

**CITY OF ANTIOCH
PLANNING COMMISSION MINUTES**

**Regular Meeting
6:30 p.m.**

**May 15, 2013
City Council Chambers**

CALL TO ORDER

Chair Sanderson called the meeting to order at 6:30 p.m. on Wednesday, May 15, 2013, in the City Council Chambers. She stated that all items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the decision. The final appeal date of decisions made at this meeting is 5:00 p.m. on Thursday, May 23, 2013.

ROLL CALL

Present: Commissioners Azevedo, Motts, Miller, Baatrup, Westerman
Chair Sanderson
Absent: Vice-Chair Hinojosa
Staff: Senior Planner, Mindy Gentry
City Consultant, Victor Carniglia
City Engineer, Ron Bernal
City Attorney, Lynn Nerland
Minutes Clerk, Cheryl Hammers

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

1. **Approval of Minutes:** A. April 17, 2013
B. May 1, 2013

On motion by Commissioner Motts, and seconded by Commissioner Azevedo, the Planning Commission approved the Minutes of April 17 and May 1, 2013.

AYES: Baatrup, Azevedo, Motts, Sanderson, Westerman, Miller
NOES: None
ABSTAIN: None
ABSENT: Hinojosa

END OF CONSENT CALENDAR

CONTINUED PUBLIC HEARING

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2. **PD-06-04, UP-06-21, AR-06-17** . Ted Liu of Bedrock Ventures, Inc. requests an amendment to condition of approval number 3 from Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 11, 2015. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road (**APN: 052-100-069 and -068**).

Given that the applicant was not present, it was decided that this item would be moved down on the agenda to allow the applicant time to arrive.

NEW ITEM

3. **PW-150-13 – City of Antioch** is requesting a determination that the 2013-2018 Capital Improvement Program is consistent with the Antioch General Plan.

City Engineer Bernal provided a summary of the staff report dated May 8, 2013, highlighting pages I-7 and I-8 of the 5 year Capital Improvement Program, specifically projects added to 2013-2018 CIP and projects completed in fiscal year 2012-2013.

Commissioner Westerman discussed with CE Bernal the list on pages I-5 and I-6 of the report and clarified that grant funding has been obtained for some of them, but not all of them.

Commissioner Baatrup asked staff about the major pipeline from the sewage plant to the golf course to which CE Bernal responded that they are working on grant funding and the water master plan which mentions alternative water sources and that they are looking to expand in the southern end of town to possibly serve Roddy Ranch. Commissioner Baatrup encouraged the use of recycled water and expressed his desire that City staff look into that.

Commissioner Baatrup clarified with staff that the CIP Program recommendation is consistent with the General Plan.

Chair Sanderson clarified with CA Nerland that this item is not designated as a public hearing, that it is not formal but that the public can make comments.

PUBLIC COMMENTS

None.

Commissioner Motts discussed with staff the consideration of the ferry service and the City's improvements to the restrooms being separate given that ferries have their own restrooms.

On motion by Commissioner Baatrup and seconded by Commissioner Westerman, the Planning Commission determined that the City of Antioch 2013-2018 Capital Improvement Program is consistent with the Antioch General Plan.

AYES: *Sanderson, Motts, Baatrup, Bouslog, Miller, Azevedo and Westerman*

NOES: *None*

ABSTAIN: *None*

ABSENT: *Hinojosa*

4. **Z-13-03** . The City of Antioch is requesting a recommendation of approval from the Planning Commission to the City Council for the rezoning of the Northeast Antioch Area. There are three subareas considered for rezoning, which are all located within unincorporated Contra Costa County, consisting of approximately 678 acres. The zoning for Area 1 (470 acres) is being proposed as Heavy Industrial and Open Space, Area 2a as Urban Waterfront (94 acres), and Area 2b (103 acres) as a Study zone. The three subareas are located generally south of the Sacramento County line along the San Joaquin River in the vicinity of Wilbur Avenue, west of the City of Oakley, north and east of the boundaries of the City of Antioch. A mitigated Negative Declaration is also being considered for adoption.

CA Nerland highlighted the public hearing protocols. She said that persons wanting to speak could fill out a speaker card, staff will present the report, the commissioners may have questions of staff, and the public hearing opens. She said that if there is a main presenter that person would have 10 minutes to speak; otherwise the speaker would have 5 minutes to speak. Speakers will be called up by the Chair, that there will be no dialogue, and if there are questions those can be referred to staff if the Chair chooses. She said that no one can speak more than once and asked that comments be kept as short as possible. She said that the rezoning is what is before the Planning Commission tonight, that the comment period on the environmental document has closed and that the Planning Commission is not the decision maker on the annexation but that their role is to make a recommendation to the City Council regarding the rezoning.

Senior Planner Gentry provided a summary of the staff report dated May 9, 2013, and said that on the dais this evening was a Supplemental Staff Report dated May 15, 2013, as well as a packet of letters from Shauna Eisenmann, Wayne and Shauna Eisenmann and Contra Costa County Flood Control.

OPENED PUBLIC HEARING

Chair Sanderson asked if there were any main speakers and seeing none, called the first speaker.

Ken Wentworth said that he lives at 1501 Trembath Lane and that he has many concerns and is opposed to what is happening and that this is junk science. That multiple people have voiced discontent at the two meetings with the third one coming up. That they do not need help with their wells and septic systems and that the City is not providing answers as to how they will be impacted. He said that the Planning Commission is part of moving this forward, that what the City is doing is illegal taking

their voting rights away, that LAFCO is an unholy alliance with the City with the one million dollar payoff, and that he will lead the charge to file legal action against the Planning Commission and the City to stop this in any way that he can.

Commissioner Baatrup asked the speaker to clarify what he meant by junk science. Mr. Wentworth said that on previous occasions the annexation was proposed which is now all motivated by money with revenue from the power plant, that LAFCO guidelines are to annex it all but that LAFCO has decided that they are an island and not large enough for a vote. He said that maybe junk science is a bad scenario but that what is being proposed is based on improper information.

Chair Sanderson clarified with applicant that his residence was in Area 2b and asked if he had reviewed the materials about the study zoning test period.

Mr. Wentworth responded that he has reviewed what was provided but that it was vague, open ended and lacking in information. He said that he chose to move to the County and that he has concerns how this will affect his street and his property value. He said that he lives on a private street that the City has no jurisdiction over any improvements on his street without his permission and the problem is he is not giving permission to move from the County to the City.

Chair Sanderson asked Mr. Wentworth what his concerns were regarding the study to which he said that he lives in an agricultural area, that the City has no zoning for agricultural and his concerns that it will be changed to something else.

Chair Sanderson asked Mr. Wentworth if he was concerned that after a determination was made that it will make illegal uses on his property to which Mr. Wentworth said that he was concerned that it would be changed from agricultural to something else, that his street may be opened to connect 18th Street to the street behind him and his concern with the City's ordinance about gravel roads connecting to paved road given that he lives on a gravel road which is maintained.

Richard Hiebert spoke to say that he was speaking for his parents who reside at 1650 Trembath Lane, and that his family has lived there for seven generations. That there is a lack of a recording secretary at the meetings held at Bridgehead Café, that they are not getting fair feedback and that he is wondering if a person can be provided out there to keep records to view at a later date. Mr. Hiebert said that he is not for this, that they have survived without City services with their current wells and septic systems, and that their roads are maintained. He said that a long time ago, there was a proposed pedestrian path on the west side of his parents property that he would like to know what the Planning Commission is going to do about that and that needs to be addressed. He said if Lipton were to go through to 18th, that several houses would not meet the setbacks for the streets. If they are grandfathered in can they keep their rural character as other communities in the State have allowed. Mr. Hiebert said that questions from the previous two meetings have not been answered to their satisfaction, that they have not had trouble with ambulances or the fire department and that they would like to keep their agricultural vineyards.

City Consultant Carniglia said that he appreciated the comments, that the suggestion of having someone to record the meetings is an excellent idea and that an exhibit has been created which is attached to the Planning Commission resolution to provide residents a level of assurance with the study zone based on input from the meetings. CC Carniglia went through the exhibit pointing out the development standards, sewer and water connections, streets, livestock and home occupations. He said that the Planning Commission is not taking action tonight but would be making a recommendation to the City Council.

Mr. Hiebert stated he would like to see questions answered before going in and would like to preserve what they currently have.

Carol Ray left comments on a speaker card to say that she is a resident of St. Clair Drive, that she would like to have a vote on the annexation of their property and that they would like to keep their neighborhood the way it is. That if there is an annexation of their neighborhood that they should not have any cost to them for anything and that they would like to keep their road private with no through street and no parking on their road.

CLOSED PUBLIC HEARING

Commissioner Azevedo clarified with CC Carniglia that in discussions with LAFCO Area 2b is considered an island, protest proceedings are waived, and residents do not have a say or vote in the annexation process. CC Carniglia said that the only scenario for a vote is if residents go to the City Council and ask that they rearrange the way the application is being structured by submitting one application instead of three and that there is no clean way of addressing it.

Commissioner Baatrup asked staff to address the water and sewer service to properties and said that if these systems fail and cannot be remedied or fixed, that they would not have viable residential buildings and would have to remedy or abandon the living spaces.

CC Carniglia said that Area 2b has larger lots of one acre to an acre and a half in some areas while others have less than an acre in size with the likelihood of having problems with septic going way up for the smaller lot sizes. He said that if a system fails, they could write a large check to fix the problem or they can walk away from the house. He added that the City and County are working together to put infrastructure into the area at a cost of three million dollars each for a total of six million dollars.

Commissioner Baatrup said that the smaller lots in the area would still have to ask the City for services if theirs are failing and that this seems like an inevitable action to address water and sewer.

Commissioner Miller asked staff what is the general benefit of annexation of Area 2b to the City to which CC Carniglia said that what Mr. Wentworth stated is accurate and that annexing the industrial area to the City is a significant property tax to the City. He said that the initial application was for the industrial area because the residents were not

interested and LAFCO told the City that Areas 2a and 2b needed to be included. That the power plants were built on the basis of getting City services.

Commissioner Baatrup stated that the City has attempted to move forward with Area 1, and LAFCO has asked that the City include 2a and 2b as it would be a waste of time and money to try again excluding Area 2b.

CC Carniglia stated that it is unprecedented that the County put up three million dollars in an area and that if we delay, that money could be at risk.

Commissioner Azevedo clarified with staff that the power plant is now on the grid and Out of Agency Agreements were approved to utilize City water and sewer and LAFCO has indicated it will not support or issue any agreements in the future.

Commissioner Miller stated that with Exhibit 1 the City is trying to carve out exemptions to Area 2b to which CC Carniglia said that the annexation includes property that has already been developed under the County's standards and the City needs to create new zoning given it does not fit into current residential zoning while also finding a way to address the specific needs of this area that are unique.

Chair Sanderson said that the Planning Commission is here tonight to discuss items but most relevant is the rezoning designation for Area 2b. She said that the Study district is of concern to residents in that it is confusing and vague, that residents are worried that when zoning determinations are made their existing uses of their property will be outlawed and that the study process is going to be an invasion of their privacy. She said a zoning provision needs to allow existing uses to be grandfathered in and asked staff to provide more information on the study process.

SP Gentry stated that they could look at aerials to view existing structures, County records for business licenses, the County Assessor for information on lot size, number of units and the County for building permits. She said that they will hold meetings to get community feedback and that they can go through records instead of in the field so as to not invade the property owner's privacy.

Commissioner Baatrup made a motion that the Planning Commission adopt the resolution recommending City Council adoption of the ordinance for rezoning Areas 1, 2a and 2b.

SP Gentry interjected that the adoption of the resolution for the environmental document must be approved first.

Commissioner Baatrup rescinded the previous motion and motioned to recommend that the City Council approve and adopt the Final Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Report Program.

RESOLUTION NO. 2013-07

On motion by Commissioner Baatrup and seconded by Commissioner Azevedo, the Planning Commission recommended that the City Council approve and adopt the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring and Report Program for the Project.

AYES: Sanderson, Azevedo, Motts, Miller, Baatrup and Westerman
NOES: None
ABSTAIN: None
ABSENT: Hinojosa

Commissioner Baatrup made another motion that the Planning Commission recommend that the City Council adopt the ordinance to prezone Areas 1, 2a and 2b of the Northeast Antioch Area.

CA Nerland interjected to add that the resolution includes the Exhibit containing the goals for annexation and recommending that those goals be brought forward to City Council.

RESOLUTION NO. 2013-08

On motion by Commissioner Baatrup and seconded by Commissioner Miller, the Planning Commission recommended that the City Council adopt the ordinance to prezone Areas 1, 2a and 2b of the Northeast Antioch Area.

AYES: Sanderson, Azevedo, Motts, Miller, Baatrup and Westerman
NOES: None
ABSTAIN: None
ABSENT: Hinojosa

SP Gentry asked the Planning Commission if there was further direction on the exhibit containing goals for the annexation.

Commissioner Azevedo stated that he has heard the concerns and that the bullet points mitigate most of those concerns. He said that although this is a no win situation as there are residents who don't want to annex into the City but that LAFCO has decided that to participate in recovering revenues from the infrastructure that annexation is required, the City wants to work with the residents. He said that the City is going in the right direction, does not see any changes to the goals, and if there are issues which need to be addressed those can be brought to staff and the City Council. Overall, he is supportive of these goals.

Commissioner Baatrup said that this is a rare process for the City and that staff should be given credit for their efforts in the meetings by putting the agreement together. The City has clearly taken the concerns of the residents and providing formal language to address these concerns. He said that he hopes that the City continues to work with the residents.

Commissioner Miller said that Exhibit 1 does take into consideration the concerns of the residents, the exhibit is a good addition, and the City is trying to work with the residents.

Commissioner Motts concurred that the staff has done an exemplary job and that the study zone would come up with future mitigation of concerns.

RECALL OF AGENDA ITEM NUMBER 2

SP Gentry provided a summary of the staff report dated May 9, 2013.

Commissioner Westerman clarified with staff that this was simply a time extension with no other changes.

Commissioner Miller clarified with staff that the applicant is trying to seek additional time to get financing and to allow the market to recover.

OPEN PUBLIC HEARING

Applicant, Ted Liu, Bedrock Ventures, apologized for being tardy due to traffic. He said that he is just looking for an extension on the approvals that they have to allow time to find financing and tenants and that with the e-Bart project under construction that has definitely shown light on this project.

Commissioner Azevedo asked the applicant if financing were obtained when it was anticipated to start on the project; to which applicant said that they need to find financing as well as a tenant large enough for an anchor but that hopefully that can be accomplished in the next two years.

Commissioner Azevedo stated that at some point if things can happen in the next two years they may want to look at the project again.

Applicant said that when the project was started, it was proposed with retail out front, a two story medical building and a third building comprised of medical uses but the Commission had indicated wanting to see a sit down restaurant there. If they find a different use, they would revisit the project.

CLOSED PUBLIC HEARING

Commissioner Westerman stated that he was on the panel when this project was first looked at, that it was considered to be a good project for that location, that the buildings look nice and that this is a good use for that site. He said that he hopes conditions improve so that this project can get going and that he is in favor of it.

RESOLUTION NO. 2013-06

On motion by Commissioner Motts and seconded by Commissioner Westerman, the Planning Commission approved an amendment to condition of approval

number 3 of City Council Resolution 2008/29 for the Hillcrest Summit project, extending the Final Planned Development Use Permit and design review until March 11, 2015.

AYES: Sanderson, Azevedo, Motts, Miller, Baatrup, and Westerman
NOES: None
ABSTAIN: None
ABSENT: Hinojosa

ORAL COMMUNICATIONS

CA Nerland said that with regards to medical marijuana, the California Supreme Court in another city did decide that a city has the authority to ban dispensaries.

She said that with respect to the Community Supervision Program that the City Council introduced and adopted an ordinance similar to what the Planning Commission had recommended with minor changes regarding the 1000qrequirement and the hours of operation. The ordinance will be in effect in thirty days.

CA Nerland said that she recently gave a presentation on the Brown Act to the Economical Development Commission and if there is a desire she can do that for the Planning Commission as well.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

Commissioner Azevedo said that Transplan met last Thursday and they came up with three projects for grant money in Antioch and discussed options for Pittsburg.

Commissioner Motts asked staff about the June meetings to which SP Gentry said that the next meeting would be June 5th and Commissioners Westerman and Miller would not be in attendance, but verified that a quorum would be present at that meeting.

ADJOURNMENT

Chair Sanderson adjourned the Planning Commission at 8:15 p.m.

Respectfully Submitted,
Cheryl Hammers