



Stonegate challenged

Eco litigators sue city, developer over megaproject's approval

The week before Christmas, when many Chicoans waded through packed store aisles and drove down crowded streets, a little-known group filed a lawsuit in Butte County Superior Court that strikes at the heart of local growth.

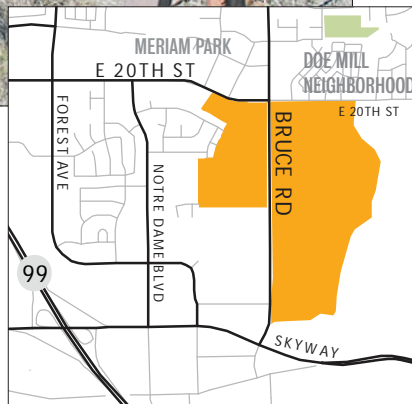
The Northern California Environmental Defense Center (NCEDC), based in Chico, is suing the city and development company Epick Homes over its Stonegate project—over 600 proposed housing units on two large parcels spanning Bruce Road between East 20th Street and the Skyway. The 313 acres include environmentally sensitive vernal pools with habitat for species such as endangered Butte County meadowfoam.

The previous City Council, with Sean Morgan as mayor and a conservative majority, approved Stonegate 4-3 on Sept. 18—an action that Councilman (and current Mayor) Randall Stone described as taken “literally at the eleventh hour” because the public hearing didn’t start until 10 p.m.

The NCEDC isn’t suing over the council’s deliberation, nor over the project site’s environmental constraints. At least not at this point in the development process.

Rather, the group focused its legal challenge on claiming that the approval is inconsistent with the city’s general plan: the set of policies and regulations from which land-use decisions stem.

The suit homes in on sustainability elements related to greenhouse gas emissions. It also points to the city’s Climate Action Plan, a state-mandated response to climate change that has targets for reducing emissions. The environmental impact report (EIR) determined GHG emissions to be “significant and unavoidable impacts” of the project.



Stonegate opponents had 90 days to go to court. On Dec. 17, the deadline, NCEDC did.

“We’re challenging the legal arguments, which are ripe and justifiable at this time,” Richard Harriman, NCEDC’s general counsel, told the CN&R by phone. “That doesn’t mean we will *not* challenge state and federal permitting at such time as it’s granted, or participate in it to see that conditions are included that will result in protection of the environmental resources that were not protected by the majority that’s no longer on the council.

“This action was only brought because we had to do it within the statute of limitations [time frame]—it’s not intended to be disparaging or focused on the new council [majority], because they didn’t have anything to do with it.”

City Attorney Vince Ewing did not respond to the CN&R by deadline. Epick Homes’ attorney, Scott Birkey (of San Francisco firm Cox, Castle & Nicholson), said he had “no comment at this time” on the pending litigation; Epick founder Pete Giampaoli didn’t respond by press time.

Giampaoli previously told the CN&R that Epick’s vision for Stonegate is to strike a balance between the city’s housing needs and environmental concerns. (See “Development division,” Newslines, Aug. 30.)

The complaint asserts that the city broke state law green-lighting Stonegate. The suit cites government code on planning and zoning, which says “a local public agency may entitle a proposed land use only if the land use is consistent with the goals, policies, and objectives contained in a

Local environmentalists suing the city and Stonegate’s developer claim the project, as approved, is inconsistent with general plan standards for greenhouse gas emissions.

PHOTO BY EVAN TUCHINSKY

Inset: Stonegate (shown in orange) encompasses over 300 acres on Chico’s east edge. Check tinyurl.com/StonegateChico for detailed plans and city reports.

valid, current, internally consistent general plan.” Based on that, NCEDC challenges the city’s adherence to its general plan, contending the city “abused its discretion” by “adopting findings ... that are clearly erroneous and not supported by substantial evidence.”

The group isn’t contesting the EIR, which the council certified as adequate, nor a resolution on environmental considerations. Rather, it’s contesting approvals of the general plan amendments, rezoning and tentative subdivision map for the project—Chico’s largest in a decade, since authorizing Meriam Park in 2007.

As stated in city reports presented to the council, Stonegate “could potentially result in a cumulatively considerable net increase” in air pollution in a region that already doesn’t meet government air quality standards. Construction, which will phase out over years, will contribute; so will the addition of vehicle trips to and from housing.

City planners wrote that “the sheer number of new units and amount of commercial square footage ... yield high overall emission estimates.” The EIR and approvals call for mitigation measures.

What the NCEDC hopes for, Harriman said, is “the 21st century planning that the city of Chico intended back in 2011,” when it adopted the general plan. That vision favors infill and mixed-use building over outward growth, as well as neighborhoods that encourage mass transit and foot power over personal cars.

Harriman cited the Doe Mill Neighborhood adjacent to Stonegate as an example, with narrow streets and limited parking. Others: Westside Green (now Westside Place) along Nord Avenue and Walker Commons off Vallombrosa Avenue.

“This is not anti-growth—it’s not a no-growth action,” he said. “It is a smart-growth action to have the City Council be held to the general plan.”

The NCEDC is relatively new. Chico environmentalists, taking the name of a defunct group from Santa Rosa, formed a nonprofit in March 2017 to litigate local issues as the Butte Environmental Council once did. Funding comes from donors, lawsuit partners and monies awarded in court; Harriman also donates services. BEC Executive Director Natalie Carter is NCEDC’s president and board chair.

“I am honored to have another opportunity to stand up for my community and help shape our future,” she said. For comments on the lawsuit, Carter deferred to Harriman.

“The reason this was brought,” he said, “was that it’s important that the federal and state agencies that are considering [wildlife environmental issues] be aware that there is citizen opposition to this project.”

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