



AZUSA CITY PLANNING COMMISSION MINUTES

January 30, 2008
7:00 P.M.

NOTICE: *A copy of the following public hearing staff reports and Initial Studies, if applicable, for the Planning Commission projects will be available for review during regular working hours of 7:00 a.m. to 5:30 p.m., Monday - Thursday at the Planning Division and during regular hours of the Azusa City Library. Any questions regarding any agenda item may be answered by the Planning Division at (626) 812-5299. The Planning Commission Meetings are held at 7:00 p.m. in the Azusa Civic Auditorium at 213 East Foothill Boulevard, Azusa, California.*

A. CALL TO ORDER

Chairman Dierking called the meeting to order at 7:05 pm.

B. PLEDGE OF ALLEGIANCE

Commissioner Rentschler led the flag salute.

C. ROLL CALL

Members Present: RENTSCHLER, ALVA, DIERKING, DODSON, ROSALES.

Staff Present: Director of Economic and Community Development, Bruce Coleman; Senior Planner, Susan Cole; BBK Attorney, Michael Torres; and Assistant Planner, Kim Pilmer.

D. APPROVAL OF MINUTES:

Minutes of January 16, 2008

Motion by Commissioner Alva to approve the January 16, 2008 Minutes as written.

Motion seconded by Commissioner Rosales, and the minutes were approved.

E. PUBLIC PARTICIPATION

Mike Lee, 636 Lee Place, Azusa, CA. Mr. Lee stated that from his understanding, the Vulcan mining operation has a contract with the city until '2038. Mr. Lee stated that he believes the contract should not have been signed for that length of time, and that in the future the city should not enter into such lengthy contracts.

Jack Sun, 1330 Mountain Circle Ave., Azusa, CA. Mr. Sun stated that the Azusa Greens Golf Course is adjacent to his property, and that about twenty cars have been hit by errant golf balls in the parking lot on his property. Mr. Sun stated that he wants to build a 30' high fence to protect his property from errant golf balls, but that he

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can't because the City's Development Code does not allow the construction of a fence higher than 6-8' (feet) in height on his property. Mr. Sun stated that he has met with the Community Development Director, Bruce Coleman as well as the manager of the Golf Course, Steven Belieu, to discuss the possibility of constructing a new fence on the golf course property. Mr. Sun stated that he was concerned about liability for any injuries that may occur on his property as a result of errant golf balls.

Chairman Dierking asked staff if there was any way to identify Conditions of Approval associated with Use Permits for the golf course property.

Senior Planner, Susan Cole stated that staff has researched the golf course property and that the golf course existed before the residential development and the industrial park. Mrs. Cole stated that the golf course is in compliance with its Conditions of Approval and that those Conditions require the golf course to provide screening fences, but not along the area that Mr. Sun is concerned about. Mrs. Cole stated that the industrial park was developed after the golf course, so when those properties were purchased, the location of the golf course had to be disclosed.

Community Development Director, Bruce Coleman stated that when the industrial Park was developed, additional fencing was not required. Mr. Coleman stated that the issue is that the City's Development Code allows for the protective fencing to be located on the golf course property, but not on the adjoining properties. Mr. Coleman stated that he believed Mr. Sun was asking if the Planning Commission would be interested in looking at a modification of the Development Code in order to allow fencing related to the golf course, to be located on adjacent properties.

Chairman Dierking stated that he would like to see the Conditions of Approval relative to the Golf Course and Mr. Sun's property.

Mr. Coleman stated that staff can prepare a staff report providing that information, as well as attach the Conditions of Approval for both properties.

Steve Belieu, Azusa Greens Country Club 919 W. Sierra Madre: Mr. Belieu stated that he was there to support Jack Sun's request. Mr. Bleu stated he agreed that the City should accommodate Mr. Sun for modification of the Development Code so that a fence of necessary height could be built on his property.

Chairman Dierking asked if the Golf Course had many complaints regarding errant golf balls in the area.

Mr. Belieu stated that Jack Sun is the only property located along the seventh fairway that has had a problem with errant balls. Mr. Belieu stated that there have been trouble areas in the past, and that those areas have been accommodated. Mr. Belieu stated that there is an easement between Mr. Sun's property and the golf course, and that he thought it would have been easier for Mr. Sun to build a fence if the two properties shared a property line.

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Commissioner Dodson asked Mr. Belieu why building a fence on the golf course property is not feasible.

Mr. Belieu stated that Jerry Perkle, a golf course architect, was hired by the city to do an analysis of errant golf balls around the golf course. Mr. Belieu stated that the area adjacent to Mr. Sun's property is lined with trees and Mr. Perkle's analysis was that the line of trees was knocking 95% of the golf balls down. Mr. Belieu stated that the existing trees are located right against the property line, and to construct a new fence along the property line would require the trees to be trimmed which would make them a less effective barrier.

Commissioner Rentschler asked if it would be possible to construct some type of a net along the trees instead of a fence.

Mr. Belieu stated that the type of fence being proposed is a type of a net, and that the fence is basically nylon netting.

Commissioner Rentschler asked if the nylon netting could be located behind the trees.

Mr. Belieu stated that the best way to protect Mr. Sun's parking lot is to have a net at that parking lot, to protect that specific area as opposed to trying to knock a golf ball down on the golf course.

Commissioner Dodson stated that the Development Code seems to treat the fencing and netting the same i.e., height restrictions and location.

Mr. Coleman stated that from his understanding, when the code was adopted, there was an exemption relating to fence heights for specific uses such as golf courses. Mr. Coleman stated that from staff's interpretation of the code, the Code indicates that the fence would need to be on the property with the recreational use. Mr. Coleman stated that staff told Mr. Sun and Mr. Belieu that the Code would not allow the fence to be built on Mr. Sun's property without a Development Code amendment. Mr. Coleman stated that staff was concerned about approving a Development Code amendment to construct the safety nets because there was not really a way to discriminate between types of properties that could build the fence.

Commissioner Dodson asked if the issue was whose property the fence could be constructed on and what the height limitation was.

Susan Cole stated that the Development Code states that a fence height greater than that allowed by the Development Code, which is 6 to 8 feet, may be approved by the Director if he determines that an over height fence would be appropriate to provide safety based on the type of activity to take place inside the fenced area. Mrs. Cole stated that fencing the parking lot with an over-height fence would not be justifiable because the activity taking place inside the parking lot does not pose a safety concern.

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Chairman Dierking asked staff to include this issue as a future agenda item.

Mr. Coleman stated that staff would let the parties know when the item is included on the agenda.

Commissioner Dodson asked about the procedure for the Commission to discuss a topic to decide whether it was worth putting on a future agenda.

Michael Torres, City Attorney stated that the current agenda item "Public Participation" is intended to allow members of the public to address concerns not on the agenda. Mr. Torres stated that generally the Planning Commission does not respond to comments made by the public, and that in this instance, the Planning Commission is allowed to make brief remarks without having a full discussion. Mr. Torres stated that there should not be a full discussion at this time.

F. PUBLIC HEARINGS

No items scheduled.

G. UNFINISHED BUSINESS:

No unfinished business.

H. NEW BUSINESS:

No new business.

Chairman Dierking asked Community Development Director, Bruce Coleman to give a brief report of the last City Council meeting.

Mr. Coleman stated that the Community Development items covered at the January 22nd City Council meeting included consideration of a contract with a Planning Firm to hire a part-time contract planner. Mr. Coleman stated that the contract planner is necessary to help with the back log of work as a result of being down two planning positions. Mr. Coleman stated that the Lilly Planning Group was approved by City Council for the contract planner position. Mr. Coleman stated that the Council approved a bid award for the "Block 36" construction relating to utility work, which will enable the construction of utilities soon. Mr. Coleman stated that the Council also approved an annual financial report on the Redevelopment Agency finances, which is an annual State Law requirement.

Chairman Dierking asked what the duration of the contract was for the part-time planner.

Mr. Coleman stated that the Contract was good until June 30, 2008.

Chairman Dierking stated that he would entertain a motion to hear item "J" out of order, so that the "Reports and Communications" agenda item could be heard last.

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Commissioner Rosales made a motion to hear agenda item "J" out of order, and was seconded by Commissioner Alva.

J. DISCUSSION AND COMMUNICATIONS:

Commissioner Dodson asked who would lead the meeting if he or Chairman Dierking were not re-qualified for the vote on agenda item (I-1).

Michael Torres, City Attorney stated that the three remaining Commissioners would choose amongst themselves or choose the person with the most seniority to lead the meeting.

Commissioner Rentschler asked if staff had the update she requested on the Gun Club site cleanup.

Susan Cole, Senior Planner stated that she did speak with Jim Gore of Vulcan, and that he said he had not yet received a clean-up plan from the Gun Club. Mrs. Cole stated that Mr. Gore told her that when he did receive a cleanup plan, he would be glad to review it and then grant them access to the cleanup site. Mrs. Cole stated that Jim Gore said he had not been approached by anyone interested in the property, and that the city does not have any new applications on file for the property.

Commissioner Rentschler asked if there is a time limit for when the cleanup needs to happen.

Mrs. Cole stated that they are investigating because there were no Conditions of Approval for the original gun club. Mrs. Cole stated that Jim Gore was going to look at his contract to see how it was written.

Commissioner Rentschler stated that she is concerned with all the recent rain that the lead has seeped into the river.

Mrs. Cole stated that she would communicate her concerns to Jim Gore.

Commissioner Rosales commented that the Gun Club has been closed for over 15 months, and that the city needs to look into the clean up of the site.

Mrs. Cole stated that staff can investigate that further from the city's side as well.

I. REPORTS AND COMMUNICATIONS:

1. CONSIDERATION OF THE PRELIMINARY PLAN FOR THE AMENDMENT TO THE REDEVELOPMENT PLAN OF THE MERGED CENTRAL BUSINESS DISTRICT AND WEST END REDEVELOPMENT PROJECT AREA.

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Chairman Dierking stated that the Azusa Redevelopment Agency Plan amendment is before the Planning Commission, and on the advice of City Attorney, Michael Torres, a majority of the Commissioners (Dodson, Dierking, Alva) have been identified as having a conflict of interest under California Code regulations 18704.2; due to the proximity of personal residences to the Redevelopment Area. Chairman Dierking stated that once the conflicted Commissioners excuse themselves a quorum will be lost, as only two Commissioners will remain (Rentschler, Rosales). Chairman Dierking stated that it would be necessary to re-qualify a Commissioner under 2CCR 18708, so that a quorum may be re-established.

Chairman Dierking stated that the RDA Plan Amendment is on the agenda, and that before any discussion or voting commences, each conflicted Planning Commissioner must do the following orally, and as part of the official public record.

Chairman Dierking stated that each conflicted Planning Commissioner must identify that they have an economic interest in real property that gives rise to a conflict of interest per FPPC Regulation 18704.2 (a)(1)(2)& (6). If the Real property is a principal or personal residence each conflicted Commissioner must state that the property is their residence. Each conflicted Commissioner must give a summary description of the circumstances under which he or she believes the conflict may arise (i.e., their property would be directly benefited from the project). Each conflicted Commissioner must then recuse themselves from participating in the discussion or voting on the project.

Chairman Dierking stated that his understanding was that the conflicted Commissioners would be required to leave the room.

City Attorney, Michael Torres stated that the re-qualification of one of the Planning Commissioners must occur before the conflicted Commissioners are excused.

Commissioner Alva stated that he owns property at 624 N. Alameda.

Mr. Torres asked if the property is a personal residence, and Commissioner Alva stated that it was not. Mr. Torres asked Commissioner Alva if the property was an investment property, and Commissioner Alva stated that it was a rental property. Mr. Torres informed Commissioner Alva that he is required to state the circumstances under which a conflict may occur, for instance if this decision will benefit the property.

Commissioner Alva stated that he believes the project would benefit his property.

Mr. Torres stated that Commissioner Alva would need to state on the record, that this decision may benefit his property which creates a conflict and that is why he is conflicted out of the vote.

Commissioner Alva stated that it would create a conflict.

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Chairman Dierking stated that he has an economic interest in real property that gives rise to the conflict of interest per FPPC regulation 18704.2 (a)(1)(2) and (6), and that the real property is a personal residence. Chairman Dierking stated that the description of the circumstances under which he believes the conflict may arise is that the property may directly benefit from the project, and he will recuse himself from participating in the discussion or vote on this project.

Commissioner Dodson stated that he owns real property at 626 Heritage Court and that he does not believe based on the map showing a very small piece within 500 feet of the project, that his property will benefit in any way. Commissioner Dodson stated that he would excuse himself, but that he would not state that his property will benefit from the project.

City Attorney, Michael Torres stated that unfortunately under the State Regulations, the determination factor is the (500) feet, and the law assumes that at that point, if the property is within (500) feet of a decision before the Planning Commission's body, there is a conflict and the property will be benefited in some way. Mr. Torres stated that he understands Commissioner Dodson's sentiment, but that within the law there is an assumption that there's a conflict that exists.

Commissioner Dodson stated that he did not believe that was true, and that based on the map presented, it was a project area from 30 years ago, and not some future development coming before the Planning Commission. Mr. Dodson stated that he would however, recuse himself.

Mr. Torres stated that there is no longer a quorum present to hear the item per FPPC regulation 18708(d), and that the Planning Commission is the only decision making body that can hear the item at this time. Mr. Torres stated that a random means of selection would be used to re-qualify one member to the Commission. Mr. Torres stated that he would use three playing cards, and the Commissioner who picks the joker card will be re-qualified for this vote and for the duration of the hearing on this item, while the other two Commissioners are required to recuse themselves and leave the dais at that time.

Commissioner Dodson selected the Joker card, and was re-qualified for the duration of the hearing. Commissioner Dodson re-convened the meeting for the consideration of the Preliminary Plan for the Amendment to the Redevelopment Plan of the Merged Central Business District and West End Redevelopment Project Area. Commissioner Dodson asked if there was a staff report.

Bruce Coleman stated that this is an action that was re-initiated by the City Council at the City Council meeting of January 7th, when they adopted a particular resolution that re-established the survey area, and asked for the Commission to review the next step in the process. Mr. Coleman stated that this item has come before the Planning Commission at the request of the City Council as a result of some procedural issues that need to consider the process to re-

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authorize Eminent Domain authority within a certain small area of the city. Mr. Coleman stated that there is currently a cap on the property tax increment which will eventually cause the Redevelopment Agency to not have the funds necessary to re-invest back into the community.

Mike Garcia, Tierra West Advisors stated that the item is for an addition of 15.1 acres of territory to the Redevelopment Agency project area. Mr. Garcia stated that the plan will establish the project area boundaries and it will make a matter of record, the fact that the agency is going to be pursuing a tax increment amendment to move the tax increment limit within the merged project area from 114.9 million to 300 million, as well as reinstate Eminent Domain on properties that previously had eminent domain within the West End Project area on Foothill Blvd. Mr. Garcia stated that the process needed to be re-initiated in order to meet the California Code of Regulations as well as the FPPC regulations. Mr. Garcia stated that the purpose of bringing the item back to Council was to allow the Council and elected officials to declare any conflicts of interest.

Commissioner Rosales asked if the proposed project area boundaries have changed or if the properties included in the project area have changed from the site plan presented on May 16th, 2007.

Mr. Garcia stated that the project area boundaries have not changed and that the properties included in the project area are the same.

Commissioner Rosales stated that the two properties being considered for re-initiation of eminent domain authority; are 1250 W. Foothill Blvd., and 1344 W. Foothill Blvd. Commissioner Rosales asked who the tenants were of the properties.

Mike Garcia stated that Chinese Buffet is the tenant of 1250 W. Foothill Blvd. and that the tenant of 1344 W. Foothill Blvd. is the Roxy Trading Company.

Mr. Coleman stated that the request is to re-instate eminent domain authority for these properties, but not to use that authority to obtain the properties at this time.

Commissioner Rosales asked if the property at 1220 W. Foothill Blvd. is the Costco property.

Bruce Coleman stated that he thought that was correct.

Commissioner Rentschler stated that it seems the plan has been well received by the public and that everything else looks fine.

Commissioner Dodson clarified that the proposed re-instatement of eminent domain authority would not include any residential properties.

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Bruce Coleman stated that that was correct, and that the Council had already adopted a policy and sent it to the State of California; to ensure residential properties are not included in the City's eminent domain authority. Mr. Coleman stated that the City Council's eminent domain policy was adopted at the second meeting of June, 2007 as a result of Senate Bill 53. The Azusa Redevelopment Agency re-instated its policy not to acquire residential property unless property owners requested to be acquired through an eminent domain process.

Commissioner Dodson asked why a property owner would request to be acquired through eminent domain authority.

Mr. Garcia stated that there are certain tax benefits and re-investment benefits that would come from property acquired through the eminent domain process.

Commissioner Dodson clarified that the policy had not changed, and that if a displacement were to occur, the agency would be responsible for relocation and all forms of compensation.

Mr. Garcia stated that that was correct.

City Attorney, Michael Torres stated that members of the public could speak on the item before the Commission makes a decision.

Mike Lee, 636 Lee Place, stated that he thinks it would be a good idea to re-locate businesses within the city if their properties are acquired through eminent domain.

Commissioner Rosales made a motion to approve the preliminary plan for the amendment to the Redevelopment Plan of the Merged Central Business District and West End Redevelopment project area, and to find that the proposed amendment is in conformance with the City's General Plan as presented by staff. Commissioner Rentschler seconded the motion, and the vote is as follows:

AYES: RENTSCHLER, DODSON, ROSALES

NOES:

ABSTAIN: ALVA, DIERKING

ABSENT:

2. TARGET PROJECT EIR SCOPING MEETING- FEBRUARY 7, 2008 AT 7:00 IN THE CITY AUDITORIUM.

Mr. Coleman stated that there is going to be Target store EIR scoping meeting on February 7th, at 7:00 p.m., and the purpose of that meeting is to receive comments from the public regarding what should be studied in the Environmental Impact Report for the proposed store. Mr. Coleman stated that the Environmental Impact Report consultants will be at that meeting to help the process of taking public comment.

Commissioner Dodson asked who would be running the meeting.

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Mr. Coleman stated that staff and the EIR consultant, but that the real estate manager for Target is expected to be there to describe the project.

Mr. Dodson asked the City Attorney if the Planning Commissioners would be able to attend and make comments at that meeting.

Mr. Torres stated that he would need to look into that and let them know.

Commissioner Rosales asked if there is any documentation that the public can review prior to the Feb. 7th meeting.

Mrs. Cole stated that there is an application on file with the Planning Department which is a matter of public record.

Commissioner Rentschler asked if the meeting would be televised.

Mr. Coleman stated that it would be televised and that staff has put out a lot of information and notice for the meeting in order to encourage public participation.

Commissioner Dodson asked what the notification requirement was.

Mr. Coleman stated that the city was required to notify property owners within 500 feet of the property, but that other forms of notification have been provided to notify all city residents.

K. Adjournment:

Upcoming meetings February 13, 2008 – 7:00 p.m.

February 27, 2008 – 7:00 p.m.

Meeting adjourned at 8:10 p.m.