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## In Lieu parking fee holiday benefits developer of The Station

By Sora O'Doherty

Although Orinda City Council Member Inga Miller vigorously objected, the council voted 4 to 1 on May 21 to allow the development known as "The Station" to proceed without paying the \$823,810 in lieu parking fees assessed at the time that the project was approved. The reason for the action was that, six months after the development was approved, the State of California adopted AB 2097, which eliminated any requirement for parking within a half mile from a major transportation hub, such as BART. Since 25A Orinda Way is within a half mile of the BART station, the project would have been exempt from in lieu parking fees had it been submitted later.

In lieu parking fees are intended to allow cities to make alternative provisions for parking when a development is permitted to build without the required number of parking spaces. The development at 25A Orinda Way, which is within one half mile of the Orinda BART station, would not require any parking, had it been proposed after the adoption of AB 2097. After the adoption of the state law, the developer could have simply abandoned the approved plans and resubmitted them to avoid the in lieu parking fees.

Orinda staff estimated that having to resubmit the project for entitlement approvals would likely have delayed construction of the project at least 4 to 6 months. Rather than subjecting the project to another costly and time-consuming process that would likely not result in a materially different project, simply to take advantage of the currently applicable AB 2097 parking provisions, and rather than creating a project-specific benefit, City staff recommended that the City Council reconsider and approve a resolution establishing a fee holiday for in-lieu fees applicable to qualifying projects within 1/2 mile of the BART station. As it happens, the only project that will be affected is The Station.

Miller viewed the proposed action as depriving the city of nearly a million dollars. She argued against the resolution, stating that it was not a given that the project would be approved if resubmitted. She recalled that during the lengthy time that the developer and the city worked on the approval of the project, the developer had been granted a number of exemptions to city requirements, such as the overall height of the building.

Miller also brought up the provision in the law that might allow the imposition of parking requirements if a detailed parking study showed a negative impact on other businesses in Orinda Village. Although she noted that the city had neither the funds nor the staff to complete such a study, she thought that perhaps local businesses would be interested in providing such a study.

Paul Ugenti, the developer of the project, spoke during the public comment period, explaining that if he were forced to resubmit his plans, the project would suffer by the delays caused, which might affect tenant agreements, financing arrangements, and contracts with contractors. He explained to the council that he has already spent very long periods of time obtaining the necessary permits, 3 months with Central San and 14 months with Contra Costa County for building permits. He concluded by saying that "we feel like we are going to deliver a phenomenal project for this community and be a value to it."

Two written comments on the proposed action were submitted to the council prior to the meeting. Ethan Elkind wrote in strong support of the fee waiver, asking the council to adopt it "so we can finally encourage some development in our downtown near BART."

Nick Waranoff wrote in opposition to the proposed action, calling the staff report "myopic" because it didn't account for the possibility of housing being built in the village without any required parking. He added that "The reality is that the owners of the Station will profit from customers and employees of its tenants free-loading on private, off-street parking nearby." He added, "This proposal is literally shifting money from the owners of the adjacent properties into the pockets of the developers of the Station."

25A Orinda Way has been vacant for about 25 years. The property was bought by Ugenti and a partner, and the approved plans include a large market hall promising artisanal food and crafts, recreational areas, and offices and co-working spaces above.

Reach the reporter at: [sora@lamorindaweekly.com](mailto:sora@lamorindaweekly.com)

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