

# MINUTES

## Special Meeting of the Planning Commission

**TUESDAY NOVEMBER 30, 2021**

City Council Chambers

1 Civic Center Drive, San Marcos, CA 92069

---

### **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, RIOS, FLODINE, NORRIS, MATTHEWS, CARROLL, CRAIN

ALTERNATE COMMISSIONERS IN AUDIENCE: CAVANAUGH

ABSENT COMMISSIONERS: OLEKSY

Also present were: Planning Division Director Joe Farace; Deputy City Attorney Punam Prahalad; Senior Office Specialist Gina Jackson

### **ORAL AND WRITTEN COMMUNICATIONS**

None

### **CONSENT CALENDAR**

#### **1. APPROVAL OF MINUTES, 11/15/2021**

#### **Action:**

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

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

## **PUBLIC HEARINGS**

### **2. Project No: TA21-0004**

**Applicant:** City of San Marcos

**Request:** Consideration of a Planning Commission Ordinance to Recommend to City Council adopt an Ordinance and an Urgency Ordinance Amending Portions of the San Marcos Municipal Code to Provide for Regulations Concerning Two Unit Residential Development and Urban Lot Split Subdivisions in Single Family Residential Zones in the City of San Marcos. Staff recommends that the Planning Commission forward a recommendation to the City Council to amend San Marcos Municipal Code Title 19 (Subdivision Ordinance) and Title 20 (Zoning Ordinance) to implement recently enacted Senate Bill 9. This ordinance is proposed to be introduced by City Council on an emergency basis pursuant to Government Code 36937 to ensure that the ordinance is effective prior to January 1, 2022 in order to protect public health and safety to the maximum extent possible, particularly in the Very High Fire Hazard Severity Zones.

**Environmental Determination:** The project is categorically exempt from the California Environmental Quality Act (CEQA), Section 15378 of the CEQA Guidelines.

**Location of Property:** The San Marcos Municipal Code is applicable to all Single Family Residential zoned properties within City limits.

**Joe Farace, Planning Division Director:** gave the presentation

## **PUBLIC COMMENTS**

None

## **CLOSED PUBLIC HEARING**

**Planning Commissioner discussions included:** Will the City keep track of the owner living on a Lot Split for 3 years; what will happen if the City does not have this ordinance; clarify a car-share vehicle and if San Marcos has any; concerns with the parking rule for car-share vehicles and if someone who owns one moves



out; clarification on the language pertaining to the maximum 16 ft. height; what are the gray areas the City can control; concerns with the access width for emergency vehicles; parking space size; are short term rentals permitted in the City; concerns with the affidavit and enforcement, can penalties be written in the ordinance to prevent “flippers”. Would like to have the affidavit recorded; confirm that SB9 is dictating the minimum 1200 sq. foot lot size; who is responsible for the utility upgrades on a Lot Split. Concerns with the text bill language about Community Land Trust or qualified non-profit corporations using this for the purpose of flipping houses; does the City have any rules preventing someone from utilizing SB9 for a subdivision. Are other cities adding restrictions to their ordinances; in support of having a recorded affidavit and create language that it terminates on the third year anniversary; not in support of this bill; thank staff for all the work they did to put this together and their effort in trying to protect the City.

**Staff Response:** When the applicant signs the affidavit and we find out they are no longer living in the residence before the 3 years ends, it will turn into a Code Compliance case; if the ordinance is not approved then the State Legislation would apply. The ordinance gives the City some local control and how we apply those terms; The City does not have car-share vehicles, the language was written in the ordinance if in the future we get them; the car-share rule is from the State and the City does not have any discretion. We can include language to clarify the 16 ft. height limit applies to new units only; the City can control the setbacks, parking, a percolation test in 5 years, limit ADU units, and require access to adjoining right of ways. These permits will have a Building and Fire Department review to ensure they meet the minimum requirements for emergency vehicle access; parking sizes are not defined but are typically 8x19 or 8x20, the City does not allow short term rentals and those that attempt to have one are turned into a Code Enforcement case and the City Attorney’s office issues a Notice of Violation, and some cases have had hearings to make sure they know they are in violation. The affidavit is not recorded, and will stay within the City, you can recommended recording the affidavit, but the recordation will only be for three years. We don’t believe there are provisions in SB9 to allow penalties; the ordinance is structured to mimic State Law and focus on the few items we have discretion on; our Municipal Code does have the ability to give penalties and write citations if it’s a code enforcement situation; SB9 is dictating the minimum lot size; the applicant is responsible for any utility upgrade fees, the permit goes to the Building Department to show the structure is safe and livable, then routed to the Water District for review and assigned allotment for the lot. We believe the SB9 attempt is for the property owners to add to their homes, but there is nothing written that a Developer can’t build on five properties next to each other, however these homes have to be owner occupied. We don’t have wiggle room for Land Trusts or LLCs in SB9; other cities are obligated to bring forth an ordinance, some have and some have chosen to wait; we are being proactive to make sure we have an ordinance in place before January 1<sup>st</sup> in case we have folks wanting to apply SB9, it benefits the City to have an ordinance in place to allow us some local control.

**Action:**

COMMISSIONER FLODINE MOVED TO RECOMMEND APPROVAL TO CITY COUNCIL RESOLUTION PC 21-4962, ADOPT TEXT AMENDMENT TA21-0004, ADOPT EX21-029 AND TO MAKE THE FOLLOWING CHANGES: INCLUDE CLARIFICATION IN HEIGHT STANDARD FOR EACH NEW UNIT, AND REQUIRING LOT SPLITS TO HAVE A RECORDED AFFIDAVIT REQUIRING OWNER/OCCUPIED FOR THREE (3) YEARS TO

INCLUDE AUTOMATIC TERMINATION; AND SECONDED BY COMMISSIONER NORRIS. MOTION CARRIED BY AN ELECTRONIC VOTE.

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

**PLANNING DIVISION DIRECTOR COMMENTS:** There will not be any items in December. Wishing all of you Happy Holidays and thank you for your commitment to the City and taking the time to attend the meeting tonight for this item.

**PLANNING COMMISSIONERS COMMENTS:** Enjoyed the last two years on the Commission, even with Covid; Thank you staff for all the work you do to help us understand the items before us and wishing you all Happy Holidays; It's been a pleasure serving with all of you, I've learned a lot about our City and how much control we really have; I enjoy the dialogue of this group, and everyone putting their time in, it's been a pleasure being here and have a happy holiday.

**ADJOURNMENT**

At 7:36 p.m. Chair Norris adjourned the meeting.



\_\_\_\_\_  
KEVIN NORRIS, CHAIRPERSON  
CITY OF SAN MARCOS PLANNING COMMISSION

**ATTEST:**



\_\_\_\_\_  
GINA JACKSON, SENIOR OFFICE SPECIALIST  
CITY OF SAN MARCOS PLANNING COMMISSION