

CITY OF PERRIS

MINUTES: Special City Council Meeting
Date of Meeting: 15 April 2003
Time of Meeting: 6:00 p.m.
Place of Meeting: City Council Chamber – City of Perris

1. CALL TO ORDER:

The Honorable Mayor Busch called the Special City Council Meeting to order.

2. ROLL CALL:

Council Members Present: Landers, Motte, Rogers, Yarbrough, Busch

Staff Member Present: Interim City Manager Apodaca, City Attorney Dunn, Finance Director Rogers-Elmore, Community Development Director Gutierrez, Public Services Director Owens, City Engineer Motlagh, Police Chief Kestell, and City Clerk Rey.

3. PUBLIC COMMENT: None

4. PUBLIC HEARING:

A. First reading of Ordinance Number 1116 to complete a Development Agreement 03-0120, between the City of Perris and Aware Development to implement the development of Tract 29425 and Tract 30850 in addition to a general plan amendment and zone change from R-4 to R-7. Applicant: Aware Development.

Community Development Director Gutierrez indicated that the developer requested approval of a development agreement for exemption from the TUMF Fees. The introduction included:

- The proposal enveloped two projects (Tentative Tract Map 29425, and Tract 30850);
- As part of the conditions of the agreement was that, the developer would pay ½ of the TUMF Fee to the City of Perris, which would be restricted to transportation mitigation;
- There was a portion of the project that was covered by the approved tentative map;
- The second portion was the ordinance that was not adopted;
- A negative declaration was prepared and would be provided to Council at the second reading of the ordinance.

Staff recommended to introduce the ordinance for the first reading. On April 29th the environmental assessment would be heard, adoption of

6:05 p.m. Called to Order

All Present

*Ordinance Number 1116, Implementing Development Agreement 03-0120 for Development of Tracts 29425 & 30850
Approved: 4-0
Abstained: Landers*

Community Development Director Gutierrez's Introduction

Con't. Community Development Director Gutierrez's

the negative declaration and second reading of the ordinance would occur.

Introduction

City Attorney Dunn commented that the applicant concurred with the revisions to the agreement and the revisions did not change the essential deal points, but it clarified attorney language for better understanding. There was a new state law, Assembly Bill 1797, regarding Conflicts of Interest, which required that you had to exclude yourself from discussion, identify the financial interest, and excuse yourself from the Council Chambers.

***City Attorney Dunn's
Comments Re:
Revisions to Agreement
& New State Law on
Conflicts of Interest***

Councilmember Landers declared his conflict was that he represented the developer and the land acquisitions; and removed him self from the Council Chambers.

***Councilmember
Landers Comment Re:
Conflicts of Interest;
Identified Financial
Interest***

Interim City Manager Apodaca commented that the recommendation of restricted fees would be for a specific purpose and the recommendation would fall under the purview of Council.

***Interim City Manager
Apodaca's Comment
Re: Restricted Use of
Funds @ Council's
Purview***

City Attorney Dunn indicated that the restricted use was not incorporated into the agreement. However, it was a recommendation made by the Planning Commission.

***City Attorney Dunn's
Comments Re:
Restricted Use not
Incorporated into the
Agreement***

Councilmember Yarbrough commented that he would like to know where that came from and asked how much brain power, collectively, was put together to make that happen, with all due respect to the Planning Commission.

***Councilmember
Yarbrough's Comment
& Query Re: Concept
of Restrictive Use of
Funds***

Community Development Director Gutierrez said after review of the proposals and based on the developer's request for exemption from X amount of dollars, six members of the Planning Commission recommended the restricted use of the funds. The commission desired that the City be able to capture half of that amount and thought it was in the best interest of the City to apply those funds towards transportation since that was the TUMF's original use. Staff had explained to the commission that all infrastructure associated with this project was constructed by the developer as development cost. It would be at Councils' discretion if Council chose to apply funds to any roads within the project or adjacent area. However, it was the prerogative of the commission to make a recommendation.

***Community
Development Director
Gutierrez's Comment
Re: Planning
Commissions'
Recommendation of
Restricted Use of
Funds***

Councilmember Rogers asked if the City received ½ of the \$6,600 or approximately \$3,300 per unit. Also, Tract 30850 was not approved,

***Councilmember
Rogers' Query &
Comments: Half of Per***

but was due for May 7th. Councilmember Rogers asked if tract maps had to be approved before exemption of TUMF.

*Unit Fee; TM 30850
Not Approved;
Approved Map Prior to
Exemption of TUMF*

In response, Community Development Director Gutierrez commented that it was confirmed that the City would receive \$3,325 per unit. Tract 30850 was under review and carried a general plan amendment, zone change, and a tentative map. The requirement before TUMF exemption was approval of a development agreement.

*Community
Development Director
Gutierrez's Response
Re: Dollars Per Unit;
Approval of
Development
Agreement
Requirement for
TUMF*

Mayor Busch asked if the flood control basin areas would resemble parks or areas that could be used for parks. The developer had indicated, to Mayor Busch, that they would work with the Planning Department to achieve those goals.

*Mayor Busch's
Comments Re: Flood
Control Basins; &
Basins as Park Use*

Aware Development representative indicated that they made a suggestion to their engineer to place an exhibit of an amenity. Per staff recommendation, those basins would be landscaped with the basic features of a park.

*Aware Development
Representative's
Comments Re: Amenity
Exhibit; Basins
Landscaped*

Community Development Director Gutierrez said the plans were reviewed and the size of the basins depended on whether they would be for park usage. The plan was still under review by the City Engineer for drainage. Those areas would either be an open space setting that would allow drainage or park use.

*Community
Development Director
Gutierrez's Comments
Re: Park Use
Depended on Size;
Drainage Review;
Open Space or Park
Use*

Interim City Manager Apodaca commented that the agreement was for five years, which was a good period for the City's benefit. The City would realize that the majority of permits and revenues generated within three years.

*Interim City Manager
Apodaca's Comments
Re: Five Year
Agreement; & Three
Year Generation of
Permits & Revenues*

Councilmember Yarbrough asked if exhibits would be provided at the second reading of the ordinance. Councilmember Yarbrough indicated he was interested in the perimeter landscaping; and walking/bike trails.

*Councilmember
Yarbrough's Comment
Re: Landscaping,
Walking/Bike Trail
Exhibits*

Community Development Director Gutierrez indicated that because the agreement did not address any of those particular points, the exhibits were not included in the development agreement. There were discussions of Evans Road design for Tract Map 30850. The project had a 75-foot setback that was used for drainage. A number of things could be done within that setback and if nothing else, a green belt could be implemented. Those issues would be addressed through the processing of the tract and conditioned accordingly.

*Community
Development Director
Gutierrez's Response
Re: Exhibits; Setback
of 75 Feet; Issues
Addressed @
Processing of Tract
Map & Conditioned
Accordingly*

City Attorney Dunn cited the title of Ordinance Number 1116.

*City Attorney Dunn
Cited Ordinance
Number 1116 Title*

M/S/C (ROGERS/MOTTE) To introduce for first reading Ordinance Number 1116, implementing Development Agreement 03-0120 between the City of Perris and Aware Development to implement Tract 29425 and Tract 30850.

AYES: Busch, Rogers, Yarbrough, Motte
NOES:
ABSTAINED: Landers

*Ordinance Number 1116, Implementing Development Agreement 03-0120 for Development of Tracts 29425 & 30850
Approved: 4-0
Abstained: Landers*

B. Discussion of Development Agreement 03-0106, an agreement between the City of Perris and the Coudures Family Limited Partnership for properties designated Community Commercial and Business Park. North of the existing Perris Plaza Shopping Center, at the northwest corner of Perris Blvd. and Nuevo Road. Applicant: The Coudures Family Limited Partnership

*Introduction of Ordinance Number 1117, Approving Development Agreement 03-0106 with the Changes Agreed by Council & Requirement of a Conditional Use Permit for Certain Uses
Approved: 5-0*

Community Development Director Gutierrez’s introduction included:

Community Development Director Gutierrez’s Introduction

- Development agreement covered a good portion of the Coudures’ land, which was currently held under Williamson Act Contract; Commercial land was considered prime, because of the adjacency to the freeway, circulation, and access;
- Proposal represented a mechanism that would be a major benefit to the property owner and City;
- It was difficult to attract commercial development with the passage of TUMF; many of the City’s large commercial acreage would not development for a long period of time;
- In some cases the TUMF fees totaled more than the value of the land and would be costly to develop; therefore, it was a solution for the City, from an economic development standpoint, to enter an agreement with the property owners for the development of commercial/retail.
- The project was put into two-land use designations (current zoning/additional commercial/industrial area);
- Warehouse distribution centers and limited footage was discussed;
- The terms of the agreement were for ten years. Part of the conditions of the agreement was that the developments would be large centers (approximately 200,000 square feet); and would be completed before 2006. Therefore, retail revenues would be realized fairly soon.
- The rest of development would depend on the market;
- Other terms of the agreement would be that the developer paid 30% on the retail/commercial projects; and 50% for other types (business park industrial uses);
- The City would agree to take those collected public improvement fees for public infrastructure improvements that would benefit this project or surrounding area;
- An exhibit was added to the agreement that referenced specific standards. The exhibit was also a mechanism that could be used with potential tenants.

The Coudures Family requested that language be modified to increase the square footage or provide language that allowed flexibility. The

Con’t. Community Development Director Gutierrez’s

proposal was heard by the Planning Commission on April 7th and their recommendation was to adopt a negative declaration; use the development fees for traffic mitigation; and not allow metal buildings. There was a portion within the plan that was not owned by the Coudures Family and should not be reflected within the agreement. Staff's recommended adoption of the negative declaration and introduce, for first reading, the proposed ordinance implementing the development agreement.

Introduction

City Attorney Dunn indicated there were revisions made today in response to requests from the attorney of the developer. Those revisions related to remedies available and put the agreement more in line with the concept that the development would be in the future. Therefore, if approved Council was to approve it subject to working out the minor issues. One of the items of concern was the limit on the size of warehouse distribution centers, which was not finalized.

*City Attorney Dunn's
Comments Re:
Agreement Revisions;
Warehouse Size
Limitation*

PUBLIC COMMENT:

Mr. McHolm, Law Firm of Snell & Wilmer and representative for the Coudures Family Limited Partnership, commented they would like to address the square footage of the warehouses. Mr. McHolm requested to focus on the project as it actually developed and review the aesthetics; traffic and other mitigation issues.

*Coudures Family
Limited Partnership
Representative, Mr.
McHolm's Comments
Re:
Warehouse Footage;
Focus on Aesthetics at
Development*

Mayor Busch asked how large was the portion that was not to be included within the agreement.

*Mayor Busch's Query
Re: Size of the Portion
Not Included in the
Agreement*

In response, Community Development Director Gutierrez said the portion represented three existing residential units and were included by mistake.

*Community
Development Director
Gutierrez's Response*

CITY COUNCIL COMMENTS AND DISCUSSION:

Councilmember Rogers commented that the 30% were the TUMF Fee for retail and 50% for other usage. She understood the commercial development TUMF was phased in from 2004 to 2006 and asked if the 30% was the full level TUMF Fee or of the 2004 TUMF Fee. Because, it was a percentage until 2006.

*Councilmember
Rogers' Comment &
Query Re: TUMF Fee
Percentage 2006*

In response, City Attorney Dunn said whatever the TUMF Fee was at that time the percentage would apply; and after 2006, the full TUMF Fee would apply. The fees were for the benefit of the project or commercial area. The language allowed the City to improve i.e., an off ramp at Placentia, etc.

*City Attorney Dunn's
Response*

Councilmember Landers felt that the fees should not be restricted for a certain part of the City; it should be for what the City desired.

*Councilmember
Landers' Comments
Re: Use of Restricted*

Councilmember Landers noted that there were no identifiable projects for this proposal and asked how was the 30% derived. He asked the purpose for a development agreement.

Fees; 30% & Purpose of an Agreement

In response, City Attorney Dunn said there was a requirement, in the agreement, to develop two types of uses within a period. However, the agreement was to produce the framework to promote the development. The concept was to weigh the discount in favor of retail commercial as opposed to other types of service commercial/industrial uses.

City Attorney Dunn's Response Re: Use of Restricted Fees & 30%

Community Development Director Gutierrez said the purpose of an agreement was to enter an agreement between two parties that invested in whatever terms you came to agree upon. Generally, it would be fees, in this case it was the exemption of TUMF. For the City, it was the 30% of TUMF and an economic tool to attract development.

Community Development Director Gutierrez's Response Re: Purpose of an Agreement; Economic Tool & Attraction for Development

Interim City Manager Apodaca commented that the concept was to be compatible with the surrounding cities for retailers that looked for income in households to develop retail.

Interim City Manager Apodaca's Comment Re: Concept of the Agreement; Compatibility with other Cities

Councilmember Yarbrough commented that language should be implemented that allowed flexibility. He voiced concern with the 50,000 square footage limitation and did not agree with disallowing metal buildings.

Councilmember Yarbrough's Comments Re: Flexible Language; Square Footage Limitation; & Metal Buildings

Mayor Pro Tem Motte commented that the sales tax would generate with development of retail. In addition, it was not a good idea to limit the square footage.

Mayor Pro Tem Motte's Comments Re: Retail Generates Sales Tax; & Limit of Square Footage

Mayor Busch commented that the proposal could be approved with the understanding that the City Attorney and developer would meet and work out the verbiage on the square footage.

Mayor Busch's Comment Re: Approve Agreement Contingent upon Verbiage for Square Footage

City Attorney Dunn suggested allowing the use subject to a conditional use permit (CUP). The permitted usage would elevate the approval requirement to a conditional use permit. Allow any proposal to be reviewed for feasibility; and eliminate the square footage limitation.

City Attorney Dunn's Comments Re: Approval Subject to a CUP; No Elimination of Square Footage Limitation

Mayor Busch called for Public Comment, there being none the Mayor called for a motion.

M/S/C (YARBROUGH/LANDERS) To introduce Ordinance Number 1117, approving a development agreement between the City of Perris

Introduction of Ordinance Number

and the Coudures Family Limited Partnership to complete development of Perris Plaza Shopping Center and implement a new business park on 262.8 acres of land located at the southwest corner of Perris Boulevard and Nuevo Road, Development Agreement No. 03-0106, with the changes that had been agreed as presented by the Council and additionally changing the requirement for certain uses on the business park subject to a Conditional Use Permit.

1117, Approving Development Agreement 03-0106 with the Changes Agreed by Council & Requirement of a Conditional Use Permit for Certain Uses Approved: 5-0

AYES: Landers, Busch, Rogers, Yarbrough, Motte
NOES:

M/S/C (ROGERS/YARBROUGH) To adopt Negative Declaration 2124, based on the findings and proposed agreement will not result in a significant adverse effect on the environment.

Adoption of Negative Declaration 2124 Approved: 5-0

AYES: Landers, Busch, Rogers, Yarbrough, Motte
NOES:

5. **ADJOURNMENT:** By unanimous consent the Special City Council meeting was adjourned at 7:05 p.m.

7:05 p.m. Special City Council Meeting Adjourned

Respectfully Submitted,

Margaret Rey, City Clerk