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What is Enabling 1,000 Homes On SDC?



Understanding the Legislation That Allows It
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If you are wondering how and why we find ourselves confronting the prospect of a thousand new homes on the edge of Glen Ellen, flooding the former campus of the Sonoma Developmental Center, if you wonder what exactly is *enabling* this ill-conceived invasion, read on.

We whose lives are shaped by the evolving future of Sonoma Valley have gone from promises by the state to work in accord with the county's ideas of what is in the best interests of the people living here, to an implemented legal structure that makes the whole process for disposition of the SDC land into one driven by the almighty dollar, including the building of a new town on Sonoma Mountain in the heart of the Valley of the Moon.

Now, no one living in the Valley has ever ascribed to or agreed with the development plan as proposed by designated developer Keith Rogal – totaling approximately 1,000 dwelling units, a 160-room hotel/resort, and 140,000 square feet for commercial development on the main campus at the edge of Sonoma Mountain.

So, how did we get to this monstrosity of a plan, which runs counter to anything the people of the Valley ever wanted, or could even have imagined?

The answer to that is provided by what's been labeled as “enabling legislation”, which is, in Bureaucratese, “Legislation which authorizes government ministers or bodies to create detailed rules to accomplish general principles set out in the legislation.” Another way of looking at enabling legislation is that it's the contrivance of rules and regulations, i.e., laws by a legislative body, that serve the interests of the legislators drafting those laws.

This is the case in the drafting of Section 14670.10.5. Government Code, Sonoma Developmental Center, which was passed into law in June of 2019 by the California Legislature through guidance from the state's Department of Developmental Services and, more definitively, with the approval of the Department of General Services (DGS). It is DGS, acting on behalf of the proscribed provisions of this Code in the sale and disposition of the Sonoma Developmental Center's land, that determines what private entity will be approved for redevelopment of the property.

So, let's see how this Government Code Section 14670 outlines the State's goals and permits a partnership between DGS and the County of Sonoma. Here are verbatim some of the key provisions in this Government Code for SDC:

(a) The Legislature finds and declares all of the following:

(3) In the October 2015 Plan for the closure of the Sonoma Developmental Center, *the State Department of Developmental Services (DSS) recognized the unique natural and historic resources of the property* and acknowledged that it was not the intent of the state to follow the traditional surplus property process.

(5) With the campus closed for developmental services, the property will be maintained by the Department of General Services and a process to determine the future of the site is needed.

(6) *California is experiencing an acute affordable housing crisis.* The cost of land significantly limits the development of affordable housing. It is the intent of the Legislature that priority be given to affordable housing in the disposition of the Sonoma Developmental Center state real property.

(c)(1) *The director (of DGS) may, upon those terms and conditions that the director deems to be in the best interest of the state, enter into agreement with the county for the county to develop a specific plan for the property and to manage the land use planning process integrated with a disposition process for the property, to be carried out by the department. The disposition may include the sale, lease, exchange, or other transfer of all or part of the property or property interest the director deems to be in the best interest of the state. The planning process shall facilitate the disposition of the property by amending the general plan of the county and any appropriate zoning ordinances, completing any environmental review, and addressing the economic feasibility of future development.*

(2) In carrying out the land use planning and disposition process pursuant to the agreement, the director and county shall provide for the expeditious planning of future land uses for the site and an opportunity for community input, with the

intent to reduce uncertainty, increase land values, expedite marketing, and maximize interested third-party potential purchasers.

(d) The director (DGS) may enter into any additional agreements, upon terms and conditions that the director determines to be in the best interests of the state, to provide for the management, operations, and maintenance of the property.

I've taken the liberty to add emphasis in italics to those key points in the cited provisions that I believe can be shown as examples of "enabling legislation," which have violated a fair and just application of guiding principles of law in the transaction of the sale and disposition of the SDC land.

Where it states in (c)(1) that the director of DGS may use their discretion to determine what is "in the best interest of the state," it in effect overrides any other contradictory possibility. Furthermore, it adds to this stipulation that there must be the proviso of "economic feasibility" attached to any development transactions. This would then preclude any potential public uses for the property solely in land use for public consumption, such as for recreational or public service purposes.

In addition to putting its thumb on the scale of what is required by the state in the disposition of the land for development, it demands economic viability, currently or in "future development" in the decision-making process, so as to ensure that land values increase, and that it draws the interest of third-party potential purchasers. These are all conditions established by the state and, in effect, tied the hands of potential bidders for the 189 acres of the SDC lower land section commonly referred to as the campus.

Furthermore, the proviso that providing affordable housing is a primary purpose, ostensibly because of an "affordable housing crisis," has been benignly disregarded by the selected developer, Keith Rogal & Grupe. In their pursuit of "the Builders Remedy," they initially proposed that only 13 percent of the housing proposed would be affordable (now increased to 20 percent), while at the same time they added another 300 or so units of market-rate housing to the original transaction, bringing the number close to one thousand dwelling units.

Together with innumerable commercial enterprises and a high-end hotel, the plan would, in aggregate, result in the total destruction of virtually all the many buildings currently on the property, including those of highly Historic District designation.

There you have what purports to be the rules of the game, as set forth by the state and in agreement with the county, as to the way in which the game was to be played, and whose interests override all participants. A direct result of all the wheeling and dealing that's been going on is a stalemate that has been brought about by two Sonoma Valley groups, which have made legal challenges to the previously adopted development plan. One can expect these court proceedings will continue for some time.

All that can be done at this point is to stay tuned to further developments (no pun intended) in this sorry saga of manipulation and machination.