



# MINUTES

## Regular Meeting of the Planning Commission

**MONDAY, November 16, 2015**

City Council Chambers

1 Civic Center Drive, San Marcos, CA 92069

### CALL TO ORDER

At 6:30 p.m. Chairman Flodine called the meeting to order.

### PLEDGE OF ALLEGIANCE

Commissioner Kildoo led the Pledge of Allegiance to the Flag.

### ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: FLODINE, JONES, KILDOO, MAAS, MINNERY, NORRIS, PENNOCK

ALTERNATE COMMISSIONERS IN AUDIENCE: JACOBY, SCHAIBLE

ABSENT: NONE

Also present were: Development Services Director/City Engineer, Matt Little; Planning Manager, Karen Brindley; Principal Civil Engineer, Peter Kuey; Principal Planner, Garth Koller; Assistant Planner, Sean del Solar; Deputy City Attorney, Avneet Sidhu; Office Specialist III, Lisa Kiss; City Consultants: Jonathan Kramer/Telecom Law Firm, LLC; Sophia Habi Mitchell/Sophia Mitchell & Associates, LLC.

### ORAL AND WRITTEN COMMUNICATIONS

None.

### CONSENT CALENDAR

1. APPROVAL OF MINUTES, 11/2/15

#### Action:

COMMISSIONER KILDOO MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; SECONDED BY COMMISSIONER MAAS AND CARRIED BY A UNANIMOUS VOTE.

### PUBLIC HEARINGS

AGENDA ITEM

#

1



2. **Case No:** P13-0059: CUP 13-006, EX 15-030

**Application of:** Crown Castle

**Request:** A Conditional Use Permit to allow the restoration and continued operation of an existing thirty (30) foot tall faux tree wireless telecommunication facility and 240 square foot equipment enclosure at a residential property in the Agricultural (A-1) zone of the City in the Questhaven La Costa Neighborhood.

**Categorical Exemption Class:** 15301, Class 1, Restoration and continued operation of an existing private structure.

**Location of Property:** 2080 Golden Eagle Trail, more particularly described as: The West 417.42 Feet of the South 1/3 of the Southeast Quarter of the Northwest Quarter, and the West 417.42 Feet of the North 626.13 Feet of the Northeast Quarter of the Southeast Quarter, All in Section 27, Township 12 South, Range 3 West, San Bernardino Meridian, In the County Of San Diego, State of California, According to The United States Government Survey Approved September 19, 1889. Assessor's Parcel No.: 679-040-01-00.

**Staff Presentation (Sean del Solar):**

Described request, location & surrounding area. PowerPoint presentation & aerial photo shown. Discussed background: T Mobile was issued a 5-year CUP in March '08. In Oct. '12, the City notified them of upcoming March '13 expiration. City initiated Code Enforcement investigation and in Oct. '13 Crown Castle submitted an application to continue to operate facility. (Crown acquired T Mobile & a number of sites on 11/30/12). The initial Crown Castle application was deemed incomplete, resulting in an additional five application submittals. During this period, the applicant was issued an Administrative Citation and the City filed a Civil Action, which was settled in an agreement whereby Crown paid \$6,500 to City. The 5th application in May '15 was accepted by City and taken to a Public Workshop in July '15. Discussed workshop: One household & the property owner of the subject site attended the workshop. Nearby residents provided comments such as, a request for additional trees on east side and a request that Crown Castle contribute funds to residents for maintenance of the private roads used to access the facility. The property owner has an easement that allows the applicant to use private road and it's sufficient to continue to serve project. Easement holders and the applicant may reach private agreements on the use of private roads that serve the property. Applicant will re-branch the facility with new materials. Before & after example photo's shown. Applicant will add seven trees to the site, Queensland Box & Afghan Pine, chosen by City's Arborists & Applicant (locations pointed out). Visual simulations shown. Discussed Land Use compatibility. Located in A-1 zone, is subject to City's former Telecom Ordinance and requires a CUP. Discussed Applicant's concerns & staff's response. Discussed public comments received. Residents/easement holders have been directed to discuss their concerns directly with the applicant. Staff recommends approval inclusive of the changes in Staff Memo dated 11/16/15, and based on a Class 1 Categorical Exemption of CEQA, the project continues to be consistent with the findings, scope and extent of the adopted MND 08-766.

**Jon Dohm, Crown Castle, Applicant:** PowerPoint presentation shown. Discussed company background: They own & manage 40,000 towers nationwide. Most of their portfolio is acquired, including subject site. Site is managed through Irvine location, they have a 24-hour Help Desk line and he's available for contact. Discussed '08 Commission approval. There was no public testimony or opposition to the original approval. They agree that the site needs to be re-branched and landscaped. Application deemed complete Jan. '15, but they've refined the plan since then. They acquired the site from T



Mobile, but were not notified of the expiration and were not aware they owned the site until June '13. They acquired 7,200 sites from T Mobile. As soon as they knew it was expired, they worked with the City to correct it. Discussed re-branching. Cell Trees Inc. did a report and they're ensuring their work.

Leo Simone, LSA Associates, Consulting Arborist/Biologist: Indicated the first thing done was a soil analysis, then consulted with a landscape architect. Site is very rocky. The most important thing is the chosen materials and how they're planted in the ground. It's better to select a little smaller tree, then picking a larger, root-bound tree. At the end of five years, they want a healthy, thriving landscape. They'll monitor annually, prepare a report and will also be doing a nesting bird survey.

### **OPEN PUBLIC HEARING**

Eric Clifton, resident: Indicated he did not contest original tower because City told him he could not, plus he was traveling a lot and not available for workshop. The City has heard the complaints. The community is disappointed in the derelict site. The road is in serious disrepair. They've been working to get everyone under a community agreement to fix the road. He asked that the City consider charging fees to Crown Castle for an annual road maintenance agreement. Fees were never assessed to T Mobile in the first place and should have been. The additional trees are good, but there are only two on the southeast side. It doesn't shield adequately, they'd like two additional trees there. Requested that the road conversation be between the neighborhood and Crown Castle, not the tenant at 2080 Golden Eagle Trail, because he's proven to be non-cooperative in any manner.

Flodine: Inquired how many homes are off Golden Eagle Drive?

Clifton: Three, but the community who uses Attebury, the road in question, is four to five.

John Signorino, resident: PowerPoint presentation shown. Indicated he attended the workshop. The community doesn't want the cell towers in the area, but the tower already exists and the City is prepared to authorize it. The residents want Crown Castle to contribute money to fix and maintain the private Attebury Road. At the Oct. '13 City Council, the community showed up in force and voiced their concerns and displeasure with the cell companies using the road. They've been using the road for 8 years, and AT&T offered \$25K to use the road. Residents want sufficient landscape on both east & west sides. They had asked about the RF analysis & have not heard yet, also have questions on why EIR was not done. There will now be two towers at the site. They've been operating without a CUP for at least three years, so it's not time dependent. There's still time to work out an agreement and get it right, or send it back and negotiate. At the Oct. '13 meeting, Mayor Desmond said all resident's houses should be shielded.

Flodine: Asked how the private roads are being maintained?

Signorino: There are more residences on Attebury and it needs repair. The vast majority of residents on Attebury have signed a road agreement that will probably be filed with City and County. They "pass around the hat" when the road needs repair. They have a fair amount of money, but need additional help.



Dohm: Discussed changes: D.1., Okay with eliminating. E.3.k. ix & x., Suggested it be based on arborist opinion of tree health. E.3.l. pg. 8, Asked the purpose of the staking as opposed to just having a pre-construction meeting? It would add a couple more trips to the site. H.5. Disagree that an annual inspection for 5 years is necessary. It's important for first two years. After that, it seems excessive. H.7. & 8., If trees aren't planted before bird nesting, would have to wait until Fall. They'd lose a year's growth, but would be evaluated on five years growth. City could inspect and sign off on installation of trees, a fixed date. That is when the clock should start. If a tree dies in 8 years, it may be hard to replace "in kind."

Flodine: Asked if staff had any comments?

Del Solar: Nothing further to add.

Jonathan Kramer, Telecom Law Firm (City Consultant): The principal issue discussed by Mr. Clifton & Mr. Signorino deals with the road issue and touches on AT&T's voluntary contribution. The City Attorney's office has reviewed this and has felt that it is outside the purview of the City to get involved in a private contract issue. AT&T made a voluntary pledge to contribute, which is fine and that is their right. Indicates he supports the City Attorney's position.

Signorino: Commented that it wasn't voluntary.

Flodine: Indicated he'd let one of them speak one more time.

Signorino: Believes Mr. Kramer was at the Oct. '13 City Council meeting. The City put AT&T under duress and what Mr. Kramer said is not a factual statement. The City intervened on the resident's behalf. Once the CUP is issued, there is no leverage, and residents will get nothing. They're asking the City to help residents. Suggested they watch the tape to see if it was a voluntary act, or did they do it to get the CUP authorized?

Jones: Given that there is no current maintenance agreement, if it were within the Commissioner's authority to require contribution, there isn't any structure to control the funds, to determine how much should be given. It would be extremely arbitrary for the Commission to demand any money be contributed.

Norris: Crown Castle purchased sites from T Mobile, didn't know what they bought, didn't look at everything, and didn't know it was expired. There's a whole disconnect, about 1.5 years, of non-compliance. The City filed a lawsuit, and then settled. Crown needs to pay attention to the site and their lack of response. Indicated he was not okay with it. Crown needs to work something out with the community regarding the road. There has to be an assurance to the City they'll honor the CUP and there should be some type of penalty.

Minnery: Asked staff why the clock to judge trees doesn't start closer to when planted?

Del Solar: Indicated it's written to reflect the date of approval. That's the standard and keeps the dates streamlined for the project.



Maas: He shares Commissioner Norris' concerns regarding non-compliance and their lack of intent to work out issues with area residents. Everyone who utilizes the private road should contribute to upkeep. The utilities should contribute.

Kramer: Expressed clarification regarding Mr. Signorino's comment. He was partly correct, at the Oct. '13 hearing, AT&T volunteered to do that and it was made a condition of the permit. Staff did not initiate the condition. It was a condition that was after the offer by AT&T.

Kildoo: Asked if it was ever met?

Del Solar: Payment was supposed to be met during construction and installation of the site. The building permit has not been issued. After construction/completion, AT&T will request final inspection and then provide evidence of payment.

Minnery: Inquired what happens if they don't?

Kramer: It would be an enforcement issue for the City.

#### **CLOSE PUBLIC HEARING**

Dohm: Commissioner Norris brought up valid concerns. Nationally, Crown Castle bought T Mobile towers in Nov.-Dec. 2012, and was informed of the expiration only after review by legal firms they hired to review all files. Discussed the timeline. It's been a long process, but they haven't shirked responsibility. Crown intends to abide by conditions. They were working hard to get application complete and paid \$6,500 to cure violation.

Minnery: Two residents said they've had difficulty reaching Crown regarding financial contribution for their road.

Dohm: Commented that they haven't tried to reach him personally.

Signorino: Indicated they've been trying to go through the City.

Joe Parker, Parker Legal Group: Staff's recommendation, which they feel is appropriate, is for Crown Castle to photo document the road before & after. Crown would repair any damage they cause. The AT&T offer was a complete new construction. Subject project is re-branching an existing tower & installation of trees, which will be two days or so for each. There's a recorded instrument regarding maintenance causing land owner to pay, which includes tenants and guests. The technicians are only out six times per year with light duty vehicles. There are larger FedEx and UPS trucks using the road.

Norris: Good to see they will document and repair road if needed. Asked about extra trees?

Parker: Seven is double the number currently and what was already compromised on. Would also need the consent of the land owner to obtain additional lease area, can't just add two more. They feel it's an appropriate level of screening.



Dohm: The AT&T site next to Crown will also be screened. Staff directed Crown where to place trees.

Flodine: Inquired the distance between the two cell towers?

Del Solar: 20-25 feet.

Flodine: Feels the story poles will help staff determine.

Kildoo: Agreed with Norris. It's good due diligence for yearly inspections. He's sympathetic to land owners, but they bought on a private road and knew it then. Hopefully the AT&T money will help. It's been a challenging residential site. He agrees with staff recommendations.

Pennock: Asked if land owner has any agreement with the private parties? They should be contributing to the road.

Norris: Asked whether a penalty can be added if Crown Castle defaults on CUP?

Sidhu: If Municipal Code allows it, and she believes it does, money can be put in a deposit fund to be used if needed.

Jones: Indicated he doesn't agree with a penalty. He thinks their explanation is fairly reasonable given number of sites they purchased, and believes they'll comply in the future. Why single them out for a potential fine? Staff would have added condition if they felt it was needed.

Kildoo: Agreed with Jones. They paid a \$6,500 fine. The deposits are generally for entertainment venues.

Norris: They still have an outstanding building permit. They knew in June '13 and it's just now coming to Planning Commission. Feels they're dragging their feet.

Brindley: Pointed out that Condition L does indicate if enforcement is needed, the CUP would have the authority for the City to take enforcement action.

Flodine: The Commission heard another similar Crown Castle application recently, where they inherited it from T Mobile and were basically playing catch up. Because of that, he's inclined to approve conditions as staff has provided, with one exception. The CUP expires 2025 and they need to achieve 5-year growth. Since it's a 10 year CUP, why not set the 5 year growth either, five years from planting, or make it six years, 11/16/21?

Kramer: Staff prefers a date certain.

**Action:**

COMMISSIONER KILDOO MOVED TO APPROVE CUP 13-006 AS SET FORTH IN RESOLUTION PC 15-4492 WITH MODIFICATIONS AS PER STAFF MEMO/HANDOUT DATED 11/16/15; and, H.7. (PAGE 11): On November 16, 2021~~0~~, all screening trees installed pursuant to the requirements of this permit and as





approved in the Landscape Permit shall reasonably provide the level of screening identified in the photo simulations dated October 22, 2105. If it is determined by the City that the trees are not providing the level of screening identified in the photo simulations ~~after depicting~~ five (5) years of growth ~~(or by November 16, 2020)~~, this may result in enforcement action.

Kramer: Requested clarification that the Motion is for the inspection date and not the planting date?

Kildoo: Yes.

SECONDED BY COMMISSIONER MINNERY AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE:

AYES:	COMMISSIONERS: FLODINE, JONES, KILDOO, MAAS, MINNERY, PENNOCK
NOES:	COMMISSIONERS: NORRIS
ABSENT:	COMMISSIONERS: NONE
ABSTAIN:	COMMISSIONERS: NONE

Commissioner Maas: Recused himself for Item 3, due to proximity of his residence to the project. Commissioner Schaible replaced Maas.

**3. Case No:** P15-0063: SP 15-007, TSM 15-006, SDP 15-009, CUP 15-006 & a 2015 Addendum to MND 14-001

**Application of:** Brookfield Southern California Land, LLC

**Request:** Revisions to the Heart of the City Specific Plan and the Rancho Coronado Residential Development & Design Standards. The proposed changes will retain the same 346 unit count and the overall acreage will be in substantial conformance with the previous entitlements. The architectural revisions proposed the removal of the attached duplex and alley loaded residential units which will be replaced with all detached residential product types. Discretionary actions for the project include approval of: Specific Plan Amendment, a Tentative Subdivision Map, Site Development Plan, Conditional Use Permit for a temporary rock crusher, and a 2015 Addendum to the previous Mitigated Negative Declaration #14-001 (the environmental review document).

**Location of Property:** West of Twin Oaks Valley Road, south of the terminus of Santa Barbara Drive, east of Stoneridge Way and north of South Lake, more particularly described as: Parcel 2 of Parcel Map 18890, in the City of San Marcos, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego, January 22, 2002 as instrument No. 02-0054221 of Official Records. Assessor Parcel Numbers: 222-080-09-00, 222-080-59-00, 222-180-27-00, 222-190-13-00, 222-190-14-00, 222-170-28-00, 221-091-21-00 & 679-020-04-00.

**Staff Presentation (Garth Koller):**

Described request, location & surrounding residential developments. PowerPoint presentation shown. Discussed background: Hanson Aggregates ceased mining operations in Jan. '08. City Council approved a project at the site in May '14 for a Specific Plan Amendment to the Heart of the City Specific Plan (HOC SP) Area and a Tentative Subdivision Map (TSM) for various types of residential. The 346 dwelling units included front loaded, alley loaded and duplex, and MU-4, for Commercial, Office and Business Park in the southern portion of the site. The approved project included new design criteria "Rancho Coronado Residential Development & Design Standards," a 38-acre future City park site and 126 acres of preserved open space. The new project requires an Amendment to Heart of the City SP and revisions to "Rancho



Coronado Development & Design Standards” manual, revised TSM, a Site Development Plan for layout & design for 346 units (single family detached & courtyard homes), a Conditional Use Permit to allow the operation of a temporary rock crusher and adoption of an Addendum to Mitigated Negative Declaration 14-001. Discussed proposed changes: Removing alley, front loaded and duplex units. Shifts in density among the planning areas A-D. Minor changes in pad elevations, revised minimum lot areas, widths & depths. Allowance for architectural projections within setbacks or adjacent structure and proposed minimum front garage setbacks from back of sidewalk for units in Area B & C, establish minimum rear setbacks from property line, reduction of the average setback of buildings along Twin Oaks Valley Road from 45 to 30 feet, etc. Discussed Land Use compatibility. A Public Workshop was held 9/3/15. Discussion covered the on-going student parking challenges. The project is to provide gated entries and private street design to discourage student parking. Residents inquired about rock crusher location & hours, pad height, size of units and pricing. Calls were received regarding density and why no single story. Discussed Area’s A-D and three phases. Future City park to be dedicated to City with two points of access. Developer is in process of obtaining all necessary permits which will allow secondary vehicle access. Discussed private recreation areas: Private parks, BBQ area, tot lot and pool. Discussed Noise analysis: It addressed both permanent noise and temporary rock crusher, height of walls & locations. Applicant has reviewed all resolutions & two staff memo’s and accepts all conditions as recommended for approval. Reviewed the staff memo changes.

John O’Brien, (Applicant) Brookfield Residential, along with homebuilding partners California West Communities: They are asking for minor refinements and subtle improvements to the Rancho Coronado approved plan that are essentially substantial conformance items. The changes make it more acceptable to the marketplace. Thanked staff. Consultant team is present.

Ken Ryan, KTGy, representing Brookfield & CalWest: PowerPoint presentation. Indicated they’ve reviewed all conditions and modifications and are in agreement and accept all. Project was approved last May and they’re now working with two home builders on home refinements. The changes enhance the architecture, housing and parking. Almost 70% of the 248 acres is open space & a future park. The number of units, 346, stayed the same; they removed the alley-loaded & paired homes. Landscape palette is water conscious. Discussed guiding principles: Walkability, pedestrian orientation, taking advantage of open space setting, visibility & connections. There are roundabouts to slow traffic. Each neighborhood has a recreation area. Showed existing/new trails and connections. Perspectives shown.

#### **OPEN PUBLIC HEARING**

No public comment.

#### **CLOSE PUBLIC HEARING**

Kildoo: Commented that he likes the project and also liked the previous alley-loaded design, because it was different.

Norris: Indicated he likes the project, but was a little nervous about the density. It appears to be how they’re developing now, don’t want to keep spreading out. Asked about schedule, pricing and whether any issues with University about dorms or parking?





Schaible: Supports it 100% and is happy to see another high quality project. Inquired why no single story?

Flodine: Commented that project is dense, but there is diverse housing available in the City. This may hit a price point that is needed in the market. Has a problem with some of the lots sizes, Area A & B, 3,500 s.f. house on 4,000 s.f. lot. Thinks the streetscape should be improved in order to bring the density down. Has issue with a 4-foot parkway. Only three canopy trees can be put in. Complimented the Architecture and really like Plan 2 side elevation. Want to confirm the pool area is available to all?

O'Brien: Yes.

Kildoo: He hopes there's a homeowner's provision that requires garages be used for parking cars. It must be a condition of their purchase. If not, there are parking issues.

Koller: Commented that it's included in the conditions, is worded carefully and carried through the CC&R's. Several lots also provide parking in front of the garage.

Norris: Mentioned Hydrology report. Because it's so dense, he doesn't know how they can get the BMP's with bio swales? Maybe impervious pavement? He believes this will be their toughest hurdle.

Schaible: Inquired when the future park would be built and who is paying for it?

Koller: Timing has not been determined. No design has been provided. From previous approval, they are retaining the 38 acres. The secondary access was achieved and has environmental clearance.

Schaible: The kids will need a place to play.

Norris: Inquired about schedule & pricing?

Ryan: Expect to move real fast, Phase 1 is area A & B, and the connection from Twin Oaks Valley Rd. and Santa Barbara. The target is next year. Project will have CC&R's and be available to families with kids. Not sure about pricing. Some floor plans have master downstairs.

Norris: Asked about student parking?

Ryan: Project is gated. There is some limited parking on public streets.

**Action (One Motion):**

COMMISSIONER NORRIS MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF:  
SP 15-007 AS SET FORTH IN RESOLUTION PC 15-4497;  
TSM 15-006 AS SET FORTH IN RESOLUTION PC 15-4498;  
SDP 15-009 AS SET FORTH IN RESOLUTION PC 15-4499;  
CUP 15-006 AS SET FORTH IN RESOLUTION PC 15-4500;  
WITH MODIFICATIONS AS PER STAFF MEMO/HANDOUTS DATED 11/13/15 & 11/16/15;  
SECONDED BY COMMISSIONER JONES AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE:



AYES: COMMISSIONERS: FLODINE, JONES, KILDOO, MINNERY, NORRIS, PENNOCK, SCHAIBLE  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: NONE  
ABSTAIN: COMMISSIONERS: NONE

Brindley: Asked for clarification on Motion, whether it included the recommendation regarding adoption of the environmental, the Addendum to MND 14-001?

Flodine: Believe it's in the Resolution.

Koller: It's referenced in the Resolution, but is not a separate Resolution. The Addendum is part of the approval.

Norris: Yes, it's included too.

Flodine: That's our understanding.

**PLANNING MANAGER COMMENTS**

None.

**PLANNING COMMISSIONERS COMMENTS**

None.

**ADJOURNMENT**

At 8:36 p.m. Commissioner Flodine adjourned the meeting.

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ERIC FLODINE, CHAIRMAN  
CITY OF SAN MARCOS

**ATTEST:**

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LISA KISS, OFFICE SPECIALIST III  
SAN MARCOS PLANNING COMMISSION