

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
MONDAY, DECEMBER 3, 2012 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Vice-Chairman Schaible 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: Flodine, Kildoo, Maas, Minnery, Norris, Schaible, Wedge

ALTERNATE COMMISSIONERS IN AUDIENCE: Jones

ABSENT: Nelson.

Also present were: Planning Division Director, Jerry Backoff; Principal Civil Engineer, Peter Kuey; Principal Planner, Karen Brindley; Office Specialist III, Lisa Kiss; Deputy City Attorney, Jim Lough

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

1. APPROVAL OF MINUTES, 11/5/12

Action:

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

AGENDA ITEM
1

PUBLIC HEARINGS

2. **Case No:** TSM 470 / ND 12-821

Application of: 1188 Borden Road LLC and 1200 Venture LLC

Request: The proposed project is a request to subdivide three parcels into twenty-two (22) single family residential lots (Tentative Subdivision Map 470). The applicant is also requesting a 35% density bonus, as permitted by Government Code §65915. The maximum allowed density per the existing General Plan is sixteen (16) lots. The applicant has indicated that two (2) lots will be set aside for very low income residents, thus entitling the applicant to seek the 35% density bonus per the State Density Bonus law (Government Code 65915). Because the applicant will provide two very low income lots within the subdivision, this also entitles the applicant to request two (2) concessions of development standards as well as waivers of development standards. The applicant has requested two concessions and development standard waivers: a concession to allow private street access instead of a public street access, as required by Title 19 of the San Marcos Municipal Code; and the ability to use a combination of retaining wall and wood fencing along the perimeter and property lines (instead of a design requiring all solid decorative wall). The applicant has also requested a waiver of the minimum 10,000 square foot lot size development standard required in the R-1 zone as well the reduced R-1 zone setbacks.

Location of Property: 1188 Borden Road, more particularly described as: Parcels 1, 2, 3 of Lot 2, Block 29 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to map thereof No. 806, filed in the office of the recorder of San Diego County, December 21, 1895.

Assessor's Parcel No.: 224-040-11; 224-040-28; 224-040-29.

Staff Presentation (Karen Brindley):

Described request and location. PowerPoint presentation shown. Discussed background on State Density Bonus Law: In place for 30 years and has been modified throughout. The law takes precedence over City's General Plan and Zoning regulations. The intent is to encourage more development of low & moderate income projects throughout state. The developers set aside a percentage of units for affordable housing. Two critical components: 1). Number of units set aside will determine percentage of the bonus that developer can obtain. It varies between 5 – 35%. 2). Affordability of the units. This establishes the number of concessions or incentives, between one and three. As long as they meet statutory threshold requirements of the law, City doesn't have legal authority to deny the request unless very specific findings are made. Units must remain affordable for 30 years. Developer may also request for waivers of development standards. They've requested waivers of minimum lot size and depth and 20' front setbacks. Discussed background: Originally submitted in late 2006. Staff and applicant worked through many issues related to designs and DBL. Public Workshop was held with Planning Commission in Aug. '09. Was scheduled to go to hearing in Sept. '09, but they requested a continuance, and then tabled. In April '10, they changed consultants and modified two requested concessions and request of waivers. They revised project to address drainage and water quality improvement plan. A new Mitigated NegDec was prepared and circulated. (Aerial photo shown). Site consists of three parcels, 4 acres, to be subdivided into 22 lots. It includes two very low income lots which qualify them for 35% density bonus plus two concessions. Net lot sizes range 4,667 to 7,797 s.f. with

average of 5,810 sf. Discussed setbacks. Discussed maximum density and minimum lot size per City's GP & ZO. Showed summary of City standards vs. development standards. They've requested a private street and a combination for the retaining wall of block and decorative wood fencing with decorative pilasters. They'll likely sell project to a merchant builder. There shall be a minimum of three house plans, four single-stories and two affordable that will look the same as market rate houses. Affordable will be 1,500 s.f., 3 bedrooms, 2 bath w/2-car garage. They'll demo existing SFR. (Photo simulations shown). Discussed private street layout: Will accommodate on-street parking in some areas and there will be a sidewalk connecting to Borden Road. Fire Marshall has reviewed and determined compliance. No parking allowed in cul-de-sac bulb. Discussed concessions, wall & fence: In '09, residents from El Toro Lane expressed concern with potential drainage impacts and privacy issues. Staff had conditioned to revise drainage. Applicant must submit detailed wall and fence plan. Must comply with City's Inclusionary Housing Ordinance, requiring 15% of target units (16 units) are affordable. Applicant will pay in lieu fee per agreement (Memo #2) for two lots. They'll be required to enter into a Density Bonus Housing Agreement prior to final map and the affordable lots will remain deed restricted for 30 years. Staff recommends approval subject to modifications in Staff Memo #1 and #2. The mitigation measure in the NegDec, under Land Use and Monitoring program, will need to be substituted with revised language as it relates to the house plans for affordable, as per J. 3. on page 19.

Kildoo: Asked about street width for a regular project?

Kuey: Typically, 40' curb to curb with parking on both sides.

Kildoo: Inquired how 30-year affordability is maintained?

Backoff: Require regulatory agreement. Will maintain low income value for 30 years.

Kldoo: Asked about Inclusionary requirement of 15% and if the two very low units are part of the 3.3?

Backoff: Two very low will be built on site and they'll pay in lieu fee for two lots.

Wedge: Asked how many low incomes?

Backoff: Two are very low. The rest are market rate.

Flodine: Asked the City standard for guest parking?

Backoff: No requirement for SFH subdivision.

Flodine: No ratio or requirement?

Backoff: Only requirement is the two-car garage.

Norris: Asked what constitutes low income?

Backoff: It's a percentage of the median income in San Diego County. Buyer's income would be validated.

Norris: Commented that the lots are small and there likely will be children. Asked if any green belt or recreation area?

Backoff: Standard subdivision, so no requirement for open space or common lot. If required, it would preclude development.

Flodine: Commented that his community has large garages and they're used for storage. He doesn't think the two-car garages will accommodate cars. The driveways and streets will park cars. Concerned they'll overflow to adjacent streets and affect those residents.

Kildoo: Asked if there are HOA requirements to use the garage?

Backoff: Staff has done that with multi-family. Don't typically require it in a single-family subdivision. Defer to City Attorney.

Flodine: Indicated his CC&R's require it but the streets are public, so not enforceable. Since this will be a private street you could enforce it.

Jim Lough: It would be very difficult to enforce. Density Bonus Laws are written in a way that they create some externalities. Legislature has determined the benefit of providing the extra housing for people that typically can't afford it, has us looking past that. On a practical level, City Attorney can't enforce even on a private street. On the legal side, there'd be great difficulty with a condition like that. He sees the benefit of it but considering the overarching purposes of the state law and the way it requires we impose certain burdens to meet other goals, he'd be very worried about it.

Kildoo: Recall they've done it before. Even if hard for City to enforce, at least the CC&R's would discourage buyers from using their garage for storage or an additional room. They would see it and have to sign it.

Lough: This is different because of density bonus laws.

Kildoo: We're not only letting them put in more units than anywhere else; we're also not doing things to protect surrounding neighbors from overflow parking?

Lough: Replied, yes, we're tied in with state law and I have a real concern about this and in this circumstance. Project has met the standards for density bonus, per unit increase, two concession level and that left them with a situation where it was physically unable to put the entire project there and that's what shrunk everything down that you're talking about.

Flodine: City has a requirement for a home to have a garage. The purpose is to store the car, not stuff. The problem is with enforcement.

Lough: When done in the past, it was ad-hoc, case by case. With a density bonus, you'd have to point to a specific policy, law or procedure. The City doesn't have a procedure or written policy in place requiring use of the garage for car storage on all private streets of a certain width.

Wedge: Asked if HOA could add it?

Lough: Yes, but City can't put in the conditions.

Backoff: Commission can't apply to this project. Maybe in the future, next year Zoning Ordinance review, staff could add specific standards or policy.

Kildoo: Asked what the Commission can make a decision on?

Backoff: There's very little discretion and staff is also frustrated. Staff has been working on the proposed project for many years. Have come to a solution, although not what is normally approved but must do per state law. Applicant has made attempt to work with staff. Originally, there were open drainage swales, now has drainage on site & bio filtration. Street has been expanded to 40' and there's a single-story component. We're implementing state law and it's the best project for this particular site.

OPEN PUBLIC HEARING

Michael Hunsaker, resident of San Marcos: Most questions answered by staff. Asked when the 30 year timeline starts? When does affordable housing have to be built? Believes there's a safety issue on the road and there will be problems getting emergency vehicles in/out. Indicated he lives on a street that was private and now public. Drainage issue, EPA is increasing its requirements for urban runoff. If standards change, will their permits have to be reviewed, or is it exempted?

Backoff: The 30 year restriction starts when built and occupied. Affordable will be built concurrent with market rate product. Fire Marshall has reviewed road safety and turning movements. Street was increased to 40', and there's no parking on cul-de-sac bulb. All units will have sprinklers. Drainage has been modified to address latest standards from RWQCB. If built, it will meet current standards with bio filtration & filters. If a long delay, it would have to meet any new requirements.

Doug Harwood, Rancho Santa Fe real estate broker: In support of project. There's a high demand for these type homes. In San Marcos, there's only a one-month supply. People are looking for smaller lots and smaller homes, infill and affordable.

David Meyer, Entitlement/Applicant Representative: Understand frustration regarding parking issue. It's an issue with a variety of lot sizes. Applicant has no problem adding stipulation in CC&R's requiring parking vehicles in garage. Indicated they'd work with staff to come up with language. Project is sorely needed. There haven't been many subdivision maps being approved for several years. It can change a family's life being able to move from an apartment into a home. There's a real demand in the community and this is a substantially better project than it was three years ago.

Wedge: Commission can't condition parking requirement. Have to add to CC&R's.

Meyer: Believe the applicant is willing to agree to stipulate to that condition.

Lough: As long as they stipulate to it, we're fine. It's in the record.

Meyer: They also want the subdivision to work properly.

Schaible: Asked about HOA dues and if tiered for affordable?

Meyer: There's a small common landscape area. Fees will be worked out in the affordable housing agreement with City. There may be a concession for those low income homes and sometimes they are exempted from fees.

Vince Bruno, nearby resident on El Toro Lane: Commented that he brought up two issues years ago: 1). Drainage. Thanked them for revising the drainage. 2). Sound/block wall. Not sure if wall was addressed.

Backoff: On the westerly property line, there will be a solid retaining wall varying 3-5 feet, a wood fence on top, with cap and pilasters in between. Applicant didn't want to do a solid wall. The combination should give as much privacy and there's not a noise issue. They'll also try to put at least one single-story along that segment.

Vince: Sounds good, but would have been nicer to have block wall.

Backoff: Unfortunately, the applicant listed the solid wall as a concession.

CLOSE PUBLIC HEARING

Action:

COMMISSIONER KILDOO MOVED TO APPROVE TSM 470 AS SET FORTH IN RESOLUTION PC 12-4324 WITH MODIFICATIONS: INCLUDE CHANGES IN STAFF MEMO #1 & #2 AND AN ADDITION TO CC&R'S (as read by Jim Lough and approved by Applicant's Representative): (New) **I. 30. i. THE CC&R's SHALL INCLUDE A RESTRICTION ON GARAGE USAGE SO THAT EACH GARAGE SHALL HAVE SPACE AVAILABLE AT ALL TIMES FOR PARKING OF TWO STANDARD-SIZE VEHICLES.**

Backoff: There was also a modification to the mitigation measure that's consistent with revised condition, relative to floor plans and elevations.

Brindley: Pointed out that it's a new item brought up tonight. It's consistent with the revised language, but staff, in PC Memo #1 & #2, did not also ask for modification to that mitigation measure under the Land Use section. It would be consistent with the language being approved to modify Condition J.3.

Backoff: It just wasn't part of the Errata Memo.

Action:

KILDOO AMENDED MOTION TO ALSO INCLUDE NEW J.3. MODIFICATION; SECONDED BY COMMISSIONER WEDGE AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

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

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

Kildoo: Asked the projected start date?

Meyer: Owner is not a builder, so they'll now seek an actual builder. Believe it will move along quickly.

PLANNING DIRECTOR COMMENTS

Backoff: Reminded everyone of deadline tomorrow for Commissioner's whose terms are up. Believe all have already submitted and no one else has applied so far. Eric applied for a permanent term.

PLANNING COMMISSIONERS COMMENTS

None.

ADJOURNMENT

At 7:24 p.m. Vice-Chairman Schaible adjourned the meeting.

Jim Schaible, Vice-Chairman
SAN MARCOS PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS PLANNING COMMISSION