though it may not meet county standards. Mr. Hollingsworth commented when he was growing up he traveled on all types of rutted roads to farm property. He said the road proposed by staff did not make sense to him and that he would not support the recommended road improvements.

Commissioner Bauer stated that it seems when this matter was before the commission previously and the road issue was discussed, the cost of the road was \$40,000. She said now the property owner is looking at approximately \$200,000. She agreed with Commissioner Hollingsworth and stated that she would not support the project as proposed.

Chairman Walker said he believed this is all codified in the General Plan, along with the implementing ordinances and through the State Subdivision Map Act, which, when combined, would provide a precedent.

Mr. Yankovich agreed. He said those are sources that are used to address what is required with relation to access. The General Plan has an east west connector that eventually will connect Timm Road to English Hills Road. The commission would design it to the standards that are a part of the subdivision which follows the Subdivision Map Act, which is a state legislation, as well as the regulations and improvements that take place for road construction and technical standards.

Chairman Walker inquired if all the affected parcels are owned by the same individual or entity, if there is a mechanism to defer this kind of an improvement until perhaps a landlocked parcel changes hands.

Mr. Yankovich said state legislation indicates that landlocked parcels are not to be created. Otherwise the jurisdiction is obligated in the future to provide access. Jim Laughlin added that the county does not regulate the sale of property so there is no way to require a road be built upon sale.

Commissioner Cayler said she understands the Goudie family have no control over a tenant or someone else's tenant, but clearly it is bothering the Karn family that someone else's tenant is using their road. The fact that the tenant uses that road to gain access to the Goudie's property makes the Goudie family a part of that concern, whether they know it or not. Commissioner Cayler stated that she would support the application with the recommended road improvements even though she realizes it may be costly, but she believed it would be cheaper in the long run.

A motion was made by Commissioner Cayler and seconded by Commissioner Rhoads-Poston to approve Minor Subdivision Application No. MS-17-06 based on the findings and subject to the recommended conditions of approval as amended, contingent upon the effective rezoning by the Board of Supervisors. The motion passed 3-2 with Commissioners Hollingsworth and Bauer dissenting. (Resolution No. 4670)

#### **ANNOUNCEMENTS and REPORTS**

There were no comments or reports.

Since there was no further business, the meeting was **adjourned**.