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CF14-1651
ITEM 2, PLUM 12/16/14
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STATEMENT of J.H. McQUISTON on SMALL LOT SUBDIVISION of SINGLE-FAMILY PARCEL

Honorable Chairman and Members of the Committee:

1. A preliminary point:
This parcel lies in CD6. The Councilmember for CD6 is not a Member of this Committee, and per Brown Act as analyzed by the California Attorney General in **81 Opp Atty Gen 156 (1998)** the Councilmember may attend the hearing **but is not allowed to speak there.** The Councilmember may speak at the Full-Council meeting, where non-members will not be allowed to speak. **Nor may an aide for the Councilmember present material for the Councilmember at the Committee hearing.**

2. At a WLAAPC meeting previously the Planning Dept said, per the Map Act subdivisions for small-lot use do not concern anything but "drawing lines", i.e. the division- boundaries. Thus this hearing concerns only that limited subject. The Committee is **not judging any possible design** of projects to be built thereon.

My comment on this case is that building small-lot single-family residences is appropriate *only* **in parcels which are designated by the part of the General Plan alotted for single-family residences.**

Apparently this small-lot subdivision occurs within a single-family area, and thus **it is compatible with the Community Plan** and presumably the balance of the General Plan.

However, **converting the zone to RD** opens the parcel to development **other than single-family residences, which development would violate the Community Plan.**

Thus the subdivision **must be tagged so other-than single-family residences are prohibited,** unless prior to the subdivision the Community Plan and the balance of the General Plan is amended.

3. Although the foregoing seems "strict", we are a community of laws and we must abide by them. A mere tag is a method by which the law will be obeyed.

Otherwise, per *Lesher Communications v City of Walnut Creek,* 52 Cal 3d 531 (S Ct 1990), the "tail would wag the dog". **That is prohibited by the Legislature, the Government Code since 1971,** and *City of Los Angeles v State of California,* 138 Cal App 3d 526 (1982), for substantial reasons as set forth by them.

See also deVita v County of Napa, 9 Cal 4th 763 (1995), where at 772-73 the history of General Plan development was set-forth and its impact on acts of City Councils. **After 43 years it is time for City to obey State law.**

Please **tag the subdivision as permitting only single-family use.**

Respectfully submitted,

J. H. McQuiston

c: Interested parties