

City of Elk Grove

Minutes of the Planning Commission
Regular Meeting
Thursday, July 1, 2010

CALL TO ORDER/ROLL CALL:

Chairperson Nancy Chaires called the meeting to order at 6:32 p.m. with the following in attendance:

Present: Chairperson Chaires and Commissioners Maita, Murphey, Harris and Villanueva

Absent: None

PUBLIC COMMENT:

None.

CONSENT CALENDAR:

Motion: M/S Harris/Murphey to approve the consent calendar of July 1, 2010 as presented. **The motion passed by the following vote: Ayes: 3; Noes: 0; Abstained: 2 (Maita, Villanueva).**

PRESENTATION: Introduction of *Redevelopment* activities and status update (Seifel Consulting Inc.)

Marie Munson of Seifel Consulting provided a presentation and answered questions of the Commission relating to eminent domain, authority of the Redevelopment Agency and the City Council and funding of redevelopment activities. No action was taken.

PUBLIC HEARINGS:

Chairperson Chaires declared the public hearings open.

A. ZEHNDER PARK CLEARWIRE WIRELESS FACILITY EG-10-015 – CONDITIONAL USE PERMIT; (Adam Petersen, Project Planner)

Clearwire Wireless is requesting a Conditional Use Permit (CUP) to install a wireless broadband facility at Zehnder Park. Three (3) panel antennas (12.7" x 42" x 2.8") and one microwave dish (radius 1'-2 1/8") would be collocated on an existing 139'-9" tall Sacramento Municipal Utility District (SMUD) power pole at a height of 68 feet. Clearwire Wireless proposes to lease a 100-square foot (10' by 10') area in the park to use for a ground equipment pad. The equipment will be enclosed by a six-foot (6') high wood fence on top of a concrete slab. Pine trees encompass the ground equipment. The site is located at Zehnder Park 9212 Edisto Way.

Adam Petersen presented the details of the project.

Commissioner Harris felt that there may need to be condition for maintaining the path to avoid any future arguments.

Public Comment:

Jim Gillum explained that the path would be structurally designed to CSD standards and that the lease speaks to the maintenance of the path.

Chairperson Chaires closed the public hearing.

Motion: M/S Maita/Villanueva that the Planning Commission adopt a resolution finding the project exempt from CEQA and approving a Conditional Use Permit for the Zehnder Park Clearwire Wireless Facility (EG-10-015) subject to the findings and conditions of approval in the resolution. **The motion passed by the following vote: Ayes: 5; Noes: 0.**

B. KAISER PERMANENTE ENTRY SIGN DESIGN REVIEW AMENDMENT EG-10-031 – DESIGN REVIEW AMENDMENT; (Jessica Shalamunec, Project Planner)

The proposed Design Review Amendment proposes to incorporate one new monument sign type, specifically for the future Kaiser Permanente medical office building in the Elk Grove Square project. The proposed monument sign increases both the height and size of the previously approved sign and introduces new materials to better reflect the Kaiser building architecture. The site is located at 10305 Promenade Parkway.

Jessica Shalamunec presented the details of the project.

Public Comment:

Hilton Williams answered questions of the Commission relating to signage on the eastern side and the reason for the increase of size of the proposed sign.

Chairperson Chaires closed the public hearing.

Motion: M/S Murphey/Maita The Planning Commission adopt a resolution recommending the City Council adopt a Resolution finding the project exempt from CEQA and approving the Kaiser Permanente Entry Sign Design Review Amendment (EG-10-031) subject to the findings and conditions of approval in the resolution. **The motion passed by the following vote: Ayes: 5; Noes: 0.**

C. TREE PRESERVATION AND PROTECTION ORDINANCE UPDATE; (Christopher Jordan, Project Planner)

The draft Tree Preservation and Protection Ordinance focuses on updating the City's existing provisions found in Chapter 19.12 of the Municipal Code, as directed in the General Plan.

Christopher Jordan presented the details of the Ordinance update and brought the Commission's attention to the memorandum provided on the dais, which included a modification to the Landmark Tree definition, to reference to landmark trees rather than both Heritage and Landmark Trees and to delete planting easements.

In response to Commissioner Villanueva, Mr. Jordan explained that the current ordinance does not conform to the general plan with regard to expansion of the tree preservation requirements of non-native trees. He added that the draft ordinance looks at landmark trees of 19 inches or larger.

Commissioner Harris and Murphey inquired about the tree permit fee of \$30 and the application turnaround time of 10 days.

In response to Commissioner Murphey, Mr. Jordan indicated that the provision for replanting security in the current code is a five year maximum, ten year in the draft. Mr. Jordan also explained that pruning and removing activities for single family homes or commercial would fall under non-development tree permits.

Commissioner Maita expressed concern of the same standards applying to both development and non-development. Assistant City Attorney, Jennifer Alves explained that under the constitution, the

City cannot deprive equal protection to anyone under a similar situation and that they should not be treated differently. She went on to say that in order to create a different standard, a non-arbitrary classification would have to be created based on some difference that has a reasonable relationship to a legitimate government interest. Commissioner Maita felt it should be explored.

Jessica Shalamunec clarified that the current structure of how trees are analyzed is different because development is included in the entitlement review and tree permits are generally for residential properties. Commissioner Villanueva questioned whether or not section 19.12.040(d) that says, this chapter shall not apply to any lot designated in the urban area created by the subdivision map, exempts large single family residential subdivided lots from the current tree ordinance.

There was some discussion about the cost and process for posting surety bonds. In response to Commissioner Villanueva, Mr. Echiburu clarified that currently approved tree permits for residential properties do not generally require mitigation but that the proposed ordinance would change that.

Chairperson Chaires inquired about the costs for Arborist reports. Mr. Jordan explained that in the case of single family homes the City Arborist report preparation costs would be the \$30 application fee and that the city would subsidize the balance. In the case of development review, those costs are incorporated into the entitlement costs. The City Arborist John Lichter indicated that it's approximately \$500 for up to three trees for single family residential but is significantly higher for development projects with plan review, plan modifications and other reviews.

There was some concern that the requirement to plant native trees may be discouraging. Commissioner Maita felt canopy should be referenced. Ms. Alves indicated that a sentence could be added to express the important factors of canopy.

Ms. Shalamunec noted that there is a definition for designated urban areas in the county code and that it has never been enforced by the City.

Mr. Echiburu clarified that the current pruning requirements apply to public trees per 19.04.100 of municipal code.

Public Comment:

Gail Murrell spoke in opposition of the proposed Tree Ordinance because of the burden it places on residents. Mr. Murrell described an incident where natural causes necessitated immediate pruning of dangerous limbs of trees on his property. He said a ten day turnaround for permits could be hazardous in some situations. Mr. Murrell suggested an exemption apply to residents with a certain number of oak trees and that pruning requirements be cleared up.

In response to Chair Chaires, Mr. Jordan said the health and safety exemption currently applies to the mitigation requirements. He also noted that there were previous discussions of integrating a pruning exemption that is necessitated by an act of nature that may not have been incorporated in the draft.

Scott Shafer, a Certified Arborist and tree committee member stated that he felt the draft two years ago represented what the group wanted but the current draft did not. When asked by Commissioner Villanueva to give examples of what the group wanted that did not get incorporated into the current draft, Mr. Shafer said the separation of home owners from commercial and development and to be able to trim trees without permit. In answer to Commissioner Murphey, Mr. Shafer stated that with a bit of tweaking, he would prefer to stay with the existing code. Mr. Shafer felt the draft was too restrictive on residents from doing what they wish on their own property.

Leo Fassler recommended putting together a mediation committee in order to save costs to property owners in cases where there are disagreements. He indicated that there was nothing wrong with the existing ordinance because it protects private property owners. Mr. Fassler said it is the right of a property owner to use their property for expansions. There was a brief discussion with the Commission related to distinguishing the difference in removing trees for expansion as opposed to development. Commissioner Harris felt there is already a separation between a person who is simply trying to enjoy their property and one that is under CEQA review as part of an entitlement for proposed development.

Cari Seymour, tree committee member, felt the Ordinance would not work for residents of Elk Grove. Ms. Seymour said that, except for the trees incorporated into design, the committee's input was not fully considered. In response to Commissioner Villanueva, Ms. Seymour said the current code is superior because residential is not treated the same as development. She suggested the code exempt residential and apply to development only; exempt rural areas with large lots, tree orchards, development defined as not enhancing property and residential from mitigation; protect private property rights and allow pruning on private property.

Nancy Myers felt the draft lacked incentive based recommendations for maintaining tree canopy and language educating the public of the value of trees. She suggested removing the section that refers to relocation of trees because it doesn't work very well. She mentioned that the Urban designation as described in the county code includes property in Elk Grove. Ms. Myers said that if there is focus only on oaks, important consideration of species diversity would be missing. She closed saying the tree preservation purpose is not reflected in the draft ordinance.

Ms. Shalamunec read a section that describes the designated urban areas.

Cindy Blain with the Sacramento Tree Foundation and the tree committee spoke in support of the draft ordinance, particularly the extension of protection of other non-native large trees. She stated that the reason for native oak protection now is because of CEQA and for the desire of protecting the oak woodlands, primarily for habitat. Ms. Blain indicated that 19 inches is an appropriate threshold because large trees provide the best canopy and the majority of the community benefits including air quality, water quality, storm water prevention, urban heat island effect reduction, heat energy savings and the positive impacts on public health. The intent is to help the community understand the value of trees. Ms. Blain questioned why we would move backwards from protecting trees when we have been protecting native oaks for 30 years. There was further discussion with the Commission relating to the public understanding of the benefits of planting trees.

John Costa of the BIA felt the current ordinance addressed the concerns but understood amendments are needed in order to comply with general plan. With respect to protecting landmark trees, the BIA felt there may be some trees that should not be included. There was further discussion related to mitigation requirements. When asked, Mr. Costa said he felt the draft ordinance is superior than the existing ordinance because it added more trees to the list even though the draft would be more difficult to comply with.

Ed Gillum, also on the tree committee as a BIA representative, stated that the draft is not ready to be adopted. He suggested modifying the existing ordinance by leaving part A as is and exempting single family residential and modifying part B to allow inclusion of rural areas where the development process could be used to evaluate the trees. He felt development plants many trees and should not be labeled as canopy destroyers. Mr. Gillum also felt 19 inches is too arbitrary.

Chairperson Chaires closed the public hearing.

During deliberations the Commission discussed the issues they felt needed to be further addressed relative to landmarks trees, the separation of residential properties and development projects, pruning requirements and an overall simplification of the draft ordinance. There was discussion of the options to move forward; in conclusion the consensus was to continue the hearing to August 19, 2010 to allow time for the Commission to come back with further direction to staff.

Motion: M/S Villanueva/Murphey: The Planning Commission to continue the hearing to August 19, 2010. The motion passed by the following vote: Ayes: 5; Noes: 0.

PLANNING DIRECTOR'S REPORT:

None.

PLANNING COMMISSION MATTERS:

Commissioner Harris announced that the Laguna West Association is holding their annual Lake Fest event and invited the other Commissioners to attend.

ADJOURNMENT:

The meeting was adjourned at 10:36 p.m.



Prepared by Sandy Kyles
Planning Commission Clerk

APPROVED: August 5, 2010