



PLACER COUNTY GRAND JURY

Property Zoning Dispute

A Citizen Complaint

Report Date: February 17, 2011

Property Zoning Dispute

Summary

The Grand Jury investigated a complaint submitted by a landowner who purchased an undeveloped piece of land zoned for residential development with the intent to develop and market it for, hopefully, a profit on his investment. Over a period of nearly 40 years since purchasing the property, the owner has submitted several formal and informal requests to the County for various rezoning actions; some of which were approved and others denied. The landowner now insists that the County's actions have deprived him of the ability to develop his property in the manner in which he wants to and has charged the County with fraud. After a thorough investigation of all available documents and by conducting interviews with parties having direct knowledge of the facts surrounding this issue, the Grand Jury is unable to substantiate wrongdoing by any participant in this dispute.

Background

A Placer County citizen purchased a 30-acre parcel of land that was zoned Residential Agricultural (RA) in North Auburn in 1974 with the intent of creating a residential and commercial development. In 1988, he and a co-owner (silent partner) submitted a request to the County to develop a portion of his purchase to create a 10-lot subdivision with a warehouse and office buildings. The request was approved but no action was ever taken by the owners to develop the property and the authority expired in 1992. Also in 1992, the owners submitted a letter to the County asking 20 acres to be zoned for commercial use in exchange for donating ten acres to create a public park.

On June 10, 1993, the County responded to a letter, allegedly written by the landowner dated June 7, 1993, asking for the status of his proposal to donate land for a park in exchange for rezoning. He was informed that the Planning Commission supported his request but the Board of Supervisors would be the approval authority. The landowner stated that he did not write the referenced letter and never received a response from the County concerning it (Appendix A).

During the time when these actions were occurring, the County's Planning Department was preparing an update to the Auburn/Bowman Community Plan which was subsequently approved by the Board of Supervisors. As a result of this approval, the landowner's parcel was rezoned as follows: 1.7 acres Residential Agricultural (RA), 7.8 acres Open Space (OS), and 21 acres Industrial (I). During the interview with the landowner, he was unaware of the 1.7 acre parcel being zoned RA. Although the County re-zoned a portion of the property from RA to OS, the landowner stated he never requested this OS designation, which he believes significantly devalued his property. The Grand Jury interviewed Placer County Assessors that stated property in this area zoned RA would be valued at least ten times greater than property zoned OS.

In 2002 and again in 2006, County documentation indicated the landowner contacted County officials to discuss options for vehicular access to his property, which was designated as right-turn only. A letter, dated March 31, 2007 from the Planning Department, explained in detail what options the landowner might explore. At the time this report was written, no formal request to exercise any option had been received by the County.

The landowner has become upset with the actions the County has taken regarding the zoning of the remaining parcels of his land. He has made allegations of wrongdoing by the County. He is particularly upset that a portion of his land was rezoned from RA to OS when he specifically offered to donate it to the County. Numerous meetings have been held with the landowner and various County officials to determine an acceptable solution. An agreement has yet to be reached and the landowner has filed a complaint with the Grand Jury.

Investigation Methods

The Grand Jury conducted Interviews with a representative of the Placer County Community Development Resource Agency (CDRA) who had a great depth of knowledge of the history of this issue as well as with the affected landowner. Transcripts of public hearings were studied. Available maps, documents, and correspondence regarding these issues were examined and discussed with the participants during interviews.

Facts

- In 1988, the landowner was granted authority to develop a 10-lot subdivision with a warehouse and office buildings. The landowner was granted two extensions of time to submit the necessary documents to develop his property but no action was ever taken by the landowner and the authority expired four years later.
- The County responded (Attachment A) to a letter, allegedly written by the landowner, in June 1993 requesting the status of his offer to donate ten acres for a park in exchange for rezoning his remaining 20 acres to Commercial.
- The County rezoned a portion of the landowner's property from RA to OS (Attachment A).
- In 2001, the landowner sold and gifted nearly one-half of his original purchase but failed to retain easement rights to his now land-locked 16 acres.
- In 2002 and again in 2006, the landowner contacted the County requesting options to create access to his property.

- In a letter dated March 31, 2007 the County presented various options regarding the development potential to the landowner.
- The landowner stated he submitted a letter (undated) to the County referencing a May, 2003 meeting in which he reiterated his offer to donate a portion of his land free and clear to the “Placer Legacy” in lieu of it being zoned OS (Appendix B). In addition, he wished to rezone the western portion of his property to a classification other than Industrial where it would be more attractive to a potential buyer.
- The landowner stated he is upset with the County for the rezoning actions it has taken that resulted in his inability to develop his property.

Findings

- F1. On Thursday, June 10, 1993 the County responded (Appendix A) to an alleged letter which was never located, dated Monday, June 7, 1993 from the landowner, requesting the status of his offer to donate 10 acres of his land to be used for a park in exchange for rezoning the remainder of his land to Industrial. The County is unable to produce a copy of the alleged letter. The landowner states that he did not write the cited letter nor did he receive the County’s response. The Grand Jury could not locate this alleged letter in the myriad of documents provided by the County and the landowner.
- F2. The County rezoned a portion of the landowner’s property from Residential Agricultural to Open Space, which effectively devalued his property. The Grand Jury interviewed Placer County Assessors that stated property in this area zoned Residential Agricultural would be valued at least ten times greater than property zoned Open Space.
- F3. After a thorough investigation of all available documents and by conducting interviews with parties having direct knowledge of the facts surrounding this issue, the Grand Jury is unable to substantiate any fraud by the County or any participant in this dispute.

Conclusion

The Grand Jury has found no intentional wrongdoing by any of the parties during its investigation of this issue. The history of this undeveloped land covers a period of nearly 40 years. The landowner states that the County has taken actions that have impeded his ability to develop this property in a way that would allow him to profit from his investment. The County has offered several solutions to the landowner and he has not followed through on any of these offerings.

If the landowner would follow up on any of his offers with a formal submission of appropriate documents to the County and the County gives them due consideration in light of current law and policies, this issue would be resolved.

Recommendation

None.

Request For Response

Michael Johnson, Director
Community Development Resource Agency
3091 County Center Drive, Ste. 280
Auburn, CA 95603

Due by May 17, 2011

Copies Sent To

Placer County Board of Supervisors
175 Fulweiler Avenue
Auburn, CA 95603

Appendix A: County Letter to the Landowner



PLACER COUNTY PLANNING DEPARTMENT

11414 B Avenue / Auburn, California 95603 / Telephone (916) 889-7470

June 10, 1993

[REDACTED]
P.O. Box [REDACTED]
Auburn, CA 95604

RE: A/BCP PROPERTY OWNER REQUEST

Dear Mr. [REDACTED]

This letter is in response to your June 7, 1993, letter asking for confirmation that your request for a land use change for APN [REDACTED] has been approved. Your land use change request consisted of extending the Industrial land use designation from its current location north to approximately 450' from Bell Road, and in exchange the land use designation on the remainder of the property (the northern 450'+/-) would be changed from Rural Residential to Open Space with the intent that this area would be available for park purposes.

As you are aware, staff supports your request. In addition, the Planning Commission also supports your request. However, the request will still require approval by the Board of Supervisors. We don't foresee any contention by the Board relative to this land use change.

It is anticipated that the Planning Commission will conclude its review of the Auburn/Bowman Community Plan at its July 22, 1993, hearing, and forward the Plan onto the Board of Supervisors for its review and approval. Unfortunately, it is difficult to estimate at this time when the Board will consider the Plan and how many hearings it will require to complete its review and approve the Plan.

If you have any questions, please contact me.

Sincerely,

[REDACTED]
[REDACTED]
Senior Planner

c: [REDACTED]

RECEIVED
JAN 08 2008
COUNTY COUNSEL

Appendix B: Landowner Letter to the County

PO Box
Auburn, CA 95604

[REDACTED]
Placer County Planning Department
11414 B Avenue
Auburn, CA 95603

RE: [REDACTED]

Dear [REDACTED]

When I met with you in your office last month, I requested that the industrial part (5.6 acres) of our 15.6 acre parcel be moved from the Eastern part of our parcel to the Western part of the parcel. The remaining 10 acres that is zoned open space would be donated free and clear to the Placer Legacy at no charge.

I was disappointed in receiving your letter of June 12, 2003, saying that you would not support such a move. The reason for making the request is that it is not economical to develop the industrial part of the parcel, due to the cost of installing the infrastructure (roadway, water, sewer, power etc.) to the parcel. All infrastructure is currently available on the Western part of the parcel.

You may recall that [REDACTED] wanted to locate their business on that parcel. I believe that you and Supervisor [REDACTED] met with [REDACTED] trying to assist with relocation to the parcel. They spent 18 months and a lot of money trying to make it work. They finally gave up as it was too costly to locate there. Several developers have looked at the parcel since and stated the same thing. One even remarked "I couldn't afford to develop the parcel even if you donated it to me".

I do not wish to retain the Industrial Zoning and would rather down zone to allow an office type facility or allow a church facility to be but there. Currently there are several churches interested in the parcel if the zoning is moved. We would only want a "right-in and right-out" as Supervisor [REDACTED] proposed for [REDACTED]

Regarding the buffer, the entire property is heavily wooded. If any additional

Appendix B: (continued)

buffer is needed to screen buildings that could be mitigated by simply planting more trees. The two churches currently on [REDACTED] are certainly not hidden and I am confident that we can do a better job than they did.

I have retained an engineer and legal counsel. First, the only alternative access would be to come in on [REDACTED]. It is a one-lane road that serves four parcels off of [REDACTED]. Public Works would require us to widen it to commercial standards, a costly endeavor. After polling the four parcels it was discovered they do not want the road widen, nor do they want any additional traffic on their road. Second, counsel says "you don't need an alternative access, the access that you have is perfectly legal and safe, even if it is improved, you have the same right to access as the [REDACTED] and [REDACTED] located East of your property on [REDACTED]". I purchased this property before [REDACTED] was installed by the county and have used this access extensively before the two (2) [REDACTED] were built. Third, counsel has also stated, "any conditions or restrictions that the county applies to your property that adversely affects you from economically developing your property and does not adversely impact your neighbors, constitutes a taking of your property and the county must compensate you for the taking."

Mr. [REDACTED] it is not my intention to be confrontational with the Placer County [REDACTED]. I am simply relaying information that I have obtained and am passing it on to you, in hopes you will do some follow up investigation into the situation at hand.

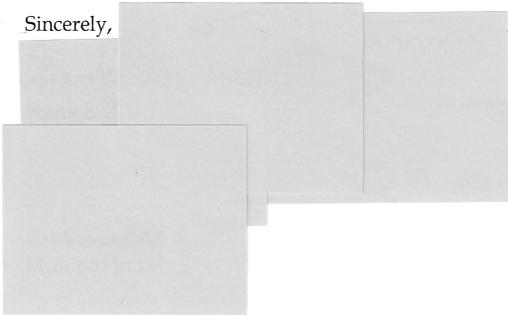
Enclosed is a copy of a letter that I sent to you over ten years ago, which offered the county one-third of our property for a park or whatever the county deemed appropriate for that property. I am still willing to honor the commitment.

Based on the information contained in this letter I would appreciate it if you would reconsider your position on this matter.

Appendix B: (continued)

I await a written response from you regarding this situation and hope that we can reach an amicable resolution that will benefit both sides.

Sincerely,

A large area of the document is redacted with several overlapping grey rectangular boxes, obscuring the signature and any text that might have followed.