



MINUTES
REGULAR CITY COUNCIL MEETING
TUESDAY, JULY 23, 2013, 7:00 P. M.
SAN DIMAS COUNCIL CHAMBERS
245 E. BONITA AVENUE

PRESENT:

Mayor Curtis W. Morris
Mayor Pro Tem Denis Bertone
Councilmember Emmett Badar
Councilmember John Ebner
Councilmember Jeff Templeman

City Manager Blaine Michaelis
City Attorney Ken Brown
Assistant City Manager Community Development Larry Stevens
Assistant City Manager Administrative Services Ken Duran
Director of Parks and Recreation Theresa Bruns
Director of Public Works Krishna Patel
Deputy City Clerk Debra Black
Associate Planner Jennifer Williams

1. CALL TO ORDER AND FLAG SALUTE

2. ORAL COMMUNICATIONS (Members of the audience are invited to address the City Council on any item not on the agenda. Under the provisions of the Brown Act, the legislative body is prohibited from taking or engaging in discussion on any item not appearing on the posted agenda. However, your concerns may be referred to staff or set for discussion at a later date. If you desire to address the City Council on an item on this agenda, other than a scheduled public hearing item you may do so at this time or asked to be heard when that agenda item is considered. Comments on public hearing items will be considered when that item is scheduled for discussion. The Public Comment period is limited to 30 minutes. Each speaker shall be limited to three (3) minutes.)

a. Members of the Audience

Amy Crow Acting Library Manager, San Dimas Library, announced upcoming events planned at the library.

Judy Neal spoke on the National Parks and Recreation legislative proceedings to designate areas of the San Gabriel Valley Mountains as part of a National Recreation Area.

Laura Alvarado announced the upcoming San Dimas Sheriff's Booster Annual Car Show.

3. CONSENT CALENDAR

(All items on the Consent Calendar are considered to be routine and will be enacted by one motion unless a member of the City Council or audience requests separate discussion.)

MOTION: It was moved by Councilmember Ebner, seconded by Councilmember Templeman and carried to accept, approve and act upon the consent calendar, as follows:

a. Resolutions read by title, further reading waived, passage and adoption recommended as follows:

RESOLUTION NO. 2013 - 43, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING CERTAIN DEMANDS FOR THE MONTH OF JULY 2013.

- b. Approval of minutes for the regular City Council meeting of July 09, 2013
- c. Summary of San Gabriel Valley Council of Governments recent activities.
- d. Vacation of an existing sewer easement and reciprocal access and public utility easement and the acceptance of new easements for the same purpose within the same project site: Loma Bonita Residences

RESOLUTION NO. 2013-46, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS APPROVING THE VACATION OF AN EXISTING SEWER EASEMENT AND RECIPROCAL ACCESS AND PUBLIC UTILITY EASEMENT AND THE APPROVING A NEW EASEMENT FOR THE SAME PURPOSE WITHIN THE SAME PROJECT SITE: BONITA CANYON GATEWAY (APN NO. 8390-013-026) AS PROVIDED BY STREETS AND HIGHWAY CODE § 8333(c)

END OF CONSENT CALENDAR

4. PUBLIC HEARINGS

- a. Appeal hearing of Classification of Use 13-01 (on appeal of the Planning Commission's June 20, 2013 approval, request made by Councilman Bertone during 6/25/13 City Council Meeting)

RESOLUTION 2013-44, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF CLASSIFICATION OF USE CASE NO. 13-01, A REQUEST TO ALLOW A CONGREGATE LIVING HEALTH FACILITY IN THE A-P ZONE (ADMINISTRATIVE PROFESSIONAL ZONE)

Larry Stevens Assistant City Manager of Community Development gave a brief explanation of the item being considered.

Jennifer Williams Associate Planner presented staff's report and recommended upholding the Planning Commission's decision on this item.

Councilmember Badar asked for clarification on the arcade use and if a theatre would work at the location.

Assistant City Manager Stevens answered that the arcade would be an accessory use to a conditionally permitted primary use and a theatre most likely would not be tailored for that site but could at other AP zones.

Councilmember Ebner asked what have other cities done as far as listing these facilities as a conditionally permitted use.

Associate Planner Williams stated the Garden Grove site was rezoned to office professional from residential and a couple of other sites were also previously residential.

Councilmember Ebner asked how other cities arrived at this type of use being permitted.

Assistant City Manager Stevens answered that in the Garden Grove facility they requested the AP Zone as their new zone because it was a zone that would accommodate the conditional use permit.

Councilmember Ebner asked if the city were to determine that a congregate living facility were similar to a hospital what would prevent them from making a similar finding that a mental health rehabilitation facility was not similar to a hospital.

Assistant City Manager Stevens answered that it is difficult when trying to make these interpretations because the names and categories change and adjust over time as the medical professionals find different types of protocol to deal with different types of injuries. He went on to say that what staff tries to do is find ways to make the zoning apply and try to understand subtle distinctions between types of medical uses and narrowly define them as they add them. He stated that with the resolution for this item staff tried to make it clear there are many other types of facilities that may have some similar characteristics to this but we are only talking about this one narrow use and if approved might open the door for similar determination on another type of use. There is no guaranteed approval and there would be a process like this one to go through

Councilmember Bertone asked if the city could place a condition that this facility could not be changed to a mental rehabilitation hospital.

Assistant City Manager Stevens replied that there could be a range of conditional uses that could be applied allowing flexibility to ensure that what an applicant submits is what will be presented and proposed for Council's approval.

Mayor Morris added that this could not be changed without a totally different classification of use. He asked if this type of facility would be permitted in any of the city's residential zones.

Assistant City Manager Stevens responded there are no residential zones with this type of use and they would have to have a code amendment not a classification of use.

Councilmember Badar asked if the past approved use on this property included a two-story medical building.

Assistant City Manager Stevens answered that we have approved two separate office development proposals for this site over the last fifteen years that were two stories.

Councilmember Ebner asked how long it would take the applicant to go through the DPRB, CUP and Precise Plan process.

Assistant City Manager Stevens answered three to four months from the date of a complete submittal.

Councilmember Ebner then asked how long would a Municipal Code Text Amendment take.

Assistant City Manager Stevens responded if the applicant requested a Municipal Code Text Amendment that process would take three to six months and typically staff would simultaneously process a development application with the code amendment because it has to be authorized by the Planning Commission or Council.

Councilmember Ebner stated that staff would probably see a site plan at the time of the code amendment request.

Assistant City Manager Stevens responded yes, if the applicant wanted to take the risk of preparing plans for processing simultaneously with the code amendment; it is possible to process an amendment without having the development application.

Mayor Morris clarified that the issue brought before the Council is on a classification of use and not issues of operation.

Some discussion continued on what the process will be as the project moves forward.

Councilmember Badar asked about similar facilities in San Dimas that are not controlled by the city.

Assistant City Manager Stevens answered that there are various types of residential facilities that the State of California has preempted communities from regulating through their zoning based upon the size of the facility.

Mayor Morris explained the guidelines for the speakers before opening up the public hearing.

Keith Underwood with Care Meridian provided a PowerPoint presentation to highlight and outline the characteristics of the facility and asked for the Planning Commission's decision to be upheld.

Bruce with Care Meridian presented the medical aspect of the project.

Stan Stringfellow spoke on behalf of the property owner and provided some history of the various types of projects proposed at the location in the past.

The following individuals spoke in favor of the project:

1. Diana Palumbo
2. Samantha Palumbo
3. Alan Nash
4. Richard Gomez
5. Megan Hopper
6. Charles McCowan
7. Lisa Salvado
8. Gary Enderle

The following individuals opposed the project:

1. Marvin Ersher
2. Dr. Sam Contina
3. Jane Bartolo
4. Jim Egan
5. James Wanland
6. Raymond M.
7. Ken McCrimmen
8. Dan Hargis
9. Julie Santoro
10. Katelyn Bartolo
11. John Santoro
12. Howard Tousey

During the oppositions presentation Mayor Morris read a list of the approved AP Zone permitted uses. He also explained that cities and their staff can be held responsible by the United States Supreme Court for delaying or denying a property owner from developing their property. He went on to state that when staff and council review this, they have to look at how their decisions would be reviewed by a judge.

Councilmember Bertone pointed out that the AP Zone states, "Medical and Health Services permitted by right", which would indicate the property owner's ability to sue the city for denying a project approved for the AP Zone. He emphasized that the residents should be appreciative that this is a conditional use that allows staff to place conditions on project.

Keith Underwood with Care Meridian addressed some of the points made during the opponent's presentation.

Councilmember Ebner asked if the 1,000 foot limit that Mr. Underwood described was just for CLHF and what is the limit to the number of patients.

Mr. Underwood answered that it was specifically for the CLHF and the maximum number of patients is 25.

Mayor Morris closed the public hearing and called for recess at 10:16p.m. and reconvened at 10:22 p.m.

Councilmember Templeman stated that he visited the Garden Grove location, the goal of these facilities is different from others that have been mentioned tonight and he supports the Planning Commission's decision. He further stated that he will continue to investigate the issues and concerns of the residents but tonight will be supporting staff's recommendation.

Councilmember Badar commented that he visited the Garden Grove location as well.

Mayor Morris called for the reading of Resolution 2013-44 by title.

MOTION: Councilmember Templeman made a motion to waive further reading and adopt Resolution 2013-44, the motioned was seconded by Councilmember Bertone and discussion continued.

Councilmember Ebner stated that he feels this is not the correct path for the proponents to go, he has visited three of the other facilities and they are great; but thinks everyone is trying to squeeze this type of use into the uses that are permitted. He further stated that the city would be setting a precedent and it would be hard to deny a CLHF that is very similar. He continued with the San Dimas Zoning Code should be looked at as a road map for how the city should look and be viewed as a disclosure document to residents but should be as clear as possible. He proposed a MCTA that would allow all CLHF's and at the same time not say that the other types of rehab facilities might fit into the same category would be approved. He feels that the MCTA could be an opportunity for the city to state what kind of city we want. He went on to say that staff and council's responsibility is to the whole City of San Dimas and thinks we should expressly permit the CLHF; by doing so we are stating in the code what kind of city we want to be.

Mayor Morris stated that Councilmember Ebner's suggestion would be similar to spot zoning and didn't feel that council would put the suggested language in the code.

Councilmember Ebner suggested voting the motion down and offering a substitute motion.

Discussion continued on the difference between using the Conditional Use or MCTA processes.

Mayor Morris called for a vote.

Ayes: Badar, Bertone, Morris, Templeman
NOES: Ebner

Councilmember Bertone stated that his voting for this item does not necessarily mean he would vote in favor of the facility or against it; he would have to be assured that the conditional uses put in place protect the neighbor.

b. Congestion Management Plan 2013 – Local Development Report.

RESOLUTION 2013-45, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIMAS FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE CMP LOCAL GOVERNMENT CODE SECTION 65089

Associate Planner Jennifer Williams presented staff's report and recommendation for approval of this item.

Mayor Morris opened the public hearing. Seeing no one come forward the public hearing was closed.

MOTION: A motion was made by Councilmember Ebner and seconded by Councilmember Bertone to waive further reading and approval Resolution 2013-45. Motion carried unanimously.

5. OTHER MATTERS

- a. Budget Adjustment to accommodate a reorganization of Finance Department functions and staffing levels – Accounting Technician and Intern positions

Assistant City Manager Ken Duran presented staff's report and recommendation for approval.

Councilmember Templeman expressed the importance of cross training for the department.

MOTION: A motion was made by Councilmember Bertone, seconded by Councilmember Ebner to approve the budget adjustment and reorganization. Motion carried unanimously.

6. ORAL COMMUNICATIONS

- a. Members of the Audience (*Speakers are limited to five minutes or as may be determined by the Chair.*)

Dr. Marvin Ersher continued his opposition to the Congregate Living Facility and the Conditional Use Permit application.

- b. City Manager

Mayor's call in show July 25th, 2013.

- c. City Attorney

Nothing to report.

- d. Members of the City Council

- 1) Councilmembers' report on meetings attended at the expense of the local agency.

Nothing to report.

- 2) Individual Members' comments and updates.

Councilmember Badar announced Mayor Morris' elected as JPIA Board President.

7. ADJOURNMENT

The meeting adjourned at 11:20 p.m. The next meeting will be held August 13, 2013, 7:00 p.m.

Respectfully submitted,



Debra Black
Deputy City Clerk