

**CITY OF ANTIOCH
PLANNING COMMISSION**

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

**September 20, 2017
City Council Chambers**

Chair Zacharatos called the meeting to order at 6:30 P.M. on Wednesday, September 20, 2017 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 date of the decision. The final appeal date of decisions made at this meeting is 5:00 P.M. on Wednesday, September 27, 2017.

ROLL CALL

Present: Commissioners Husary, Motts, Turnage, Vice Chair Parsons and Chair Zacharatos
Absent: Commissioner Conley
Staff: Director of Community Development, Forrest Ebbs
Planning Manager, Alexis Morris
Associate Planner, Kevin Scudero
Captain, Tony Morefield
Assistant City Engineer, Lynne Filson
Interim City Attorney, Derek Cole
Minutes Clerk, Kitty Eiden

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS

None.

CONSENT CALENDAR

- 1. Approval of Minutes:** None

CONTINUED PUBLIC HEARING

- 2. General Plan Land Use Element Update: Sand Creek Focus Area** - The City of Antioch is proposing amendments to the Land Use Element of the General Plan affecting the Sand Creek Focus Area. The amendments include, but are not limited to, changes to land use designations, density allowances, conceptual circulation, land use policies, hillside protection policies, and open space designations. An addendum to the original 2003 General Plan Environmental Impact Report (EIR) has been prepared. The proposed changes ultimately require City Council approval and the Planning Commission will serve as an advisory board, providing a recommendation to the City Council on the matter.

Director of Community Development Ebbs gave a PowerPoint presentation of the Sand Creek Focus Area Policy Update and presented the staff report dated September 12, 2017 recommending the Planning Commission take one of the following actions: 1) Recommend that the City Council table the item, 2) Recommend that the City Council direct staff to develop a Supplemental Environmental Report; or, 3) Recommend that the City Council Adopt the Amendment to the Land Use Element with the Addendum to the 2003 General Plan EIR.

Chair Zacharatos opened the public hearing.

Ben Foley spoke to the value of maintaining open space and urged the Planning Commission to minimize the amount of development in the Sand Creek Focus Area.

Karen Whitestone, Conservation Analyst for the East Bay California Native Plant Society, recommended the City perform a supplemental EIR with updated information on the current physical setting.

Jeff Carman, Contra Costa Fire Chief, reported the new Sand Creek EIR did not reflect the agreement made for the 2003 EIR and requested the Commission confirm that initial funding was in place for the land, fire station, fire apparatus and equipment. Additionally, he requested a funding mechanism be put in place to offset the delta from property tax revenues for sustaining ongoing operations for the fire department.

Joel Develcourt, Greenbelt Alliance, reiterated the addendum had not addressed the increase of 71 acres to the project area, elimination of the office park and commercial development, the Deer Valley Regional Preserve, discovery of special status species and development of The Ranch project. He recommended the plan be tabled indefinitely or the City perform a developer funded supplemental EIR.

Kathy Griffin, Brentwood resident, expressed concern regarding the impacts of the Sand Creek Focus Area on the surrounding community and stated she opposed development of the area as currently planned. She recommended tabling the item indefinitely or conducting a supplemental EIR that evaluated the current impacts.

Matt Franscois, Rutan and Tucker on behalf of the Zeka Group, presented and reviewed a letter indicating their concerns that the development yield, as well as access and infrastructure planning, were lacking in the addendum to the EIR. He requested the Planning Commission recommend that the City Council table the item.

Lucas Stuart-Chilcote, speaking on behalf of himself and his extended family stated they supported maintaining the open space and noted the area west of Kaiser Permanente was in his family's heritage. He urged the Planning Commission to keep the area undeveloped and natural land.

Beverly Knight, Antioch resident, provided written comment against this item.

Mark Maguire, Antioch resident, stated he opposed the City adopting the amendment to the Land Use Element with the Addendum to the 2003 General Plan EIR. He noted that he felt it could be legally challenged. He stated impacts from development proposed for the area were a concern. He suggested the City conduct a supplemental EIR to better understand the impacts.

Chair Zacharatos closed the public hearing.

In response to Commissioner Turnage, Director of Community Development Ebbs explained that the benefit of a supplemental EIR would be that it would address areas not covered by a project level EIR and it would also allow the City to have policies in place.

Interim City Attorney Cole added that from a CEQA standpoint, the City could not assume projects would come to fruition.

In response to Vice Chair Parsons, Director of Community Development Ebbs explained the development of the Habitat Conservation Plan (HCP) would be simplified if a significant land use element update was not taking place concurrently for an undeveloped area.

In response to Chair Zacharatos, Director of Community Development Ebbs explained the City had a General Plan that anticipated development in the area and any projects coming forward would be held to that standard.

Commissioner Motts stated he was not in support of tabling this item because it would relegate the project back to the 2003 General Plan and would also relegate projects to amend the General Plan. He reported the EIR addendum stated a supplemental EIR was required if substantial changes had occurred and he submitted that substantial changes existed such as fire and police services, potential conflict and litigation over lands to the west of Empire Mine Road, parks no longer undertaken by the City and native plants that needed to be designated under biological resources. He noted these items and more led to the conclusion that an addendum to the 2003 General Plan EIR was inadequate. He expressed concern that the General Plan Land Use Element Update did not reflect feedback provided by the Planning Commission and public such as:

- Exclusions to the development yield calculations
- Creek buffer calculations
- Density discussions
- Development yield not required within the land use designation
- Hillside Transfer Policy

- Land use designations
- Density bonus on senior housing
- Increased Density
- Conflict with the current HCP
- Justification for altering protected hillsides and hilltops

He stated he could support a supplemental EIR; however, he would prefer sending the General Plan Land Use Element Update back to staff to include the items mentioned above and when the information was brought back to the Planning Commission they could then choose the appropriate level of EIR.

In response to Commissioner Husary, Director of Community Development Ebbs stated the development of a new EIR would be a 6-12 month process.

Commissioner Husary stated she supported development of a supplemental or new EIR.

Commissioner Parsons recommended tabling the item noting it was not financially feasible to conduct a supplemental EIR when The Ranch was developing their EIR and the Habitat Conservation Plan (HCP) was conducting their review.

Commissioner Motts responded that he did not believe the Sand Creek Focus Area EIR would conflict with the HCP. He stated he understood financial concerns; however, the City had expended \$30,000 on a poll for the Downtown Specific Plan and he did not feel an EIR was an inappropriate expenditure.

Commissioner Turnage disagreed and stated funding an EIR because the City had spent money on a poll was not fiscally responsible. He noted the General Plan was valid for 20 years and he supported tabling the item and moving forward with what was set forth in the 2003 General Plan.

Chair Zacharatos stated she was against tabling the item; however, she was undecided regarding the remaining options.

In response to Vice Chair Parsons, Interim City Attorney Cole stated that if the item were tabled, decisions in this area would be made pursuant to the existing General Plan and Urban Limit Line.

Commissioner Motts reiterated that he did not believe a supplemental or higher EIR was an unnecessary expenditure because circumstances had changed since the General Plan was adopted. He stated the update was an effort to streamline the process and require fewer amendments to the General Plan. Additionally, he noted the addendum process to the General Plan met qualifications necessary for an EIR.

Commissioner Husary agreed that moving forward with the process in the correct way would be financially feasible and streamline the process. She questioned if a supplemental or new EIR, would affect existing projects with completed applications.

Director of Community Development Ebbs explained that if the City moved forward with a supplemental EIR, in most likelihood it would not apply to The Ranch project. He stated that if the item were tabled, it would allow the City to develop an EIR for the remaining area. He explained that it was not possible to predict the approvals for The Ranch project so when developing new policies and an EIR, it would be impossible to account for the status of 550 acres.

On motion by Commissioner Motts, seconded by Chair Zacharatos, the Planning Commission recommended that the City Council direct staff to develop a Supplemental Environmental Report. The motion carried the following vote:

Ayes: Motts, Husary, Zacharatos

Noes: Parsons, Turnage

Absent: Conley

In response to Commissioner Motts, Interim City Attorney Cole confirmed that on this matter a majority of the quorum of Planning Commissioners was required for the motion to pass.

Director of Community Development Ebbs reported this item would most likely be going before Council in October.

NEW PUBLIC HEARING

- 3. PD-17-01 – Vineyards at Sand Creek Residential Subdivision –GBN Partners, LLC**, requests approval of: a Planned Development rezone (PD-17-01); a Final Development Plan and Vesting Tentative Map; an amended and reinstated Development Agreement (Ordinance 2112-C-S); and, an Addendum to the Vineyards at Sand Creek project EIR. The Vineyards at Sand Creek project was originally approved by the City Council in 2016 and consists of the development of a gated residential community on 141.6 total acres; including up to 641 single-family residential units, private streets, two parks, a segment of the Sand Creek Regional Trail, two storm water detention basins, and landscaped and open space areas. The applicant is proposing to revise conditions of approval (Resolution No. 2016/13) and revise a final development plan/vesting tentative map (Subdivision 9390) in order to reduce infrastructure requirements related to Sand Creek Road and Heidorn Ranch Road. The applicant is also requesting credits of sewer connection and water capacity fees of up to \$4,900 per unit. The project site is bounded by a residential subdivision to the north, the future extension of Sand Creek to the south, Heidorn Ranch

Road, the City of Brentwood city limits to the east, and future Hillcrest Avenue extension and vacant residential land to the west (APNs 057-030-003 and 057-050-007).

Director of Community Development Ebbs gave a PowerPoint presentation and presented the staff report dated September 14, 2017 recommending the Planning Commission consider the request and make the appropriate recommendation to the City Council.

Chair Zacharatos declared a recess at 8:09 P.M. The meeting reconvened at 8:18 P.M. with all Commissioners present with the exception of Commissioner Mason who was previously noted as absent.

Chair Zacharatos opened the public hearing.

Matt Beinke, GBN Partners LLC, applicant for Vineyards at Sand Creek, gave a history of their project. He noted they informed staff that their infrastructure obligation was exceeding their fair share of nexus related requirements and cautioned that if the project was overburdened it may not be possible for them to proceed with construction. He reported several members of Council and the Commission approached them with regards to how to move the project forward because City leaders were concerned that without it, development in the area would not occur. He stated they revisited infrastructure to determine how it could be rightly sized for the project and the amendments proposed provided more than their fair share. He commented that improvements included two lanes on Heidorn Ranch Road, Hillcrest Avenue and Sand Creek Road, as well as underground infrastructure to serve 4000 units. He reported they had been working with the Mayor Wright, City Manager Bernal and other City leaders for most of the year to create solutions in order to begin The Vineyards community and option #1 before the Commission was a result of those efforts. He stated they would not discuss or answer any questions with regards to staff's recommended option #2 as the report was published without any knowledge or input from their team and it did not resolve the challenges they were attempting to address.

Cecily Barkley, Land Use and Development Attorney, gave a brief history of her legal expertise. She stated they had worked with City staff on the conditions of approval and drafts of development agreements to accomplish their goals. She noted if approved, this project would be legally defensible. She clarified that they were requesting credits for oversizing and providing offsite infrastructure. She suggested staff develop traffic and park fee programs to assist in the reimbursement of the sewer and water fees. She stated that they would be participating in a CFD; however, the amount of community facilities needing to be built would require an assessment that would not be accepted by homeowners. With respect to traffic impacts, she reported they would not modify the roadway to change the Level of Service to E. She stated their traffic report explained that a legally binding development agreement would prohibit Hillcrest Avenue from

being extended until the third and fourth lanes were built. She also noted the traffic report indicated that at buildout a two lane road for Heidorn Ranch and Hillcrest Avenue would be adequate. She stated if they could execute agreements with the City of Brentwood and Aviano to build a two lane road, the four lane road would not be necessary. She explained that their goal was to right size infrastructure for the project.

In response to Commissioner Motts, Director of Community Development Ebbs explained that he was not surprised the applicant had no interest in discussing the alternatives proposed by staff as they would not achieve their goals.

In response to Vice Chair Parsons, Ms. Barclay explained they were asking for the fee credit subsidy program, establishment of a traffic impact fee program, and roadway reductions for Heidorn Ranch Road, Hillcrest Avenue and Sand Creek Road. She stated if they could get these items resolved, the project would be ready to move forward.

Commissioner Turnage questioned how a traffic impact fee could be assessed against projects that had already been approved or were in the process of approval.

Ms. Barclay reported The Ranch was not approved and the traffic impact fee program would apply to all new development. She clarified at the request of the City they narrowed the fees to sewer and water, reduced it to \$3M and added a provision that the fee credit subsidy program would be limited to seven years. She explained that ten years of the police services fee would offset the sewer and water. She agreed that what had been proposed by staff would not have led to a productive discussion because it was not enough to allow the project to move forward.

Mr. Beinke added that many of the improvements were off of their parcel and some may be built by others so they would not be receiving the credit for them.

In response to Vice Chair Parsons, Ms. Barclay stated that they understood it was necessary to build the infrastructure around the project; however, they did not want to build more than what was necessary.

Vice Chair Parsons stated that infrastructure improvements were essential for development in the area.

Ms. Barclay stated they believed if the City approved their request and Aviano moved forward, it would resolve the long term sewer and traffic issues for the high school and hospital.

In response to Commissioner Motts, Ms. Barclay reported the Fehr & Peers report was reviewed by the City's consultant and comments as well as the responses to those comments were in the packet. She noted their final report was not included in the

packet; however, it conclusively stated that Lone Tree Way as proposed did not go below Level of Service D.

In response to Commissioner Motts, Ms. Barclay stated the Development Agreement protected the City against having any level of service E issues on Lone Tree Way.

In response to Commissioner Turnage, Ms. Barclay reiterated that they were asking for a fee credit of \$3.1M, construction of two lanes on Sand Creek Road and keeping Heidorn Ranch Road and Hillcrest Avenue two lanes. She noted the mitigation fee act allowed for the lending of fees collected in one area to cover fees in another area and accounted for as being borrowed with an obligation being due.

Interim City Attorney Cole stated he was concerned about making up for impacts associated with projects that existed today in that part of the Sand Creek Focus Area. Additionally, he stated if the applicant's request were approved, he was concerned regarding the City's ability to demand full rates from other applicants particularly those currently in the process.

In response to Vice Chair Parsons, Ms. Barclay stated the police services impact fee would be paid at the beginning of the project and then annually once the project was completed.

Mark Jordan, Antioch resident, discussed his lawsuit regarding the water and sewer enterprise funds. He expressed concern regarding the applicant's request noting the City could not afford credits to jumpstart development. He urged the Planning Commission to deny the requests.

Dan Torres, Sprinkler Fitters Local 483, spoke in support of the project noting it may be the first opportunity for his members to work in a community where they lived. He urged the Planning Commission to approve the applicant's request.

Jeff Carman, Fire Chief Contra Costa Fire Department, stated this project would impact fire and emergency services. He reported that they did not have enough capacity to provide service now and any development would impact that further. He reported that there was a difference in the amount of money it took to run a fire station and the amount of money realized through property tax revenue. He expressed concern that there were no actionable items to assure that any of the development would have sustainable fire service. He requested the Planning Commission make sure that all future development takes into consideration the impacts to the fire district. He stated the General Plan directed the City to provide support for the cost of ongoing operations of the fire district as a result of new development and that had not been addressed. He reported that they could not service this area with any fire or emergency service without more sustainable funding and funding should be in place prior to approval of the

development. He noted that even though this project was 2.1 miles from a fire station, it had no more additional capacity.

Chair Zacharatos closed the public hearing.

In response to Chair Zacharatos, Director of Community Development Ebbs reported there had been no steps taken to create a CFD for fire service.

Chair Zacharatos stated that she believed landscaping and bike lanes needed to be provided for the community and the fee needed to remain.

Commissioner Motts stated he understood the applicant's concerns regarding their obligations for infrastructure; however, his overriding concern was the impact to the General Fund given the financial state of the City.

Vice Chair Parsons stated she liked the project because it would be the City's first gated community and it would be part of the solution for infrastructure needed for the high school and hospital. She stated this project would also bring in residents to generate sales tax revenue.

In response to Commissioner Turnage, Director of Community Development Ebbs reviewed the proposed fee credit subsidy program.

Chair Zacharatos reopened the public hearing.

Ms. Barclay explained improvements could be made by other property owners. She noted if the park was added to the public park program, then the City could recover the money over time. She clarified that the proposed credit was to be given over a 7 year period and there was opportunity for the City to replenish it through the collection of the fees and if not then it could come out of the general fund. She reported they would be building their own sewer and paying \$2M and there was the opportunity for the City to recover the additional fees from future development.

Director of Community Development Ebbs commented that there were very limited areas of development in the City that they could collect fees and he did not envision the City attempting to create new fees.

Chair Zacharatos closed public hearing.

Commissioner Turnage stated he wanted the project to move forward. He explained that no matter what the direction was of the Planning Commission, Council had the final decision; therefore, he suggests furthering the item to Council without a recommendation.

Interim City Attorney Cole stated if it was the pleasure of the Commission, the motion would be to adopt a neutral position on all of the requested actions and then the matter would go to Council with the neutral recommendation.

Director of Community Development Ebbs clarified with the above action, the Planning Commission would be taking a neutral position on the approval of the EIR addendum, approval of the vesting tentative map, approval of the amended development agreement and approval of the rezone.

On motion by Commissioner Turnage, seconded by Commissioner Parsons, the Planning Commission unanimously adopted a neutral position on approval of the EIR addendum, approval of the vesting tentative map, approval of the amended development agreement and approval of the rezone. The motion carried the following vote:

***Ayes: Husary, Motts, Parsons, Turnage, Zacharatos
Noes: None
Absent: Conley***

ORAL COMMUNICATIONS

Director of Community Development Ebbs announced Brown Act training would be held at 3:00 P.M. on October 3, 2017.

WRITTEN COMMUNICATIONS

None.

COMMITTEE REPORTS

Commissioner Motts reported on his attendance at the TRANSPLAN meeting.

ADJOURNMENT

Chair Zacharatos adjourned the Planning Commission at 9:24 P.M. to the next regularly scheduled meeting to be held on October 18, 2017.

Respectfully Submitted,
Kitty Eiden