

MINUTES
REGULAR PLANNING COMMISSION MEETING
CITY COUNCIL CHAMBERS
1 CIVIC CENTER DRIVE
SAN MARCOS, CALIFORNIA
MONDAY, NOVEMBER 4, 2013 - 6:30 PM

CALL TO ORDER

At 6:30 p.m. Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Minnery led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: FLODINE, JONES, MAAS, MINNERY, NELSON,
NORRIS, SCHAIBLE

ALTERNATE COMMISSIONERS IN AUDIENCE: CHINN, KILDOO

ABSENT: None.

Also present were: Planning Division Director, Jerry Backoff; Associate Planner, Susan Vandrew Rodriguez; Deputy City Attorney, Avneet Sidhu; Office Specialist III, Lisa Kiss

ORAL AND WRITTEN COMMUNICATIONS

None.

CONSENT CALENDAR

Nelson: Asked if Commissioner's were okay with moving the SMUSD item from Consent to Public Hearing?

Commission: Agreed.

1. APPROVAL OF MINUTES, 10/3/13

Action:

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

AGENDA ITEM
1

PUBLIC HEARING

2. **CONSENT - San Marcos Unified School District, K-8 School** – Request for Report on Proposed Acquisition of Property for Possible K-8 School Site pursuant to Government Code Section 65402 Request & Public Resources Code Section 21151.2 Request

Staff Presentation (Susan Vandrew Rodriguez):

PowerPoint presentation shown. SMUSD is requesting the following: 1). Public Resources Code 21151.2 determination for General Plan conformity of an approximately 36.55 acre K-8 school site prior to acquisition of property. 2). A Planning Commission "Report" pursuant to Government Code Section 65402 to render a report as to the general Plan conformity when a General Plan has been adopted by the local land use agency. SMUSD is pursuing development for construction of K-8 school site located adjacent to San Elijo Road/Twin Oaks Valley Road (Area S and adjacent A-1 property). Originally, Area V2 was an alternative school site and is no longer being considered. Project area shown.

Backoff: Area V2 was identified as a school site in the Master Plan. Decision was made not to pursue it because of expense and questionable need at that time. School district also looked at the Hanson property and that did not work out.

Vandrew: The environmental review document has considered the new area as a school site. Some area will be left open space. Pointed out the deceleration lane. Discussed statutory requirements. SMUSD is proposing to acquire properties starting in early Dec. '13. On 9/17/13, the District submitted a request for a Planning Commission Report. On 10/4/13, the District granted an extension to the City to 11/5/13 to allow the City to concurrently respond to the request along with the land use entitlements. The City was unable to proceed concurrently with both the "Report" response and the public hearing for P13-0046 as one of the property owner consent letters couldn't be obtained from SMUSD in time for the 11/4/13 Planning Commission meeting. In order to comply, the City had to proceed with the requested Report only. Discussed existing land uses, either Agricultural/Residential, Specific Plan or Open Space. Discussed General Plan Conformity Finding. The designations & zones on the project parcels do not currently permit a public use such as a school. A General Plan Amendment, Rezone and Specific Plan Amendment requested in P13-0046 must be processed and approved. The District has requested the Report but has advised the City they may invoke the provision of Government Code Section 53094 if necessary to complete site acquisition, but that it would continue to process the pending application. District can explain further.

Nelson: Commented that he was interested to hear more because it seems like Commission is limited in what they can act on.

Vandrew: Discussed public comment letter received from Mr. Carr. Also received a late letter from Mr. Bartholet. Staff has explained to Mr. Carr that he and his neighbors can submit an application for consideration of their request and that the City cannot force the District to include other parties in their application. Discussed background of General Plan update pertaining to parcels in Attebury Hills. Indicated that this hearing is not to address entitlements. The resolution has been modified to address one comment by Mr. Carr, which is shown in a Memo from staff. SMUSD adopted FEIR on 10/15/13. The

final EIR is being made available to Commission tonight for their review in preparation for entitlement application at a future date. Staff recommends that the Commission find application P13-0046 filed by SMUSD to request a GPA, Rezone and SPA would be consistent with the General Plan upon successful completion of the entitlement process.

Jones: Asked if they'll be in compliance if General Plan is amended, and would that be the case with most anything?

Backoff: Yes.

Nelson: Asked if private or charter school could invoke the same law?

Backoff: Only public institutions.

Nelson: Do they process own EIR?

Backoff: The district still has to comply with CEQA.

Vandrew: Private schools are subject to City provisions, even more so. Once it is a public school it's subject to state provisions and City has less land use authority.

Nelson: Asked if there's ever been a district that allowed a piece of property to process with them?

Backoff: Most sites are identified already on General Plan as school sites. This is unusual given the timing they need to make a decision on acquisition as well as entitlements. The district is waiting on a letter from one resident, which prevented them from going forward with the application.

OPEN PUBLIC HEARING

Khary Knowles, Executive Facilities Director, SMUSD: It's a strange provision within the Public Resources Code that allows the school district to do what they want as far as overruling the zoning. Even if City says "No," the district can still proceed 30 days later. The district wants the City to know what they're doing and wants to work with the City, but because of the timeline, they must proceed this way. SMUSD wants to proceed with changes, get the GPA, Rezone and SPA according to City rules.

Minnery: Asked when they plan on starting construction and completion?

Knowles: Start in Feb or March. '14 and open school Aug. 2015. The District looked at two other sites that fell through. It's normally a 4-year process. They're trying to do it in two years, by doing the purchasing, environmental and design all at the same time. The schools are over-crowded.

Minnery: Heard that San Elijo schools are full. Inquired what happens until 2015?

Knowles: Yes, may rearrange schedules, go to three lunches a day and will have to squeeze for one more year. Don't want to waste money on temporary portables.

Norris: Asked if this would be the last time request comes to Commission?

Backoff: No, there are entitlements, a GPA and SPA, possibly in December.

Nelson: Asked if Lusardi is building?

Knowles: Yes. They are the districts pre-construction contractor.

Nelson: Asked if they ever put it out to bid?

Knowles: Certain pieces are put out to bid as far as preliminaries for the contractors, but not the actual project costs. Those are determined by subcontractors. They bid those out and give the district the documents.

Norris: Lusardi is the construction manager?

Knowles: Yes.

Nelson: They win that battle all the time. He feels the citizens pay way too much for schools. Look at San Marcos High. Those build-to-suits often don't seem to work. Can't you say it will cost \$50 million and if they build it for less, they get the money, if more, we're off the hook?

Knowles: It's called the maximum price. They give a maximum and typically meet it by the end of the deadline.

Nelson: On certain parts?

Knowles: Don't know that whole history. His children also attend school in the district, so he's concerned with cost too.

Nelson: Asked how district is paying for school?

Knowles: The K-8 is coming from district's own funds, but not using Prop K dollars. They were going to incorporate with Prop K to make a bigger general program for Prop K, instead they'll have to take those portions out to build the new school. Continued to discuss funding sources.

Nelson: Asked if Knob Hill is next?

Knowles: It's not a particular school. Portions of the Prop K description will not be able to be done because of this process.

Nelson: That's terrible.

Knowles: There's overcrowding everywhere. Do want to work with City and be a good neighbor.

Norris: Asked if this location is better?

Knowles: Yes, didn't have the time schedule to meet the needs at other site.

Norris: Asked if it's the last location in San Elijo Hills?

Knowles: Yes, for the size they need. Looked at V2 and Hanson site.

Nelson: Asked what happens if resident doesn't want to sell?

Knowles: Public agency can overrule and condemn.

Mr. David Carr, resident: Owns 10.5 acres, zoned agricultural, directly west of the site and share almost ¼ mile boundary. Understand they need new schools. Takes issue with comment that "staff has explained to Mr. Carr." Wrote a letter to Mr. Backoff, wrote e-mail to Mr. Kuey and that is it. There has been one-way communication. Indicated he hasn't been explained anything by anyone on staff.

Backoff: The comment refers to the General Plan Update process and conversations between Mr. Carr and Mr. Koller regarding options available.

Carr: Apologized, he forgot the call with Mr. Koller. Consultants have told him it would cost \$100,000-\$200,000 for a GPA & Rezone and a year if he's lucky. Doesn't think he should have to pay that as a result of the school going in. He doesn't understand the recommendation. Appreciate change in wording in resolution, but is the resolution the Report that is due tomorrow? Or, is some other document being prepared? The school is the equivalent to 450 condos in a supposedly rural agricultural area. If you step over the line & bring this intensity of use to his parcel, it would allow 131 condos. He's now allowed two houses. The Torres property 50 feet away, nearby White-Attebury and San Elijo cul de sacs intruding are all Specific Plan areas. It seems the big guys get GPA's and SPA's. If tonight's paperwork is any indication, GPA's are deemed approved before completed applications are received. Those with agricultural zoned property are left and required to pretend that the area is still rural. During GP update, several residents requested that they retain Estate Residential zoning. My understanding was that it was denied and down zoned to Agricultural because of a desire to keep area rural. With the school, that questionable desire is becoming a real fantasy. Asked that Commission not approve the incompatible use until a complete evaluation of the allowed uses in surrounding area is done. Tonight should be about planning. Putting a 1,500 student school in the area isn't good planning.

Norris: Inquired what he'd like from the Commission, a no, to delay them?

Carr: Asked how the Commission can submit a report to district tomorrow saying it complies with the General Plan? He'd appreciate it if the Commission asks staff that when a GPA comes from the school, to look at all the intrusions to the neighborhood and whether it's reasonable to keep his property zoned agricultural?

Nelson: Not a zoning issue?

Backoff: No, it's a state required finding of conformity. That's why the resolution indicates that with successful completion of entitlement process it would then be in compliance.

Carr: His parcel includes a pond. With completion of entitlement process, he could go to a marina with high-rise condos.

Flodine: Asked how long he's owned property and if there's a residence?

Carr: 15 years. No residence, but planned to live there.

Nelson: Inquired if school district has approached him regarding his property?

Carr: No.

CLOSE PUBLIC HEARING

REOPEN PUBLIC HEARING

James Bartholet, resident: Submitted letter very late today. His residence is south of Mr. Carr's pond. Owned property for 15 years, one acre with one house and zoned Agricultural. They'll be sandwiched in by a school, Torres parcel/subdivision and three lots on 10 acres. Went through a lot split to build dream home, but decided to wait because didn't want an 18-house subdivision right next to it. Then, neighbor wanted to put up cell tower. No one has looked at their property, but it's worthy of having three or four homes. Don't want it confined to only agricultural; don't want to use pesticides that will blow into school. They'll be dealing with a lot of dirt and noise.

Flodine: Commented that he & Mr. Jones were on GPAC and recall Mr. Bartholet coming to the meetings.

Bartholet: They had half Estate, half Ag. He put in an application but was never notified that it would be reviewed by GPAC. They never had an opportunity to speak to them. However, they were notified of the Torres case, went to that and then found out that their own chance had passed.

Flodine: The GPAC and Planning staff had to consider adjacent properties at that time. Suggested Mr. Bartholet may have some merit to come back to Planning, if the school builds, then they'd no longer be next to Ag.

Bartholet: Commented that the school site topo is unbelievable with a 50' ravine.

Jones: If he comes back, it would cost him a lot of money which may be prohibitive. You have an option, except you really don't.

CLOSE PUBLIC HEARING

Flodine: Two years ago the school district was not looking at that site. If it was, perhaps the GPAC, Staff, Commission or Council may have felt different.

Backoff: Same argument was made for a lot of the properties. San Elijo Hills was already approved with high density. Have to take into context what was approved. The Master Plan area of over 2,000 acres included benefits such as 1,000 acres of open

space, ridgeline preservation, parkland, schools and public amenities. To take an isolated parcel with 5 or 10 lots is not the same characterization. There was the cost of major infrastructure & extending road over the hill. There are topographic constraints, but not a lot of opportunities to locate school elsewhere. They're fairly steep properties.

Nelson: Asked why Planning Commission has to see it again?

Backoff: They're coming back with a GPA & SPA.

Nelson: Asked what they're voting on?

Backoff: Making recommendation on the ultimate entitlement.

Flodine: Indicated he's going to ask for an amendment to the resolution.

Sidhu: Okay to make as a motion.

Action:

COMMISSIONER FLODINE MOVED TO APPROVE THE SMUSD K-8 GENERAL PLAN CONFORMANCE AS SET FORTH IN RESOLUTION PC 13-4365 WITH MODIFICATIONS: #C. The future school facility site does not currently conform to the General Plan, **Zoning or Specific Plan**, but will conform once the General Plan Amendment, Rezone, and Specific Plan Amendment application is processed to its successful completion. SECONDED BY COMMISSIONER NORRIS AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: FLODINE, JONES, MAAS, MINNERY,
NELSON, NORRIS, SCHAIBLE

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: Apologized for the full future tentative agendas and for the very busy end-of-year schedule. Several Commissioners' terms are ending 12/31/13. Thought it was best to take action on San Marcos Highlands since the Commission will hear about it at a Workshop. After the AT&T Appeal, the City Council directed Staff to come back with a revised Telecom Ordinance. There are also some litigation settlement issues on the movie studio property that will be requesting a name change, GPA & SPA.

Nelson: Asked if DMV was appealed?

Backoff: Yes, by the adjacent gas station owner. The raised median was the issue with trucks getting in & out. Staff feels there are other options and is going to meet with them.

PLANNING COMMISSIONERS COMMENTS

None.

ADJOURNMENT

At 7:19 p.m. Commissioner Nelson adjourned the meeting.

Dean Nelson, Chairman
SAN MARCOS PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS PLANNING COMMISSION