

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
MONDAY, FEBRUARY 7, 2011 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Planning Division Director Backoff called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Norris led the Pledge of Allegiance to the Flag.

SEATING OF NEW COMMISSIONERS

Backoff: Introduced new & re-appointed commissioners and asked them to be seated at dais. Re-appointed as regular members for a two-year term: Cindy Wedge, Bill Jacoby and Steve Kildoo and new regular, one-year term: Bruce Minnery (former Alternate replacing Regular member Kristal Jabara who was elected to City Council). New Alternate: Rod Jones (replaced Minnery), seated in audience.

ELECTION OF CHAIRPERSON

Backoff: Nominations opened for chairperson.

Schaible: Motion made to nominate Steve Kildoo, seconded by Norris and carried by a unanimous vote.

ELECTION OF VICE-CHAIRPERSON

Kildoo: Nominations opened for vice chair.

Kildoo: Motion made to nominate Jim Schaible, seconded by Minnery and carried by a unanimous vote.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: Jacoby, Kildoo, Maas (Alternate), Minnery, Norris, Schaible, Wedge

ALTERNATE COMMISSIONERS IN AUDIENCE: Jones

ABSENT: Nelson.

Also present were: Planning Division Director, Jerry Backoff; Planning Secretary, Lisa Kiss; Principal Civil Engineer, Peter Kuey; Deputy City Attorney, Jim Lough; Associate Planner, Susan Vandrew Rodriguez; Assistant Planner, Sean del Solar.

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 1/3/11

Action:

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

PUBLIC HEARINGS

2. **Case No:** PZ 10-20 / PZ 10-21 / PZ 10-22 / GPA 10-108A / GPA 10-108B / GPA 10-108C / ND 10-807

Application of: City of San Marcos

Request: The proposed project consists of the following actions:

1. Prezone of 10.6 acres to Open Space OS in the City of San Marcos.
2. Prezone of 2.8 acres to roadway right-of-way in the City of San Marcos.
3. Prezone of 2.5 acres to Residential Agricultural A-1.
4. Prezone of 1.027 acres from roadway right-of-way in the City of Carlsbad to Light Industrial (LM) in the City of San Marcos.
5. General Plan Amendment to modify .971 acres from Light Industrial, 8.51 acres from Rural Residential (.125-1 du/acre), .375 acres from Hillside Residential (.25-.50) and .75 acres from road right-of-way to open space; a change of 10.6 acres to Open Space (OS).
6. General Plan Amendment to add .675 acres to the City of San Marcos public road right-of-way (previously City of Carlsbad public road right-of-way).
7. General Plan Amendment to change 2.06 acres of City of San Marcos public road right-of-way from Light Industrial and Rural Residential (.125-1 du/acre), respectively (San Elijo Road – 1.82 acre and .24 Rancho Santa Fe Road).
8. General Plan Amendment to add 1.027 acres to a Light Industrial designation in the City of San Marcos (previously public right-of-way in the City of Carlsbad).
9. Resolution recommending City Council approval for an application to the Local Agency Formation Commission to take proceedings for the annexation of a portion of Rancho Santa Fe Road right-of-way, including adjacent property,

and a portion of San Elijo Road right-of-way, including adjacent property for the following:

- a. A 1.702-acre amendment to the City of San Marcos Sphere of Influence;
- b. A .675-acre detachment of roadway right-of-way from the City of Carlsbad;
- c. A 1.027 acre detachment of Planned Community designation from the City of Carlsbad;
- d. A .696-acre amendment to the City of Carlsbad Sphere of Influence;
- e. A .696-acre detachment of roadway right-of-way from the City of San Marcos;
- f. A .696-acre detachment from the City of San Marcos Fire Protection District;
- g. Annexation of .696-acres of roadway right-of-way to the City of Carlsbad;
- h. A 1.702-acre detachment from the City of Carlsbad;
- i. A 1.702-acre annexation to the City of San Marcos.
- j. A 3.916-acre detachment from County Service Area No. 83 - San Dieguito Local Parks;
- k. A 3.916-acre detachment from County Service Area No. 107 - Elfin Forest Fire Department;
- l. A 4.64-acre annexation to the City of San Marcos Fire Protection District; and, Annexation of 16.87-acres of unincorporated territory to the City of San Marcos.

A majority of the project areas will not involve any physical change. A portion of Area 1 (2.5 acres) and Area 2 (1.027 acres) may result in future potential for some minor alteration of already disturbed and/or paved project area to use as: 1) 1 to 2 low density single-family residences where a demolished home had previously existed (Area 1) requiring applicable permits and potentially a lot line adjustment to allow a second home; and 2) landscape and/or hardscape (pavement, parking lot, etc.) as accessory to existing light industrial uses located adjacent to the project area resulting from the vacation and boundary change in the City of San Marcos upon annexation of 1.027 acres to four separate parcels (Area 2).

Location of Property: The project consists of three project areas located within the western and southwestern areas of the City. The first area (Area 1) is an approximate 11.25 acre property acquired by the City adjacent to Via Allondra to realign Via Allondra as part of the Rancho Santa Fe Road improvements (La Costa Meadows Drive to Island Drive) and provide upland mitigation (8.51 acres) for said project on the east side of Rancho Santa Fe Road south of Via Allondra. The second area (Area 2) is an approximately 2.39 acre area of road right-of-way located along Rancho Santa Fe Road (north of Melrose Drive to south of La Costa Meadows Drive) straddling the boundaries of the cities of San Marcos and Carlsbad. The third area (Area 3) is an approximate 3.92 acre area of area located north of the San Elijo Road realignment, and including the segment of San Elijo Road located in the County, with City segments on each side located on north of San Elijo Road between the Old Creek Ranch Development and San Elijo Hills Development.

Staff Presentation (Susan Vandrew Rodriguez): PowerPoint presentation shown. Request is to rescind 1/3/11 Planning Commission recommendation for Area 1 only (a & b), approve new entitlements for Area 1 (a and b) including the Errata to ND 10-807, and recommend 1/3/11 Planning Commission approval for Areas 2 and 3 remain in full force and effect. Discussed background. Subsequent to the hearing, City became aware that Area 1a was not needed to meet the City open space obligation for the

Rancho Santa Fe Road project. Rather than change all 11.32 acres in Area 1 (a & b) to Open Space as proposed and acted on by Commission in January, new information has resulted in adjustments to Area 1a whereby 2.81 acres are not proposed for Open Space. This hearing is intended to address the changes that affect Area 1a. Boundary change/map shown. Discussed new requested approval for Area 1a: 2.57 acre PZ to A-1 and .24 acre right-of-way designation to Major Arterial. Area 1b to remain as approved at 1/3/11 hearing. Staff recommends approval to City Council to: rescind 1/3/11 Planning Commission recommendation pertaining to Area 1 (a and b), recommend approval for Areas 2 and 3 to remain in full force and effect and approval of all new requested entitlements for Area 1 (a and b), Prezone, General Plan Amendment, Errata to Negative Declaration and Annexation.

Schaible: Inquired if okay to vote once for all three resolutions?

Lough: Asked if Commission typically votes separately on the NegDec?

Backoff: No, it's incorporated as part of the resolution(s).

Lough: Then okay to vote all in one motion.

Action:

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF:
PZ 10-20 AS SET FORTH IN RESOLUTION PC 11-4213;
GPA 10-108 (A) AS SET FORTH IN RESOLUTION PC 11-4214; AND
LAFCO (NO NUMBER) AS SET FORTH IN RESOLUTION PC 11-4215;
SECONDED BY COMMISSIONER JACOBY AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JACOBY, KILDOO, MAAS, MINNERY, NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

3. **Case No:** CUP 10-821 / ND 10-805

Application of: Breen Enterprises, Inc., d.b.a. The Jumping Turtle Bar & Grill

Request: A Conditional Use Permit to allow an existing 4,240 square foot restaurant and bar to operate an entertainment venue/nightclub. The project does not propose significant construction or modification to the existing structures at the project site. If approved, the project would allow entertainment and dancing to occur at the project site. The proposed entertainment will include concerts, karaoke, spoken word and other forms of performance art. Entertainment would occur on a stage located within the existing building and include the use of amplified sound, lights and other similar

apparatus. In conjunction with entertainment, dancing for minors and adults is also proposed.

Location of Property: 1660 Capalina Road, San Marcos, more particularly described as: Parcel 1 of Parcel Map 2003 as recorded in the San Diego County Recorder's Office. Assessor's Parcel No.: 219-115-35.

Staff Presentation (Sean del Solar): PowerPoint presentation shown. Located in the Mission Plaza Shopping Center in a 4,240 s.f. portion of a shared tenant building. There are three other buildings on site. Discussed background: In '2003, the Jumping Turtle Bar & Grill was issued an Entertainment Permit. It was revoked on 11/27/09 due to violations of terms/conditions of permit. Revocation appealed on 12/2/09. Operations suspended in February '10. Revocation upheld by the City Council on 3/23/10. CUP application filed 4/26/10 and deemed complete on 11/3/10. Operation of an entertainment venue is not expressly permitted in the "C" Zone. Operation of the restaurant and bar continued. Now permitting the use of the stage & dance floor for live entertainment (concerts, events, etc.). Allow shows for minors under 18 and adults 21 and over and allow applicant to collect an entry fee/cover charge. Floor plan and site photos shown. Applicant has been granted upper & lower parking lots for a total of 215 spaces. Alcohol is prohibited at all under age performances/events. Glass beverage containers prohibited for alcohol at 21+ events. Minimum security requirements established and submittal of Safety and Security Plan required. Must monitor parking and noise impacts for 6 months. Conditioned to deposit \$10,000 for Establishment of an Enforcement Account. Staff received concerns related to noise impacts and potential parking issues. Must monitor parking availability and provide security in parking lot and after end of performances. Staff received concerns regarding alcohol. ABC regulates and issued a type 47 On-Sale liquor license. Denial of the CUP would not prevent applicant from continuing to sell/serve alcohol as part of the restaurant/bar use. Applicant objects to two conditions: 1). C.1.d. The deposit of \$10,000. City's legal counsel advised that establishment of enforcement account is appropriate per Section 20.96.050. 2). C.6.d. Revised to allow aluminum beverage containers. Staff recommends conditional approval.

Minnery: Asked what conditions are new as opposed to what they had in the past?

del Solar: Several are new to this permit, including the \$10,000 deposit requirement. There are additional privileges granted such as collection of cover charge.

Backoff: Pointed out that this is the first CUP. They had an Entertainment Permit in the past, which is limited to what you can do. Over time, the operations became more of an entertainment venue which was not allowed, without approval of a CUP. This CUP would allow more full scale entertainment, which goes beyond just an Entertainment Permit.

OPEN PUBLIC HEARING

Matthew Hall, President of Breen Enterprises who owns The Jumping Turtle:
Established in '03 and has provided entertainment for the entire County. Some performances have been brought in from other countries. They work closely with

businesses around them. Have contacted the businesses and found they are down 15-30% since their entertainment has ceased. They are looking forward to getting back to operating and being viable to the community. Indicated they've been involved with various charities. They encourage their employees to eat & shop in San Marcos. Feel they're a responsible and good small business for the City and wishes to strengthen relationship with City.

Everett Delano, Attorney for Applicant: Commented that he didn't have much more to add. It's nice to be here on a positive experience, because in the past it has been a difficult experience for all parties. There was a lot of finger pointing going on. Commend City staff and applicant for willingness to put the past behind them and work together for the betterment of the City and people who love music.

CLOSE PUBLIC HEARING

Jacoby: Asked what charities they've effected here?

REOPEN PUBLIC HEARING

Hall: Worked with a Sheriff's Deputy who supports a group who donates money for research and care of premature babies. Also, another coalition of different types of law enforcement officers and have raised money for VFW. Work with local music schools, which don't have money to rent a large hall, allowing them to hold recitals basically for free. Worked with and donated to San Marcos High and Leukemia Society.

Jacoby: Asked if they're active with the Chamber or Boys & Girls Club?

Hall: No.

CLOSE PUBLIC HEARING

Schaible: Inquired if the two issues are resolved?

Kildoo: According to legal counsel, yes.

Lough: Advice given by City's Attorney's office. Indicated he didn't participate.

Maas: Asked how the \$10,000 amount was established?

Backoff: Staff looked at previous incidents and determined a reasonable cost to cover involvement. It's an incentive to not have non-compliance issues. City doesn't want to have to modify or hold a hearing to revoke CUP. The money is set aside and at the end of the term, if there are no enforcement issues, the money goes back to applicant.

Maas: Asked if City can revoke CUP if violations occur?

Backoff: Yes, first a Notice of Violation is given. City tries to work with applicant and obtain compliance. Ultimately, it can be brought back to Commission to modify or revoke.

Kildoo: Indicated he has talked to a number of parents whose children play in bands and they are supportive. The concern has always been the mix of over/under 21. Issue seems to be addressed now. Commend both parties for working together.

Backoff: Assume motion will include modification on staff's memo and the ability to use aluminum cans?

Wedge: Yes.

Action:

COMMISSIONER WEDGE MOVED TO APPROVE CUP 10-821 AS SET FORTH IN RESOLUTION PC 11-4211; WITH MODIFICATIONS AS PER STAFF MEMO: C.6.d. The use of glass beverage containers (i.e. cups, bottles, etc.) shall be prohibited. ~~All beverage containers shall be plastic.~~ SECONDED BY COMMISSIONER SCHAIBLE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: JACOBY, KILDOO, MAAS, MINNERY, NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: The City retained a contract inspector who monitors the Costco project. Project is moving forward and they're hoping to complete construction in 5-6 months. There have been delays due to rain and encountering more rock than anticipated. Also indicated that Commission will be seeing more Staff Planner's who will be doing the PowerPoint presentations at hearings. They work closely with the applicants throughout the approval process.

Kildoo: Suggested the Commission review the Costco handout item (Transportation Control & Management Plan) at home and contact staff if they have any questions.

PLANNING COMMISSIONERS COMMENTS

Wedge: Commented that during the recent Commission appointments by City Council, she was in awe of the type of talent and education that lives in San Marcos now. Recalled the first time she applied, there was only one Alternate seat open and

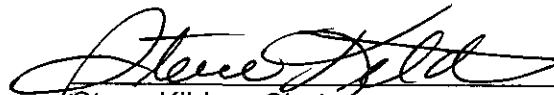
she was the only applicant. Added that she is amazed at the willingness of residents to serve the City and feels it is very inspiring.

Kildoo: Agreed. Common thread that most applicants started their presentation with was that they love living here. We're lucky to be in a community that has developed and evolved as it has. The City has a great staff and a great City Council over decades. There's been innovative leadership. The quality of the applicants reflects the quality of the City itself.

Backoff: Added that Rod Jones has been introduced to a lot of information as a current member of the GPAC.

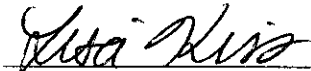
ADJOURNMENT

At 7:10 p.m. Commissioner Kildoo adjourned the meeting.

A handwritten signature in black ink, appearing to read "Steve Kildoo", written over a horizontal line.

Steve Kildoo, Chairperson
SAN MARCOS PLANNING COMMISSION

ATTEST:

A handwritten signature in black ink, appearing to read "Lisa Kiss", written over a horizontal line.

Lisa Kiss, Secretary
SAN MARCOS PLANNING COMMISSION