

MINUTES
SAN DIEGO COUNTY PLANNING COMMISSION
Regular Meeting – January 21, 2011
DPLU Hearing Room, 9:00 a.m.

The meeting convened at 9:09 a.m and adjourned at 10:41 a.m.

A. ROLL CALL

Commissioners Present: Brooks, Day, Norby, Pallinger, Riess
Commissioners Absent: Beck, Woods
Advisors Present: Mehnert (OCC); Sinsay (DPW)
Staff Present: Chan, Farace, Grunow, Gungle, Hughes, Murphy, Ramaiya, Rowan, Jones (recording secretary)

B. Statement of Planning Commission's Proceedings, Approval of Minutes for the Meeting of December 17, 2010.

Action: Riess - Pallinger

Approve the Minutes of December 17, 2010.

Ayes: 5 - Brooks, Day, Norby, Pallinger, Riess
Noes: 0 - None
Abstain: 0 - None
Absent: 2 - Beck, Woods

C. Public Communication: Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item on today's Agenda.

There were no

D. Announcement of Handout Materials Related to Today's Agenda Items

E. Requests for Continuance: None

F. Formation of Consent Calendar: Items 2 (TM 5315RPL⁶) and 3 (P09-020)

POD 10-013, Agenda Item 1:**1. Medical Marijuana Collective Facilities Ordinance Amendments, POD 10-013, Countywide**

Proposed amendments to the County's Zoning Ordinance related to medical marijuana collective facilities. The amendments would (1) make existing language pertaining to who is exempt from the ordinance requirements consistent with the Regulatory Code text; and (2) amend provisions related to nonconforming medical marijuana collective facilities.

Staff Presentation: Farace

Proponents: 12; **Opponents:** 6

Staff's proposed amendments will define "qualified patients" and "primary care givers", as well as clarify who is exempt from the Ordinance requirements. The proposed amendments would also revise provisions related to lawfully established medical marijuana collective facilities (those facilities for which Certificates of Occupancy or Building Permits were obtained prior to the August 2009 moratorium).

Many members of the audience remain opposed to allowing establishment and operation of these facilities. They believe allowing them to exist will increase the potential for community residents to possibly be exposed to drugs and drug abusers, and increase crime. They do not support allowing legal nonconforming establishments a three-year amortization period (until August 2013) to comply with Ordinance requirements. Audience members discuss illegally operating collectives and the inadequacies of enforcement, and express concern that some of the collectives are not operating as non-profit establishments. These speakers inform the Planning Commission that many cities within the County of San Diego have not implemented separation/distance restrictions that are compatible with the County's, resulting in these establishments occasionally being located less than the required 1,000 feet from County schools, churches, and residences. They recommend that the County incorporate language in the Ordinance restricting collectives to at least 1,000 feet from the jurisdictional boundaries of other cities. They also inform the Commissioners that many cities and several counties have completely banned these establishments because of the difficulties encountered with attempting to regulate them.

POD 10-013, Agenda Item 1:

Staff is supportive of amending the Ordinance to reflect that the collectives not businesses operating for profit, and the Planning Commissioners and County Counsel remind audience members that the County cannot dictate where cities allow uses to be located. Counsel also advises those in attendance that there is ongoing litigation in many cities and counties regarding whether banning these establishments are legally defensible.

Members of today's audience who are supportive of the legalizing the collectives inform the Planning Commission that the Ordinance is already too restrictive, and they do not support the proposed amendments. They remind the Planning Commission that marijuana is medicine prescribed to them. They believe the Ordinance makes it almost impossible to open or operate collectives. They also inform the Commissioners that the County has not established a fee structure. They remind the Commissioners of marijuana's benefits to those with certain illnesses and medical conditions, and maintain that no one has been able to open an establishment within the County since the Ordinance was adopted in 2010.

Commissioners Day and Norby are very supportive of developing language that will ensure collectives are not located within 1,000 feet of protected uses (schools, residences, churches, etc.) in other jurisdictions. Commissioner Norby reminds those in attendance that he continues to support a less restrictive Ordinance to ensure that patients who should be helped by the Ordinance are being served. Staff acknowledges that the Ordinance and amendments have restricted the number of potential County sites to probably no more than 20, though there are no legally established collectives operating within the unincorporated areas today.

Commissioner Norby discusses the concerns that have been raised regarding potential increases in crime resulting from establishment of collectives. He notes that criminals are attracted to all levels of business and enterprise, but no other business is quite as restricted by laws and ordinances as marijuana collectives are. Commissioner Norby is supportive of the 1,000-foot restriction, and would not like that limit increased. With respect to fees, Commissioner Norby cautions the audience members to allow Staff time to ensure that any fees to be imposed are not considered excessive or onerous, and are reflective of the cost of providing the services collectives do.

POD 10-013, Agenda Item 1:

Action: Norby - Pallinger

Recommend that the Board of Supervisors adopt Staff's recommendations. The Board of Supervisors is also to be made aware of the possible need to expand collective facilities' buffer requirements from sensitive land uses that are located within the incorporated cities, while carefully considering the impact on the availability of sites today.

Discussion of the Action:

Commissioner Norby would like Staff to inform the Board of Supervisors of the Commission's primary intent to ensure that a number of locations are available to those patients who need them. Commissioner Day prefers bifurcating this Motion to remove the 1,000-foot buffer restriction. He also prefers requiring that legally-established nonconforming uses comply with this Ordinance by August 2012 instead of 2013, but Staff believes 2013 is more reasonable. In addition, Commissioner Day requests that Staff discuss the Commission's belief that the Ordinance must contain language which precludes the collectives from operating on a for-profit basis.

Amended Action: Norby - Pallinger

Recommend that the Board of Supervisors adopt Staff's proposed amendments. Staff will also inform the Board of the necessity to ensure that these collectives remain non-profit establishments.

Ayes: 5 - Brooks, Day, Norby, Pallinger, Riess
Noes: 0 - None
Abstain: 0 - None
Absent: 2 - Beck, Woods

Commissioner Norby requests that Staff make the Supervisors aware of the concerns raised today regarding jurisdictional boundary discrepancies, to which Staff agrees.

TM 5315, Agenda Item 2:

2. Beauvais Property, Tentative Map (TM) 5315, Valley Center Community Plan Area

Proposed subdivision of 23.2 acres to create 7 residential lots and 1 lot for Street A. The proposed lots would range in size from 2.0 to 7.81 net acres. The project site is located on Old Castle Road in the Valley Center Community Plan Area, and subject to the Estate Development Area Regional Category, the (17) Estate Residential Land Use Designation, and is zoned A70 (Limited Agriculture). The site is currently vacant. Access would be provided by a private road connecting to Old Castle Road, and services would be provided by onsite septic systems and imported water from the Valley Center Water District. Extension of sewer or water utilities within the project site will occur as needed. Earthwork will consist of 7,350 cubic yards of cut and fill material.

Staff Presentation: Hughes

Proponents: 6; Opponents: 0

Discussion

This Item is approved on consent.

Action: Riess - Pallinger

1. Adopt the environmental findings; and
2. Adopt the Resolution of Approval for the Beauvais Tentative Map (TM) 5315RPL⁶, which makes the appropriate Findings and includes those requirements and Conditions necessary to ensure that the project is implemented in a manner consistent with the Subdivision Ordinance and State law.

Ayes: 5 - Brooks, Day, Norby, Pallinger, Riess
 Noes: 0 - None
 Abstain: 0 - None
 Absent: 2 - Beck, Woods

P09-020, Agenda Item 3:

3. AT&T/Rice Property Wireless Telecommunication Facility, Major Use Permit P09-020, Valley Center Community Plan Area

Requested Major Use Permit (P09-020) to authorize construction and operation of an unmanned wireless telecommunication facility at 10590 Couser Way in the Valley Center Community Plan Area. The facility would include a 50' tall mono-broadleaf onto which 12 antennas would be mounted, and outdoor equipment cabinets that would be enclosed by an 8' tall concrete block wall. The proposed facility would be located within the existing avocado grove on the project site.

Staff Presentation: Chan

Proponents: 1; Opponents: 0

Discussion

Major Use Permit P09-020 is approved, following clarification of the existing Land Use Designation ([17] Estate Residential), and comments on the placement of the proposed 50' tall mono-broadleaf tree in an existing avocado grove.

Action: Riess - Pallinger

1. Adopt the environmental findings;
2. Grant Major Use Permit P90-020, make the Findings and impose the requirements and conditions as set forth in the Form of Decision;
3. Grant a setback exception pursuant to Section 4813 of the Zoning Ordinance, to allow the proposed mono-broadleaf tree to be set back from the nearest residential lot line by a distance of 33 feet; and
4. Grant a height exception pursuant to Section 4620(g) of the Zoning Ordinance to allow for a 50-foot tall mono-broadleaf tree, when 35 feet is the maximum height allowed for the subject property.

Ayes: 5 - Brooks, Day, Norby, Pallinger, Riess
 Noes: 0 - None
 Abstain: 0 - None

Absent: 2 - Beck, Woods

Official Copy

Administrative:

G. Report on actions of Planning Commission's Subcommittees:

No reports were provided.

H. Results from Board of Supervisors' Hearing(s):

On January 12, 2011, the Board of Supervisors approved the Eurus Borrego Solar Farm project (P09-012 and P09-014, approved by the Planning Commission on October 8, 2010)

The Board of Supervisors also adopted minor amendments to the Zoning Ordinance and County Code (POD 10-002, recommended for approval by the Planning Commission on October 22, 2010).

I. Upcoming Board of Supervisors Agenda items and Designation of member to represent Commission at Board of Supervisors:

None of the Planning Commissioners were designated to represent the Commission at the January 26, 2011 Board of Supervisors meeting.

J. Discussion of correspondence received by Planning Commission:

There was none.

K. Scheduled Meetings:

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| February 4, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| February 25, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| March 11, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| March 25, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| April 15, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| April 29, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| May 20, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| June 3, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |

Administrative:

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| June 24, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| July 8, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| July 22, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| August 12, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| August 26, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| September 9, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| September 23, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| October 7, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| October 21, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| November 4, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| November 18, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| December 2, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |
| December 16, 2011 | Regular Meeting, 9:00 a.m., DPLU Hearing Room |

There being no further business to be considered at this time, the Chairman adjourned the meeting at 10:41 a.m. to 9:00 a.m. on February 4, 2011 in the DPLU Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California.