



**PLANNING COMMISSION
SPECIAL MEETING MINUTES
THURSDAY, SEPTEMBER 10, 2009**

6:00 P.M.
City Hall
130 Cremona Drive, Suite B
Goleta, California

Members of the Planning Commission

*Brent Daniels, Chair
Julie Kessler Solomon, Vice Chair
Doris Kavanagh
Bill Shelor
Jonny Wallis*

*Patricia Miller, Secretary
Tim W. Giles, City Attorney
Linda Gregory, Recording Clerk*

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order at 6:00 p.m. by Chair Daniels followed by the Pledge of Allegiance.

ROLL CALL OF PLANNING COMMISSION

Present: Planning Commissioners Daniels, Kavanagh, Solomon, and Wallis.
Absent: Planning Commissioner Shelor.

Staff present: Director of Planning and Environmental Services Steve Chase, Patricia Miller, Current Planning Manager; Advance Planning Manager Anne Wells, Senior Planner Dan Nemechek, Contract Environmental Consultant Charles Smith of Jones & Stokes; Principal Civil Engineer Marti Schultz, City Attorney Tim W. Giles, and Recording Clerk Linda Gregory.

PUBLIC FORUM

No speakers.

AMENDMENTS OR ADJUSTMENTS TO AGENDA

None.

A. ADMINISTRATIVE AGENDA

A.1 Planning Commission Minutes for the Planning Commission Meeting of August 24, 2009.

Recommendation:

1. Approve the Planning Commission minutes for the meeting of August 24, 2009.

MOTION: Commissioner Solomon moved/seconded by Commissioner Kavanagh, to approve the Planning Commission minutes of August 24, 2009, as submitted.

VOTE: Motion carried by the following voice vote: Ayes: Chair Daniels; Vice Chair Solomon; Commissioners Kavanagh, and Wallis. Noes: None. Absent: Commissioner Shelor.

B. PUBLIC HEARING

B-1. 07-202-GPA: General Plan/Coastal Land Use Plan Amendments – Track 3: Citywide. (Continued from August 24, 2009).

Recommendation:

1. Adopt Resolution 09-___, entitled “A Resolution of the Planning Commission of the City of Goleta, California, Recommending to the City Council Approval of Various Actions related to and Including the Track 3 Amendments to the Goleta General Plan / Coastal Land Use Plan (Case No. 07-202-GPA)”.

Staff Speakers:

Patricia Miller, Current Planning Manager

Anne Wells, Advance Planning Manager

Dan Nemechek, Senior Planner

Steve Chase, Director of Planning and Environmental Services

Charles Smith, Contract Environmental Consultant, Jones & Stokes

Marti Schultz, Principal Civil Engineer

Tim W. Giles, City Attorney

Documents: 1) Track 3 General Plan/Coastal Land Use Plan Amendments Proposed Project Description; 2) Table 2-1, Track 3 Policies: Amendment Alternatives; 2) Wetland Definition Handout (9/10/09); and 3) Station 6: Critical Root Zone Handout, City of Goleta General Plan Amendment Workshop.

Anne Wells, Advance Planning Manager, presented the staff report and PowerPoint entitled, “Planning Commission Public Hearing (Continued from 7/27/09 & 8/24/09) Track 3 Amendments General Plan/Coastal Land Use Plan Case No. 07-202-GPA, September 10, 2009”.

Anne Wells, Advance Planning Manager, summarized the following letters that have been received and stated that the comments in all four letters unanimously support the

maximum environmental protections: 1) Letter from Chris Lange, dated August 24, 2009, Subject: 8/24/09 Planning Commission Meeting, GP Amendments; 2) Letter from Brian Trautwein, Environmental Analyst, Environmental Defense Center, dated September 9, 2009, Re: Goleta General Plan Track 3 Amendments; 3) Letter from Roger W. Briggs, Executive Officer, California Regional Water Quality Control Board, dated September 9, 2009, Re: Goleta General Plan/Coastal Land Use Plan Track 3 – General Plan Amendments Final SEIR; and 4) Statement from Connie Hannah, League of Women Voters of Santa Barbara, dated September 10, 2009, Subject: Continuing the Track 3 General Plan Amendments.

Public hearing portion opened at 6:12 p.m. (continued from August 24, 2009)

Mike Pollard, Kellogg Avenue LLC, owner of a portion of Key Site 7B, expressed concern that placing environmentally sensitive habitat designations on properties denies the owners' use of the area and if the habitat expands, the area could be increased. He believes that the ESHAs should be reserved for areas that truly have species and that Streamside Protection Areas should be considerably reduced or eliminated. He suggested incentives be given to property owners who have ESHAs.

Barbara Massey, Goleta, commented that General Plan Policies PF 9.5 Extension of Infrastructure and PF 9.6 Concurrency should both be added to Planning Commission recommended Policy LU 11.1. CE 1.9.f with regard to the exterior noise level of 60 Ldn should be retained. CE 4.6 should not be changed, noting that adopting the proposed amendment would remove Monarch Butterfly protection, although this item can be addressed later if a Monarch Butterfly plan is in place. Expressed concern that the proposed amendment to CE 2.2 is a degradation of streamside protection and approval of the amendment would trigger a CEQA lawsuit. The proposed amendments to CE 2.5, CE 3.4 and CE 3.5 weaken environmental protections. Existing Policies CE 9.1, CE 9.3, CE 9.4 and CE 9.5 are needed and should not be weakened by amendments. The current CE 10.3 policy should be retained because she believes the City's Stormwater Management Plan is inferior.

Connie Hannah, League of Women Voters of Santa Barbara, stated that the League has been following the General Plan Amendments and urges caution about letting any further changes go forward. She commented that most of the features of the GGMO should be retained but it does not seem fair for a project to lose its points at the end of a year. She strongly urged support for 100-foot buffers for not changing CE 2.2 as proposed. Also, CE 9.1 and CE 9.3 should be retained with regard to tree protection. She also urged the use of "shall" over the use of "should".

Brian Trautwein, Environmental Defense Center, urged that the proposed amendments that lessen environmental protection for the City's habitats be opposed. He spoke in support of clear language rather than increasing flexibility because clarity leads to consistent application of policies. He believes that the proposed amendment to CE 1.6 with regard to allowing public works projects in ESHAs would violate the Coastal Act. He urged that the existing CE 2.2 policy be retained, stating that evidence has been submitted that buffers need to be 100-feet to protect habitat. He stated that NOAA Fisheries recently released the Steelhead Recovery Plan, stating that Goleta's creeks have been designated as one of the most important creeks for

recovery, and that urbanization is the highest threat to steelhead in Goleta's creeks. He presented a letter from Mark Delapaine, California Coastal Commission, dated February 13, 2008, Re: CC-018-07 Consistency Certification, Transportation Corridor Agencies (TCA), Foothill Transportation Corridor – South (FTC-S), northern San Diego and southern Orange County.

Ana Citrin, Attorney, Law Offices of Marc Chytilo, representing the Urban Creeks Council, strongly urged that the original language approved in the General Plan Policy CE 2.2 be retained which provides for a 100-foot buffer in undeveloped areas or areas not fully subdivided or developed and provides for a 50-foot buffer in areas that are fully subdivided or developed with an allowance for a reduction to 25-feet where circumstances warrant. She urged consideration and integration of proposed language that further clarifies certain terms such as “feasibility” and “fully subdivided and developed”. She requested clarification regarding whether the Developed Areas which are 98 percent of the City refers to parcels that are fully developed and fully subdivided.

Eddie Harris, Santa Barbara Urban Creeks Council, urged that the original CE 2.2 language be retained that existed prior to the decision regarding the Haskell's Landing Project and that amendments only be considered that would strengthen creek and wetland protections, ensuring there is not further degradation. He believes degraded conditions can be corrected over time through the redevelopment process. He stated that wide creek buffers are essential to the recovery from urbanization and provide for community benefits that include clean water, flood protection, fire safety, high habitat values and maintaining open space.

Peter W. Hunt, representing the property owner of a portion of Key Site 7B (903 South Kellogg Avenue), spoke in support of the proposed amended language to CE 2.2 Streamside Protection Areas. He stated that on the west side of the parcel there is a flood control easement that is 60-feet wide and approximately 450-feet long, which would probably be considered degraded because it has been occupied with an auto salvage recycling center for approximately forty years and is fully developed. He said that the applicant plans to change the auto recycling center to a concrete recycling center. He suggested recommending language that would allow a 25-foot setback which would be fully adequate on either side of Old San Jose Creek within the 60-foot flood control channel, otherwise it would be a taking because the area is quite narrow. He commented that this parcel and other sites in the area are important with regard to the revitalization of Old Town and he hopes that opportunities will be recognized at this site and other sites in the area, particularly along Old San Jose Creek.

Peter Brown, representing John Lund, agent for the owner of Key Site 7A, spoke in support of the Proposed Policy Amendment for CE 2.2, stating that the amendment would allow buffer widths to be increased or decreased based on site-specific data. He commented that more flexibility is required with regard to Old Town properties given the nature of how Old Town has developed.

Anne Wells, Advance Planning Manager, clarified that the word “fully” in CE 2.2 applies to sites that have been fully subdivided and fully developed.

Chair Daniels stated that the public hearing portion will remain open for speakers regarding specific policies.

STRAW VOTES TO RECOMMEND TO THE CITY COUNCIL THE FOLLOWING PROPOSED POLICY AMENDMENTS (Alternative 3 in SEIR):

CE 1.9 Standards Applicable to Development Projects

Marti Schultz, Principal Civil Engineer, responded to questions from the Planning Commissioners regarding erosion control and grading.

Speakers

Brian Trautwein, Environmental Defense Center, expressed the following concerns with regard to proposed language regarding noise standards and impacts to wildlife: 1) The word "should" renders the policy unenforceable and needs to be changed to "shall". 2) The word "minimize" offers no performance standards. 3) The language only applies to significant noise impacts on special status species in adjacent ESHAs. He urged that the City protect its creeks by prohibiting grading during the rainy season.

Straw Vote: 2 to 2 to recommend to the City Council the Proposed Policy Amendment (Alternative 3 to SEIR), CE 1.9.i Standards Applicable to Development Projects. (Ayes: Commissioners Daniels and Kavanagh; Noes: Commissioners Solomon and Wallis; Absent: Commissioner Shelor).

Vice Chair Solomon commented that she has not heard anyone advocating for the proposed policy amendment to CE 1.9.i, and she does not see the reason for the change.

Commissioner Kavanagh commented that she recommends the proposed policy amendment to CE 1.9.i because of her concern that developers are working around a policy that could create problems. She noted that a big project moving forward and also that a projection has been made for the possibility of a very rainy season this year.

Commissioner Wallis commented that the proposed policy amendment change is not significant enough to overcome what she believes are reductions for environmental protections. Also, there is some flexibility in the existing policy and there are other policies that deal with some of the issues.

Chair Daniels commented that he believes the proposed policy amendment changes provide for clarification and not a reduction for environmental protections.

Straw Vote: 4 to 0 to recommend to the City Council the Proposed Policy Amendment (Alternative 3 to SEIR), CE 1.9.f Standards Applicable to Development Projects, with the addition of a change in the proposed language from "should" to "shall". (Ayes: Commissioners Daniels, Kavanagh, Solomon and Wallis; Noes: None; Absent: Commissioner Shelor).

RECESS HELD FROM 7:37 P.M. TO 7:44 P.M.

CE 4.6 Standards Applicable to New Development Adjacent to Monarch ESHAs

Straw Vote: 0 to 4 (failed) to recommend Proposed Policy Amendment (Alternative 3 in the SEIR) to the City Council, thereby recommending to the City Council that the current language in CE 4.6 be retained. (Ayes: None; Noes: Commissioners Daniels, Kavanagh, Solomon and Wallis; Absent: Commissioner Shelor).

Commissioner Wallis commented that there are some measures of protections in the existing policy and expressed concern that there is some ambiguity in the proposed language. She noted that construction can occur outside of the 200-foot rule. She does not believe that the proposed policy amendment is worded correctly if the intent is site by site. She commented that the existing policy was drafted with a lot of help from the community and experts.

Commissioner Kavanagh commented that the existing language in CE 4.6 is specific enough by providing actual dates for the developers to consider.

Vice Chair Solomon commented that the existing policy in CE 4.6 offers clarity.

CE 2.2 Streamside Protection Areas

Speakers

Virginia Gardner, Goleta, strongly urged that streamside setbacks not be reduced and that the existing General Plan policy be maintained, which she understands protects at least 100-feet in undeveloped areas. She expressed concern that the potential for reduced setbacks that vary in length on different properties would set up a more uneven creek corridor than would be otherwise. Another concern is the potential that undeveloped parcels within the City would have smaller setbacks that could result in reduced setbacks farther out from the City if there were future annexations. Given the fact there is considerable amount of sedimentation from the Gap Fire upstream, she commented that it would not be prudent for the next twenty-five years to allow development that is increasingly close to streams. She also commented that more attention needs to be paid to the potential impacts of climate change as a practical safety and flood-hazard prevention matter.

Ana Citrin, representing Santa Barbara Urban Creeks Council, commented: 1) The final provision in every version of CE 2.2 prevents this policy from being construed in such a way that would effectuate a taking, and provides adequate legal protection from a taking. 2) Expressed concern that the proposed Alternative 3 language, as well as the Haskell's Landing Project approved language, would allow for project approvals with little or no demonstration of actual infeasibility. 3) It is her understanding that the proposed Alternative 3 change would not affect only less than 2% of the city's land because she believes that there can be discretionary development approved on Agricultural or Open Space parcels that would affect creeks.

Brian Trautwein, representing the Environmental Defense Center (EDC), spoke in support of the 100-foot setback, stating that there is evidence that there would be a

significant impact if the setback was decreased and it would probably violate certain Coastal Act policies with regard to creek protection. He pointed out that there is evidence that supports larger setbacks to reduce water pollution and protect stream habitats. He stated that there is a need for large buffers to provide protection from flooding and erosion. He believes that maintaining the 100-foot setback along the creeks on the undeveloped parcels would not substantially encroach into those parcels. He believes that the language in the existing CE 2.2.c policy protects the City from any takings claim. He commented that the proposed Alternative 3 language would merely bend over backwards for the developers. He noted that the proposed Alternative 3 language does not seem to explain standards for increasing the setbacks larger than 50-feet although there are standards for decreasing the setbacks.

Peter Hunt, representing the owner of Key Site 7B, stated that there are at least four existing structures on parcels owned by Mike Pollard on the west side of Old San Jose Creek that have had development for over the past forty years. He questioned whether the proposed CE 2.2 Alternative 3 language would affect only undeveloped parcels for two percent of the City, and whether the buildings on the other side of Old San Jose Creek, where there are houses and business that have been developed for over fifty years, are not affected by the proposed Alternative 3 policy.

Mike Pollard, Kellogg Avenue LLC, commented that a uniform 100-foot setback policy is not appropriate when there are many different creek circumstances, and it could be unfair to a property owner. He believes that flexibility is needed so the City can consider each situation to make a decision.

Peter Brown commented that the Proposed Alternative 3 language in CE 2.2.b provides an exception for a very limited class of parcels that were in existence prior to 2006. A second issue is that the parcel must be made unusable in its entirety for any purpose. In his opinion, having more flexibility is probably better for the City. He believes that a 100-foot setback applied citywide would be problematic. He supports the proposed Alternative 3 language, stating that he would be comfortable allowing a biological analysis that is site-specific.

Steve Chase, Director of Planning and Environmental Services, stated that staff will meet with speaker Peter Hunt regarding his question related to Key Site 7B.

Straw Vote: 4 to 0 to recommend that the City Council consider Old Town in terms of economic development as well as environmental protections primarily as these items relate to Old San Jose Creek. (Ayes: Commissioners Daniels, Kavanagh, Solomon and Wallis; Noes: None; Absent: Commissioner Shelor).

Straw Vote: 3 to 1 to recommend to the City Council the Proposed Policy Amendment (Alternative 3 in SEIR), CE 2.2 Streamside Protection Areas, with the replacement of "50 feet" with "100 feet", and including a 25-foot minimum setback. (Ayes: Commissioners Daniels, Kavanagh and Solomon; Noes: Commissioner Wallis; Absent: Commissioner Shelor).

Commissioner Wallis commented that she is not in favor of changing from the existing CE 2.2 policy at this time, noting that the recommended proposed policy language

does not address all of her concerns. If there is a will to change, she believes consideration needs to be given to the letter from the California Regional Water Quality Control Board as well as studies. She pointed out that there are standards in the proposed language that provide rationale for reducing a setback but there is no rationale for increasing a setback. She believes it is necessary to look at the creek and entire watershed as a whole which cannot be achieved on a case by case basis.

Chair Daniels commented that proposed Alternative 3 would provide for the flexibility to conduct an environmental review on a case-by-case basis with scientific information that is site specific. He also commented that hydrology studies include the entire watershed that runs through the property.

Commissioner Kavanagh commented that she is uncomfortable that the language “feasible” is not further defined in the proposed policy amendment. She noted it will be addressed by the decision-makers.

Vice Chair Solomon expressed concern that the Alternative 3 language proposed by staff did not include a minimum setback which she does not believe is appropriate

CE 2.5 Maintenance of Creeks

Speakers:

Peter Hunt, representing the property owner of Key Site #7B, commented that when the revitalization plans move forward in Old Town, bridges will be needed for Ekwill Street and Fowler Road across Old San Jose Creek to promote traffic and pedestrian circulation. He pointed out that, consequently, there will be bridge abutments approximately three or four feet high that will affect the property in the entire area.

Brian Trautwein, Environmental Defense Center, requested that the existing language in CE 2.5 be retained because it is enforceable. He expressed concern that changing “shall” to “should” in CE 2.5 would allow bridge abutments and piers to be located within creek banks that would allow significant biological impacts to habitats and wildlife movement. He suggested consideration that the Coastal Act allows only three limited activities in creeks.

Virginia Gardner, Goleta, commented that she tends to agree that the City needs a certain amount of flexibility from her experience with regard to coastal streams and rivers, and bridge issues. However, she believes that retaining the word “shall” would be appropriate if language is added such as, “unless such design features would cause greater environmental damage”.

Commissioner Wallis suggested that the word “shall” be retained in the Proposed Policy Amendment CE 2.5, and the language “unless an environmentally superior alternative exists” be added at the end of proposed CE 2.5e.

Marti Schultz, Principal Civil Engineer, stated that it would be appropriate to consider adding the language “unless an environmentally superior alternative exists.”

Straw Vote: 4 to 0 to recommend to the City Council the Proposed Policy Amendment (Alternative 3 in SEIR), CE 2.5, with the change from “should” to “shall”; and the addition of the following language at the end of CE 2.5.e: “unless an environmentally superior alternative exists.” (Ayes: Commissioners Daniels, Kavanagh, Solomon and Wallis; Noes: None; Absent: Commissioner Shelor). :

Commissioner Wallis requested that staff respond at the next meeting to her question regarding how there can be an assurance that the City’s Stormwater Management Plan has the same protections that are in the General Plan.

TE 13.4 Options If Traffic Mitigations Are Not Fully Funded

Straw Vote: 4 to 0 to recommend no amendment to TE 13.4 Options If Traffic Mitigations Are Not Fully Funded. (Ayes: Commissioners Daniels, Kavanagh, Solomon and Wallis; Noes: None; Absent: Commissioner Shelor).

MOTION: Chair Daniels moved/seconded by Vice Chair Solomon, and carried by a 4 to 0 vote, to continue the public hearing on 07-202-GPA: General Plan/Coastal Land Use Plan Amendments – Track 3; Citywide, to a Special Meeting on October 8, 2009.

VOTE: Motion carried by the following voice vote: Ayes: Chair Daniels; Vice Chair Solomon; Commissioners Kavanagh, and Wallis. Noes: None. Absent: Commissioner Shelor.

C. DIRECTOR’S REPORT

Patricia Miller, Current Planning Manager, reported that the Planning Commission regular meetings of November 23, 2009, and December 28, 2009, will be cancelled because the dates correspond with dates for the City’s planned furloughs over the holidays.

With regard to the Track 3 public hearing that was continued to a Special Meeting on October 8, 2009, Patricia Miller, Current Planning Manager, reported that the regular Planning Commission meeting on October 12, 2009, will be available if an additional meeting date is needed to complete the agenda item, which would allow Track 3 to stay on schedule.

D. PLANNING COMMISSION COMMENTS

No comments.

E. ADJOURNMENT: 10:00 P.M.

Prepared by Linda Gregory, Recording Clerk.

GOLETA PLANNING COMMISSION