

MINUTES  
REGULAR PLANNING COMMISSION MEETING  
CITY COUNCIL CHAMBERS  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CALIFORNIA  
TUESDAY, OCTOBER 20, 2009 - 6:30 PM

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CALL TO ORDER

At 6:31 p.m. Vice-Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Jacoby led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: Jacoby, Kritzer-Jabara, Nelson, Norris, Schaible, Vojtecky, Wedge

ALTERNATE COMMISSIONERS IN AUDIENCE: Minnery  
(Jabara/Minnery later switched locations)

ABSENT: Kildoo

Also present were: Planning Division Director, Jerry Backoff; Planning Secretary, Lisa Kiss; Deputy City Attorney, Morton Park; City Engineer, Mike Edwards, University District Task Force Chairman, Jim Hernandez; Consultants: HDR - Sophia Habi-Mitchell, Betty Dehoney; RBF – Margaret Bulat

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 9/15/09

Action:

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

## PUBLIC HEARINGS

2. **Case No:** CUP 08-782 / ND 09-783 (*continued from 8/3/09*)

**Application of:** North County Supply (Gabe Castano)

**Request:** Conditional Use Permit to allow the outdoor storage and sales of building, construction and landscaping supplies and equipment in the Industrial Zone.

**Location of Property:** 1440 and 1450 Descanso Avenue, more particularly described as: A portion of Lot 4, Block 102, Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of CA, according to the map thereof No. 806, filed in the office of the County Recorder of San Diego, December 21, 1895. Assessor's Parcel No.: 219-122-11, 219-122-12.

Staff Presentation (Jerry Backoff):

Described request and location off Descanso & Pacific Streets, just off SR-78.

PowerPoint presentation shown. Subject site consists of two parcels – one is vacant & one has two buildings on it. The two buildings are vacant and were previously used as a camper shell sales office and warehousing. Storage yard for NC Supply would be in the vacant area. Materials stored outdoors include rock, stone, gravel, equipment such as forklifts, small tractor/loader, delivery/flat & dump trucks. Sales office would be in the 1,640 s.f. stucco building and 3,800 s.f. metal building would be used for warehousing and bagged products such as rock, concrete mix, stucco, etc. Discussed surrounding area, zoning and site plan. Relocating from current site at Mission Road. Aerial/photos shown. Discussed background. There has been a series of CUP's approved for NC Supply. Conditioned to install tubular steel fence with black mesh in front of existing chain link with drought tolerant vines, trees & shrubs to provide screening. Materials shall not be stacked higher than fence.

Discussed changes to condition. Prior to start of meeting, it was understood by Staff that original condition to eliminate pole sign was of concern to applicant. Staff made a change and agreed to defer elimination of pole sign for up to 18 months. Applicant concerned about starting time tonight because they have not yet relocated business. City would agree to start timing when they begin to utilize site. Staff recommends approval.

Nelson: Aware there's a sign issue. Asked if applicant is in agreement with everything else?

Backoff: Stated that he believed so.

## OPEN PUBLIC HEARING

Jo Mackenzie, Land Planning Consultant representing applicant & resident since '75:  
In agreement with all conditions except two: 1). Pole sign. Monument sign would not give visibility that's necessary. City made change to allow pole sign to stay for 18 months. Mr. Castano is not relocating the business immediately. It could take 9-12 months. Requested a longer period to maintain pole sign. Mr. Castano will spend about \$2,000 changing the face of it. Eventually, he will put up a wall sign similar to Modern Building Supply that will cost about \$15,000. The building supply

industry is slow now and due to the economy, they'd like 48 months, or 36 months from date of use & reliance. 2). Issue with items 3, 4, 5 & 6 on page 5 regarding dedication of road improvements. Road improvements were done by City several years back and are complete. Mr. Castano paid over \$350,000 for design, improvement plans, staking construction, As Built's & recordation of road dedication. Somehow, the plat & legal description was never completed. The City never gave Mr. Castano the documents for execution. A civil engineer must prepare legal and plat. City then reviews and asks for changes before recording. This last piece was actually paid for. Asking that the four items reflect language that the documents will be prepared by City.

Nelson: Inquired if all improvements are done?

Mackenzie: Yes, all done on applicant's property. Legal plat showing area of dedication goes along as exhibit to City's document stating it's for dedication. City prepares dedication document but applicant is told they must hire & pay civil engineer to prepare legal description & plat. Normally dedication is done up front before improvements are done.

Nelson: Wouldn't they have hired a civil engineer to do improvements properly?

Mackenzie: Yes, part of \$350,000. Usually dedication is done before you put public improvements on private property.

Backoff: To clarify, the actual previous fair share was to go towards the share of improvements. Typically your development of plats are not included, it's for physical improvements only. Previous CUP on property had requirement to prepare the plats, which would have been obligation of property owner. Staff feels strongly it should be separate. Thought this issue had already been resolved. In-lieu fees go for physical improvements only and doesn't pay for plat. Should be a \$2,000-3,000 responsibility.

Nelson: Asked how City could do improvements without civil engineer telling them what to do?

Norris: Is it just the red-line drawings?

Backoff: No. Improvement plans assumes right-of-way is there. Little piece not fully dedicated. It's basically a plat diagram that gets recorded for dedication.

Mackenzie: It's a picture that shows exactly what is on the ground. Has meets & bounds, legal description and radius. City prepares with verbiage. It's a dedication for public road purposes.

Jim Hernandez, resident since '69: Plat map is an oversight. This should have been included as part of the \$350,000. It could cost Mr. Castano up to \$5,000. Should have been done by original civil engineer who did improvement plans. Hope to modify language.

Backoff: This was a separate condition on a separate CUP that was utilized. Part of permit was to do separate plat. Was an oversight and not completed.

Hernandez: Stated he was on Commission at that time and recused himself. Found it odd that it would have been a separate item. Reality was that applicant was required to make dedication, asked for money, paid cash in lieu fee and it should have been part of that.

Wedge: Asked for clarification. The City requires you give them property and then pay for the maps saying it belongs to the City? It doesn't seem fair.

Edwards: It's a typical condition. Property owner dedicates R-O-W along frontage for improvements, pays directly or pays an in-lieu fee. This is a common, standard condition & part of dedication process. It was a condition on previous CUP. It didn't happen, for whatever reason, and is now a condition on this CUP.

Wedge/Edwards/Backoff: Continued to discuss.

Jabara: Asked who is responsible for recording?

Edwards: City prepares/records the deed. Applicant prepares backup documents.

Jabara: Was it not submitted to City?

Edwards: Apparently not.

Jacoby: Inquired if City has a copy of what was approved with the \$350,000?

Backoff: Not available here tonight, but in a file.

Nelson: Public improvements are on private property now because deed hasn't been transferred?

Backoff: Small portion of it.

Edwards: Normally the dedication is made before the improvements but it didn't happen here. They'd be paying too much if it cost over \$3,000.00 to do.

Vojtecky/Edwards: Continued to discuss.

Nelson: Asked for input on sign?

Gabriel Castano, applicant, Lake San Marcos resident: Has been in business in San Marcos since early '80s. Developed several properties in City. Paid money that was agreed to. It's a nuisance for us to go back and prepare what should have been done. Feel it's a small thing to ask the City to take care of. Will slightly modify the existing sign. Not sure when relocating. Asking for 48 months from approval date.

CLOSE PUBLIC HEARING

Wedge: Did the City not wonder why dedication wasn't done prior to improvements?

Backoff: Goes back to original CUP. Was responsibility of applicant/engineer. City should have caught it. It was their responsibility back then and now. Did not think it would be an issue tonight.

Wedge: Appears to be oversight on both sides. Any consideration to sharing the cost?

Backoff: Perhaps a compromise on sign issue? City would be willing to go 2 years, but 4 years is too long.

Wedge: Would agree to 48 months or 18 months from permit utilization. Would City know an engineer who could provide plat for less than \$3,000.00? If City was tasked with paying half they could probably find one.

Schaible: Excellent proposal.

Vojtecky: Would agree to 3 years after permit utilization. Cost should be picked up by City, no sharing.

Nelson: After occupancy?

Vojtecky: Permit issuance.

Nelson: Tonight would be permit issuance.

Backoff: There is no defined occupancy.

Jacoby: Suggest capping at maximum of 4 years.

Backoff: That's over half the life of the CUP.

Jacoby: City should absorb cost of plat.

Jabara: Agreed it was both parties responsibility. Think it should be split. 48 months is reasonable time for sign.

Norris: Three years for sign. Asked if fees were disclosed up front? Splitting is fair, but if other applicants have to pay the fee, it's only fair to require them to pay it.

Nelson: Commented they don't know what the cost will be.

Wedge: Suggested the applicant pay \$2,000.00. Staff is confident it would cost less than \$3,000. Continued to discuss sign/number of months. Feel it's a shared responsibility on dedication.

Nelson: City should absorb all cost and approve 48 months on sign.

Wedge: Would agree to that, but want to see 48 months or 18 months after utilization of permit.

Park: Asked how City would determine utilization?

Backoff: Staff would need to go out and identify, or, when they start bringing material to site.

Park: Suggested adding condition, that applicant shall notify City when starting.

Backoff: Recommend sign agreement.

Jabara/Nelson/Wedge: Continued to discuss length of sign.

Action:

COMMISSIONER WEDGE MOVED TO APPROVE CUP 08-782 AS SET FORTH IN RESOLUTION PC 09-4115 WITH MODIFICATIONS: Page 9, F.8. ~~The existing pole sign located at APN 219-122-12 shall be removed shall not be replaced.~~ The applicant/property owner shall enter into a Real Property Agreement with the City of San Marcos, approved by the City Attorney to specify the terms of the removal of the existing pole sign and the installation of a wall sign that may be located on the front of the building located at 1450 Descanso Avenue (APN 219-122-12). If the Real Property Agreement is not executed, the existing pole sign shall be removed. The existing pole sign located on APN 219-122-12 shall be removed within 18 36 months of the approval of the Conditional Use Permit (CUP 08-782). The existing mansard roof/building exterior shall be modified to accommodate the future wall sign and the design shall be approved by the Planning Division. The future wall sign shall be designed with individual channel letters and logos and a portion of the sign may exceed the height of the parapet. No new cabinet signs, roof mounted, or pole signs shall be permitted on APN 219-122-11 or APN 219-122-12. **New D.7. City and applicant/property owner shall share 50/50 in the cost of the preparation of dedication/plat map.** SECONDED BY COMMISSIONER SCHAIBLE AND CARRIED BY THE FOLLOWING ROLL CALL VOTE:

AYES: COMMISSIONERS: JACOBY, JABARA, NORRIS, SCHAIBLE, WEDGE

NOES: COMMISSIONERS: NELSON, VOJTECKY

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Nelson: TWO MINUTE BREAK. Commissioners will trade places.

(Minnery replaced Jabara at dais. Jabara seated in audience).

3. **Case No:** SP 82-01 (09M #2) / CUP 09-811 / ND 09-792

**Application of:** SD Taco Bell Inc. & Shamolian

**Request:** A Specific Plan Modification, SP 82-01 (09M #2), and Conditional Use Permit, CUP 09-811, for the demolition of an existing 3,143 square foot commercial building and construction of a new 2,490 s.f. Taco Bell drive-thru restaurant on an existing pad within the Nordahl Marketplace (previously Vallecitos Town Center). The Specific Plan Modification will also include building facade improvements to two other existing commercial buildings in the center.

**Location of Property:** 703, 705 & 707 Center Drive, more particularly described as: Parcel Map 14529, PAR 13 & PAR 14. Assessor's Parcel No.: 226-111-39 & 226-111-40.

Staff Presentation (Jerry Backoff):

Described request and location to allow construction of a new Taco Bell drive thru and inclusion into the Nordahl Marketplace Specific Plan. PowerPoint presentation shown. Pointed out subject parcel. Center was redeveloped in 2002, with addition of Walmart and Kohl's. Specific Plan changed from Vallecitos Town Center to Nordahl Marketplace. There has been a history of violations for the three buildings; landscape, site signage, maintenance as well as signs. Discussed surrounding area and zoning. Aerial photo shown. Elevations/architecture to resemble other existing buildings in center. CUP reliance tied to execution of three party improvement and maintenance agreement between City, property owner (Shamolian) and Taco Bell. Building permit is tied to building permit issuance for 705 & 707 Center Drive (existing buildings) and occupancy is tied to completion of improvements on those buildings. LOS to remain at "C." Applicant will pay PFF for cumulative traffic impacts. Parking demand survey determined maximum of 11 spaces needed. In addition, there's a reciprocal parking agreement. Discussed the memo/handout distributed earlier to Commissioners that contains minor changes. Staff was also given a side note from representative of World Premier, to add a maintenance agreement condition. Staff recommended approval to City Council.

Jacoby: Asked if violations will be cured by demolition of existing building?

Backoff: Yes, one building is being demolished to make way for restaurant. The "facelift" of existing two buildings will be an improvement to the center. There's also an agreement to maintain property.

Nelson: Asked if all other improvements must be done before they can operate?

Backoff: Taco Bell can't open until existing buildings are improved.

Nelson: Inquired where drive-thru will be?

Backoff: (Pointed out). Access is off Center Drive.

Nelson: Any speakers?

CLOSE PUBLIC HEARING

Backoff: Believe there are speakers in audience wanting to address this item.

REOPEN PUBLIC HEARING

Jim Simmons, representing World Premier Investments (owner of majority of center):  
Requesting fair share for Center Drive maintenance. It's approximately \$1,000, a pro rata share. They will work out an agreement between themselves. Owner happy there will be an upgrade to the corner.

Wedge/Nelson: Indicated they didn't see the condition.

Simmons: Requested language be added.

Minnery: Inquired about the cost per year?

Simmons: \$1,000.00/year.

Backoff: Read the requested new condition to Commissioners.

Minnery: Asked what the total cost of maintenance is at center?

Simmons: Not sure, but theirs is a small percentage. It will be worked out mutually.

CLOSE PUBLIC HEARING

REOPEN PUBLIC HEARING

George Edelmann, Viking Commercial Construction/Taco Bell: Indicated it's a hardship on Taco Bell to tie the two together. It appears to be anti-Taco Bell. Taco Bell can't start or finish until they do and must rely on their moving forward. Request that it not be tied to both.

Minnery: Agree with way City staff has conditioned the project.

Nelson: Reasons are due to code violations.

Edelmann: Should tie to one or the other, the building permit or C of O.

Minnery: Behooves the landlord to take care of his portion to appease you.

Edelmann: Would like to be allowed to start.

Backoff: Solution might be for Taco Bell to enter agreement with Shamolian to take over the lead and have control. City must have entire site cleaned up.

Edelmann: He may decide it's not worth the effort.

Wedge: Asked when lease starts?

Edelmann: Can't answer.

Wedge: Restrictions are so that property will be cleaned up. Landlord wants Taco Bell there and has no reason to drag their feet.

Edelmann: We're being tied to a permit based on another permit being issued. Continued to discuss.

Minnery: Agree that Taco Bell should take control as suggested by staff.

Edelmann: Haven't talked about it.

Nelson: There are certain key markers.

Backoff: The condition to tie the projects together is there for a reason. Initially, the City did not support the application. Only agreed if other buildings are improved. City has architectural plans from Mr. Shamolian. If Taco Bell is allowed to go forward, and Shamolian doesn't do improvements, then Taco Bell would be unable to open restaurant.

#### CLOSE PUBLIC HEARING

Backoff: Indicated the property owner was in the audience.

#### REOPEN PUBLIC HEARING

Mr. Shamolian, property owner/applicant: Purchased 703 & 705 property in '99. There was full occupancy and no problems. Bought 707 in '00 when it was in foreclosure. In '02, properties suffered from the new development construction, dirt & noise. Tenant's were complaining. Some tenants went bankrupt and moved out. Had trouble obtaining rent. City would not approve a mortgage company tenant until improvements and painting of buildings was done. It cost almost \$35,000. Feel he has proved to City that he is a good landowner. With Taco Bell application, City is again asking for improvements. They want façade improvements, parking lot sealing and tile roof. Now adding more that I didn't agree to: 1). Completely change tile roof to match other in center. 2). Lighting similar to center, 3). Awning. Roof replacement is very expensive and he cannot afford to do. Have met with City and explained situation. Requested the Commission to approve Taco Bell. If they don't come in,

other tenants will not lease. Two tenants haven't paid rent in a year. Violation was for a sign on the back of a building. Glass was being broken in the back.

Wedge: Asked if he cannot afford to do improvements?

Shamolian: Stated he can, but not the tile roof. Maybe 12-24 months if they have to do the roof over. Have a contractor to do façade and sealing.

Wedge: Asked if roof requirement was added later?

Backoff: Never committed until Staff saw architectural elevations. They were advised that they must match center or come close. Spanish rounded tile versus flat is really different. City is trying to allow Taco Bell to move forward and will work with Mr. Shamolian. Depending upon the capital he has to work with, the roof may have to be deferred.

Wedge: Wasn't the City afraid the improvements would not get done?

Backoff: This is first we've heard that he can't afford the roof. If there's assurance the City can get everything else but the roof, City may agree to defer the roof.

Wedge/Backoff: Continued to discuss.

Wedge: Taco Bell must have the faith of Mr. Shamolian.

Backoff: Or, take more control of the project. There may be ways for property owner to amortize the expense.

Shamolian: Stated he can accomplish everything except the roof. Contractor is ready to go.

Nelson: Asked if okay with agreement with World Premier?

Shamolian: There are existing CC&R terms. Don't see why it's being added, but will pay if have to.

#### CLOSE PUBLIC HEARING

Wedge: Project doesn't appear it's ready to move forward. Doesn't look like applicant/Taco Bell have a firm agreement? Approve it and we'll work it out later? Taco Bell could be the loser.

Backoff: Taco Bell is incentivized to move forward. They won't build if it takes a long time.

Vojtecky: Inquired about the schedule?

Edelmann: 4-6 months.

Shamolian: 12-14 weeks.

Jacoby: Asked if reasonable to give them 12 months to replace tile roof?

Backoff: Intent is to recommend approval to Council to allow Taco Bell to move forward. Additional architectural upgrade issues should be left to staff to work out.

Action:

COMMISSIONER WEDGE MOVED TO APPROVE SP 82-01 (09M #2) AS SET FORTH IN RESOLUTION PC 09-4133 WITH MODIFICATIONS AS PER MEMO DATED 10/20/09 AND SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Wedge: Looking forward to improvement at center.

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF CUP 09-811 AS SET FORTH IN RESOLUTION PC 09-4134 WITH MODIFICATIONS AS PER MEMO DATED 10/20/09 AND NEW CONDITION: **H. 22. Applicant shall enter into a maintenance cost sharing agreement with Nordahl Marketplace, LLC (owner of Nordahl Marketplace), providing for Applicant's cost contribution to the maintenance and repair of the main drive aisle entrance to Nordahl Marketplace at the intersection of Nordahl Road and Montiel into the shopping center to the "T" intersection, and that portion of the circulation road continuing left in the shopping center to the start of Shops Building 5. (IF THERE IS AUTHORITY TO REQUIRE) AND SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;**

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Nelson: BREAK FOR 5-10 MINUTES

4. **Case No:** GPA 08-103 / R 08-140 / SP 87-29 (08M #23) / EIR 08-43

**Application of:** City of San Marcos

**Request:** The site lies within the Heart of the City Specific Plan area within the Barham Drive/Discovery Community Plan and is designated "Business Park," "Neighborhood Commercial" and "Specific Plan-Health Care Campus." The proposed amendment would change the land use designation to Mixed Use and would rezone the area from Specific Plan Area-Business Park and Neighborhood Commercial to Specific Plan Area-University District Mixed Use. The allowable uses would consist of 2,600 mixed-use residential units, 800 student housing units, 450 hotel rooms, 638,000 s.f. of general office and 300,000 s.f. of medical office, 1 million s.f. of retail and 30,000 s.f. of community/civic uses. Some variations of these could occur as stipulated by the Specific Plan as long as the total yields are not exceeded. The project would include infrastructure improvements to Twin Oaks Valley Road and East Barham Drive/Discovery Street and potential construction of Grand Avenue bridge/road connection to Discovery (if not implemented by the Scripps/H.G. Fenton development). The project would also include offsite improvements, including a flyover structure over SR-78 connecting the project site to San Marcos Boulevard. Offsite intersection improvements would also be required, including additional lanes and signal improvements at San Marcos Boulevard/Grand Avenue. In addition, two pedestrian bridges are proposed to connect the project site with offsite uses to the south of Discovery Street and East Barham Drive as well as an internal pedestrian bridge over Twin Oaks Valley Road.

**Location of Property:** Generally located on approximately 194 acres on both sides of Twin Oaks Valley Road bordered by SR-78 on the north, East Barham Drive and the extension of Discovery Street to Craven Road on the south, Industrial Street on the east and San Marcos Creek on the west.

Staff Presentation (Jerry Backoff):

Explained that this is a request for an Amendment to Heart of the City Specific Plan (HOC SP). Acknowledged Task Force members who were appointed by City Council. Members have been meeting on a regular basis for approximately 17 months and introduced the Chairman of the Task Force.

Jim Hernandez, Chairman of University District SP Task Force: Asked members present and public who attended meetings to stand and be acknowledged. Feels the Plan will be an award-winning project. Consultants did a great job and feel it has surpassed the San Marcos Creek project.

Backoff: PowerPoint presentation shown. Discussed background on the Task Force and meetings held, community workshops held, as well as a drive/walk tour in San Diego reviewing various mixed-use projects. Evolution of Plan has been on City's website.

Hernandez: Plan was unanimously approved for recommendation to Planning Commission and City Council by the Task Force.

Backoff: Discussed location, surrounding area and zoning. Aerial photo/vicinity map shown. Plan is broken into different neighborhoods. Overall plan includes: 2,600 mixed-use residential units (all attached, multi-story), 800 student housing units (could increase to 1,000 if mixed-use reduced), 450 hotel rooms (could increase to 650 if 100,000 s.f. reduction in office space), 638,000 s.f. general office, 300,000 s.f. medical office, 1,000,000 s.f. retail/commercial, 30,000 s.f. community/civic buildings, 25.33 acres parks/paseos/plaza/urban open space, 15.10 ac. preserved open space, 26.74 acres public streets. Discussed each neighborhood's character and types of uses. Artist's renderings shown. There are paseos throughout that are designed to take students/pedestrians to CSU and into the project. Main Street would have ground floor retail with multi-story retail office and residential above that. Urban Plaza on east end. Designed to be used for public space, markets and performances to bring night-life into the project. Mixed-use Center Neighborhood would have entertainment, dining, performing arts and interactive water features. There are a series of internal roadways. Office Park Neighborhoods would contain offices and hotels. Residential would consist of townhomes, condo's & lofts. Discussed the three pedestrian crossings. Discussed parks, plaza & open space – would contain multi-use trails, playfields, sports courts, playgrounds, picnic/BBQ, game tables & event spaces. Noted future school location. Knoll Park is located at the highest point in development. Discussed Errata Sheet change to Knoll Park. Community Services asked that the flat area be retained with no buildings on it. Significant part of the plan is Form Based Code. Discussed Street Type Regulating Plan, Building & Height Regulating Plan (Minimum of 3-story and up to 7 stories), Lot Size and Building Placement. Discussed history of environmental review: NOP 10/14/08, Scoping Meeting 10/22/08, DEIR July '09, FEIR Oct.'09. Discussed EIR summary & impacts. Significant/Unmitigated: Air Quality (project combined with cumulative), Greenhouse Gas Emissions and Traffic Year 2030. Thirteen (13) letters were received during 45-day public review period. Additional Caltrans letter received 10/20/09 and a response letter were handed out to Commission. City had various discussions with Caltrans and SANDAG. Identified the items City is trying to do. Handout was distributed which includes items the City has done in regard to SR-78/road improvements, contributions made, etc. Discussed traffic and ways to reduce trips. Project is within walking distance to existing Sprinter station. City working on establishing an inter-City shuttle system and feasibility study to fund & finance CFD district. Flyover bridge, not an interchange, takes traffic to/from district. Traffic Demand Management (TDM) Plan works to reduce trips. Corridor study is needed and a grant has been granted. City to work with Caltrans & SANDAG to study future expansion of SR-78 and ramps. Need to have project in place to move forward with regional improvements. Staff recommended certification of EIR to City Council and approval of plan to City Council.

#### OPEN PUBLIC HEARING

Eli Whitney, representing Lake San Marcos Community Association: Community of 2,200 homes with 4,000 residents located in the County is impacted by the plan. Here as a follow up to DEIR. Concern is with traffic on lower San Pablo Drive. During commuting times, there is a tremendous amount of "cut through" traffic. Vehicles are trying to avoid the intersection at San Marcos Blvd. & Rancho Santa Fe

Rd. The Association has been working with County to mitigate this for two years now. Mr. Backoff recently addressed the board at the Lake on their concerns. Plan calls for four lanes along Discovery Street. Two suggestions: 1. Would like confirmation of a light signal at Discovery and San Pablo Drive., and one at Discovery and La Sombra.; 2). Suggest no left-hand turn allowed for northbound traffic from Discovery at San Pablo. Cars passing through are often traveling at higher speed causing safety issues. Indicated he is leaving a letter for Mr. Backoff and anyone appropriate.

Nelson: Asked how residents could get home if they can't turn left?

Whitney: Should use primary entry off Rancho Santa Fe Rd.

Nelson: Inquired if they've considered installing a gate with pass code?

Whitney: Considered, but they are County controlled roads.

Nelson: As residents of the County, perhaps go in and see Supervisor Horn as a group and request a gate.

Whitney: Thought this would be good time to suggest the street lights.

Wedge: Drivers could go up further to La Noche, and then they'd be on San Pablo even longer.

Whitney: Real issue is the cut-through traffic at San Pablo.

Luis Chapa, Central Transport International Inc.: Indicated he works off Barham & La Moree. Inquired how the project will affect the trucking industry? Will it change route?

Edwards: Project will improve that corridor. Trucks will not be restricted and will have better capacity.

Nelson: Asked if they can continue to operate?

Backoff: Any uses today, can continue to stay as they are today as a non-conforming use. Most don't conform to current General Plan. They would not be allowed to expand today or after approval of the Specific Plan. Access is being maintained.

Wedge: His business is further east.

Tony Cannariato, AMECO LLC/American Concrete & resident of Lake San Marcos: Indicated he had a response to Draft EIR, met with Charlie Schaffer & Mr. Backoff, but the comments aren't represented. Family business located in San Marcos since '87. In '97, bought 3.5 acres in Heart of the City, off Echo Lane behind Lowe's, and hoped to build a permanent office building. Commented that he loves the City and

feels this is an amazing project. Last year, City acquired half of parcel for the creek project. Negotiated to have friendly condemnation process conclude this year. During that time, there was no discussion, knowing intent was to build office on the remainder property, about 1 ¾ acres. There was never a discussion in the negotiation that zoning would change to prohibit construction of an office building. Was hoping to figure out a way to preserve his right to build family office building. It appears to him the project will cut off access, eliminate their office development and cause his property to be undevelopable. City proposes to use his site as disproportionate mitigation for the whole site. He and wife are concerned about how the City is treating them and their family business. Had no choice but to seek legal counsel to help facilitate advocacy on their behalf. Their counsel prepared a letter to hand out with specific issues they're concerned about. He feels the Specific Plan appears to prevent any reasonable use of his property, takes away access and violates acquisition agreement they have in place. DEIR has several issues, many associated with water & existing roads. Loves the project and City and had hoped for a win/win modification of the EIR to be able to help them build. Doesn't think this plan accommodates it.

Nelson: Will put letter into record tonight. Asked if he retained an attorney during the friendly condemnation?

Cannariato: Yes, but issues weren't at the table. None of it was disclosed.

Wedge: Clarify location?

Carrnariato: Used to have direct street access but City chose to develop the site after acquisition of the Lowe's property and they cut off my access, never giving me formal easement rights through City property in back of Lowe's.

Backoff: (Pointed out on site plan the location of his property). City needed to purchase part of Mr. Carrnariato's property for creek improvements. They were left with remainder parcel. Indicated to him that City would try to come up with Plan that works. In this particular plan, there is no office development adjacent to creek.

Wedge: Asked if he was informed of that when City acquired his property?

Backoff: In process of acquiring before City got into the Plan. As plan evolved, there were discussions with Mr. Carrnariato, indicating they were currently in "Business Park," which could allow for offices but there's a minimum lot size of 2 acres. Not sure his remainder would comply with that. It was indicated to Mr. Cannariato that City was looking at new mixed-use district plan. Just because someone says they want an office or specific type of use, City can't necessarily accommodate that. Indicated to him there would be an increased intensity. City's agreement was to maintain access which he currently has. Project engineers looked at the development of his site and he will have access. If he does not wish to develop and everything else does develop around it, access would still be maintained.

Wedge: Inquired if his property is now in the middle of residential area?

Backoff: Property is geared more for residential aspect with some live/work. There may be future possibilities but don't know what market will dictate. Didn't look at specific configurations of properties as we did with Creek District. Needed to take property as a whole to determine what circulation was needed, appropriate land uses & placement.

Nelson: Thought during the Creek District plan that any undevelopable land was purchased by City.

Backoff: Purchased what was needed for Creek Improvement project. Mr. Cannariato wanted to retain the remainder piece. Agreement allows him to continue use as it currently stands for 10 years.

Nelson: What happens beyond 10 years?

Backoff: Must comply with whatever the plan is for the property at that time.

Nelson: So, the City is not really letting people stay there?

Cannariato: Not correct. There's a grandfathered, legal, non-conforming use that they aggressively negotiated to sunset during this acquisition process, and it was under the assumption, based at the time, that we'd be able to build office space on my site within 10 years.

Nelson: Asked if they drive behind Lowe's loading dock to access?

Cannariato: Yes, explained they must do so now as a result of City's development. The City has benefited by developing retail on their property, bordering our property. They elected not to withhold a certain portion of that property to build out the waterway for the bridge project and then take our property years later at a lower cost. Appreciate City's entrepreneurial spirit and building a tax base. Stated he was all for it, but when it hurts them, must ask what can be done to create a win/win situation. Not only changed to residential but open space has been pushed on our property and the sliver left is undevelopable.

Backoff: City obtained what was needed for Creek District. Believe there is a usable remainder, not a large piece. Whether residential or office, there is a given acreage to develop in the future.

Cannariato: That's not what this is proposing with open space and greenbelt.

Backoff: These are conceptual plans. Yes, he could develop, there's a conceptual greenbelt, pathways around perimeter which goes across his property. Tomorrow, someone could do a different layout. Form Based Code says how you orient to the street and intensity.

Cannariato: Conceptually, City could have preserved our property.

Nelson: Commission will take your letter for the record. This cannot be decided on by Commission especially if going to attorneys. It's tough, basically the property is worthless the way the project is shown tonight. There aren't too many people who'd develop a center with a road behind a loading dock.

Cannariato: (Gave letter to Secretary).

Backoff: Have not seen the letter. Cannot characterize the statement Vice-Chair made that the property is worthless.

Nelson: Agreed to rescind that statement.

Backoff: Everyone has intensity they can develop to, everything is conceptual, footprints, etc. Development has to comply with standards that are approved for the property. It's a limited piece and access would be ensured.

Nelson/Backoff: Continued to discuss agreement, etc.

Cathy White, resident since '71: In support of the project. Well planned, wonderful for the City and compliments the college. Attended the workshops and feel it is a good project.

Hernandez: Stated he's available to answer any questions. Surprised that we've never seen Mr. Cannariato at the Task Force meetings.

Nelson: Asked why project not utilizing the Sprinter?

Hernandez: Struggled heavily to get a Sprinter stop but not successful.

Nelson: Asked if school site is included in open space for parks?

Hernandez: Separate.

Nelson: How can we depend on water being available for project?

Hernandez: This project will be more "green" than any other. It has utilized ways to catch & preserve water.

Nelson: No solar or wind?

Hernandez: Opportunities are in the book.

Nelson: Inquired about student housing?

Michael McDonald, Urban Village San Marcos, LLC, property owner within planning area: Working on Phase 1 at northeast corner of Barham and extension north of Campus Way.

Nelson: Asked if lower enrollment at CSU will affect project?

McDonald: Hoped to move forward and start construction first quarter of next year, but has been postponed primarily due to CSU reducing enrollment by 6%. There's a Cal State system-wide mandate where they must give local transfer students priority position, then entering freshman from San Diego and Riverside County. This will reduce need for student housing. Discussed Barham Road and road/pedestrian crossings. Residents in Discovery Meadows neighborhood will be able to go directly over walkway to the elementary school, park and other amenities in district.

Nelson: Asked if any ideas yet on who the commercial/retail would be?

McDonald: Conceptually, hope to create a lifestyle-type center based upon a Main Street theme, using broad sidewalks to encourage walking, shopping & dining. Anticipate retail on ground floor, with residential, office and possibly even a hotel above. Creating a true mixed-use feel vertically as well as horizontally.

Nelson: Target?

McDonald: One possibility, as well as a specialty market.

Nelson: Asked if any more speakers?

Backoff: Announced that consultants are in audience and can answer any questions.

#### CLOSE PUBLIC HEARING

Schaible: Asked what the anticipated build out is?

Backoff: Market will dictate. Difficult to project as it depends on the economy. Possibly a 20-year build out.

Wedge: If Caltrans is based on 20-25 years, would hope they have a regional study by then.

Backoff: City was concerned with piecemeal approach and would like a regional solution. Discussed the \$300,000 grant for the corridor study. SANDAG said it could cost up to \$1M. Trying to arrange meeting with North County stakeholders. City has been pushing for corridor study for several years.

Wedge: Commented that a trip on I-15 is nothing like it used to be, so they should be able to figure out a solution to SR-78.

Backoff: Traffic generation is based upon worst case numbers and may never get to that level. City believes it will be less.

Wedge: Feel it's an exciting and huge project. Mr. Cannariato's situation is beyond our scope. Commission hopes for an equitable solution for him.

Nelson: Asked if college participates in improvements?

Backoff: City has talked to college regarding intersection improvement at Campus Way. Gary Cinnamon is in audience. He was on Task Force and is with CSU. City is working as a team with CSUSM.

Backoff: Suggested order of motion, starting with EIR reso. Discussed Errata sheet/Findings to EIR and SP and City's listing of contributions to SR-78 corridor. Caltrans letter and response also included as handouts.

Wedge: You've listed into record. Asked if she needed to include handouts in motion?

Backoff: Included when you act.

Action:

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF THE CERTIFICATION OF EIR 08-43 WITH ERRATA ATTACHMENT AS SET FORTH IN RESOLUTION PC 09-4142 AND SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF GPA 08-103 AS SET FORTH IN RESOLUTION PC 09-4139 AND SECONDED BY COMMISSIONER MINNERY AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF R 08-140 AS SET FORTH IN RESOLUTION PC 09-4140 AND SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

COMMISSIONER WEDGE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL OF SP 87-29 (08M #23) AS SET FORTH IN RESOLUTION PC 09-4141 WITH ERRATA SHEET ATTACHMENT AND SECONDED BY COMMISSIONER JACOBY AND CARRIED BY THE FOLLOWING ROLL CALL VOTE;

AYES: COMMISSIONERS: JACOBY, MINNERY, NELSON, NORRIS, SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

#### PLANNING DIRECTOR COMMENTS

Backoff: None.

#### PLANNING COMMISSIONERS COMMENTS

Wedge: Complimented the Fire Dept. on their quick response & control of fire in her neighborhood earlier today. They were there in three minutes. Neighbor asked her if La Cienega would ever be extended on west side?

Edwards: No plan to extend.

ADJOURNMENT

At 9:51 p.m. Commissioner adjourned the meeting.



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Dean Nelson, Vice Chairperson  
SAN MARCOS PLANNING COMMISSION

ATTEST:



Lisa Kiss  
Lisa Kiss, Secretary  
SAN MARCOS PLANNING COMMISSION