

**CITY OF ANTIOCH
PLANNING COMMISSION**

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

**August 5, 2015
City Council Chambers**

Chair Motts called the meeting to order at 6:30 P.M. on Wednesday, August 5, 2015 in the City Council Chambers. He 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 date of the decision. The final appeal date of decisions made at this meeting is 5:00 P.M. on Wednesday, August 12, 2015.

ROLL CALL

Present: Commissioners Parsons, Mason, Miller, Hinojosa
Vice Chair Westerman and Chair Motts
Absent: Commissioner Zacharatos
Staff: Interim City Attorney, Bill Galstan
Director of Community Development, Forrest Ebbs
Acting Senior Planner, Alexis Morris
Contract Planner, Cindy Gnos
Assistant City Engineer, Lynne Filson
Minutes Clerk, Kitty Eiden

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

1. **APPROVAL OF MINUTES - None**

NEW PUBLIC HEARINGS

2. **UP-15-09 – Contra Costa Medical Career College Inc.** requests approval of a Use Permit for the establishment of a private school within the existing 16,737 square-foot building at 1700 Auto Center Drive (formally 1700 Somersville Road) located in the M-1 (Light Industrial) Zoning District **(APN 074-054-011-08)**.

Director of Community Development Ebbs explained there was a typographical error in the subject title of the Staff Report and the proper zoning was Planned Business Center (PBC).

Director of Community Development Ebbs presented the staff report dated July 22, 2015 recommending the Planning Commission approve a use permit for a private school subject to the conditions of approval contained in the attached resolution.

Chair Motts opened the public hearing.

Michael Luca, Commercial Real Estate Broker representing Antioch Auto Center, encouraged the Planning Commission to deny the request for the conditional use permit to operate the Medical School at 1700 Auto Center Drive. He noted there was limited property available to expand auto dealerships in the area and he saw significantly greater economic benefit from a dealership on the parcel. He reported three automotive dealerships were in the top 10 sales tax generators for the City and if this land was approved for an alternative use, there was the a possibility that Antioch could lose a dealership to Pittsburg.

Chair Motts closed the public hearing.

In response to Commissioner Hinojosa, Director of Community Development Ebbs clarified the office building was still occupied by AAA and the adjacent undeveloped lot was vacant. He stated the property was zoned planned business center and the initial vision was that this area would be a business park. He noted that in 2011 the list of allowable uses was expanded to include auto sales and no other changes were made to the zoning designation to preclude prior uses allowed.

Commissioner Parsons stated if the applicant had been present this evening she would have suggested they relocate to the abandoned Carrington College location on Country Hills. She noted that this site was an ideal location for an auto dealership.

Interim City Attorney Galstan clarified the College and Auto Dealership were both permitted uses under the zoning ordinance. He stated the City would not have the ability to deny the use permit because another use had a better economic benefit; however, if the Planning Commission was concerned the project would create a parking or traffic nuisance, they would be justified to request additional information. He stated it was appropriate to either approve the use permit or request additional information.

Director of Community Development Ebbs reported parking provided for this building was one space for every 171 square feet and no higher standard was typically applied.

Chair Motts commented that it was a very large parking lot.

Commissioner Mason stated based on the information provided in the staff report he did not see the need for a parking study.

Commissioner Hinojosa agreed with Commissioner Mason; however, she supported a circulation or traffic study to address concerns expressed in letters the Planning Commission had received.

Director of Community Development Ebbs stated without the benefit of the applicant to respond, he would recommend continuing the item to August 19, 2015. He stated he would convey to the applicant that their presence was expected at that meeting.

On motion by Commissioner Parsons, seconded by Vice Chair Westerman, the Planning Commission members present unanimously continued UP-15-09 – Contra Costa Medical Career College Inc. to August 19, 2015. The motion carried the following vote:

AYES: Parsons, Mason, Miller, Hinojosa, Westerman, Motts

NOES: None

ABSTAIN: None

ABSENT: Zacharatos

3. **GP-15-02, PD-14-01, PW-676, UP-14-05 – Aviano Farms –** Aviano Farms, LLC requests approval of: an Addendum to the Aviano Adult Community Project Environmental Impact Report; a General Plan Amendment to amend the Sand Creek Focus Area text to allow small-lot, single family residential uses on the project site; a rezone to modify the approved Aviano Adult Community Planned Development (PD) standards; a Vesting Tentative Map/Final Development Plan; a Use Permit; and, a Development Agreement. The project consists of the development of 533 single family homes on a portion of an approximately 184-acre parcel. The project site is located west of the current terminus of Hillcrest Avenue, east and north of Dozier Libby Medical High School (**APNs -057-050-022 and 057-030-050**).

Contract Planner Gnos presented the staff report dated August 5, 2015 recommending the Planning Commission take the following actions:

1. Approve the resolution recommending approval of the Addendum to the Aviano Project Final Environmental Impact Report.
2. Approve the resolution recommending approval of a Development Agreement between the City of Antioch and Aviano Farms LLC.
3. Approve the resolution recommending approval of a General Plan Amendment for purposes of amending the Sand Creek Focus Area text to allow small-lot single family residential uses on-site (GP-15-02).
4. Approve the resolution recommending approval of a rezone to modify the current Aviano Adult Community Planned Development zone standards (PD-14-01).
5. Approve a resolution recommending approval of a Vesting Tentative Map/Final Development Plan (PW-676), and a Use Permit for Phase 1 (UP-14-15).

Commissioner Hinojosa requested clarification as to why the lot sizes were smaller than the required designation.

Contract Planner Gnos explained a determination was made in 2008 that the General Plan/Sand Creek Focus Area would allow flexibility in lot sizes for senior development. She clarified with the proposed density and overall change in the Sand Creek Focus area, and added that a variety of lot sizes and housing types were supported in the housing element. She further noted the Sand Creek focus area specifically provided for age restricted housing in any residential designation within the area.

Commissioner Hinojosa stated mitigation in the Environmental Impact Report (EIR) for police services discussed one additional police officer for the area with funding provided by the General Fund and now the Development Agreement (DA) proposed passing that cost on to the homeowner. She further noted this had always been a general plan goal and questioned why the City had not implemented it.

Contract Planner Gnos, responded that at the time the 2008 EIR was drafted, the City did not have severe budget restrictions or decreased police staffing levels and it was not an issue. She stated there were conditions of approval and Development Agreements with similar provision on other projects; however, they were more general.

In response to Commissioner Hinojosa, Contract Planner Gnos stated the direction given now was more specific and residents were only being asked to pay for their impacts.

Assistant City Engineer Filson reviewed the spreadsheet outlining the methodology used to determine the Police Services Fee. She noted every year there would be a review of the budget and the assessment would increase or decrease to reflect actual costs.

Interim City Attorney Galstan reported the Development Agreement required the developer to establish a funding mechanism and staff did not want to dictate which mechanism was chosen as long as it was approved by the City. He stated Police Services, Mello Roos, and Community Services Districts all accomplished the same goal. He pointed out that the cities of Oakley and Brentwood had always had a police services district and for the first time a project in Antioch would be paying their share to supplement the foreseen shortfall of the cost to provide adequate police services.

Commissioner Hinojosa stated through research she determined the cost of providing an officer with benefits was approximately \$152,000. She questioned why the information given this evening was nearly double that amount.

Assistant City Engineer Filson responded the cost estimates included benefits, salary, equipment, and support services for the officer.

Acting Senior Planner Morris added the Antioch Police Department felt it was important to also include dispatch support for the officer.

Assistant City Engineer Filson explained the number of parcels to assess was staff's best guess with regards to how many parcels could come online.

Commissioner Hinojosa questioned what the mechanism was for requiring a police services fee. She cited the public services section of the Addendum to the EIR (E11) in the staff report.

Contract Planner Gnos clarified it was addressed in the land use section of the Addendum to the EIR. She explained when the 2008 EIR was written, there was sufficient staffing to meet the levels and now they could no longer find consistency with that policy.

Commissioner Hinojosa stated it remained confusing.

Chair Motts questioned if the methodology used would be applied to future development projects.

Contract Planner Gnos responded that it would set the tone for future development.

In response to Vice Chair Westerman, Contract Planner Gnos clarified Council had expressed an interest in exploring whether the number of rental units could be restricted in a particular development. She noted they were looking at a mechanism through the Homeowners Association (HOA) to help insure a level of homeowner occupancy; however, final resolution on that issue had not been accomplished.

Interim City Attorney Galstan added there was a provision in the DA that an HOA would be created and one of the requirements of the Covenants Codes and Restrictions (CC&Rs) would be that at least 70% of the units be owner occupied.

Commissioner Hinojosa stated she did not know how the City could require an HOA to enforce an owner occupancy requirement.

Interim City Attorney Galstan stated they had done research on this issue and approximately 40% of the HOAs in the United States had such a provision. He noted the Planning Commission did not need to focus on this issue because there was no policy in place at this time. He further noted the provision was a request of the City Council who would be deciding the issue. He reported the developer and the City were currently negotiating the point.

Commissioner Parsons questioned how the provision would be policed.

Interim City Attorney Galstan responded that typically the HOA had a requirement that the property owner inform them if they had a rental unit and that there was a waiting list if there was already 30% rental units. He noted code enforcement issues were typically addressed on a complaint basis.

Commissioner Parsons expressed concern that the provision would be an additional burden on an understaffed Code Enforcement Department.

Interim City Attorney Galstan stated the expectation would be that the HOA would recognize the value of the provision. He noted studies had shown with a higher percentage of owners, there was better maintenance and care of the property. He explained generally the HOA Board of Directors police themselves and any resident could enforce it because it was part of the CC&Rs recorded on the property. He added this process was typical of what was already occurring in existing HOAs.

In response to Commissioner Mason, Contract Planner Gnos explained that according to the new traffic model from the Contra Costa Transit Authority (CCTA) and the current methodology, the volumes on the roadways were less. She noted based on that the sound walls were lowered to 6 feet.

Acting Senior Planner Morris added the typical maximum height of sound walls was 6 feet.

In response to Commissioner Mason, Contract Planner Gnos stated typically rear yard maintenance was not covered by the HOA or developer.

Acting Senior Planner Morris explained the reduction in setback was based on the type of homes the applicant wanted to develop.

Contract Planner Gnos explained the project would be coming back to the Planning Commission for design review.

In response to Commissioner Hinojosa, staff indicated that they wanted to present the Development Agreement in its current form to Council.

Chair Motts opened the public hearing.

Michael Evans, Denova Homes, introduced the Development Team who would be making the presentation this evening and requested that he be allowed time for rebuttal at the end of the public hearing. He presented booklets of the presentation to the Planning Commission and staff.

Mike Serpa, Aviano Farms, provided a history of the project and their partnership with the Antioch Unified School District for the development of Dozier-Libbey Medical High School. He gave an overhead presentation of the Illustrative Land Plan, Lifestyle Hub and Sports Zone, Streetscape and Civil Engineering for their project.

In response to Commissioner Hinojosa, Mr. Serpa responded that typical HOA fees run in the \$100.00 – \$175.00 range. He explained the smaller lots would reduce maintenance and water demand for homeowners.

Tim Forrester, Assistant Superintendent for the Antioch Unified School District, gave a history of the creation of Dozier-Libbey Medical High School and the project's contributions. He noted this development would be building infrastructure needed for the School, current and future development.

In response to Commissioner Mason, Mr. Forrester stated the sewer and gas would be brought to the school with the second phase, which was tied into the agreement.

Patricia Curtin, Land Use Attorney on behalf of the applicant, stated they were not in agreement with the limitation on rental units and noted they had crafted a provision that there would be a requirement in the CC&Rs that front yards for both owners and renters were required to be maintained. Additionally, she stated they could not impose the provision requiring the HOA to pay for police services if a resident failed to do so. She noted the indemnification was overly broad in the DA; however, they were in agreement with project specific condition #6 that spoke to this issue. She stated they agreed in concept that there would be additional police funding; however, they were concerned for the methodology and more time was needed to discuss the issues. Speaking to a previous statement that if the DA with police funding did not move forward there would have to be further environmental review; for the record, she disagreed as police funding was not a physical impact and did not result in an impact to the environment and therefore it could not be related to CEQA.

Debra Fogarty, Williamson Ranch subdivision, stated she was not opposed to the original adult development; however, she had concerns for changing it to a family community. She stated the proposed development would have more traffic and school impacts. Additionally, she stated she was concerned that this project would be paying for public services and other communities were not, which would create a division in the community.

Chair Motts closed the public hearing.

To allow for the applicant to have a rebuttal and at the request of Commissioner Parsons, Chair Motts reopened the public hearing.

REBUTTAL

Michael Evans, clarified the first phase of the project was 127 lots. He noted the original plans were for homes with two bedrooms and with a den and now they were attempting to provide as many single story units as possible and enlarge them; therefore, they were requesting a larger footprint by taking out some of the front and rear yards.

Commissioner Parsons stated she was pleased to finally see this project moving forward. She questioned if a Project Labor Agreement (PLA) was still included. She spoke in support of changing it from a senior only development as she felt blending

communities brought vitality to the area. She requested more documentation with regards to what was included in the per officer cost estimates.

Mr. Evans responded they were currently working with the unions on the PLA issue.

Vice Chair Westerman requested the applicant provide input with regards to the capacity impact of this project to the Antioch Unified School District.

Michael Evans explained there was a funding mechanism in place to add capacity and school facilities.

Tim Forrester added this project would generate approximately 350-370 students K-12 and the District had the capacity to accommodate them. Additionally, he noted this project was in Mello Roos (CFC 2004-1) which would provide funding to assist with additions and/or expansions.

In response to Commissioner Miller, Mr. Forrester explained with the learning academy approach, students at the High School level could choose which school they wanted to attend by what they wished to learn.

In response to Commissioner Mason, Mr. Evans stated they would be installing drought tolerant landscaping and AB1881 reduced water consumption and prohibited watering on rainy days. He noted all houses would be compliant with title 24 which mandated wiring solar panels.

Chair Motts closed the public hearing.

Chair Motts reminded the Planning Commission that the vote taken this evening would be a recommendation to City Council. He proposed voting on the recommendations individually.

Commissioner Hinojosa agreed to take separate action on each recommendation. She stated she had no concerns with the environmental document.

RESOLUTION NO. 2015-12

On motion by Commissioner Hinojosa, seconded by Commissioner Parsons, the Planning Commission approved the resolution recommending approval of the Addendum to the Aviano Project Final Environmental Impact Report. The motion carried the following vote:

AYES: Parsons, Mason, Miller, Hinojosa, Westerman, Motts
NOES: None
ABSTAIN: None
ABSENT: Zacharatos

Commissioner Hinojosa stated she did not take requests for amendments to the General Plan lightly and she did not like the fact that the Planning Commission had been asked on numerous occasions to make exceptions. She stated in consideration of the density, the lot size met the threshold and she could support an exception in this case. She agreed larger lots were more maintenance and with a major drought she did not feel they were as marketable. Also, she did not believe the site was originally age restricted and with the provision to allow that product type in the entire Sand Creek focus area she would support an age restricted project in the future.

Chair Motts agreed with Commissioner Hinojosa.

RESOLUTION NO. 2015-13

On motion by Commissioner Parsons, seconded by Commissioner Mason the Planning Commission approved the resolution recommending approval of a General Plan Amendment for purposes of amending the Sand Creek Focus Area text to allow small-lot single family residential uses on-site (GP-15-02).

AYES: Parsons, Mason, Miller, Hinojosa, Westerman, Motts
NOES: None
ABSTAIN: None
ABSENT: Zacharatos

Commissioner Hinojosa stated she understood with a constrained budget the City wanted to move forward with implementing policies and goals to meet the police staffing ratios to population; however, she was concerned with how it was proposed in the Development Agreement. She expressed concern that they had not been provided the funding matrix until today and it was difficult to understand. She stated HOA, Mello Roos and Police Services fees would be a large burden on the people living in this community. She noted with the concerns raised by the applicant she was not ready to recommend approval of the Development Agreement. She stated she was confused that the Planning Commission was not being asked to take up the issue of the rental restriction and instead send it to the City Council. She questioned what the Planning Commissions function was and asked if they were just a bureaucracy for projects to move through. She stated she took her position seriously and she wanted to be appreciated and be provided information that was complete, fully vetted and understandable. She noted she did not believe that product had been presented to the Planning Commission and she took extreme issue with that. Additionally, she stated she did not support project by project policy making. She stated she would not recommend approval of the development agreement and she would like the City and Developer to discuss the outstanding issues and a complete product come back before the Planning Commission prior to it going before City Council.

Interim City Attorney Galstan explained the Planning Commission's comments about the rental restriction provision could be carried forward to Council in the minutes;

however, he would not recommend voting to delete it when it was motivated by the City Council.

Director of Community Development Ebbs stated he shared concerns regarding the project by project policy decisions; however, they did not have the benefit of a comprehensive planning document to solve these issues in advance. He explained that police services were a challenge, very expensive to fund and the economics of single family development were not the same as prior to proposition 13. In addition, he noted that in a recovering housing market it would take a long time before a typical single family home carried its weight. He further noted service delivery had increased in price and staffing had decreased. He commented that they attempted to provide a reasonable level of police service and the City could not presume property tax, after it filtered through the State, would be sufficient to do so. He stated the City needed to close that gap and this was a way to accomplish that goal. He explained it was a budget issue the City Council was best positioned to address. He added that he appreciated the concern that the Planning Commission had been provided items and asked to defer; however, on this matter it was appropriate. He stated he would pass on the concerns expressed this evening to the City Council and he would encourage them to listen to this hearing and take it under consideration.

Commissioner Parsons questioned if other developers agreed to the police services fees being proposed this evening.

Director of Community Development Ebbs stated the feedback he had received was that it was a reasonable approach and he expected the City Council's conversation would answer that question.

Chair Motts stated he concurred with Commissioner Hinojosa on the project by project nature of proposals. He noted it was not a comprehensive approach or a view of what the City actually desired to see and because of that they were asked to approve amendments and make exceptions to the General Plan. He encouraged staff to improve the process. Speaking to the Development Agreement, he stated he could support it with staff's explanation as to why it was presented this way.

Commissioner Parsons stated she agreed that the project by project approach was not ideal. She stated she did not want to see this development delayed and the Planning Commission perceived as a barrier to it moving forward.

Chair Motts added that all projects were not equal which was why they desired a more comprehensive approach. He stated an exception for this project may be worthwhile.

Commissioner Hinojosa suggested after this meeting, issues raised could be considered and refinements to the DA could be made. She expressed concern that the developer had stated they did not agree with the rental restriction provision. She stated she did not want to give the impression she was attempting to slow development or make the process harder. She stated she was uncomfortable with the way it was

proposed and with a request to move this item forward when all the information had not been finalized.

A motion by Commissioner Hinojosa, seconded by Commissioner Westerman, to recommend the City Council NOT enter into the Development Agreement failed by the following vote:

AYES: Hinojosa, Westerman
NOES: Parsons, Mason, Miller, Motts
ABSTAIN: None
ABSENT: Zacharatos

RESOLUTION NO. 2015-14

On motion by Commissioner Miller, seconded by Commissioner Parsons, the Planning Commission approved the resolution recommending approval of a Development Agreement between the City of Antioch and Aviano Farms LLC. The motion carried the following vote:

AYES: Parsons, Mason, Miller, Westerman
NOES: Hinojosa, Motts
ABSTAIN: None
ABSENT: Zacharatos

For the record, Director of Community Development Ebbs stated this deliberation would be forwarded to the City Council and they would be encouraged to hear all comments.

RESOLUTION NO. 2015-15

On motion by Commissioner Parsons, seconded by Commissioner Miller, the Planning Commission approved the resolution recommending approval of a rezone to modify the current Aviano Adult Community Planned Development zone standards (PD-14-01).

AYES: Parsons, Mason, Miller, Hinojosa, Westerman, Motts
NOES: None
ABSTAIN: None
ABSENT: Zacharatos

RESOLUTION NO. 2015-16

On motion by Commissioner Parsons, seconded by Commissioner Miller, the Planning Commission approved the resolution recommending approval of a Vesting Tentative Map/Final Development Plan (PW-676), and a Use Permit for Phase 1 (UP-14-15).

AYES: *Parsons, Mason, Miller, Hinojosa, Westerman, Motts*
NOES: *None*
ABSTAIN: *None*
ABSENT: *Zacharatos*

ORAL COMMUNICATIONS

Chair Motts stated he would be forwarding parliamentary procedures and Roberts Rules of Order to Commission members via email.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

Chair Motts reported on his attendance at TRANSPLAN on July 9, 2015.

ADJOURNMENT

Chair Motts adjourned the Planning Commission at 8:43 P.M. to the next regularly scheduled meeting to be held on August 19, 2015.

Respectfully Submitted,
Kitty Eiden