

CITY OF SAN CLEMENTE

Joint City Council/Planning Commission/General Plan Advisory Committee

Minutes of May 29, 2013

A Joint City Council/Planning Commission/General Plan Advisory Committee meeting was called to order on May 29, 2013 at 6:04 p.m. in the 2nd Floor Conference Room of the Community Development Department Building, located at 910 Calle Negocio, San Clemente, California, by Mayor Baker.

**CITY COUNCIL
MEMBERS PRESENT**

BROWN, DONCHAK, EVERT, HAMM, MAYOR
BAKER

**CITY COUNCIL
MEMBERS ABSENT**

NONE

**PLANNING COMMISSION
MEMBERS PRESENT**

ANDERSON, BROWN, CRANDELL, RUEHLIN,
DARDEN, CHAIRPERSON AVERA

**PLANNING COMMISSION
MEMBERS ABSENT**

KAUPP

**GENERAL PLAN ADVISORY
COMMITTEE MEMBERS
PRESENT**

AHOLA, ANDERSON, BOYER, COTTER, DOREY,
GIACOMINI, HEADRICK, HUNT, LETO, MANN,
NAREY, NIELSEN, VAN NUYS, CO-CHAIR HART,
CO-CHAIR KORSEN

**GENERAL PLAN ADVISORY
COMMITTEE MEMBERS
ABSENT**

DAVIS, DENNIS, EWING, OSHIMA, OSIER,
WILSON

STAFF PRESENT

Pall Gudgeirsson, City Manager; Joanne Baade, City Clerk; Jim Pechous, City Planner; Jeff Hook, Principal Planner; Sharon Heider, Director of Beaches, Parks and Recreation; Bill Cameron, Public Works Director/City Engineer; George Aghabegians, Deputy City Clerk.

1. **CALL TO ORDER**

Mayor Baker called the meeting to order at 6:04 p.m.

2. **PLEDGE OF ALLEGIANCE**

City Planner Pechous led the Pledge of Allegiance.

3. **Joint City Council, General Plan Advisory Committee (GPAC) and Planning Commission Meeting to Receive Reports on 1) GPAC's Recommendations on the Draft Centennial General Plan, and 2) Tree Removals for View Preservation**

Report from the Community Development Director concerning the GPAC's recommendations on the Draft Centennial General Plan, and tree removals for view preservation.

Mayor Baker explained that this meeting is for information only and that no votes nor debates will take place; noted that the purpose is to review the draft Centennial General Plan to ensure it addresses original objectives, citizen needs and values, and serves as an effective and useful document for the future; thanked the Planning Commission, GPAC, staff and The Planning Center for their significant work thus far; acknowledged that the Beaches, Parks and Recreation Commission and Coastal Advisory Committee also contributed to the effort; pointed out that the Planning Commission agreed with most of the GPAC's recommendations and that their differences will be addressed this evening.

GPAC Co-Chair Hart explained that the GPAC requested this meeting as a venue in which to address those areas where a divergence of opinion exists between the GPAC and the Planning Commission; related that the co-chairs of the GPAC and the Chair and Vice Chair of the Planning Commission successfully resolved many of the initial differences between the two bodies and explained that the remaining areas of disagreement represent less than 1% of the 400 issues that were considered by the GPAC and Planning Commission.

Planning Commission Chairperson Avera noted the significant time commitment that was involved in reviewing the General Plan draft; pointed out that the GPAC provided the essence of the values, goals and actions within the plan; pointed out that the Planning Commission agreed with 99% of the plan as submitted by the GPAC, but noted that there are a few, but important, areas of disagreement -- most of which deal with discretionary measures versus mandatory measures; stated that City staff reviewed the plan and identified 12 issues on which the

Planning Commission and GPAC disagree with regard to discretionary versus mandatory statements in the General Plan.

Discussion ensued relative to the specific areas of disagreement as identified in Table 1 of the Administrative Report entitled “Remaining Items of Disagreement”. Those issues were discussed as follows:

Beaches, Parks and Recreation/Implementation Measures - Health and Wellness

Co-Chair Hart related the GPAC’s position that the Zoning Ordinance should require bicycle parking/storage, lockers and showers for new commercial development with a gross floor area of 10,000 square feet or greater, noting that the GPAC recommendation is consistent with the Bicycle and Pedestrian Master Plan. Planning Commission Chairperson Avera related that the Planning Commission believes that the word “require” should be replaced with the word “incentivize”, adding that specific incentives (such as waiving a couple parking spaces if bicycle parking storage lockers are installed) will be developed in the future.

Gary Giacomini opined that businesses shouldn’t be burdened with additional requirements; suggested that requiring showers and lockers is excessive; stated that incentivizing such facilities is acceptable, but it would be inappropriate to require such facilities.

Brenda Miller stated that the purpose of parking is to facilitate commerce and travel; noted that people won’t ride bicycles to work if showers are not provided; suggested that providing the facilities in question would encourage the use of alternative modes of travel.

In response to Council inquiry, Co-Chair Korsen related the GPAC’s position that bicycle facilities should be required of any type of commercial development that has a gross floor area of 10,000 square feet or greater.

Economic Development - Distinct Shopping and Entertainment Districts

Co-Chair Korsen explained the rationale behind the GPAC’s recommendation with regard to the Marblehead Coastal development area, noting that the GPAC supports language to require that the City initiate a new planning process for the area if the development agreement fails to be implemented by 2018.

Chairperson Avera explained that the Planning Commission prefers language to provide that the City should consider (but not require) a new plan if the development agreement fails to be implemented by 2018; pointed out that the General Plan could always be changed at a later time.

In response to Council inquiry, Co-Chair Hart explained that the GPAC took formal votes on issues involving less than near unanimity of opinion, while other decisions were determined by consensus.

Land Use/Land Use Plan - Preamble

Co-Chair Korsen conveyed the GPAC's position that new buildings in the Downtown area should be limited to two stories; noted that preserving the City's historic Downtown is a high priority for the majority of residents; opined that the General Plan should be corrected to reflect the community's desire for two-story development in the T-zone; stated that while three-story development has been permitted since 1996, it has not occurred primarily because of the need to provide on-site parking; identified the negative consequences associated with intensification of development within and outside the T-zone; asserted that citizens desire to 1) protect the local environment, 2) limit growth and development, and 3) preserve the City's unique character; suggested that imposing a 27' height limit (which is consistent with the City's residential height limit) may have represented a better approach; stressed that the GPAC majority has attempted to adhere to residents' wishes and values; opined that property owners will want to increase the potential for rentable square footage and subsequent profits, but noted that such action could be detrimental to the public; displayed photographs that depicted current conditions as well as renderings that purported to show the effects that three-story development would have on the Downtown Core streetscape.

Planning Commission Vice-Chair Darden stressed that the Planning Commission is not advocating for three stories; related that the Planning Commission understands the objectives of the GPAC and also understands the intent of the community and the visioning documents with regard to preserving village character; explained that the Planning Commission had concerns that a ban on three stories might have unintended consequences, including a disincentive for rehabilitation, or negatively affecting the vitality of the Downtown; opined that limiting development to two stories is too blunt of a tool and suggested that flexibility and a more comprehensive selection of policies are needed; noted that last fall the Commission recommended policies that would encourage development of two stories, but would allow three stories when strict guidelines are met; noted that design charrettes are recommended to help define village character and help update the Design Guidelines; spoke in support of form-based codes to encourage Spanish Village by the Sea development in the

Downtown Core, and promoting parking and circulation strategies; related that the Planning Commission voted on effective policies last week that included 1) incentives (such as flexible parking requirements) that will help one and two-story buildings go through a rehabilitation process without feeling the need to go to a higher story; 2) offset building facades that maintain the village feel even when lots are merged; 3) design guidelines that consider the interplay of three-story design with the topography of the land (such as three stories in back and two stories in front); and 4) necessitating Council approval of all three-story buildings; related that the tools that the Commission recommended last fall, combined with the tools that would be developed as part of a community design charrette, could provide needed flexibility in ensuring that village character is maintained.

Council questioned the possibility of retaining Austin-Foust to prepare a basic traffic model for the T-zone to determine the level of development that the traffic would bear. Public Works Director/City Engineer Cameron responded that three-story development will not affect levels of service in the Downtown Core to levels that exceed San Clemente's standards; noted that the City's traffic consultants could be queried to determine if three-story development is likely to change the area's level of service to a lower category.

Council questioned whether a legal problem would be created by lowering the height to which a property owner is able to develop.

City Planner Pechous responded that the City Attorney has taken the position that lowering the height limit to two stories would not constitute a "taking", noting that significant precedent exists for that position; explained that a "taking" occurs only in situations where a drastic drop in the allowable use of land occurs. Council requested to receive a written legal opinion from the City Attorney concerning this matter.

Chairperson Avera clarified that the Planning Commission is advocating that the current standards allowing three-story, mixed-use development in the Downtown Core be retained, with additional standards and requirements on three-story development, which would continue to be controlled by the zoning ordinance.

Co-Chair Korsen stated that 30' was the operative height limit for the Downtown area until 1996 when it was increased to 45' to accommodate mixed use.

In response to Council inquiry as to whether the current status of Del Mar represents the GPAC's ideal for the area, Co-Chair Korsen explained that the GPAC would like to relocate dentists and doctors from Del Mar to the side streets and to create a retail environment; noted that the vast majority of buildings are single-story and that those property owners would be able to double their development to two stories; suggested that other locations in the City are more appropriate for larger buildings. Co-Chair Hart pointed out that the GPAC did not address the question of whether limiting development on Del Mar to two stories could discourage redevelopment.

During the course of discussion, it was noted that "village character" is difficult to objectively describe and that the definition will need to be determined by City representatives, as opposed to seeking a legal definition from Rutan and Tucker.

Mike Cotter, San Clemente Historical Society, presented petitions from approximately 2,000 residents who support limiting the height of Downtown structures to two stories; opined that the City will be powerless to stop massive projects unless a height limit is imposed. The subject petitions are on file with the City Clerk.

Larry Culbertson, President of the San Clemente Historical Society, displayed a photograph of Del Mar from 1959 and remarked that many persons appreciate that the area has remained unchanged; stated that many visitors have expressed that one and two-story development contributes greatly to the area's village feel.

Gregg Lipanovich commented that the San Clemente Hotel is one of Downtown's finest buildings; suggested that prohibiting three-story development will stifle creativity.

Michael Luna, President of the Architectural Guild of South Orange County, voiced concern that limiting building heights on Del Mar will make mixed use development infeasible due to the necessity for multi levels to separate residential development from commercial development; urged that clear rules be established.

Bryan Johnson opined that the City needs to make it economically feasible to improve the Downtown; spoke in support of allowing residential uses on third floors as an incentive to rehabilitate properties.

Jim Eckel, President of the Commercial Property Association, asserted that no member of the GPAC is a Downtown property owner; encouraged Council to support the Planning Commission and retain the possibility for three stories in the Downtown.

It was noted that Michael Kaupp is a GPAC member and a significant property owner in the Downtown; noted that the GPAC consisted of citizens who represented diversified community interests.

Alex Haynes stated that he is representing his father who owns the property where Selma's is located and conveyed that he owns the Dewey's property; pointed out that improvements cost money and that every building block prevents some people from improving their properties; spoke in support of the Planning Commission's recommendation.

Barbara Rojas stated that she has owned 127 Del Mar for 24 years; stated that the restaurants on Del Mar have created synergy; stated that if the City wants people to come to the Downtown, it is necessary to provide parking; recommended that the City make it easy for people to invest in their properties.

Tom Barnes explained his opposition to the MU3 zoning, suggesting that it is being used as a means to develop condominiums; stated that MU3 is supposed to consist of retail/commercial uses on the ground level, but noted that Del Mar's ground level includes law offices, real estate offices, and leasing offices.

Pete van Nuys stated that "village character" is not a nebulous concept, explaining that the main ingredient in village character is the scale of the buildings; voiced concern with the tower on the Ralphs development because it blocks the ocean view from freeway commuters; spoke in support of low-scale buildings, wide horizon lines and sunny streets.

Vonne Barnes read Ole Hanson's vision statement.

Richard Boyer, GPAC member, recommended that the final draft of the General Plan document be submitted for public review in comparison with the original Strategic Plan; noted that the General Plan should reflect community desires.

Dennis Eckel stated that he owns property in the Downtown; voiced concern that limiting development to two stories will discourage rehabilitation; pointed out that only one three-story structure has been developed in two decades.

Council suggested that Staff provide a brief presentation concerning form-based codes and/or provide information on the City's website about the concept.

MEETING RECESSED

The meeting was recessed at 8:00 p.m. and reconvened at 8:15 p.m.

Natural Resources - Aesthetics

Co-Chair Hart explained that GPAC recommends a mandatory requirement that utilities be undergrounded when a certain threshold of construction takes place, while the Planning Commission recommends that undergrounding be permissive, with the qualification that undergrounding not be required in situations where an economic hardship can be proven; noted that the GPAC believes that undergrounding adds to the aesthetics of a neighborhood.

Chairman Avera related concern with the potential economic impacts on small businesses that such a requirement could cause; spoke in support of allowing discretion in cases of economic hardship.

Nesa Anderson opined that it is important to not require an individual who is remodeling his/her home to remove a pole on the street that services numerous houses; noted the benefits of undergrounding, but urged that care be taken as to how the ordinance is applied to persons who are remodeling their homes.

Public Services, Facilities and Utilities - Water and Wastewater

Co-Chair Hart stated that the GPAC wants to make it mandatory that public agencies use recycled water and greywater, when available, for landscaping and non-potable and non-contact uses and to encourage the extension of recycled water to all areas; stressed that the subject clause would pertain to public facilities only, not private property.

Co-Chair Korsen added that the policy is proposed to also apply to bulk users, such as homeowner associations.

Vice Chair Darden stated that a blanket application of this policy might create a problem in a small percentage of cases; recommended that the use of recycled water be encouraged, instead of required.

Public Works Director/City Engineer Cameron related that greywater is water from sinks and showers; voiced concern with the potential environmental impacts associated with placing unclean water on landscaped areas that could subsequently wash into the storm drain system; noted that the City's storm water permit, that was approved by the San Diego Regional Water Quality Control Board, imposes strict requirements on the City; suggested that language be added that would require the City to research the environmental aspects of the proposal before requiring the use of greywater; suggested possible language as follows:

We require non-domestic and recycled water be used and encouraged within the City's utility service area in certain situations as defined in the City's Mandatory Use Ordinance. The City should encourage the use of greywater upon determination that there are no adverse environmental impacts.

During the course of discussion, an alternative approach was suggested that would simply replace the word "greywater" with "recycled water".

Co-Chair Hart reviewed items that have been resolved or conditionally resolved as contained on Page 10 of the Administrative Report.

Brenda Miller referenced Page 10 of the Administrative Report, and suggested that the phrases "where appropriate" and "where feasible" be omitted from Items 1 and 3 respectively; opined that propriety and feasibility factors are inherent in every decision that the City makes; urged that similar phrases be deleted wherever they appear in the draft General Plan document.

Alex Maniscalco, attorney representing the Capistrano Shores Mobile Home Park, expressed gratitude that the GPAC is proposing the elimination of the General Plan language about taking the Capistrano Shores Mobile Home Park by eminent domain; stated that the property was downzoned in 1995 without proper notification and that 11 households have since been denied applications to rehabilitate their homes on the grounds that they are nonconforming uses; requested that Council direct Staff to make corrections to the General Plan.

Principal Planner Hook reviewed the history of the Capistrano Shores Mobile Home Park issue; explained that the Park has asserted that the downzoning of the property to open space was an error, but Staff is of the opinion that the downzone was intentional; opined that there is no defect in the General Plan that needs to be corrected; pointed out that to change the zoning at this point would require a vote of the people and would run afoul of coastal mandates.

Co-Chair Hart summarized the positive contributions made by the GPAC; thanked The Planning Center, Planning staff, Planning Commission, and the public; recognized Council for its foresight in appointing GPAC members with diverse viewpoints; stated that after two years and 29 meetings, the GPAC is proud to forward the draft document to the Council.

Chairperson Avera pointed out that there is 99 percent concurrence between the Planning Commission and GPAC recommendations on the draft General Plan and noted that the process worked extremely well.

Tree Removals for View Preservation

Director of Beaches, Parks and Recreation Heider reviewed the portion of the Administrative Report relating to tree removals for view preservation; suggested Guiding Principles as follows: 1) *Replacement - Not Elimination*, 2) *Appropriate Pruning - Not Topping*, 3) *Revenue Neutral*, and 4) *Balanced Values*.

Council suggested that perhaps “*Inclusive Stakeholder Involvement*” should be added as a 5th Principle, if Council determines to pursue the proposal.

Patricia Holloway, speaking on behalf of a new organization entitled “San Clemente Tree Foundation”, displayed photographs; spoke about the beauty and benefits that trees provide, noting that the Foundation advocates expanding the urban forest by planting new trees; explained that the Foundation’s efforts will be funded by donations and grants and coordinated with City staff; urged that Council refrain from taking any action to remove public trees in Verde Park, or to severely prune or downsize mature trees, until a comprehensive tree ordinance is developed with community input; recommended that the tree ordinance provide for the following: 1) Establish standards to replace trees lost to disease, storm damage or vandalism; 2) hire a licensed arborist to advise the City on managing and expanding the village forest; 3) create a master plan for planting new trees in public places and streets; 4) conduct a baseline inventory and map of city trees and mark public trees where jurisdiction is unclear; 5) establish a notification process to advise citizens when the City proposes to remove a public tree, except in emergencies; 6) limit tree trimming to the fall and winter months (the ideal time for the health of trees and outside the nesting season); 7) educate local tree-trimming companies and HOAs regarding proper timing and pruning; 8) permit neighborhoods and HOAs to pay for City Maintenance to prune public trees on a more-frequent basis as a way to address view concerns; 9) establish fines for vandalism; 10) develop uniform procedures for reporting vandalism; and 11) identify unique heritage trees that warrant special protection and recognition; offered to assist the City in drafting a tree ordinance.

Cristina Leon spoke in opposition to the removal of City trees that obstruct private ocean views, noting that many of the trees are over 35 years old, provide health benefits, and serve as habitat; stated that the City’s current tree ordinance is fair and equitable; noted the importance of ocean views and spoke in support of a view preservation policy, of which trees would be a component.

Jenifer Massey related her opposition to removing trees at Verde Park to protect ocean views; opined that such an action would set a bad precedent and result in lawsuits when requests for tree removal are denied.

Gregg Lipanovich stated that he likes trees, but pointed out that sometimes they exist in inappropriate locations; presented a petition signed by 100 Broadmoor residents urging that the trees at Verde Park be removed and replaced with trees that don't grow as tall; opined that Eucalyptus trees are dangerous.

John Hazeltine spoke in support of a comprehensive tree ordinance; urged that Council consider the benefits that trees provide, including generating oxygen, fostering sociable and safe neighborhoods, softening large structures, and providing habitat for wildlife.

Bob Keyes read a statement on behalf of Jill Yacobucci that indicated that her house backs up to Verde Park; stated that significant amounts of leaves from the park fall into her pool and barbeque areas daily and stain her concrete; voiced concern that the trees pose a fire hazard.

Jonas Hawbecker stated that he lives near Verde Park and has seen parrots inside the trees; urged that the trees not be removed inasmuch as they provide habitat for wildlife, including bats and parrots.

Bob Keyes voiced concern that the limbs that fall from the trees at Verde Park pose a safety hazard.

Edward Beyer asserted that the City did not have the right to plant Eucalyptus trees at Verde Park because it knew that Broadmoor's CC&Rs prohibited trees in excess of 20'.

Bill Stewart related that his neighborhood is willing to pay to remove the trees from Verde Park.

Ariana Hawbecker stated that the number of people who enjoy Verde Park outnumber the people who want the trees removed to maximize their views; stated that Verde Park is the only park in the City with large shade trees.

Vonne Barnes, President of the Master Association for Rancho San Clemente, reviewed the Association's view policy; stated that there are 2,000 trees within the Association's jurisdiction and less than 2% posed a problem; commented that the Association used the Specific Plan in developing its policy; related that the Association's Policy directs that low-level rounded tree species be planted on the bottoms of slope areas to prevent view obstructions.

Bruce Walls voiced concern that one of the trees from Verde Park will fall on his property; stated that a lawsuit will be filed if a tree damages his property.

Georgette Korsen narrated a slide presentation that demonstrated the importance of trees; asserted that the City should not rob the entire community to benefit a few; spoke in support of a tree ordinance.

Christy Armstrong urged that the City enhance its tree ordinance and address the issues presented by both sides; pointed out that trees are important and enhance property values; urged that the trees be retained in Verde Park for all to enjoy.

Gary Headrick noted that the City's sustainability action plan includes reference to pursuing a tree preservation ordinance; spoke in support of a tree ordinance and recommended that arborists be retained to help guide the City through the process.

Jack Miller stated that he resides next to the Casa Romantica; voiced concern that trees were planted on the Casa Romantica property line without notifying Reef Gate West; stated that the trees are now causing problems in connection with his development's sewer line.

Christy Manetta stated that Reef Gate West residents enjoyed full ocean views until the Casa Romantica planted cypress trees on its property line; urged that the densely-planted trees be thinned and maintained.

Karen Ahola noted the benefits of trees and explained that other countries value trees; recommended that a comprehensive ordinance be developed; opined that this meeting should have been televised.

Tom Barnes stated that not all trees need to remain; opined that the City should plant more trees, but in appropriate locations.

MOTION BY MAYOR BAKER, SECOND BY COUNCILMEMBER EVERT, CARRIED 5-0, to consider adopting a tree preservation ordinance at the earliest opportunity.

4. ORAL COMMUNICATIONS

None.

5. **ADJOURNMENT**

City Council: MOTION BY COUNCILMEMBER DONCHAK, SECOND BY MAYOR PRO TEM BROWN, CARRIED 5-0, to adjourn at 10:10 p.m. The next Regular City Council meeting will be held on June 4, 2013 in the Council Chambers, located at 100 Avenida Presidio, San Clemente. Closed Session items will be considered at 5:00 p.m. The Regular Business Meeting will take place at 6:00 p.m.

Planning Commission: MOTION BY CHAIRPERSON AVERA, SECOND BY VICE CHAIR DARDEN, CARRIED 6-0, to adjourn at 10:10 p.m. to an Adjourned Regular Planning Commission meeting to be held on June 5, 2013 at 4:00 p.m. in the Council Chambers, located at 100 Avenida Presidio, San Clemente, California.

Respectfully submitted,

Lew Avera, Chair

Attest:

Jim Pechous, City Planner