

## Provinsalia hearing draws mostly opposition

Contributed by Elizabeth Larson  
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CLEARLAKE &ndash; Planning commissioners on Tuesday night held the first of two meetings scheduled this month on the environmental report, general plan amendment and rezone for a large-scale residential development proposed along Cache Creek.

Lake County Resort Partners Inc., headed by Mexican financier Jorge Rangel de Alba, proposes to build the Provinsalia project &ndash; consisting of 565 single family homes, 100 condominium units and a nine-hole golf course &ndash; on 292 acres along Cache Creek.

The company's representative, Dick Price of the Modesto-based Price Group, did not speak during the meeting, which ran just under two hours and 20 minutes. About 40 people attended, with approximately 18 of them giving testimony &ndash; some more than once.

Of those 18 people, 17 spoke against the project and one for it.

Commissioners Al Bernal, Gina Fortino-Dickson and Bill Perkins listened to the testimony and asked questions of those who commented. Commissioner Chair Carl Webb and Commissioner Fred Gaul were absent, so Bernal, as vice chair, directed the meeting.

During public comment, residents from around the county urged the commission not to forward to the Clearlake City Council a proposal to certify the environmental impact report (EIR). Likewise, they also asked the commission not to support the rezone and general plan amendments. Their reasons were many &ndash; from concerns about overdevelopment in a time of economic instability and rising foreclosures, to insufficient infrastructure, loss of open space and even legal concerns.

John Thomas of Kelseyville said overdevelopment hasn't increased tax base, but has resulted in many abandoned homes at communities throughout the state. Once the houses sell, the developers are gone, and they don't care about the issues, he said.

Thomas suggested the city follow the recommendations of its own Vision Task Force and upgrade existing real estate and resorts.

Clearlake resident Shirley Howland was extremely direct in her assessment. &ldquo;I think this Provinsalia thing is a very bad idea.&rdquo;

Howland cited insufficient infrastructure for sewer and water, large impacts on the Konocti Unified School District and the high foreclosure rate, and theorized that, with the uncertain economic outlook, Provinsalia could end up being an abandoned, ill-maintained housing project.

Ken Ling of Clearlake, a Lake County Citizens Coalition member, said he didn't want to see the city become liable for any of the development costs, and suggested the developer should do all of the necessary infrastructure upgrades before building, and not be allowed to do them piecemeal.

He said he had a discussion with Lake County Sanitation Administrator Mark Dellinger, who estimated a sewer pipeline to the project could cost millions of dollars.

Ling said they shouldn't change existing zoning to allow the project, and further suggested the commission consider the project without the golf course.

Dr. Debra Sally, a local veterinarian and Sierra Club member, said problems with the environmental impact report &ndash; particularly omission of comments, not properly addressing various aspects of the project and the possibility of incomplete infrastructure &ndash; could set the city up for legal action.

Another way the city could find itself in court is as a result of what Sally said was an inadequate discussion in the document of climate change. State law now requires lead agencies to make a good effort to quantify the carbon emissions of projects. &ldquo;The city could be sued by the state attorney general by failing to comply with these.&rdquo;

More needs to be done before environmental document can be termed final, said Sally. It also can't be approved without a finding of &ldquo;overriding public benefit,&rdquo; and she said she'd seen no proof of that.

Other concerns were loss of native grasslands, 100 acres of native oaks and fire danger to densely packed homes.

&ldquo;It seems to us that the commission should consider really getting the EIR finalized and making sure that it's certifiable before we even start talking about zoning changes and general plan amendments,&rdquo; she said.

Kelseyville resident Angie Siegel, who has extensively researched Provinsalia, urged against rezoning from resource protection to specific plan. &ldquo;There is a lot about the specific plan that violates the intent of resource protection.&rdquo;

That's because the specific plan zoning would offer less environmental protection, she said.

Resource protection is meant to create large acreage parcels and develop them as a complete project that's in harmony with the habitat, not sell the land off in lots as she said Price has stated the landowners plan to do.

&ldquo;The intent of this resource protection zoning is to prevent exactly what you will get if you change your zoning to specific plan,&rdquo; she said. &ldquo;You will be taking many steps backward.&rdquo;

Originally, an additional 157 acres south of Cache Creek and 67 acres on the project's east side were included in the Provinsalia plans, but were ruled unbuildable. Siegel had suggested putting the land into a conservation easement to balance out the impacts of development.

Instead, the land was sold to the Texas-based Starlite Ventures LLC. Under the California Environmental Quality Act (CEQA), lands that can be used for mitigation can't be sheltered, Siegel said. &ldquo;My point has been consistently

ignored over the last four years.”

Siegel suggested Starlite Ventures, whose incorporation papers showed it was formed just days before the June 2005 sale of the property, was set up exactly for the purpose of sheltering the land. She said she's asked the county's legal counsel to look at the matter.

Siegel said Price told her they sold off the land to help finance the project. “I don't know if they have enough money to really pull this project off.”

She added that the property's owners are behaving in a way that doesn't indicate they want to do the right thing, and she asked the city to financially vet the developers. “This is simply too massive for that particular area.”

Herb Gura, a business owner and president of the Konocti Unified School District Board of Trustees, said the number of students — about 500 — that the EIR estimates that Provinsalia will bring into local schools is “wishful thinking,” with many more students likely to result for the district.

Gura's comment letter on the EIR wasn't addressed in the document. “I don't want you to just assume that the schools will be OK.”

If Provinsalia is going to impact schools so greatly, the developer should have to provide mitigation, including possibly paying millions of dollars for a new school, Gura said.

Perkins asked Gura if the money per square foot — about \$2.70 — that the district gets on new construction would help address increased enrollment and drains on resources. “Not even close,” responded Gura.

Robey outlines county concerns

Some of the evening's most interesting testimony came from Board of Supervisors Chair Ed Robey, who said he was there in several capacities — as chair of the board and of Lake County Sanitation, as well as a “62-year old guy who used to play right here when I was a kid.”

“I want to see the city of Clearlake succeed, and I want to see it grow and prosper,” he said of his hometown.

However, he added, “The county has definite concerns and interests in a project like this, for several reasons.”

First was traffic impacts caused by Provinsalia residents who would be driving to work and elsewhere around the county.

Robey said he and county Community Development Director Rick Coel submitted comments on the project which the EIR didn't address.

He said he wished there had been some workshops or a joint meeting between city and county staff to review and analyze the EIR before it got to this point. The county hasn't even received the most recent EIR draft.

“We're all in this together,” he said, which is predicated mostly on the south county sewer system, which is run by Lake County Sanitation and to which Provinsalia proposes to connect.

“In my opinion, and I've read lots of EIRs, this EIR is not adequate,” he said.

Among other things, the EIR only looked at the treatment plant's sewer capacity in determining the system had the capacity to take on Provinsalia. But the plant treats the water and then sends it through a 28-inch diameter pipe to The Geysers steamfield for injection.

That could take capacity from existing property owners and cause a bottleneck. “That wasn't addressed at all,” said Robey.

The developer has proposed a Mello-Roos bond district, which are mostly used in large urban areas. As lots sell, infrastructure is built. But, if lots don't sell — as happened in Hidden Valley Lake at one point — the infrastructure isn't completed, he said. That could lead to fiscal liability for the city.

“Things have changed, and I hope that the city staff and the City Council and the Planning Commission all see the city differently than we used to look at it 20, 30 years ago,” he said. At that time the city was desperate for growth and development.

“It's not like that anymore,” he said. “Lake County is finding itself being one of the last pristine areas in the state. We don't have to accept any project that comes along anymore.”

Adding that “development is a privilege, not a right,” Robey said the city needs to make sure it has good quality projects by reputable developers. He also cautioned that residential developments tend to cost local jurisdictions money by the time police and fire services, and road maintenance are figured in.

“I agree with whoever it was that said the negatives outweigh the positives in this project,” he said. “You already have a lot of lots that have been created that are on water, sewer and streets.”

Robey passed along a comment from Supervisor Jeff Smith, who was at a chamber dinner and couldn't attend, who pointed out that the more new lots the city creates, the lesser value existing lots have.

He recommended they not certify the EIR or amend their general plan. Robey said the best way to address longterm development is through the general plan process, which the county just completed and which the city is preparing to do.

The city zoned the land resource protection for a reason, said Robey, who suggested that the city should pursue smart growth because it will be better for everyone in the long run.

Perkins asked why Robey felt the bonds wouldn't be adequate to cover the project.

City Administrator Dale Neiman clarified that the city doesn't have the staff for the Mello-Roos bond process, but they may have to bond for infrastructure improvements.

In that case, he would require 150 percent of the engineer's estimate. That way, if the developer goes bankrupt the city can pull the bonds and do the improvements. Neiman said he has had to do that three or four times in the past on developments in other cities.

According to the EIR, the city of Lakeport has many more subdivision lots going in than Clearlake, Perkins said, asking how that is getting by the county.

"I don't know if that's accurate," said Robey.

He questioned if Perkins was referring to the proposed Cristallago development. "Our staff wrote six pages of reasons why it's a stupid idea," he said of Cristallago. "I don't think it's ever going to happen."

Jesse Robertson, an associate transportation planner with the Caltrans office in Eureka, submitted a letter outlining the agency's traffic. "We did a pretty thorough analysis of the traffic impact study and we had a number of concerns with that," he told the commission.

Robertson's letter quotes the final EIR's statement that Provinsalia's induced growth and indirect impacts would be "speculative," to which Caltrans responded that such impacts should be "reasonably foreseeable" and that further consideration of growth potential and impacts are required.

The letter also stated that Caltrans has asked to analyze operation of Dam Road between Dam Road Extension and Highway 53 with and without a connection to 18th Avenue, but they haven't been answered. "The FEIR response to Caltrans' comments do not appear to make a good faith effort to address our concerns related to traffic impacts and queuing on State Route 53."

Based on proposed traffic mitigations at Dam Road and Highway 53, Caltrans isn't prepared to permit the project, Robertson told the commission.

"We see a lot of growth potential in Clearlake, and we don't think the mitigation that's being proposed is adequate to meet the immediate needs or longterm needs," he said.

Perkins said there are many existing city lots that, if developed, wouldn't put anything toward roads and infrastructure as he said Provinsalia would. "How else are we going to get that infrastructure without the project?"

Robertson said he realized the project has big implications. "It's not real clear to us what the city's plans are for circulation and transportation."

Caltrans is willing to work with the city on the plan, said Robertson, adding that the agency holds that the developer needs to pay its fair share. "It may be a long time that people have to live with those impacts."

Resources, eminent domain arise as concerns

Clearlake resident Barbara Christwitz said no one was talking about what money couldn't buy — rain.

"What if the well runs dry? No amount of money can buy what we may need to have to support this many more people," she said.

Quoting a statement Price made to Lake County News earlier this week about there being adequate water supply from Konocti County Water District, Christwitz said, "I don't know if I believe that."

Dam Road resident Susan Betz said she paid off her property on Tuesday, and was concerned about eminent domain issues and if she will ever be able to hook up to the sewer district, which she has been paying for for many years.

Her main concern was the proposed Provinsalia Avenue to enter the property, and whether or not it was going to run through her property. She and her neighbors also don't want a sound wall on their land.

She and her neighbors have spoken to legal counsel due to their perceived threat of eminent domain. "We will not be lying down without a fight," she said, adding that she bought the property to retire there. "Put your road someplace else."

Betz said she hasn't seen in the EIR how residents would get in and out of the property. "How can you present a project without knowing how you're going to get into it and get out of it?"

As the librarian at Burns Valley Elementary School, she noted the schools' budgets were stressed even without facing many new students.

Archaeologist Dr. John Parker said CEQA requires an EIR deal with all the impacts of a project, which would include infrastructure improvements.

"We know for sure that there are three significant archaeological sites within the boundaries of the project," said Parker. "There may be others but we know for sure that there are three."

The EIR doesn't specifically indicate what development impacts will occur on the sites, located on Dam Road, the golf course and in the condominium site. He said CEQA says those impacts have to be outlined, and as written the EIR is not in compliance. It also doesn't include meaningful mitigation alternatives.

Parker said they're still not sure how many archaeological sites are on the land. "There's no mechanism in the process for discovering those and dealing with the impacts should they show up during the project."

Bernal asked what "significant" means in terms of archaeological sites. Parker said Public Resources Code says a site is significant if it's the work of a master, is the product of a significant historical period, associated with someone important in the community or it's likely to provide important information to study a period of history.

If a site remains intact it can provide significant historical information, he said. Such sites, when found, have to be dealt with in the EIR process.

Undisturbed sites also can be built on or around with mitigations. Parker said he's seen a developer build on a large Indian village on the Central Coast because of the use of fill dirt.

Resident speaks for Provinsalia

The only community member to speak for Provinsalia was Clearlake resident Russell Cramer, who grew up in the city and said it needs some new vitality.

"I think this development is something that's good for the community," he said. "Yes, it's got problems."

He said the acreage proposed for Provinsalia was annexed to the city for the purpose of development.

Growth will happen, he said, and additional housing will be needed. Cramer said he wanted to see nice development go in. There is too much "hodgepodge" in other areas of the city for it to be developed.

Nancy Langdon, a teacher at Lower Lake Elementary School and a Dam Road resident, recalled Price showing up to a

land tour several years ago in a white stretch Hummer.

"Everywhere that you look at this project, it doesn't matter which piece that you look at, it's expensive and it doesn't make any sense," she said.

She added, "There are other places to go hit the little white ball around."

Langdon pointed to traffic and pedestrian problems, estimating her five-minute commute could climb to 40 minutes if Provinsalia is built. Bernal said Dam Road wouldn't be open to traffic for the project.

Betz, who emphasized she wasn't against the project, suggested that Cramer has a nice piece of property in the area and maybe he was willing to have Provinsalia Avenue go through it. She asked if Provinsalia Avenue has a definite route.

Neiman said the purpose of the meeting was to take comments and respond to them in writing by the next meeting. When Betz pressed him on it, Neiman said it's clearly addressed in the draft EIR that the access road would go through Dam Road and up the hill near Betz's home, and from there can go a number of different routes. It will be up to the developer to acquire the right-of-way.

"The EIR has addressed it in my view," Neiman said.

Gura said he was concerned that Gaul and Webb weren't there. "This is probably one of the most important decisions that this commission will have to make."

Perkins asked Gura if the school district would bring back specific estimates on the impact on schools. Fortino-Dickson asked about their growth projections if the project happens and if it isn't, and how their plans might change

Lower Lake resident Tom McFarling said he's concerned about leapfrog development, and also referred to Cristallago as another potential leapfrog scenario.

The creek also is an amenity which he's canoed down, and he expressed a concern that fertilizers and pesticides would run off of the golf course and into the creek. "Why does there have to be a golf course?"

PEG Channel Station Manager Allen Markowski said he was going to set up a Wiki space on the Provinsalia project for community members to comment on it and share their ideas and concerns.

The commission will reconvene and continue its discussion of the matter on Tuesday, Dec. 16, at City Hall. Neiman said that, if necessary, the commission can reopen the public hearing at that time to receive testimony on new information.

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