



CITY OF CAMARILLO PLANNING COMMISSION MINUTES

Regular Meeting
Tuesday, November 10, 2015 – 7:30 pm
City Council Chambers, 601 Carmen Drive

The meeting was called to order by Chairman Davis at 7:30 p.m.

ROLL CALL

Present: Commissioners Edsall and Valenzano, Vice Chairman Lusk (arrived at 7:39 pm), and Chairman Davis

Absent: Commissioner Edsall

Staff Present: Joe Vacca, Director
David Moe, Assistant Director
Don Davis, Assistant City Attorney
Steve Mitchell, Principal Planner
Tim Moran, Planning Technician
Laura Fox, Recording Secretary

There were approximately 24 people in the audience.

THE PLEDGE OF ALLEGIANCE was led by Commissioner Valenzano.

MINUTES

– Special Meeting – Joint Study Session of September 23, 2015

There was a MOTION by Commissioner Hemmens, a SECOND by Commissioner Valenzano, to approve the minutes as submitted. With a vote of 3 – 0 - 2, with Commissioners Lusk and Edsall absent, the **MOTION CARRIED**.

– Regular Meeting of October 6, 2015

There was a MOTION by Commissioner Valenzano, a SECOND by Chairman Davis, to approve the minutes as submitted. With a vote of 3 – 0 – 1 - 1, with Commissioner Hemmens abstaining and Vice-Chairman Lusk absent, the **MOTION CARRIED**.

PUBLIC COMMENTS

There were no public comments.

PUBLIC HEARING

CUP-370, Establos Meat Markets, LLC

An application has been received from Jesus Ahumada, owner of Establos Meat Market and Camarillo Liquor, requesting approval for the transfer of a Type-21 ABC License from Camarillo Liquor to Establos Meat Market. This transfer would permit the off-sale of beer, wine, and liquor under a Type-21 ABC license, within an existing market that is currently licensed to sell beer and wine only. Establos is located at 2633 Ventura Boulevard in the COT (Camarillo Old Town) Zone.

Planning Technician Moran gave an overview of the project utilizing a PowerPoint presentation.

Chairman Davis asked if there were any questions of staff from the Commission.

There were no Commission questions. -

Chairman Davis opened the Public Hearing.

PUBLIC HEARING OPENED

There was no public comment.

Chairman Davis closed the public hearing.

PUBLIC HEARING CLOSED

At this time, Vice-Chairman Lusk arrived and joined the Commissioners at the dias.

There were no further questions from the Commission.

In a response to a call for a resolution by Chairman Davis, Director Vacca introduced PC Resolution No. 2015-41, approving CUP-370, Establos Meat Market, subject to the conditions of approval. Commissioner Hemmens MOTIONED, Vice-Chairman Lusk SECONDED, to waive further reading and adopt. With a vote of 4 – 0 – 1, with Commissioner Edsall absent, the **MOTION CARRIED**.

PUBLIC HEARING

Appeal of PR-921, New Single-Family Residence (102 Avocado Place) (APN: 152-0-210-445)

An appeal was submitted on September 14, 2015, by attorney Robert Silverstein, representing Jaqueline Kallas and Tom Barnett, with regard to the Director of Community Development's September 2, 2015, approval of Plan Review No. 921 (PR-921) for a new 4,374-square-foot, single-family home located at 102 Avocado Place. The appellants are neighbors who live at 100 Avocado Place. Under Camarillo Municipal Code (CMC) Section 19.12.200, the Commission's review of the action of the Director in approving Plan Review No. 921 is to be based upon a determination of compliance with the four development standards set forth in CMC Section 19.12.190.A.

Chairman Davis outlined the procedures of the public hearing for the appeal.

Planning Technician Moran gave an overview of the project utilizing a PowerPoint presentation.

Assistant City Attorney Davis stated that he has provided an analysis of the appeal to the Commissioners, and he will make further comments following the testimony.

Chairman Davis asked if there were any questions of staff from the Commission.

Chairman Davis opened the Public Hearing.

PUBLIC HEARING OPENED

Mr. Robert Silverstein, The Silverstein Law Firm, representing the appellant: Mr. Silverstein asked that the record reflect that the Commission should have received documents that was dated November 4. He also submitted copies of exhibits that would be used during his presentation. Mr. Silverstein also asked to let the record reflect that the correspondence dated August 27, September 13, and September 14, and November 4 was submitted for the record with regard to this matter. Mr. Silverstein reviewed the reasons for the appeal of the plan review for 102 Avocado, which includes both environmental and public safety issues. He stated that the plan review approval should not have been granted before certain seismic and geologic testing had been performed. He continued that then, and only then, the approval be granted if those tests showed the property coming back with a clean bill of health. He stated that as the California

Supreme Court has said: "This type of cart before the horse process subverts the purposes of the law and frustrates informed decision making and informed public participation." Mr. Silverstein described and reviewed the history of the subject property, the agenda report, the conditions of approval, and outlined their objections to the approval of the plan review. Mr. Silverstein also stated that the hearing is important so that the public has an opportunity to weigh in. He asked that if the appeal is not upheld, then the approval be amended to state that trenching must occur for the entire extent of the building footprint and that there be compliance with every detail of the Fugro analysis and recommendation.

Mr. Tom Barnett, Appellant: Mr. Barnett stated that he had to cut short a business engagement due to the scheduling of the hearing and submitted supporting documentation. Mr. Barnett stated that the City delayed providing requested documentation for months regarding how the City has treated other projects and applicants who sought to build a habitable structure on an active earthquake fault. Mr. Bennett reviewed the history of the site. He stated that a letter was sent to the City expressing the concerns and wishing to discuss them, and the response from the Assistant City Attorney was dismissive, aggressive, and insulting. He stated that the requests to discuss the concerns were ignored, and he is still waiting for critical documents. Mr. Bennett expressed his belief in the process by which the public has the right to review and discuss their concerns. Mr. Bennett stated that he feels that there are serious, documented, and acknowledged safety issues that have not been addressed.

Mr. Rick Town, Applicant of PR-921: Mr. Town stated the he has spent over a year with geotechnical engineers, and it is the goal to produce a safe and quality product. He stated he has gone above and beyond in terms of keeping the one-story house out of view and minimizing disturbances for the long-term enjoyment of the property. He said that they went through a year of soils review, including the 25 years of prior reports, on the project, which included confirming that the uncertified fill was mitigated and signed off, and confirming that any landslides were mitigated through drainage and compaction. He also stated that the trenching goes past the building footprint. He reaffirmed and explained that they have gone through an extensive process to ensure a safe product.

Upon questions from Commissioner Hemmens, Mr. Town explained that they have reviewed the soils report with City staff, and he believes that the appellant has the information. He also said that he has sat down with City staff many times to review the prior grading issues and the grading plan and how it was determined that it was not an unbuildable site. Mr. Town explained that the soil issues were mitigated prior to his involvement and that according to the reports, there is no uncertified fill on the property. Mr. Town also said that they have done everything they can possibly do to make the project safe.

Vice-Chairman Lusk commented that the fault line runs under existing houses and that he finds it hard to understand why putting one more home on a fault that already has a number of houses increases the danger to those on the fault. Director Vacca stated that staff would address that issue.

Ms. Sharon Gaiser, Neighbor of Appellant: Ms. Gaiser wanted clarification as to whether the building will be built where the soil was certified, or if it is being built where it was not.

City Engineer Tucker explained that the fault line is actually a study zone and proof must be established that there is not a fault where building will take place. Ms. Tucker also explained that the house is encroaching on the uncertified fill and that will need to be mitigated, which is one of the conditions of approval.

Ms. Gaiser stated that she supports the appeal of the plan review. She expressed her concerns of the project, which included the safety of building on an earthquake fault.

Upon a question from Commissioner Valenzano, Mr. Silverstein said he agrees that a home built on a fault will not make another home rupture worse. He explained that when the fault goes and that house is right

on top of it, then the house will become a red-tagged house and become a nuisance. He is also concerned with the precedence that is being set by approving habitable structures on top of an active earthquake fault. He asked that there be full trenching of the entire footprint of the home and full compliance with the Fugro report, and if the appeal is not granted, then Condition No. 11 be clarified so that there must be full trenching for the entire extent of the proposed footprint. Mr. Silverstein asked for clarification on the remark from Mr. Town regarding the trenching going past the footprint of the home because he has not seen any evidence of any trenching that was done in connection with the applicant's consultant. Mr. Silverstein also explained that he does not believe that this project is exempt under CEQA.

Mr. Vacca clarified that since the lot split of the subject property in 1990, there have not been any plan review applications submitted, but there has been a history of uncompacted fill of which the City is aware.

Assistant City Attorney Davis explained how the Municipal Code outlines the process of plan reviews, which the City Attorney's office has reviewed to make sure the City staff has followed. He explained that the plan review was to look at a site plan and determine general conformance with City standards and neighborhood compatibility and that the City has not approved geology. Mr. Davis said that to suggest that the City is not going to put the application through a very rigorous review is patently false and very disturbing and is not supported by the record. He explained that there is no issue about the design review, because there had not been a challenge, and, as a matter of law, the Commission should deny the appeal, but that does not preclude the other issues. Assistant City Attorney Davis also reviewed the CEQA cases cited by Mr. Silverstein and said that single-family homes are exempt from CEQA with rare exceptions. He explained that the City has a fault study zone which will require complete geologic investigation of the property, which has not been done.

City Engineer Tucker reviewed the remaining process of review of the project, which includes a grading on plan, review of soils, drainage, and easements. Ms. Tucker reviewed some of the history of the property, including the Fugro report dated May 2005. She reiterated that nothing is approved as of yet as most of the conditions state, "prior to a grading permit," and a grading permit application has not yet been submitted. She said that there is quite a bit of work still to do regarding reviews and approvals.

Chairman Davis invited the applicant to respond to public comments. Mr. Town thanked Assistant City Attorney Davis for addressing that the plan review was for a design review and not a soils review. He stated that he has every intention to do what is necessary to have a quality and safe product. He then thanked staff.

Chairman Davis invited Mr. Silverstein to respond public comments. Mr. Silverstein requested that Condition No. 11 have clarified language that the applicant will be required to trench the entire footprint area.

There was no further public comment.

Chairman Davis closed the Public Hearing.

PUBLIC HEARING CLOSED

Chairman Davis called for a discussion from the Commission.

Upon a question by Commissioner Valenzano, Mr. Vacca explained that the way Condition No. 11 is written actually provides staff with more latitude to analyze in more detail the overall conformance with the Fugro study.

Upon a question from Commissioner Hemmens, Ms. Tucker explained the process of certifying the lot, including the trenching.

There were no further questions from the Commission.

The Commissioners agreed that the Director had followed the City Ordinance. Commissioner Valenzano stated he would like Condition No. 11 to be more specific.

By a **Minute Action** vote of 4 - 0 - 1, with Commissioner Edsall absent, the Commission denied the appeal of the Community Development Director's approval of Plan Review 921 for 102 Avocado Place.

Chairman Davis outlined the appeal procedures.

The Chairman called for a 5-minute break.

The Commission recessed at 9:37 p.m. and returned at 9:45 p.m., with Commissioners Hemmens, Lusk, Valenzano, and Chairman Davis present.

2016 Meeting Schedule

The 2016 Planning Commission Meeting Schedule is submitted for approval.

By a **Minute Action** vote of 4 - 0 - 1, with Commissioner Edsall absent, the Commission approved the 2016 Planning Commissioner Meeting Schedule.

DIRECTOR'S REPORT

Director Vacca introduced the new Assistant Community Development Director David Moe. Mr. Vacca thanked staff for their hard work. He then reviewed the anticipated projects for the December 1, 2015, Planning Commission meeting. Mr. Vacca updated the Commission on the City Council's decision on the landscape guidelines.

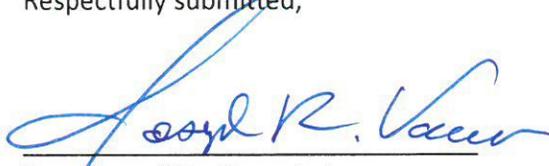
COMMISSION COMMENTS

There were no Commission comments.

ADJOURNMENT

There being no further business before the Commission, Chairman Davis adjourned the meeting at 9:50 p.m.

Respectfully submitted,



Secretary of the Commission

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