

Barbara Kautz

From: Huntley, Robin@HCD <Robin.Huntley@hcd.ca.gov>
Sent: Wednesday, July 18, 2018 7:57 AM
To: Diane Langager; Barquist, Dave; Eric Phillips
Cc: Barbara Kautz
Subject: FW: Clarke Avenue Owner Letter
Attachments: Clark st. exp. of Interest LTR. (signed).pdf

Importance: High

Please see additional comments provided by David Meyer.



Robin Huntley

Housing Policy Manager, Housing Policy Division
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.263.7422



From: David Meyer [mailto:dcmeyer1@earthlink.net]
Sent: Tuesday, July 17, 2018 3:52 PM
To: Diane Langager <DLangager@encinitasca.gov>
Cc: Huntley, Robin@HCD <Robin.Huntley@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>; Encinitas City Council <council@encinitasca.gov>
Subject: Clarke Avenue Owner Letter
Importance: High

Diane,

In further discussion with the owners of the two Clarke Avenue parcels that some of their neighbors have made unfounded accusation regarding their understanding and intent to include their property in the HEU upzoning and that I am their authorized representative in this matter, they have agreed to clearly and definitively put any concerns on this matter to rest.

To that, attached please find an expression of interest letter signed by the subject parties. Please note that this document is both in English and Spanish, that was also verbally communicated both in English and Spanish by a native Spanish speaker to all parties. Additionally, one of the property owner's children, who is a native English and Spanish speaker attended this meeting, also communicated this document to all executing parties.

We sincerely hope that this document puts this unfortunate and groundless incident to rest with the City and HCD.

David Meyer
DCM Properties, Inc.

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Expression of Interest

As the owners of the subject property, this document is to reconfirm our interest in including our property in the Encinitas Housing Element Update that would place an Overlay (R-30 OL) Zoning Designation on our property, providing the option to develop our property at 25 to 30 housing units per acre. Our interest is based on the City adopting development standards that would not prevent developing at this density or placing other requirements on development making the use of this density economically unattractive.

Our authorized representative in this matter is Mr. David Meyer of DCM Properties, Inc., who previously submitted information to the City of our interest in having our property included in this process. Only the relevant portions of that agreement were submitted to the City to show our interest in the overlay zoning, as the rest of this document deals with a private business transaction and is not relevant to this matter.

Thank you.

Expresión de interés

Como propietarios de la propiedad en cuestión, este documento confirmará nuestro interés en incluir nuestra propiedad en la Actualización de Elemento de Vivienda de Encinitas que colocaría una Designación de Zonificación Overlay (R-30 OL) en nuestra propiedad, brindando la opción de desarrollar nuestra propiedad en 25 a 30 unidades de vivienda por acre. Nuestro interés se basa en que la Ciudad adopte estándares de desarrollo que no impidan el desarrollo a esta densidad u otros requisitos en el desarrollo, haciendo que el uso de esta densidad sea económicamente poco atractivo.

Nuestro representante autorizado en este asunto es el Sr. David Meyer de DCM Properties, Inc., quien anteriormente presentó información a la Ciudad de nuestro interés en que se incluya nuestra propiedad en este proceso. Solo las partes relevantes de ese acuerdo se enviaron a la Ciudad para mostrar nuestro interés en la zonificación de superposición, ya que el resto de este documento trata sobre una transacción comercial privada y no es relevante en este asunto.

Gracias.

APN: 256-171-13

Eleaza Beaz and Santa Ana Benavides Mancilla, and Fidel Garcia-Gomez

ELEAZAR BAEZ

Date: 7/6/18

Santana Benavides

Date: 7/6/18

FIDEL Garcia Gómez

Date: 7/6/18

APN: 256-171-14

Pablo Quiroz Sanchez and Juana Rodriguez

Pablo Quiroz

Date: 7/6/18

Juana Rodriguez

Date: 7/6/18

Barbara Kautz

From: Huntley, Robin@HCD <Robin.Huntley@hcd.ca.gov>
Sent: Monday, June 25, 2018 10:16 AM
To: Diane Langager; Barquist, Dave; Eric Phillips
Cc: Barquist, Dave
Subject: FW: Encinitas Housing Plan - Invalid Letter of Intent

Importance: High

See comments from Mr. Meyer below. HCD looks forward to the city's response.



Robin Huntley

Housing Policy Manager, Housing Policy Division
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.263.7422



From: David Meyer [mailto:dcmeyer1@earthlink.net]
Sent: Monday, June 25, 2018 9:45 AM
To: Huntley, Robin@HCD <Robin.Huntley@hcd.ca.gov>
Cc: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>; Diane Langager <DLangager@encinitasca.gov>
Subject: Re: Encinitas Housing Plan - Invalid Letter of Intent
Importance: High

Dear Ms. Huntley,

Please find in the below email to the City, dated June 20, 2018, our response to the spurious accusations made about DCM Properties, Inc. (DCM) and myself, with regards to our representation of the property owners of Site AD31 of the Encinitas Housing Element Update (HEU).

First let me state for the record that these accusations are entirely without merit, libelous and slanderous to DCM and myself, and discriminatory to the subject property owners as somehow being incapable of understanding that they are offering their property for upzoning as part of the HEU as they are Hispanic and not native English speakers or that DCM or myself are somehow taking advantage of these parties. All our transactions with these parties, for absolute clarity and openness, have been in English and Spanish, orally and in writing, using a native Spanish speaker. The property owners are fully aware of the subject offer and are insulted that parties unknown to them are questioning their ability to understand what they are offering.

The fact that public agencies are now also questioning this, based on unfounded accusations and innuendo by parties opposed to the inclusion of AD31 in the HEU is equally troubling to say the least. The information provided to the City and HCD with regards to this matter stands for itself. The redacted portions of the agreement are not relevant to the offer for upzoning and due to a confidentiality provision in the agreement, we are only permitted to release the relevant portion of the agreement to satisfy proof of interest in the upzoning and our authority to represent the owners of

AD31. That portion of the agreement is clear and unambiguous: "Property Owners understand that DCM has presented a potential opportunity to trade or rezone the subject Property and hereby authorize DCM to additionally pursue such opportunity on their behalf."

Additionally, as stated in the below email we sent to the City in response to these accusations, neither DCM, myself, or a related entity has any ownership in or rights to buy the subject properties. We are simply representing the subject owners of AD31 in this matter.

The reality is that the property owners are being repeatedly contacted by several neighbors, feel belittled and harassed by them, and would like this activity to cease. The City's and now HCD's request for further proof of interest without any foundation other than unfounded accusations are troubling and disappointing to say the least. The behavior by these neighbors, who clearly are motivated by their opposition to the upzoning of this site, is shameful and the treatment of these families who have lived and worked in Encinitas for two-decades is disgraceful.

Therefore, unless HCD or the City can present credible information directly from the subject property owners differing from the provision of interest provided, no further proof of interest is necessary. Anything to the contrary would clearly be discriminatory and damaging to the interests of the property owners in this matter.

Sincerely,

David Meyer, President
DCM Properties, Inc.

From: Earthlink <dcmeyer1@earthlink.net>
Date: Wednesday, June 20, 2018 at 4:13 PM
To: Encinitas City Council <council@encinitasca.gov>
Cc: Glenn Sabine <glennsabine@cox.net>, Diane Langager <DLangager@encinitasca.gov>
Subject: Unfortunate Incident

Dear Council,

While I understand that you have a very important series of decisions to make regarding the Housing Element Update this evening and must be getting a large volume of email on this topic, I felt it important to email you on a very unfortunate incident on one of the considered sites that was just brought to my attention.

As you are aware, our firm represents the site off of Clarke Avenue, consisting of four owners. Two of the parcels immediately off Clarke Avenue are owned by families of Hispanic descent. In recent days they have been approached by several neighbors and part of their interaction has been to tell these families that because they are not native English speakers, that they somehow do not understand what they have done by offering their properties for upzoning.

This action by their neighbors has insulted them and made them feel as if they were being demeaned for being Hispanic. This is to say the least a disturbing event, and not in keeping with Encinitas' tradition of being an open and welcoming community. These two families have lived, raised families, and worked in Encinitas for over 20-years, and deserve not to be demeaned and insulted this way.

For the record, all discussions and documents have been communicated with them orally and in writing in Spanish and English. Additionally, our firm has no ownership in or rights to buy these properties from the owners. We are simply representing them in this matter.

While I understand that emotions are running high on this issue, it is simply unacceptable behavior by these citizens and my client is hopeful that going forward that they will be treated with dignity and respect, as they have done so being good neighbors and members of our community for over two decades.

They are supportive of the Council's efforts to bring the city into compliance, and that their site can provide in redevelopment, more affordable housing to those who currently can't find affordable housing in our community. Both are small local business owners and understand firsthand how difficult it is for their employees to find local housing in our community.

Thank you for your time on this unfortunate matter.

David Meyer
DCM Properties, Inc.

From: Diane Langager <DLangager@encinitasca.gov>
Date: Thursday, June 21, 2018 at 3:42 PM
To: Earthlink <dcemeyer1@earthlink.net>
Subject: FW: Encinitas Housing Plan - Invalid Letter of Intent

FYI - The below email was submitted to HCD today along with the attachments. Per our conversation; please get formal letters of interest from all of the property owners for all of the subject parcels on the Meyer Proposal Site (AD31).

Thanks.



Diane S. Langager
Principal Planner
Development Services Department
505 South Vulcan Ave, Encinitas, CA 92024
(760) 633-2714 | dlangager@encinitasca.gov
www.encinitasca.gov

From: Huntley, Robin@HCD [<mailto:Robin.Huntley@hcd.ca.gov>]
Sent: Thursday, June 21, 2018 2:37 PM
To: Diane Langager; Barquist, Dave; Eric Phillips
Cc: Barbara Kautz
Subject: FW: Encinitas Housing Plan - Invalid Letter of Intent

Comments from Mr. McDaniel on Encinitas' housing element.

Please provide a response to HCD on this comment.



Robin Huntley
Housing Policy Manager, Housing Policy Division
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Phone: 916.263.7422



From: Sean McDaniel [mailto:smcdaniel@atlasground.com]

Sent: Thursday, June 21, 2018 2:16 PM

To: Huntley, Robin@HCD <Robin.Huntley@hcd.ca.gov>

Subject: Encinitas Housing Plan - Invalid Letter of Intent

Dear Robin

I am one of the many citizens of Encinitas that presented during the Public Hearing portion of the June 20th Encinitas City Council meeting and public hearing on the Encinitas Housing Element Update. My presentation to the council was an expression of opposition to the City's late addition of a parcel of land to the Housing Element Update known as the "Meyer Site", also identified as AD31 on the proposed site map.

My presentation presented compelling evidence that we, the neighbors of the AD31 site property owners, have gathered that brings in to question the validity of the interest of the property owners in a rezoning of their property. The Letter of Intent (LOI) brought forth by a Developer, David Meyer (DCM Properties), represents to the city that the property owners agreed to have DCM represent their interest in an opportunity for a "land trade or rezoning" of their property.

We have evidence that strongly suggests Meyer obtained property owner signature under false pretense, that he intentionally misrepresented these property owners to the City of Encinitas.

My intent in presenting this information to the City Council late last night was to induce an independent validation of the Letter of Intent presented by David Meyer. It is apparent that the content of the document was not meant for public consumption due to the fact that it was 90% redacted when it was included in Appendix C of the Housing Plan. Based on what I heard from City Council during deliberation and based on the results of their ultimate vote, it is clear that my presentation of this evidence was not taken seriously.

I realize these claims are bold. But they are serious and warrant investigation.

It would appear that site AD31 was included in the plan as a replacement for L-7 which was added to the plan on April 7 and Removed on April 19, in response to local resident opposition. The number of taxpayers who are for the inclusion of L-7 on the plan greatly outnumber the few hundred local residents who signed the petition in opposition. It is a city owned site, yet the council chooses to ignore the masses and HCD recommendation, and left L-7 off the plan. The City voted last night to ignore HCDs recommendation to consider it a viable site, and continues to bend to the will of the developers and their own special interests.

Site AD31 was offered as an option for the city council to consider via email from David Meyer, owner of DCM Properties on May 8th.

Specifically, DCM Properties apparently received signatures from all Site 19 property owners on a Letter of Intent, found in Appendix C of the Housing Plan, And it was this LOI that was used by the city as evidence of property owner interest in upzoning their property to R30.

DCM represents to the City in that letter that the property owners have agreed to allow DCM to pursue a property trade or rezone on their behalf.

The LOI is attached. A red flag that caused me to investigate further is the fact that over 90% of the document is redacted and page 2 is missing. Also it is the ONLY redacted document in the entire Housing Plan. It was poorly redacted and I was able to extract some meaningful text, which caused

me to dig even further. Of particular interest is the portion of the sentence on page two, under "Property Trade" that says "or Rezone the subject property".

Some questions come to mind. Why would this portion need to be redacted? Why is the document redacted to begin with? And What property does DCM have in mind for a land trade? It isn't clear.

We paid a visit to our neighbors, the property owners, to see

1. If they could help us understand the LOI and
2. See if they are informed about what is going with the Housing Element Update?

What we determined in speaking with property owners is the following:

1. It is clear they don't understand why people are suddenly interested in their property. One property owner was told that they are building a large apartment complex next door (710 and 712 Clark St.) and that selling their property will help the City build more affordable apartments. That their property will be more valuable now so they can extend this complex into their land. According to City Records, Shea Homes is building 13 Market Rate homes and one affordable home on that lot. It is peculiar to me that the owners have a different understanding.
2. The property owners we spoke to don't understand the public notice sent to the property owners because it is in English. The property owners we spoke to speak Spanish.
3. They don't understand what R30 means or R5, nor have ever heard of a property known as L-7.
4. And They know nothing about an opportunity for a "land trade" nor what that even means, despite the language in the LOI.
5. One of the property owners does not recall signing anything called an Letter of Intent. In fact stated, IN SPANISH, that they would not sign anything, unless it was in SPANISH. We showed the LOI to the property owner, and then the signature page with their signature on it (the signature page is its own page). They said they remember signing that for some people asking their permission to take some measurements for a possible future road to connect Clark to Union St. (it is currently blocked off). They were NOT presented a translated version of the Meyer LOI.

Further, the email sent by David Meyer to the City suggests DCM is working with the property owners to file a density bonus application. And that they have given DCM their permission to express interest in a land swap for L-7 OR a rezoning to 30 units per acre.

The property owners we spoke to do NOT know what a Density Bonus application is, and have never heard of a property known as L-7.

The LOI makes no reference to L-7 and, apparently, the rezoning aspect of that LOI was redacted for some unknown reason.

I don't think Confidentiality was the reason, since this letter was included in the plan and shared with the general public, in violation of their trust.

So, after 25 meetings over 18 months, site AD31 makes it's debut to the housing plan in a May 17th meeting of the Planning Commission and presented to City Council, officially, on May 23rd.

The first public hearing held on June 12th, where several planning commissioners agreed with the numerous public speakers that AD31 should be removed and not presented to HCD.

We have alerted the property owners, our neighbors, that the City thinks their interests are being represented by DCM Properties. That they should know that, if this is true, their confidentiality

appears to have been violated in a very public way. We have recommended they seek legal counsel, because there is a clear perception that they are vulnerable to bad faith, predatory dealings with developers.

In light of what we have discovered from the AD31 property owners, the perception of the residents who oppose the inclusion of site AD31 in the housing plan is that the property owners signed a document under false pretense (if they signed it at all) and that their interests are intentionally being misrepresented. These, if proven, are prosecutable crimes. Further, the evidence of this behavior was presented to the City, who is choosing to do nothing about it. In my view, the mere suggestion that a developer has invoked deceitful tactics in order to intentionally misrepresent the interests of property owners for potential personal gain should be sufficient to warrant at least an independent inquiry. Not only into this site, but the property owners of every non-vacant site being proposed. In fact, it was revealed during the city council meeting, that another contested site, AD32 (formerly Frog's), is encumbered by a long term lease, rendering the site not viable for inclusion. It takes a public hearing to discover this type of information after 18 months and myriad meetings.

I will leave you to consider this information to assess validity of documents presented by DCM as valid interest from the property owners of AD31. It certainly brings into question the level of diligence done by the city to determine the validity of property owner interest of all non-vacant sites included in the plan. We will certainly be working with the property owners, our neighbors, to obtain legal counsel and further investigate the apparent attempts to deceive not only the AD31 property owners, but also the City of Encinitas, and by extension, the State of California.

I am available by phone or email to discuss further. Thank you for your time and all of your hard work to this point to help our great city in their attempts to become compliant.

Sincerely,

Sean McDaniel
Encinitas Resident
736 Del Rio Ave
805-305-1060

Attached:

1. Email from David Meyer to City Council and DCM Letter of Intent with AD31 Property Owners (redacted)
2. Presentation to City Council

Sean McDaniel
CEO/Founder || (877) 392-8527 x 101



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