



REPORT TO MAYOR AND COUNCIL

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: February 6, 2007

SUBJECT: CONFIRMATION OF A PUBLIC HEARING SET FOR FEBRUARY 27, 2007

The action recommended for the City Council is to confirm the setting of a public hearing for Tuesday, February 27, 2007. For that meeting, a report containing substantive discussion of the matter will be provided.

Jones Ranch – consideration of an application for a Preliminary Development Plan and certification of an Environmental Impact Report (EIR) for a new retail center the includes a 165,765 sq. ft. Lowe's Home Improvement store, a 176,000 sq. ft. Wal-Mart, a 3,220 sq. ft. In-N-Out Burger restaurant with a drive-thru, and and two additional sites for future retail on a 28.05-acre site at 1923-1985 and 2001 Arnold Industrial Way. The General Plan designation is Industrial Business Park; Zoning classification is PD (Planned District); APN's 159-090-013, -015, -024, -028, -030, -032, -034, and -036.

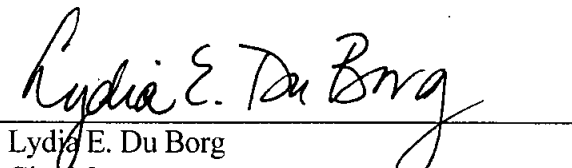
This matter was reviewed by the Planning Commission on January 17, 2007 and recommended (4-0-1, Jensen absent) to the City Council. A Letter of Appeal dated January 25, 2007 submitted by Gregg Davidson, representing No More on 4, appealing the Planning Commission approvals and all other related actions regarding Jones Ranch Shopping Center (Planning Commission Resolution Numbers 07-02PC and 07-03PC, January 17, 2007) will also be considered at this time.

Public Contact

This setting action provides advance notification that the City Council will hold the public hearings shown above on Tuesday, February 27, 2007. The Notice of Public Hearing will be published in the Contra Costa Times, mailed to affected parties and posted in the Civic Center posting cabinet as required.

Recommendation for Action

Confirm a public hearing set for Tuesday, February 27, 2007, at 6:30 p.m. in the City Council Chamber.


Lydia E. Du Borg
City Manager

NO MORE ON 4

P.O. Box 30
Concord, CA 94522

RECEIVED
CITY OF CONCORD

2007 JAN 25 PM 3: 31

CITY CLERKS OFFICE
ADMINISTRATIVE
SERVICE **Hand Delivery**

January 25, 2007

Ms. Mary Rae Lehman, City Clerk
City of Concord
1950 Parkside Drive
Concord, CA 94519

*Allyson
Cresit
Lydia
Mark D.
Cray J.
Jim F.
Deborah R.
Frank A.*

Re: Appeal to City Council of Planning Commission Approvals and All Other Related Actions Regarding Jones Ranch Shopping Center (Planning Commission Resolution Numbers 07-02PC and 07-03PC, Jan. 17, 2007).

Dear Ms. Lehman:

On behalf of No More on 4 and its members, including, but not limited to myself, and in my personal capacity, I hereby appeal the Planning Commission's approvals and other actions regarding the Jones Ranch Shopping Center on January 17, 2007.

Date of appeal: January 26, 2007.

Name of appellant: Gregg Davidson, and No More On 4 on behalf of its members including, but not limited to, Gregg Davidson.

Individual representing appellant: Mr. Davidson and the other members of No More on 4 are formally represented by Keith G. Wagner, Law Office of J. William Yeates, 3400 Cottage Way, Suite K, Sacramento, California, 95825. Phone (916) 609-5000, Facsimile (916) 609-5001.

Address to which notices shall be sent: Keith G. Wagner, Law Office of J. William Yeates, 3400 Cottage Way, Suite K, Sacramento, California, 95825.

Telephone number of representative: (916) 609-5000.

Name of applicant, if different from appellant: The Planning Commission's staff report for its January 17, 2007 actions identifies the applicant as Winton Jones Development, Attn: Erica Jones-Starkey, 1320 Mt. Diablo Blvd., Suite E, Walnut Creek, CA 94596.

Commission, board, officer, or department whose action or decision is being appealed: City of Concord Planning Commission.

Date of action or decision from which appeal is taken: January 17, 2007.

Action or decision being appealed: Planning Commission approval of Resolution Nos. 07-02PC and 07-03PC.

*Advised
MR Davidson
that the matter
was before the Council
on 1/17/07 anyway
No Appeal
papers
drawn.*

Grounds for appeal: No More On 4 appeals the Planning Commission's January 17, 2007 decision for all reasons presented by No More on 4, its members and counsel, at the Planning Commission's hearing on that date, including, but not limited to:

- The Planning Commission violated CEQA by issuing project approvals before any EIR was certified or CEQA findings were made for the project by any governmental entity.
- The Planning Commission violated the Planning and Zoning Law and local ordinances by issuing "subsequent" approvals for the Jones Ranch project before the City Council approve the overlying preliminary development plan upon which those "subsequent" approvals are based.
- The Planning Commission violated CEQA by issuing project approvals, where the EIR (which has not been certified yet) fails to meet CEQA's substantive and procedural analytical requirements, including, but not limited to, failure to disclose, analyze or mitigate the project's energy impacts.
- The Planning Commission violated the City's ordinance code by issuing "subsequent" approvals for a project that fails to meet the clear and mandatory parking space allocation requirements specified by the City's ordinance code.
- The Planning Commission violated the Planning and Zoning Law, by approving a discount retail store project without sufficient parking space allocation in an area designated for industrial/business park use by the City's General Plan.

In addition, No More on 4 further appeals the Planning and Commission's decisions approving resolution numbers 07-02PC and 07-03PC on the basis of any and all other objections to the project raised to the Planning Department or the Planning Commission by No More on 4's members or by any other members of the interested public, orally or in writing, prior to the Planning Commission's adoption of those resolutions on January 17, 2007, and which, as an integral and nonseverable part of the administrative record of proceedings upon which the City Council must make its own, independent determination as to whether to approve the Jones Ranch Shopping Center Project, are hereby incorporated word-for-word, in their entirety, as if set forth in full in this appeal letter; and for such further and additional reasons that may be presented in writing or otherwise by any and all persons or entities, including, but not limited to No More on 4, its members and counsel, prior to the City Council's decision of whether to grant this appeal, or to otherwise certify the Jones Ranch EIR or approve the Jones Ranch project.

Address and description of real property involved: According to the Planning Commission's staff report for its January 17, 2007 meeting, the real property involved is 1923-1985 and 2001 Arnold Industrial Way, APN's 159-090-013, -015, -024, -028, -030, -034, and -036.

In preparing this appeal letter, I also note that the City ordinance regarding appeals indicates that the appellant is requested to provide pre-addressed, stamped envelopes, with the City's return address, so that the City may send out notices regarding the appeal. The identities and addresses

Ms. Mary Rae Lehman

January 25, 2007

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of several of the categories of persons to whom such envelopes are to be addressed can only be known by City staff. Accordingly On Monday, January 22, 2007, I visited the City Clerk's office and requested the list of persons to whom such envelopes should be addressed. The City Clerk's staff refused to provide me with the requested information, informing me that the envelopes would not be required, in any event, because the matter is already scheduled to go before the City Council.

Having been 1) denied timely access to the information necessary to prepare the requested envelopes, and 2) affirmatively informed by City staff that such envelopes are not required, I am not including such envelopes at this time. If I have been misinformed, No More On 4 is willing to promptly provide the self-addressed envelopes, if the City will provide us with the required names and addresses.

Sincerely,

A handwritten signature in black ink, appearing to read "Gregg Davidson", written over a horizontal line.

Gregg Davidson

Member and Chair, No More On 4

cc: Craig Labadie, City Attorney
Keith G. Wagner, Law Office of J. William Yeates