

RECEIVED

APPEAL FORM

FEB 24 2020

CITY OF SANTA ROSA
CITY CLERK'S OFFICE

Fee: \$529.00

Date Received: _____

City Clerk's Office/Rec'd by: Lena Mahis

Name of Appellant: Mark Parrish

TO THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL:

The above named appellant does hereby appeal to your Honorable Body the following:

The decision of the: (List Board/Commission/Dept.) Planning Commission

Decision date: February 13, 2020

Decision: (approval, denial, other) Approval of Burbank Avenue Subdivision Tentative Map

Name of Applicant/Owner/Developer: Schellinger Brothers

Type of application: (Rezoning, Tentative Map, etc.) Tentative Map (Burbank Ave Major Subdivision - 1400 Burbank Ave - MAJ 19-003 (PRJ19)

Street address of subject property: 1400, 1690, 1720, 1780 Burbank Avenue (Parcels: 125-331-003, 125-361-006, 125-361-007, 125-361-003)

The grounds upon which this appeal is filed are: (List all grounds relied upon in making this appeal. Attach additional sheets if more space is needed.)

1. A lack of fairness shown the Roseland/Burbank Avenue residents on February 13th by fast-tracking the tentative map decision prior to the appeal deadline of the February 5th Zoning Administrator Public Hearing, and a refusal to continue the Commission Planning Tentative Map decision.
2. See attached 6 pages titled: Feb. 13, 2020, Planning Commission Burbank Avenue Tentative Map Approval Appeal.

The specific action which the undersigned wants the City Council to take is: (Attach additional sheets if more space is needed.)

Reverse approval of the Burbank Ave Tentative Map by the Planning Commission, review of the appeal to reverse the approval of the special use permit, and hold a public meeting for full public involvement in the decision making of this appeal.

Appeals shall be submitted in writing.....on a City application form within 10 calendar days after the date of the decision. The time limit will extend to the following business day where the last of the specified number of days falls on a day that the City is not open for business.

Mark Parrish
Appellant's Signature

2/24/2020
Date

Mark Parrish
Applicant's Name (type or print)

1806 Burbank Ave, Santa Rosa, CA 95407
Address

707-696-3227
Daytime Phone Number

Home Phone Number

Appeals:

This appeal is in response to the February 13, 2020 planning commission meeting, where the City of Santa Rosa's representatives showed a clear disregard for the members of the Roseland community. First, the recommendation and preliminary decision were to continue this matter due to the upcoming appeal to be filed by members of the Roseland community in response to the February 5, 2020 Zoning Administrator public hearing because the deadline for filing the appeal had not run. Second, the city did not provide equal opportunity for the public to speak by limiting their time, while not limiting the time of the City or Schellinger Brothers and their associates. Specifically, Patty Cisco would not allow Mark Parrish additional time to provide pertinent information even when other members of the community were willing to donate their allotted time to Mr. Parrish so he could complete his statement. Finally, the city decided to make a decision on the map for the development despite their preliminary decision to continue the hearing. After the city attorney conducted several side meetings with the Schellinger Brothers and/or their representatives the city changed their decision to approve the map because there was a supposed deadline for grant money that the Developers would miss if the plan was not approved on February 13. The city cited it was in the prevailing interest of the developer to obtain the funding and thus approved the map with complete disregard to any interest of the members of the Roseland community. The entire hearing showed a complete disregard, lack of equal opportunity to voice opinions and concerns, and lack of consideration of the Roseland community while not holding the developer to the same standards.

The Roseland community also rejects the false logic of the city attorney because, by the time the appeal to the February 5th meeting is decided, the deadline to appeal for the February 13 planning commission meeting would have lapsed. This has caused undue hardship on the members of this community to have to pay for a subsequent appeal on an action that should not have occurred due to indications that an appeal would be filed by the community by the appeal deadline. Should the community's appeal to the February 5th hearing be rejected, or denied, the community would then be barred from bringing the appeal for the February 13th as that deadline would have passed. Again, the city makes its decision based on what is best for the developer rather than equally considering the effects on the community and local residents. This appeal was joined by more than a dozen members of the Roseland community who have provided checks to assist in filing this defensive, secondary appeal.

Further grievances and actionable items are listed below.

Affordable Housing Ruse:

Based on a public records search of Waterstone Residential, LLC (<https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=201910210352-26062464>), the publicly named entity by Schellinger Brothers, LP (<https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=200806500010-721436>) to purchase the apartment complex in the development to construct the low-income housing units, appears to be a direct affiliate of Schellinger Brothers as both entities have the same office address of 1270 Airport Blvd, Santa Rosa, CA 95403. The manager of Waterstone Residential, LLC is Peter Schellinger. It is misleading for Schellinger Brothers to claim they are selling the apartments to an affordable housing developer when in fact the Schellinger name is tied to both and they appear to be operating as one company. Given the public comment by Schellinger Brothers that looking at other locations on the site for the 3 story apartment complex would harm their profit margins because it is more opportune to a future buyer to have a site that can be easily visualized and accessed, shows profits come before neighborhood concerns and input. The city needs to do more to evaluate the relationship between Waterstone and Schellinger Brothers, and how the Schellingers are using a ruse of needing to approve this area immediately so that low-income apartments can be built by Waterstone is really just a fast-track way to increase Schellinger profits. This is especially concerning as it was only when Peter Schellinger played on the heartstrings of the Planning Committee Council Members by urging approval so that he could file the low-income housing grant, that the council no longer wanted to show support for local residents and their appeal (submitted 2/18/20) of the Zoning Administrator Public Hearing on February 5, 2020. It is clear that the council wants low-income housing at any cost, but more scrutiny is needed over the relationship of Waterstone Residential and Schellinger Brothers as to the public it appears both are one and the same, and it is only the Schellingers profiting from this construction endeavor under the ruse of fast-tracking low-income housing.

Misrepresentation of Public Access to Plans at the Zoning Administrator Public Hearing by City Planner Adam Ross:

In addressing the Planning Commission inquiries on February 13th, 2020 regarding public concerns over access to public materials surrounding the Burbank Avenue development and subdivision during the February 5th Zoning Administrator Public Hearing, City Planner Adam Ross said that he had the plans and other materials in the meeting for review if the public had asked him. This is a fallacy as when probed about having access to these materials during this meeting, Mr. Ross admitted that he had left them all in his office and did not retrieve them at any time during the meeting. Given that public access is key to understanding how the development impacts the neighborhood and that Mr. Ross was purposely misleading the commission members in his response, more scrutiny is needed in determining whether or not

the public did have the appropriate access. It is also troubling that a city official would publicly lie to a commission board in order to appear in compliance when this was not the case.

Developer Refusal to Work with the Community/Planning Commissioner Refusal to Hear Concerns of Residents:

At both the February 5th Zoning Administrator Public Hearing and the February 13th Planning Commission meeting, residents of Roseland, specifically McMinn and Burbank Avenues, expressed the need to preserve the unique rural heritage of Burbank Avenue and to request plan revisal of the apartment locations. One suggestion to keep the scenic characteristics was to move the apartment complex to the center of the Burbank Avenue project. The "center" of the project is not the area between the current apartment location and the duplexes. The "center" of the project is an area that is furthest away from all existing neighbor fence lines as per the document sent to each Planning Commissioner so they knew what was meant by center placement but did not care to explore the matter as they "want new housing."

Neither Schellinger Brothers or Santa Rosa Planning Committee Council Members wanted to hear neighborhood input and concerns. During the planning commission meeting, Patti Cisco let the developer not answer the question of moving the apartments to the center as he said it would be on a perimeter fence and two other neighbors would complain.

The apartment on the fence line precedent is not one that any resident of Santa Rosa wants to be set.

The other reasons the developer gave, placement was due to "phasing" and placement was due to wanting to sell are not answers at all but inconveniences for the developer with a complete disregard for the aesthetic of the neighborhood and its residents. This goes back to the appeal to review the relationship between Schellinger Brothers, LP and Waterstone Residential, LLC.

There is a clear disregard for community input and the concerns of local neighbors by both the developer and the city is trying to construct a development that does not impede the quality of life of current residents. According to Section 2.7 of the Roseland Area/Sebastopol Road Specific Plan "The Roseland area features a rich agricultural history and a diverse mix of land uses. Future private development and public improvements will:

- Preserve rural areas and natural open spaces as important community and environmental resources.
- Protect the integrity and character of existing residential neighborhoods.
- Respect adjacent residential neighborhoods with complementary urban form and urban design characteristics" (<https://srcity.org/DocumentCenter/View/14520/Roseland-Final-Specific-Plan?bidId=>)

This entire plan seeks community input and states a value to respecting current residents. The decisions made by the city planning commission and disregard by Schellinger Brothers to this plan shows that the city is falling short of the promises made in the Roseland Area/Sebastopol Road Specific Plan and that local Roseland residents' voices are being ignored. This is further supported by Section 2.8: Promote Government Transparency and Empower the Community to Participate in Local Decision Making of the plan. Residents are not being "involved by organizing and ensuring that the implementation of this Specific Plan is aligned with the vision" (<https://srcity.org/DocumentCenter/View/14520/Roseland-Final-Specific-Plan?bidId=>) of the plan and greater consideration needs to be made immediately if the city is to follow through with this promise.

This project runs counter to the area-specific plan of preserving both the uniqueness of Roseland, including its rural characteristics, avoiding displacement of current residents from development, and listening to the community of Roseland.

Heritage Trees Protection:

According to Santa Rosa City's Tree Ordinance, "A heritage tree is a tree or grove of trees designated by the Planning Commission as having a special significance requiring review before removal may be permitted" (<https://srcity.org/583/Tree-Removal-Preservation>). A heritage tree review has not been shared at any of the Planning Commission meetings despite public comment requesting further review and information. The site to be developed will remove heritage valley oaks, live oaks and redwoods. This not only destroys the local frontage landscape, part of the Burbank Avenue Specific Plan, but also takes away trees that are a historical part of Roseland.

To meet the requirements of the Burbank Avenue Specific Plan, which is a designated Scenic Road, the following needs to be followed as stated by the city:

Tree removal. The following requirements apply in addition to those in Municipal Code Chapter 17-24 (Trees).

1. Existing developed parcels within 50 feet of a scenic road. A Tree Removal Permit is required prior to the removal of any tree, including an exempt tree. Prior to the approval of a Tree Removal Permit, the applicant shall demonstrate that the removal of the tree will not have a negative impact on the scenic quality of the corridor, or that the tree is a hazard and/or unhealthy as determined by the Director. If the Director cannot determine whether the tree is a hazard or the health of the tree, the applicant shall hire an arborist to make the determination.
2. Tree removal for new development within 100 feet of a scenic road. Special care shall be taken to preserve the maximum number of trees possible, including exempt trees.

Prior to the approval of a project, the applicant shall demonstrate that each tree proposed for removal shall not have a negative impact on the scenic quality of the corridor, or that the tree is a hazard or unhealthy, as determined by a certified arborist.

There is insufficient evidence to support that the planning commission has researched the heritage trees that will be removed by this Burbank Avenue subdivision and additional review needs to be done before development can take place.

Endangered Species Disregard/Insufficient Study:

The Schellinger Brothers have an extensive history of attempting to skirt the environmental regulations for their residential projects. As recent as 2016, in an appellate court decision, the court cited in the history of the case that the Schellinger Brothers' constant changing of their plans and that the CEQA's decision was still pending was causing them undue delay in their project. The court rejected this argument and stated that the CEQA's jurisdiction did not occur outside of the statute of limitations due to the constant changing of the development plans. This was a clear attempt by the Schellinger Brothers to circumvent the environmental protections allotted by the CEQA in an attempt to profit from the destruction of the environment. A simple google search found this appellate decision as it was the third item on the first page. The appellate decision found no merit in the Schellinger Brother's arguments that the delays caused by the city and or members of the community were justified and must be processed. The following link will take you to the Court's decision:
<https://law.justia.com/cases/california/court-of-appeal/2016/a142201.html>.

It appears that the Schellinger Brothers are again attempting to skirt environmental protections again. Several years ago, during their last study of the endangered California Tiger Salamander, the neighbors observed Schellinger Brothers equipment tilling up the earth immediately after the study in the exact areas where the study was taking place. This appears to be in an attempt to reduce the number of Tiger Salamanders in the area for a subsequent count. Furthermore, the Schellinger Brothers are using the current housing crisis to again skirt the environmental requirements set out to protect this endangered species. As discussed above, there is currently no guarantee that this will even be affordable housing, and given their recent history of attempting to bypass environmental regulations should give the city more pause and it has to ensure they are not complicit in destroying an endangered species for the sake of so-called "progress."

After the February 5, 2020 Zoning Administrator meeting Peter Schellinger was overheard by a member of Burbank Avenue wherein he stated that "this is just a dog and pony show and I'm going to get my way." This indicates that he will do anything at all costs to complete this development despite the environmental implications of the project and without working with the community to amend project plans to conform with rural heritage characteristics. This seems to be true given the collusion the Schellingers have with members of the City as discussed below.

City Lawyer Impropriety/Conflict of Interest with Developer:

The City also appears to be complicit with the Schellinger Brothers in their attempt to ignore the community of Roseland, as well as environmental protection. At the most recent Planning Commission meeting regarding this project, the city attorney, Ashle Crocker, appeared to be providing legal advice to the Schellinger Brothers and their associates during the meeting. This appears to be a direct conflict of interest on the part of the city as they are to be a neutral party. Furthermore, Ms. Crocker was doing research during the meeting to circumvent the commission's initial preliminary decision to continue this hearing until the appeal for the February 5, 2020 Zoning Administrator public hearing was decided. By doing this the city's attorney showed her bias in favor of the Schellinger Brothers. This indicates a significant lack of separation between the city and the developer that there are signs of corruption and undue influence that bring into question the validity of any of the subsequent proceedings regarding this project. This appearance of impropriety has tainted this entire process in the views of the public and the Roseland community.

Lack of Roseland Representation:

What is clear from these planning meetings and discussion of projects in Roseland is that Roseland residents do not truly have a voice in what is happening to our community. Despite annexation in 2017, there has not been a representative appointed to any council from Roseland. This means the interests of Roseland are at the hands of city officials that do not represent the people of Roseland directly. How can these city officials truly act in the best interests of Roseland residents when these city officials are not beholden to Roseland residents? Why has it been approximately three years yet Roseland residents still have not been able to vote or appoint city representatives? With that in mind, as well as the other appeals made here, it is imperative that the city of Santa Rosa, and the Planning Committee, in particular, take careful note of how it is hearing the voices of Roseland residents.

Extended Time for Public Records Request Receipt:

Due to the lack of transparency on the part of the City, as mentioned in all of the previous sections, residents of Burbank Avenue and McMinn Avenue have requested public records regarding this project. The standard turnaround is 10 business days for the city to respond, which can also be extended by an additional 15 days should the documents requested take that much time. The residents of Burbank and McMinn Avenue request the hearing for this appeal and the Zoning administrator public hearing not be set until 10 business days after the documents are produced. The public documents were requested on February 21, 2020. Thus the appeals should not be heard prior to the week of March 30, 2020. Furthermore, all decisions pertaining to them should be continued until after the active appeals are heard.