



# MINUTES

## Special Meeting of the Planning Commission

**WEDNESDAY, OCTOBER 09, 2019**

City Council Chambers

1 Civic Center Drive, San Marcos, CA 92069

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### **CALL TO ORDER**

At 6:30 p.m. Planning Commission Chair Norris called the meeting to order.

### **PLEDGE OF ALLEGIANCE**

Commissioner Flodine led the Pledge of Allegiance to the Flag.

### **ROLL CALL**

The Secretary called the roll:

PRESENT: COMMISSIONERS: NUTTALL, CRAIN, OLEKSY, NORRIS, FLODINE, MUSGROVE, CARROLL

ALTERNATE COMMISSIONERS IN AUDIENCE: NONE

ABSENT: MINNERY, MATTHEWS,

Also present were: Planning Manager Joe Farace; Assistant City Attorney Wendy House; Associate Planner Norm Pedersen; City Engineer Kyle Wright; Senior Office Specialist Gina Henderson

### **ORAL AND WRITTEN COMMUNICATIONS**

None

### **CONSENT CALENDAR**

**1. APPROVAL OF MINUTES, 08/05/19**



**Action:**

COMMISSIONER FLODINE MOVED TO APPROVE CONSENT CALENDAR ITEM #1 AS PRESENTED; SECONDED BY COMMISSIONER OLEKSY. MOTION CARRIED BY THE FOLLOWING ELECTRONIC VOTE.

AYES: COMMISSIONERS: OLEKSY, NORRIS, FLODINE, MUSGROVE, CARROLL  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: MINNERY, MATTHEWS,  
ABSTAIN: COMMISSIONERS: NUTTALL, CRAIN

**2. TE19-0001**

**Applicant:** Montiel Rd. Partners, LP.

**Request:** Request for a 2-year time extension for previously approved Tentative Subdivision Map (TSM14-006) for up to 9 lots within the Single-Family Residential (R-1-10) Zone.

Location of Property: 2110 Montiel Road. Assessor's Parcel Number: 228-120-09-00 & 228-120-34-00.

**Action:**

COMMISSIONER OLEKSY MOVED TO APPROVE CONSENT CALENDAR ITEM #2TE19-0001; SECONDED BY COMMISSIONER CRAIN. MOTION CARRIED BY THE FOLLOWING ELECTRONIC VOTE.

AYES: COMMISSIONERS: NUTTALL, CRAIN, OLEKSY, NORRIS, FLODINE, MUSGROVE, CARROLL  
NOES: COMMISSIONERS: NONE  
ABSENT: COMMISSIONERS: MINNERY, MATTHEWS,  
ABSTAIN: COMMISSIONERS: NONE

**PUBLIC HEARINGS**

**3. Project No:** GPA18-0001, R18-0001, CUP18-0005, & ND19-002

**Applicant:** Jump Ball, LLC

**Request:** Request for a proposed 3,500 square-foot drive-thru restaurant with an approximately 325 square-foot outdoor dining area on a 0.86-acre property. The project includes a General Plan Amendment and Rezone to change the land use designation and zone of the property from Mixed-Use 1 (MU-1) to Commercial (C), and a Conditional Use Permit for review of the proposed project design. Project includes the installation of 630 feet of 8-inch sewer pipeline within Bent Avenue.

**Environmental Determination:** Mitigated Negative Declaration (ND19-002) was prepared pursuant to the California Environmental Quality Act (CEQA).

**Location of Property:** Northwest corner of San Marcos Blvd. and Bent Ave.

**Assessor's Parcel Number:** 219-331-39-00 & 219-331-40-00.



**Norm Pedersen, Associate Planner:** Presented staff report and PowerPoint presentation to propose a 3,500 square-foot restaurant with an approximately 325 square-foot outdoor dining area and drive-through facility on a 0.86-acre property located at the northwest corner of San Marcos Boulevard and Bent Avenue. The project will require a General Plan Amendment and Rezone to change the land use designation and zone of the property from Mixed Use (MU-1) to Commercial (C). Sit-Down and Take-Out Restaurants are allowed by right in the C Zone; however, Drive-Through Facilities require processing of a Conditional Use Permit (CUP). The restaurant operator would be Panera Bread which would move from its current location at Creekside Market Place. The project site is located within the Business/Industrial District of the City of San Marcos. The project site is bounded by San Marcos Boulevard on the south, Bent Avenue on the east, a retail electronics store (Fry's Electronics) on the north and a neighborhood commercial shopping center to the west. The San Marcos Creek District is located south of San Marcos Boulevard. The site is also located within the Federal Emergency Management Zone (FEMA) Zone AE (100-year floodplain) and the southern portion of the project site is within a regulatory floodway. A reclassification of the subject property to Commercial (C) would be consistent with the zoning designation of the properties to the north where a retail electronics store is located and to the east across Bent Avenue which is developed with a commercial center (Smart & Final and San Diego County Credit Union). The adjacent commercial center to the west of the subject site was built in the 1980's, and is considered non-conforming to its current zoning of MU-1. The presentation also included the architectural design of the building, landscaping, location of the drive-through, and additional elements. Ingress and egress to the project site will be provided by driveway entries from both San Marcos Boulevard and Bent Avenue which will be restricted to right-in and right-out turning movements. The required parking for restaurants is 1 space per 3 seats or 1 space per 100 square feet of gross floor area plus 3 employee spaces; therefore, requiring 38 spaces for customers and employees. The project provides 2 ADA, 3 clean air/carpool/EV spaces, 6 compact spaces, and 27 standard spaces; totaling 38 parking spaces. At the required standard of 25 feet per vehicle, the drive-through lane provides room for the stacking 10 vehicles up to the drive-through window without impacting the parking lot, driveway or street. An accessible path of travel is located within the project site connecting the sidewalk on Bent Avenue to one of the restaurant entrances. The project will also provide a bicycle rack for bicycle parking. It is estimated the project would generate 2,048 average daily trips (ADT), including 80 inbound and 79 outbound trips in both the AM peak hour and the PM peak hour. The operations of six intersections and four segments were analyzed in a traffic analysis prepared for the project. Levels of Service (LOS) of D or better comply with City standards. Based on existing conditions, all of the study intersections and road segments currently operate at LOS D or better, except for the following road segments; San Marcos Boulevard, from Via Vera Cruz to Bent Avenue (LOS E), and San Marcos Boulevard, from Grand Avenue to SR-78 Ramps (LOS E). With the proposed project, each intersection and road segment analyzed in the study would continue to operate at its existing level of service. Fiscal and Economic Impact Reports were prepared for the project. Both reports compare two scenarios labeled as the Approved Plan and Proposed Plan.

**Terry Mathew with CCI, Applicant Representative:** Terry Mathew introduced the team except for Panera Bread who could not attend, and presented a PowerPoint presentation. The current proposed site is zoned for Mixed Use and the applicant is proposing to move the zoning back to Commercial. There is a discrepancy between City Staff and CCI as CCI indicated there are 11 vehicles in the cueing lane for the drive-through and the drive-through is 130 feet from the entry of the drive-through to the order board,



which makes plenty of room for people to wait and order. 29 percent of the site is landscaped because the applicant was required to add a setback for San Marcos Boulevard to be widened at a future time. There is also a 325 square-foot outdoor seating area that will be under a trellis and well landscaped. This area was zoned Commercial prior to the General Plan change in 2012, and a lot of business were developed under that old General Plan zoning, so CCI is proposing to take it back from Mixed Use to Commercial Zoning. The Panera Bread Drive-Through is a new business model based on customer demand. Panera will provide 1300 square-feet of indoor seating, along with the additional outdoor seating. The indoor seating will allow for 68 patrons. The drive-through will increase sales for Panera, which will increase the sales tax that will benefit the City. The drive-through will also blend in with what else is on San Marcos Boulevard. CCI General Plan studies compare Mixed Use with a residential component to the Panera drive-through. That study showed that Panera drive-through would have less ADT compared to a Mixed Use project. The Commercial would have a less public service demand than a Mixed Use with residential component. The project will contribute to Green House Gas Reduction through smart meters, programmable thermostats, a bike rack, and 3 electric vehicle charging stations. It is accessible to public transit along San Marcos Boulevard. Panera is also adding 13 trees and drought tolerant landscaping. The development will take up a vacant piece of land that has been vacant for a very long time. The project creates a Commercial Use similar to businesses along San Marcos Boulevard.

**Planning Commissioner discussions included:** Pleased to see that from the Financial Impact Report that the expected revenue to the City will be higher, but doesn't take into account that Panera will be leaving a City owned facility at the Creekside Marketplace; concerns with the site drive-through; this site is on the corner of one of the busiest streets in San Marcos; From 4 p.m. to 6 p.m. traffic on the street is at a standstill going east bound on San Marcos Boulevard; concerns with how a fast food restaurant will be able to serve fresh food that is Panera's brand from a drive-through; what is the average service time or how fast Panera expects to get people their food from the drive-through; are Panera sites corporately owned or locally owned; does the corporation have any experience running a drive-through; concerns with managing the traffic coming out the drive-through; there are no medians proposed on Bent Avenue, will signs be posted; did not see if any parking spaces will be dedicated for pick-up services such as Door Dash; traffic flow concerns and will Bent Avenue be widened in the future; concerns with drivers on Bent Avenue making a left turn onto site, especially if there is nothing in the street to block them from making that turn; are there any open issues from the Tribal Council that the City is waiting to hear back; excited about the project this will enhance the City of San Marcos; will the traffic patterns change coming out of the grocery store and the bank as they would have the same issue when making a left; concerns that the applicant is leaving a City owned property and not sure when that property will have a new tenant; the numbers from the Fiscal and Economic report are not adding up, would have liked to see numbers showing how much Panera has been bring in and compare the projection of what Panera expects to bring in at the new location with the added drive-through; would have liked to have seen an "apples to apples" comparison; understand that Panera has the decision to not renew their lease at their current location, but they also lose that investment that they made in that building and lose some customer base in the City; looking at this from a Fiscal Impact with only a 30 percent increase of sales; the 30 percent increase is actually smaller because we are going to lose money from the empty space when Panera moves; we don't know when that empty space will have another tenant; can we hear from our City Attorney, it seems disingenuous to condition even a discussion let alone a decision based on a lease agreement and loss of revenue to the City and a tenant, we don't feel



it's appropriate to have this discussion and if a decision is made outside of the norm it may expose the City to some liability; what is the financial difference from changing the zoning from the current location to the proposed location; to clarify the Assistant City Attorney's question, what is the current Fiscal Impact of the site that is currently operating as a Panera Bread and what is the Fiscal Impact of the site that they are asking to move to; did Panera previously speak to the City about adding a drive-through at their current location; can City staff give a little background on the thinking of the General Plan update with regards to this project; will there be a spot for drive-through overflow when cars have large orders and those orders take longer than usual; will there be three charging stations and not only the infrastructure; what is the timeframe for the Bent Avenue widening and will the widening go all the way to San Marcos Boulevard; where is Panera installing the underground detention vault and who will be maintaining that.

**Terry Mathew, with CCI:** Panera expects to get people through the drive-through in three (3) minutes or less. Panera wouldn't be doing this if they didn't understand how to prepare their food in order to serve the drive-through customers quickly and keep the drive-through moving. They have their salads pre-made; the soups are pre-made, hot and ready to go. Some of their sandwiches may take a few moments to cook, and then you have the delay time from the order board to pick-up. Panera is owned by an entity called Mana Development and it is a corporation within itself. Mana Development has experience running drive-through restaurants. With the site having two entrance and exit points, that will help manage the traffic entering and exiting the restaurant. There will be signs posted on the property indicating that entrances and exits are right turn only. Panera did not address parking for pick-up services only. CCI is currently working with their engineer on that request to install a pork chop. The concern the applicant has is that adding the pork chop will reduce the number of parking spaces. Panera is installing three charging stations for the Electric Vehicles. The vault is closer to the San Marcos Boulevard driveway and the owner of the property is responsible for maintaining that vault.

**Kyle Wright, City Engineer:** The extra traffic flow from the traffic study was taken into consideration when the mitigation was reviewed for the Creek District. When the Creek District improvements go in and occur on Bent Avenue and San Marcos Boulevard, there will be some widening and delineation of those lanes to allow those three separate lanes, the dedicated left turn and right turn lane. These two streets are part of the improvements for the Creek District project. City Staff's opinion is that a pork chop shall be installed on Bent Avenue until proven otherwise that it's not feasible to be at that location. After reviewing the plans, the City's comments to the applicant was that they shall provide a pork chop to restrict the movements on the Bent Avenue driveway to right in and right out. Since the bank site was not part of this project application that is not something the City can condition the project applicant to do. The City can ask the Traffic Engineer to review where the bank driveway location is in proximity to estimated queue length of Bent Avenue, to see if a left turn lane signage needs to be restricted. Since that already is in operation it can be harder to add that prohibition and restriction to the driveway. With regards to the Economic analysis, what was taken into consideration is that Panera is going through their existing lease with the City through the remainder of this project. They are not terminating their lease. There would have been a point in time when Panera would have had that option to leave and the City would be looking for a new tenant to fill that vacant space. City staff does not have the exact timing of the widening because that is being handled by the City's Capital Improvement Division. It was awarded earlier this year. The timing of the Creek District



improvements may align with the opening of the new Panera location, but not certain. The improvement of Bent does go all the way to San Marcos Boulevard.

**Norm Pedersen, Associate Planner:** City staff had consulted with the Tribal agencies and those have been concluded. The project will require cultural monitoring during grading.

**Joe Farace, Planning Manager:** The Economic analysis doesn't take into account that Panera is moving from its existing location to the new location. The analysis is giving us a comparison of proposed use versus the previous use. We don't have the report showing what the losses could be with the vacant building after Panera moves. With regards to the General Plan update, at this point nothing is being abandoned on this site and they are providing the dedication for the multi way. Issues with the Creek District are being addressed. For Panera, the applicant has the right to request a General Plan Amendment rather than wait and they do have that additional right of way in front of their site should the multi way continue along San Marcos Boulevard.

**Matt Simmons, with CCI, applicant representative:** I would like to contribute to this discussion. I see some potential issues with the City owned property and a Commission voting on if a user can go to a different location. There shouldn't be an "apples to apples" comparison. These studies use a retail user in a space and don't specifically use the actual business, such a Panera's numbers. Panera does anticipate a 30 percent increase by adding a drive-through to their business model. This will contribute to a tax increase for the City. When you look at a fiscal study for the City, you should be looking at that you will still have that rentable space in the center. Who is in that space is not the factor. You rent it and it will be filled again and that's that side that should be looked at. You should disassociate yourselves with the fact that the City owns that shopping center compared to the location the application is moving to. There may be some lines and boundaries that shouldn't be crossing if that is the decision making factor. Panera did reach out to the City regarding their project and signed an additional 5 year lease while this new entitlement is being processed. The numbers from the Fiscal Impact report are not Panera's numbers. The numbers are relating to a MU-1 building versus a Commercial building. To change the zoning it's about 2200 thousand dollars net increase to go from MU-1 on the site to Commercial. These fiscal studies do not contact Panera and they do not ask for the San Marcos numbers, they use general numbers for their studies. To answer your question more clearly, with Panera moving from their current location to the new location and adding a drive-through they are adding a 30 percent tax increase to the City. The previous location will be rented again. We don't know what the new business will be, so we cannot compare the numbers. Panera did speak to someone, and our firm was not involved, about adding a drive-through at their current location, and our firm does not know exactly what transpired and why it couldn't be done. With regards to the General Plan, Terri did give some information about a setback that would be set in place on the proposed property. If the street is rebuilt, the vision for directly in front of this property regardless if it's mixed use or not is parking. There is additional parking coming with a complete street and the site itself will not change. The setbacks are there is the current vision is ever built. If the pork chop is installed, the driveway would widen by three feet and right now it's a challenge. We are working with City staff on solutions. The concern with dedicating spots right now pulls from the required parking count and if we dedicate spots for certain "stuff" then we have less parking spots to meet the City's requirements.



**Wendy House, Assistant City Attorney:** I would like clarification on whether you are more concerned with the loss of or the difference in revenue for the two sites in general or the loss of lease revenue versus the increase of revenue for this site? The question you asked is a valid question without getting into detail about the City losing a lease or revenue.

### **PUBLIC COMMENTS**

None

### **CLOSED PUBLIC HEARING**

**Planning Commissioner discussions included:** The City knows when they need to start looking for new tenants to fill any upcoming vacant buildings owned by them, and the City handles these situations well; hopes are that Panera Bread can handle their drive-through the way Chick-fil-A does to keep traffic off of Bent Avenue; we should vote for Panera Bread to add the pork chop because people will ignore the signs without a physical barrier there blocking them from turning left in to the property; Panera should watch the traffic flow in their drive-through so that they don't lose customers from people leaving and going someone where else; is there a forecast if Council approves when construction will start and end; since there is an existing restaurant, will there be an overlap of operation, will the employees that are currently working be invited to work at the new Panera location.

### **OPEN DISCUSSION**

**Terry Mathew with CCI:** Panera's goal is to start construction in January, anticipate a six month construction schedule, hiring and training, and then they will open. CCI cannot speak on Panera's plan, but they did indicate that they have a high turnover of employees and they could carryover employees to the new location.

### **CLOSED PUBLIC HEARING**

**Planning Commissioner discussions included:** An applicant can come forward with a City application for a General Plan amendment, zone change, CUP, and a Fiscal Impact Analysis without a brand, I don't believe there's a requirement that says they have to state their brand immediately, can we get a confirmation on that; Panera renewed another 5 year lease to be a good corporation, and they didn't have to renew their lease, so I'm satisfied with the Fiscal Impact Analysis; frustration with the financial discussion and Panera is going to invest a couple million dollars to improve a vacant corner lot and street that currently looks terrible, they are staying in San Marcos, and their drive-through is a business model they have explored; I focused on the goal of the General Plan and its policy, particularly policy LU 2.1 which refers to the compact development patterns that reduce air pollution and automobile dependency



and facilitate walking, bicycling and transit use; concerns with the vision of San Marcos Boulevard and what do we want to see, lots of restaurants or a downtown feel with mixed used business, there are too many drive-through restaurants in San Marcos; this project takes away housing, as the mixed use zone had housing incorporated in it; let's think about the goals of the City and what's best for our citizens; the project in front of us what we have to decide on; this is a good project.

**Joe Farace, Planning Manager:** It's true; the brand does not need to be provided immediately.

**Action:**

COMMISSIONER MUSGROVE MOTIONED TO ADOPT MITIGATED NEGATIVE DECLARATION 19-002, AND APPROVE RESOLUTION PC19-4801 THE GENERAL PLAN AMENDMENT 18-0001, APPROVE RESOLUTION PC19-4802 TO REZONE FROM MIXED-USE 1 TO COMMERCIAL REZONE 18-001, AND APPROVE RESOLUTION PC19-4803 CONDITIONAL USE PERMIT 18-0005. COMMISSIONER FLODINE SECONDED THE MOTION. MOTION CARRIED BY AN ELECTRONIC VOTE.

AYES: COMMISSIONERS: NUTTALL, CRAIN, NORRIS, MUSGROVE, FLODINE, CARROLL  
NOES: COMMISSIONERS: OLEKSY  
ABSENT: COMMISSIONERS: MINNERY, MATTHEWS,  
ABSTAIN: COMMISSIONERS: NONE

**PLANNING MANAGER COMMENTS**

I wanted to add to the record the findings for the General Plan should include some language in terms of the General Plan action will be removing housing from the site. We'll include findings in the City Council packet to include some discussion with our housing element. I would also like to add that City Council approved the Artis project on August 13<sup>th</sup>, they did include the recommended condition regarding the construction truck trips at the intersection of San Elijo and Rancho Santa Fe Road. On September 10<sup>th</sup> the San Marcos Highlands project, the 187 unit single-family housing project at the end of Las Posas Road, the condition of that project required the City and County of San Diego and the Wild Life Agency to enter into an annexation agreement regarding preservation of the North County MSCP that is currently being processed through the County. All parties reached an agreement and a document is ready for signature. That item went to City Council for authorization to allow the City Manager to authorize signature. The next step is the Board of Supervisors to get the County to sign the document. Signatures were received from Fish and Wildlife Service and that concludes the Planning Manager comments.

**PLANNING COMMISSIONERS COMMENTS**

The MND does discuss the potential loss of housing.



**Wendy House, Assistant City Attorney:** The City does have an obligation to make sure it is in compliance with its ~~Rena~~ RHNA numbers under the Housing Element, showing that these potential 24 sites were removed and they have adequate numbers to meet the categories these houses are in and that there are other available spaces within the City to satisfy those ~~Rena~~ RHNA numbers under the Housing Element.

**ADJOURNMENT**

At 8:14 p.m. Chair Norris adjourned the meeting.

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KEVIN NORRIS, CHAIRMAN  
CITY OF SAN MARCOS PLANNING COMMISSION

**ATTEST:**

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GINA HENDERSON, SENIOR OFFICE SPECIALIST  
CITY OF SAN MARCOS PLANNING COMMISSION